LIMITED AIR CARRIER CERTIFICATES

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

H.R. 7318 and H.R. 7512

BILLS TO AMEND THE FEDERAL AVIATION ACT OF 1958, AS AMENDED, TO PROVIDE FOR A CLASS OF SUPPLEMENTAL AIR CARRIERS, AND FOR OTHER PURPOSES

H.R. 7679

A BILL TO AMEND THE FEDERAL AVIATION ACT OF 1958, AS AMENDED, TO PROVIDE FOR ALL-CHARTER CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

JUNE 20, 21, AND 23, 1961

Printed for the use of the Committee on Interstate and Foreign Commerce

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LIMITED AIR CARRIER CERTIFICATES

TUESDAY, JUNE 20, 1961

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS
OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 1334, New House Office Building, Hon. John Bell Williams (chairman of the subcommittee) presiding.

Mr. WILLIAMS. The committee will be in order, please.

The Subcommittee on Transportation and Aeronautics is meeting this morning for hearings on three bills which would authorize the Civil Aeronautics Board to issue limited certificates of public convenience and necessity to the supplemental carriers.

We have for consideration H.R. 7318, which I have introduced at the request of the Civil Aeronautics Board, H.R. 7512, introduced by our colleague on the committee, Mr. Moulder, and H.R. 7679, introduced by our colleague on the subcommittee, Mr. Collier.

H.R. 7318 is similar to H.R. 7593 of the 86th Congress, on which we held hearings a year ago in May. After conclusion of these hearings, the subcommittee decided that, due to the lateness of the session, we did not have time to give adequate consideration to permanent legislation on this important problem. As a result, compromise legislation was enacted giving the Board authority to continue supplemental air carrier operations until March 14, 1962.

At this point in the record, we will include the copies of the three bills under consideration along with agency reports.

(The bills and reports referred to follow:)

[H.R. 7318, 87th Cong., 1st sess.]

A BILL To amend the Federal Aviation Act of 1958, as amended, to provide for a class of supplemental air carriers, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Federal Aviation Act of August 23, 1958, as amended, is amended by redesignating paragraphs (32) and (33) as (34) and (35), respectively, and inserting therein two new paragraphs to read as follows:

"(32) 'Supplemental air carrier' means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in supplemental air transportation.

"(33) 'Supplemental air transportation' means air transportation rendered pursuant to a certificate of public convenience and necessity which contains such limitations as to frequency of service, size or type of equipment, or otherwise, as will assure that the service so authorized remains supplemental to the service authorized by certificates of public convenience and necessity issued pursuant to sections 401(d)(1) and (2) of this Act."

SEC. 2. Section 401 of the Federal Aviation Act is amended by adding to subsection (d) thereof a new paragraph (3) to read:

"(3) (i) In the case of an application for a certificate to engage in air transportation as a supplemental air carrier, the Board may issue a certificate authorizing the whole or any part thereof for such periods as may be required by the public convenience and necessity, if it finds that the applicant is fit, willing, and able properly to perform the service of a supplemental air carrier and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder. In determining whether an applicant for such a certificate is fit, willing, and able within the meaning of this paragraph the Board shall give consideration to the conditions peculiar to supplemental air transportation, including the nature of the public need found to exist and the extent of the obligation imposed on an air carrier engaging in such air transportation to provide the service authorized by the certificate. Any certificate issued pursuant to this paragraph shall contain such limitations as the Board shall find necessary to assure that the service rendered pursuant thereto will be limited to supplemental air transportation as defined in this Act.

"(ii) If any applicant who makes application for a certificate for supplemental air transportation within thirty days after the date of enactment of this paragraph shall show—

"(A) that it, or its predecessor in interest, was an air carrier authorized to furnish service between places within the United States either by a certificate of public convenience and necessity issued by the Civil Aeronautics Board pursuant to order E–13436, adopted January 28, 1959, or order E–14196, adopted July 8, 1959, or that it or its predecessor has received interim operating authority from the Board pursuant to section 1(2) of Public Law 86–661 of July 14, 1960, 74 Stat. 527;

"(B) that between the effective date of the certificate or interim operating authority and the date of enactment hereof, the applicant or his predecessor in interest lawfully performed either (1) any portion of the service authorized by the certificate or interim operating authority, or (2) any operations for the Military Establishment of the United States authorized by the Board; and

"(C) that such certificate or interim operating authority had not been revoked or otherwise terminated by the Board or had not otherwise expired prior to the enactment of this paragraph, and is held by the original grantee or has been transferred with Board approval pursuant to section 401(h): *Provided*, That application under this paragraph may also be made by a person who on the date of enactment hereof had on file an application to the Board for the approval of transfer to him of a certificate for supplemental air transportation or interim operating authority, in which case the Board shall issue a certificate hereunder if it approves the transfer pursuant to section 401(h) of this Act;

the Board, upon proof of such facts only, shall issue a certificate authorizing such applicant to engage in supplemental air transportation to the same extent authorized in the applicant's certificate or interim authority and subject to the terms, conditions, and limitations attached thereto for such period as the Board deems proper: *Provided*, That this period shall not extend beyond the effective date of an order of the Board denying renewal of the certificate or interim operating authority in a renewal proceeding pending at the time of enactment hereof."

SEC. 3. Subsection (e) of section 401 of the Federal Aviation Act is amended by adding the following text: "A certificate issued under this section to engage in supplemental air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and may designate only the geographical area or areas within which service may be rendered. Nothing in this subsection shall prevent the Board in specifying the service to be rendered under a certificate for supplemental air transportation from placing such limitations on such certificate as it may find to be necessary to assure that the services are limited to supplemental air transportation: *Provided*, That the Board may not impose such limitations upon certificates issued pursuant to paragraphs (1) and (2) of subsection (d)."

SEC. 4. (a) Any air carrier entitled to certification under section 401(d)(3)(ii) of the Federal Aviation Act, as amended herein, may perform operations

under its existing authority for thirty days from the date of enactment of this Act, and if it has filed application pursuant to said section 401(d)(3)(ii) within said thirty days, until the Board has acted upon such application. Any air carrier whose application for certification as a supplemental air carrier is pending before the Board and which (A) has operated in interstate air transportation as a supplemental air carrier pursuant to authority granted under Board order E–9744 of November 15, 1955, and (B) had an application for a certificate as a supplemental air carrier pending before the Board on July 14, 1960, may continue to operate in interstate air transportation under its existing authority until the effective date of an order of the Board disposing of such application. Any carrier whose operating authority in interstate air transportation under Board order E–9744 is continuing solely by virtue of a judicial stay of a Board order, insofar as such order would otherwise terminate such operating authority, is hereby authorized to continue to operate, subject to all conditions and limitations contained in order E–9744 or imposed by the court, until the court shall lift such stay or until the final disposition of judicial review proceeding, whichever shall first occur.

(b) The provisions of this Act shall in no way affect any enforcement or compliance proceding or action against the holder of a certificate of public convenience and necessity issued pursuant to order E–13436 or order E–14196 or against the holder of interim authority issued under section 1(1) of Public Law 86–661 pending before the Board on the date of enactment of Public Law 86–661 or this Act, or the power of the Board to institute any enforcement or compliance action against such holder subsequent to the date of enactment of this Act with respect to violations of the Federal Aviation Act or provisions of the certificate or interim authority or the Board's regulations which may have occurred prior to such date. Any sanction which the Board might lawfully have imposed on the operating authority of an air carrier for violations occurring prior to the issuance to such carrier of a certificate of public convenience and necessity for supplemental air transportation under paragraph (3)(i) or (ii) of section 401(d) of the Federal Aviation Act as amended by this Act may be imposed upon a certificate issued to such air carrier under such paragraph.

(c) Any application of an air carrier heretofore consolidated into the Board proceeding known as the Large Irregular Air Carrier Investigation, Docket Numbered 5132 et al., shall be deemed to have been finally disposed of by the Board insofar as said application seeks authority to engage in interstate air transportation, (1) upon the effective date of a certificate of public convenience and necessity issued to such carrier pursuant to the provisions of section 401(d)(3)(i) or (ii) of the Federal Aviation Act; (2) upon the effective date of an order of the Board denying any application of such carrier for a certificate of public convenience and necessity under section 401(d)(3)(i) or (ii); or (3) in the event such carrier was issued authority by order E–13436 or E–14196 or interim authority under Public Law 86–661 and fails to file application for a certificate pursuant to said section, on the thirty-first day after the date of enactment of this Act.

[H.R. 7512, 87th Cong., 1st sess.]

A BILL To amend the Federal Aviation Act of 1958, as amended, to provide for a class of supplemental air carriers, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Federal Aviation Act of August 23, 1958, as amended, is amended by redesignating paragraphs (32) and (33) as (34) and (35) respectively, and inserting therein two new paragraphs to read as follows:

"(32) 'Supplemental air carrier' means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in supplemental air transportation.

"(33) 'Supplemental air transportation' means air transportation rendered pursuant to a certificate of public convenience and necessity which limits the holder to performance of (1) unlimited charter operations on a planeload basis for the carriage of passengers and property in interstate, oversea, and territorial air transportation, with the word 'charter' herein being defined as air transportation performed pursuant to an agreement for the use of the entire capacity of

an aircraft, (2) individually ticketed passenger or individually waybilled cargo operations in the frequency of one hundred and ninety-two flights per year in the same direction between any single pair of points in any calendar year, in interstate, oversea, and territorial air transportation, and (3) supplemental air carriers shall have the right of first refusal in the operation of all charter trips in interstate, oversea, and foreign air transportation. The Board shall implement this section by appropriate regulations."

SEC. 2. Section 401 of the Federal Aviation Act is amended by adding to subsection (d) thereof a new paragraph (3) to read:

"(3)(i) In the case of an application for a certificate to engage in air transportation as a supplemental air carrier, the Board may issue a temporary or permanent certificate authorizing the whole or any part thereof if it finds that the applicant is fit, willing, and able properly to peform supplemental air transportation as defined herein, and to conform to the provisions of this Act and the rules, regulations, and requirements of the Board hereunder and if the Board finds after public hearing that such certificate is required by the public convenience and necessity.

"(ii) If any applicant who makes application for a certificate for supplemental air transportation within one hundred and twenty days after the date of enactment of this paragraph shall show (A) that, on such date it or its predecessor in interest, was an air carrier furnishing services between places within the United States authorized by a certificate of public convenience and necessity issued by the Civil Aeronautics Board pursuant to order E–13436, adopted January 28, 1959, or order E–14196, adopted July 8, 1959, to render such service, and that any portion of such service for any class of traffic was performed pursuant to such certificate during such period and (B) that, such certificate had not been revoked or otherwise terminated by the Board prior to the enactment of this paragraph, the Board, upon proof of such facts only, shall issue a certificate or certificates of indefinite duration authorizing such applicant to engage in supplemental air transportation, as defined herein."

SEC. 3. Subsection (e) of section 401 of the Federal Aviation Act is amended by adding the following text: "A certificate issued under this section to engage in supplemental air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and may designate only the geographical area or areas within which service may be rendered. Nothing in this subsection shall prevent the Board from placing such limitations on such certificates as it may find to be necessary to assure that the services are limited to supplemental air transportation as defined herein."

SEC. 4. (a) Any air carrier presently operating in interstate air transportation as a "supplemental air carrier" pursuant to authority received under order of the Board whose application for certification as a supplemental air carrier is pending before the Board or is filed with the Board within a period of one hundred and twenty days from the enactment of this section, may continue to operate in interstate, oversea, and territorial supplemental air transportation as defined herein until the effective date of an order of the Board disposing of such application. Any carrier whose operating authority in interstate air transportation under Board Order E–9744, adopted November 15, 1955, is continuing solely by virtue of a judicial stay is hereby authorized to continue to operate, subject to all conditions and limitations contained in such order or imposed by the court until the court shall lift such stay or until the final disposition of the judicial review proceeding, whichever shall first occur.

(b) The provisions of this Act shall in no way affect any enforcement or compliance proceeding or action against the holder of a certificate of public convenience and necessity issued pursuant to order E–13436 or order E–14196 pending before the Board on the date of enactment thereof, or the power of the Board to institute any enforcement or compliance action against such holder subsequent to the date enactment of this Act with respect to violations of the Federal Aviation Act or provisions of the certificate or the Board's regulations which may have occurred prior to such date. Any sanction which the Board might lawfully have imposed on the operating authority of an air carrier of a certificate of public convenience and necessity for supplemental air transportation under paragraph (3)(ii) of section 401(d) of the Federal Aviation Act as amended by this Act may be imposed upon a certificate issued to such air carrier under such paragraph.

[H.R. 7679, 87th Cong., 1st sess.]

A BILL To amend the Federal Aviation Act of 1958, as amended, to provide for all-charter certificates of public convenience and necessity

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 401(e) of the Federal Aviation Act of August 23, 1958, as amended by inserting after the third sentence thereof a new sentence to read as follows: "A certificate issued under this section to engage solely in charter trips in air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate the area or areas within or between which such charter trips may be flown."

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 16, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, House Office Building, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in reply to your requests of June 8 and June 9, 1961, for reports on H.R. 7318 and H.R. 7512, bills to amend the Federal Aviation Act of 1958, as amended, to provide for a class of supplemental air carriers, and for other purposes.

The Department of Commerce and the Civil Aeronautics Board in statements to your committee indicate that the supplemental air carriers perform a useful public service and help meet the Nation's air transportation needs. The Bureau of the Budget concurs generally in the statements of those agencies and recommends enactment of legislation to authorize the Civil Aeronautics Board to issue limited certificates of public convenience and necessity for air services supplemental to those provided by the regular common carriers. Since H.R. 7318 was drafted by the Board to give it the authority it believes necessary for this purpose, we recommend it be enacted rather than H.R. 7512.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FEDERAL AVIATION AGENCY,
Washington, D.C., July 11, 1961.

Hon. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of June 8, 1961 for the views of this Agency with respect to H.R. 7318, a bill, to amend the Federal Aviation Act of 1958, as amended, to provide for a class of supplemental air carriers, and for other purposes.

This bill, introduced at the request of the Civil Aeronautics Board, would provide permanent certification procedures for the supplemental air carrier industry. Under existing law (Public Law 86–661) the Civil Aeronautics Board has temporary authority, which will expire in March 1962, to permit supplemental air carriers to conduct operations. It is the view of the Civil Aeronautics Board that supplemental air carriers have performed a valuable service in meeting the needs of national defense and that their future ability to serve the needs of the military depends upon their present and continued ability to operate their aircraft in commercial activities.

This measure is directed to operations within the particular province of the Civil Aeronautics Board, and, accordingly, this Agency defers to the views of the Civil Aeronautics Board on the subject proposal.

The Bureau of the Budget has advised that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely,

N. E. HALABY, *Administrator.*

OFFICE OF THE POSTMASTER GENERAL,
Washington, D.C., June 20, 1961.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: We reply to your request for reports on H.R. 7318 and H.R. 7512 proposing to authorize the Civil Aeronautics Board to issue certificates of public convenience and necessity to supplemental air carriers.

Each of these bills would amend the Federal Aviation Act by authorizing the Civil Aeronautics Board to issue certificates of public convenience and necessity to supplemental air carriers. The bills differ, however, in the specific type of service which could be authorized by the Board in the certificates granted to supplemental air carriers. H.R. 7512 does not include authorization for the transportation of mail. H.R. 7318, on the other hand, would permit the Civil Aeronautics Board to grant supplemental air carriers authority to transport mail.

To date the supplemental air carrier operations authorized by the Civil Aeronautics Board have not included any grant of authority to transport mail. Nor has the Department ever supported any such grant of mail authority in view of the very limited special type of operation that is characteristic of a supplemental air carrier service. No use would be made of this type of limited operation for the transportation of mail except under very extraordinary circumstances.

We have no objection to the enactment of this legislation, however, the use of "supplemental air carriers" as provided for in H.R. 7318 would be feasible for mail transportation only under extraordinary circumstances since they would not be operating a daily point-to-point type of service.

We have been advised by the Bureau of the Budget that from the standpoint of the administration's program there is no objection to the presentation of the report to the committee.

Sincerely yours,

J. EDWARD DAY, *Postmaster General.*

CIVIL AERONAUTICS BOARD,
Washington, D.C., July 11, 1961.

HON. JOHN BELL WILLIAMS,
Chairman, Subcommittee on Transportation and Aeronautics,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: When the Board testified before your subcommittee on June 20, 1961, in support of H.R. 7318, the Board's bill relating to supplemental air carriers, we were asked to submit our views on H.R. 7679, a bill introduced by Mr. Collier.

H.R. 7679 would add a sentence to existing section 401(e) of the Federal Aviation Act permitting the Board to issue a certificate for charter service designating the areas within which such service is to be flown in lieu of designating terminal and intermediate points. This would enable the Board to issue a charter certificate but would not permit the Board to issue a certificate with appropriate limitations on the scope of individually-ticketed service. Thus, under this bill the Board could not authorize true supplemental air service. Moreover, H.R. 7679 would not remedy the holding of the Court of Appeals for the District of Columbia Circuit in *United Air Lines* v. *Civil Aeronautics Board* that the Board must apply to supplemental air carriers the same standard of fitness which is applicable to certificated route carriers.

H.R. 7679 in our opinion falls far short of meeting the problems confronting the supplemental air carrier industry. The Board is, therefore, opposed to its enactment.

Member Chan Gurney would support H.R. 7679 since it is in accord with his views set forth in his separate letter which accompanied the Board's written testimony submitted to your subcommittee on June 20, 1961.

Sincerely yours,

ALAN S. BOYD, *Chairman.*

THE SECRETARY OF COMMERCE,
Washington, D.C., June 19, 1961.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of June 9, 1961, requesting the views of the Department on H.R. 7318 and H.R. 7512, bills to amend the Federal Aviation Act of 1958, as amended, to provide for a class of supplemental air carriers, and for other purposes.

H.R. 7318 would amend the Federal Aviation Act so as to provide: for certification of a class of direct air carriers distinctive from the class of air carriers historically certificated under sections 401(d) (1) and (2) of the act, the new class to be known as supplemental air carriers; that such carriers may request, and be authorized to perform, limited services supplemental to those furnished by the regular air carriers; that the Civil Aeronautics Board be expressly authorized to issue certificates of public convenience and necessity for supplemental service containing limitations on the type and extent of service authorized; that the Board be authorized to grant blanket authorization without having to designate specific points.

The act would also be amended to reduce the present standards of fitness required for certification as an air carrier so that only general findings of fitness need be made for supplemental service. H.R. 7318 would also provide for grant of statutory operating rights to the existing holders of supplemental air carrier certificates, in the nature of grandfather rights.

H.R. 7512 would amend the Federal Aviation Act so as to provide: for certification of a class of direct air carriers distinctive from the class of air carriers historically certificated under section 401(d) (1) and (2) of the act, the new class to be known as supplemental air carriers; that such carriers may request a certificate of public convenience and necessity which limits the holder to performance of unlimited planeload charter operations, limited individually ticketed passenger or individually waybilled cargo operations, and the right of first refusal in the operation of all charter operations; that the Civil Aeronautics Board be authorized to grant a blanket authorization without having to designate specific points.

The act would also be amended to reduce the present standards of fitness required for certification as an air carrier so that only general findings of fitness need be made for supplemental service. H.R. 7512 would also provide for grant of statutory operating rights to the existing holders of supplemental air carrier certificates, in the nature of grandfather rights.

On January 28, 1959, in the large irregular air carrier investigation, CAB docket 5132, the Board issued temporary certificates of public convenience and necessity for supplemental air carrier operation in interstate air transportation. Under these certificates, supplemental air carriers were authorized to conduct without reference to any specified terminal or intermediate points not more than 10 flights carrying individually ticketed passengers or individually waybilled property in the same direction between any single pair of points in any calendar month, and to render unlimited planeload charter services.

The issuance of such certificates was challenged in the courts by regularly authorized air carriers, i.e. air carriers certificated to render route-type service. On April 7, 1960, the U.S. Court of Appeals for the District of Columbia Circuit set aside the Board action of January 28, 1959, *United Air Lines et al* v. *Civil Aeronautics Board* (278 F 2d 446). The court found that the certificates issued for supplemental air service did not specify the terminal and intermediate points between which air transportation had been authorized, contained limitation as to the number of flights contrary to section 401(e) of the act, and were not based on standards of fitness for applicants for certificate required by section 401(d) of the act.

As a stopgap measure to avoid immediate cessation of 25 supplemental air carrier authorizations, the Congress enacted Public Law 86-661, approved July 14, 1960. Such legislation was designed to maintain the status quo of the supplemental air carriers for up to 20 months after enactment so as to permit further consideration to be given the entire matter of supplemental air transportation without interim cessation of the then-existing authority of the carriers involved.

This Department is of the opinion that the continued existence of the supplemental air carrier fleet is of real value in terms of national defense. At the

present time eight supplemental air carirers have executed civil reserve air fleet (CRAF) standby contracts which provide for the furnishing of air transportation on an international scale to the Department of Defense in the event of war or national emergency.

Of a total of 212 aircraft allocated by the Department's Defense Air Transportation Administration to the basic CRAF program, 40 have been allocated from supplemental air carrier inventories. In addition, the aircraft remaining in such air carrier inventories after CRAF requiements have been met (appoximately 123 in number) are subject to DATA's allocation authority for purposes of DOD domestic wartime requirements, such as the Navy's quicktrans and the Air Force's logair operations, and for the needs of the civil economy under the war air service pattern program.

The Department also concludes that it would be unrealistic, as well as inherently unsound, for the continued existence of the supplemental air carriers to be entirely dependent in peacetime upon military business. Therefore, we agree that supplemental airlines should be eligible to operate their planes in peacetime in commercial air services.

The Department supports the purpose of these two similar bills but considers the provisions of H.R. 7318 as being more likely to achieve their desired aims. We recommend against the provision in H.R. 7512 that would give the supplemental carriers the right of first refusal in the operation of all charter trips in interstate, overseas, and foreign air transportation. It is our view that such a provision would give the supplemental carriers an unwarranted competitive advantage over the regularly authorized air carriers and that it could cause undue burden on those persons desiring charter flights by limiting at the outset their choice of carrier.

Furthermore, the provisions in H.R. 7512 limiting the frequency of individually ticketed or individually waybilled cargo operations to 192 flights per year appears to be arbitrary. We are of the opinion that H.R. 7318 gives authority to the Board to furnish the necessary protection without setting a limitation that may be harmful to the supplemental carriers, the regularly certificated carriers and the traveling public.

The Bureau of the Budget advises that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

EDWARD GUDEMAN,
Under Secretary of Commerce.

Mr. WILLIAMS. Our first witness this morning will be the Honorable Alan S. Boyd, Chairman of the Civil Aeronautics Board.

Mr. Boyd, we are very happy to have you with us again.

STATEMENT OF HON. ALAN S. BOYD, CHAIRMAN, CIVIL AERONAUTICS BOARD; ACCOMPANIED BY JOHN H. WANNER, GENERAL COUNSEL; ROSS I. NEWMANN, ASSOCIATE GENERAL COUNSEL FOR RULES AND LEGISLATION; AND J. W. ROSENTHAL, CHIEF, ROUTES AND AGREEMENTS DIVISION, BUREAU OF ECONOMIC REGULATION

Mr. BOYD. Thank you, Mr. Chairman. Good morning.

The Board appreciates this opportunity to appear in support of H.R. 7318, which would authorize the Civil Aeronautics Board to issue certificates of public convenience and necessity containing limitations on the type and extent of service authorized.

At the outset, I would like to review briefly the facts and circumstances which have prompted the Board to recommend the enactment of supplemental air carrier legislation.

In September 1951, the Board instituted the *Large Irregular Air Carrier* investigation to determine (1) the future role of the large irregular carriers and the extent of operations which would be permit-

ted, (2) the selection of carriers to receive authority, and (3) whether authorization should be by certificate or exemption.

After extended hearings, the Board, in 1954, with some 30 applicants still remaining to be heard, decided to expedite the proceeding by splitting it into two parts—(1) the public interest issues (the role to be assigned to the irregular carriers and the scope of authority to be granted), and (2) the consideration of individual qualifications. Thereafter, on November 15, 1955, in order E–9744, the Board issued its decision on the public interest aspects of the case. The Board found that the irregulars (hereafter to be called supplemental air carriers) comprise a "separate class of carriers" performing varied and flexible services and are available to operate whenever and wherever a demand exists. It further found that its action in authorizing a continuation of these unique services would not adversely affect the certificated route carriers. The Board determined that unlimited charter authority should be granted together with authority to perform individually ticketed or waybilled service not to exceed 10 flights per month in each direction between any two points. The 10-flight limitation was derived from an average of the 8 to 12 flights permitted under the prior regulations.

This new authorization was granted to all members of the class on an interim exemption basis, pending the Board's final decision in the qualifications of individual carriers and the question of whether the final authority should be by certificate or by exemption.

The Board's decision of November 15, 1955, was challenged by the certificated industry, and on July 19, 1956, the Court of Appeals for the District of Columbia Circuit held the order invalid because the Board had not made appropriate findings to support its conclusion that a requirement of certification would be an undue burden on the carriers. A petition for writ of certiorari was denied by the Supreme Court. On December 21, 1956, the court of appeals stayed the issuance of its mandate until 60 days after the date of the final Board decision in the *Large Irregular Carrier* case, docket 5132.

On January 28, 1959, the Board issued its decision in docket 5132 granting temporary certificates of public convenience and necessity for supplemental air service to a number of carriers found by the Board to be fit to receive them (order E–13436). On July 8, 1959, the Board issued several other certificates (order E–14196) for a total of 25 such certificates. Under these certificates, supplemental air carriers were authorized to render unlimited planeload charter service and conduct, without reference to any specific terminal or intermediate points, not more than 10 flights carrying individually ticketed passengers or individually waybilled property in the same direction between any single pair of points in any calendar month. This authorization was limited to interstate air transportation.

A number of air carriers certificated to render route type service contested the decision and petitioned the U.S. Court of Appeals for the District of Columbia Circuit for review of the Board's order and opinion of January 28, 1959. On April 7, 1960, the court rendered its decision in *United Air Lines et al.* v. *Civil Aeronautics Board* in which it found that the Board's action in certificating supplemental air carrier operations was legally deficient in three respects:

1. The certificates issued by the Board do not specify the terminal and intermediate points between which air transportation is authorized but grant a blanket authorization to operate between any two points in the United States.

2. The certificates issued by the Board contain a limitation of 10 flights per month in the same direction between the same two points. In the opinion of the court, this limitation was in violation of section 401(e) of the act which provides:

> No term, condition, or limitation of a certificate shall restrict the right of an carrier to add to or change schedules. * * *

3. In referring to the determination of fitness required by section 401(d) of the act, the court pointed out (one judge dissenting) that the Board gave the same nationwide cargo and passenger authority to each of the applicants to which it issued certificates. The court stated that in many instances the prior operations of the individual applicants had been small or specialized and that their financial resources were inadequate for the newly authorized operations. It would thus appear that the court's standard of fitness that each carrier must establish would be greater than that found by the Board to be necessary for supplemental service.

Concerning what should be done about the matter, the court said:

> If the requirements of section 401(e) interpose an insuperable obstacle to the full development of supplemental air service, which they may well do, the problem is for the Congress. The Board should present it there.

Since this same court, on July 19, 1956, had invalidated the Board's attempt to authorize supplemental air transportation by individual exemption orders, it appeared that there was grave doubt that the supplemenal carriers could continue their existing operations under either certificated or exemption authority. The Board, therefore, on April 28, 1960, submitted to this committee proposed legislation to correct the deficiencies in the Board's legal authority which were found to exist by the court.

Hearings on the Board's bill (S. 1543 and H.R. 7593) were held before the appropriate committees of both the House and Senate, and a favorable report was issued by the Interstate and Foreign Commerce Committee of the Senate on June 13, 1960.

In reporting favorably on the Board's bill, the Senate committee stated:

> The issue of the need for and the proper scope of supplemental air transportation, as we have noted, was the subject of painstaking and protracted investigation and study by the Board over a period of many years. The Board's interim decision in 1955 resolved that issue (order No. E-9744, Nov. 15, 1955) on a finding that the public interest requires the establishment of a class of carriers authorized to perform supplemental air transportation of a kind and character which does not amount to a conventional, frequent, route-type service as provided by the major airlines.
>
> During committee hearings, the criticism leveled at the present measure, as submitted by the Board, was not directed to the issue of need for such transportation but rather to its scope with the suggestion that the supplementals be authorized to operate on a charter basis only. There is no demonstrated justification which would warrant our rejection of the considered conclusion of the Board which certainly cannot be said to be the product of hasty judgment.
>
> Your committee is satisfied that supplemental air carriers constitute a significant and valuable part of the Nation's air transportation system. They have not requested or received any governmental subsidy and under existing law

or the amendment here proposed, these carriers are not eligible for such assistance.

They have pioneered in the development of air-coach travel, have stimulated the growth of airfreight or all-cargo carriage, widened the range of commercial air-charter business and aided our military departments in transporting personnel and supplies. In the Berlin airlift in 1948 and the Korean airlift in 1950, these carriers supplied a substantial part of vital airlift capacity. Together with our regular-route carriers, they constitute an invaluable asset for emergency defense requirements.

In view of the legal dilemma confronting the Board, your committee concurs in the view expressed by the Chairman of the Board, Mr. Gillilland, that this legislation is essential to sustain the supplemental air carrier industry in its present role in our Nation's air transportation system.

The Interstate and Foreign Commerce Committee of the House took a somewhat different position. That committee, which issued its report on June 15, 1960, stated that since time had not permitted the committee to fully consider the entire question of supplemental air transportation, and since the carriers authorized by the Board to provide supplemental service might not be able to continue operations unless immediate action were taken by the Congress, it recommended the enactment of temporary legislation maintaining the status quo for 1 year.

Congress thereupon enacted Public Law 86–661, approved July 14, 1960, giving the Board authority to continue supplemental air carrier operations until March 14, 1962.

H.R. 7318 was introduced by Chairman Williams of this committee on May 24, 1961, at the Board's request. Section 1 of the bill defines "supplemental air carrier" and "supplemental air transportation."

Section 2 would authorize the Board to issue a certificate upon a determination of fitness and ability based on conditions peculiar to supplemental air transportation. This is necessary in order to meet the problem of fitness raised by the court which I have previously mentioned.

Section 2 would also permit the Board to issue "grandfather" certificates to those carriers now holding unrevoked supplemental air carrier certificates or interim operating authority under Public Law 86–661, who have furnished service thereunder or have performed operations for the military. Such operations must have been performed between the time the certificate or operating authority became effective and the date of enactment of H.R. 7318. Certificates for supplemental service issued pursuant to this "grandfather" provision must contain the same terms, conditions, and limitations as set forth in the certificates or operating authority previously issued.

Section 3 of the bill is designed to correct two of the deficiencies found to exist by the court. It would enable the Board to issue certificates which do not specify the terminal and intermediate points and which contain such limitations as to frequency of service, size or type of equipment, or otherwise, to assure that the service so authorized remains supplemental to the service of the certificated route carriers.

Section 3 also contains a provision which would prevent the Board from imposing limitations in the certificates of regular route-type carriers which would not be lawful under the present provisions of section 401(e) of the act.

Under section 4(a) any carrier who has standing to apply for a "grandfather" certificate may continue operating for 30 days from the date of enactment of this bill. If he files an application for a "grandfather" certificate within 30 days, he may continue to operate until his application is disposed of by the Board.

Section 4(a) also makes provision for certain carriers who conducted interstate operations as supplemental carriers under exemption order E–9744 and whose applications for supplemental certificates were pending before the Board on July 14, 1960. These carriers would be permitted to continue their operations until the Board disposes of their applications.

Section 4(a) also continues the operating authority of four carriers whose applications for certificates were denied by the Board in its order of January 28, 1959 (order E–13436), and whose authority under order E–9744 terminated with such denial.

Mr. WILLIAMS. Mr. Boyd, what is the date of that order E–9744?

Mr. BOYD. That is November 15, 1955, Mr. Chairman.

Mr. WILLIAMS. 1955?

Mr. BOYD. Yes, sir.

These latter four carriers have filed appeals with the courts. The appeals are still pending and the carriers are now operating pursuant to a judicial stay of the Board's order. Section 4(a) continues the operations of these carriers until the stay is lifted by the court or until the case is disposed of by the court.

Section 4(b) preserves all existing enforcement procedures as well as the Board's right to institute such proceedings with respect to violations which may have occurred prior to the enactment of H.R. 7318. It also authorizes the Board to impose sanctions for prior violations upon either the "grandfather" certificates or upon any supplemental certificates issued under this bill.

Section 4(c) provides for final disposition of certain pending applications of carriers affected by the bill.

The Board's order of January 28, 1959, E–13436, issued temporary certificates of public convenience and necessity for supplemental air service to 23 air carriers. Two additional certificates were issued pursuant to order E–14196 of July 8, 1959, making a total of 25 certificates for supplemental service. Twelve of those certificates were for 5 years and 13 were for 2 years. Twenty-two of the original supplemental certificates are currently effective—11 of the 5-year certificates and 11 of the 2-year certificates.

In addition to the 22 carriers holding certificated authority for supplemental service, 9 carriers are authorized to render supplemental service pursuant to order E–9744, and 1 carrier holds interim operating authority under Public Law 86–661.

During the fiscal year 1960, the certificated supplemental carriers generated approximately 1.8 billion revenue passenger miles as compared with 1 billion revenue passenger miles for fiscal 1959. This constituted 4.3 percent of the total revenue passenger miles generated by the air carrier industry, including the certificated route air carriers. In 1959 the supplemental carriers obtained only 2.7 percent of the total revenue passenger miles.

The domestic traffic of the supplemental carriers increased from 312 million passenger miles in fiscal 1959 to 346 million in 1960. This

traffic was 40 percent civilian and 60 percent military. The international traffic of the supplementals increased from 696 million passenger miles in 1959 to 1.4 billion in 1960, 18 percent of which was civilian and 82 percent military. This includes all traffic, i.e., individually ticketed, charter, and contract.

The supplemental carriers increased their total transport operating revenues from $51 million in 1959 to $59 million in 1960. Contract and charter services, both military and civilian, accounted for $40 million in 1959 and $48 million in 1960. Revenue from individually ticketed services, both passenger and freight, was $11 million in 1960, the same as in 1959. The supplemental industry as a whole—which showed a net loss in 1959 after taxes of $8 million—showed a loss of only $5 million in 1960.

The Board has found that the supplemental air carriers have performed a useful public service and have a definite place and role in meeting this Nation's air transportation needs. There can be no doubt that the continued existence of the supplemental air carrier fleet is of real value in terms of national defense, and it is evident that the future ability of the supplemental air carriers to serve the military, as they are doing now and have done so ably in the past, depends upon their ability to operate their planes in commercial activities when not engaged in service for the military. In order to assure the continuance of the supplemental air carrier industry, the Board recommends the enactment of H.R. 7318.

The Board has also been asked to comment on H.R. 7512, another bill dealing with the supplemental air carriers. The Board is opposed to this bill and recommends against its enactment. Section 1 defines the limits of supplemental air transportation. Under the definition, a certificate for supplemental air transportation limits the holder (1) to performance of unlimited planeload charter operations within the United States (including oversea but not foreign operations) carrying passengers or cargo, and (2) to 192 flights per year between any two places in this country, in the same direction, for which individual tickets are sold or on which individually waybilled cargo is carried. The definition further confers on the supplemental carriers a right of first refusal in the operation of charter flights not only in this country but also in air transportation between this country and foreign nations. The Board is required to implement these provisions by appropriate regulation.

Mr. WILLIAMS. What do you mean by first refusal in the operation of charter flights?

Mr. BOYD. That is the proposal in the bill, H.R. 7512, and it says, Mr. Chairman, simply that the supplemental air carriers have the right of first refusal, which would mean that any charter party, as we understand it, seeking to charter an aircraft must go to the supplementals first before they could talk to a route carrier.

We would take it to mean very possibly that this would include operations which would be en route for a certificated route carrier.

Mr. WILLIAMS. In otherwords, if a college wanted to fly its football team, they would first have to check with all of the supplemental carriers to see if a carrier was available before they would be able to check with the route carriers?

Mr. BOYD. Yes, sir.

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Section 2 of the bill would authorize the Board to grant the "whole or any part" of an application for a supplemental air carrier certificate, depending on the fitness of the applicant and on what the public convenience and necessity require. Such certificates may be permanent or temporary.

Section 2 of the bill also contains a "grandfather" provision. This provision would require the Board to issue a certificate to any applicant who holds an unrevoked supplemental air carrier certificate and shows that he has rendered any portion of the service authorized in that certificate. Application for the new certificate may be made within 120 days of the enactment of the bill. A new certificate issued under this "grandfather" provision would be of indefinite duration and would authorize the holder to engage in supplemental air transportation as defined in the bill.

Section 3 of the bill would amend section 401(e) of the Federal Aviation Act to permit the Board to designate geographical areas rather than specified points in supplemental air carrier certificates. The Board would be authorized to place the limitations on such certificates which it finds necessary to assure that the services are limited to supplemental air transportation as defined in the bill.

Section 4 of the bill makes provision for applicants who do not hold a previously issued certificate for supplemental air transportation. If such persons are operating as supplemental air carriers in interstate air transportation under any authority from the Board at the time the bill is enacted, they may file an application for a certificate under the bill within 120 days of its enactment. While the application is pending, they may operate in supplemental air transportation, as defined in the bill, within the United States. Holders of interim operating authority issued under Public Law 86-661 would come under this provision and not under the "grandfather" provision.

H.R. 7512 contains a number of ambiguities and contradictions. The definition set forth in section 1 provides for unlimited charter operations and 192 noncharter round trips per year between any two points in "interstate, oversea, and territorial air transportation." This same section further provides that supplemental air carriers shall have the right of first refusal in the operation of all charter trips in "interstate, oversea, and foreign air transportation." These two provisions are inconsistent. While the supplemental carriers would be permitted to operate only within the United States and its possessions, the right of first refusal would be applicable not only to these operations but to foreign operations as well, an authorization which the supplemental carriers could not receive under the bill.

The supplemental carriers have conducted charter service in foreign operations for many years and have performed a useful service in the public interest. The Board's bill, H.R. 7318, would give the Board authority to authorize the supplemental service in foreign air transportation, subject of course to the approval of the President under section 801 of the Federal Aviation Act.

It is not clear under H.R. 7512 whether each certificate must contain all the rights listed in the definition of supplemental air transportation, or whether the Board can confer operating rights comprising only portions thereof. Section 2 of the bill speaks of authorizing the whole or any part of an application, and section 3 speaks of geograph-

ical limitations. On the other hand, the "grandfather" provision is worded so that any supplemental air carrier now holding a certificate from the Board would receive authority to engage in the full scope of the operations listed in the definition. Similarly, under section 4 of the bill, an applicant who at the time of enactment is operating under Board authority other than a certificate could engage in the full scope of the operations listed in the definition while his case is pending before the Board. The Board is opposed to any provision which would require it to grant each applicant either all of the rights or no rights at all. Nor do we favor the provision permitting the full scope of operations while the application is pending.

It seems clear from the bill that the right of first refusal in the operation of charter trips would automatically attach to each supplemental air carrier certificate. The Board is opposed to this provision. It would even limit the right of the certificated route air carriers to operate charter flights over their own routes, a right which should not be restricted. So far as off-route charters of the certificated route carriers are concerned, the Board has ample authority to deal with this problem under the present law.

In conclusion, Mr. Chairman, the Board wishes to reiterate the importance of enacting appropriate legislation to resolve the problems confronting the supplemental air carrier industry. We recommend, therefore, the enactment of H.R. 7318 and against the enactment of H.R. 7512.

The Bureau of the Budget has advised that it has no objection to the Board's testimony from the standpoint of the administration's program. Member Chan Gurney has prepared a separate statement which I believe is attached to the testimony.

(The statement referred to follows:)

CIVIL AERONAUTICS BOARD,
Washington, D.C., June 20, 1961.

Hon. JOHN BELL WILLIAMS,
Chairman, Subcommittee on Transportation and Aeronautics, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN WILLIAMS: While I agree with my colleagues on the Civil Aeronautics Board that legislation by the Congress is required to authorize the Board to issue certificates of public convenience and necessity for supplemental air transportation, I differ as to the type of certificates which the Board should be empowered to issue. I would urge the Congress to enact legislation authorizing the Board to issue supplemental certificates limited to the operation of charter services only without regard to the other limitations in the act. This opinion is based upon my experience of over 10 years as a member of the Civil Aeronautics Board supported by statistics which indicate little need for supplemental air service other than charter operations.

As you and the members of your committee know, the need for this additional legislation has resulted from a reversal by the U.S. Court of Appeals for the District of Columbia Circuit (*United Air Lines, et al* v. *C.A.B.*, 278 F. 2d 446) remanding the decision of a majority of the Board in the *Large Irregular Carrier Investigation*, docket No. 5132. Further court proceedings on this matter have been stayed pending the enactment of further legislation or the expiration of Public Law 86-661 enacted by the Congress last year to preserve the status quo for 20 months from July 14, 1960. In the *Large Irregular Carrier* case, the Board awarded certificates of public convenience and necessity to 23 former large irregular carriers to engage in interstate air transportation limited to 10 round trip flights per month between any 2 points carrying individual ticketed passengers or cargo, but unlimited as to charter flights. Further proceedings were ordered with respect to eight additional carriers. The 10-trip authority, for example, permits a carrier to operate 10 round trips monthly between New

York and Los Angeles in addition to 10 round trips per month between any other two points in the United States. The authority to operate between any two cities in the United States simultaneously is limtied only by the availability of equipment by each carrier. With this authority, the supplemental carriers could concentrate their operations in the heavy traffic markets on which the trunkline carriers depend for their financial success. Additional competition in route-type operations by a substantial number of supplemental carriers is certainly not required or necessary. The financial condition of the trunkline industry today as evidenced by the losses experienced by several of the carriers during the past year and the first quarter of 1961 shows that it cannot stand additional competition.

The certificated domestic air carrier route system links every major metropolitan area with each other and with more numerous smaller communities. The 11 trunkline carriers and the 13 subsidized local service carriers currently provide air service to 576 cities and towns in the continental United States. Thus the trade and vacation routes are more than adequately served by these route-type carriers which are required by law to render adequate service according to the needs of the communities.

The supplemental carriers enjoying the best financial condition today are for the most part those carriers which have through the years concentrated on developing the charter market rather than holding out to the individual ticketholder. For example, the Board's records show that for the year ending June 30, 1960, the supplemental carriers received operating revenues of $50,417,000 for their civilian and military charter sales while grossing transport revenues of $13,580,000 in operations other than charters. (These statistics do not include revenues of two carriers which are involved in enforcement proceedings for violations of their authority as large irregular carriers.) Of all the carriers operating supplemental services, 76 percent of the total noncharter revenues were received by only three carriers. Of these three carriers, one is now bankrupt and another is operating only pending appeal of the Board decision denying it continuing authority. The third carrier although receiving 40 percent of its income from individual ticket operations, showed a net loss on all operations of $577,000 in 1960, and $1,350,000 in 1959.

A vast majority of the supplemental carriers, therefore, are not engaging in individual ticketing or waybill operations. In fact, 14 of these carriers engaged in no individual ticket or waybill operations during the 12 months preceding June 30, 1960. It is my conclusion, therefore, that since only a limited few carriers have used the individual ticket and waybill authority from 1955 to the present, little need exists for this type of service. If, at any time, an emergency should develop requiring the services of the supplemental carriers for purposes other than charters, the Board can invoke its authority under section 416(b) of the act to authorize such operations.

The Board has encouraged the supplemental carriers to develop the charter market by permitting these carriers to operate a charter exchange whereby a charter group is assured of the availability of an aircraft to suit its needs by negotiating with one central source which in turn has available the entire supplemental air carrier fleet. The Board disapproved a similar arrangement organized by the trunkline carriers to protect the supplemental carriers from unwarranted competition in developing the charter market. It is my firm belief that the future of the supplemental air carrier industry lies in the further development of the charter market—and not in attempting to engage in route-type operations of any kind.

One additional point requires elaboration. One of the billls (H.R. 7318) under consideration proposes an amendment of section 401 of the Federal Aviation Act to authorize the Board to issue supplemental certificates for interstate, oversea, and foreign air transportation. It is urged that the amendment be limited to interstate operations only. Currently, the international routes to and from the United States are served by several U.S.-flag carriers who are competing with approximately 67 foreign air carriers. As a result of this competition, the market for the U.S.-flag carriers has decreased substantially each year for several years. In 1950 our flag carriers carried 74.7 percent of the market, but in 1960 carried only 54.7 percent of the total passenger traffic. Although the traffic in numbers of passengers has increased considerably during this period,

unlimited competition by the supplemental carriers could very well cause the frequency and quality of our flag services to deteriorate. This in turn would seriously affect their financial condition.

The Board has certificated 10 all-purpose carriers to operate major international routes. Five of these carriers reported losses on their international operations for the years 1959 and 1960. The U.S. international all-cargo carriers are also experiencing severe financial difficulties as is an all-cargo carrier on an oversea route. The certification of an unlimited number of supplemental carriers in the international field may well pose a further threat to the financial condition of the existing carriers on these routes.

The large irregular carriers, predecessors to the supplemental air carriers, have had authority to operate cargo flights internationally, but few have sought to use this authority over the years. It is apparent, therefore, that little need exists for oversea or foreign supplemental air transportation of any kind and it is urged that such authority be deleted from the proposal.

Failure to include oversea and foreign supplemental air transportation in the proposed amendment does not mean that the supplemental carriers will be excluded from participation in either civilian or military international movements— as again the Board has ample authority under section 416(b) of the act to exempt air carriers for individual flights or for operations for a limited time for any national defense need or other emergency.

Respectfully submitted.

CHAN GURNEY.

Mr. WILLIAMS. Does that conclude your statement?

Mr. BOYD. Yes, sir; that concludes my statement.

Mr. WILLIAMS. Mr. Chairman, have you had an opportunity to look over the bill that was introduced by Mr. Collier?

Mr. BOYD. No, sir; we had no knowledge of it until we came to the meeting here this morning.

Mr. WILLIAMS. In view of that, I am wondering if you might study it within the next few days and possibly submit a statement to the committee on that bill.

Mr. BOYD. Yes, sir; we would be happy to do so.

(The report requested appears on p. 6.)

Mr. WILLIAMS. Mr. Friedel?

Mr. FRIEDEL. Mr. Boyd, in the recent hearings on the international travel bill, Mr. Hans B. Thunell, general sales manager of the IndependentAirlines Association, said:

The U.S. Government should review the present Civil Aeronautics Board's regulations which prohibit the practice of chartering airplanes in connection with tours unless they are bona fide groups.

He mentioned that to be eligible, these groups must not be formed specifically to promote travel and that persons to qualify for a group charter flight must be members of an eligible organization at least 6 months.

In his testimony on the travel bill, Mr. Clayton Burwell, president of the Independent Airlines Association, said:

The difficulty with attracting large masses of European and other fares to the United States through the further development of the charter market arises from the fact that the Civil Aeronautics Board has imposed a very narrow definition as to what constitutes a bona fide charter in a document known as the Transatlantic Charter Policy.

He mentioned the 6-month membership requirement and the limitation of the size of the group eligible for a charter. Mention also was made of the restriction placed on a charter flight of the English Bar Association group to attend a meeting here in Washington last

summer which, I understand, resulted in forcing the group to go to Montreal, Canada, and come down from there to Washington.

It has been pointed out to me that in H.R. 7512, on page 2, beginning at line 3, there is a definition of charter operations that would eliminate this 6-month-club-membership requirement and permit the independent airlines and the other airlines to fly tourists and sightseers to and from Europe without this redtape.

Do you have any comment on this?

What would be the effect of writing this new definition of charter operations into law? Would you want to study this?

Mr. BOYD. Well, I can say this, Mr. Friedel. The Board has a proceeding which will be set down for public hearing in the near future which will delve into this entire question.

Mr. FRIEDEL. I have one more question.

On page 3 of your statement you mention the total of 25 such certificates of these supplemental airlines. Are they all operating?

Mr. BOYD. No, sir. We have 23 operating, Mr. Friedel.

Mr. FRIEDEL. There are only two that are not operating?

Mr. BOYD. Only 2 of those 25, yes, sir; 3 of the 25. I beg your pardon. We have one in this group that comes under the interim operating authority of Public Law 86–661 passed last year, so that there are 3 of the original 25 who are not operating.

Mr. FRIEDEL. Now, do you know how long they have not been operating?

Mr. BOYD. Yes, sir. I think we have the information here. Would you like the carrier by name?

Mr. FRIEDEL. If you have it there, yes.

Mr. BOYD. All right, sir. General Airways, Inc., had a 5-year certificate which was to expire in 1964, March 30. It has had no operations in 1960 or 1961.

Mr. COLLIER. Will the gentleman yield at that point?

Mr. FRIEDEL. I yield.

Mr. COLLIER. I wonder, Mr. Boyd, in the interest of making the proper evaluation of the legislation before us, if the committee could not be furnished with a record of the extent to which holders of supplemental certificates have used them since 1959, the report to include the dollar revenue and the passenger-miles in each instance?

Mr. BOYD. We are having that prepared at the moment, Mr. Collier, and should have it to you within 48 hours, just exactly what you asked for.

Mr. COLLIER. Thank you.

Mr. BOYD. That would include, of course, the information that Mr. Friedel is seeking.

Mr. FRIEDEL. Would that be voluminous?

Mr. BOYD. No, sir. I think it might run maybe four sheets, but no more than that.

Mr. FRIEDEL. Mr. Chairman, I ask to have it incorporated in the minutes of the record.

Mr. WILLIAMS. The committee will be glad to receive that statement.

(The statement referred to follows:)

EXHIBIT A

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960

TOTAL FOR 23 CARRIERS [1]

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [2]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	$2,722	$524	$2,707	$17,074	$23,027	306,528
1957	5,074	531	3,559	21,000	30,164	447,025
1958	7,661	1,335	9,287	26,703	44,986	820,557
1959	12,234	925	13,381	26,055	52,595	1,264,972
1960	8,237	405	10,660	44,988	64,290	1,793,143
Total, 5 years	35,928	3,720	39,594	135,820	215,062	4,632,225
Percent of total for carrier:						
1956	12	2	12	74	100	
1957	17	2	12	69	100	
1958	17	3	21	59	100	
1959	23	2	25	50	100	
1960	13	1	16	70	100	
Weighted average, 5 years	17	2	18	63	100	

AMERICAN FLYERS AIRLINE CORP.

Amount:						
1956	$12		$112	$231	$355	5,653
1957	18		86	242	346	5,958
1958	14		41	241	296	5,409
1959	11		151	131	293	3,999
1960	134	$14	182	1,065	1,395	27,798
Total, 5 years	189	14	572	1,910	2,685	48,817
Percent of total for carrier:						
1956	3		32	65	100	
1957	5		25	70	100	
1958	5		14	81	100	
1959	4		51	45	100	
1960	10	1	13	76	100	
Weighted average, 5 years	7	1	21	71	100	

ASSOCIATED AIR TRANSPORT, INC.

Amount:						
1956			$44		$44	
1957			23	$319	342	7,320
1958			182	502	684	11,931
1959	$36		289	812	1,137	23,465
1960	45		466	645	1,156	22,748
Total, 5 years	81		1,004	2,278	3,363	65,464
Percent of total for carrier:						
1956			100		100	
1957			7	93	100	
1958			27	73	100	
1959	3		25	72	100	
1960	4		40	56	100	
Weighted average, 5 years	2		30	68	100	

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

BLATZ AIRLINES, INC.

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	$31	----	$77	----	$108	2,797
1957	20	----	112	----	132	3,104
1958	23	----	65	----	88	1,489
1959	----	----	114	----	114	2,175
1960	----	----	413	$36	449	7,013
Total, 5 years	74	----	781	36	891	16,578
Percent of total for carrier:						
1956	29	----	71	----	100	----
1957	15	----	85	----	100	----
1958	26	----	74	----	100	----
1959	----	----	100	----	100	----
1960	----	----	92	8	100	----
Weighted average, 5 years	8	----	88	4	100	----

CAPITOL AIRWAYS, INC.

Amount:						
1956	$20	----	$60	$4,957	$5,037	40,778
1957	28	----	55	6,642	6,725	81,056
1958	32	----	2,814	5,387	8,233	109,822
1959	636	$30	4,830	5,016	10,512	172,970
1960	443	58	5,571	6,493	12,565	156,074
Total, 5 years	1,159	88	13,330	28,495	43,072	560,700
Percent of total for carrier:						
1956	(4)	----	1	99	100	----
1957	(4)	----	1	99	100	----
1958	(4)	----	34	66	100	----
1959	6	(4)	46	48	100	----
1960	4	(4)	44	52	100	----
Weighted average, 5 years	3	(4)	31	66	100	----

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

COASTAL AIR LINES [4]

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956		$5		$156	$161	
1957		(5)			(5)	1
1958				690	690	23,839
1959	$15	37	$65	253	370	8,512
1960			7		7	
Total, 5 years	15	42	72	1,099	1,228	32,352
Percent of total for carrier:						
1956		3		97	100	
1957						
1958				100	100	
1959	4	10	18	68	100	
1960			100		100	
Weighted average, 5 years	1	3	6	90	100	

CONNER AIR LINES, INC.

Amount:						
1956			$1		$1	
1957	$126				126	3,601
1958	1	(3)			1	1
1959			3		3	23
1960						
Total, 5 years	127	(3)	4		131	3,625
Percent of total for carrier:						
1956			100		100	
1957	100				100	
1958	100				100	
1959			100		100	
1960						
Weighted average, 5 years	97		3		100	

IMPERIAL AIRLINES, INC.[7]

Amount:						
1956	$271		$95	$191	$557	13,820
1957	145		15	474	634	14,437
1958	58		19	486	563	11,879
1959	74		13	411	498	11,460
1960	340		24	396	760	16,765
Total, 5 years	888		166	1,958	3,012	68,361
Percent of total for carrier:						
1956	49		17	34	100	
1957	23		2	75	100	
1958	10		3	87	100	
1959	15		3	82	100	
1960	45		3	52	100	
Weighted average, 5 years	29		6	65	100	

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

JOHNSON FLYING SERVICE, INC.

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [2]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956		$6	$319		$325	853
1957			257		257	1,136
1958			380		380	1,189
1959			397		397	1,389
1960			658		658	1,086
Total, 5 years		6	2,011		2,017	5,653
Percent of total for carrier:						
1956		2	98		100	
1957			100		100	
1958			100		100	
1959			100		100	
1960			100		100	
Weighted average, 5 years		(4)	100		100	

PAUL MANTZ AIR SERVICES

Amount						
1956		(4)	$62		$62	810
1957		$1	17		18	399
1958			1		1	
1959						
1960		2			2	
Total, 5 years		3	80		83	1,209
Percent of total for carrier:						
1956			100		100	
1957		6	94		100	
1958			100		100	
1959						
1960		100			100	
Weighted average, 5 years		4	96		100	

MODERN AIR TRANSPORT, INC.

Amount:						
1956	$34		$22	$667	$723	17,876
1957	24		17	742	783	18,241
1958	56		91	724	871	18,946
1959	119		90	580	789	16,495
1960	578		135	369	1,082	22,677
Total, 5 years	811		355	3,082	4,248	94,235
Percent of total for carrier:						
1956	5		3	92	100	
1957	3		2	95	100	
1958	6		11	83	100	
1959	15		11	74	100	
1960	54		12	34	100	
Weighted average, 5 years	19		8	73	100	

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

OVERSEAS NATIONAL AIRWAYS

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	----------	----------	$81	$1,994	$2,075	32,522
1957	----------	----------	1,266	2,291	3,557	42,084
1958	$114	----------	3,082	3,068	6,264	137,042
1959	61	----------	2,135	8,090	10,286	413,544
1960	62	----------	157	23,527	23,746	1,111,934
Total, 5 years	237	----------	6,721	38,970	45,928	1,737,126
Percent of total for carrier:						
1956	----------	----------	4	96	100	----------
1957	----------	----------	36	64	100	----------
1958	2	----------	49	49	100	----------
1959	1	----------	21	78	100	----------
1960	(4)	----------	1	99	100	----------
Weighted average, 5 years	1	----------	15	84	100	----------

PRESIDENT AIRLINES, INC.[5]

Amount:						
1956	----------	----------	----------	----------	----------	----------
1957	----------	----------	----------	----------	----------	----------
1958	----------	----------	----------	----------	----------	----------
1959	----------	----------	----------	----------	----------	----------
1960	$63	----------	----------	$182	$245	4,809
Total, 5 years	63	----------	----------	182	245	4,809
Percent of total for carrier:						
1956	----------	----------	----------	----------	----------	----------
1957	----------	----------	----------	----------	----------	----------
1958	----------	----------	----------	----------	----------	----------
1959	----------	----------	----------	----------	----------	----------
1960	26	----------	----------	74	100	----------
Weighted average, 5 years	26	----------	----------	74	100	----------

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

QUAKER CITY AIRWAYS, INC.

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [2]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	$1		([3])	$18	$19	374
1957	5		$11	6	22	572
1958	12	$3	8	120	143	3,258
1959						
1960		11	15		26	
Total, 5 years	18	14	34	144	210	4,204
Percent of total for carrier:						
1956	5			95	100	
1957	23		50	27	100	
1958	8	2	6	84	100	
1959						
1960		42	58		100	
Weighted average, 5 years	9	7	16	68	100	

VANCE ROBERTS

[Received interim operating authority under Public Law 86-661. Effective date for inauguration of service Dec. 17, 1960. No reports filed for 1960]

SATURN AIRWAYS, INC.[3]

	Transport revenues [2]					Total revenue passenger-miles [2]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	$1		$13	$971	$985	24,438
1957	31		26	954	1,011	24,547
1958	59		22	1,084	1,165	28,665
1959	170	$4	61	909	1,144	26,265
1960	746	1	83	520	1,350	30,447
Total, 5 years	1,007	5	205	4,438	5,655	134,362
Percent of total for carrier:						
1956	([4])		1	99	100	
1957	3		3	94	100	
1958	5		2	93	100	
1959	15	([4])	5	80	100	
1960	55	([4])	6	39	100	
Weighted average, 5 years	18	([4])	4	78	100	

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

SOURDOUGH AIR TRANSPORT

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [2]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956						
1957						
1958						
1959			$7		$7	177
1960			44		44	545
Total, 5 years			51		51	722
Percent of total for carrier:						
1956						
1957						
1958						
1959			100		100	
1960			100		100	
Weighted average, 5 years			100		100	

SOUTHERN AIR TRANSPORT, INC.

Amount:						
1956		$339	$156		$495	
1957		90	156		246	
1958		67	87		154	
1959	$74	128	77	$123	402	4,281
1960	191	250	194	911	1,546	21,777
Total, 5 years	265	874	670	1,034	2,843	26,058
Percent of total for carrier:						
1956		68	32		100	
1957		37	63		100	
1958		44	56		100	
1959	18	32	19	31	100	
1960	12	16	13	59	100	
Weighted average, 5 years	9	31	24	36	100	

STANDARD AIRWAYS, INC.

Amount:						
1956	$8	[3]			$8	194
1957			[3]		[3]	9
1958			$9	$4	13	279
1959						
1960	256				256	6,263
Total, 5 years	264		9	4	277	6,745
Percent of total for carrier:						
1956	100				100	
1957						
1958			69	31	100	
1959						
1960	100				100	
Weighted average, 5 years	95		3	2	100	

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

STEWART AIR SERVICE

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	$65		$212		$277	4,364
1957	39		362		401	3,167
1958	35		368		403	5,178
1959	46		393		439	8,542
1960			490		490	10,706
Total, 5 years	185		1,825		2,010	31,957
Percent of total for carrier:						
1956	23		77		100	
1957	10		90		100	
1958	9		91		100	
1959	10		90		100	
1960			100		100	
Weighted average, 5 years	9		91		100	

TRANS INTERNATIONAL AIRLINES, INC.[10]

Amount:						
1956	$10		$49	$1,950	$2,009	33,452
1957			4	21	25	1,222
1958			5	31	36	1,385
1959			249	1,316	1,565	56,134
1960	937		279	1,652	2,868	95,807
Total, 5 years	947		586	4,970	6,503	188,000
Percent of total for carrier:						
1956	1		2	97	100	
1957			16	84	100	
1958			14	86	100	
1959			16	84	100	
1960	33		10	57	100	
Weighted average, 5 years	15		9	76	100	

TRANSOCEAN AIR LINES

Amount:						
1956	$2,137	$174	$607	$1,783	$4,701	61,646
1957	3,752	440	105	4,059	8,356	103,948
1958	4,739	1,265	1,303	6,384	13,691	252,348
1959	6,124	710	2,387	3,189	12,410	300,222
1960	80				80	4,602
Total, 5 years	16,832	2,589	4,402	15,415	39,238	722,766
Percent of total for carrier:						
1956	45	4	13	38	100	
1957	45	5	1	49	100	
1958	34	9	10	47	100	
1959	49	6	19	26	100	
1960	100				100	
Weighted average, 5 years	43	7	11	39	100	

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

U.S. OVERSEAS AIRLINES, INC.

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [2]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [3]	
			Civilian	Military		
Amount:						
1956	$132		$714	$3,657	$4,503	56,894
1957	886		1,047	3,023	4,956	107,104
1958	2,518		804	5,570	8,892	182,140
1959	4,861	$16	2,119	4,656	11,652	206,368
1960	4,358	69	551	6,424	11,402	190,443
Total, 5 years	12,755	85	5,235	23,330	41,405	742,949
Percent of total for carrier:						
1956	3		16	81	100	
1957	18		21	61	100	
1958	28		9	63	100	
1959	42	[3]	18	40	100	
1960	38	1	5	56	100	
Weighted average, 5 years	31	[3]	13	56	100	

WORLD AIRWAYS, INC.

Amount:						
1956			$83	$499	$582	10,057
1957				2,227	2,227	29,119
1958			6	2,412	2,418	25,757
1959	$7		1	569	577	8,951
1960	4		1,391	2,768	4,163	61,649
Total, 5 years	11		1,481	8,475	9,967	135,533
Percent of total for carrier:						
1956			14	86	100	
1957				100	100	
1958			[4]	100	100	
1959	1		[4]	99	100	
1960	[4]		33	67	100	
Weighted average, 5 years	[4]		15	85	100	

[1] Total for the 23 carriers described on pp. 2 through 24 of this exhibit. The 23 carriers are comprised of 22 carriers certificated in docket 5132 and 1 carrier, Vance Roberts, that received interim operating authority under Public Law 86-661.

[2] Does not include minor amounts for excess baggage and/or miscellaneous other transportation.

[3] Total for individually ticketed and charter flights. Breakdown by type of flight not available for periods prior to Jan. 1, 1961.

[4] Less than 0.5 percent.

[5] Formerly Coastal Cargo Co., Inc. Name changed June 27, 1960.

[6] Less than $500.

[7] Formerly Regina Cargo Airlines, Inc. Name changed June 27, 1960.

[8] Certificate currently held by President Airlines was transferred from California Eastern Aviation, Inc., effective June 23, 1960. Data shown herein for 1960 reflect operations of President Airlines. California Eastern had performed no transport operations. Its income was derived from rental of aircraft to others.

[9] Formerly All-American Airways, Inc. Name changed Nov. 9, 1960.

[10] Formerly Los Angeles Air Service, Inc. Name changed Dec. 8, 1960.

Source: CAB form 242 reports.

Mr. BOYD. I would like to apologize for not having this information available today but we have been occupied in some crises lately.

Mr. WILLIAMS. Mr. Springer?

Mr. SPRINGER. Mr. Chairman, I think you made an excellent statement.

I have just a few questions.

The first section of this bill has two definitions as to existing law, one of which is a definition of "supplemental air transportation."

Mr. BOYD. Is this 7318 or 7512?

Mr. SPRINGER. I am talking about 7512.

Mr. BOYD. Yes, sir.

Mr. SPRINGER. This definition provides that—

'Supplemental air transportation' means air transportation rendered pursuant to a certificate of public convenience and necessity.

Now, the term "air transportation" is defined in existing law to mean—

interstate, oversea, or foreign air transportation, or the transportation of mail by aircraft.

Is the effect of this definition to permit supplemental air carriers to transport mail and receive compensation therefor under section 406, including a so-called subsidy payment?

Mr. BOYD. We do not so construe this definition.

Mr. SPRINGER. Has there been any legal interpretation?

Mr. BOYD. No, sir, not to my knowledge.

Mr. SPRINGER. Insofar as you know, that problem has never been raised?

Mr. BOYD. That is correct, sir.

Mr. SPRINGER. Do you concur in that, Counsel?

Mr. WANNER. Yes, sir.

Mr. SPRINGER. I presume, as a result of the answer to the last question, that there are no supplemental air carriers presently receiving compensation under section 406 for transportation?

Mr. BOYD. That is correct.

Mr. SPRINGER. Does the Board presently permit unlimited charter operations by supplemental air carriers?

Mr. BOYD. Yes, sir. We do. There is no restriction on the charters that can be operated.

Mr. SPRINGER. You never have sought to put any on?

Mr. BOYD. No, sir. Now, they have to seek exemption authority in international movement, but, so long as the charter group conforms to the Board's requirements, there has been no restriction on the supplementals as to the carriage.

Mr. SPRINGER. Any number of flights?

Mr. BOYD. That is right, sir.

Mr. SPRINGER. Anywhere?

Mr. BOYD. Domestic, yes, sir. On domestic there is no requirement for seeking Board authority. This is a certificate authority that the carriers have domestically.

Now, internationally they do not have certificate authority so that they have to request an exemption from the Board in order to engage in international air transportation. The Board is currently considering granting a blanket exemption whereas in the past we have dealt on an individual exemption basis.

Mr. SPRINGER. You have considered each case on each request, is that right?

Mr. BOYD. Yes, sir.

Mr. FRIEDEL. Will the gentleman yield on the same point?

Mr. SPRINGER. All right.

Mr. FRIEDEL. One of my questions was:

Mention also was made of the restriction placed on a charter flight of the English Bar Association group to attend a meeting here in Washington last summer.

Mr. BOYD. Yes, sir.

Mr. FRIEDEL. Why was it turned down? As I understand it, they engaged a foreign charter service and the American air lines lost it.

Mr. BOYD. There was no homogeneity to the group such as is required by the regulations of the foreign carrier who sought the charter authority, the IATA regulations. The foreign carrier was BOAC, which is a member of the International Air Transport Association, as are the American carriers and most of the scheduled carriers of the world.

The International Air Transport Association has a charter provision in its rules which provides for a homogeneous group, a limitation on the total membership of the group, and a time period of membership, plus the fact, as you related in your earlier question, that one of the requirements is that the group cannot be formed for purposes of obtaining travel by charter.

Mr. FRIEDEL. They cannot?

Mr. BOYD. That is right. That is the provision of the IATA regulation, and one that the Board has followed in international air transportation so far as U.S. operations are concerned.

Mr. FRIEDEL. You know that we are trying to encourage a lot of tourists to come to the United States and cheap cost in charter service would help.

I am wondering whether American airlines or the supplemental airlines or any airlines will lose out to the foreign airlines.

Mr. BOYD. Of course, you have to go back to your last question. This was a foreign air line that lost out last year on this charter operation. You get into a matter of philosophy, Mr. Friedel, and in this connection I can state that one of the things the Board has sought in its appropriations request this year, that I am a little hesitant to mention after the long time that the large irregular investigation took, is $50,000 for a study.

We still do not know exactly where these supplementals should fit.

We feel very strongly that the supplemental carriers have a definite place and I think we have put on record our support of supplemental carriers, but we are seeking $50,000 to study the role of the supplemental carrier.

We feel that 7318 here would give us the flexibility to deal with this problem once we find out exactly where we should go and one of the things we have to figure out is to what extent can we go in the international charter field without doing injury to our certificated route carriers.

Mr. FRIEDEL. That is not my purpose. I want to keep the certificated carriers going because I am very much interested in Friend-

ship and we have oversea flights out of Friendship now. I want to know what we can do to encourage more tourists to come to the United States.

Mr. BOYD. We have the same aim, then. We would just like to get some answers that we are not apparently able to get through the hearing process.

Mr. JARMAN. Will the gentleman yield?

Mr. SPRINGER. I yield to the gentleman for a question.

Mr. JARMAN. In line with Chairman Boyd's comment just a moment ago with reference to the request for $50,000 for a study of the role of supplemental air carriers, why should we not wait until the results of that study are made available to the Board and to Congress to write permanent legislation on this subject?

Mr. BOYD. Well, the permanent legislation that we are seeking, Mr. Jarman, would give the Board the flexibility to establish certificate authority in the future as we develop greater information and understanding. There is not going to be, in my judgment, anything coming out of a study that would go to contravene the policy which the Congress will establish by the enactment of H.R. 7318, but rather the study would be to give the Board a sense of direction as to whether it should turn right or left on the road that we are headed by the enactment of this bill, if I make myself clear.

Mr. JARMAN. Just one more question. Could you be a little more definite as to what kind of questions the Board wants answered under the $50,000 appropriation study?

Mr. BOYD. All right, sir. One of the questions very specifically would be the effect of broadening the charter restrictions on the supplementals and on the route carriers.

Another would be in the area of what are the economics of operating at a restriction of the 10 individually ticketed flights per month as opposed to, say, 16 or 12.

Some of us have an impression that 10 may not be a magic number, and it may not be beneficial for the supplementals to be able to operate only 10, or whatever.

We do not know and there is not sufficient knowledge available to us today to say what should be the proper number of individually ticketed flights per month to enable the supplementals to live.

Mr. JARMAN. But, with that type question yet to be answered and adequate information gained on that type question, you still feel that the Congress should go ahead under H.R. 7318 and pass the permanent legislation?

Mr. BOYD. Oh, absolutely. Absolutely, because this legislation would give us the authority to act on experience gained and information gained through the study.

Mr. JARMAN. Thank you.

Mr. SPRINGER. I yield to Mr. Collier.

Mr. COLLIER. Just to pursue that one step further, Mr. Boyd, is it not possible that the present flexibility of the laws governing such supplemental carriers has made a positive and fruitful study a little more difficult and is it not true further that the continued flexibility will make this study more difficult in the years ahead?

Mr. BOYD. Not in our judgment, Mr. Collier; no, sir.

Mr. SPRINGER. Let me ask you this just to pursue that, Mr. Chairman. Is it possible that the study would result in additional amendments to the law being requested by the Board?

Mr. BOYD. Well, Mr. Springer, when you ask me what is possible, I say anything is possible but if it is "Is there a probability," the answer would be "No."

Mr. SPRINGER. Do you not think it would be well to wait? You do not think the possibility of what might happen in the intervening time would make it worth waiting?

Mr. BOYD. No, sir.

Mr. SPRINGER. Mr. Chairman, I trust that you have certain figures for this during the last year, do you not, 1960?

Mr. BOYD. Yes, sir.

Mr. SPRINGER. As to what is being siphoned out or what is being undertaken by the supplemental carriers?

Mr. BOYD. Yes, sir.

Mr. SPRINGER. Do you have any figures which you could come forward with as to, for instance, the number of planes involved in supplemental operations? This is a pretty big question. I would like to get the overall picture of how big this operation is, roughly.

Mr. BOYD. Let me see if we have that information available here. All right, sir. I can give you figures here.

Mr. SPRINGER. First, can you give the number of planes in operation?

Mr. BOYD. Yes, sir. The total is 168.

Mr. SPRINGER. 168 planes?

Mr. BOYD. Yes, sir.

Mr. SPRINGER. Carrying how many passengers?

Mr. BOYD. Well, we do not have passengers by number, but in 1960 the certificated supplemental carriers generated 1.8 billion revenue passenger-miles.

Mr. SPRINGER. Now, how many planes would the route carriers have?

Mr. BOYD. The route carriers?

Mr. SPRINGER. The U.S. route carriers, the territorial situation.

Mr. BOYD. My recollection is that the figure is right at 2,000. It might be 2,032.

Mr. SPRINGER. I think, as I recall by your own figures, that you used the figure that the supplemental carriers took 4.3 percent of the business; is that correct?

Mr. BOYD. Yes, sir. That is for fiscal 1960.

Mr. WILLIAMS. That is not the ticketed business, is it? That includes cargo and charter flights and everything?

Mr. BOYD. This is their total business, Mr. Chairman, military, civilian, everything.

Mr. SPRINGER. Four and three-tenths percent.

Mr. BOYD. That is of the total number who traveled by air.

Mr. SPRINGER. Now, do you have any figure as to the total diversion from the scheduled industry?

Mr. BOYD. No, sir.

Mr. SPRINGER. Let me give you these figures—21,338,000.

Mr. BOYD. Yes, sir.

Mr. SPRINGER. Is that right? I think my auditor is pretty good.

Mr. BOYD. I would not question the figure as an accurate sum of several parts, Mr. Springer. However, when you start talking about diversion, you get immediately into the question——

Mr. SPRINGER. I am talking only of ticketing.

Mr. BOYD. Yes, sir. I do not know whether we have individually ticketed figures. I have no question about the accuracy of this figure. I do not have it in mind and would like to check it.

Mr. SPRINGER. Let me ask you this. Do you have what is ordinarily called the legitimate supplemental carriers, those who have been operating within the law?

Mr. BOYD. Yes, sir.

Mr. SPRINGER. Do you not have a group within the supplementals that are carrying supposedly illegally as determined by your own Board?

Mr. BOYD. Yes, sir.

Mr. SPRINGER. You do. That together comes to roughly 21 million Those are my figures.

Mr. BOYD. I am trying to check these figures.

Mr. SPRINGER. Is it true that about 90 percent of the above diversion was not supplemental but it was either as a result of what you have determined to be illegal or it was duplicated schedule service in well-served, high-density areas?

Mr. BOYD. I will have to submit that, Mr. Springer. I have still got to try to make one point, however, and that is the mere fact that a supplemental carrier operates between, say, Chicago and Los Angeles which is certainly well served by certificated route carriers cannot be taken, in my judgment, to mean that the passengers carried on the supplemental are being diverted from the regular route carriers.

Mr. SPRINGER. All right. Now would you explain that a little further, if that is your position? Would you explain what you mean by that?

Mr. BOYD. Well, my position is really one of being on the fence. I am merely saying that I do not believe one can take this as the gospel that, because a person flew between Chicago and Los Angeles, for, say, $60, and I do not know what the fare is, as opposed to flying on a regular route operation for $105, means that that person would automatically have paid $105 to go to Los Angeles by the route carrier. I do not think you can say that.

Mr. SPRINGER. I think there is a possibility of what you say being true but, if I understand air travel very well, I think most of the people who are going to go, if they have determined they are going by air travel, they are going to go. There might be a small percent. You would not say that the percent was very large who would not do that by virtue of the fact that it was $65 as opposed to $105?

Mr. BOYD. Well, this is one of the areas where we would certainly like to have some answers, and what I say is pure speculation, but, if I might give an example based on some personal experience which I acquired long before I became associated with the CAB, my home is in Miami, Fla., and I was interested in surface transportation and I watched the decline of railroad passenger transportation. At the same time the supplemental air carriage from Miami to New York was increasing by leaps and bounds.

Mr. SPRINGER. Miami to New York?

Mr. BOYD. Yes, sir; and I think that there may well be more than a very minor percentage who would go by surface transportation rather than flying.

Mr. SPRINGER. You have never made a study of that really, have you?

Mr. BOYD. No, sir. That is one of the things that I would be hopeful that we could get into in this study.

Mr. WILLIAMS. Would the gentleman yield at that point?

Mr. SPRINGER. Yes, I yield.

Mr. WILLIAMS. Did you also experience the same kind of increase in passenger travel over the regularly scheduled carriers?

Mr. BOYD. Yes, sir. I do not know percentagewise. Of course, the supplementals started from zero, but the regular route air carriers certainly expanded their services tremendously.

Mr. WILLIAMS. Is it not generally assumed or is not the argument made that those persons who would be traveling between Miami and New York City, for instance, on the supplemental carriers would be passengers who were primarily diverted from the train service rather than from the regular scheduled air carriers?

Mr. BOYD. From train or bus, yes, sir. That argument is made.

Mr. WILLIAMS. Is there any validity to that argument?

Mr. BOYD. That we do not know, Mr. Chairman, and we would like to know. This is a very difficult thing to ascertain. My own feeling is that about the only way you can really tell is to put somebody on board an airplane or at an air terminal and ask and take samples of passengers and rest on what they tell you, and this is one of the things we would like to accomplish.

Mr. SPRINGER. Mr. Chairman, the great bulk of the business done by the supplemental air carrier ticket service is done between major markets in this country, is it not?

Mr. BOYD. Yes, sir.

Mr. SPRINGER. There is no question about that, is there?

Mr. BOYD. Yes, sir. So far as I know, all of it is.

Mr. SPRINGER. Now, most of this would be between such markets as New York-Miami, Chicago-Miami, California to Hawaii, and New York to Los Angeles or New York to San Francisco, is that true?

Mr. BOYD. Yes, sir. I think so.

Mr. SPRINGER. Now, in what days of the week is that being done?

Mr. BOYD. I do not believe we have any figures on that, Mr. Springer.

Mr. SPRINGER. Is it not a fact that this concentrates on weekends, for instance, Saturday and Sunday?

Mr. BOYD. I would thing that is correct.

Mr. SPRINGER. If you are going to have a regularly operated scheduled airline, can you have a supplemental carrying on weekends and your regular carriers carrying during the weekdays? Is that a fair competition? I am trying to get these fundamental things on top of the table so that we can look in perspective on what is being done.

Mr. BOYD. The subject we are dealing with really involves purely and simply matters of degree, Mr. Springer, as I see it.

I would not limit myself to that alone but, so long as the supplemental operation does not appear to injure the operations of the regular route carriers, then I would say this is well and good.

Mr. SPRINGER. You used the words here that they do have service. What I am trying to find out is, if they do have service, is it a service that you say is needed and how much injury is done, if any is being done, to the regular carriers which you certificated and which we certainly want to remain at what we would term a reasonable profit?

Would you like the question read?

Mr. BOYD. Yes, sir.

Mr. SPRINGER. Would you read the question?

(The question was read by the reporter.)

Mr. BOYD. We certainly are in accord with the basic policy. It is the Board's policy to try to establish and maintain a healthy operation for the certificated route carriers.

Now, there are several things that come into this question of the supplemental operation. One is that a portion of the revenue passenger mileage that you referred to earlier has been operated by carriers whom the Board has found to be operating illegally and has tried to put out of business.

We have been advised that, as of yesterday, the Supreme Court denied the petition for certiorari involving the Great Lakes group whom the Board had ordered to cease and desist operations.

That Great Lakes group comprises four carriers who, in our judgment, have been the greatest violators.

Mr. SPRINGER. May I insert at this point that last year that was 9,764,000 by that group alone. I think these figures are accurate. I believe they are accurate.

Mr. BOYD. We have been after them a long time and finally we feel that we were successful and I am confident that the legitimate supplementals will applaud our efforts in this regard, too.

Mr. SPRINGER. Mr. Chairman, let me follow another point.

Have you finished?

Mr. BOYD. No, sir. I wanted to point out two other things.

One is that the argument is made, as the Chairman just stated, that these passengers come from surface transportation rather than being diverted from air.

Mr. SPRINGER. That is something, Mr. Chairman, that you said you did not know anything about a minute ago.

Mr. BOYD. That is right.

Mr. SPRINGER. This is only a supposition?

Mr. BOYD. That is right. That is exactly right. It is, and I am not trying to put it in any other terms but I want this point to be in here as a definite possibility.

The third is that the Department of Defense has made very strong statements to the effect that they need these carriers as civil augumentation of military airlift. Now, they do not provide these carriers with sufficient revenues to maintain their total operation. Therefore, if this objective of Defense is right and proper, and certainly we think it is, there has to be some area in civilian commercial operation for them to catch up their slack.

Mr. SPRINGER. Let us just stay on this question of revenue for a moment. Let us just take the New York to Miami market. Do you know anything about what was taken up by supplementals on those routes last year?

Mr. BOYD. No, sir. I have no idea.

Mr. SPRINGER. Well, that comes to about $19 million. That is pretty sizable for just one route between two points, is it not? That is a rather sizable amount of money, is it not, $19 million?

Mr. BOYD. That is a lot of money for me.

Mr. SPRINGER. That is only between New York and Miami.

Mr. BOYD. May I ask you, sir, where these figures come from?

Mr. SPRINGER. These come from your own records so that I suppose they are accurate.

I was amazed to know that there was that much business being taken from the regular routed carriers, regular certificated carriers, just betwen two points in the country.

I do not have the figures, for instance, on New York to San Francisco or Los Angeles or the west coast to Hawaii but this is certainly something to think about when you look at these figures.

Mr. BOYD. I am going to have to say, sir, that I am advised by my staff here that we do not have figures broken down that coincide with those figures that you have quoted.

Mr. SPRINGER. If I am wrong about these and your figures show it, will you put in the record what is right, then?

Mr. BOYD. My understanding is that we do not have figures, sir, that can be broken down that way, but I will give you the best breakdown we have.

I would like to point out that, in 1960, the total revenues of these carriers was $59 million of which 60 percent came from the military and 40 percent came from total civilian operations including individually ticketed as well as charter operations and, in view of the fact that the Florida market has been declining, I have grave doubts that the supplementals came anywhere near $19 million in that market.

Mr. SPRINGER. Will you see if you can get the right figures into the record if you contend that these are wrong?

Mr. BOYD. Yes, sir. We will.

(Information on this subsequently was furnished by Mr. Burweel, representing the Supplemental Air Carrier Conference.)

Mr. SPRINGER. Now, are you familiar with the New England to San Antonio market?

Mr. BOYD. No, sir. I know nothing of it.

Mr. SPRINGER. Are you familiar with military travel between New England and San Antonio?

Mr. BOYD. No, sir.

Mr. SPRINGER. Is your counsel or your technician here?

Mr. BOYD. Just a moment.

No, sir. We have no knowledge of this as a market.

Mr. SPRINGER. I am talking about military travel.

Mr. BOYD. No, sir. We have no knowledge of it.

On military travel, if you are dealing with past figures, you may have figures which could not have come from the Board, however, on part 45 operations.

Mr. SPRINGER. What are part 45 operations?

Mr. BOYD. Part 45 carriers are carriers who are not required to be certificated by the Board. They are contract carriers and they are not under the Board's jurisdiction.

Mr. SPRINGER. I am talking about ticketed revenue.

Mr. BOYD. We have no knowledge of that.

Mr. SPRINGER. These figures indicate that it is in the neighborhood of 1,400 from New York to San Antonio and Chicago to San Antonio. Would you see if you can verify that? That is fairly substantial.

Mr. BOYD. We will try to do that.

(The Board subsequently advised the committee that these figures are not available.)

Mr. SPRINGER. That would be in the neighborhood together of almost 100 per day New York to San Antonio and Chicago to San Antonio.

Mr. BOYD. Yes, sir.

Mr. SPRINGER. There is one further major question and then I am through, Mr. Chairman.

You say that the illegally carrying supplementals will now be prevented from carrying further, is that correct?

Mr. BOYD. The four who comprise the Great Lakes group so far as we know are out of business as soon as the Supreme Court mandate comes down.

I do not want to make the statement that there will be no more illegal movement but I can assure you that, if there is, we will bend every effort to bring it to an immediate halt.

Mr. SPRINGER. Now this question: Do you have presently on hand what are called dormant certificates?

Mr. BOYD. Dormant certificates?

Mr. SPRINGER. Yes.

Mr. BOYD. Yes, sir.

Mr. SPRINGER. How many?

Mr. BOYD. Well, that requires a definition of dormancy. We have these three certificates that I was beginning to tell Mr. Friedel about earlier which have not been operated. General Airways, Arctic-Pacific, which you may recall was involved in that tragic accident in Toledo, Ohio.

Mr. SPRINGER. Yes; I remember Arctic-Pacific.

Mr. BOYD. Their certificate expired March 31 of this year. Their last movement of which we had any knowledge under their certificate was in July of 1960.

Mr. SPRINGER. And the other dormant certificates.

Mr. BOYD. Aviation Corp. of Seattle doing business as Westair. The last operation under that to our knowledge was February 1960.

Mr. SPRINGER. Are those the only dormant certificates?

Mr. BOYD. To our knowledge.

Mr. SPRINGER. Are you well advised on that? I am not questioning it, Mr. Chairman, at all. I am just wondering if that is accurate as to the number of dormant certificates.

Mr. BOYD. I would like to submit a statement. Your question would have to be directed to my staff as to whether I am well advised. I think I am.

Mr. SPRINGER. Is there anybody on the staff who can answer how many dormant certificates of any kind of character, how many dormant certificates of all kinds you have presently?

Mr. BOYD. I will stand on my answer but I would like to furnish you a statement for the record.

Mr. SPRINGER. All right.

Mr. SPRINGER. I am assuming that there are more than that. I am not saying.

Mr. BOYD. Yes, sir. Of course, I would like to know what the definition of dormancy is.

Mr. SPRINGER. I am not an expert. All I say is that apparently it is not being used to any substantial amount. Maybe it is one where some fellow has a plane but in essence it is not being used.

Mr. BOYD. This could create some problems on dormancy because I think our statement to you is based on the fact that the certificates have been utilized this year during calendar year 1961.

Mr. SPRINGER. Have any of the certificates you mentioned been renewed since the expiration?

Mr. BOYD. We cannot renew any. We have no authority to renew any.

Mr. SPRINGER. All right. Arctic then has not been renewed?

Mr. BOYD. I am sorry, sir. We have one other, Sourdough Air Transport. Their latest operation was November 1960. They have applied. Their certificate expired March 30, 1961. They have applied for renewal and under the Administrative Procedure Act section 9(b) they are entitled to continue operation.

Mr. SPRINGER. What control do you have over, we will say, the Great Lakes operation from transferring to a dormant certificate?

Mr. BOYD. You mean from transferring the existing operation?

Mr. SPRINGER. Transferring the operation to a dormant certificate.

Mr. BOYD. Well, the transfer has to be approved by the Board and that includes the question of fitness and, certainly, I could not pass judgment on something that would come before us, but I would say that the Board would have grave doubt about the fitness of someone who has been put out of business after a strenuous effort by the Board.

Mr. SPRINGER. You do have some control over the transfer of the certificate though?

Mr. BOYD. Yes, sir.

Mr. SPRINGER. From we will say an operation like Great Lakes to another operation?

Mr. BOYD. Yes, sir.

Mr. SPRINGER. Suppose that they merely transferred their equipment over but qualified under the safety provisions and otherwise. Would you have any real reason for disqualifying them further?

Mr. BOYD. Well, they would then be subject to Board jurisdiction in any event under section 408 which has to do with acquiring control and the Board would have essentially the same authority.

Mr. SPRINGER. Now back to this last point, Mr. Chairman.

Mr. BOYD. Yes, sir.

Mr. SPRINGER. Have you looked at the profit and loss statements for the trunkline carriers for this last year?

Mr. BOYD. Yes, sir, I sure have. I see those figures at night when I am trying to sleep.

Mr. SPRINGER. All right. I take it you are concerned.

Mr. BOYD. Very definitely.

Mr. SPRINGER. What was it for the first 4 months of this year?

Mr. BOYD. For the first 4 months of this year, my recollection is that the carriers as a whole lost something like $12 million.

Mr. SPRINGER. You are correct. In the same period last year it was a net loss of about $9½ million. This is the largest loss for any comparable period since 1947?

Mr. BOYD. That is right, sir. I do want to point out, Mr. Springer, however, that you are talking about two completely different industries in 1961 and 1946.

Mr. SPRINGER. I understand that there are some differences and I am not going to take this too seriously but it is a startling difference. By any standards it is a startling difference.

Mr. BOYD. It is.

Mr. SPRINGER. Last year the supplemental carriers did take in a total of about $21 million. I think this is a good thing that this $50,000 has been allowed to find out how much is siphoned off, if any, which the supplementals are now taking off the top of what ought to be going to regularly scheduled carriers.

It seems to me that this is a problem which needs considerable study if you are going to be fair about this thing all the way through. That is why I am extremely hesitant right now, Mr. Chairman, to enter into permanent legislation until we have some better figure about what this whole supplemental problem is.

You asked for the discretion and flexibility and I think possibly you are entitled to it.

The only question that I am concerned about now is: Are you entitled to it in 1961?

Mr. BOYD. Of course, in reaching that decision, you have to project what you think is going to happen to the certificated route industry in the future.

Mr. SPRINGER. That is true.

Mr. BOYD. And the projections that I have seen would indicate that the regular route carriers are now just about at the bottom of the valley.

Mr. SPRINGER. Do you think they are in a recession at the present time or do you think it is a long-term problem?

Mr. BOYD. Well, I think that, for any number of reasons including the general economic recession this country has suffered, that the trunk carriers have been going downhill. The figures I have seen, the projections, would indicate that they will start back up now and should be in for several years of sustained growth and profitable operation depending, of course, on what happens to the general economy because commercial aviation is certainly more sensitive to changes in the general economy than most other service businesses.

Mr. SPRINGER. Mr. Chairman, I have no further questions at this time.

I think I have had more than my share, but, I do think that this is so serious that I personally have not made up my mind yet. I am very hesitant to turn out anything in the way of permanent legislation at this time. I think you can see some of the problems we are thinking about at this end.

Mr. BOYD. Yes, sir. We can certainly see some of those problems. However, I think that you have to bear in mind that these fellows in the supplemental business have put a lot of blood, sweat, and tears in their business and the vast majority of them have tried to operate honestly and legitimately within the framework of their certificates and I think they are entitled to some protection.

Mr. SPRINGER. I think everybody is entitled to consideration, Mr. Chairman. I do think that, but I do believe that we ought to fundamentally have some idea where we are going in this whole question of supplemental carriers and, when I see the number of miles and—as you put it in your statement—the tremendous increase in miles traveled by supplemental carriers, I am astounded. I did not have those. That is rather substantial.

Thank you, Mr. Chairman.

Mr. WILLIAMS. Mr. Jarman?

Mr. JARMAN. Mr. Chairman, under section 2 of H.R. 7318, which authorizes the Board to issue a certificate upon a determination of fitness and ability, would the Board have different tests of fitness for scheduled carriers and supplementals?

Mr. BOYD. Yes, sir.

Mr. JARMAN. Could you give us a few more details as to how these tests would differ?

Mr. BOYD. All right, sir. In the first place, when you are talking about fitness of a regular route carrier, you are dealing only in very general terms. You do not really involve yourself with the question of equipment. For example, regular route carriers are assumed to be able to provide the type of equipment best suited for the market which they seek to serve.

On the question of financial resources, I do not believe that the Board should require such a ratio of assets to liabilities, for example, of the supplementals, as we would of the route carriers primarily because the bulk of their business has come and we think for a long time will continue to come from the military, and they will be able to finance their operations to a considerable extent on the basis of military business.

Mr. JARMAN. But, in that connection, would the Board go into the question of whether the supplemental has capital enough to conduct its operations?

Mr. BOYD. Yes, sir. The operations that they seek to specialize in, we certainly would. We would not, however, require any specific amount for their overall operations. We would not, for example, require an amount of working capital which would enable a carrier, for example, to operate 10 flights a month between every city pair in the United States because that is not in the cards that they would operate in such a manner.

Mr. JARMAN. Then, as I understand it, you would be basing your determination of fitness and ability on conditions that you consider peculiar to the supplemental operation?

Mr. BOYD. That is right; absolutely within the framework that they seek to operate.

Mr. JARMAN. The other area in which I would like further comment from you is this: In granting these carriers a blanket authorization to operate 10 flights per month in the same direction between any two points in the United States, is any consideration given to the possible effect these flights might have on the scheduled carriers by diverting traffic from the scheduled airlines to the supplementals?

Mr. BOYD. Yes, sir. At the time this 10-flight-a-month authority was awarded by the Board, it made a finding that such operations would not be detrimental to the regular route carrier operation. That was based on a public record.

Mr. JARMAN. A general conclusion as to its effect on all the route carriers?

Mr. BOYD. Yes, sir.

Mr. JARMAN. Based on the increased amount of business that the figures in your statement indicate the supplementals have attained cannot the diversion in some case dealing with a specific route carrier be great enough to force a marginal scheduled carrier on subsidy?

Mr. BOYD. Frankly, I doubt it, Mr. Jarman. When we are talking about the increased travel here, you have to bear in mind that this is the total of the business, military, charter, and individually ticketed.

Now, the military and charter business have no effect on the regular route carriers.

From the information available to us in the reports filed by the carriers, the fact is that their individually ticketed sales, total revenues from individually ticketed sales decreased from 1959 to 1960 by about $2 million, so that actually the individually ticketed traffic is making up a lesser percentage of the total revenues in 1960 as opposed to 1959.

Mr. JARMAN. How is the figure 10 flights per month arrived at as a fair authorization?

Mr. BOYD. Well, as I understand the situation, Mr. Jarman, prior to the Board order in 1955 which awarded this 10-flight limitation on various bases, the so-called irregular or nonsked carriers had been authorized, some of them, 8 flights a month, some of them 12 flights a month; and this is nothing more than averaging process.

Mr. JARMAN. You indicated earlier that this would be a field in which further study and consideration would be necessary.

Mr. BOYD. Absolutely.

Mr. JARMAN. As to whether the figure is too high or too low.

Mr. BOYD. That is right.

Mr. JARMAN. Thank you, Mr. Chairman.

Mr. WILLIAMS. Mr. Collier?

Mr. COLLIER. Mr. Boyd, while I am not convinced that there should be a double standard of fitness in our national aviation laws, I wonder if you by chance are familiar with a financial analysis of the U.S. Supplemental Airline Industry that was written by G. F. Skeban, graduate school of business administration at Harvard University?

Mr. BOYD. Well, let me say, Mr. Collier, that I saw that several months ago. To say I am familiar with it would be to tell you something that was not exactly true.

Mr. COLLIER. That perhaps is an unfair question. I probably should have stated that his evaluation of certain cases that apply to the fitness of some of the supplemental carriers is one certainly which should be refuted or should be taken into very definite consideration by this committee in dealing with this legislation.

On page 8 of your statement with reference to section 2 of the Williams bill, if I may call it that, do you think that the test as provided in that section of the bill for the issuing of grandfather service is adequate or does it not leave the door open to certain abuses by applicants in this area?

Mr. BOYD. Well, the only answer I can give you there, Mr. Collier, is that we think it is adequate. I want to say that I do not think that you can legislate an absolute fence around anything. We think this

is entirely adequate for what should be done in the public interest.

Mr. COLLIER. I may say that I recognize that there is definite room for supplemental carriers in the aviation industry. At the same time, I should like to see Congress legislate in a manner that would get the Board out of what apparently is, of one kind or another, a dilemma as to the flexibility of the present laws that are on the books so that we might in the future perhaps avoid more blood, sweat, and tears in this area of the aviation industry.

Mr. BOYD. Well, the problem we have had in the past has been the inflexibility rather than the flexibility of the law.

First, the courts closed the Board out on exemption authority.

Then it closed the Board out on certificate authority so far as supplementals were concerned.

The purpose of this bill is that it does not freeze the existing pattern but would give the Board the right to deal with this matter of the supplemental carriers in establishing them in their proper place as we gain knowledge and experience in the field.

Mr. COLLIER. One of the problems has been the fact that the Board, I believe, has not been able to demonstrate the need for individually ticketed authorities in many areas. Is that a correct or incorrect statement?

Mr. BOYD. Are you referring to geographic areas?

Mr. COLLIER. In the broad geographic, areas, yes, those showing the need for the volume of individually ticketed authority that has been granted to meet public convenience and necessity.

Mr. BOYD. I do not follow your question, Mr. Collier. I am very sorry.

Mr. COLLIER. Perhaps it is my fault.

The number of individually ticketed grants of 10 per month has been in existence under the existing authority. Yet there has been no demonstration on the part of the Board to justify the need for this number of individually ticketed grants that have been made.

Mr. BOYD. Well, I do not quite understand this part about the Board having justified. I do not know that that question has been raised in the past.

The only place where we would have to justify would be either before the court or before the Congress, and the question has not been raised to my knowledge. We have never considered that we were on the defensive in any place about these individually ticketed flights, except clearly the regular route carriers do not like this business, but the only thing I can say is that the Board held a hearing in a case which elicited voluminous testimony and as a result of that in 1955 concluded that these 10 individually ticketed flights a month were in the public interest and would not be detrimental to the interests of the regular route carriers.

Now, beyond that, we have not gone. If we should be on the defensive on this thing, I would be happy to be an advocate but I do not see myself in that position.

Mr. COLLIER. Actually, it was not my intent to put the Board on the defensive. However, in dealing with legislation that has specific recommendations and since the authority for individually ticketed flights is embraced in this legislation, then I would believe that justification for that which is embraced in the legislation would be quite in order.

Mr. BOYD. I thought I had covered this aspect of it earlier when I referred to the fact that the bulk of the traffic of these carriers or a good portion of it comes from military operations but not enough to keep them in business, that they have got to rely on commercial operations in order to stay alive and provide some civil augmentation.

Now, it has been our judgment that, in order for them to do this, they should have, (*a*) charter authority, and (*b*) individually ticketed authority.

The bill which the Board has proposed which the chairman introduced does not provide for 10 flights a month. It does not provide for any number of flights because we cannot really see into the future. We do not know how this thing will look 1 year from now, 2 years from now, or 3 years from now, and what we are asking for is the flexibility to operate, to certificate in such a manner that the operations will be entirely in the public interest and that, to my mind, includes a healthy, financially stable, sound certificated route industry, and the same thing for a supplemental industry.

Mr. COLLIER. Do you think it is feasible, Mr. Boyd, to establish some minimum qualification of operation in dollars as well as in number of miles flown for renewing or retaining grandfather rights?

Mr. BOYD. No, sir. I do not see that as a feasible approach to this.

Mr. COLLIER. Pursuing that a little further then, if a supplemental carrier had a license of authority for 2 years and did not perform any public service, if they flew, let us say, a total in dollar volume of $2,000, which I understand one supplemental line did, do you think that would entitle them to granting the grandfather rights, assuming, of course, that these grandfather rights would be granted in the interest of public need and interest?

Mr. BOYD. Well, of course, you raise a very difficult example there, Mr. Collier. About the only way I can answer it is to say that, when you are dealing with a class, you have to treat the class as a whole. I do not think in the long run very much is gained by trying to set up a whole series of classifications or distinctions within a class.

Now, I would point this out: that the authority we seek would not permit anyone, even though they qualified under the grandfather clause, to maintain a permanent operation.

All of these services are limited as to time and will have to be reviewed even though they qualify under the grandfather clause, and we are certainly not interested, I do not believe, in renewing what are for all practical purposes dormant certificates.

Mr. COLLIER. You say that you are not interested in getting into different classifications within this group.

Mr. BOYD. Within a class.

Mr. COLLIER. That is exactly, I believe, the feeling of this committee in dealing with this legislation and, therefore, I get back to the question of establishing a minimum so that you are not dealing with a class but rather treating them all alike with a basic minimum of requirement for granting of grandfather rights.

Mr. BOYD. Well, all I can do is say that it is a matter of policy of the Congress as to what should be done, and reiterate my statement that these people under grandfather rights would merely have the right to continue in existence until their permanent rights or such additional rights were considered; and I personally think, as a matter of legis-

lative approach, if I were doing this I would not try to put it on a dollar amount. I can conceive of a number of problems being developed should you do that.

Mr. COLLIER. That is all I have, Mr. Chairman, except that I would like to say that the Chairman has certainly been a fine witness and, above all else, a very patient witness this morning.

Mr. BOYD. Thank you, sir. I am learning a lot here. I appreciate this opportunity.

Mr. WILLIAMS. May I inquire, Mr. Chairman, whether or not you might be available tomorrow morning to conclude the questioning?

Mr. BOYD. Yes, sir. It would be possible to be here.

Mr. WILLIAMS. That is in the event we are interrupted and have to go to the House before we conclude this morning.

Mr. BOYD. We do have an oral argument scheduled and there will not be a quorum if I am not there.

Mr. WILLIAMS. We will do our best to conclude at this session but, in case we do not, we would like probably to have you back before the committee either tomorrow or at a later date.

Mr. Staggers?

Mr. STAGGERS. I have no questions.

Mr. WILLIAMS. Mr. Devine?

Mr. DEVINE. I will defer my questions, Mr. Chairman.

Mr. WILLIAMS. Mr. Boyd, we will have Mr. Cunningham get in touch with you to come back later this week, either tomorrow morning or possibly tomorrow afternoon if it is possible for the committee to sit tomorrow afternoon.

Mr. BOYD. That would be fine. The only other date on which I would be tied up, Mr. Chairman, is on Friday when I am to testify before another committee.

Mr. WILLIAMS. Let me say that I will defer my questions then and Mr. Devine will also.

The committee has scheduled hearings today, tomorrow, Thursday, and Friday. However, the chairman of the parent committee has announced an executive session of the full committee for Thursday and, of course, this committee will necessarily have to defer to that. Therefore, this committee will not be able to sit Thursday but we do plan to sit tomorrow and if at all possible tomorrow afternoon and then again Friday, both morning and afternoon, if the circumstances permit.

I have before me the schedule for legislation coming before the House this afternoon which is a rather heavy calendar containing the Private Calendar, the metal scrap bill, and two reorganization plans, one of which I believe is your reorganization plan.

In view of this I have discussed the possibility of sitting this afternoon with the other members of the committee and it just appears that it is going to be impossible for this committee to sit this afternoon in these hearings.

We will meet, though, at 10 o'clock tomorrow morning and will make an effort to sit tomorrow afternoon.

We are running behind time. We had quite a number of witnesses scheduled for this morning but the testimony of the chairman, of course, has consumed all morning and will probably consume more time.

May I ask, in view of the great number of witnesses who are scheduled to testify here, that those witnesses who are willing will be permitted to file a statement unless they insist on their right to testify. The statement will be included in the record in the same manner as if it had been delivered orally.

The committee will stand adjourned until 10 a.m., tomorrow.

(The Civil Aeronautics Board subsequently submitted the following information regarding supplemental air carriers:)

EXHIBIT B

SUPPLEMENTAL AIR CARRIERS AUTHORIZED PURSUANT TO ORDER E-9744

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960

[In thousands]

TOTAL FOR 5 CARRIERS [1]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	$1	$1	$555	$440	$997	1,666
1957	63	----	271	169	503	8,280
1958	153	----	294	1,707	2,154	35,409
1959	89	(4)	283	1,758	2,130	47,639
1960	550	----	904	1,711	3,165	50,922
Total, 5 years	856	1	2,307	5,785	8,949	143,916
Percent of total for carrier:						
1956	(5)	(5)	56	44	100	----
1957	12	----	54	34	100	----
1958	7	----	14	79	100	----
1959	4	----	13	83	100	----
1960	17	----	29	54	100	----
Weighted average, 5 years	9	(5)	26	65	100	----

AIR CARGO EXPRESS, INC.

Amount:						
1956	$1	$1	----	$436	$438	1,358
1957	----	----	----	----	----	----
1958	34	----	$2	370	406	9,853
1959	20	----	----	208	228	6,571
1960	----	----	----	----	----	----
Total, 5 years	55	1	2	1,014	1,072	17,782
Percent of total for carrier:						
1956	(5)	(5)	----	100	100	----
1957	----	----	----	----	----	----
1958	8	----	1	91	100	----
1959	9	----	----	91	100	----
1960	----	----	----	----	----	----
Weighted average, 5 years	5	(5)	(5)	95	100	----

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS AUTHORIZED PURSUANT TO ORDER E-9744—Continued

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

AIRLINE TRANSPORT CARRIERS, INC., DOING BUSINESS AS CALIFORNIA HAWAIIAN AIRLINES

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	(4)		$5		$5	172
1957	$26		41	$41	108	2,941
1958	48		109	1,176	1,333	16,948
1959	43	(4)	61	959	1,063	22,857
1960	220		377	822	1,419	33,579
Total, 5 years	337	(4)	593	2,998	3,928	76,497
Percent of total for carrier:						
1956			100		100	
1957	24		38	38	100	
1958	4		8	88	100	
1959	4		6	90	100	
1960	15		27	58	100	
Weighted average, 5 years	9		15	76	100	

ARGONAUT AIRWAYS CORP.

Amount:						
1956			$550	$4	$554	
1957			223		223	
1958			111		111	
1959			28		28	
1960			78		78	
Total, 5 years			990	4	994	
Percent of total for carrier:						
1956			99	1	100	
1957			100		110	
1958			100		100	
1959			100		100	
1960			100		100	
Weighted average, 5 years			100		100	

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS AUTHORIZED PURSUANT TO ORDER E–9744—Continued

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

MIAMI AIRLINE, INC.

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956		(4)			(4)	136
1957	$6		$3		$9	1,525
1958	71		68	$149	288	8,169
1959	26		194	591	811	18,211
1960			449	802	1,251	6,288
Total, 5 years	103	(4)	714	1,542	2,359	34,329
Percent of total for carrier:						
1956						
1957	67		33		100	
1958	25		23	52	100	
1959	3		24	73	100	
1960			36	64	100	
Weighted average, 5 years	4		30	66	100	

WORLD WIDE AIRLINES, INC.

Amount:						
1956						
1957	$31		$4	$128	$163	3,814
1958			4	12	16	439
1959						
1960	330			87	417	11,055
Total, 5 years	361		8	227	596	15,308
Percent of total for carrier:						
1956						
1957	19		2	79	100	
1958			25	75	100	
1959						
1960	79			21	100	
Weighted average, 5 years	61		1	38	100	

[1] Total for the 5 carriers described in pp. 2 through 6 of this exhibit.
[2] Does not include minor amounts for excess baggage and/or miscellaneous other transportation.
[3] Total for individually ticketed and charter flights. Breakdown by type of flight not available for periods prior to Jan. 1, 1961.
[4] Less than $500.
[5] Less than 0.5 percent.

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS [1]

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960

TOTAL FOR 28 CARRIERS [1]

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [3]	
			Civilian	Military		
Amount:						
1956	$2,723	$525	$3,262	$17,514	$24,024	308,194
1957	5,137	531	3,830	21,169	30,667	455,305
1958	7,814	1,335	9,581	28,410	47,140	855,966
1959	12,323	925	13,664	27,813	54,725	1,312,611
1960	8,787	405	11,564	46,699	67,455	1,844,065
Total, 5 years	36,784	3,721	41,901	141,605	224,011	4,776,141
Percent of total for carrier:						
1956	11	2	14	73	100	
1957	17	2	12	69	100	
1958	17	3	20	60	100	
1959	22	2	25	51	100	
1960	13	1	17	69	100	
Weighted average, 5 years	16	2	19	63	100	

[1] Total for 28 carriers as follows:
Carriers certificated in docket 5132 (exhibit A) 22
Carrier (Vance Roberts) that received interim operating authority under Public Law 86-661 (exhibit A) 1
Carriers authorized pursuant to order E-9744 (exhibit B) 5

[2] Does not include minor amounts for excess baggage and/or miscellaneous other transportation.
[3] Total for individually ticketed and charter flights. Breakdown by type of flight not available for periods prior to Jan. 1, 1961.

Source: CAB form 242 reports.

EXHIBIT C

SUPPLEMENTAL AIR CARRIERS WITH SPECIAL CIRCUMSTANCES RELATING TO THEIR CERTIFICATES [1]

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960

[In thousands]

TOTAL FOR 3 CARRIERS

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	$80	$1,160	$428	$1,468	$3,136	45,815
1957	91	344	758	718	1,911	41,439
1958	87	306	1,215	695	2,303	42,763
1959	252	335	218	755	1,560	30,240
1960	188	2	10	164	364	15,737
Total, 5 years	698	2,147	2,629	3,800	9,274	175,994
Percent of total for carrier:						
1956	2	37	14	47	100	
1957	5	18	40	37	100	
1958	4	13	53	30	100	
1959	16	22	14	48	100	
1960	51	1	3	45	100	
Weighted average, 5 years	8	23	28	41	100	

ARCTIC-PACIFIC, INC. [4]

Amount:						
1956						
1957						
1958						
1959	$21		$54	$99	$153	
1960 [5]	188	$2	106	486	613	14,922
			10	164	364	7,891
Total, 5 years	209	2	170	749	1,130	22,813
Percent of total for carrier:						
1956						
1957						
1958						
1959	4		35	65	100	
1960	51	1	17	79	100	
			3	45	100	
Weighted average, 5 years	19	(6)	15	66	100	

See footnotes at end of table.

SUPPLEMENTAL AIR CARRIERS WITH SPECIAL CIRCUMSTANCES RELATING TO THEIR CERTIFICATES—Continued [1]

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960—Continued

AVIATION CORP. OF SEATTLE, DOING BUSINESS AS WESTAIR TRANSPORT [7]

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [3]	
			Civilian	Military		
Amount:						
1956	$45	$1,158	$160	$510	$1,873	17,130
1957	52	319	68	335	774	10,748
1958	15	306	51	156	528	4,395
1959 [8]	222	335	87	144	788	10,497
1960 [8]						7,846
Total, 5 years	334	2,118	366	1,145	3,963	50,616
Percent of total for carrier:						
1956	2	62	9	27	100	
1957	7	41	9	43	100	
1958	3	58	10	29	100	
1959	28	43	11	18	100	
1960						
Weighted average, 5 years	8	54	9	29	100	

GENERAL AIRWAYS, INC. [9]

Amount:						
1956	$35	$2	$268	$958	$1,263	28,685
1957	39	25	690	383	1,137	30,691
1958	72		1,110	440	1,622	38,368
1959 [10]	9		25	125	159	4,821
1960 [10]						
Total, 5 years	155	27	2,093	1,906	4,181	102,565
Percent of total for carrier:						
1956	3	(6)	21	76	100	
1957	3	2	61	34	100	
1958	5		68	27	100	
1959	6		16	78	100	
1960						
Weighted average, 5 years	4	1	50	45	100	

[1] The special circumstances relating to the certificates are described in footnotes 4, 7, and 9.
[2] Does not include minor amounts for excess baggage and/or miscellaneous other transportation.
[3] Total for individually ticketed and charter flights. Breakdown by type of flight not available for periods prior to Jan. 1, 1961.
[4] Temporary certificate for domestic supplemental expired on March 30, 1961. No application for renewal has been filed. Board Order E-16734 dated April 28, 1961, directs carrier to show cause why its remaining authorizations should not be terminated.
[5] No reports received for periods after June 30, 1960.
[6] Less than 0.5 percent.
[7] Temporary certificate expired on Mar. 30, 1961. Supplemental authority sold Feb. 10, 1960; Board has under consideration application for transfer which was filed on Jan. 17, 1961. Amended application for transfer and renewal filed on Mar. 29, 1961.
[8] No reports received for periods after Sept. 30, 1959.
[9] Authorizations sold on Dec. 17, 1959, at trustee-in-bankruptcy sale. No application for transfer has been filed. Certificate was for 5 years, to expire on Mar. 30, 1964.
[10] No reports received for periods after June 30, 1959.

Source: CAB Form 242 reports.

SUPPLEMENTAL AIR CARRIERS [1]

Transport revenues and revenue passenger-miles by carriers for the calendar years 1956 through 1960

TOTAL FOR 31 CARRIERS [1]

[In thousands]

	Transport revenues [2]					Total revenue passenger miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [3]	
			Civilian	Military		
Amount:						
1956	$2,803	$1,685	$3,690	$18,982	$27,160	354,009
1957	5,228	875	4,588	21,887	32,578	496,744
1958	7,901	1,641	10,796	29,105	49,443	898,729
1959	12,575	1,260	13,882	28,568	56,285	1,342,851
1960	8,975	407	11,574	46,863	67,819	1,859,802
Total, 5 years	37,482	5,868	44,530	145,405	233,285	4,952,135
Percent of total for carrier:						
1956	10	6	14	70	100	
1957	16	3	14	67	100	
1958	16	3	22	59	100	
1959	22	2	25	51	100	
1960	13	1	17	69	100	
Weighted average, 5 years	16	3	19	62	100	

[1] Total for 31 carriers as follows:

Carriers certificated in docket 5132 (exhibit A)	22
Carrier (Vance Roberts) that received interim operating authority under Public Law 86-661 (exhibit A)	1
Carriers authorized pursuant to order E-9744 (exhibit B)	5
Carriers with special circumstances relating to their certificates (exhibit C)	3

[2] Does not include minor amounts for excess baggage and/or miscellaneous other transportation.

[3] Total for individually ticketed and charter flights. Breakdown by type of flight not available for periods prior to Jan. 1, 1961.

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS

PAIRS OF POINTS BETWEEN WHICH FIVE OR MORE NONCHARTER FLIGHTS WERE OPERATED IN ONE DIRECTION, BY MONTHS FOR PERIOD INDICATED

General information

Of the 31 supplemental air carriers whose reports were examined for determining the pairs of points with 5 or more noncharter flights in any 1 month, 13 carriers did not report as many as 5 such flights for any pair of points in any month during at least the 2⅓ years ended April 30, 1961. As a result, pages — through — of this exhibit provide the data for 18 carriers with respect to the "5 or more flights."

For 14 of these 18 carriers, the 12-month period ended April 30, 1961, has been used. This is the latest 12-month period for which the data are available. That period was not suitable for four carriers, however, by reason of the fact that the carriers had either discontinued all flight operations during all or most of the period or had discontinued individually ticketed passenger and individually waybilled operations. For each of these four carriers, the period used herein is the most recent 12-month period in which there was reported a substantial volume of noncharter operations in terms of the individual

carrier's level of such operations during the years back to the beginning of 1956. The four carriers and the period used for each are as follows:

	Year ended
Stewart Air Service	Dec. 31, 1959
Transocean Air Lines	Do.
Arctic-Pacific, Inc	June 30, 1960
Aviation Corp. of Seattle, doing business as Westair Transport	Dec. 31, 1959

The following pages for the 18 carriers show the 12-month period used for each carrier. However, in the tabulation for each carrier, only those months are identified in each five or more flights were reported by that carrier for any one pair of points.

The 13 carriers which did not have as many as five of the indicated flights in any month are as follows:

Carriers certificated in docket 5132:

Coastal Air Lines.
Conner Air Lines, Inc.
Johnson Flying Service, Inc.
Overseas National Airways.
Quaker City Airways, Inc.
Sourdough Air Transport.
World Airways, Inc.

Carriers authorized pursuant to order E–9744:

Air Cargo Express, Inc.
Airline Transport Carriers, Inc., doing business as California-Hawaiian Airlines.
Argonaut Airways Corp.
Miami Airline, Inc.

Other:

Vance Roberts.[1]
General Airways, Inc.[2]

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[1] Vance Roberts received interim operating authority under Public Law 86–661. Effective date for inauguration of service, Dec. 17, 1960.

[2] General Airways' authorization sold on Dec. 17, 1959, at trustee in bankruptcy sale. No application for transfer has been filed. Certificate was for 5 years, to expire Mar. 30, 1964.

EXHIBIT D

SUPPLEMENTAL AIR CARRIERS

PAIRS OF POINTS BETWEEN WHICH 5 OR MORE NONCHARTER FLIGHTS WERE OPERATED IN 1 DIRECTION, BY MONTHS FOR PERIOD INDICATED

American Flyers Airline Corp.,[1] 12 months ended Apr. 30, 1961

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights		
From—	To—	June 1960	1961	
			February	March
Chicago	Indianapolis		5	6
Indianapolis	San Antonio			5
Wichita Falls	Chicago			5
San Antonio	Wichita Falls			5
Memphis	Huntsville, Ala	8		
Huntsville, Ala	Memphis	9		

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

Associated Air Transport, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights				
			1961			
From—	To—	December 1960	January	February	March	April
Detroit	Chicago	6				
Chicago	Miami	8	6	6	5	6
Miami	Chicago		8	6		5

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

Blatz Airlines, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1 way flights, April 1961
From—	To—	
San Francisco/Oakland	Santa Ana, Calif.	10
Santa Ana, Calif.	San Francisco/Oakland	10

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS—Continued

PAIRS OF POINTS BETWEEN WHICH 5 OR MORE NONCHARTER FLIGHTS WERE OPERATED IN 1 DIRECTION, BY MONTHS FOR PERIOD INDICATED—con.

Capitol Airways, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights					
		1960			1961		
From—	To—	August	September	November	February	March	April
Newark	Washington				5	8	10
Washington	Newark					6	6
Newark	San Antonio				6	10	10
San Antonio	Newark					8	8
Newark	Pittsburgh				5	8	6
Philadelphia	Newark					7	5
Washington	San Antonio				5	8	10
San Antonio	Washington					7	6
Washington	Philadelphia					5	5
Do	Pittsburgh				5	8	7
Pittsburgh	San Antonio				5	8	6
Chicago	do	11	6	7			
San Antonio	Chicago	10	8	7			
Indianapolis	San Antonio		5	7			
Gulfport	Washington					7	5
Do	Newark					7	5
Do	Philadelphia					6	
Wichita Falls, Tex	Chicago	9	8	6			
San Antonio	Philadelphia					7	5
Do	Gulfport					8	5
Do	Wichita Falls, Tex	9	8	6			

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

Imperial Airlines, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights									
		1960						1961			
From—	To—	July	August	September	October	November	December	January	February	March	April
New York	Washington								5	9	
Washington	New York									8	6
New York	Pittsburgh									10	7
Do	San Antonio								8	10	6
San Antonio	New York						5			9	
Philadelphia	do						5		5	8	5
Washington	Philadelphia									6	
Do	Pittsburgh									9	6
Do	San Antonio								6	9	6
San Antonio	Washington									8	
Pittsburgh	San Antonio									10	6
Chicago	Indianapolis			8	10	7					
Do	San Antonio	9	8	11	10	9	5	5			
San Antonio	Chicago	7	8	7	9	9	5	6			
Indianapolis	San Antonio			8	10	8	5				
Wichita Falls	Chicago	7	7	7	8	8	5				
San Antonio	Philadelphia									8	5
Do	Wichita Falls	8	7	7	8	8	5				
Gulfport, Miss	New York								5		
Do	Philadelphia								5		

[1] Certificated in docket 5132. Formerly Regina Cargo Airlines, Inc.; name changed June 27, 1960.

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS—Continued

PAIRS OF POINTS BETWEEN WHICH 5 OR MORE NONCHARTER FLIGHTS WERE OPERATED IN 1 DIRECTION, BY MONTHS FOR PERIOD INDICATED—CON.

Paul Mantz Air Services,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights, April 1961
From—	To—	
New York	Miami	6
Miami	New York	7

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

Modern Air Transport, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights								
		1960								1961
From—	To—	May	June	July	August	September	October	November	December	January
Newark	Philadelphia		8							
Philadelphia	Newark		5	6	9	7		7		6
Newark	Baltimore		5							
Do	Washington							5		
Washington	Newark		7	9	9	7		7		6
Newark	Pittsburgh		8		7			5		
Do	Chicago		5				5	5		5
Chicago	Newark						6	5		
Newark	San Antonio	9	12	11	10	9	7	9	5	5
San Antonio	Newark	5	10	9	9	10		11		7
Philadelphia	Pittsburgh		5							
Do	San Antonio		8							
San Antonio	Philadelphia		5	6	8	7		5		6
Baltimore	San Antonio		6							
Washington	Philadelphia		5	6	8	5		5		6
Do	Pittsburgh					5		5		
Do	San Antonio					7		5		
San Antonio	Washington		7	9	9	8		7		5
Pittsburgh	San Antonio		9		8	7		8		
Chicago	do		5		5					5
Indianapolis	do									5
Atlanta	Newark		7	8	9	7		6		
Do	Philadelphia		5	6	8	5				
Do	Washington		7	8	9	8		5		
Gulfport, Miss	Newark		6	8	8	6				6
Do	Philadelphia			5	7	5				5
Do	Washington		6	8	8	5				5
Do	Atlanta		6	7	8	5				
San Antonio	do		7	8	9	7		6		
Do	Gulfport, Miss		6	8	8	6				6

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS—Continued

PAIRS OF POINTS BETWEEN WHICH 5 OR MORE NONCHARTER FLIGHTS WERE OPERATED IN 1 DIRECTION, BY MONTHS FOR PERIOD INDICATED—CON.

President Airlines, Inc.,[1] 12 months ended Apr. 30, 1961

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights		
From—	To—	December 1960	1961	
			February	March
New York	Burbank	5		
Burbank	New York	5		
Chicago	Indianapolis		5	6
Do	San Antonio		8	9
San Antonio	Chicago		6	5
Chicago	Burbank	6		
Burbank	Chicago	8		
Indianapolis	San Antonio		8	8
Wichita Falls	Chicago		5	
San Antonio	Wichita Falls		5	

[1] Certificate currently held by President Airlines was transferred from California Eastern Aviation, Inc., effective June 23, 1960.

Source: CAB form 242 reports.

Saturn Airways, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights, 1960					
From—	To—	June	July	August	September	October	November
New York	Philadelphia	6					
Philadelphia	New York/Newark		6	7	5	10	9
New York	Washington			5			6
Do	Chicago			5			
Do	San Antonio				6		
Do	Pittsburgh						5
Baltimore	do	5					
Washington	Philadelphia		6	6	7	7	7
Do	Pittsburgh		5			5	5
Pittsburgh	San Antonio		10			6	8
Do	Atlanta			5			
Chicago	San Antonio	8			5	5	
Atlanta	Washington		6	7	6	6	7
Gulfport, Miss	Atlanta	5	5		5	6	6
San Antonio	Gulfport, Miss	6	6	5	5	6	
Do	Wichita Falls	5					
Do	Atlanta					5	8

[1] Certificated in docket 5132. Formerly All-American Airways, Inc., name changed Nov. 9, 1960.

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS—Continued

PAIRS OF POINTS BETWEEN WHICH 5 OR MORE NONCHARTER FLIGHTS WERE OPERATED IN 1 DIRECTION, BY MONTHS FOR PERIOD INDICATED—CON.

Southern Air Transport, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted [2]]

Pairs of points		Number of 1-way flights											
		1960								1961			
From—	To—	May	June	July	August	September	October	November	December	January	February	March	April
Newark	Philadelphia	5											
Do	Baltimore	5											
Do	Chicago	9											
Chicago	Newark	5											
Newark	San Antonio	7											
San Antonio	Newark	6											
Chicago	San Antonio	8											
San Antonio	Chicago	8											
Miami	San Juan	6	8		6		5	7	8	8	8	7	10
Do	St. Croix, V.I	5	6		7			5	6		5	5	5
Do	St. Thomas, V.I	7	8		7	5		6	9	6		5	
St. Thomas, V.I	Miami	6	7	5	5				5				
Miami	Curaçao, Netherlands West Indies.											8	
San Juan	St. Croix, V.I	6			10			7			5		
Do	St. Thomas, V.I		6		5	5				7	7		
St. Thomas, V.I	San Juan											5	
St. Croix, V.I	St. Thomas, V.I		5										
St. Thomas, V.I	St. Croix, V.I										5		

[1] Certificated in docket 5132.

[2] Flights represented by the 1st 8 figures in the May 1960 column are exclusive passenger. All other flights shown for this carrier are exclusive cargo.

Source: CAB form 242 reports.

Standard Airways, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights							
		1960				1961			
From—	To—	September	October	November	December	January	February	March	April
Burbank	Honolulu	9	5	4	7	5	6	[2] 7	[2] 7
Honolulu	Burbank	8	5	4	6	6	[2] 5	[2] 7	[2] 7

[1] Certificated in docket 5132. [2] Includes some passenger/cargo flights. Source: CAB form 242 reports.

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SUPPLEMENTAL AIR CARRIERS—Continued

PAIRS OF POINTS BETWEEN WHICH 5 OR MORE NONCHARTER FLIGHTS WERE OPERATED IN 1 DIRECTION, BY MONTHS FOR PERIOD INDICATED—con.

Stewart Air Service,[1] 12 months ended Dec. 31, 1959

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights, 1959			
From—	To—	July	August	September	October
Hawthorne, Calif.	San Bernardino				8
San Bernardino	Hawthorne				6
Hawthorne	Del Mar, Calif.	15	65	31	
Del Mar	Hawthorne	15	65	31	

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

Trans International Airlines, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights										
		1960							1961			
From—	To—	June	July	August	September	October	November	December	January	February	March	April
Los Angeles/Burbank	San Francisco/Oakland						5					6
Do	Honolulu	10	10	10	7	7	7	9				5
Honolulu	Los Angeles/Burbank	10	8	10		5	8	9	6			9
San Francisco/Oakland	Honolulu		5	6	6	5	7	9	6	8	9	6
Honolulu	San Francisco/Oakland		6	6	8	6		6	7	6	8	5

[1] Certificated in docket 5132, Dec. 8, 1960. Formerly Los Angeles Air Service, Inc. Name changed

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS—Continued

PAIRS OF POINTS BETWEEN WHICH 5 OR MORE NONCHARTER FLIGHTS WERE OPERATED IN 1 DIRECTION, BY MONTHS FOR PERIOD INDICATED—CON.

Transocean Air Lines,[1] *12 months ended Dec. 31, 1959*

[All flights are exclusive passenger unless otherwise noted [2]]

Pairs of points		Number of 1-way flights, 1959											
From—	To—	January	February	March	April	May	June	July	August	September	October	November	December
New York	Chicago	12	5	8	7	8		5	12	12	13	6	
Chicago	New York	10	6	7	7	8		9	20	11	9	8	5
New York	San Francisco	9		6		6			10	9	8	7	6
San Francisco	New York	8			5	6		13	13	7	8	8	8
New York	Los Angeles				6	7			9	7	7	7	5
Los Angeles	New York	5	5		6			6	10	8	6	8	6
New York	Honolulu								8				
Do	Wake								7	7	6		
Wake	New York								6	5			
New York	Guam								7	7	6		
Guam	New York								6	7	6		
New York	Okinawa								7	7	6		
Okinawa	New York								6	7	6		
Chicago	San Francisco	7		6		5			9	8	7	6	
San Francisco	Chicago	8	5		5	6		9	8	8	8	8	5
Chicago	Los Angeles	5			6	6			5		5	6	
Los Angeles	Chicago	5	5	5	6			6	8			8	
Chicago	Honolulu								7				
Do	Wake								7	7	6		
Wake	Chicago								6	6	5		
Chicago	Guam								7	7	6		
Guam	Chicago								6		6		
Chicago	Okinawa								7	7	6		
Okinawa	Chicago								6	7	6		
San Francisco	Los Angeles		8	7	8			8	7	5		11	9
Los Angeles	San Francisco	9	9	9	7	6		5				11	5
San Francisco	Honolulu	17	16	11	11	10	10	13	18	9	11	12	11
Honolulu	San Francisco	13	10	11	10	10	10	12	12	9	9	13	12
San Francisco	Wake	5			6	7	6	6	9	7	5		
Wake	San Francisco									6		5	

San Francisco	Guam				6	7	6	6	9	7	5		
Guam	San Francisco				6	7	6	6	9	7	5		
San Francisco	Okinawa	5			6	7	6	6	9	7			
Okinawa	San Francisco						5			8	5	5	
Los Angeles	Honolulu	9	6	10	9	8	10	9	11	10	6		8
Honolulu	Los Angeles	7	8	10	10	8	10	12	9	10	8	9	7
Do	Wake	9	7	6	5				8				
Wake	Honolulu	8	8		5			6	7			5	
Honolulu	Guam	8	7		5				8				
Guam	Honolulu	8	8	5	5			6	9			5	
Honolulu	Okinawa	9	7	6	5				8				
Okinawa	Honolulu	8	7	5	5			6	8			5	
Wake	Guam	9	7	7	9	9	8	9	9	7	6		
Guam	Wake	9	8	6	9	7	6	9	9	8	7	5	
Wake	Okinawa	9	7	7	9	9	8	9	9	7	5		
Okinawa	Wake	9	7	7	8	7	7	9	9	8	8	5	
Guam	Okinawa	9	7	7	9	9	8	9	9	7	5	5	
Okinawa	Guam	9	7	7	8	7	7	9	10	8	8	5	

[1] Certificated in docket 5132.

[2] Some of the flights shown herein for Transocean represent exclusive passenger; however, most of the figures reflect either passenger/cargo flights or an aggregate of exclusive passenger and passenger/cargo flights.

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS—Continued

PAIRS OF POINTS BETWEEN WHICH 5 OR MORE NONCHARTER FLIGHTS WERE OPERATED IN 1 DIRECTION, BY MONTHS FOR PERIOD INDICATED—con.

U.S. Overseas Airlines, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted [2]]

Pairs of points		Number of 1-way flights											
		1960								1961			
From—	To—	May	June	July	August	September	October	November	December	January	February	March	April
New York	Detroit	9	8	7	9	7	6		5				
Detroit	New York	7		7		8							
New York	Chicago	9	11	14	9	6	8		6	8		5	
Chicago	New York	8		12	8					5			
New York	Miami	7	5	7	6	5			6	5	6	8	9
Miami	New York	7	6	7	6	5	5			8	9	7	11
New York	Oakland			6									
Oakland	New York		6	8	8	9	8		5				
New York	Burbank	8	8	7	11	8	6		8	5		7	
Burbank	New York	8			5		10						
Detroit	Chicago	8				7							
Chicago	Detroit	7		6									
Detroit	Burbank	7											
Burbank	Detroit	5											
Chicago	Oakland		9	5									
Oakland	Chicago			8	7	8	5		6				
Chicago	Burbank	10	6	7		6							
Burbank	Chicago	8	8	8	5		6						
Columbus, Ga	New York								5				
Oakland	Detroit		5			6							
Do	Burbank	8	12	9	9	11	9						
Burbank	Oakland	9	13	7	13	9	10						
Oakland	Honolulu	11	14	11	11	7	9						6
Honolulu	Oakland	9	15	6	8	11	6						
Burbank	Honolulu				5								
Honolulu	Burbank			5	5		5						
Do	Wake		5										
Do	Guam		5										
Wake	do		5										
Okinawa	do						5						

[1] Certificated in docket 5132.

[2] Most of the flights shown herein for this carrier are exclusive passenger; however, some of the figures represent an aggregate of exclusive passenger and passenger/cargo flights.

Source: CAB form 242 reports.

World Wide Airlines, Inc.,[1] *12 months ended Apr. 30, 1961*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights, 1960		
From—	To—	July	August	September
New York	Detroit	8	9	5
Detroit	New York	8	8	
New York	Chicago	9	9	5
Chicago	New York	8	10	
New York	San Francisco			5
San Francisco	New York		5	
New York	Los Angeles	8	9	6
Los Angeles	New York	9	10	
Detroit	Chicago	8	9	5
Chicago	Detroit	8	8	
Detroit	San Francisco			5
Do	Los Angeles	7	9	5
Los Angeles	Detroit	8	8	
Chicago	San Francisco			6
San Francisco	Chicago		5	5
Chicago	Los Angeles	8	10	5
Los Angeles	Chicago	9	10	6
San Francisco	Los Angeles		5	6
Los Angeles	San Francisco			6

[1] Authorized pursuant to order E-9744.

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS—Continued

PAIRS OF POINTS BETWEEN WHICH 5 OR MORE NONCHARTER FLIGHTS WERE OPERATED IN 1 DIRECTION, BY MONTHS FOR PERIOD INDICATED—con.

Arctic-Pacific, Inc.,[1] *12 months ended June 30, 1960*

[All flights are exclusive passenger unless otherwise noted]

Pairs of points		Number of 1-way flights				
From—	To—	December 1959	1960			
			January	March	April	June
New York	Baltimore		7		6	
Do	Pittsburgh		5		5	
Do	Chicago	5				
Chicago	New York	6				
New York	San Antonio		8		7	
Baltimore	Pittsburgh				5	
Do	San Antonio		7		6	
Pittsburgh	do				5	
Chicago	do			10		
San Antonio	Chicago		7	5		
San Francisco	Seattle					7
Portland, Oreg	Monterey, Calif					6
Seattle	Portland, Oreg					9
Do	Monterey, Calif					7

[1] Temporary certificate for domestic supplemental expired on Mar. 30, 1961. No application for renewal has been filed. Board order E-16734 dated Apr. 28, 1961, directs carrier to show cause why its remaining authorizations should not be terminated.

Source: CAB form 242 reports.

Aviation Corp. of Seattle, doing business as Westair Transport,[1] *12 months ended Dec. 31, 1959*

[All flights are exclusive passenger unless otherwise noted [2]]

Pairs of points		Number of 1-way flights, 1959									
From—	To—	March	April	May	June	July	August	September	October	November	December
Seattle	Fairbanks			5	7		7				
Fairbanks	Seattle						6				9
Seattle	Anchorage	5	5	7	9	9	11	10	8	6	10
Anchorage	Seattle			5	6	8	13	13	6	7	
Seattle	Kodiak			5		5					
Kodiak	Seattle				7	6					

[1] Temporary certificate expired on Mar. 30, 1961. Supplementary authority sold Feb. 10, 1960; Board has under consideration application for transfer which was filed on Jan. 17, 1961. Amended application for transfer and renewal filed on Mar. 29, 1961.

[2] All flights shown for the months of March through June 1959 and the Seattle-Kodiak and Kodiak-Seattle flights in July 1959 are exclusive all cargo. All other flights include passenger/cargo and either exclusive passenger or exclusive all cargo or both of the latter.

Source: CAB form 242 reports.

EXHIBIT E

SUPPLEMENTAL AIR CARRIERS

DATA RELATING TO COMPANIES THAT WOULD BE ELIGIBLE FOR "GRANDFATHER CERTIFICATES"

A. Companies that are presently not operating

(1) Certificated in Docket 5132:

Coastal Air Lines
Conner Air Lines, Inc.
Quaker City Airways, Inc.
Sourdough Air Transport
Transocean Air Lines

(2) Interim operating authority effective December 17, 1960, received under Public Law 86–661: Vance Roberts.

Of the above listed six companies, only Sourdough had an operating certificate from the Federal Aviation Agency (FAA) as at June 20, 1961.

As of May 31, 1961, Vance Roberts was operating as an air taxi operator.

B. Companies that have conducted no operations since certificates were issued in Docket 5132

None.

As of May 31, 1961, no operations as a supplemental air carrier had been performed by Vance Roberts, whose interim operating authority effective December 17, 1961, was received under Public Law 86–661. This carrier does, however, report operations as an air taxi operator.

C. Companies that have conducted no operations in any period of 6 or more consecutive months since certificates were issued.

Due to the limited amount of time available for developing this information, the determination as to whether a carrier had conducted no operations in any period of 6 or more consecutive months was made on the basis of calendar quarters from the quarterly financial and traffic reports filed by each carrier.

During the 5¼ years from January 1, 1956, through March 31, 1961, 10 of the captioned group of carriers reported no operations for at least two consecutive calendar quarters. The quarterly periods since January 1, 1956, in which these carriers reported no operations are indicated by the word "None" in the tabulation on page 3.

The tabulation also indicates by the word "Token" those calendar quarters in which only very limited operations were reported. As used here, limited or "Token" operation means less than 10 revenue tons transported during the quarter. One ton would be equivalent to 10 passengers at 200 pounds per passenger.

In order to readily identify the data in each carrier column with the applicable quarter, a dash (—) has been inserted in the tabulation for each quarter in which the carrier reported more than a "token" operation.

Carriers in the captioned group which reported no operations for 2 or more consecutive calendar quarters since Jan. 1, 1956

Quarter ended—	Carrier									
	Associated Air Transport	Coastal Air Lines	Conner Air Lines	Paul Mantz Air Services	Quaker City Airways	Sourdough Air Transport	Standard Airways	Trans International Airlines	Trans Ocean Air Lines	World Airways
1956—Mar. 31	None	None	None	Token	—	None	Token	—	—	None.
June 30	do	do	do	do	None	do	—	—	—	—
Sept. 30	—	do	Token	—	do	do	None	—	—	—
Dec. 31	—	Token	None	—	do	do	Token	—	—	—
1957—Mar. 31	None	None	Token	—	do	do	None	—	—	—
June 30	—	Token	—	None	—	do	Token	None	—	—
Sept. 30	—	do	None	do	—	do	do	do	—	—
Dec. 31	—	do	do	Token	—	do	do	Token	—	—
1958—Mar. 31	—	None	—	None	—	do	None	None	—	—
June 30	—	do	Token	Token	—	do	Token	do	—	—
Sept. 30	—	—	None	None	—	do	—	Token	—	—
Dec. 31	—	—	Token	do	None	do	None	—	—	—
1959—Mar. 31	—	—	do	do	do	do	do	—	—	—
June 30	—	—	None	do	do	do	do	—	—	—
Sept. 30	—	—	do	do	do	—	do	—	—	Token.
Dec. 31	—	—	do	do	do	None	do	—	—	None.
1960—Mar. 31	—	None	do	do	do	do	do	—	—	Do.
June 30	—	—	do	Token	—	do	do	—	—	—
Sept. 30	—	None	do	None	Token	—	—	—	None	—
Dec. 31	—	do	do	do	None	—	—	—	do	—
1961—Mar. 31	—	do	do	—	do	None	—	—	do	—

EXPLANATION

"None" means no revenue transport operations reported.
"Token" means less than 10 revenue tons transported during the quarter.
Dash (—) means more than token operation reported.

D. Companies that have conducted no, or no significant, individually ticketed or individually waybilled operations

During 1 or more of the 5 calendar years from 1956 through 1960, 14 of the captioned group of carriers reported no or no significant individually ticketed or individually waybilled operations. Where the gross revenues from such operations were no more than $5,000 for a year, the operations are considered herein as not significant.

The data for these 14 carriers are shown by years in the tabulation below. The explanation of the insertions in the tabulation is as follows:

"None" means no individually ticketed or individually waybilled operations reported.

"No sig" means no more than $5,000 gross revenues for the year from individually ticketed and individually waybilled operations.

Dash (—) means more than $5,000 gross revenues for the year from such operations.

Carrier	Calendar year				
	1956	1957	1958	1959	1960
Associated Air Transport	None	None	None	—	—
Blatz Airlines	—	—	—	None	None.
Coastal Air Lines	No sig	No sig	None	—	Do.
Conner Air Lines	None	—	No sig	None	Do.[1]
Johnson Flying Service	—	None	None	do	Do.
Paul Mantz Air Services	No sig	No sig	do	do [1]	No sig.
Overseas National Airways	None	None	—	—	—
Quaker City Airways	No sig	No sig	—	None [1]	—
Saturn Airways	do	—	—	—	—
Sourdough Air Transport	None [1]	None [1]	None [1]	None	None.
Standard Airways	—	do	do	do [1]	—
Stewart Air Service	—	—	—	—	None.
Trans International Airlines	—	None	None	None	—
World Airways	None	do	do	—	No sig.

[1] Carrier reported no revenue transport operations at all for the year.

(Whereupon, at 11:55 a.m., the committee adjourned, to reconvene at 10 a.m., Wednesday, June 21, 1961.)

LIMITED AIR CARRIER CERTIFICATES

WEDNESDAY, JUNE 21, 1961

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS
OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to adjournment, in room 1334, New House Office Building, Hon. John Bell Williams (chairman of the subcommittee) presiding.

Mr. WILLIAMS. The committee will come to order, please.

This morning the subcommittee will continue its hearings on the so-called supplemental air carrier bills.

Our first witness is Mr. Clayton Burwell, president of the Independent Airlines Association.

Mr. Burwell?

STATEMENTS OF CLAYTON L. BURWELL, PRESIDENT, AND DE WITT T. YATES, GENERAL COUNSEL, INDEPENDENT AIRLINES ASSOCIATION, WASHINGTON, D.C.

Mr. BURWELL. Thank you, Mr. Chairman.

Mr. Chairman, I noticed in the paper this morning that there was a problem about some of the figures that were inquired about yesterday.

With your permission, if you think it is appropriate, I would like to take 2 or 3 minutes before my statement and try to shed a little light on some of the figures.

Mr. WILLIAMS. All right. Mr. Burwell, I notice that you have a rather lengthy statement, some 40 pages.

Mr. BURWELL. Yes, sir. I do not intend to read it, however, Mr. Chairman.

Mr. WILLIAMS. I was going to say that the committee will be very happy to receive this for inclusion in the record the same as if it were read to the committee. We hope that we will have your cooperation in attempting to expedite these hearings as much as possible.

I realize that you are a very important witness in this and I do not want to cut you off but we are up against a time problem as you well know. Any cooperation that you can give the committee in that respect will, of course, be appreciated.

(The statement referred to follows:)

STATEMENT BY CLAYTON L. BURWELL, PRESIDENT, INDEPENDENT AIRLINES ASSOCIATION AND SUPPLEMENTAL AIR CARRIER CONFERENCE

This is the 15th anniversary of the Supplemental Air Carrier Industry—an industry of 25 air carriers[1] certificated by the Civil Aeronautics Board[2] only to have the legality of the certification denied by the Circuit Court of Appeals for the District of Columbia.[3] The Congress rescued the industry from this disaster by passing Public Law 86–661, thereby validating the certificates for a 20-month period. This authority expires March 14, 1962. The matter came before the committee during a particularly hectic stage of the session, which, on the one hand, makes us doubly grateful to the Congress for commuting the death sentence of the court and, on the other hand, gives us hope that you may now consider a more permanent role for the supplemental industry.

We ask you to do so because it is impossible to obtain any financing of modern equipment requiring amortization over 5- to 7-year periods based upon on 8 months' operating authority. Moreover, the industry is going broke[4]—I am grateful to say it is going broke at piston engine not jet speed. We prefer a congressional diagnosis at this session to a congressional autopsy at the next. Between 1950 and 1957, the industry had a profit in 5 out of the 7 years. From 1957 to date, the industry has shown losses each year, and in 1959 and fiscal 1960, it has shown losses too large to sustain much longer.

The prime reason these carriers have been forced to spend more than 9 years before the Board in a proceeding for certification and have been forced to take up the Congress time is the concern that if they are granted any authority, it will result in widescale diversion of revenues from the route carriers who also have their troubles. I believe it will surprise you to learn that the maximum domestic trunkline revenues even exposed to diversion by supplementals is less than three-fourths of 1 percent,[5] and that this is basically the magnitude of the problem.

The 12 domestic trunklines derived only one-half of 1 percent of their total transport revenues from charter operations in 1959 and 1960.[6]

The total transport revenues of these 12 carriers from domestic operations in 1960 was slightly less than $2 billion and their charter revenues $10,414,000 or approximately one-half of 1 percent. From the table (exhibit No. 4) you can see that approximately the same percentage obtained in 1959.

This, therefore, is the maximum area of competition in the field of domestic charter—even if we diverted it all. It is difficult to believe that a $2 billion a year industry of 12 carriers can be hurt by this one-half of 1 percent exposure or that the myth of competition in the airline industry can survive on no exposure at all.

The remaining exposure is in the field of individually ticketed traffic carried by supplementals under their authority to perform 10 round trips per month and amounts to an estimated twenty-two one-hundredths of 1 percent of the total revenues of the 12 domestic trunk carriers from domestic operations.[7] The

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[1] See supplemental air carrier list (exhibit No. 1). In addition, thereare 4 supplementals for whom certificates have been recommended by the examiner in docket 5132 but the CAB has not yet had an opportunity to grant or deny their authority. Further, there are 4 supplementals whose denial of a certificate by the Board in docket 5132 is the subject of an appeal in the courts. (See exhibit No. 2.)

[2] Docket No. 5132.

[3] *United Air Lines et al.* v. *CAB*, CADC No. 15,025 et al.

[4] See table on a 10-year comparison of operating results in the supplemental airline industry (exhibit No. 3).

[5] There is no diversionary effect on the local service or other classes of carriers that is discernible.

[6] See table on charter revenues as a percentage of total transport revenues of domestic trunklines in domestic operations, 1949–60. (Exhibit No. 4.)

[7] See table on distribution of revenue passenger-miles carried by the supplemental airlines, 1955–60, showing 399,047,000 revenue passenger-miles flown by supplementals for 12 months ending Sept. 30, 1960. Less than 50 percent of this is estimated as individually ticketed traffic, the greater portion being charter traffic. Of the 50 percent or 200,000,000 revenue passenger-miles representing the maximum individually ticketed traffic most of it is created traffic not diverted because there is no comparable fare or service offered by the trunks. Assuming that as much as one-third of the supplemental traffic actually was diverted or 66,000,000 passenger-miles, the diversion is only 0.227 percent and even this figure is estimated on the high side. The CAB forms for supplementals have not until 1961 provided for a breakdown of individually ticketed traffic and hence the estimate. (Exhibit No. 5.)

one-half of 1 percent of total revenues maximum exposure on charters and the estimated maximum exposure of twenty-two one-hundredths of 1 percent on 10-trip authority, when added, gives an overall exposure of seventy-two one-hundredths of 1 percent in the commerical domestic field. This is all the contest is about and has been about for 15 years, and we're still at it. During this period, the revenues of the supplementals decreased from $70 million in 1952 to $62.8 million in 1959 or a loss of $7 million gross. During the same period, the route carriers increased their gross from $1.75 billion in 1952 to $2.6 billion in 1959 for a gain of almost $1 billion.

During this time the ranks of the nonskeds were cut down from approximately 700 in 1947 to these supplementals standing here today.

During this time they have never asked for or received a dollar of subsidy while the U.S. domestic route carriers for domestic services only received subsidy from 1939 to 1958 of $424,560,000.

During this time they have built a fleet of 164 aircraft, of which 101 are oversea capable, and 63 suitable for support of limited and guerrilla warfare. This fleet can provide at any given time lift for 9,855 personnel and 1,073 tons of equipment. They have more than 1,200 pilots and support more than 5,000 maintenance personnel.

During this time there have been only four significant developments[8] of new air transportation markets and the supplementals have pioneered each of these. They are:

1. Aircoach travel.
2. The airfreight or all-cargo business.
3. Commercial air charters.
4. The contract air transportation of personnel and supplies for the Military Establishment.

Each of these important fields was pioneered and developed—not by the trunklines with their tremendous resources and Government patronage—but by the new carriers who came into business after World War II. Even as late as 1951, the spokesmen for the large airlines, particularly, American, United, and TWA, were telling the Congress and the Board that the so-called aircoach experiment was completely unworkable. Yet the pioneering of the "nonskeds," as they were known in those days, continued to fill a rising demand and to prosper in the aircoach field until driven out by the Civil Aeronautics Board. Today, approximately 50 percent of the trunkline seats are in aircoach.[9] However, fares have been raised to a point at which a new or lower economy service is again needed by the mass of American people.

At the end of World War II, the U.S. air transport system had no airfreight segment at all and rates for the transportation of property averaged approximately 60 cents per ton-mile. Again, it was the new carriers that brought these rates down to levels of around 18 cents to 20 cents per ton-mile, and these rates will be cut further in the near future.[10]

The Board found in the *Commercial Charter Exchange* case, docket No. 6580, that it was the "nonskeds" who had pioneered and developed the commercial charter market. In the July 1960 issue of Reader's Digest, an article, entitled "How To Fly to Europe for Less," contained the following:

"The supplemental airlines are responsible for much of the present zooming charter business. In 1955 when the Civil Aeronautics Board permitted them to begin transatlantic charter operations, only 18 charter groups flew to Europe. Today at least 1 of every 12 of the million-plus U.S. tourists to Europe goes by chartered plane."

Along with the aircoach, the airfreight and the commercial charter market, it was the supplementals which pioneered the military contract business along with the former supplementals, such as Seaboard & Western, Flying Tigers, Slick, Aaxico, Resort and Trans Caribbean. The percentage of dollar participation by carriers in the MATS airlift procurement, who were at one time supplementals, for the 4 years—1955, 1956, 1957, and 1958—involved is 89 percent of the total.[11]

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[8] It may be that helicopter routes and local service route developments are new markets in which the supplementals were not involved.

[9] See table on aircoach revenue passenger-miles in domestic trunk airline scheduled services, 1949–60, showing the growth of aircoach after the "nonskeds" pointed the way by operations in 1946, 1947, 1948, 1949, and 1950. (Exhibit No. 6.)

[10] Docket 810 of July 1949 supports the statement that the then supplementals (now all cargo carriers) developed this industry against the opposition of the trunklines.

[11] See statement of the dollar amount of commercial airlift procured by MATS during 1955, 1956, 1957, and 1958. (Exhibit No. 7.)

The pioneering of supplementals and the apathy of old line route carriers to military contract business was even more pronounced in the field of domestic passenger military group transportation where the supplementals have carried more than three-fourths of the domestic military groups (CAMS) since 1951.

The supplementals or former supplementals have historically been the carriers servicing the Logair freight contract for the Air Force and the Quicktrans freight contract for the Navy for almost 10 years.

The ready availability of the supplementals for defense was illustrated in 1948 in the Berlin airlift. Representing only 5 percent of the Nation's civilian air transport, the supplementals moved approximately 25 percent of the passengers and 57 percent of the cargo-tons carried by commercial airlines in this strategic operation.

In 1950, the supplementals supported the Korean airlift by supplying over half the commercial capability called for by the military. Overseas, National Airways, a supplemental, charged the Government $1.17 per mile for DC–4 aircraft in the Korean lift while Pan American was charging $1.60 per mile, United was charging $1.70 per mile and Northwest was charging $1.75 per mile, all for DC–4 aircraft, and the largest loads were carried by ONA.

The supplementals flew the first planes to Vienna in 1956 to airlift the Hungarian refugees out of Europe. The Arctic DEW line was supplied in substantial part by supplementals. In the Lebanon crisis, our carriers were to offer in response to an emergency phone call from the military thirty-eight 4-engine aircraft within 4 hours.

In its opinion in docket 5132, in November 1955, the CAB stated: "The continued existence of their [supplemental air carriers] fleet is of real value in terms of the national defense * * * it is evident that the [supplemental] air carriers have the necessary flexibility to meet the demands of the military."

In December of that same year, the CAB characterized the supplemental industry as: "A reserve air fleet, capable of being called into action to meet emergency transportation needs with a minimum amount of notice." [12]

Gen. William Tunner, former commander of the Military Air Transport Service, testifying last year before the House Armed Services Committee, in commenting on a provision in a report to eliminate competition for MATS contracts said: "This would, of course, eliminate from competition some fine supplemental carriers who have contributed a great deal in time of emergency to the Department of Defense airlift needs."

He went on to comment: "The elimination of competition will tend to restrict the growth of the air carrier industry as a whole and it is likely to have a disastrous effect, particularly on the small business concerns of this country."

So much for the pioneering of the supplementals which has created new pools of traffic for the route carriers and which has served as a yardstick to measure the claims of public service and national utility of the big carriers.

While we appreciate the desire of the Board to assist us through H.R. 7318, introduced by the chairman of the committee, it fails to clarify certain problems or to consider any expanded authority, which if handled by the Board, would result in hearings so extended that the industry will perish before relief could be extended if deserved. After 9 years of "due process" at the Board, the start of another cycle by asking for any expanded authority there would be fatal whether they wish us well or not. We, therefore, ask you to consider a minimum bill of rights or authority for us in legislation.

H.R. 7512 introduced by Congressman Moulder seeks to clarify and expand our authority in three particulars in effect by amending subsection (33) of the Federal Aviation Act of 1958, as amended.

The first change suggested by H.R. 7512 is a definition of charter as—"Air transportation performed pursuant to an agreement for the use of the entire capacity of an aircraft."

The difficulty with the present situation is that the Board by regulation, particularly in the foreign field, can terminate, obscure, or restrict a charter to whatever it pleases. No banker will lend money for the development of a market the dimensions of which are the constant subject of debate and which can be eliminated by the stroke of a bureaucratic pen. The bank requires a title to your land by metes and bounds before it will lend money for you to build a house on the land. In this business, he wants a fair assurance that the market will

[12] Order No. E–9884.

not be redefined away from the supplementals if they develop it sufficiently to be able to repay his financing.

Under the Board's so-called transatlantic charter policy,[13] the question of what is and is not a charterworthy or bona fide group is the subject of minute and restrictive rules which would have delighted medieval logicians and pettifoggers but are not appreciated by a chartering group, who merely wish to travel without running afoul of the U.S. Government.[14]

The CAB questionnaire for charters sets forth a formidable set of questions addressed to the charterer or leader of the group the answer to many of which must be based on hearsay.

To be sure, the charterer is not comfortable about answering the questionnaire when advised that any misstatement may subject him to a fine not to exceed $2,000 or imprisonment not to exceed 5 years or both. If the group leader is hardy enough to persist in a desire to travel by air charter and risk involvement with the FBI, it must cast a pall on his trip when he contemplates the consequences of furnishing the slightest erroneous information. Surely, this is not the way to generate more air travel either for the supplementals or the large route carriers.

Mr. Chairman, we have consistently asked that unrealistic restrictions and complications encompassed in the definition of charter air transportation be relaxed in order that this vast potential market of air transportation may be fully exploited by the supplemental air carriers. Over 5 years ago in 1955, after many years of hearings and receipt of evidence, the Civil Aeronautics Board found that the supplemental air carriers should be allowed to perform an unlimited number of charter flights within the domestic United States and "charter operations for the carriage of passengers in international operations on an individual exemption basis * * *."[15] After another extensive hearing before the Civil Aeronautics Board, the supplemental carriers were accorded authority to pool their equipment and resources for the performance of international charters on an air exchange basis.[16] Thus, even in 1955 and during all times since, the international charter market was considered as vital to the welfare and economy of the Nation as well as to the supplemental carriers' healthy growth. Promulgation over the years, however, of a rigid and complicated procedural structure designed to confine the charter-worthiness qualifications of a given charter group has resulted not only in stunting the overall development of the market, but utter chaos and frustration in far too many instances. Thus, many supplemental carriers fully qualified and able to enter into the transatlantic charter field have been extremely reluctant to tackle the problem of generating sufficient traffic, while at the same time keeping their solicitation and performance efforts within the rules and regulations of the CAB.

Usually, interest in an international charter results from an inquiry by some organization, school, plant or club to the supplemental air carriers' air exchange in Washington, D.C., or to the carrier direct. The charterer is told that it must charter and pay for the entire aircraft and must qualify as a bona fide group within the rules and regulations of the Civil Aeronautics Board. In practically all instances the charterer has no knowledge of the existence of the CAB nor its rules and regulations pertaining to charter flights. Thus, an extensive indoctrination is begun with the carrier endeavoring by letter, telephone and personal conference to acquaint the charterer with its obligations in order to qualify for its requested transportation. The carrier's foremost interest is to constantly keep the charterer from giving up the effort because of the sheer weight of paperwork and various assurances, sworn statements, explanations and so forth necessary prior to obtaining the official Board order approving the proposed flight.

Many times a "qualified" group does not know of its approval or disapproval until just hours before flight time—thus giving rise to a situation which understandably creates a real panic among persons anticipating a cherished reunion with loved ones in the "old country." One such group serves as an example of the trials and tribulations confronting both carrier and prospective charterer and the following chronological résumé fairly sets forth an average procedure which may or may not result in the award of an exemption from the CAB to perform the flight.

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[13] Exhibit No. 8.

[14] See part II of application for authority to conduct transatlantic passenger charter flights—Statement of supporting information. (Exhibit No. 9.)

[15] CAB Order E–9744, dated Nov. 15, 1955.

[16] CAB Order No. E–14638, dated Nov. 12, 1959.

A winter sports club desired charter transportation aboard a supplemental airliner. Its membership comprised some 300 to 400 persons who had formed the club several years previous to develop a seasonal program of recreational activities including the winter sport of skiing. The group, upon learning of the supplemental carriers' economical rates for international charter transportation, contacted a supplemental carrier for the purpose of chartering an aircaft for 75 of its members to fly to Germany for a holiday of winter sports.

After several days of questioning and indoctrination, the carrier was successful in completing with the charterer a detailed questionnaire to be filed after verification and mimeographing with the Civil Aeronautics Board in a formal application with 20 copies for administrative purposes. Prior to filing of the formal application by the carrier, the necessary charter agreement between the airline and the club was submitted to the Board for preliminary perusal—all according to the rules and regulations surrounding international charter transportation. Shortly after filing the application, the CAB advised the carrier that additional information would be needed, i.e., a complete and current membership list of the club, together with advice that all persons to go on the charter must have been members of the club for at least 6 months, and an explanation of the detailed cost accounting of funds as set forth in the application and supplied by the group. At this point, a major scheduled trunk airline filed a formal protest to the eligibility of the charter flight, several pages in length, alleging among other things that it needed an extension of the Board's procedural time in which to file a further answer to the supplemental carrier's application. The CAB then required a résumé of technical flight stops which would be made—thus necessitating a letter from the carrier to the Board endeavoring to answer the several questions raised. Meanwhile, the carrier's attorneys, in order to protect the airline's interest, were compelled to file a formal mimeographed reply to the CAB of some five pages in length in answer to the flag carrier's opposition. Flight time was now approaching and the charterer had no way of knowing whether its trip would be flown or not. A few days later, in order to make its application before the Board more precise, the carrier filed an amendment to the formal application setting forth an increase of two persons in the charter group, together with other insignificant data. Subsequently, the flag carrier opposing the charter filed a six-page formal document before the Board in further pursuit of its efforts to prevent the flight from moving on the supplemental airline. This filing compelled attorneys for the carrier to file a four-page answer, all mimeographed and prepared in accordance with the Board's formal requirements. Notwithstanding the foregoing, the correspondence, telegrams, telephone calls and personal conferences between the chartering group, the carrier and the attorneys for both the chartering group and the carrier, consumed an inestimable amount of time, effort and expense to all concerned.

Finally, just hours prior to the takeoff time, the CAB issued an order granting the application and allowing the group to move. At no time prior to issuance of the official Board order was the group assured that it would or would not move.

Four days subsequent to departure of the charter flight the flag carrier which had opposed the charter in the first place proceeded to file a formal mimeographed document with the CAB objecting further to the Board's earlier approval. This filing necessitated counsel for the carrier to file a reply—also mimeographed and constituting a page and a half. Some 30 days after the Board approval of the charter, attorneys for the carrier were compelled to further satisfy the CAB by correspondence explaining other minor deficiencies in the performance of the flight and, finally, a month and a half after the Board granted the exemption for the flight, the Board issued another formal order refereeing the controversy between the supplemental carrier and the flag line by finding in favor of the supplemental carrier. Without question, this club will never endeavor to charter another airplane.

In another instance, the British Bar Association members who came over last summer to participate in the activities of the American Bar Association were held to be not charterworthy because the group of which they are members is larger than the Board policy permits. They came by charter to Canada and arrived here perplexed and resentful of the extra cost they were put to by the Board.

Mr. Chairman, without burdening the record with the complete file on the foregoing cases—and I assure you that there are many, many similar instances—we hope the committee will understand the frustration of our carriers in en-

deavoring to attract charter transportation when consideration is given to the unrealistic and burdensome barriers in the way of proper exploitation necessary for the development of the market.

The foregoing procedure is bad enough to dampen any prospective charterer's desire to travel by air—thus, the compelling reason for our desire to receive a much less restrictive comprehension of what constitutes a valid charter of our aircraft. In marked contrast we would like to present for your consideration, the current operations of airlines which do not hold certificates or other authority whatsoever from the Civil Aeronautics Board. One such carrier's business is openly that of transatlantic charter transportation. Its operations and maintenance base is located in California and executive offices are maintained in Luxembourg and New York City. Its flight equipment consists of 4 DC–4 aircraft suitable for the carriage of passengers on long overwater flights. In 1959 and 1960 the carrier performed 32 "charter" for a specified rate between points in the United States and points overseas. The "charters" performed, among others, were for the Hamilton Standard Employee Group, the Canadian Youth Hostels Association, American Youth Hostels, Inc., Michigan Council of Churches, American Student Information Service, Association of World Travel Exchange and others—all of which constitute precisely the same type of group transportation desired to be transported by supplemental airlines under their charter authority.[17] Yet, each of the foregoing charters were performed without any reference whatever to the CAB's rules and regulations. No application was filed and no Board authorization was either sought or obtained.

The foregoing illustrates on the one hand the highly and, we believe, unwarranted restrictive nature of the supplemental's authority to perform international charters, and on the other hand the complete freedom accorded to carriers which, perhaps, fortunately for international charter purposes, are not within the jurisdiction of the Civil Aeronautics Board. The freedom of charter as accorded to such carriers by reason of their being without the jurisdiction of the CAB at the very least makes a complete mockery of the very stringent barriers to the supplemental carriers' participation in the same market. At this juncture, although the Civil Aeronautics Board's Office of Enforcement has complained that such operations are in violation of the Federal Aviation Act, a CAB examiner, after full hearing, has found to the contrary.[18] Thus, even though the Board itself has not yet issued its decision in the case, the supplemental air carriers are confident that the matter, by reason of the examiner's report, is controversial enough as to require months or years of process through the courts. Should the ultimate determination be in favor of Seven Seas Airlines, Inc., then the supplemental carriers will have indeed experienced a bitter and unfortunate decade of compliance with illegal restrictions—for the gist of the examiner's finding is simply that charters are not, in fact, common carriage and, therefore, outside the jurisdiction of the Civil Aeronautics Board.

Further, the CAB statistics indicate that carriage of charter flights by the foreign air carriers aggravates the excessive outflow of American dollars. Between 1959 and 1960 (April–September) the number of transatlantic charters carried by U.S. carriers was about the same, while the foreign air carriers increased their number by almost 400 percent; namely, from 281 in 1959 to 1,018 in 1960.

Pro rata charter operations between the U.S. and Europe

	U.S.-flag route airlines	Foreign air carriers	All-cargo and supplemental airlines	Total
Number of 1-way trips:				
1959	213	281	265	759
1960	287	1,018	226	1,531
Number of 1-way passengers:				
1959	17,240	22,342	24,199	63,781
1960	23,745	83,506	22,301	129,552

Why is it the Board takes all this effort to narrow the common law definition of "charter," the Interstate Commerce Commission and Maritime Commission

[17] Seven Seas Airlines, Inc., enforcement proceeding Docket No. 11096.
[18] Initial decision of Russell A. Potter, hearing examiner, Nov. 16, 1960.

concept of "charter" and to narrow the definition of "charter" as applied in most European countries?

Presumably, it represents a frenetic campaign to eliminate the possibility of one traveler getting into a charter group who might be forced to buy an individual seat at an IATA fare across the Atlantic.[19]

This effort of the Board to shoo any transatlantic traveler through IATA turnstiles at high prices is not consistent with the Board's repeated disclaimers of responsibility for IATA's cartel price fixing on the ground that the Board has no jurisdiction over transatlantic rates. The Board has adopted the IATA concept hook, line, and sinker on charter definition and the purpose of the concept, when conceived by IATA, was to force everyone into an IATA seat at IATA fixed prices or the traveler stays at home.

The recent bill before the Subcommittee on Commerce and Finance of the House Interstate and Foreign Commerce Committee, H.R. 4614, seeks to promote travel and tourism by foreigners to the United States in order to ameliorate the outflow of approximately $1 billion and to promote a better understanding of America by foreigners. We believe the purposes sought to be achieved by this bill can be furthered by clarifying and amplifying the charter concept across the Atlantic. The mass of Europeans cannot afford IATA fares of 6.5 cents per mile—piston engine "economy"—or the 7.1 cents per mile on jet economy class. Most of them, however, must come by air because their vacations are not long enough to come by boat.

For many years the British Government has permitted the British independents (supplemental carriers) to carry planeloads of travelers on all-expense tours throughout Europe and hundreds of thousands of Britishers and other Europeans travel in this manner. The number of large packaged tours brought to America in the last few years by air is relatively insignificant compared to the potential. Leroy Tours, a well-known British tour organizer, last year carried over 50,000 British passengers to the Continent on packaged tours and none to the United States.[20] He states: "There is no doubt that we hold a vast potential from our United Kingdom clients for 'package' tours to the U.S.A."

He goes on to state that promoting the potential tourists to the United States is hopeless with excessive transatlantic charter rates and without reasonable all-in terms for accommodation and food in the United States.

Another leading British travel agent, Lanseair, through its director, Mr. Henry C. Morritt, says:[21] "We do feel that there is a fantastic potential within Europe for travel to the west, but this will always remain largely unavailable to us all while the present fare structure and basis of charter operations transatlanticwise are kept to the present regulations, and we also feel that in view of the fact that your organization is now entering into the European/United States trafic in a very serious manner, that through your good offices some approach could be made to the CAB, and any other authority necessary, whereby some definite relaxation of the present regulations could be brought about for the European traffic to the west, which would enable this present unequal balance to be leveled out by giving the European tourist the opportunity to vist the Western Hemisphere on a more realistic fare basis."

A prominent article in the British Travel Trade Gazette, entitled "Wanted, an All-In Tour to the United States for 200 Pounds" (560) presents the view of Thomas Cook & Son, American Express, and several other world-renowned tour operators to the effect that the first step in promoting significant tourism to America is the provision of economical packaged tours within the reach of the European pocketbook.[22]

We believe that so long as IATA controls the price of all the air travel across the oceans that the purposes of H.R. 4614 to stimulate significant increase of foreign tourists to America will die aborning. This is certainly true if the Civil Aeronautics Board continues to follow the lead of IATA in this area. On the contrary, the stimulation of charter service and authority to carry planeloads of all-expense tourists from Europe at lesser rates will develop the traffic very rapidly. For these reasons, we ask you to define and clarify a "charter" rather than force us to have it defined by IATA, who will certainly define us out of business.

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[19] The minimum piston engine "economy class" IATA fare New York to London for this summer is $450 round trip or 6.5 cents per mile if you can get a seat. The minimum economy pure jet fare is $486 round trip or 7.1 cents per mile.

[20] See letter from Leroy Tours (exhibit No. 10).

[21] See letter of Jan. 26, 1961, from Lanseair (exhibit No. 11).

[22] Exhibit No. 12.

The second change relating to charter in H.R. 7512 is a proposal to give the supplemental air carriers the right of "first refusal" in the charter field. Historically, the supplementals have believed in free competition but have never been permitted to compete with anyone basically except one another. They believe that the airline system today would be improved by competition but are skeptical that significant competition will ever be allowed. Consequently, if the system is to be one where everybody is protected, they certainly would like to have a modest amount of protection for themselves.

The Board has said repeatedly that the supplementals pioneered the charter market and that the development should continue. Last year, CAB Member Chan Gurney, in a letter to the chairman of this committee, dated May 18, 1960, stated: "It is my firm belief that the future of the supplemental air carrier industry lies in the further development of the charter market—and not in attempting to engage in route-type operations of any kind."

One of the practical problems arising from lack of protection in the charter market is the fact that the charter operations of the route carriers are sporadic and unpredictable and charter operations are a mere minor byproduct of their overall operations. For instance, they may have idle piston engine equipment on hand awaiting sale and during this period get into the charter market temporarily only to leave it suddenly, creating violent fluctuations.

The right of first refusal would not mean that the supplementals would get all the charter business. For those charterers who wanted jets, for those who wanted super deluxe, first-class accommodations, we would not be able to accommodate them and they would go with the big carriers. The supplementals never have and never will concentrate on that type of market.

There have been many speeches recently from aviation leaders, both Government and industry, pointing to a need for a clearer alinement of air transport functions by classes of carriers, which I presume means that each class of carriers should have more protection. If the system is to be one of more protection, we think we should have some. If it is to be one of more competition, we would like to be able to compete.

The third and last substantive amendment proposed in H.R. 7512 is to permit 192 round-trip flights per year between any two points in the United States for the carriage of individually ticketed passengers or individually waybilled cargo in lieu of the present authority limited to a frequency not to exceed 10 trips per month.

If viewed on a monthly basis, this would represent an increase from 10 to 16 trips per month.

The Select Committee on Small Business of the U.S. Senate after studying this problem in 1953, recommended a minimum figure of 14 or 15 flights per month.[23]

The figure of 10 trips per month was set in 1955 by the Board in its interim order in docket 5132. At that time the number of seats and schedules offered by the big carriers was many, many times less than those offered today, particularly with the advent of jets. In other words, the Board tied us to a static concept in a dynamically increasing industry in which the most prominent characteristic is a proliferation of seats and schedules by the route carriers.

If the same ratio of seats offered by the supplementals to the seats offered by the big carriers in 1955 were applied today, it would be necessary to grant the supplementals far more than the authority for 16 trips per month. It seems only fair to consider adjusting the trip authority in the light of today's situation rather than that of 1955 or earlier.

By the terms of the order in docket 5132, the trunk carriers were permitted to apply for a reduction of the 10-trip authority if they could show that the use of this authority was injuring them. I am not aware that they have sought to have the authority reduced, and it is, therefore, difficult to believe that it has been a serious factor affecting their fortunes.

In this connection, Senator Monroney said on page 190 of the hearings before the Aviation Subcommittee of the Committee on Interstate and Foreign Commerce U.S. Senate on S. 1543 that after reviewing the growth of revenue passenger-miles of the scheduled airlines and contrasting that growth with the growth of the revenue passenger-miles of supplementals, that the big carriers' fears seem to him like those of a 707 or DC–8 being afraid that a Piper Cub is going to outrun it.

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[23] Report of the Select Committee on Small Business, U.S. Senate, Rept. No. 822, 83d Cong., 1st sess.: "Future of Irregular Airlines."

We need trip authority—first to permit us to carry a load if the Board insists that it is not a charter-worthy group; and second, we need it because there is not enough revenue in the military or commercial charter business to support the industry in off seasons or if the military contract business is decreased through circumstances beyond our control. It is necessary for us to put together the odds and ends of several markets in order to survive, and we need more than 10 trips per month to make it profitable.

The flexibility of being able to account for the trips on an annual rather than a monthly basis would enable us to be more effective in relieving traffic congestion at peak and seasonal periods, such as, Christmas or winter in Florida and summer transcontinentally.

An increase in the trip authority would serve the public by providing a limited number of low-fare trips for the many people who cannot afford to travel by air at present fares. There has never been any price competition among the big carriers. All price competition, whether it has been the air-coach field, the cargo field, the military contract field, or the commercial charter business, has always come from outside the inner sanctum operated by the trunklines. A glance at the Aviation Guide will convince you that whether you ride American, United, or TWA to the west coast, you have no choice as to price and little choice as to anything else.

Another interesting fact is that in virtually all route proceedings new applicants claim that they will reduce fares and that the public will benefit therefrom. However, once they are selected, they never seem to reduce them. In the case of the most recent large route proceeding, the *Southern Transcontinental Service* case, the present fares are the same as they were prior to awarding the routes to new carriers.[24]

As jet equipment has been introduced, surcharges have been added, of course. Coach fares for piston aircraft are thus lower than for jet, but even these are higher than they were in 1957; meanwhile, the quality of the service on piston aircraft has deteriorated very noticeably.

These developments can be traced very easily by reference to two major airline markets: New York-Los Angeles and New York-Miami. In both these markets, some service has been offered simultaneously by supplemental airlines, at reasonable fare levels, but because of the enforced limitations on frequency of service, the supplemental operations have not had sufficient impact to force coach fares on the trunklines down to reasonable levels.

In 1957, 2 years before the dawn of the jet age, transcontinental air fares were, by today's standards, indeed reasonable. The first-class fare between New York and Los Angeles was $158.85. A 5-percent-round-trip discount was available, too, to reduce this amount to $150.90 for round-trip passengers. Or, with the family plan, additional members of the family could fly, on off-peak days, at half the one-way fare, i.e., at $79.45. For a family of four this reduced the average first-class fare to $99.30.

Regular coach fares were $99, and a 30-day excursion fare of $80 each way was available on a round-trip basis only, Mondays through Thursdays only.

At that time the supplemental airlines were offering transcontinental fares of $88 one way or $80 on a round-trip basis, generally using unpressurized DC–4 aircraft. The three trunklines, American TWA, and United were using pressurized DC–6, DC–7, and Super G Constellation equipment, with frequent service on a one-stop and two-stop for first class and coach passengers alike.[25]

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[24] See table on air fares between leading points where new routes were granted in the *Southern Transcontinental Service* case, before and after start of new service (exhibit No. 13).

[25] These fares were taken from the September 1957 Official Airline Guide, and, like the fares to be quoted on the next page from the June 1961 Guide, they exclude all taxes.

Now, in June 1961, all transcontinental air fares, except those of the supplemental airlines, are much higher than in 1957. The comparison is as follows:

	1957	1961	Percent increase
First class:			
Piston aircraft	$158.85	$171.45	7.9
Turboprops		171.45	
Pure jets		181.45	
Piston, round-trip basis	150.90	171.45	13.6
Family plan (average for 4) piston	99.30	128.58	29.4
Family plan (average for 4) jet		136.08	
Coach:			
Piston aircraft	99.00	109.15	10.2
Turboprops			
Pure jets		138.60	
30-day excursion	80.00		
Supplemental airlines:			
Piston aircraft	88.00	88.00	0.0
Piston, round-trip basis	80.00	80.00	0.0

At first glance the above increases do not look very large, proportionately. In fact, however, the three trunklines now offer almost all their transcontinental service in pure jet aircraft. The best piston service involves four or five stops en route, too. American's one and only piston aircraft schedule from New York to Los Angeles, with a DC–6, makes no less than 11 intermediate stops. It leaves New York at 11 p.m., and arrives at Los Angeles at 3:58 p.m. the next afternoon. The elapsed time is 19 hours and 58 minutes. In effect, the coach passenger is forced to take a jet, and to pay jet prices. Instead of being able to enjoy an excursion rate of $80 each way, he must pay $138.60. This is an effective increase of 73 percent in fares. Moreover, the $138.60 jet fare is only 8 percent less than the $150.90 first-class fare (on a round-trip basis) of 1957.

Other increases are hidden. The round-trip discount for first class has disappeared, just as the excursion rate in coach has gone. Stopovers now break through fares, costing extra. In 1957 the New York-Los Angeles passenger could return via San Francisco; now he must pay an extra fare of $25.55 first class or $16.45 coach, plus, in most cases, a $2 jet surcharge. The family-plan discount has been reduced from 58 percent to 33⅓ percent.

In this market the poor man, to whom price is all-important, is just out of luck unless he turns to the supplemental airlines, whose fares have not been increased a nickel. Here, he finds DC–6's now, or other similar equipment, instead of the 1957 DC–4's. The only trouble is a lack of frequency.

The same situation holds between New York and Miami. Today's jet day coach fare of $68.90 is 36 percent higher than the $50.50 day coach fare of 1957, and only 5 percent less than the $72.85 first-class fare of 1957 (round-trip basis). The situation is less acute than transcontinentally, however, because in the New York-Miami market there is still a good variety of nonstop piston flights, where the day coach fare is now $56.95, and the night coach $49.

Here again, the person to whom price is important must turn to the supplemental air carriers. Their fare is only $39 between New York and Miami, or $35 on a round-trip basis. Again, however, frequency of service is very limited.

The fare increases of the domestic trunklines might be more acceptable if they were accompanied by some justification. But the jets are supposed to be cheaper to operate, on a seat-mile basis, than piston aircraft, not more expensive.

If improvements in cabin service, reservations, and ticketing procedures, and so forth were the result, the fare increases again would be understandable.

Mr. Paul J. C. Friedlander, travel editor of the New York Times, showed a rare insight into this problem in an article published in the Times on June 26, 1960: "Only recently have the carriers begun to admit, first privately and now sometimes in public, that some of their vaunted competition is not true com-

petition, and that it may not be worth what it costs the passenger. The airlines all fly the same equipment, cover the same distance between cities in the same flying time, serve the same kind of food (often indistinguishable in looks and taste), put different but similar uniforms on strikingly similar cabin attendants, make the same kind of mistakes day in and day out in reservations and advance bookings, make the customer suffer through the same confusion when he tries to book a seat and put him through the same kind of exhausting nervous tension at the airports while awaiting for his flight and, later, for his luggage. * * *

"It is a rare and highly perceptive passenger who can tell offhand whether he is riding in a 707, a DC–8, or an 880. They look alike, their performance characteristics are similar, their flying times run within minutes of each other, and the fares are the same. What kind of competition is this?

"The airlines reply that their competition comes in the personal service they give at the air terminals and at their reservation offices and in the food and beverages and the cabin service aloft.

"Here also, it takes a highly perceptive passenger to tell whether he has been waiting impatiently on a telephone ringing in one airline reservation office or another, whether he has been bumped off a flight because of overbooking by one airline or its competitor, whether the domestic champagne the stewardess offers him is bubblier on one plane than on another and whether his weight allowance (40 pounds on domestic coach and first-class flights) is more inadequate on one plane than on another.

"He certainly finds no airline fighting competitively for his trade by offering him free stopover privileges, such as are available on foreign routes. European airlines advertise that, for the price of a ticket between New York and, say, Amsterdam, Copenhagen, or Rome, the traveler may visit a half-dozen major cities in between.

"In this country it costs the passenger money to make a stopover; not much money, perhaps, but the principle seems to be violated at the expense of the traveler. A New York-Los Angeles ticket today on a nonjet airplane costs $166.25 first class. To include a stopover in Chicago today the passenger pays $47.95 New York-Chicago, and $120.35 for a Chicago-Los Angeles ticket. The diference between $168.30 and $166.25 is $2.05. In a coach it costs an extra $12.15 for the stopover. These annoying charges are hard to explain, since they involve none of the additional miles of flying a stopover in Paris entails on a New York-Amsterdam ticket. * * *

"It is a fair question, one worthy of prompt study, whether both the industry and airline passengers might not be served better if there were fewer airlines operating opposing services over the same route. There could be no less true competition than there is now. There might even be more if the CAB then kept a close eye on the kinds of service being offered and compelled the airlines to live up to the responsibility inherent in their Government-awarded franchises."

At least some members of the CAB have been aware of this situation, too. Member G. Joseph Minetti voted against the majority's approval of jet surcharges because of evidence "that unit costs for jet aircraft will be appreciably lower than current unit costs for piston-driven aircraft."[26]

Former members Louis Hector, dissenting in a TWA fare case, where TWA was attempting to offer a siesta sleeper-seats at first-class fares only, without a surcharge,[27] declared in part, as follows:

"On April 3, 1958, Examiner Walsh served his initial decision in the investigation, finding that the TWA siesta-seat fare is 'not unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful.' American and United immediately filed exceptions to the examiner's decision and the case came to the Board on appeal.

"American, however, did something else at the same time. On April 23, 1958, it filed a tariff proposing to give service at coach fares on DC–7 planes with first-class seating configuration on nonstop transcontinental flights departing during the off-hour period between 10 p.m. and 3:59 a.m. This seemed to be, at least in part, a competitive move in answer to TWA's siesta service. Instead of giving the first-class passenger more leg room for his money, American proposed to give the coach passenger more leg room, reasoning perhaps that this more comfortable service at a low cost might siphon off some of the passengers

[26] Order No. E–13395, Jan. 16, 1959.
[27] Order No. E–13180, Nov. 20, 1958.

who would otherwise have paid the higher first-class fare to ride in TWA's siesta seats. To anyone who believes in the virtues of the competitive system, this seemed a very healthy development. Two large carriers competing vigororusly for an important segment of traffic were each giving the customer more for his money in an effort to gain a larger share of the market—in precisely the same way that producers of consumers goods and services—both essential and luxury—have throughout our economic history done a better job for the American consumer under the spur of competition. This seemed a healthy development also in view of the fact that one of the crucial problems for the airlines in the next decade is to increase traffic substantially and that this can probably be accomplished only by lower fares and improved service.

"A majority of the Board, however, apparently frightened that genuine competition might break out, suspended the American tariff on May 22 before it could go into effect [28] and then on June 13 announced in a press release that it had voted to disapprove as unreasonable and unlawful the TWA siesta-sleeper seat. The majority thus in one stroke denied to the American people the improved services and lower fares on transcontinental flights that real competition had begun to bring to them, and denied to the carriers reasonable freedom to manage their own affairs within the free play of the competitive market."

The one market where fares have been held to levels that appeal to the poor is New York-Puerto Rico. Here, the "grandfather" carriers face some real competition. In 1957, when Trans Carribbean Airlines was just a supplemental carrier, that company was charging $49 for coach service between New York and San Juan. Eastern's coach fare was $64. Pan American had a tourist fare of $64 and "thrift" fare of $52.50.

By 1961, one would normally expect the fares to have been raised very substantially. In this market, however, Trans Caribbean was granted a certificate by the CAB in November 1957. This was the first time, and it is the last time, to date, that a supplemental carrier was allowed to compete with established trunklines without frequency limitations.

The Board majority apparently was impressed with Trans Carribbean's plan to inaugurate "Sky-Bus" service between New York and San Juan, although Vice Chairman Gurney, in a dissenting opinion, thought the addition of a third carrier in this market "will do little to improve the service in this area." [29]

With Trans Caribbean an active competitor for the "grandfather" airlines, fares have kept within reason. Trans Caribbean's New York-San Juan fare today is $47.15. Eastern's jet coach fare is $78.30, as is Pan American's, but Pan American also offers a thrift fare of $55. This thrift fare is only $2.50 more than Pan American was charging in 1957.

The following is an excerpt from testimony of James M. Landis, former CAB Chairman in hearings before the Senate Interstate Commerce Committee, 81st Congress, re Senate Resolution 50 (airline industry investigation) April 29, 1949, and points to the public benefits from price competition:

"Senator BREWSTER. Does it require a very great intellect to realize that, if you put the nonscheduled on the most profitable source of the line, you immediately affect very materially the high load factor and high ultilization of equipment?

"Mr. LANDIS. I do not think you would necessarily do that.

"Senator BREWSTER. You do not think so?

"Mr. LANDIS. No; I do not think so.

"Senator BREWSTER. I am afraid you would find difficulty in getting many people to agree with you.

"Mr. LANDIS. I certainly will, Senator, and I find great difficulty, and you will find great difficulty all along the line, in combating what might be the myth of competition. Airline manager after manager will inveigh against competition coming in on his system; yet the story is over and over again that appropriate competition there has built up the service, rather than dropped the service. * * *

"Senator BREWSTER. The implication of your present line of testimony would be toward unlimited competition?

"Mr. LANDIS. No; it is not.

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[28] Order No. E–12549.
[29] Order No. E–11959, Sept. 12, 1957.

"Senator BREWSTER. You do not go quite that far?

"Mr. LANDIS. I do not want to leave that impression with you, and I do not want to leave the impression that this is an easy problem to solve. I would hesitate to leave that impression.

"I do think that there is some place for some kind of an incentive here to press for a reduction of operating costs. I cannot fail to be impressed by the difference between the operating costs of some of these various carriers, and I cannot say that that difference is due to the fact that they are skimming the cream, or that they are doing this or something of that type. I think fundamentally the difference—at least a large part of that difference—is due to a cost-consciousness on their part. They watch costs, they have to watch costs.

"Whereas, with subsidies always in back of you, the impetus to watch costs is just not there to the same degree.

"I think, for example, in the cargo field the persons who started off as nonscheduled carriers in the cargo field have done an enormous service to that field. I do not believe cargo would have developed to the extent that it has developed if it had not been for these people outside. This field of passenger service, so-called coach service, which is cheap transportation, was inaugurated by the outsiders and has been followed by the certificated airlines.

"But they have not initiated that field. They have followed it rather than initiated it.

"According to all the reports that I get—the reports are scanty yet—the inauguration of various coach services by Capital Airlines, by Pan American, have been very attractive. The load factors have been high; and, according to their statements, they are doing quite well on it.

"There is a drive now to introduce more coach service throughout this country. I think it is a good thing. If you get high-load factors that way by, say, running a plane at midnight out of New York for Chicago, just think of the high-load factors you might get if you ran that type of coach service out in an appropriate period of the day.

"I think that whole question of the degree to which the transportation of persons—mass transportation—can be gotten by a different type of service, a difference in rates, has not as yet been thoroughly explored. I do not think we know the answer to that.

"When I say I do not know what I would do with these people operating on the fringe of the certificated industry, I speak to you quite frankly. I think the existence of people like that, who are a thorn in the side of the fellows in the business, is a good thing.

"As you know, Emerson's famous maxim—that everybody is as lazy as he dares be—applies to all of us."

It is difficult to say that any progress has been made in competition in the 12 years since Mr. Landis' testimony and that if anything, competition is more of a myth now than then. I wonder, Mr. Chairman, if we strengthen the case for free enterprise throughout the uncommitted world in our struggle against Russia by being so concerned about possible competition that could not have possibly affected more than a maximum of less than three-fourths of 1 percent of the revenues of the domestic trunk carriers. I wonder further, Mr. Chairman, if the trunk carriers are to have absolute protection against any and all competition that may arise in the future if it would not be better to rid ourselves of the mockery of free enterprise in air transport by the Government taking over their ownership and operation as an arm of the Government.

To conclude, after 15 years of struggle, we ask for recognition by the Congress of pioneering some new fields, of serving as a small yardstick by which to measure the airline industry, of having served and being able to serve as a ready reserve in case of military emergency, of having built up a small but experienced industry which is a national asset, and of serving in a very minor way to keep alive the flame of free enterprise and competition in a stogy industry dedicated to a doctrine of protectionism.

Our situation is such that we cannot temporize longer with the attitude of the Government toward us. If you cannot help us, the wise among our group will liquidate and carry with them the scars of a battle to create in a small way a better air transport system and with a bitter realization that the small can no longer oppose the big in America.

EXHIBIT No. 1

INDEPENDENT AIRLINES ASSOCIATION SUPPLEMENTAL AIR CARRIER CONFERENCE

MEMBER CARRIERS, 1961

Aerovias Sud Americana, Inc., 6201 West Imperial Highway, Los Angeles, Calif. Victor V. Carmichael, Jr., president. Washington address: Booker C. Powell, vice president, 1010 Vermont Avenue NW., Washington, D.C.

Airline Transport Carriers, doing business as California Hawaiian Air Lines, Hangar No. 3, Lockheed Air Terminal, Burbank, Calif. C. C. Sherman, president.

American Flyers Airline Corp., Meacham Field, Fort Worth, Tex. Reed Pigman, president.

Associated Air Transport (317 North Royal Poinciano Boulevard), Post Office Box 932, International Airport, Miami, Fla. Douglas T. Bell, president.

Blatz Airlines, Inc., Lockheed Air Terminal, Burbank, Calif. F. Alfred Blatz, president.

Capitol Airways, Inc., Berry Field, Nashville, Tenn. Jesse F. Stallings, president, Mack H. Rowe, vice president.

Central Air Transport, Inc., 10527 Burbank Boulevard, North Hollywood, Calif., Fred R. Atkins, president, Bert Baughman.

Currey Air Transport, Ltd., Lockheed Air Terminal, Burbank, Calif. T. D. Thompson, vice president.

Great Lakes Airlines, Inc., Lockheed Air Terminal, Burbank, Calif. I. E. Hermann, president.

Imperial Airlines, Inc., Post Office Box 675, Miami Springs, Fla. E. J. Averman, president.

Modern Air Transport, Inc., Newark Airport, Newark, N.J. John P. Becker, president.

President Airlines, 13273 Ventura Boulevard, North Hollywood, Calif. Fred Wilson, president, George S. Patterson, general manager.

Paul Mantz Air Service, Lockheed Air Terminal, Burbank, Calif. T. J. Bodwell, president.

Purdue Aeronautics Corp., Purdue University Airport, Lafayette, Ind. Grove Webster, vice president, Raymond C. McKinley.

Quaker City Airways, Inc., Administration Building, North Philadelphia Airport, Philadelphia, Pa. Herbert Sussman, president.

Saturn Airways, Inc., Post Office Box 182, Miami International Airport, Miami, Fla. Robert C. Goodman, president.

Sourdough Air Transport, Box 54, Boeing Field, Seattle, Wash. Burbank office: 10901 Sherman Way, Sun Valley, Calif. A. R. Johansen.

Southern Air Transport, Post Office Box 114, Miami International Airport, Miami, Fla. F. C. Moor, president.

Standard Airways, Inc., Lockheed Air Terminal, Burbank, Calif. S. B. Craft, president.

Trans-Alaskan Airlines, care of Keatinge & Older, 3325 Wilshire Boulevard, Los Angeles, Calif. G. F. Anton, vice president.

Trans International Airlines, 5800 Avion Drive, Los Angeles, Calif. Kirk Kerkorian, president.

Transocean Air Lines, Oakland International Airport, Oakland, Calif. Orvis M. Nelson, president.

United States Overseas Airlines, Inc., Cape May County Airport, Post Office Box 234, Wildwood, N.J. Ralph Cox, Jr., president.

World Airways, Inc., Oakland International Airport, Oakland, Calif. Edward J. Daly, president.

World Wide Airlines, Inc., Building L–126, Oakland International Airport, Oakland, Calif. S. E. Spicher, president.

EXHIBIT No. 2

I. Supplemental air carriers whose certificates were validated under Public Law 86-661, July 14, 1960, and who currently hold certificates:
American Flyers Airline Corp.
Associated Air Transport, Inc.
Aviation Corp. of Seattle.
Blatz Airlines, Inc.
Coastal Cargo Co.
Conner Air Lines, Inc.
General Airways, Inc.
Johnson Flying Service.
Imperial Airlines, Inc. (formerly Regina Cargo Airlines, Inc.)
Paul Mantz Air Services.
Modern Air Transport.
Overseas National Airways, Inc.
President Airlines (formerly California Eastern Aviation, Inc.)
Quaker City Airways, Inc.
Saturn Airways, Inc. (formerly All American Airways, Inc.)
Sourdough Air Transport.
Southern Air Transport, Inc.
Standard Airways.
Stewart Air Service.
Trans International Airlines (formerly Los Angeles Air Service).
Transocean Air Lines.
United States Overseas Airlines, Inc.
World Airways, Inc.

II. Supplemental air carriers which have been recommended for certificates by the examiner with the case now pending before the CAB:
Airline Transport Carriers.
Argonaut Airways Corp.
Miami Airlines, Inc.
S.S.W., Inc.
World Wide Airlines, Inc.

III. Supplemental air carrier whose certificates has been approved by the CAB, but has not been issued: Purdue Aeronautics Corp.

IV. Supplemental air carriers who were denied certificates in docket 5132, and have an appeal in the courts:
Central Air Transport, Inc.
Currey Air Transport, Ltd.
Great Lakes Airlines, Inc.
Trans-Alaskan Airlines.

V. Supplemental air carrier who received a certificate from the CAB after the publication of Public Law 86-661: Northwest Air Service.

EXHIBIT No. 3

A 10-year comparison of operating results in the supplemental airlines industry

[In thousands]

	Revenue passenger miles	Cargo ton miles	Operating revenues	Profit or (loss)
1950	764,829	32,857	$34,105	$1,018
1951	1,016,292	79,475	61,835	3,370
1952	1,251,685	78,713	83,249	7,524
1953	1,256,911	75,279	70,028	(1,239)
1954	1,242,224	53,215	54,664	(2,755)
1955	1,395,682	74,601	76,824	4,329
1956	1,004,052	110,376	67,609	452
1957	767,287	86,707	50,454	(2,434)
1958	1,152,988	89,196	65,204	(3,621)
1959	1,589,997	83,106	76,180	(8,997)
Fiscal 1960	2,143,971	73,004	80,955	(4,756)

Sources:
1950-51, American Aviation magazine annual review issues.
1952-60, CAB, quarterly reports of air carrier financial statistics and monthly reports of traffic statistics.

EXHIBIT No. 4

Charter revenues as a percentage of total transport revenues of domestic trunklines in domestic operations—1959–60

	Charter revenues	Total transport revenues	Percent charter
1959:	*Thousands*	*Thousands*	
American	$278	$369,634	0.1
Braniff	398	65,986	.6
Capital	92	108,002	.1
Continental	247	45,346	.5
Delta	1,295	103,547	1.3
Eastern	653	270,069	.2
National	648	66,835	1.0
Northeast	37	31,319	.1
Northwest	270	85,593	.3
T.W.A.	1,303	272,423	.5
United	2,874	311,255	.9
Western	186	58,680	.3
Total	8,281	1,788,689	.5
1960:			
American	1,754	419,902	0.4
Braniff	826	75,568	.1
Capital	303	103,813	.3
Continental	292	60,426	.5
Delta	533	127,547	.4
Eastern	300	261,022	.1
National	1,428	66,499	2.1
Northeast	59	37,667	.2
Northwest	410	85,377	.5
T.W.A.	1,646	275,501	.6
United	2,419	353,191	.7
Western	444	64,038	.7
Total	10,414	1,930,551	.5

Source: CAB form 41 reports, schedule P.-1.2.

EXHIBIT No. 5

Distribution of revenue passenger miles carried by the supplemental airlines—1955–60

12 months ended—	Revenue passenger-miles				
	Domestic		International		Total
	Civilian	Military	Civilian	Military	
	Volume of traffic				
Dec. 31, 1955	591,579	240,060	124,517	439,526	1,395,682
Dec. 31, 1956	512,299	208,229	116,573	166,951	1,004,052
Dec. 31, 1957	203,759	219,832	226,048	117,647	767,287
Dec. 31, 1958	315,547	191,826	279,644	365,971	1,152,988
Dec. 31, 1959	377,293	243,541	355,079	614,084	1,589,997
Sept. 30, 1960 [1]	399,047	207,809	263,535	1,554,434	2,424,825
	Percent distribution				
Dec. 31, 1955	42.4	17.2	8.9	31.5	100.0
Dec. 31, 1956	51.0	20.8	11.6	16.6	100.0
Dec. 31, 1957	26.6	28.6	29.5	15.3	100.0
Dec. 31, 1958	27.4	16.6	24.3	31.7	100.0
Dec. 31, 1959	23.8	15.3	22.3	38.6	100.0
Sept. 30, 1960 [1]	16.4	8.6	10.9	64.1	100.0

[1] Latest data available.

NOTE.—Distribution detail for 1954 not available.

Source: CAB, reports of air carrier traffic statistics.

EXHIBIT No. 6

Development of aircoach revenue passenger-miles in domestic trunk airline schedule services, 1949–60

	Revenue passenger-miles			Percent coach
	1st class	Coach (millions)	Total	
1949 [1]	6,319	251	6,560	3.8
1950	6,710	1,056	7,766	13.6
1951	8,933	1,278	10,211	12.5
1952	9,766	2,355	12,121	19.4
1953	10,579	3,719	14,298	26.0
1954	10,913	5,321	16,234	32.8
1955	12,489	6,716	19,205	35.0
1956	13,577	8,066	21,643	37.3
1957	15,012	9,488	24,500	38.7
1958	14,391	10,045	24,436	41.1
1959	15,853	12,274	28,127	43.6
1960	14,846	14,387	29,233	49.2

[1] 1st year of any significant volume of coach operations by domestic trunklines.

Sources: CAB "Handbook of Airline Statistics, 1949–56," and monthly reports of air carrier traffic statistics.

EXHIBIT No. 7

Dollar cost of commercial airlift procured by MATS

Carrier	Fiscal year 1955	Fiscal year 1956	Fiscal year 1957	Fiscal year 1958
Slick Airways, Inc	$301,882.77	$4,265,934.18	$8,459,103.91	$7,071,815.19
Overseas National Airways, Inc	534,210.68	3,016,079.03	2,288,717.70	400,437.16
Flying Tiger Line, Inc	1,534,918.45	3,023,673.39	6,539,140.70	19,033,989.14
California Eastern Aviation, Inc	829,420.36	4,478,186.50	4,687,054.43	3,523,759.14
Capital Airways, Inc	159,927.85	596,243.71	1,964,453.70	2,057,273.55
Seaboard & Western Airlines, Inc	426,788.50	10,117,491.65	10,256,172.41	11,895,876.12
Trans Caribbean Airways, Inc	192,807.39	728,256.90	879,337.34	43,618.96
Twentieth Century Airlines, Inc	224,484.50	3,512,188.47	259,435.26	184,086.85
U.S. Overseas Airlines, Inc	446,262.10	1,744,081.31	572,412.55	408,613.70
Pan American World Airways, Inc	235,847.54	3,822,909.41	5,294,216.37	4,553,290.75
Transocean Airlines, Inc	432,552.91	1,222,337.74	2,709,143.22	3,006,273.53
Viking Airlines, Inc	173,494.70	1,097,162.84	0	0
Peninsular Air Transport	149,067.53	202,273.31	0	0
Trans World Airlines, Inc	0	333,236.40	513,577.26	1,417,696.58
Resort Airlines, Inc	0	253,314.99	1,810,321.80	154,694.40
Great Lakes Airlines, Inc	0	2,138,370.78	782,598.02	0
Los Angeles Air Service	0	922,350.48	101,423.76	0
Northwest Airlines, Inc	0	555,257.70	461,186.71	79,902.33
Central Air Transport, Inc	0	396,199.63	448,428.88	188,536.79
CAT, Inc	0	0	110,129.80	0
World Airways, Inc	0	0	1,369,153.30	2,347,054.68
Pacific Northern Airlines	0	0	11,250.00	64,672.18
General Airways, Inc	0	31,065.75	54,671.45	50,691.91
United Airlines, Inc	0	99,761.20	4,840.62	0
California Hawaiian Airlines	0	0	0	276,200.50
Meteor Air Transport, Inc	0	360,472.76	170,076.32	0
Alaska Airlines	0	0	0	4,107.34
Atlantic area (common carrier)	0	0	0	22,500.00
Total	5,641,665.28	42,916,848.13	49,746,935.51	56,785,090.80

[Reprinted from Federal Register of April 28, 1961]

EXHIBIT No. 8

CIVIL AERONAUTICS BOARD, ECONOMIC REGULATIONS, EFFECTIVE APRIL 28, 1961

[Reg. ER-326]

PART 295—TRANSATLANTIC CHARTER TRIPS

Revision of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of April 1961.

This part contains the amended general requirements governing applications for, and operations under, individual exemption orders authorizing the performance of transatlantic passenger charter flights by United States air carriers other than carriers certificated to provide unlimited passenger service over designated routes. The regulation does not itself grant any authority for the operation of transatlantic passenger charters and any carrier seeking such authority must file application in accordance with the provisions of this part for an exemption pursuant to section 416(b).

Historically, a major objective of the Board has been the development of the potentially large mass international travel market in the United States without undue diversion from the regularly scheduled, individually-ticketed services of United States and foreign flag route operators. In furtherance of this objective, the Board has granted individual authorizations for transatlantic charter flights to carriers not otherwise thereunto authorized, but has also imposed and from time to time has redefined standards for charter eligibility of groups. Thus, in 1957, we amplified the general criteria for charter eligibility which we had followed in 1955 and 1956. These criteria were largely those that had been previously developed by the carriers and the Board, and had been embodied in IATA Resolution 045, which contains the requirements established by scheduled international route operators for their own operations. In 1958, we made these criteria more specific and susceptible of precise application. And in 1959, we embodied them with minor modifications in an Economic Regulation (Part 295), giving them greater stability and legal effect than theretofore. In 1959, we also concluded the Foreign Off-Route Charter Investigation, Docket 7173, in which foreign air carriers were for the first time authorized to perform off-route charters in air transportation. In addition to amending their permits to provide this authority, we promulgated a new Economic Regulation (Part 212) and established as guides for issuance of a charter authorization standards similar to those in Part 295. In 1960, after the IATA carriers had finally undertaken, upon the Board's suggestion, to provide more definitive and enforceable standards for their own operations, we undertook to modify Parts 295 and 212 in order to conform our requirements in substantial respects to those now provided in amended IATA Resolution 045.[1] Consequently, at such time charter requirements for all classes of transatlantic carriers had become substantially similar.

During the developmental period of this program, the Board considered it necessary and desirable to pass on each individual passenger charter flight in foreign air transportation by supplemental and certificated cargo carriers, and Part 295, as hitherto in effect, thus required special authorization by exemption for each charter.

However, on November 14, 1960, the Board issued a notice of proposed rule making (EDR-21, Docket 11907, 25 F.R. 10944) in which it proposed to amend Part 295 to provide, instead, the framework within which it might grant temporary (seasonal) blanket exemption authority. Upon consideration of all relevant matter in the comments received in response to the notice, the Board has decided to adopt revised Part 295 substantially as proposed.

The regulation contemplates the granting of temporary exemption authority, during the tourist charter season, individually to those supplemental and all-cargo carriers which are also applicants in a now current proceeding to deter-

[1] It was also necessary to impose as conditions to approval of Resolution 045 certain standards, especially with respect to travel agency participation in charters, which IATA had not provided for in the Resolution. See Order E-16295, dated January 23, 1961.

mine whether such carriers, or any of them, should be certificated to conduct transatlantic passenger charters [2] and which are otherwise qualified. This regulation further sets forth the criteria and conditions which shall be observed in conducting passenger charter operations pursuant to such temporary authority as may be granted hereafter.

It should be noted that such exemptions as may bs subsequently granted will be within the seasonal period of transatlantic charter activity from April through September. Further, pending completion of the aforesaid charter investigation, seasonal exemptions will be annually renewable upon regular application as set forth in § 295.5 of the part. Of course, applications for exemption authorization for individual charter trips may still be made in conformity with Part 302 of the Board's Procedural Regulations, and insofar as charterworthiness is concerned, the standards of this regulation will be largely determinative of the disposition of such applications. However, the Board does not contemplate that it will grant individual flight approvals to supplemental or cargo carriers where the carrier either has not applied, or has applied and been found unqualified, for the seasonal exemption herein contemplated, except in unusual or compelling circumstances.

The Board believes that several basic considerations support the conclusion that seasonal passenger charter authority in the transatlantic market for supplemental and all-cargo carriers will be in the public interest. It is recognized that there has been a substantial and sustained growth of transatlantic passenger charters and that supplemental air carriers have provided a significant part of this service. During the 1960 season, for instance, supplemental carriers conducted a total of 226 flights or approximately 17 percent of the combined number of flights conducted by Part 295 and IATA carriers. There is reason to believe that such services by these carriers will continue to be needed. The charter season is, for the most part, also the extremely busy regular service season over the North Atlantic for the IATA carriers. Further, these latter carriers have generally been engaged in a jet reequipment program and may increasingly find it uneconomic to maintain appropriate facilities to operate piston aircraft merely to serve a seasonal charter market. Yet, jet capacity and costs may be such as to reduce substantially the potential of jet aircraft for charter services, particularly with respect to small groups. From its contacts with chartering groups in past years, the Board is informed that such groups have sometimes been unable to obtain charter flights at the times they desired them.

A second major consideration is that it no longer is administratively necessary to retain the requirement that nonroute operators obtain special authority for each charter. The standards of charter eligibility are now sufficiently precise and understandable to preclude substantial inadvertent violations of charter principles which would lead to a breakdown in the proper distinction between charter and individually-ticketed services and thus have a serious adverse effect on regularly scheduled services.

A third consideration for the present action is the economic and administrative burden which supplemental and cargo carriers have had to sustain in being required to obtain special approval for each passenger charter trip. These carriers are relatively small particularly as compared with passenger route operators, and the necessity of obtaining prior authorization for each charter makes advance planning of their operations considerably more difficult. As comments from carriers reveal, equipment must often be committed a substantial time in advance and projection must be made with respect to the economical use of aircraft (e.g., resolving the problems of filling empty ferry legs). It was further stated in comments that amelioration of these factors would afford greater opportunity for the subject carriers to maintain and develop all their services. Comments also indicated that the expense, time and paperwork required for preparing and pursuing so many applications is not insignificant in total effect, and the adverse sales impact of a charterer's knowing that specific authorization must be sought from the Board appears to be undue competitive disadvantage. Comments showed that such factors may well have been instrumental in causing withdrawal from the market of seemingly successful passenger charter operators and apparently have contributed to the changing identities of carrier participants in transatlantic charter operations. Since the market for these carriers is seasonal, its attractiveness from an economic standpoint

[2] Transatlantic Charter Investigation, Docket 11908.

is limited.[8] Under these circumstances, relatively small impediments can loom as large factors in a decision to devote resources to it.

These three basic considerations noted above have prompted the Board to institute the proceeding to investigate whether certificates should be granted to those carriers which would undertake on a sustained basis to meet such need as may exist for passenger charter services additional to those provided by the passenger route operators. The same considerations also indicate that any exemptions which may be issued to such carriers pending final determination in the aforesaid proceeding should be on a seasonal rather than an individual charter basis.

Various objections to the proposed regulation were received from transatlantic passenger route carriers. Thus, they assert that the contemplated blanket exemptions would be issued on the theory that supplemental and all-cargo carriers have a right to be in the transatlantic passenger market free of the disadvantage of adherence to a prior approval procedure which does not apply to route carriers. However, the Board's conclusion that a change from individual to seasonal exemption would be in the public interest is not based on the concept of affording relief because of any rights in the market. The rule contemplates appropriate temporary relief for qualified carriers coming within its purview in the conduct of operations which supply a needed supplementation of other services. It is consonant with the declared policy of the Board to develop charter services as the public interest requires. It does not place the supplemental and all-cargo carriers on an equal competitive basis with transatlantic route operators which retain the advantages of more stable authorizations, market identification, larger sales organizations, and in case of on-route charters, established stations. Further, seasonal exemptions, like individual charter exemptions, can be granted only if they satisfy the requirements of section 416(b).

Comments also asserted vagueness of the Board's tentative conclusions concerning the burden involved in existing procedures, and question whether any appreciable burden would be removed from the supplemental and all-cargo carriers by eliminating the requirement of prior approval. These comments also question the Board's conclusion that the identification of carriers participating in this traffic has changed because of the burden of making prior application, and call it unsupported and a mere guess, advocating the hypothesis that the transatlantic passenger charter service is inherently unprofitable for supplemental air carriers. Conversely, other comments from a route air carrier object that the regulation would attract additional supplemental and all-cargo carriers to this market. Comments of supplemental and all-cargo operators generally tend to confirm the Board's tentative conclusion, derived from processing of Part 295 charter applications during the past years, that the prior approval requirement was a serious administrative and economic burden. Since exemptions will be granted only upon application and in accordance with the provisions of section 416(b), the regulation as such is not determinative of the number of authorizations which the Board will issue thereunder. Of course, no exemption will be issued to other than qualified carriers.

It is also asserted that a change to seasonal authorizations is untimely in that it would result in substantial awards not required by any emergency and in the face of doubt as to whether decision in the certificate proceeding, Docket 11908, will result in awards of any charter authority. Various arguments relating to the issues in that proceeding are made to show the existence of such doubt. Another carrier comments that the awards would prejudge the certificate proceeding. However, as stated above, the Board presently deems continuation of the transatlantic charter services of supplemental and all-cargo carriers necessary in the public interest, and this revision of the regulation merely reflects the Board's conclusion that this should be accomplished by seasonal grants. Any exemption that may be issued will be for the peak charter season of the year and renewal of such exemption will require a de novo determination under section 416(b). The issue of seasonal exemptions will not prejudge the certificate proceeding, Docket 11908, or any issue therein.

Objection to the regulation is also made on the ground that transatlantic charter operations by supplemental and all-cargo carriers adversely affect the economy of the scheduled airlines, at the very time when unnecessary dupli-

[8] We, of course, recognize that the fluctuations in MATS' policy and its effect on the availability of backhauls affect the economy of charter service and the desirability of participation in this market.

cation of service should be eliminated and such operations are not needed. We do not conceive of the transatlantic passenger charter service as unnecessary duplication. Thus the Board believes that the standards of Part 295 adequately protect the scheduled route carriers from undue diversion.

Further comment was submitted advocating that this regulation should be effectuated only after formal hearing. The hearing to be held in the certificate proceeding which we have instituted will be directed to the long range needs and authorizations in the transatlantic passenger charter field. The comments contained nothing that would establish that hearings prior to the issuance of this regulation are required as a matter of law or by public interest considerations. Although this regulation, by itself, grants no rights, the Board is adopting the regulation in the belief that the requisite findings under section 416(b) can be made in the event that an application is filed by a properly qualified applicant. There will be adequate opportunity for objection respecting any particular application for temporary authority filed pursuant hereto.

In further comments received, objection has been made to the exclusion of any supplemental carrier from eligibility for examptions under this rule and especially to exclusion on the ground that the supplemental carrier is not an applicant for a charter certificate in the above-mentioned proceeding. Conversely, other comments deplored an alleged lack of adequate standards or limitations to insure the fitness of carriers granted blanket authority. The Board is satisfied that the public interest justifies keying its transatlantic charter policy to the operations of those carriers which have exhibited a sustained interest in the operation of transatlantic charters. Further, this Part contemplates that successful applicants will have met completely adequate standards of fitness. Section 295.5 now specifically requires that applications be accompanied by such additional supporting information as data showing whether the applicant possesses aircraft capable of providing the service; whether capital required to operate is available to it; whether it has made arrangements for protecting charterers' deposits so as to be in a position to make prompt refunds when flights are not operated; whether it has definite plans to operate, such as signed conditional contracts or options; whether it has a reasonable program for assuring on-time departures and for suitable substitute arrangements where emergency situations necessitate substitute service; whether it will provide a point of contact overseas for charter groups for securing information regarding return trips; and that it has the ability to conform to all the provisions of the Act and the requirements thereunder. Previous experience in the transatlantic pro rata charter market will also be a factor to be considered.

It was also suggested that all-cargo carriers be excluded from this Part in conformity with a concept of encouraging specialists to devote their endeavors to developing their own limited markets. The proposition would have greater force if the all-cargo carriers were firmly established in their regular cargo work on a stable and sound economic basis. The role of the all-cargo carrier in the subject charter services may be better determined after decision in the Domestic Cargo-Mail Service Case (Docket 10067, et al.). There is sufficient reason to exclude all-cargo carriers at this time from this regulation.

Several comments were submitted sugggesting greater safeguards against violations of bona fide charter operations hereunder. It was proposed that basic charter data be filed prior to each flight with the Board, be open to public scrutiny and objection, and be subject to disapproval by the Board. Concern was also voicead as to the availability of effective sanctions.

Charter standards are now sufficiently clear and precise and so well known to carriers that there can be no confusion on the part of an operator or his competitor as to what constitutes a violation of the Board's charter concept. Any substantial violations can be expected to become readily known to competing carriers and could be reported to the Board by appropriate complaint. Further, information on every charter flight must be filed monthly pursuant to this part and can serve as an additional source of information available to the public for checking on the validity of operations performed. In addition, much more detailed data, under certification of charterer, travel agent, and carrier, as to each charter operation must be retained by the carrier available for Board inspection. With such opportunity to discover violations being available there is little likelihood that carriers would knowingly engage in unauthorized operations and risk the quite sufficient sanction of later not being eligible for renewed exemption authority or not being found fit for a charter certificate. Such authority as may be issued under this part will be subject to amendment or revocation in the discretion of the Board.

While it is true that the self-interest of supplemental and all-cargo air carriers would not directly cause them to protect the individually-ticketed passenger market, their self-interest in remaining eligible for renewal of authorizations and eventual certification will constitute a strong incentive for them to abide by the regulation.

From the fact that in the past some carriers submitted charter applications which the Board had to reject, it does not follow that they would have performed such charters on their own responsibility. It is expected that the carriers will, for their own protection, ask for an advisory opinion in doubtful cases, and for a waiver in cases more clearly outside the standards of these rules.

In addition to the above, other comments were received urging the Board to make several changes not specifically dealt with in the notice of proposed rule making. The American Society of Travel Agents proposed a 23-day year-round excursion fare on individually-ticketed services in lieu of the provisions of Part 295. It may be noted that the recent meeting of IATA at Cannes did not result in a proposal to the Board of such a fare, and thus we have no basis for considering this proposal in connection with the subject amendment of this part. One cargo carrier suggested a limitation on carriage of cargo on passenger charter ferry legs to avoid undue diversion from cargo carriers. There has been no showing of any undue diversion through prior operations conducted under the provisions of Part 295 and the change from individual flight exemptions to blanket authorities should not unduly increase the changes of such an occurrence. Another carrier suggested inclusion of a rate floor to prevent uneconomic operations. This is not now found necessary inasmuch as the transatlantic passenger charter market has not exhibited any tendency toward extreme rate cutting.

Several other proposals not dealt with in the notice were submitted in response thereto. Thus, comments were received urging the Board to allow for split charters whereby the aircraft is shared by separate charter groups; to permit any relative residing with a member of the charter group to participate in the trip as a member of his "immediate family," and to permit travel agents to participate in charter administration and allow them to receive commissions for charter services performed for the carrier even though they are members of the charter organization. The Board does not consider such amendments advisable. Split charters would tend to erode the concept of charters as plane-load operations. Inclusion of all household relatives beyond spouse, children and parents (the usual resident categories) lends itself to abuse since determination of the true residential status of other relatives is not easily accomplished. The matter of relaxing restrictions on travel agents has been periodically considered and no new showing has been made which would warrant changing the Board's established position on the provisions mentioned.

Four supplemental carriers proposed liberalization of the prohibition against paying commissions to travel agents in excess of five percent of the total charter price or of the commission rate paid by a passenger carrier certificated to conduct regular service between the same points. They argued that supplemental carriers cannot engage in charter price competition with route operators, since the agent's commission, based on a lower charter price, would actually result in less remuneration for him and jeopardize his impartial representation of supplemental operations as opposed to certificated operations. The ceiling on commissions should not be lifted. It has served to reduce the incentive for promoters to act as indirect air carriers and to "create" charters through individual solicitation of the general public. In light of the limited nature of Part 295 operations, and the advisability of having distinctive safeguards for such operations, the proposed modification of the subject provision does not appear advisable.

Some carriers also suggested amendment of Part 295 to clarify permissible carrier solicitation of charter groups, advertising of individual rates for participants in pro rata charters, and carrier advertising of ground-tour arrangements. Section 295.11(a) states that a carrier shall not engage directly or indirectly in any solicitation of individuals as distinguished from the solicitation of an organization for a charter trip. Consistent with this provision carriers may engage in advertising not directed to the individual. To permit advertising of a pro rata charge by itself would encourage the carriers to direct advertising at individuals rather than officers of bona fide organizations and would in effect encourage individuals to form "clubs" for purposes of chartering. It should be noted that a carrier is not in a position to state what a pro rata

charge will be since such charge depends on the number of seats on the aircraft that are actually filled and such other matters as the administrative expenses assessed against pro rata shares in each particular charter. On the matter of advertising land tours, we do not interpret Part 295 as prohibiting such advertising so long as it is directed at groups rather than at individuals. Advertising of land tours directed at individuals would be an indirect method of soliciting individuals for charter flights. However, we interpret Part 295 as permitting a carrier to speak of the availability and general price range of land tours when it addresses its advertising to groups, and to refer such groups to tour operators.

Several carriers proposed elimination of § 295.2(j) which sets forth a presumptive standard for judging bona fide members of charter organizations and a safeguard against the carriage of spurious charter groups. The Board finds this provision should be retained expressly to avoid the admission of members through public solicitation for purposes of charter flight participation. The definition of bona fide members is modified in accordance with the notice of rule making. Previously it included a presumption that members were not bona fide unless they had belonged to the charter organization at the time of the filing of the application for special authority to conduct the particular charter. With the removal of this requirement for individual trip authorization the presumption was tentatively changed to refer to persons as not being bona fide unless belonging to the organization at the time it gives "notice to its members of firm charter plans." [4] Objection was made to this definition as being too vague. To be more restrictive might unduly hinder charter participation. There will be many instances where a charterer's "notice to its members of firm charter plans" will indicate a flight date which may serve to show a specific charter arrangement. Since such solicitation notices must be filed with the carrier under this Part and be retained by it for possible Board inspection there is insignificant likelihood that the proposed standard of bona fide members as here amended will lead to spurious charter participation.

Comment was also received from the System Route Committee, Pilots-Pan American World Airways. This group felt that liberalization of charter rules would curtail charters by Pan American and adversely affect their job advancement. In the light of our discussion herein there is no showing of any possible injury sufficient to warrant further limitations concerning operations covered by this regulation.

In view of the foregoing, the Board finds that the subject amendment of Part 295 is in the public interest.

New § 295.5 contains the requirements for application for the new exemption authority. All former provisions which related to Board approval of specific aspects of charters not generally permitted under this part (such as provisions in § 295.33(a)(2) and § 295.35(b)(3)) have been omitted. The effect of this is that air carriers which receive authority under this part may not perform charters which do not comply with this part in every respect unless a waiver has been granted by the Board pursuant to § 295.3.

Similarly, former § 295.17 which required individual postflight reports to the Board is being eliminated. However, such information will have to be filed with the carrier by the travel agent and the chartering group as before. The revised provisions of Part 295 require the filing of a report by the carrier within 15 days after the close of each month concerning each charter trip operated during such month; setting forth (a) date of trip; (b) points served; (c) number of round-trip and one-way passengers; (d) name of chartering organization; (e) description of chartering organization disclosing basis for conclusion that group is bona fide; (f) name of travel agent; and (g) basis for construction of tariff charge. These provisions will be found in new § 295.6 which also refers to the necessary record-retention requirements incorporated in Part 249.

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[4] The full definition § 295.2(j) reads as follows: "'Bona fide members' means those members of a charter organization who have not joined the organization merely to participate in the charters as the result of a solicitation directed to the general public. Presumptively persons are not bona fide members of a charter organization unless they are members at the time the organization first gives notice to its members of firm charter plans and unless they have actually been members for a minimum period of six months prior to the starting flight date. This presumption will not be applicable in the case of charters composed of (1) students and educational staff of a single school, and immediate families thereof, (2) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (3) participants in a formal academic study course abroad. In the case of all other charters, rebuttal to this presumption may be offered for the Board's consideration by request for waiver."

Amendment to § 295.30 has been incorporated raising to 20,000 the former numerical maximum of 15,000 for chartering groups drawn from an area other than a local area. This has been accomplished in conformity with Board Orders E–16147 and E–16295, Docket 11879 approving an amendment to the IATA Charter Resolution carrying out a parallel change.

Apart from the aforementioned changes, the provisions of Part 295 remain substantially the same. As previously noted, the rule contains restrictions on the transatlantic passenger charter business which guard against the entry into the field of indirect air carriers and which also prevent charterers from soliciting the public or segments of the public for charter flights. In addition, there are protective provisions guarding participants in charter trips from inequitable burdens and charges.

With regard to the prohibition against charterers obtaining participants for a charter group by soliciting the general public, the rule prevents the forming of a group by (1) general advertising or (2) unlimited soliciting of charter participants from an organization easy to join, and of uncertain or large and scattered membership. The rule thus provides the general framework within which to judge the charterworthiness of the cases on their own facts. For example in accordance with the provisions of § 295.30 as amended, prospective charter participants solicited without limit from organizations or other entities with a total membership of more than 20,000 (except colleges or universities located in one local area) would be considered as solicited from the general public which would preclude their charter trip. However, if the solicitation of charter participants should be limited to a group of selected delegates who are members of a large association with scattered membership, the size of the association would not appear to bar the charter.[5]

Further, in the case of employees of a business whose total employment would apparently render a charter ineligible for approval, a valid charter might be solicited from the employees of two or more plants of such enterprise, provided the total number of employees in such plants would be sufficiently limited as to meet the tests applied by the Board in the case of a single organization. Also, the decision to limit the charter solicitation to the plants involved would necessarily have to be made prior to solicitation for the charter, and each such charter (if there were more than one) would have to be locally administered, independently of the others. It would be inappropriate to make a general solicitation of the employees of the entire enterprise and subsequently limit the charter group in an attempt to conform with the criteria of the regulation.

In those cases, furthermore, where federations of groups are the organizations from which charter groups are sought to be derived, several issues under the solicitation criteria set forth herein would necessarily arise: for instance, whether the federation provides services directly to members of several separate organizations in a given locality, or is merely a superstructure tying several individual associations together. Factors to be weighed would include the relationship of members represented by such federation to the total population of the area covered by the federation, past history of joint activities sponsored by the federation, and whether the federation exists only nominally as a means of exchanging information, with participation limited to meetings of representatives of each member group and individual membership therein being merely a matter of record or form at the most.

To facilitate advising a prospective charterer of (1) charter prerequisites and (2) the opportunity to obtain advisory opinions on charterworthiness, it is provided that a copy of this regulation shall always be sent to each prospect directly by the carrier concerned. The carrier, where known, will receive a copy of any advisory opinion requested by a charterer.

In order to facilitate the use of this regulation by charterers, the Board has decided to reissue the regulation with all amendments incorporated therein rather than to promulgate an amendment to the regulation as a separate document. In consideration of the facts that the subject amendment is principally a relaxation of heretofore existing restrictions; that the amendment relates only to operations to be authorized in the future; that waivers of the provisions of the regulation may be granted where justified in the public interest and warranted by special or unusual circumstances; and that time is of the essence since the transatlantic charter season is approaching, the Board finds that the

[5] Thus, if the organization is participating in a scientific convention abroad, the individuals selected to read papers at the convention may be organized into a charter group. Or if an international organization is to hold a meeting, delegates elected by various chapters might properly be organized into a charter group.

public interest requires and good cause exists for making this regulation effective upon less than 30 days following publication.

In consideration of the foregoing, the Civil Aeronautics Board hereby reissues Part 295 of the Economic Regulations (14 CFR Part 295), effective April 28, 1961, as follows:

Sec.

AUTHORITY: §§ 295.1 to 295.60 issued under sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply secs. 407(a) and 416(b), 72 Stat. 766, 771; 49 U.S.C. 1377, 1386.

§ 295.1 Applicability.

This part establishes the requirements governing applications for, and operations under, individual exemption orders authorizing for periods up to 180 days but terminating not later than September 30 of any year, the performance of pro rata; mixed and/or single entity charter flights for transatlantic passengers by United States flag air carriers other than carriers certificated to provide unlimited individually ticketed passenger service over designated routes. Each application will be considered and passed upon by the Board in accordance with the statutory standards of section 416(b) of the Act. Such application shall be filed and submitted in compliance with the applicable provisions of this part. Operations under any such individual exemption authorizing the performance of transatlantic passenger charter flights shall be conducted in conformity with the pertinent requirements of this part unless otherwise specifically authorized by the Board. The provisions of this regulation shall not be construed as limiting any other authority to engage in air transportation issued by the Board.

§ 295.2 Definitions.

As used in this part, unless the context otherwise requires—

(a) "Charter flight" means transatlantic air transportation performed by a direct air carrier where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage, on a time, mileage or trip basis:

(1) By a person for his own use (including a direct air carrier or surface carrier when such aircraft is engaged solely for the transportation of company personnel or commercial passenger traffic in cases of emergency) ; or

(2) By a representative (or representatives acting jointly) of a group for the use of such group (provided no such representative is professionally engaged in the formation of groups for transportation or in the solicitation or sale of transportation services).

With the consent of the charterer, the direct air carrier may utilize any unused space for the transportation of the carrier's own personnel and property.

(b) "Pro rata charter" means a charter the cost of which is divided among the passengers transported.

(c) "Single entity charter" means a charter the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

(d) "Mixed charter" means a charter the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

(e) "Person" means any individual, firm, association, partnership, or corporation.

(f) "Travel agent" means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

(g) "Charter group" means that body of individuals who shall actually participate in the charter flight.

(h) "Charter organization" means that organization, group or other entity from whose members (and their immediate families) a charter group is derived.

(i) "Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely, the spouse, dependent children, and parents, of such member.

(j) "Bona fide members" means those members of a charter organization who have not joined the organization merely to participate in the charter as the result of a solicitation directed to the general public. Presumptively persons are not bona fide members of a charter organization unless they are members at the time the organization first gives notice to its members of firm charter plans and unless they have actually been members for a minimum period of six months prior to the starting flight date. This presumption will not be applicable in the case of charters composed of (1) students and educational staff of a single school, and immediate families thereof, (2) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (3) participants in a formal academic study course abroad. In the case of all other charters, rebuttal to this presumption may be offered for the Board's consideration by request for waiver.

(k) "Solicitation of the general public" means (1) a solicitation going beyond the bona fide members of an organization (and their immediate families), such as advertising directed to the general public by radio, television, newspaper, or magazine, or (2) the solicitation, without limitation, of the members of an organization so constituted as to ease of admission to membership, nature of membership, area of residence of members, and size of membership, as to be in substance more in the nature of a segment of the public than a private entity.

§ 295.3 Waiver.

A waiver of any of the provisions of this regulation may be granted by the Board upon the submission by an air carrier of a written request therefor not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein.

§ 295.4 Separability.

If any provision of this part or the application thereof to any air transportation, person, class of person, or circumstance is held invalid, neither the remainder of the part nor the application of such provision to other air transportation, persons, classes of persons, or circumstances shall be affected thereby.

§ 295.5 Application for exemption authority.

Proceedings on applications for exemption authority pursuant to section 416(b) of the Federal Aviation Act of 1958 to conduct transatlantic passenger charter flights (pro-rata, mixed and/or single entity charters) shall be governed by §§ 302.400 to 302.409 of this chapter (Rules 400 to 409 of Part 302 of the Board's Procedural Regulations), subject, however, to the following additional or different provisions:

(a) Applications may be filed only by air carriers which are applicants in good standing for transatlantic charter authority in Transatlantic Charter Investigation, Docket 11908, instituted by Board Order E–16023 of November 14, 1960.

(b) Applications for exemption authority shall be filed with the Board at least 60 days prior to the proposed first flight under such authority.

(c) The application shall state whether authority to fly pro-rata charters, mixed charters, and/or single entity charters is requested; the scope of the charter service to be provided; and the program to be employed for screening charters for full compliance with this part (including provisions for canceling charters contracted for but found not to be bona fide). It shall also be accompanied by all other pertinent data including but not limited to a showing whether the applicant possesses aircraft capable of providing the service; whether the capital required to operate is available to it; whether it has made arrangement for protecting charterers' deposits so as to be in a position to make prompt refunds when flights are not operated; that it has appropriate pro rata charter tariffs on file with the Board pursuant to § 295.13; whether it has definite plans to operate, such as signed conditional contracts or options; whether it has a reasonable program for assuring on-time departures and for suitable substitute arrangements where emergency situations necessitate substitute service; whether it will provide a point of contact overseas for charter groups for securing information regarding return trips; and that it has the ability to conform to all the provisions of the Act and the requirements thereunder.

(d) Copies of the application shall be served on each direct air carrier certificated to provide unlimited transatlantic passenger service.

§ 295.6 Reporting and record retention.

(a) Fifteen days after the end of each calendar month, each carrier holding operating authority pursuant to this part shall file with the Board's Bureau of Economic Regulation a report setting forth the following information pertaining to each charter flight performed during said month pursuant to such authority:

(1) Date of trip;
(2) Points served;
(3) Number of round-trip and one-way passengers;
(4) Name of chartering organization;
(5) Description of chartering organization disclosing basis for conclusion that the group is bona fide (identify criteria relied upon);
(6) Name of travel agent; and
(7) Construction of tariff charge.

(b) Prior to performing any charter flight pursuant to this part the carrier shall execute, and require the travel agent (if any) and charterer to execute, the form "Statement of Supporting Information" attached hereto and made a part hereof.

(c) Each air carrier holding operating authority pursuant to this part shall comply with the applicable record-retention provisions of Part 249 of this subchapter, as amended.

Subpart A—Provisions Relating to Pro Rata Charters

Requirements relating to air carriers

§ 295.11 Solicitation and formation of a chartering group.

(a) A carrier shall not engage, directly or indirectly, in any solicitation of individuals (through personal contact, advertising, or otherwise) as distinguished from the solicitation of an organization for a charter trip.

(b) A carrier shall not employ, directly or indirectly, any person for the purpose of organizing and assembling members of any organization, club, or other entity into a group to make the charter flight.

§ 295.12 Pre-trip notification.

Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this regulation, Part 295.[1] The charter contract shall include a provision that the charterer,

[1] Copies of this regulation are available by purchase from the Superintendent of Documents, Washington 25, D.C. Single copies will be furnished without charge on written request to the Publications Section, Civil Aeronautics Board, Washington 25, D.C.

and any agent thereof, shall only act with regard to the charter in a manner consistent with this regulation and that the charterer shall within due time submit to the carrier such information as specified in §§ 295.34 and 295.35 and submit to each charter participant the information identified in § 295.34. The carrier shall also require that the charterer and any travel agent involved shall furnish it in due time for review before flight the information required in §§ 295.36 and 295.26, respectively.

§ 295.13 Tariffs to be on file.

At the time an exemption application is submitted the carrier shall have on file with the Board a tariff showing all its rates, fares, and charges for the use of the entire capacity of one or more aircraft in air transportation and all its rules, regulations, practices and services in connection with the transatlantic pro rata charter transportation which it offers to perform. Tariffs filed pursuant hereto shall expressly recite that the transportation may not be furnished unless the Civil Aeronautics Board specifically exempts the air carrier from the requirements of section 401 of the Federal Aviation Act of 1958.

§ 295.14 Terms of service.

(a) The total charter price and other terms of service rendered pursuant to authority granted under this part shall conform to those set forth in the applicable tariff on file with the Board and in force at the time of the respective charter flight and the contract must be for the entire capacity of one or more aircraft. Where a carrier's charter charge computed according to a mileage, tariff includes a charge for ferry mileage, the carrier shall refund to the charterer any sum charged for ferry mileage, which is not in fact flown in the performance of the charter: *Provided*, That the carrier shall not charge the charterer for ferry mileage flown in addition to that stated in the contract unless such mileage is flown for the convenience of and at the express direction of the charterer.

(b) The carrier shall require full payment of the total charter price or the posting of a satisfactory bond for full payment prior to the commencement of the air transportation.

(c) In the case of a round-trip charter, one-way passengers shall not be carried except that up to five percent of the charter group may be transported one way in each direction. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round-trip is chartered separately in order to avoid the five percent limitation aforesaid. In the case of a charter contract calling for two or more round-trips, there shall be no intermingling of passengers and each planeload group shall move as a unit in both directions.

§ 295.15 Agent's commission.

The carrier shall not pay its agent a commission or any other benefits, directly or indirectly, in excess of five percent of the total charter price as set forth in the carrier's charter tariff on file with the Board, or more than the commission related to charter flights paid to an agent by a carrier certificated to render regular service on the same route, whichever is greater. The carrier shall not pay any commission whatsoever to an agent if the agent receives a commission from the charterer for the same service.

§ 295.16. Prohibition against payments or gratuities.

A carrier shall make no payments nor extend gratuities of any kind, directly or indirectly, to any member of a chartering organization in relation either to air transportation or land tours or otherwise. Nothing in this section shall restrict a carrier from offering to each member of the charter group such advertising and good will items as are customarily extended to individually ticketed passengers (e.g., canvas traveling bag or a money exchange computer).

REQUIREMENTS RELATING TO TRAVEL AGENTS

§ 295.20 Limited activities.

A travel agent may not assist in the organization or assembly of a charter group, handle the sale of the air transportation to any individual members of a group, or otherwise engage in the administration of the charter flight (including signing the charter agreement for the charterer or collecting or disbursing pro rata shares of participants). The agent may arrange land tours

for a charter group provided he deals with the group as a whole. He may deal with individual members of a group regarding land tours only under the circumstances indicated in § 295.21. While his services may be utilized to prepare brouchures or other literature describing all aspects of the charter trip, the distribution of such material to individual participants must be confined to the hands of the charterer. Nothing in this section, however, shall prohibit the carrier from having a travel agent make distribution to the charter flight participants of boarding passes pursuant to Warsaw Convention practices.

§ 295.21 Permissible solicitation, sale or ticketing of individual participants for land tours.

A travel agent may deal with individuals for land tours (including ticketing and receipt of individual deposits for such tours) if such persons, on an individual basis after arranging for charter participation, initiate a contact with him to request of him land tour arrangements different from those which have been made available to the charter group as a whole through the organizer of the group. A travel agent (or person controlled by, controlling, or under common control with such travel agent) who does not assist in the engaging of aircraft for the charter[2] and does not receive remuneration from the carrier in connection with the charter may, in addition, solicit (i.e., initiate the approach to) individual members of the charter group (i.e., persons who have already arranged for charter participation) for land tours, and with respect to such tours receive deposits and conduct ticketing of such individual members.

§ 295.22 Agents who are members of the chartering organization.

If a travel agent, or officer, director, or employee of such an agent, is a member of the chartering organization, such agent, or officer, director, or employee, may not receive, directly or indirectly, any commission or other compensation with respect either to the charter flight or the land tour. Subject to this prohibition, he may participate in those activities, and only those, permitted to other travel agents.

§ 295.23 Prohibition against double compensation.

A travel agent may not receive a commission from both the direct air carrier and the charterer for the same service, nor may he receive directly or indirectly any part of the administrative labor cost referred to in § 295.33(c).

§ 295.24 Prohibition against incurring obligations.

A travel agent shall not incur any obligation on behalf of a chartering organization relating to the expenses of solicitation or organization of the individual participants in the chartering organizaton, whether or not it is intended for the organization to assume ultimately the obligation incurred.

§ 295.25 Prohibition against payments or gratuities.

A travel agent shall make no payments nor extend gratuities of any kind, directly or indirectly, to any member of a chartering organization whether in relation to air transportation or otherwise. Nothing in this section shall restrict a travel agent from offering to each member of the charter group such advertising and good will items as are customarily extended to individually-ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

§ 295.26 Statement of supporting information.

Travel agents shall execute, and furnish to air carriers, section A of Part II of the Statement of Supporting Information, at such time prior to flight as required by the carrier to afford it due time for review thereof.

REQUIREMENTS RELATING TO THE CHARTERING ORGANIZATION

§ 295.30 Solicitation of charter participants.

As the following terms are defined in § 295.2, members of the charter group may be solicited only from among the bona fide members of an organization, club or other entity, and their immediate families, and may not be brought

[2] This would include assistance in any form which would place the carrier under even an implicit obligation to the agent for having procured the charter. However, it would not include mere discussion between agent and charterer about the several airlines which the charterer might wish to contact.

together by means of a solicitation of the general public. Charter participants solicited without limit from organizations or other entities with a total membership of more than 20,000 (except colleges or universities located in one local area) shall be considered as solicited from the general public.

§ 295.31 Passengers on charter flights.

Only bona fide members of the charterer, and their immediate families, may participate as passengers on a charter flight. Where the charterer is engaging round-trip transportation, one-way passengers shall not participate in the charter flight except as provided in § 295.14(c). When more than one round-trip is contracted for, intermingling between flights or re-forming of plane-load groups shall not be permitted and each plane-load group must move as a unit in both directions.

§ 295.32 Participation of immediate families in charter flights.

The immediate family of any bona fide member of a charter organization may participate in a charter flight. The immediate family of such member shall be construed to include only the following persons who are living in his household, namely, the spouse, dependent children, and parents of such member.

§ 295.33 Charter costs.

(a) The costs of charter flights shall be prorated equally among all charter passengers and no charter passenger shall be allowed free transportation; except that (1) children under twelve years of age may be transported at a charge less than the equally prorated charge; (2) children under two years of age may be transported free of charge.

(b) The charterer shall not make charges to the charter participants which exceed the actual costs incurred in consummating the charter arrangements, nor include as a part of the assessment for the charter flight any charge for purposes of charitable donations. All charges related to the charter flight arrangements collected from the charter participants which exceed the actual costs thereof shall be refunded to the participants in the same ratio as the charges were collected.

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Such charge shall not exceed $300 (or $500 where the charter participants number more than 80) per round-trip flight. Neither the organizers of the charter, nor any member of the chartering organization, may receive any gratuities or compensation, direct or indirect, from the carrier, the travel agent, or any organization which provides any service to the chartering organization whether of an air transportation nature or otherwise. Nothing in this section shall prevent any member of the charter group from accepting such advertising and good will items as are customarily extended to individually-ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

(d) If the total expenditures, including among other items compensation to members of the chartering organization, referred to in § 295.33(c) above, but exclusive of expenses for air transportation or land tours, exceed $750 per round-trip flight, such expenditures shall be supported by properly authenticated vouchers to be given to the carrier with the "Post Flight Report" required pursuant to § 295.34.

§ 295.34 Statements of charges.

(a) Any announcements or statements by the charterer to prospective charter participants of the anticipated individual charge for the charter shall clearly identify the portion of the charges to be separately paid for the air transportation, for the land tour, and for the administrative expenses of the charterer.

(b) Within 15 days after completion of each one-way or round-trip flight the charterer shall complete and supply to each charter participant and the air carrier involved a detailed report showing the charge per passenger transported and the charterer's total receipts and expenditures. This report shall be submitted in the form of, and contain such information including the above as more fully specified by, the "Transatlantic Charter—Post Flight Report" annexed hereto and made a part of this part.

§ 295.35 Passenger manifests.

(a) Prior to each one-way or round-trip flight a manifest shall be filed by the charterer with the air carrier showing the names and addresses of the persons to be transported and specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described). The manifest may include "stand-by" participants (by name, address, and relationship to charterer).

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger manifest as follows:

(1) A bona fide member of the chartering organization at the time the organization first gave notice to its members of firm charter plans and will have been a bona fide member of the chartering organization for at least six months prior to the starting flight date. Specify on the passenger manifest as "(1) member."

(2) The spouse, dependent child or parent of a bona fide member who lives in such member's household. Specify on the passenger manifest as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or a college campus, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participating in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger manifest as "(3) special" or "(3) member" (where participants are from a study or campus group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the eastbound and westbound trips must be explained on the manifest.

(d) Attached to such manifest must be a certification, signed by a duly authorized representative of the charterer, reading:

The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the atached list (1) was a bona fide member of the chartering organization at the time the chartering organization first gave notice to its members of firm charter plans, and will have been a member for at least six months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (i) students and educational staff of a single school, or (ii) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a charter composed of participants in a formal academic study course abroad.

(Signature)

§ 295.36 Statement of supporting information.

Charterers shall execute and furnish to air carriers section B of Part II of the Statement of Supporting Information, at such time prior to flight as required by the carrier to afford it due time for review thereof.

Subpart B—Provisions Relating to Single Entity Charters

§ 295.40 Tariff to be on file.

The direct air carrier shall have a currently effective tariff on file with the Board prior to flight which discloses all the rate, fares and charges for the use of the entire capacity of one or more aircraft in air transportation and all its rules, regulations, practices and services in connection with the transatlantic single entity charter transportation which it offers to perform.

§ 295.41 Terms of service.

The total charter price and other terms of service shall conform to those set forth in the applicable tariff filed in accordance herewith and the contract shall be for the entire capacity of one or more aircraft.

§ 295.42 Commissions paid to travel agents.

No direct air carrier shall pay a travel agent any commission in excess of five percent of the total charter price or more than the commission related to charter flights paid to an agent by a carrier certificated to fly the same route whichever is greater.

SUBPART C—PROVISIONS RELATING TO MIXED CHARTERS

§ 295.50 Applicable rules.

The rules set forth in Subpart A of this part shall apply in the case of mixed charters.

SUBPART D—PROCEDURE FOR ADVISORY OPINION ON THE ELIGIBILITY OF A CHARTERER

§ 295.60 Advisory opinion.

An air carrier or prospective charterer may request an advisory opinion from the Bureau of Economic Regulation, Civil Aeronautics Board, Washington 25, D.C., regarding the eligibility of the prospective charterer to obtain charter service in accordance with this regulation. The Bureau's opinion will be based on the representations submitted and shall not be binding upon the Board in any proceeding in which the lawfulness of the respective charter may be in issue. Such representations should include as much of the information specified by section B, Part II, of the Statement of Supporting Information annexed to this part as is available to the person requesting the advisory opinion.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL]

JAMES L. DEEGAN,
Acting Secretary.

[F.R. Doc. 61-3893; Filed, Apr. 27, 1961; 8:54 a.m.]

ER-326 **EXHIBIT 9**
Effective: April 28, 1961

APPLICATION FOR AUTHORITY TO CONDUCT TRANSATLANTIC PASSENGER CHARTER FLIGHTS --STATEMENT OF SUPPORTING INFORMATION

PART I - To be completed by air carrier applicant for single entity, mixed, or pro rata charter. (Where more than one round trip flight is to be performed under the charter contract, clearly indicate applicability of answers.)

1. Name of transporting carrier: _____

2. Commencement dates of proposed flight (s):

   (a) Going: _____

   (b) Returning: _____

3. Points to be included in proposed flight (s):

   (a) From: _____
   To: _____

   (b) Returning from: _____
   To: _____

   (c) Other stops required by charterer: _____

   (d) Technical stops required by carrier: _____

   (e) Planned routing: _____

4. (a) Type of aircraft to be used: _____

   (b) Seating capacity: _____

   (c) Number of persons to be transported: _____

5. (a) Total charter price: $ _____

   (b) If pro rata or mixed charter, does charter price conform to tariff on file with the Board? _____

   (c) If pro rata or mixed charter, explain construction of charter price in relation to tariff on file with the Board(in case of mileage tariff, show mileage for each segment involved and indicate whether segment is live or ferry.) _____

6. (a) Has the carrier paid, or does it contemplate the payment of any commissions, direct or indirect, in connection with the proposed flight? YES _____
   NO _____

   (b) If "yes" give names and addresses of such recipients and indicate the amount paid or payable to each recipient. If any commission to a travel agent exceeds 5 percent of the total charter price, attach a statement justifying the higher amount under this regulation. _____

7. (a) Will the carrier or any affiliate provide any services or perform any functions in addition to the actual air transportation? YES_____ NO _____

   (b) If "yes," describe services or functions: _____

8. Name and address of charterer:

9. If charter is single entity, indicate purpose of flight:

10. On what date was the charter contract executed? _____

11. If the charter is pro rata, has c opy of Part 295 of the Civil Aeronautics Board's Economic Regulations been mailed to or delivered to the prospective charterer?
    YES _____ NO _____

APPLICATION FOR AUTHORITY TO CONDUCT TRANSATLANTIC PASSENGER CHARTER FLIGHTS -- STATEMENT OF SUPPORTING INFORMATION

PART II - To be completed for pro rata or mixed charters only:

Section A - To be supplied by travel agent, or, where none, by the air carrier or an affiliate under its control where either of the latter performs or provides any travel agency function or service (excluding air transportation sales but including land tour arrangements):

1. (a) Is the travel agent a member of the chartering organization? YES_____ NO_____

(b) Is any officer, director, employee or family member of the travel agent a member of the chartering organization? YES_____ NO_____ If answer is "yes," give name(s) of such person(s) and designate whether such person(s) be an officer, director, employee, and/or family member: _____

2. Has agent furnished solicitation materials to charterer? YES_____ NO _____ If answer is "yes," supply copy of sach type of material herewith.

3. What specific services have been or will be provided by agent to charterer on a group basis? _____

4. What specific services have been or will be provided by agent to individual participants in the proposed charter? _____

5. (a) Did or will the agent collect deposits from individual participants in the charter? YES_____ NO_____ If answer is "yes," explain: _____

(b) Did or will the agent collect deposits from the person(s) organizing the charter? YES_____ NO_____ If the answer is "yes," are the deposits in the form of a check, draft or money order drawn on the account of the chartering organization? YES_____ NO_____ If not so drawn, explain: _____

6. Has the agent incurred any obligations on behalf of the chartering organization relating to the expenses of solicitation or organization of the individual participants in the chartering group whether or not it is the intention of the chartering organization to assume ultimately the obligations incurred: YES_____ NO_____

7. Has the agent or, to his knowledge, have any of his principals, officers, directors, associates or employees compensated any member of the chartering organization in relation either to the proposed charter flight or any land tour? YES_____ NO_____

8. Does the agent have any financial interest in any organization rendering services to the chartering organization? YES_____ NO_____ If answer is "yes," explain: _____

_____
1/

Verification

STATE OF _____) SS:
COUNTY OF _____)

_____, being duly sworn, deposes and says that
Name
to the best of his knowledge and belief all information presented in Part II, Section A of this Statement is true and correct.

_____
Signature and address of travel agent or, if none, of authorized official of air carrier (as to questions 2-8) where such carrier or an affiliate under its control performs any travel agency function or service (excluding air transportation sales but including land tour arrangements).

Sworn to before me this day,
the _____ of _____, 19

_____
(Signature of person administering oath. Also, set forth here below the name, address, and authority of such person)

(SEAL)

Warranty

I, _____, represent and
Name
warrant that I have acted with regard to this charter operation (except to the extent fully and specifically explained in Part II, Section A) and will act with regard to such operation in a manner consistent with Part 295 of the Board's Economic Regulations.

_____
Signature and address of travel agent or, if none, of authorized official of air carrier (as to questions 2-8) where such carrier or an affiliate under its control performs any travel agency function or service (excluding air transportation sales but including land tour arrangements).

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APPLICATION FOR AUTHORITY TO CONDUCT TRANSATLANTIC PASSENGER CHARTER FLIGHTS -- STATEMENT OF SUPPORTING INFORMATION

PART II - Section B -- To be supplied by charterer:

1. Description of chartering organization, including its objectives and purposes:

2. What activities are sponsored by the chartering organization?

3. When was the organization founded?

4. Size of membership: 2/ Present _____ Last year _____ Year before last _____

5. Qualification or requirements for membership in organization and membership fee, if any:

6. Has there been any reference to prospective charter flights in soliciting new members for the chartering organization? YES _____ NO _____

7. Give geographic distribution of membership. (If confined to one city, it will be sufficient to so indicate, otherwise describe local or larger area.) 3/

8. If total membership in the chartering organization is less than 1,000, submit list showing names and addresses of members in good standing. 4/ If total membership in the chartering organization is 1,000 or more, state where a list of members is available for inspection. (Groups of 1,000 or more may be required to submit membership lists upon specific request.)

9. Attach list of prospective passengers, showing for each: Name, address, and whether a member of chartering organization or relationship to a member of chartering group. (Note: This is a list of prospective passengers and does not necessarily have to represent the passengers actually carried.)

10. Purpose of trip:

11. What are requirements for participation in charter?

12. How were prospective participants for charter solicited (attach any solicitation material)? _____

13. Will there be any participants in the charter flight other than (1) members of the chartering organization or (2) spouse, dependent children, and parents of a member of the chartering group, residing in the same household with the member?
YES _____ NO _____

14. Will there be any members of the chartering organization participating in the charter who will have been members of the organization for a period of less than six months prior to flight date? 4/ YES _____ NO _____
If answer is "yes," give names of participants who will not have been members for six months and justify (see §295.2(j)): _____

15. If there is any intermediary involved in the charter, other than the travel agent whose participation is described in Section II (A), submit name, address, remuneration and scope of activity: _____

16. Estimated receipts: _____ X _____
(Pro rata charge) (No. of passengers)

= $_____
(Estimated receipt from charter)

Estimated receipts from other sources, if any: Explain: _____

(a) Total receipts $_____

Estimated expenditures, including aircraft charter (separately itemize air transportation, land tour, and administrative expenses):

Item	Amount	Payable to

(b) Total expenditures $_____ Explain any difference between (a) and (b): _____

17. Are any of the expenses included in item 16, above, to be paid to any members of the chartering organization? YES _____ NO _____ If "yes," state how much, to whom and for what services: _____

18. Is any member of the chartering organization to receive any compensation or benefit directly or indirectly from the air carrier, the travel agent, or any organization providing services in relation to the air or land portion of the trip? _____.
If "yes," explain fully: _____

19. Will any person in the group (except children under two years) be transported without charge? YES_____ NO_____

20. Will charter costs be divided equally among charter participants, except to the extent that a lesser charge is made for children under twelve years old?
YES_____ NO_____

21. Separately state for the outbound and inbound flights the number of one-way passengers anticipated to be transported in each direction:_____
_____

22. If more than one round trip is contracted for, will each plane-load group move as a unit in both directions? YES_____ NO_____

23. If transatlantic charters have been performed for organization during past 5 years, give dates and name of carrier performing charters:_____
_____

24. Has a copy of Part 295, "Transatlantic Charter Trips," of the Economic Regulations of the Civil Aeronautics Board been received by the charterer?
YES_____ NO_____

Verification of Charterer 1/

STATE OF_____)
COUNTY OF_____) SS:

_____ and _____
(name) (name)

being duly sworn, hereby separately depose and say that to the best of the knowledge and belief of each of them all the information in Part II, Section B, of this Statement is true and correct.

_____
(Signature and title of officer - This should be the chief officer of the chartering organization except in the case of a school charter, in which case verification must be by a school official not directly involved in charter.)

Sworn to before me this day, the _____of_____, 19

_____
(Signature of person administering oath. Also, set forth here below the name, address and authority of such person)

(SEAL)

_____
(Signature - person within organization in charge of charter arrangements).

Sworn to before me this day, the_____of_____, 19

_____
(Signature of person administering oath. Also, set forth here below the name, address and authority of such person)

(SEAL)

Warranty of Charterer

I, _____ and _____,
(name) (name)
represent and warrant that the charterer has acted with regard to this charter operation (except to the extent fully and specifically explained in Part II, Section B), and will act with regard to such operation, in a manner consistent with Part 295 of the Board's Economic Regulations.

_____
(Signature and title of officer - This should be the chief officer of the chartering organization except in the case of a school charter, in which case the warranty must be by a school official not directly involved in charter.)

_____
(Signature - person within organization in charge of charter arrangements)

Verification of Employer 1/

(To be furnished where eligibility to participate in charter is dependent upon employment by a particular entity).

STATE OF _____) SS:
COUNTY OF _____)

_____, being duly sworn, deposes and says that to the
(name)
best of his knowledge and belief the answers to questions 4 and 7 of Part II, Section B, of this Statement are true and correct insofar as they represent the number and employment location of persons employed by

_____.
(name of employer entity)

_____
(Signature and title of authorized official of employer)

Sworn to before me this day, the
_____ of _____, 19

_____
(Signature of person administering oath. Also, set forth below the name, address, and authority of such person)

(SEAL)

Warranty of Air Carrier

To the best of my knowledge and belief all the information presented in this statement, including but not limited to, those parts verified by the charterer and the travel agent, is true and correct. I represent and warrant that the carrier has acted with regard to this charter operation (except to the extent fully and specifically explained in this statement or any attachment thereto) and will act with regard to such operation in a manner consistent with Part 295 of the Board's Economic Regulations. 5/

(Signature and title of authorized official of air carrier)

This must be retained by the air carrier for two years pursuant to the requirements of Part 249, but open to Board inspection, and to be filed with the Board on demand.

1/ Whoever, having taken an oath before a competent --- person --- that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both. Title 18, U.S.C., §1621.

2/ This figure should represent the number of persons eligible to participate in the charter by reason of their employment, membership, enrollment, etc. For example, if the charter is being sponsored by an employee recreation association but is open to all employees (whether or not affiliated with the association) the membership figures should represent the total of all the employees, not merely the membership of the association.

3/ If eligibility to participate in the charter is dependent upon employment by a particular entity, the answer to this question should reflect the geographic location of the plants or offices in which those persons are employed.

4/ Not applicable to college campus or study-group charters, nor to charters limited to employees of a single Government agency, industrial plant or mercantile company.

5/ Any air carrier, or any officer, agent, employee, or representative thereof, who shall knowingly and wilfully, fail or refuse to keep or preserve accounts records and memoranda in the form and manner prescribed by the Board, or shall, knowingly and wilfully, falsify, mutilate, or alter any such report, account, record or memorandum, shall be guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine of not less than $100 and not more than $5,000. Title 49, U.S.C. §1472.

TRANSATLANTIC CHARTER POST FLIGHT REPORT

Instructions:

The charterer shall complete and file a report in this form with the air carrier within 15 days of each one-way or round-trip charter flight. A report in this form shall also be furnished each charter participant by the charterer within 15 days after completion of each one-way or round-trip charter flight.

1. Name of carrier: _____

2. Name of chartering organization: _____

3. Analysis of charterer's receipts:

   (a) _____ (No. one-way psgrs.) X _____ (Charge per psgr. 1/ (including amounts later refunded)) = _____

   (b) _____ (No. round-trip psgrs.) X _____ (Charge per psgr. 1/ (Including amounts later refunded)) = _____

   (c) Receipts from other sources (explain) = _____

   (d) Total receipts / (a) + (b) + (c) / = _____

4. Analysis of charterer's expenditures:

Item of expenditure 2/	Paid to 3/	Amount
	Total 4/	

Verification 5/

STATE OF _____)
COUNTY OF _____) SS:

I, _____, being duly sworn, hereby depose and say that this report has been prepared by me or under my direction that I have carefully examined it and that to the best of my knowledge and belief it is a complete and accurate statement, and a copy hereof has been distributed to each charter participant.

_____
(Signature of person in charge of charter arrangements)

Sworn to before me this day,
the _____ of _____, 196

_____
(Signature of person administering oath. Also, set forth here below the name, address, and authority of such person)

(SEAL)

1/ If charter cost was not divided equally among all participants actually transported, indicate clearly the individual amounts collected and the number of passengers paying each such amount.

2/ As a separate item there should be listed here a total of all the amounts refunded to the charter participants; also list separately air transportation, land tour, and administrative expenses (showing compensation for labor and personal expenses paid to any member of chartering organization).

3/ Disclose any relationship to chartering organization.

4/ If this item does not agree with item 3(d), submit an explanatory statement as to the reasons therefor. If the total expenditures (including among other items compensation to members of the chartering organization but exclusive of expenses for air transportation or land tours) exceed $750 per round trip, such expenditures shall be fully supported by vouchers submitted to and retained by the direct air carrier operating the charter. Such vouchers must cover all expenditures made on behalf of the chartering group including any expenditures for banquets, gifts, local transit, etc.

5/ Whoever, having taken an oath before a competent --- person --- that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both. Title 18, U.S.C. §1621.

EXHIBIT No. 10

LEROY TOURS,
Royal Tunbridge Wells, Kent, England, February 3, 1961.

AIR CHARTER EXCHANGE,
Washington, D.C.

DEAR SIRS: As you are probably aware I am a large-scale operator of European "package" tours from the United Kingdom varying in price for a 14-day holiday for between 18–100 gns. with the majority in the 40 gns. range.

My yearly programs has a capacity of the order of 60,000 to 70,000 seats and last year we carried over 50,000 passengers to the Continent. The majority of our bookings are by direct recommendation and application although we do conduct a national advertising campaign and take bookings through our 750 agents.

There is no doubt that we hold a vast potential from our United Kingdom clients for "package" tours to the United States of America. Before we can launch such a scheme it will be essential for the price of a 14- to 15-day "package" to come within their reach and, as we see it, there are two main obstacles in the way at the moment: (*a*) The excessive transatlantic charter rates; and (*b*) Reasonable all-in terms for accommodation and food in the United States.

We understand from our good friend, Mr. Thunell, that there is a fair chance that in the light of this potential your Civil Aeronautics Board may well be disposed to relax their existing restrictions to bring them into line with European practice and eagerly await developments along these lines.

We do not visualize any problems in coach transport in the United States but it is an absolute essential of our "packages" that the cost is fully inclusive door to door (including service charge).

I have sent two copies of our 1961 brochure by separate airmail. This will give you a good idea of our European "packages"—all tours prefixed by the letter "A" fly for part of their journey.

Yours faithfully,

LEWIS LEROY.

EXHIBIT No. 11

LANSEAIR TRAVEL LTD.,
London, January 26, 1961.

Mr. B. MANSFIELD,
General Manager, Independent Airlines Association,
Washington, D.C.

DEAR MR. MANSFIELD: I would first like to say what a great pleasure it was meeting you recently on your short visit to London, and to offer my congratulations with regards to your appointing Hans Thunell as your sales manager. We shall all very much miss Hans in London, but do feel that you could not have made a better choice for the job that you require.

As you know, we are extremely interested in promoting general travel from Europe to the United States of America and it is for this reason that I am primarily writing to you. To the average person, one of the greatest deterrents for travel to the United States and for that matter, any part of the Western Hemisphere, is primarily the cost involved. Not so much the actual cost for services within the United States such as hotels, internal transfer, and sightseeing, but the transatlantic fare. When one bears in mind the money available to the average European tourist in relation to the money available to the average American tourist, there is a great differential. We have always found that one can place the normal expenditure for yearly vacations at approximately 15 percent of the gross yearly income. This is at the present time in the United Kingdom £600. 0. 0. per year, which would therefore, allow £90. 0 0. available for vacation purposes, or $252. In the United States where the average salary is in the region of $5,000 per year, this leaves availability for vacations, on the same percentage, $725. Therefore, bearing in mind these differentials and the fact that the air fare, transatlanticwise is identical for either United States or European citizens, it does seem that the Europeans are at a disadvantage.

As you are probably aware, for travel from the United Kingdom to the continent the national carriers offer to the agencies, tour-basing fares which are, of course illegal as far as the Civil Aeronautics Board are concerned, and it is also possible for charter agreements to be made, by agencies to operate certain

fixed schedules during the course of the season to points from the United Kingdom to the continent, which as is normal on all charter fares, offer a considerable saving to those taking part. Agencies, once the initial license has been granted, are allowed to publicize and sell to the general public on a seat basis.

We do feel that there is a fantastic potential within Europe for travel to the West, but this will always remain largely unavailable to us all while the present fare structure and basis of charter operations transatlanticwise are kept to the present regulations, and we also feel that in view of the fact that your organizations are now entering into the European-United States traffic in a very serious manner, that through your good offices some approach could be made to the CAB, and any other authority necessary, whereby some definite relaxation of the present regulations could be brought about for the European traffic to the West, which would enable this present unequal balance to be leveled out by giving the European tourist the opportunity to visit the Western Hemisphere on a more realistic fare basis.

Almost all of the countries in Western Europe and many in the East have found that the greatest source of revenue is the tourist traffic and in view of the recent unsatisfactory balance-of-payments situation that has arisen, a vast increase in tourist traffic into the United States would, without any doubt whatsoever, go a long way to bring about a more satisfactory and equal balance, but as I have stated, this could only be done when facilities are made available for the vast potential that we have, and unfortunately this can only ever be accomplished by the relaxation of regulations which would allow either for regular scheduled services with tour-basing fares, or for open charter for inclusive tour operations allowing for direct sale on a seat basis to the general public.

I feel sure that if your company were to pursue this matter and the government office involved were to make inquiries into this situation, they would find that the facts that I have stated will be substantiated by other people in our trade and the general public also.

I shall be visiting Washington toward the middle part of March, when I hope I will have the opportunity of meeting you again, and perhaps we may be able to discuss this matter in greater detail.

Kindest regards,

Yours sincerely,

LANSEAIR TRAVEL LTD.,
HENRY C. MORRITT, *Director.*

TTG reporters survey the 1961 air, sea and tour . . .

Wanted: an all-in tour to America for under £200

THE cost of a holiday tour to North America—at least £230 for two weeks on present prices—is the major factor deterring more British tourists from visiting the U.S.A. and Canada.

This is the majority opinion of tour operators, airlines and shipping companies asked by *TTG* this week to comment on the potential market for trans-Atlantic holiday traffic.

Proposals to set up a U.S. government tourist bureau in the U.K. appear to be universally welcomed. One of its chief functions would be to dispel present misconceptions that North America is "for millionaires only."

Tour operators arranging North American holidays report few difficulties in setting up tours, but some say that the U.S.A. must become more 'tourist-minded.'

'Fares cut' call

Although some carriers blame the cost of holidaymaking within North America for discouraging would-be tourists, tour operators are emphatic that trans-Atlantic fares must be reduced.

They feel that a two-week tour, including meals, must sell for less than £200 if new and bigger markets are to be tapped.

The following comments, by a representative selection of companies dealing in North American traffic, apply mainly to the U.S.A., although similar remarks were made in many cases about Canada.

TOUR OPERATORS

AMERICAN EXPRESS: "We hope that both air and steamship companies can get down to some sort of 30-day ticket, possibly on an ITX basis," said Mr. R. Vance, travel department manager, London.

The trans-Atlantic fare, he added, was definitely the principal deterrent to expanding North American holidays. Arranging tours in the U.S.A. and Canada presented no difficulties.

One of the first duties of a U.S. tourist office—"which we welcome"—should be to make it known that the cost of holidays within the U.S.A. was not expensive, bearing in mind the distances involved.

At present, said Mr. Vance, due to trans-Atlantic fares, a two-week tour could not be arranged for less than £210-£230, excluding meals.

Cost-conscious tourists chose the eastern seaboard, the most popular circuits being New York-Washington - Chicago - Niagara Falls - Boston, or a round trip Montreal - New York taking in Ottawa, Toronto, Niagara Falls and Chicago.

Those with more money choose the Pacific coast—particularly San Francisco.

Mr. Vance described advance bookings for North American tours as being on about the same level as last year. There was, however, a small increase in enquiries.

CONSORT WORLD TRAVEL (van Ommeren): High cost is the principal deterrent to would-be tourists to North America, the present average tour price being £250 plus meals, said Mr. K. Wachter, tours manager.

"I should like to see an all-in price of £150 for two weeks, including meals," he said, based on a return journey fare of about £60.

No difficulties

There were no particular difficulties in setting up tours to the U.S.A. and Canada, but a tourist office could do vital work in the U.K. educating the people that North America is "not a millionaire's paradise."

The U.S. tourist industry should also educate Americans into the acceptance of tourists from other countries.

THOS. COOK & SON: Shortage of money, lack of publicity, restricted time available for holidays, and the need to apply for U.S. visas in person—these are seen by Thos. Cook & Son as difficulties in the way of developing tourism to North America.

Although bookings are "slightly up," interest remains steady, said a spokesman—and will remain so until more is done to publicise North American holidays.

For this reason, the company was in favour of a U.S. tourist office being set up here. Its duties should be to promote, publicise, advise, and issue literature.

New York and Niagara Falls were quoted as the two top tourist draws. Other desirable places were out of reach for time and money reasons.

FRAMES' TOURS: Since 1958, the trend has been away from escorted tours in favour of independent travel, said Mr. E. J. Denman, manager, American Department.

The eastern seaboard of the U.S. and Canada was popular, but the biggest draw was the Pacific coast.

New market

Average cost of a 25-day escorted tour, with demi-pension accommodation, was £275-£300. If the all-in cost of a North American holiday could be brought below £200, a new market would be tapped, he said.

Mr. Denman strongly criticised delays in customs clearance at the port of New York, which, he said, were not an encouraging start to a tour.

Whilst some travellers objected to the need for visas, Mr. Denman said this was not a major deterrent, and there were generally no appreciable delays in obtaining them.

HOULDER BROS.: A bigger interest in North American travel is indicated by a five- or six-fold increase in enquiries, and bookings are "much better than last year," said Mr. Peter Warner, joint manager.

Whilst winter tours based on the 17-day excursion fare were popular, in summer the more expensive tours were selling better than the cheaper ones.

Price was the biggest disadvantage in promoting travel to North America. A year-round excursion fare was needed, in order to bring the cost of a two-week holiday to £200 or less.

U.S. office needed

A tourist office was definitely needed in the U.K. to assist travel agents and tour operators, and to publicise the U.S.A. generally.

It should have at its head an experienced travel man, not a government official, Mr. Warner stressed.

POLY TRAVEL: Inclusive tour traffic to the U.S.A. was the same as last year, reported Mr. Peter Gibson, publicity manager. There was more interest in North America—but not in package tours.

New York was in popular demand—probably due to business travel. There was little interest in the U.S. west coast.

"The simple matter of pounds, shillings and pence" was the key to sales resistance in North American business, said Mr. Gibson.

A tourist office was needed in the U.K., but it had "a long job ahead of it," in making travel agents and the public better informed.

WAYFARERS: U.S. tourist authorities were strongly criticised by Mr. K. Gellan, manager of the company's America and Canada travel department.

Requests for literature and lists of forthcoming events had not been acknowledged, he claimed. There were "dozens of instances" which indicated lack of co-operation from existing tourist organisations in the U.S.A.

Mr. Gellan added that until more was done officially to promote the North American tourist trade, Wayfarers was not inclined to spend any more big sums of its own on promotion.

Most of the people now travelling to North America for non-business reasons were visiting friends or relations, he added.

EXHIBIT No. 12

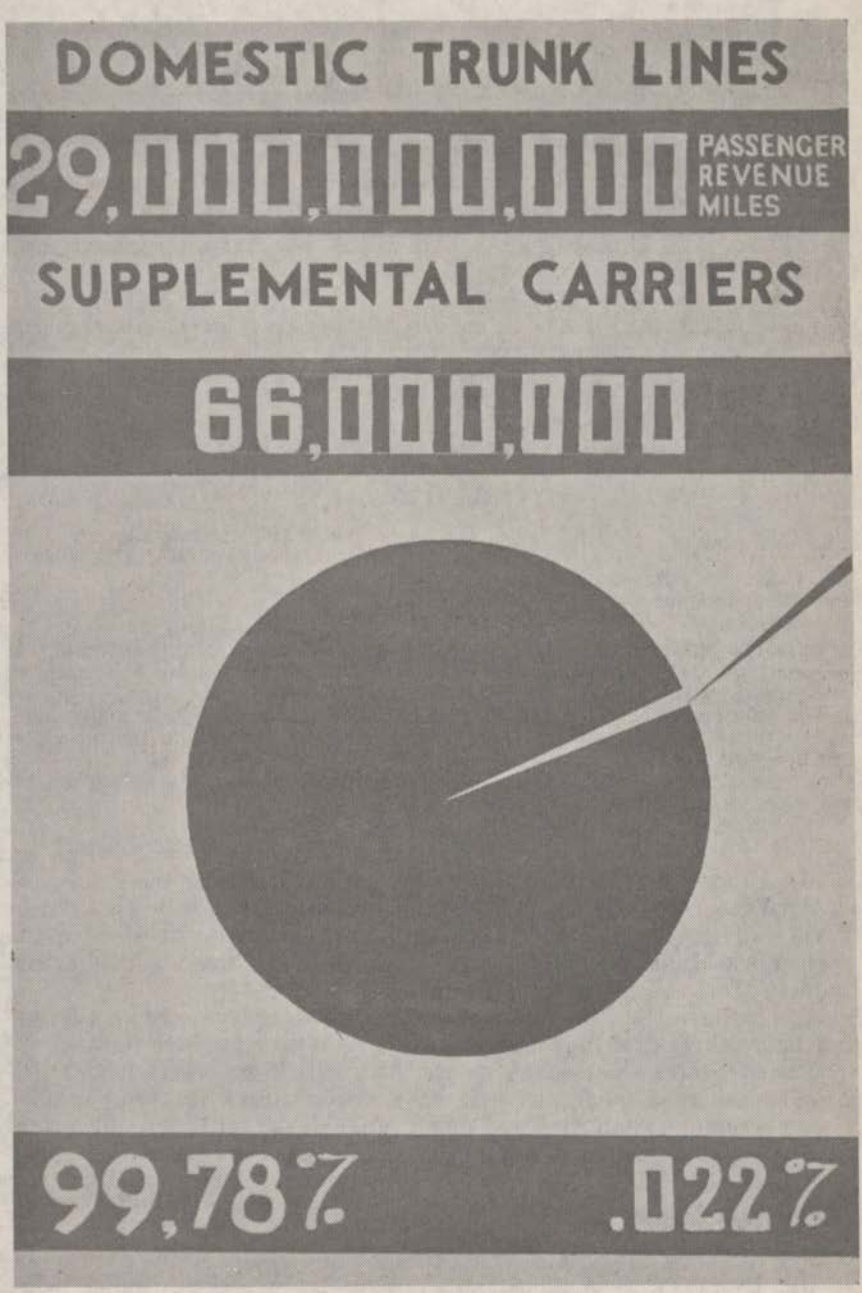

EXHIBIT No. 13

Air fares between leading points where new routes were granted in the Southern Transcontinental Service case, before and after start of new service

	1-way fares			
	1st class		Coach	
	Jet	Piston	Jet	Piston
New Orleans-Los Angeles:				
Before	$125.00	$117.00	$98.60	$90.60
After	125.00	117.00	98.60	90.60
Atlanta-Los Angeles:				
Before	145.15	137.15	113.15	105.15
After	145.15	137.15	113.15	105.15
Miami-San Francisco:				
Before	196.90	186.90	150.20	136.55
After	196.90	186.90	150.20	136.55
Miami-Los Angeles:				
Before	174.95	164.95	135.85	125.85
After	174.95	164.95	135.85	125.85

NOTE.—New routes were placed in operation and "new" fares became effective June 11, 1961.

Source: Official Airline Guides, March and June 1961.

EXHIBIT No. 14

FEDERAL AVIATION AGENCY,
Washington, D.C., March 21, 1960.

MR. CLAYTON L. BURWELL,
President, Independent Airlines Association,
Washington, D.C.

DEAR MR. BURWELL: I am impressed by the fine safety record made by your association's member airlines, and I am grateful for the reassurance such an outstanding record gives to the flying public.

You have set an enviable goal for the rest of the industry. Your achievement speaks well for rigid safety standards and careful adherence to the principles of air safety.

My congratulations for 5 years, 3½ million passengers, and 6 billion passenger-miles of safe flying.

Sincerely,

E. R. QUESADA, *Administrator.*

Mr. BURWELL. Thank you, Mr. Chairman. I will be brief.

With respect to the figure yesterday of some $19 million that it was suggested the supplementals had either diverted or grossed in the New York-Miami market, I have before me the figures based on actual inquiry from the carriers involved.

As I believe the Chairman of the Board stated yesterday, they do not have a breakdown at the Board that can give us these figures.

United States Overseas Airways during 1960 grossed $408,000. I have rounded out the figures. Great Lakes Airlines received $322,000. Curry Transport had $383,000, and Trans-Alaska, $721,000, for a total of $1,834,000 in contrast to the $19 million figure asserted.

We are checking. It is possible that one other carrier performed a few flights which would not exceed a hundred thousand dollars or so. We will check that before the hearings close.

Mr. WILLIAMS. You mean that this is their gross income?

Mr. BURWELL. Gross income. This is their gross income, ticket price, Mr. Chairman.

Mr. WILLIAMS. This does not include any cargo or charter service. This is ticketed?

Mr. BURWELL. This is individually ticketed traffic. I can say, however, that there would be very, very little, either cargo or charter service down there.

The second point I would like to make about the $19 million figure is that the best estimate we can give is that that figure would represent practically the entire income of the entire industry from domestic civilian transport, so that, if we have taken $19 million out of New York and Miami, that would mean that we certainly have not taken any anywhere else because the total would be in the magnitude of certainly between $20 and $25 million out of domestic civilian operations.

What I strongly suspect happened is, in the calculations, they got a decimal out of place. I think that by the time we finishing scratching this up instead of being $19 million-some it may go as high as $1.9 million but, in the interest of clarity, I want to put that in the record and I will be delighted to cross-examine, if I may, anybody that has a contrary view on that figure.

Mr. WILLIAMS. If I recall correctly that figure was the gross operating revenue that was received by all of these airlines on all of their services. I may be in error about that but that is my recollection of the way it was presented.

Mr. BURWELL. If that is the figure, Mr. Chairman, I have no quarrel. I think that that would be in the right magnitude. It was my understanding and I believe it is so reported in the Aviation Daily this morning that it was asserted that we took that much money out of New York and Miami which ought to be ridiculous to go into.

The second point I wanted to make, and then I am through with this phase of it, is that it was also stated and it is accurate that the supplementals increased the revenue passenger-miles flown by approximately 1 billion between 1959 and 1960. If you have a copy of my statement and would be good enough to turn to exhibit 5, I think the reason for that will be readily apparent.

I think you will notice that, when we are speaking of civilian traffic rather than military, and this, as I understand it, is the issue on diversion since the military traffic was all just straight competitive bidding at that time, the amount of civilian domestic traffic we received increased only approximately 20 million passenger-miles between 1959 and 1960 for an increase of plus 5 percent.

In the international civilian market it dropped 90 million passenger-miles between 1959 and 1960 for a loss of minus 26 percent.

The increase was entirely in the field of international military where it increased almost 1 billion passenger-miles.

This was a result of one MATS competitive-bid contract which was successfully contracted for by Overseas National Airways and totaled some $28 to $30 million and, on a contractual competitive bid, they carried this for 2.2 cents a mile.

Now, since that time, the Civil Aeronautics Board has put in a floor on this type of carriage of 2.9 cents a mile.

So I think it is readily apparent that, first, that is the only increase. The civilian market decreased.

Secondly, on that arithmetic, the U.S. Government saved $10 million as between Overseas National Airways carriage of these people last year and the 2.9-cent floor this year. The Federal Government has to pony up $10 million. I ask you if that is good or bad.

So much for those two things unless there was something that the chairman remembers in the discussion of figures yesterday that you would like me to comment on.

Mr. Chairman, to go forward with my statement, and I promise you not to read it, this is the 15th anniversary of the supplemental air carrier industry so that the usual cry that we are fly-by-nights is now beginning to get a little thin.

The industry's 25 air carriers, among other things, are very grateful to the Congress for last year rescuing us from oblivion. You came to our rescue and commuted a death sentence at a time even we were about to have it.

With temporary authority, as you know, it is difficult to obtain financing of any modern equipment requiring amortization over 5- and 7-year periods when we have only 8 months operating authority left.

Moreover, while we know that the big industry has its troubles, we are going broke.

I have attached as exhibit 3 (p. 88) the losses for the last several years of our industry.

Suffice it to say that in the last 2 years, 1959 and 1960, these losses have come up to approximately $14 million and these losses are too large for the industry to sustain. Therefore, rather than any further studies, we would prefer a congressional diagnosis of our industry this year to a congressional autopsy next year.

The prime reason that we have had to fight the big industry and to some extent some of the Government agencies for well nigh 15 years, certainly 9 years in this administrative proceeding, boils down to one simple thing and I think the committee put its finger on it yesterday. It is the concern that, if we prosper, do we hurt the big airlines? Diversion and exposure to diversion is the entire issue.

Now, in that connection, if we can put up a quick chart here I think I can give you the magnitude of what we are talking about and why we are taking up your time and the Board's time and everybody else's time. I think it will surprise you that in the domestic charter field we are arguing about a maximum possible diversion of 0.5 percent, one-half of 1 percent. This figure is arrived at by taking as an exhibit in here from the Board's figures the total charter revenues in 1959 and 1960 of the 12 domestic trunk carriers. Their total revenue, as you see there, is, to round out the figures, virtually $2 billion. This is not the entire scheduled industry. This is the 12, now 11 trunk carriers. That is their total revenue in dollars. This is their revenue from charters, slightly over $10 million.

The relationship of those two, again being approximate about it, is one-half of 1 percent of their total revenues which visually is portrayed by that.

Now, there is no likelihood, regardless of what the Board does or the Congress does, that we can take all their charter business. This is on the assumption that we took all of it and you passed a law that they could not fly a charter. That represents the degree to which

they are exposed in the maximum view to diversion in the domestic charter field.

Mr. WILLIAMS. Is that the relationship of the $10 million to $2 billion?

Mr. BURWELL. Yes, sir; one-half of 1 percent, roughly.

Now, the other item that has caused so much concern is the exposure to diversion in the individually ticketed traffic field and I hope I have convinced you and I think, if you look the record over, I will have convinced you that the $19 million figure for New York to Miami is in fact a maximum of $1.9 million.

Mr. WILLIAMS. Let us go back to that last one for just a moment. That $10 million was the revenue from charter operations of the scheduled airlines?

Mr. BURWELL. Yes, sir. We have a breakdown, Mr. Chairman, as exhibit 4 in the back of my statement which breaks it down according to each of the individual trunk carriers and adds it up for 1959 and 1960.

Mr. WILLIAMS. Does that include the entire charter market or does that just include that which is taken care of by the scheduled carriers?

Mr. BURWELL. It includes only the charter market of the 12 trunk carriers.

Mr. WILLIAMS. I see.

Mr. BURWELL. It does not include, say, the local service carriers which is very negligible. Nor does it include ours. It includes only their revenues from charters.

Mr. WILLIAMS. The purpose of giving us that information I presume is to point up the allegation that the charter operations, as far as the overall operation, is negligible?

Mr. BURWELL. Yes, sir, and I am trying to set out a target of overlapping or competitive area or exposure to diversion, whatever you want to call it. This is preliminary to the assertion that, at least on a historic basis, that area that we are talking about and taking up your time with is less than three-quarters of 1 percent.

Now, there is also a wild general assertion that we are really biting into these people and I want to try to pin it down and I hope the others will try to pin it down.

So much for the domestic charter.

Our display shows and our table shows that it is one-half of 1 percent.

Now, with respect to the individually ticketed traffic, our assertion, and I will tell you how we make this assertion, is that it amounts to 0.22 percent of their total revenues—and by that I mean the 12 domestic trunk carriers—from domestic operations. That is arrived at as explained on page 3 of my statement from the fact that from the Board's records we flew approximately 400 million revenue passenger-miles for the 12-month period ending September 30, 1960, the latest figures we could get. Less than 50 percent of our revenue passenger-miles domestically are in individually ticketed traffic. By assuming they are 50 percent we say that, because of the difference in fares which I will go into in detail later, but a radical difference in fare not more than a third of the 50 percent, namely 200 million, could possibly be diversion so we come out with a 66-million figure when related to the 29 billion that the 12 trunks flew, which results in a percentage relationship of 0.22 percent that is indicated here.

Adding the 0.22 percent and the 0.5 percent for charters which are the only two areas of overlappage in the domestic field, our assertion is that the maximum overlapping could not exceed less than three-quarters of 1 percent.

We believe that that is all this contest is about and has been in substance for 15 years, and we are still at it.

During this period of 15 years, the revenues of the supplementals decreased from $70 million in 1952 to $62.8 million in 1959, or a loss of $7 million gross.

During this same period the route carriers increased their gross from $1.75 billion in 1952 to $2.6 billion in 1959, for a gain of almost $1 billion.

During this time the ranks of the "nonskeds" were cut down from approximately 700 in 1947 to these supplementals standing before you today.

During this time the supplementals have never asked for or received a dollar of subsidy or mail pay while the U.S. domestic route carriers for domestic services only received subsidy between 1939 and 1958 of $424,560,000.

I believe, if it were run up to date, it would approximate one-half of a billion dollars now.

During this time the supplementals have built a fleet of 164 aircraft.

The chairman of the Board gave us credit for 168 yesterday. Of these 164, 101 are oversea capable. The remaining 63 are suitable for support of limited and guerrilla warfare.

This fleet, and I think Mr. Springer asked about this yesterday, can provide, at any given time, lift for 9,855 people. In other words, for a 2-hour flight, in 2 hours we can pick up another 10,000. If it is a 24-hour flight we can pick up 10,000 a day and over 1,000 tons of equipment.

The industry has more than 1,200 pilots and supports more than 5,000 maintenance personnel.

Going back just for a minute to this figure of less than three-quarters of 1 percent exposure for diversion it is difficult to believe that this really hurts the big carriers and it is almost impossible to believe that the myth of competition in the airline industry can survive on no exposure to diversion at all.

I will only take about 2 minutes on what the supplementals have done in pioneering.

I think the chairman covered that yesterday. I think it has been covered and I think almost everybody agrees to it except perhaps the big-route carriers, but during the 15 years we were talking about there have been only four significant developments in new air transport markets and the supplementals or former supplementals have pioneered each of these. These are: First, the aircoach travel; second, the all-cargo or airfreight business; third, commercial air charters; and fourth, the contract air transportation of supplies and personnell for the military.

The big carriers eschew competition as a preacher eschews sin and you can watch in each of these markets where we went in and where it is competitive we did all right and when they changed the rules and it was not competitive then we were driven out and the big carriers did all right.

We started with the aircoach market, without trying to labor it at all. You recall as late as 1961 the spokesmen for the big airlines, particularly American, United, and TWA were telling the Congress and the Board that the so-called aircoach experiment was unworkable. Yet the "nonskeds" as they were known in those days, continued to fill a rising demand and to prosper in the aircoach field until driven out by the Civil Aeronautics Board. Today, approximately 50 percent of the trunkline seats are in aircoach, and we have an exhibit showing the exact increase from year to year showing it back to about 1950 when it started.

However, fares have now been raised to a point at which new or lower economy service is again needed by the mass of American people.

Now, at the end of World War II, in the freight business the U.S. air transport system had no airfreight segment at all and rates for the transportation of property averaged approximately 60 cents per ton-mile. Again it was the new carriers that brought these rates down to levels of around 18 to 20 cents a ton-mile and these rates will be cut further in the near future.

I have cited in here, in case anybody wants to challenge that this is the way airfreight started, the airfreight renewal case which sets it out I think very clearly.

The Board again, and I think Mr. Boyd emphasized this yesterday, found in the *Commercial Charter Exchange* case that it was the "nonskeds" who had pioneered and developed the commercial charter market, the $10-million market we just talked about.

In the July 1960 issue of Reader's Digest, an article entitled "How To Fly to Europe for Less," contains the following quote:

> The supplemental airlines are responsible for much of the present zooming charter business. In 1955 when the Civil Aeronautics Board permitted them to begin transatlantic charter operations, only 18 charter groups flew to Europe. Today at least 1 of every 12 of the million plus U.S. tourists to Europe goes by chartered plane.

Along with the aircoach, the air freight, and the commercial charter market, it was the supplementals which pioneered the military contract business along with the former supplementals, such as Seaboard & Western, Flying Tigers, Slick, Taxico, Resort, and Trans Caribbean.

The percentage of dollar participation by carriers in the MATS airlift procurement, who were at one time supplementals, for the 4 years 1955, 1956, 1957, and 1958—involved is 89 percent of the total.

Again that was an open competitive market. That is why we had that percent. They put it up like a tobacco auction and the fellow who bid the cheapest got the market and the Government saved money.

Since that time it is not competitive money.

Now, the pioneering of supplementals and the apathy of old-line route carriers to military contract business was even more pronounced in the field of domestic passenger-military group transportation where the supplementals have carried more than three-fourths of the domestic military groups (CAMS) since 1951 transferring these soldier boys.

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In that market the supplementals have carried more since 1951. Again this is open bidding just like a tobacco auction.

The supplementals or former supplementals have historically been the carriers servicing the Logair freight contract for the Air Force and the Quicktrans freight contract for the Navy for almost 10 years, which again was competitive bidding. They now are going to put floors on all of that so that that will bring in the noncompetitive people.

Just a word on the background of the availability of these carriers for defense. As all of you recall in 1948 in the Berlin airlift we represented only 5 percent of the Nation's civilian air transport but we moved approximately 25 percent of the passengers and 57 percent of the cargo tons carried by the commercial airlines in that strategic operation.

In 1950, the supplementals supported the Korean airlift by supplying over half the commercial capability called for by the military. Overseas National Airways, a supplemental, charged the Government $1.17 per mile for DC–4 aircraft in the Korean lift while Pan American was charging $1.60 per mile, United was charging $1.70 per mile, and Northwest was charging $1.75 per mile, all for DC–4 aircraft and the largest loads were carried by ONA.

The supplementals flew the first planes to Vienna in 1956 to airlift the Hungarian refugees out of Europe. The Arctic DEW line was supplied in substantial part by supplementals. In the Lebanon crisis, our carriers were to offer in response to an emergency phone call from the military 38 four-engine aircraft within 4 hours.

I will not read what the Board and the defense people have said. I think Mr. Boyd said some of it yesterday, that we were indispensable as a reserve fleet for national emergencies. So much for the pioneering of the supplementals which has created new pools of traffic for the route carriers and which has served as a yardstick to measure the claims of public service and national utility of the big carriers.

If I may, I would like to get to the Moulder bill and the Board bill.

In discussing the Moulder bill we are not interested in any of the technicalities brought up as to whether it does this or the other. We are only interested in the three advancements set in there: No. 1, to clarify the concept of charter by defining it as planeload hiring of aircraft; No. 2, they carry the suggestion of giving a first refusal to the charter business to supplementals; and, No. 3, they carry the request for 190 trips which equates to 16 per month. For the rest we are not concerned and do not understand any of the other technicalities.

Mr. WILLIAMS. Will you repeat that point?

Mr. BURWELL. The so-called Moulder bill, H.R. 7512, defines a charter. It says, as I recall it, that the supplementals will have unlimited charter rights and the charter is defined as the planeload hiring of an aircraft.

Mr. WILLIAMS. The planeload hiring?

Mr. BURWELL. Well, as I understand, Mr. Chairman, it is basically the common law definition of charter if you hire a bus for a load or you hire a ship.

Mr. WILLIAMS. I just did not understand it when you gave it the first time.

Mr. BURWELL. I am sorry.

Now, if I could go to the first one on this, clarifying this charter concept which is very important to us, Mr. Chairman, as I am sure you appreciate, if our field is to be charter then the question of what charter is is the all-important question.

If the Board says, "What you thought was a charter is not a charter and you have to carry a load according to these little rules," we do not have any market.

Mr. FRIEDEL. Would you give an example of that as to whether it is a charter or not a charter?

Mr. BURWELL. Mr. Friedel, I can read you about two pages. Let me just take one actual charter and tell you what happened to the people and what happened to us in trying to get the authority from the Board to take them. This is at page 11 and page 12.

In the international field, they ask either the Air Charter Exchange or a carrier if they can take a charter. The charterer is told that he must charter and pay for the entire aircraft and must qualify as a bona fide group—and this is our problem, the question of bona fide group—within the rules and regulations of the CAB. In practically all instances the charterer does not even know that the CAB is in existence. He does not know anything about its rules and regulations. Thus an extensive indoctrination is begun by the carrier by letter, phone, and personal conference, to acquaint the charterer, who is just some guy heading a group which wants to go to Europe, with all of the obligations they have to confirm in order to qualify with the Board for this.

The carrier's foremost interest is to constantly keep the charterer from giving up the effort because of the sheer weight of paperwork and various assurances, sworn statements, explanations, and so forth necessary prior to obtaining the official Board order approving the proposed flight.

Many times a qualified group does not know of its approval or disapproval until just hours before flight time.

Can you imagine the uncertainty this causes a group of 90 to 100 people?

One such group serves as an example of the trials and tribulations confronting both carrier and prospective charterer and the following chronological résumé fairly sets forth an average procedure which may or may not result in the award of an exemption from the CAB to perform the flight.

A winter sports club desired charter transportation aboard a supplemental airliner. Its membership comprised some 300 to 400 persons who had formed the club several years previous to develop a seasonal program of recreational activities, including the winter sport of skiing. The group, upon learning of the supplemental carriers' economical rates for international charter transportation, contacted a supplemental carrier for the purpose of chartering an aircraft for 75 of its members to fly to Germany for a holiday of winter sports.

After several days of questioning and indoctrination, the carrier was successful in completing with the charterer a detailed questionnaire to be filed after verification and mimeographing with the Civil Aeronautics Board in a formal application for an exemption to carry this with 20 copies for administrative purposes. Prior to filing of the

formal application by the carrier, the necessary charter agreement between the airline and the club was submitted to the Board for preliminary perusal—all according to the rules and regulations surrounding international charter transportation. Shortly after filing the application, the CAB advised the carrier that additional information would be needed; that is, a complete and current membership list of the club, together with advice that all persons to go on the charter must have been members of the club for at least 6 months, and an explanation of the detailed cost accounting of funds as set forth in the application and supplied by the group. At this point, a major scheduled trunk airline filed a formal protest to the eligibility of the charter flight, several pages in length, alleging among other things that it needed an extension of the Board's procedural time in which to file a further answer to the supplemental carrier's application.

This is all for just one trip.

The CAB then required a résumé of technical flight stops which would be made—thus necessitating a letter from the carrier to the Board endeavoring to answer the several questions raised. Meanwhile, the carrier's attorneys, in order to protect the airline's interest, were compelled to file a formal mimeographed reply to the CAB of some five pages in length in answer to the flag carrier's opposition. Flight time was now approaching and the charterer had no way of knowing whether its trip would be flown or not. A few days later, in order to make its application before the Board more precise, the carrier filed an amendment to the formal application setting forth an increase of two persons in the charter group, together with other insignificant data. Subsequently, the flag carrier opposing the charter filed a six-page formal document before the Board in further pursuit of its efforts to prevent the flight from moving on the supplemental airline. This filing compelled attorneys for the carrier to file a four-page answer—all mimeographed and prepared in accordance with the Board's formal requirements. Notwithstanding the foregoing, the correspondence, telegrams, telephone calls, and personal conferences between the chartering group, the carrier, and the attorneys for both the chartering group and the carrier, consumed an inestimable amount of time, effort, and expense to all concerned.

Finally, just hours prior to the takeoff time, the CAB issued an order granting the application and allowing the group to move. At no time prior to issuance of the official Board order was the group assured that it would or would not move.

Four days subsequent to departure of the charter flight the flag carrier which had opposed the charter in the first place proceeded to file a formal mimeographed document with the CAB objecting further to the Board's earlier approval. This filing necessitated counsel for the carrier to file a reply—also mimeographed and constituting a page and a half. Some 30 days after the Board approval of the charter, attorneys for the carrier were compelled to further satisfy the CAB by correspondence explaining other minor deficiencies in the performance of the flight and finally, a month and a half after the Board granted the exemption for the flight, the Board issued another formal order refereeing the controversy between the supplemental carrier and the flag line by finding in favor of the

supplemental carrier. Without question, this club will never endeavor to charter another airplane.

I will not go any further, Mr. Chairman. I think the fact that all this bores you to listen to, this laborious detail, might get across the point that every time we have a charter flight we and all of our attorneys have to go through this redtape and the result is that by this, instead of generating a market which helps the industry as a whole, you shoo people away and a guy says, "Why start a vacation by doing nothing but talking to lawyers and filling out sworn statements" whereas you will see and we have attached it here if you make a misstatement it subjects you to up to $2,000 fine or 3 years in prison. So that, that group is not going anywhere.

Mr. WILLIAMS. You mean to tell me that if a group of friends and I who composed no club or anything should decide to get together and go to Europe and we applied to an airline, try to negotiate a charter flight with them, that they would have to go through this procedure before they could carry us?

Mr. BURWELL. You would have to go through this and the other half which I did not read out of deference to your feelings and the other half is just as bad as that that you heard.

Mr. WILLIAMS. Does this apply on trunklines or charter flights? Does that apply on domestic flights?

Mr. BURWELL. No, sir. It is not that bad. It is the same concept but it is not enforced quite so rigidly.

Mr. WILLIAMS. Let us assume for a minute that this committee wanted to go on a trip to Kansas City or somewhere and we contacted one of these supplemental carriers. Would that supplemental carrier then have to go before the Board and get a permit to make that flight?

Mr. BURWELL. In foreign transportation, yes, sir.

Mr. WILLIAMS. In domestic transportation, no?

Mr. BURWELL. In domestic transportation, no.

Mr. YATES. You would not but there could not be any person on the flight who was not a member of the committee, you see.

Mr. WILLIAMS. Who was not a member of the committee or staff?

Mr. YATES. That is right.

Mr. WILLIAMS. Let us assume that a group of us want to go to a football game, just a group of football fans want to get together and charter a plane and go to a football game. Do you mean we are precluded from doing that?

Mr. YATES. Yes, sir.

Mr. BURWELL. That is what we want to clarify. We have just a constant argument.

Mr. WILLIAMS. I have known of cases where groups did charter a plane and go to a football game. They were using a trunk carrier or maybe a local service carrier but they did not seem to have any difficulty.

Mr. BURWELL. Mr. Chairman, I think you heard the Chairman of the Board yesterday use the delightful word "homogeneity" is required. As applied in the foreign field for a minute, as I understand it, first you must belong to a club which has been in existence more than 6 months. Secondly, the membership of that club or group cannot exceed an arbitrary figure. I think it is 20,000 people. That

is why they turned down the British Bar Association. It seems to me there is enough homogeneity as they call it of belonging to the British Bar Association but they said, "Because it is more than 20,000 people it is not a group."

Mr. WILLIAMS. Is that in the basic law or does that result from regulations?

Mr. BURWELL. It is not, sir. That is our problem. The basic law at present says that, if you have a certificate you may operate charters or special services according to regulations promulgated by the Board.

Now, the concept of charter we are discussing here now is more narrow than the common law definition of charter. It is more narrow than the ICC definition and practice in charters of businesses. It is more narrow than the Maritime Commission's chartering of boats and it is more narrow than the European countries or most of them follow.

Now, I would like to take just a minute, in view of what Mr. Boyd said yesterday, to tell you why it is more narrow. The International Air Transport Association which we all know, the Board characterized as an all-embracing international cartel. In other words, they fix prices set away from the operation of the American antitrust laws. I understand that the Department of Justice has never approved it but, be that as it may, that is IATA. IATA obviously wants to shoo everybody through their turnstiles on individual tickets. Their present minimum fares across the Atlantic on individual tickets on jets are 7.1 cents a mile for this summer. On piston engine it is either 6.5 or 6.3 cents. Whatever, it is quite high. They do not want charters because charters tend to threaten those rates so that they made up the definition of charter about bona fide groups that we are talking about and try to make you look for a needle in the haystack or you cannot carry a charter.

The only quarrel I have with the Civil Aeronautics Board on this is that the Civil Aeronautics Board swallowed and adopted this definition of IATA's hook, line, and sinker, and the Chairman of the Board yesterday said that they adopted it from IATA.

Now, what has happened then is that the Civil Aeronautics Board, an arm of our Government, is running a big police agency for people like us to conform to a charter definition that has been narrowed by our opposition, namely, IATA, so that it is just as simple as that.

Now, my complaint is that I do not think they ought to tamper with the concept of a charter, as in all other industries, unless there is some logical Government policy reason for doing so, and I resent the fact that they adopt something that our enemy has conceived of to put us out of business and to stifle this market.

I do not know enough to be wise about our little segment of the industry and I am not going to get on the big industry but I do say one thing wrong with the big industry is this protectionism and this idea of regarding the public as a prisoner rather than a customer. That is IATA's philosophy, make the public a prisoner.

If he does not go at our rates of 7.1 cents a mile, let him stay in England. We do not care about the tourist effort to get people to America. He either pays the price or does not go and we do not want any competition or foolishness about it.

That is all right. It is a cartel openly and a cartel acts that way, but I do not think our Civil Aeronautics Board ought to permit them

to follow their little charter definition and say, "That is why I have it here" because if that is the policy let us know. Then we have not got a charter business because if we are smart enough to get some this way IATA will make up an even narrower definition and, if our Board is going to follow that, we might as well face up to going out of business now if we are going to be controlled by IATA. That is why I am really worked up over this.

To complete this I want to say one other thing and give you an example of how picayune these things are.

There is a carrier present that is going to testify after me that told me this. They turned down one of his charters on a temperance union because one of the flag carriers saw and reported that one member of this group of 70 or 100 took a drink somewhere. Now, if that is not ridiculous in a busy world where everybody is trying to make a living. I do not know whether the flag carrier had a guy offer him a drink or what, but I think the Federal Government has too many problems to canvass 80 people in a temperance union to see whether any one took a drink or not. But that spoiled the club and he lost the charter and the 80 who do not drink lost the trip because one backslider took a drink. I am not trying to be funny. This is the extreme to which this thing goes. It would delight some medieval logician or some pettifogging lawyer to go through these rules and I have attached them at the end and I am a lawyer and supposed to know better but I can read it four times and I still do not understand it.

That is what the American public have to read and understand and swear to and run the risk of being put in prison up to 5 years if they make a misstep. How can you generate business that way?

I am told that the FBI had been called in on a couple of these. That is what we are complaining about, Mr. Chairman. We want a definition of charter. Whatever else you give us, give us a definition of charter in the act and let the courts determine what charter is.

I think it is perfectly obvious to you that, if you go to a banker and try to borrow money and say, "We have a fine thing here. We have unlimited charter rights," the banker says, "Let my lawyer look at it." He picks up this transatlantic charter policy and questionnaire. He says, "You do not have anything. By regulation they can turn you off tomorrow. Besides, how many people are going to jump all these hooks to get a charter?" He is not going to lend you money and I do not blame him. I do not think you would either when you see that anybody can take a market which you split and if, for some reason, they do not like it, they make it that big in one day. What kind of environment is that to put millions of dollars into equipment and hire people and stake your capital? That is our first thing that we want you to earnestly consider in the Moulder bill.

There is only one thing else about it. I know that all of you are concerned about the new tourism pitch. I will not get over that.

I did testify there but I would like to go on record right now as stating that that bill will fail in its purpose if everybody is driven through the IATA turnstiles at 7.1 cents a mile. I do not think that this Government can reach IATA legally and I think the only thing it can do is give it a little competition in the charter field; and, as soon as you do, they will do more charters and get the IATA rates down and the Englishman and German who wants to see this country—and

has not enough money to do so and has not enough time to come by boat if he works—will have a chance to come here and the fine purpose of that bill will be realized. I do not think it matters whether you appropriate $3 million or $5 million or $10 million if you have an iron curtain across the Atlantic and across the oceans with these high fares. Maybe they are related to the carrier's costs. That is not the point. The point is that it has to be within the means of the public. If it is within the means of the public they will come and if it is not they will not and they could not care less about what American airlines' costs are. That is the American airlines' business.

Mr. FRIEDEL. Mr. Burwell, could you tell us for the record how many charter flights the supplemental carriers had overseas last year?

Mr. BURWELL. Mr. Friedel, as I say, I am glad you asked me that because I want to show in just a half minute what the fruits of this narrow policy are. Namely, they are giving the business not to Pan American and TWA, and I can understand the concern of the Congress in protecting to some extent our flag carriers; but the fruits of this policy is to turn over the charter business to the foreign-flag carriers.

Now, on page 19 we have the exact figures from the Board's records. These are pro rata charters between United States and Europe between April and September which is the busy season.

In 1959, the U.S.-flag route carriers—this is across the Atlantic so we are talking about Pan American and TWA—took 213 charters. The foreign air carriers took 281. They lumped the all-cargo and supplementals together and we took 265 for a total of 759.

In 1960, Pan American and TWA took only 287 for a slight increase. The all-cargo and supplementals lost about 20 or 30 but the foreign air carriers increased over 400 percent in 1 year and took 1,018 charters in 1 year for a total of 1,531. In other words, they took more than twice as many as the American carriers, including us, took.

Now, how does that cure the gold flow and how does that promote tourism and how does that create an image abroad of being able to provide economical transportation?

Mr. FRIEDEL. Mr. Burwell, my question was, How many of the supplemental air carriers went overseas on charter flights?

Mr. BURWELL. How many in point of numbers of carriers, or how many flights?

Mr. FRIEDEL. How many flights, all-cargo and supplemental airlines?

Mr. BURWELL. I will try to get you those figures because they lumped us together with Flying Tiger, Seaboard & Western, and perhaps Slick who were supplementals in the past but are not now.

Mr. FRIEDEL. Can you explain why the foreign air carriers increased 400 percent as you said and the domestic airlines or supplemental air carriers decreased?

Mr. BURWELL. I think one of the reasons, Mr. Friedel, is that the Board has put the harness on us under the illusion that we are competing with Pan American and TWA. They have put the muzzle on us so that we cannot compete with KLM and Swissair.

Mr. FRIEDEL. Evidently they made it very strict on the American carriers, the flagships as you call them. In 1960 they had 287 and the foreign air carriers had 1,018. I am not speaking of the sup-

plemental. I am talking about Pan American and TWA. Why are they held down?

Mr. BURWELL. I do not believe they want them. They want people to go through the IATA turnstiles just like going to the ball game.

Mr. FRIEDEL. Who does not want them, the airlines or the CAB?

Mr. BURWELL. I do not think Pan American and TWA really want the charter business. I mean they do not have to go through a lot of red tape and you can see they only increased 50 to 60 between 1959 and 1960.

At the same time the foreign people were increasing 400 percent.

Now, these foreigners, and I understand that under treaties you have to treat them right but I do not see why we have to promote their business and muzzle people like us.

We ran into situation after situation where the dependents of military people abroad were chartering not American carriers but Swissair or KLM and I do not blame them. I would, too, to get a better rate but they will not let us carry them.

Mr. FRIEDEL. Who is this, the CAB?

Mr. BURWELL. The CAB.

Mr. FRIEDEL. They fixed a rate?

Mr. BURWELL. The problem is that we get back to this concept of what is and what is not bona fide and as the Chairman used the word "homogeneity." That means that you have to belong to a club and, if it is just a social club, that is no good. It has to be dedicated to some metaphysical purpose that has nothing in the world to do with travel. If there is any possibility that you got into the club and thought you might some day want to take a trip, then you are guilty as a snake. You have to pay dues. They go back to see that your dues are current. If they went back to see whether my dues are current in clubs I could never get on a trip.

Mr. FRIEDEL. And foreign air carriers do not have to go through that?

Mr. BURWELL. I will let Mr. Yates explain that. He has just been through several of these charters. Do the foreign carriers go through this?

Mr. YATES. They have to apply for an exemption to perform this type of flight and they have to also adhere to the provisions of the homogeneity.

Mr. FRIEDEL. Do the same rules apply to the foreign air carriers as to the U.S. air carriers?

Mr. YATES. I think they apply but in our experience they have not been applied as stringently. We have seen foreign air carriers take groups that we do not believe we could have qualified to take. We have seen them take groups that the CAB has turned down in the past by merely going to Canada and taking them out of Canada, by busing them up and things of that nature. I cannot answer your question further than that because I have not made any particular study on that.

Mr. FRIEDEL. I would like to pursue that.

Mr. SPRINGER. Would the gentleman yield?

Mr. FRIEDEL. Yes.

Mr. SPRINGER. Then I take it that your objection is that the CAB is discriminating against you and I use the word "discriminating" on purpose.

Mr. YATES. No, we are not taking that position.

Mr. SPRINGER. Are you not saying that, in not applying the same rules to foreign air carriers that they apply to you, you are not able to put yourself through?

Mr. YATES. No. 1, we are not here to compete with the foreign air carriers. We do not like the restrictions for them or for us either.

Mr. SPRINGER. That is a different distinction. If you are making it to that extent, that is different. I understood from what you said that they were applying a different rule to you than they were applying to foreign charters.

Just incidentally, are you saying that you cannot carry military personnel in competition with Swissair?

Mr. YATES. Yes, we can on charters.

Mr. BURWELL. Then I stand corrected on that, Mr. Springer.

Mr. SPRINGER. Thank you.

Mr. FRIEDEL. Who enforces these rules?

Mr. BURWELL. The Civil Aeronautics Board enforces them.

Mr. FRIEDEL. Have you complained to them about the foreign carriers?

Mr. BURWELL. We complain constantly.

Mr. FRIEDEL. About the foreign carriers?

Mr. BURWELL. Yes, sir.

Mr. FRIEDEL. What is the result?

Mr. BURWELL. The result thus far has been nothing. It is true that in this general area, as Mr. Boyd, the Chairman, said yesterday, they have put down for hearing what they call a hearing on a blanket exemption which would not of itself change the bona fide rules we are talking about, but would propose to substitute instead of having to go to the Board for every one charter an exemption over a period of time.

I agree with Mr. Springer. I do not think we want to take the position or could sustain the fact that we have been discriminated against.

The point I make is that, since they have unlimited ticketing authority, we do not want the charter field constricted to a point where there is not any field there.

Now, subject to a couple of remarks I want to make on the first refusal thing, we think the same rules ought to apply to everybody but, since our only basic market we are talking about now is charter, if you can turn it on and off like you can a water spigot, you cannot get any financing and you cannot in a sensible way pin any hopes on that kind of market to develop.

Mr. FRIEDEL (presiding). If they were to define the "charter service" as you say, would it interfere with the regularly scheduled airlines flying overseas? Let us say, for instance, Friday is a good day or Saturday is a good day to go overseas and you get a charter flight and according to the definition you could just go. Would that interfere with the regularly scheduled airlines?

Mr. BURWELL. Mr. Friedel, I am sure they would say it would. I do not think it would myself but certainly they could scream that it would because they take the position that any one who carries any way whether by bus or train or boat or in his automobile is a passenger that ought to be shooed into the airline system.

Mr. FRIEDEL. Mr. Springer brought out a question yesterday that, in talking about domestic from New York to Miami, the nonscheduled or supplemental airlines would go on Fridays and Saturdays and Sundays in the peak but on Monday and Tuesday and Wednesday and Thursday the regular scheduled airlines would go half loaded and they had to run their daily schedule. Will that not interfere with the regular scheduled airlines? That is the point that I am trying to pursue.

Try to explain to us where it will not affect them. I am very selfish about this. I have been fighting for years now to keep Friendship Airport alive. We will spend over $200 million for Chantilly and I think they have it down the gutter because we have Friendship, one of the best airfields in the United States. I am fearful that they might take the regular scheduled airlines and send them to Chantilly. I do not want them disrupted by allowing the supplemental carriers to take their peakloads and just running out of Friendship. That is where I am selfish about my view.

Mr. BURWELL. Yes, sir.

Mr. FRIEDEL. Explain whether it will or will not hurt the scheduled airlines.

Mr. BURWELL. Well, Mr. Friedel, maybe I could explain it this way. I have it a little later in my statement. But while you are on the point, on the 10-trip authority, for instance, when those certificates are given us or when they gave us an exemption in 1955 to operate 10 trips, they put a provision in there that if any of the big airlines were injured by the 10 trips use of it they could apply to the Board to have a reduction.

You see, the Board did not guarantee us 10 trips. It put the proviso in that, if a big airline was hurt, they could come to apply for a reduction. They invited them to, but, as far as I know, none of them has ever applied for a reduction. Every time we have a hearing they will holler about this thing but they have never applied for a reduction.

I hope you will ask them about that because I have not known them to ask for a reduction. Just as a matter of commonsense, I think it shows that they have not been hurt. I think the figures we showed you this morning showed the magnitude. I think we are arguing about less than a quarter of a percent of the revenues. That is the magnitude of the problem. I wish I were wise enough to answer your question categorically but I think I can answer how big a target we are talking about and I think that they ought to be required to explain why, if this has bled them white over these years and why if this is related to their present plight, and we admit they are sick, if it is related to it why did they not apply to the Board and have it reduced; and they did not according to my information. If there is an exemption, some obscure exemption to it, I would like to have them say so.

Mr. FRIEDEL. I intend to pursue that a little further.

Mr. BURWELL. All right, sir.

Mr. FRIEDEL. You may proceed, sir.

Mr. BURWELL. Thank you, sir. I am through with the charter definition thing which we consider essential, for the simple reason that, if we are going to have a business we would like to know what

it is. To get to the charter-refusal thing, and I gather that that was not received too popularly, our position is very simple. For 15 years we have screamed that the airline industry needs some competition and we still scream that way and we do not ask for any protectionism. We basically want the right to do a little competing, feeling that competition is good even in the airline industry. But after 15 years we are getting fairly skeptical about any competition ever being allowed so that, if it is going to be a protectionist system, we would like to put in a request for just a little bit of protection.

Now, if the Congress can see its way clear to unleashing us a little bit and letting us compete in a very narrow area that will keep the big airlines honest without hurting them, then we do not want any first-refusal thing. We are willing to take them on in the charter field.

But, on the other hand, if we are criminals because we talk about a little competition keeping people honest and there is going to be protectionism, then I think we ought to have a little protectionism. That is our whole case on the first-refusal deal.

There are a couple of practical little things that I can mention there like the fact that big carriers get in and out of the charter field and kind of churn it up in a sporadic and unpredictable way and they do so because it is so inconsequential to their major functions that it is a minor byproduct and you can see from the figures in the back on this exhibit on charter revenues that they oscillate a good deal. If they have some piston aircraft waiting sale, they say, "Throw it in the charter business." If they sell it they are out. So that, it would help us to have first refusal but our basic positon is, if you give us some competitive rights, we do not want protection; but, if you are not going to give us any, we are asking for protection.

Mr. FRIEDEL. Are you going to be much longer? We have some members who would like to ask questions of you.

Mr. BURWELL. Five minutes; if I may.

Mr. FRIEDEL. You may proceed.

Mr. BURWELL. I will not go into the trip authority in any detail because I can see that the committee wants to go on, but I do want to point out in the statement that we have made a study of the price structure existing in this and that, if you take for intsance Transcontinental, let us take American Airlines' best piston engine coach equipment. It takes over 19 hours and makes either 9 or 11 stops across there. Now the jet fare across there, jet coach is aproximately $50 more than the supplementals are charging across the country. If you take your wife, that is $100 and that is a lot of money. This is both coach, jet coach versus supplemental piston engine coach.

I would like to read just one paragraph or two out of Mr. Friedlander's article, the travel editor of the New York Times, on competition. This is at page 32. He says that there is really no price competition at all and that the airlines' reply to this is that they are competing in the area of personal service and, to begin quoting the article on page 32, the third paragraph:

> The airlines reply that their competition comes in the personal service they give at the air terminals and at their reservation offices and in the food and beverages and the cabin service aloft.

Mr. HEMPHILL. May I interrupt at that point?

Mr. BURWELL. Yes, Mr. Hemphill.

Mr. HEMPHILL. Some time ago I had a situation where I had one flight back to Washington and I was told that there was a lack of equipment and I would have to wait for an hour and a half. A businessman got on and he had had the same experience except he had had it on other occasions.

Now, when you start talking about competition in service and you know that an airline has canceled some equipment because it can load up on the next flight and make it pay, I do not think that is giving service.

I want to know if you are familiar with that practice.

Mr. BURWELL. Well, Mr. Hemphill, I agree with you. I do not think there is any price competition and on many occasions I think service competition is rather poor and, since I am so partisan about it, I wanted to just read what the travel editor of the New York Times says that may not specifically get to your point but I think does pretty well.

Mr. HEMPHILL. I am thinking about the public. If some airline has practically a monoply in a particular area and has all these rights to run these different flights in and out, you count on the flight and the weather is all right, but for some reason or other they just cancel flat in your face and you know it is just because the flight does not pay, but they will not admit it, of course, what is the answer to that?

Mr. BURWELL. Mr. Hemphill, I think the answer is to put in different type people like us that want the business and do not listen to vice presidents about whether the traffic is there and a lot of Harvard studies but go out to the people themselves and regard what they want as controlling like any other business.

Mr. HEMPHILL. But you were not there because it was not a peak day.

Mr. BURWELL. Well, that is certainly true. We fly sometimes other than peak days but we try to fly on peak days and do not apologize for it because we want the plane there at the time the most people want to go. We regard that rather than being evil as trying to follow the law of supply and demand.

Mr. HEMPHILL. Thank you, Mr. Chairman. Forgive me for interrupting. I am just interested in that because I have witnessed it once or twice and I am afraid I am going to witness it again.

Mr. BURWELL. I am afraid you will, too, sir. To continue just one paragraph from Mr. Friedlander and then I will try to wind up:

> The airlines reply that their competition comes in the personal service they give at the air terminals and at their reservation offices and in the food and beverages and the cabin service aloft.
>
> Here also, it takes a highly perceptive passenger to tell whether he has been waiting impatiently on a telephone ringing in one airline reservation office or another, whether he has been bumped off a flight because of overbooking by one airline or its competitor, whether the domestic champagne the stewardess offers him is bubblier in one plane than another and whether his weight allowance (forty pounds on domestic coach and first-class flights) is more inadequate on one plane than on another.
>
> He certainly finds no airline fighting competitively for his trade by offering him free stopover privileges, such as are available on foreign routes. European airlines advertise that, for the price of a ticket between New York and, say, Amsterdam, Copenhagen or Rome, the traveler may visit a half-dozen major cities in between.

In this country it costs the passenger money to make a stopover; not much money, perhaps, but the principle seems to be violated at the expense of the traveler. A New York-Los Angeles ticket today on a nonjet airplane costs $166.25 in first-class. To include a stopover in Chicago today the passenger pays $47.95 New York-Chicago, and $120.35 for a Chicago-Los Angeles ticket. The difference between $168.30 and $166.25 is $2.05. In a coach it costs an extra $12.15 for the stopover. These annoying charges are hard to explain, since they involve none of the additional miles of flying a stopover in Paris entails on a New York-Amsterdam ticket.

It is a fair question, one worthy of prompt study, whether both the industry and airline passengers might not be served better if there were fewer airlines operating opposing services over the same route. There could be no less true competition than there is now. There might even be more if the CAB then kept a close eye on the kinds of service being offered and compelled the airlines to live up to the responsibility inherent in their Government-awarded franchises.

That is the view of Mr. Friedlander, the New York Times travel editor.

To conclude, Mr. Chairman, I go back to the fact that this whole argument in our view about a possible exposure of the diversion of less than three-fourths of 1 percent of the domestic revenues of the trunk carriers. We do not think that anybody could assert seriously that it is because of us. Our industry as you will see from the dollar sheets in the back is in bad condition.

What we are asking here in general terms is for some recognition of the pioneering that everybody except the Air Transport Association agrees we have done, some recognition for serving as a small yardstick and some recognition for being a ready reserve available for national defense—and at the end I want to show you one placard on that—and some recognition in keeping a small flame of free enterprise alive.

Now, our situation is desperate enough. As you can see from the financial figures we cannot temporize about what it is we have to have, and, if you cannot help us, we will go away quietly. But the wise people among our group will quit and all they will take with them as the scars of the 15-year battle to create a little better situation in the air transport industry is a very bitter realization that the day has come when the small cannot oppose the big in the United States.

I thank you.

Now if you could bear with us just a minute, we would like to show you this summary of where we fit in in national defense.

Mr. SPRINGER. You have been an hour and a half. We will have only 30 minutes for questions if you finish in the next 2 minutes. I have lengthy questions.

Mr. BURWELL. I am through, Mr. Springer. We will hold that until we ask questions. I am ready, Mr. Springer.

Mr. WILLIAMS (presiding). Mr. Springer.

Mr. SPRINGER. I am going to ask these questions all in good faith, Mr. Burwell.

Mr. BURWELL. I know you are.

Mr. SPRINGER. This thing is relatively new to me, beginning last year. That was the first time I had an understanding of a supplemental air carrier.

What did you visualize as being the basic need for the continuance of supplemental carriers? What is the reason for them?

Mr. BURWELL. I think the basic need, Mr. Springer, is first the development of the charter market which I think is still early in its development.

Secondly, I do think there is a need for some price competition controlled in impact against the big carriers. Those are the two reasons, sir.

Mr. SPRINGER. Now, in your previous testimony, you talked principally about charter. You have not developed anything in the ticket business yet. I think there is a need in the charter field. I am not sure there is a need in the ticket field.

Mr. BURWELL. Yes, sir.

Mr. SPRINGER. If we are going to ticket trunklines there ought to be a reason for it and that comes, I presume, first because that is the carriage which I would guess 96 percent of the American people use in going from one spot to another.

Mr. BURWELL. I would agree with that, sir.

Mr. SPRINGER. Now, on the charter I am going to concede that there is a need. Yesterday the Chairman of the Board relied to a great extent, in response to my question, on the fact that the military said it was needed. I have to assume that is true. It becomes a question then beyond that how far should this thing be developed. That is the point I am trying to get out. In the charter field I am of the belief that there is a need. What do you think the need is in the ticket field?

Mr. BURWELL. In that connection, and I apologize for being so long, you are exactly right.

Mr. SPRINGER. That is all right. You did a good job of developing your statement.

Mr. BURWELL. I put about 15 or 20 pages in here that I had to skip.

Mr. SPRINGER. I would rather hear from you than hear the 15 pages.

Mr. BURWELL. I think you will see that it maybe boils down to this, sir. I am not picking on the big airlines but we cannot discuss it without discussing them. The jets were heralded as a lower cost operating airplane than piston aircraft. Part of their hard time is accounting how quickly you amortize cost. They have seen fit to raise the fares with a more efficient machine and they have raised them considerably and we have the table of the exact figures in here on chief routes like transcontinental and New York-Miami.

In so doing, I think they are cutting down their market rather than increasing it viewed from the angle of the traveling public, so long as it is kept small enough to be a little bit of a thorn in their flesh but not really enough to hurt them, I just think it is good for them because it will make them extend their services to the poor guy with the paper suitcase who has to take his wife and he just does not have the money to go any other way.

That is why I think it is good. I scream about competition and maybe I am like everybody. It is good until you get it. But I do think that, even in a regulated industry, you have to have just a little competition, pricewise I am talking about, to keep people on their toes. For that reason I think we are good. I would not expect you to cut us loose so that we could really hurt these people.

Mr. SPRINGER. Are you wedded to the theory that there ought to be a limitation on flights by supplemental carriers?

Mr. BURWELL. I certainly am not wedded to it, Mr. Springer.

Mr. SPRINGER. Do you believe that you can have unrestricted flights by supplemental carriers and still maintain a trunkline system and we will talk about our feeder airlines.

Mr. BURWELL. In all honesty I do not think you could take the limitation off completely. I think if you did we would really hurt them. I have to be honest. I would love for you to do it but I think we would really hurt them.

Mr. SPRINGER. What would be your feeling about limitation of supplemental carriers to flights between particular points or within particular areas which apparently, as a matter of fact, has to be done?

Mr. BURWELL. I would not like it because, in the first place, I think everybody realizes that we cannot compete head-on with the big carriers. If we gave the public the same thing the big carriers do, they are obviously going to fly the big carriers. The only way we can survive economically, aside from what authority you give us, is by giving the public something that the big carriers for some reason do not give them and we which they want. They only relation of that to your question is that we have to move around like a guy backing up a football line and see where the opening is. If you gave us a series of flights between, let us say, Des Moines and Little Rock, Ark., I for one would not be interested in it.

Mr. SPRINGER. Let me ask you this. What percentage of the supplemental ticket-line service is other than long flight? I am not talking about charter. I am talking about ticket now. I am in that field.

Mr. BURWELL. I would agree that what is other than long-line flight, leaving out the recruit runs you brought up yesterday, would be practically negligible. You are right. Most of it is New York to the west coast, Chicago to the west coast, New York to Miami, perhaps Chicago to Miami. There are occasional other ones where for some reason a bottleneck appears, but those are the classic patterns. There is no secret about that; so that, as you say, most of it is longrun stuff.

Mr. SPRINGER. All right. Now, then, conceding that the great majority of your business, either percentagewise or dollarwise, is in the long flight between high density markets, if that is true then have we narrowed this question to limitation on the number of flights? Is that the problem?

Mr. BURWELL. Yes, sir. I think it is.

Mr. SPRINGER. That is the problem as you see it in the ticket field. I am not talking about charter. I am talking about the ticket field.

Mr. BURWELL. Yes, sir.

Mr. SPRINGER. If legislation came up which limited you to charter flights only, could you survive?

Mr. BURWELL. I do not think so.

Mr. SPRINGER. You are not sure about that?

Mr. BURWELL. Well, I will retract that. I know we cannot because we are losing money now.

Mr. SPRINGER. Let me ask you this. Taking it all now, "charter" plus "tickets," both, dividing that into two categories, "charter" plus "tickets," what percent of the total supplemental carrier, percentagewise, is in each of those categories?

Let us just take charter first. You have 100 percent. How much of your dollarwise figure is in charter?

Mr. BURWELL. I can only give a guess, Mr. Springer.

Mr. SPRINGER. You do not have any accurate figures?

Mr. BURWELL. I do not at the moment. I can tell you why. The Board has not required this breakdown. It would require a fairly elaborate survey of our whole industry to get their figures and break it down.

Mr. SPRINGER. Do you not think that is awfully important, Mr. Burwell, for this committee to have?

Mr. BURWELL. It is, sir, and I tried to get it.

Mr. SPRINGER. I would rather not have a guess because that could be most anything.

Mr. BURWELL. I agree with you.

Mr. SPRINGER. To the best of your information, could you supply this committee with two figures: first of all, the percentage breakdown between charter and ticket service. Then could you supply us with the dollars roughly that are in this of the total? We will say, if it is $100 million, then how many dollars are in the charter service and how many dollars are in the ticket business? Can you do that?

Mr. BURWELL. May I ask an economist we have here whether we can get it? I agree with you that it is essential. We did try to get it. I do not want to tell you we can get it if we cannot.

Mr. Springer, he tells me, first, that we cannot get it on Board figures. There are none there on Civil Aeronautics Board or Government figures. The only way I could get it is to try to survey our members and get member figures and I will be glad to do so if you want me to. It will take some time, I am sure.

Mr. SPRINGER. I think before we consider legislation we certainly ought to have those figures before us to know which of these categories is predominant.

There is a second thing. There are how many supplemental carriers now roughly? I am talking about operating. I am not talking about certificates not being used.

Mr. BURWELL. You want those presently operating?

Mr. SPRINGER. Yes, how many do you have operating at the present time?

Mr. BURWELL. Mr. Springer, I may be 1 or 2 off depending on the definition of operating, but our guess is 18.

Mr. SPRINGER. Out of that 18 are there 6 or 7 or 8 or 9 that do 80 or 90 percent of the business? I understand there are some big ones that do most of the business and I want to know if that is correct.

Mr. BURWELL. If you lump in the military revenues, that is correct.

Mr. SPRINGER. Out of that 8 or 9 or 10, whatever it is, how many are in strictly the charter business?

Mr. BURWELL. Of the eight or nine large ones you are talking about, how many are almost exclusively in the charter business?

Mr. SPRINGER. Exclusively. They do not have to be totally but almost exclusively in the charter business.

Mr. BURWELL. I will say maybe three or four, subject to this restriction, Mr. Springer: You began to inquire yesterday about recruit ones from New Washington to San Antonio. That is individually

ticketed. I think virtually all of them are in and out of that at one time or another. Southbound that is confined to Air Force recruits.

Mr. SPRINGER. But is this in effect a charter?

Mr. BURWELL. Well, legally speaking, it is individually ticketed.

Mr. SPRINGER. But it is in effect a charter system. You actually fly that plane?

Mr. BURWELL. The Board regards it as individually ticketed. We have individually ticketed tariffs, and so on, but it is a special flight for Air Force recruits.

Mr. SPRINGER. Then I take it, if there are eight or nine, that you have four or five that are in the ticket business along with charter?

Mr. BURWELL. Yes, sir, with the qualification that some of the others are in it in a minor way.

Mr. SPRINGER. I see. You have 4 or 5 out of your 8, 9, or 10 that are presently in the ticket business?

Mr. BURWELL. If it would help, maybe I could name off some.

Mr. SPRINGER. I do not need the names. I am just trying to find out. Of course, if you get this revenue before me on ticket and charter that will tell a lot more; but this four or five that are in the ticket business are the ones who are principally interested in the ticket business. Is that essentially right?

Mr. BURWELL. They are interested in two different ways, Mr. Springer. All of them are interested in it because they have to do a little of it to supplement. The four, five, or six, the five or six we are talking about now, whatever figure is accurate, are interested in it primarily.

Mr. SPRINGER. Let us get to that point. We have to pin it down to these four or five. Those are the four or five lines that, for their sources of revenue, principally depend upon ticket, is that right?

Mr. BURWELL. Yes, sir.

Mr. SPRINGER. Do you have any idea what portion of the revenue of these four or five is divided between ticket and charter?

Mr. BURWELL. Well, roughly, Mr. Yates who is very familiar with it says 60 to 70 percent would be ticketed revenue on the group we are talking about who are primarily interested in ticketed stuff.

Mr. SPRINGER. Could you make a note of this? I take it these are all large carriers, the larger of the group, is that correct?

Mr. YATES. Their size fluctuates.

Mr. SPRINGER. Now, can you give to this committee somewhere in this record—and I wish you would send a copy to all the members of the subcommittee, please, and you might give each of those lines individually—what percentage of their business, and also what dollar-wise, is divided between charter and ticket?

Mr. BURWELL. We will try to do this but it would be simpler knowing the accounting, if it would serve your purpose as well, to confine it to the civilian rather than military business.

Mr. SPRINGER. If you want to I would rather have the civilian and military separate if you can give it to us this way because that is something that we want to look at and something we certainly want to have in mind. If two or three of these lines are principally dependent upon military, we would like to know it.

Mr. BURWELL. All right.

(The information referred to, when received, will be placed in the committee files.)

Mr. SPRINGER. Mr. Chairman, that is all.

Mr. WILLIAMS. Mr. Friedel?

Mr. FRIEDEL. I have no questions.

Mr. WILLIAMS. Mr. Collier?

Mr. COLLIER. Let me preface my questions by saying that no one believes in the free competitive system any more than I do. However, as you know, in dealing with a regulated service such as we are, there are some built-in problems in this matter of competition that you dwelled upon. One of them I believe, is a standard set of ground rules so that competition is conducted in an atmosphere where every one is playing by the same rules. And that leads to my first question, and it is this: Why should there be a double standard of fitness, such as is provided in the legislation before us, in dealing with the air carriers?

Mr. BURWELL. I am not positive I understand what the double standard is that you are referring to, Mr. Collier. I agree. I do not think there should be a double standard in any of this.

Mr. COLLIER. Well, as I recall the language of the bill, it defines the qualification of fitness based upon those things which are peculiar, I believe that is the word to the supplemental carriers.

Mr. BURWELL. Yes, sir.

Mr. COLLIER. I am not so sure that we should not retain the same standards of fitness, willingness, and ability as is required of all operating members of the airline industry.

Mr. BURWELL. I am not sure either, Mr. Collier. I am inclined to agree with you. As I understood the chairman yesterday on this point, he said that, while supplementals had a rather peculiar and smaller market, that they measured their financial resources with reference to that market.

Now, it seems to me that that is precisely what they do in the big industry. For instance, if American Airlines which is a big and very fine operator applies for a route and a much smaller carrier such as perhaps Northeast applies for the same route and it is going to require jets and expanded capital and so on, I would say that that is precisely what the Board does there. After considering the need, they measure the fitness of the carrier financially and experiencewise to fill that need and, if it required big money, my guess is that American Airlines would have the inside track and would have a better case than, say, Northeast. If it is different from that I do not understand it. In other words, I do not think it is a double standard. I think the Board tries to relate the market to the resources and ability of the carrier. I certainly am not for a double standard in any of this.

Mr. COLLIER. Mr. Burwell, what is your feeling on those supplemental carriers that have received certificates but have failed for a sustained period of time to use these certificates for the service that they were granted?

Mr. BURWELL. It is my understanding, Mr. Collier, that perhaps, at least prior to the bill last year that Congress passed, the Board required at least some activity out of these carriers to keep their certificate alive, and I think that some activity should be required of them to keep them alive. I do not know exactly how much activity you

have in mind. We might differ on the degree of it, but I do not think that a certificate should be allowed to lie around indefinitely in somebody's desk for speculative purposes.

Mr. COLLIER. I do not think we will have any trouble agreeing then in one area, and that is this: that there are eight supplemental carriers in fiscal 1960 who did absolutely no gross business in dollars.

Mr. BURWELL. I have not rechecked the list, Mr. Collier. I doubt if it is quite that high but I have not rechecked the list and I would not take issue with you.

Mr. COLLIER. There were, according to what I think to be certainly reasonably accurate figures, four additional carriers who did a gross of less than $10,000 during fiscal 1960.

Mr. BURWELL. Well, again not having checked the list, I cannot comment.

Mr. COLLIER. I think that if we are to assume that the granting of these services for the purpose of these carriers rendering a public service, for I can think of no other reason for granting that certificate, then we have a rather unhealthy situation if this is permitted to persist and if, also, there is no prohibition against the granting of grandfather rights to some of these carriers who have failed to perform a service.

Mr. BURWELL. I don't have any trouble agreeing with that, Mr. Collier, with the one provision so that it may be you don't want to measure them inexorably by a short period. If some of this group of, let's say, over the last 10 years, rendered very important services and maybe, in the confused legal atmosphere confronting them, maybe are using wise business judgment to sit around until the thing is clarified, I don't know that you should penalize the guy unduly for using wise business judgment. Those that have operated have lost. But basically I agree with you that there is on obligation on those people comparable to those that are trying to operate service.

Mr. COLLIER. Do you condone the practice of dormant carriers securing a certificate and then selling the certificate without ever having used or with having used such certificate only to a very, very limited extent?

Mr. BURWELL. Well, again if they have never used it, I do not. I think we all appreciate there that the Board has to approve the transfer and therefore the Board has a whack at this problem, also, but stated as you put it, do I condone certificates that have, in effect, never been usefully operated being used for speculative purposes, the answer is "I do not condone it."

Mr. COLLIER. This line of questioning I might explain, Mr. Burwell, is prompted by the fact that I think that this committee and Congress is faced with the responsibility of enacting legislation that is positive in this area, that is definable in its ground rules so that section after section we are not obliged to come back here and hassle with this problem with the interpretations and the present flexibility of existing law.

I would like, as one member of this committee, to have legislation that would cure this dilemma that we seem to constantly find ourselves in in dealing with the supplemental airlines and their relationship with the air travel business of the regularly scheduled lines.

Mr. BURWELL. In that, Mr. Collier, we see eye to eye. Apart from the many problems that take up your busy time, we have the same

problem with bankers and our own planning and we obviously want you to be generous with us but, among other things, we want you to be clear with us and a man can make up his mind whether he wants to quit the business and forget it or not.

Mr. COLLIER. Would you then agree with me, and this is my final question, that there is some house cleaning to be done within your supplemental industry?

Mr. BURWELL. Well, we are certainly not perfect. The Supreme Court has just come down on one phase of this. I think you can understand that, within the industry, we can't control everything. There are some things that could be improved and in all candor I think there is a great deal that could be improved in the big carriers but we are not discussing them now.

I think there is plenty of room for improvement within our industry. I do think with pardonable pride that in the last few years it has improved enormously and one of our problems is that we are small and people don't follow us all the time and I think a lot of sins that are attributed to us are sins of several years ago.

Now, that is not true in all instances but I think there has been great improvement and it seems to me that all of us ought to be given good credit for repentence and reformation.

Mr. COLLIER. Let me say that I want to assure you that I don't think the need for house cleaning is unique to your industry at all. That is all I have, Mr. Chairman.

Mr. WILLIAMS. Mr. Devine.

Mr. DEVINE. No, thank you.

Mr. WILLIAMS. Mr. Burwell, when this committee held hearings last year on similar legislation the committee was told that three of the supplementals had a case in the U.S. Court of Appeals for review of a Board order denying them certificates. I suppose you are familiar with that. Carriers were Great Lakes, Curry, and Trans-Alaska.

Mr. BURWELL. Yes, sir.

Mr. WILLIAMS. The Board had refused to issue certificates to these carriers on the ground that the carriers had violated the Board's rules regarding frequency. What is the present status of that case?

Mr. BURWELL. Well, as the chairman said yesterday, Mr. Chairman, the Supreme Court, I believe the day before yesterday, denied certiorari sought by these carriers to take up for review the circuit court of appeals.

As we all know, that is the last roundup through the legal system and the net result of that is to deny any authority to those three carriers. So, subject to an interval of a few days to petition for reconsideration, they are dead. It is just as if you take a corpse and spade sod on top of him so that that page of history is closed.

Mr. WILLIAMS. These carriers are not operating now?

Mr. BURWELL. They may be operating today, Mr. Chairman. I don't know but as soon as the last procedural detail in the Supreme Court order is finished, they will not be operating.

Mr. WILLIAMS. Mr. Burwell, let me ask you this: Could the supplemental carriers live with the Board's bill?

Mr. BURWELL. That is a tough question, Mr. Chairman.

Mr. WILLIAMS. If I recall correctly, they were in here last year supporting virtually the same bill very strongly.

Mr. BURWELL. You mean the Board's bill?

Mr. WILLIAMS. The supplemental carriers.

Mr. BURWELL. Yes, sir.

Mr. WILLIAMS. Now I know that they have a bill which they are sponsoring which goes quite a bit further than the Board's bill in granting additional privileges to these carriers and eliminating responsibility.

Now, of course, I can understand that naturally from a business standpoint. All you want is a fair advantage.

Mr. BURWELL. That expresses it very well, Mr. Chairman.

Mr. WILLIAMS. I cannot blame you for it, but seriously, I want to ask you if you could live with the Board's bill.

Mr. BURWELL. Well, Mr. Chairman, let me put it this way: Again we are very grateful for what the Congress did last year but trying to live with it cost us $5 million. That sounds like peanuts in the aviation business but it isn't peanuts compared to our industry. In the last 2 years we have lost approximately $14 million.

Mr. WILLIAMS. Do you attribute a lot of that to the fact you are only operating under temporary authority?

Mr. BURWELL. Well, that certainly is a factor. I don't know how to evaluate how much of a factor it is but it is some of it.

Mr. WILLIAMS. That still does not answer my question as to whether or not the supplemental carriers could like with the Board's bill.

Mr. BURWELL. Well, I don't want to be evasive or cute, Mr. Chairman. I can put it this way. I don't have a share of stock in any of these companies. I realize your time is short. Two or three of them want to tell you their situations in a few minutes. Maybe they can answer it better than I could because it is their money.

Mr. WILLIAMS. You represent them.

Mr. BURWELL. I represent them and am president of the association but maybe they don't appreciate my answering whether they can live on it or not. Maybe some of them could or some couldn't. I can state it another way.

Mr. WILLIAMS. You are authorized, as I am told, to speak for them. Of course, I realize also that there may be a little disagreement among your own group.

Mr. BURWELL. I think that is an understatement, Mr. Chairman, to put it another way, I don't believe I could give an honest answer. I am not trying to plead the fifth amendment but I am in a guess area and, if I said that they could not live on it, I just don't know and I don't know whether they could.

Mr. WILLIAMS. To give you an example of what I am talking about, there is the so-called Moulder bill sponsored by your group. The first section of that bill adds a new definition to existing law, the definition of supplemental carriers. This definition provides in part that "supplemental air transportation means air transportation rendered pursuant to a certificate of public convenience and necessity."

The term "air transportation" as it is defined in the present law means "interstate, overseas, or foreign air transportation, or the transportation of mail by aircraft."

Now, is it your purpose to try to bring the supplemental air carriers in under mail-handling privileges?

Mr. BURWELL. No. Maybe I didn't make that clear. I tried to say at the outset that all those fringe things, like the mail thing in there, we are not trying to get. What we would like is the clear definition of charter, the trip authority asked for, but, if in effect you are not going to have any competitive system and there is going to be protectionism, we would like a little piece of this for ourselves. But the mail authority, no. Frankly, I don't know how the mail thing got in there. We don't ever carry airmail or subsidy.

Mr. WILLIAMS. The mail thing is in there because it was put in.

Mr. BURWELL. Let me put it this way. I didn't put the mail thing in. I didn't, frankly, know what to do with it; neither did Mr. Yates. I didn't really know what they were talking about yesterday.

Mr. WILLIAMS. Following this to its possible conclusion, you would not be able to qualify for subsidy under your definition in your bill as it is presently written?

Mr. BURWELL. We have never been that ambitious. We certainly have no objection to striking anything about mail or anything that might lead to subsidy.

Mr. WILLIAMS. How did you arrive at a figure of 192 trips a year? That is 16 trips a month.

Mr. BURWELL. Sixteen, sir. I think it is compounded of three things, Mr. Chairman: First, 10 isn't enough. We know that from bitter experience. Secondly, back in 1953 the Small Business Committee of the Senate did make a study and I quoted it in there. They said that in their view we should have a minimum of 14 or 15. Now, the third thing we used in arriving at it was we did make an analysis of the growth in available assets in one market; namely, New York-Miami, between 1955 when the Board decided to give us 10 trips a day and the ratio of available seats by Eastern, National, and Northeast between 1955 and today if you followed that ratio of increase would come out to approximately 16 trips a month. In other words, if you adjusted our relative impact on their seat availability today as presumably was the Board's purpose in 1955, if you adjusted it upward, would come out about 16.

Mr. WILLIAMS. I wasn't in the room when you discussed the provisions that you had in your bill that would give you first refusal.

Mr. BURWELL. Well, I can state that very simply, Mr. Chairman. We basically and historically have hollered for free enterprise, some competition. Wherever there has been a competitive market we have done fairly well but, when for one reason or another the Government shuts off competition and it is happening in the MATS market this year, we are squeezed out.

Now, we basically ask for competition. Our first request is that you give us the right to compete in a very narrow area that won't hurt them honest. If you can see your way clear to doing that, forget the first refusal. We don't want it. We will take them on competitively. But, if in your wisdom you are going to decide that there can't even be exposure to diversion in the magnitude of three-fourths of 1 percent, then we have to understand that it is going to be a protectionist system from here on out and, if it is, we would like just a little piece of protection. So that it is an alternative plea.

Mr. WILLIAMS. It just appears to me that this provision in the bill instead of promoting competition stifles competition.

Mr. BURWELL. There is no doubt about it. We frankly admit that.

Mr. WILLIAMS. That gives you fair advantage that you would like to have.

Mr. BURWELL. No, sir. This is an alternative thing, Mr. Chairman. You are the one to decide whether there will be competition. We want competition.

Mr. WILLIAMS. Let us get into the operation of that for just a moment. I have quite a number of questions but I will ask them of the succeeding witnesses.

Does this first refusal proposition mean that, when a group of people decide to charter a plane they have to contact every supplemental carrier?

Mr. BURWELL. We don't see it this way. What we suggest is that, for instance, if a group of people want to go on a charter from American Airlines, American Airlines will make one telephone call to the exchange which is authorized by the Board to represent all the supplemental carriers and memorandums of the list. We have a master list and, for instance, when they want to take a jet flight we don't have a jet. If they want a first-class deluxe, we don't offer that service. We would say fine. The whole thing would be over in 10 minutes.

Obviously it would be ridiculous to have them call all the carriers. That is why we have the air charter exchange. It is a one-telephone-call deal.

Mr. DEVINE. Will the chairman yield?

Mr. WILLIAMS. Mr. Devine.

Mr. DEVINE. Suppose they wanted to charter on TWA? Do they still have to call you?

Mr. BURWELL. Yes, sir; Mr. Devine, they would and in all honesty I don't think that is a good deal. I think the public ought to have the choice.

Mr. DEVINE. There is no freedom of choice under that.

Mr. BURWELL. I agree with you. I am not trying to be cute about it. I think if the public is denied their choice of prices all over the United States, then it isn't so horrible. But I think basically it is bad. I think the customer ought to have the choice.

Mr. WILLIAMS. Mr. Burwell, your testimony has been directed primarily to the legislation introduced by Mr. Moulder, I presume at the request of your organization, H.R. 7512.

Mr. BURWELL. Yes, sir.

Mr. WILLIAMS. You have more or less skipped over the top of the Board's proposal. Isn't it a fact that the supplemental carriers would much prefer the Board's proposal to no legislation at all?

Mr. BURWELL. Yes, I think so.

Mr. WILLIAMS. Thank you very much, Mr. Burwell.

Mr. BURWELL. Thank you, sir, very much.

Mr. WILLIAMS. Mr. Pigman, of your group, requested permission to testify immediately following you because he has a trip to make and has to leave town.

We don't have over 5 or 10 minutes at the most, Mr. Pigman. If you would like to supply your statement to be included in the record, we would be very happy to receive it.

STATEMENT OF REED PIGMAN, INDEPENDENT AIRLINES ASSOCIATION, WASHINGTON, D.C.

Mr. PIGMAN. I don't have any written statement.

Mr. WILLIAMS. You do not have a written statement? Would you make it as brief as you possibly can under the circumstances?

As far as that goes, we could permit you to submit a written statement if you would prefer.

Mr. PIGMAN. I don't have too much. If it is agreeable with you, my name is Reed Pigman and I am president of American Fliers, which is one of the supplemental airlines in question. I would like to give you just a little bit of the history of the supplemental carrier.

I was one of the first and my company was one of the first three supplemental carriers that were granted operating authority by the Civil Aeronautics Board back in the late 1946's and 1947's. I established my business in 1939 and I was what is known as a fixed-base operator. I specialized at that time in the training of airline pilots for the various airlines.

In addition to that, as all fixed-base operators did and still do on small aircraft, I conducted a charter operation. This went along through the war years until larger twin engine equipment became available, and like many operators, I bought some of that type of equipment from the military as surplus.

We converted them into passenger airplanes, and instead of these small single-engine aircraft, we went to the larger twin-engine aircraft.

Mr. WILLIAMS. Let me ask this, Mr. Pigman: Those bells were bells for a quorum that will call us to the House floor. We are going to have to recess this within the next 3 to 4 minutes. Could you be back at 2 o'clock?

Mr. PIGMAN. Yes.

Mr. WILLIAMS. If you prefer to submit a statement, we will be very happy to receive it. If you prefer to proceed, we will come back at 2 o'clock if we get permission from the House to do so.

Mr. PIGMAN. I want to do whatever you would like to have me do.

Mr. WILLIAMS. It would help the committee considerably if you would submit a statement because of the time factor involved. We have a list of some 11 witnesses scheduled for today and you see what we are up against. I do not want to cut anybody off from testifying if they wish to do so.

Mr. PIGMAN. I would like to testify if possible. This is vital to myself and my company. I believe I have some things that you might not have considered because I am what is known as one of the smaller carriers and you might be interested in some of the ideas and statistics that I might have. They are very short and brief, but I don't have them in a printed statement. If we have time at 2 o'clock, fine; if we don't, I will be glad to submit a statement.

Mr. WILLIAMS. I am afraid we are going to have to adjourn. The committee will stand adjourned until 2 o'clock. If you wish to continue then, you will be the first witness.

Mr. YATES. Mr. Chairman, we would like very much, I believe, to keep the record open in order for the association to submit a few comments with reference to the Board's bill.

Would that be permitted?

Mr. WILLIAMS. Yes, the record is open at least until the hearings have been concluded and then for a reasonable period thereafter. We would be very happy to receive the statement.

Mr. YATES. Thank you.

(The data referred to was not submitted.)

Mr. WILLIAMS. The committee will stand adjourned until 2 o'clock.

(Whereupon, at 12:10 p.m., the committee was recessed, to be reconvened at 2 p.m. the same day.)

AFTER RECESS

The subcommittee reconvened at 2 p.m., Hon. John Bell Williams (chairman of the subcommittee) presiding.

Mr. WILLIAMS. The subcommittee will be in order, please.

When the committee recessed for the noon hour, Mr. Reed Pigman was in the process of testifying. Mr. Pigman, would you like to proceed?

STATEMENT OF REED PIGMAN, PRESIDENT, INDEPENDENT AIRLINES ASSOCIATION—Resumed

Mr. PIGMAN. Mr. Chairman, I would like to make this as brief as possible because I know you are pressed for time. I will take up where I left off in that I was attempting to describe, in a short description, just how the supplemental industry started in the hopes that you can see our problems down through the years.

As I said, in about 1945, when the military aircraft were becoming surplus, the transport-type aircraft, I and many other operators, in similar operations, purchased these aircraft to supplement our charter equipment in smaller airplanes. We then went to bigger groups, 20 and 21, and some of the people went to C–46's, where they had 40 and 50 passengers.

Then all at once a great number of people entered this field. All the boys that came back from the service bought an airplane and fired up in the business. As a result, the CAB in the late 1940's—1946, or 1947, I do not remember which—started to regiment the industry, and awarded us what was known as operating certificates.

My company was one of the first three that were awarded an operating certificate.

Mr. WILLIAMS. What is the name of your company?

Mr. PIGMAN. American Flyers. We were one of the first three awarded an operating certificate, so we have been in this thing right from practically the first day.

For the next few months or years, business was pretty good. The military were using our aircraft to haul military personnel on plane-load lots, charter basis, and we were chartering our aircraft to colleges to haul their football teams, and so forth.

After a couple of years of this, the scheduled carriers said, "Wait a minute. This is a market we haven't touched, and it looks like these boys are doing a pretty good business," so they got into it. As a result, our business started to fall off, whenever we had to compete with the scheduled carriers.

Of course, it was on a charter basis. They were chartering their aircraft to the military. Then, as now, 90 percent of our charter business is military, 10 percent is civilian. It is probably closer to 95 and 5, but we will say that 90 percent is military and 10 percent is civilian.

When they started to bite into the 90 percent, we had to look around for other means of supporting ourselves. So some carriers went into what they called a route-type operation, selling ticketed passengers from point to point. The Board then restricted these to 10 round trips a month between any two points.

After a little while, when your business keeps going down and down, every year doing a little bit less than the year before, you have to scout around for new forms of business, or new equipment. So most of the carriers, of which we were one, bought four-engine pressurized equipment.

We had been operating before with either twin-engine equipment or four-engine nonpressurized equipment, the old DC–4's and the old DC–3's. When you go into an equipment program, buying large, pressurized aircraft, there are considerable amounts of money involved. Unless you are really lucky, you have to go to your banker or some source to acquire funds to purchase them.

To use my own case, with which I am more familiar than anybody else, I went to the bankers and they said, "Yes, we will loan you the money to purchase these aircraft." There was a considerable amount of money involved. "But we do not think that you have a good enough operating authority."

At this time, the Supreme Court had just ruled that the operating authority we did have was more or less unconstitutional. "But if you want to put your own name on the notes personally, and you have enough property and worth so that we do not have to mortgage your equipment or we do not have to rely on your business paying it back, we will loan it to you."

That is an unhealthy situation. What we need in our business is an operating certificate. We need for the Congress of the United States to grant us an operating authority, and then we need access to enough business to survive. We will take our chances on getting it if you will just give us access to it legally.

There are a number of ways that this can be done. The exclusive charter privilege is one way. On this charter thing, this morning some questions were asked on just what constituted a charter. While we are not in a foreign field, we can tell you from the domestic field what constitutes a charter at the present time.

Let me give you an illustration. A charter is not what most of you think it is. If a group of soldiers at Camp Hood, with which I am familiar, came to me and said, "We have 28 or 30 people and we want to charter one of your airplanes at Christmastime to go home. How much is it going to cost? We understand you charge so much a mile."

It is so far, and they have it pretty well figured out ahead of time. So you tell them, "Yes, that is true." They said, "Okay, we will split that 30 ways and here is our money."

That is an illegal charter. That cannot be done according to the regulations in force at this time. They must be a group; they must have one head of the group who pays the charter. They cannot be

individuals that come in and say, "Look, we want to charter the airplane. There are 30 of us and we want to charter the airplane and go to New York." That is an illegal charter, and if we accept the charter under those terms we are subject to punishment by the Board.

Mr. WILLIAMS. As I understood it, Mr. Pigman, from Mr. Burwell—from Mr. Burwell's testimony—that criterion applies only to the oversea charter service.

Mr. PIGMAN. No, sir; this is domestic.

Mr. WILLIAMS. Do I understand that it applies also to the domestic charter service?

Mr. PIGMAN. Yes. sir. We do not have to go to the Board for approval of this charter flight. We can take it. Then when we come around and audit our books, which they do periodically, they can say, "You chartered your aircraft to 30 people. You can only charter your aircraft to one person." He can be a club, he can be a soldier in a company that gets these people and collects the money from them and then comes up as one individual and says, "Here, I have the money; I want to charter your aircraft and I am going to take 28 or 29 other people with me."

But those 28 or 29 other people cannot come to you and say, "Here, we want to charter your plane. We do not want any one of us to be responsible for it. We do not want to assume any responsibility. Here is the money, from Bill, Pete, and Joe, each one of them," and we can give each one of them a receipt for one-thirtieth the charter price for the airplane, or whatever number of passengers is involved. But we cannot legally do it that way.

We must have a chartering agency, so to speak, someone who actually charters the airplane. Mr. Smith, who is the president of X Oil Co., can say, "I want to go to Las Vegas today and I want to charter your airplane and I want to pay you for it," and he writes you out a check, and he says, "I want to take my friends with me," and he can take as many as he wants to. But all of those friends cannot come to my office and say, "We all want to charter your airplane. None of us want to be responsible for your airplane. We all want to charter it and here is our portion of the charter money." That is an illegal charter according to the Board.

So the language of what is a charter definitely needs to be clarified. In other words, a charter is any group, no matter who they are, whether they belong to the Methodist Church, part of them, or the Episcopalian Church, or the Lutheran Church, if they all want to go at the same time, to the same place, we should be allowed to charter to them.

It is a good way for them to travel, a cheap way for them to travel, and a convenient way. We are ready the minute they are ready to come home. Maybe they will say, "Well, we want to come home at 12 o'clock midnight," and maybe they are still having fun at 12 o'clock midnight and do not get there until 3 in the morning. They are not late. The airplane is there until the full load is in the airplane, and then they can go home. They can change their departure or arrival times to suit their own particular needs.

Some question has been raised as to the ticketing authority. My particular company, when we first began business, and down through the years, was not particularly interested in the ticketed business.

We were charter operators. But as the new equipment, the larger equipment, came into the picture, the more expensive equipment, it means that you have to keep this equipment utilized to the fullest extent.

It costs you a lot of money and it costs you a lot of money to keep it up. If it is setting on the ground, it is a dead loss. So I think that some type of route-type ticketing authority should be afforded the industry.

That is up to you people to decide how much or how little, but you should afford some. If you do not, I do not think the industry can survive, especially with the scheduled carriers every year taking more and more of the military market which, really, is our lifeblood. Ninety percent of our business comes from the military. When somebody eats into 90 percent of it, you are in bad shape.

Down through the years we have been called many things. We have been called the nonscheduled industry, we have been called airline transport carriers. The Board, when they issued a new order, would change our name. We have been called supplemental carriers, as the present name that is tacked on us. I think the reason for that is that we have not ever had anything definite. We have never had a real, honest to goodness certificate that we could say, "Here we are; we are an industry. This is our operating certificate."

I think that is, of course, the most necessary thing that you people must consider in this thing, to give us something permanent, that we can sink our teeth into, borrow money on, and operate with.

That is all of my statement.

Mr. WILLIAMS. You indicated at the outset of your testimony that you operated one of the smaller carriers.

Mr. PIGMAN. Yes, sir.

Mr. WILLIAMS. How many aircraft do you operate in your company?

Mr. PIGMAN. We operate four DC–3's and four Constellations.

Mr. WILLIAMS. Eight aircraft?

Mr. PIGMAN. Eight aircraft.

Mr. WILLIAMS. How many people do you employ?

Mr. PIGMAN. We employ about 175. We have recently moved into a new maintenance base at Ardmore, Okla., which we have invested a terrific amount of money in. We maintain all our own aircraft. We have no outside maintenance except, of course, emergency maintenance in the field.

Mr. WILLIAMS. Where are most of your ticketing operations? At what points have they been between?

Mr. PIGMAN. As far as we are concerned, most of our ticketed operations have been military on what is known as the 100, 101, 500, and 501 flights, which we run for the military for inductees. That has been most of our ticketed operations.

Our other ticketed operations are, for instance, a charter aircraft gets on the west coast and the military sends you out there on a trip, we will say, to Monterey or San Diego or some other base out there. They have nothing to bring you back. Then, through the association, through the Independent Airlines Association, who keeps offices out there, they can sell ticketed passengers and we pick up a load to get us back to the Midwest or the East or wherever.

That is very important, because otherwise we would have to ferry the aircraft back there empty, without any revenue.

Mr. WILLIAMS. Has your airline ever been engaged in the operation of a scheduled ticketed flight between any two points?

Mr. PIGMAN. No, sir.

Mr. WILLIAMS. When I said scheduled, I meant once every 10 days or once every 12 days.

Mr. PIGMAN. Other than this military flight that we run for the military only.

Mr. WILLIAMS. I am not so much concerned with military.

Mr. PIGMAN. But it is a ticketed flight. In other words, the military in this case does not charter our aircraft. They issue TR's to the inductees and they, in turn, give us the TR. If we only have five passengers, we still have to run, and if we have a full load we have to run.

The military protects themselves in that manner, that they do not have to pay but for just what facilities they use of the airplane.

Mr. WILLIAMS. I have only a couple more questions, Mr. Pigman.

Did you operate in the red or in the black last year?

Mr. PIGMAN. We broke just about even. When I say "even" I mean that I am the only stockholder of the company. I did not take any salary out of my company last year of any kind, and by so doing I broke just about even. I think we showed just a small profit.

Mr. WILLIAMS. How about the history over the past 4 or 5 years? Has your profit fluctuated?

Mr. PIGMAN. When the military were using our aircraft before the scheduled carriers really got into the military charter market, we made a profit and a fairly reasonable profit. In other words, I could take a reasonable salary and at the end of the year have a reasonable amount in excess to that.

Mr. WILLIAMS. I believe those are all the questions I had. Thank you very much, Mr. Pigman.

Mr. PIGMAN. Thank you, sir.

Mr. WILLIAMS. Is Mr. George Patterson here?

STATEMENT OF GEORGE S. PATTERSON, GENERAL MANAGER, PRESIDENT AIRLINES, INC.

Mr. PATTERSON. Mr. Chairman, I am George Patterson, general manager of President Airlines, Inc., formerly California Eastern Airways. We have approximately 70 people working in our company. The greatest bulk are night crews. Our main office is in Los Angeles. We have sales offices in New York and in Paris.

I would like to break my testimony down to three sections. That is common carriage, military work, and charters. Our company is engaged in all three phases of this business. We do considerable common carriage work in holiday periods, Christmas, New Year's, Thanksgiving, Fourth of July periods, and we could not exist without this income.

Mr. WILLIAMS. What do you mean common carriage?

Mr. PATTERSON. Individually ticketed passengers, mainly between Los Angeles and Chicago, Chicago-New York, and between the west coast and Honolulu. Our fare between Los Angeles and Chicago is

$69, the nonstop service, versus the scheduled fare of approximately $105, with two or three stops, with piston equipment. The bulk of the people we haul are first riders, GI's, and people going with low income, low-income people. I would daresay that if your committee would send an investigator to La Guardia or Chicago Midway or to Hawaii and interview 10 loads of passengers, it would break down something like this: 30 percent military that if they did not fly with us they would be on the trains or the buses; about 30 percent women and children going home for the summer months to be with their family; and the balance would be a mixture of a man and his wife and two or three children going home; 70 percent of these people are bus and train passengers. They have never flown before. They could never afford to fly before.

Mr. WILLIAMS. Do you mean to say that roughly 70 percent of the people who fly with you have never flown before?

Mr. PATTERSON. They may have flown on another supplemental. They have never been able to afford to fly on a scheduled airline. You take the savings between——

Mr. WILLIAMS. Of course, you are guessing at that? Is that an educated guess or is there a basis for it?

Mr. PATTERSON. No, we have run surveys on this. If you take a man and his wife and a teenager out of school, you can see the man is saving a month and a half of rent going with a supplemental versus a scheduled airline, and he just cannot afford to go. Or he sends his wife and child and he stays home.

Mr. WILLIAMS. I think the committee would be very much interested in receiving the results of any actual surveys that you might have made along those lines.

Mr. PATTERSON. I personally think that this is important enough that if it is possible, and I don't know if it is, that the committee themselves should make a survey on this.

Mr. WILLIAMS. The committee is limited in its facilities and also in its time.

Mr. PATTERSON. It is very important to us to maintain the common carriage status, the individual ticketed status, and, frankly, we do not have enough trip authority. The 10-trip authority was outdated 5 years ago or 4 years ago. We would be satisfied with 15 or 16 trips. We actually need these trips to survive. I am frankly getting tired of educating the low-class worker to travel by air and then have the scheduled carriers take him away from me because I don't have the trip authority to pick him up the next time. This is happening. Our industry has educated more low-income bracket people to fly by air, and all the scheduled airlines are saying "You are siphoning off our business." This is absolutely erroneous, it is not true, and it can be proven.

As far as the military business is concerned, we fly a considerable amount of CAM movements for the military at under 3 cents a mile. ATA and scheduled airlines lobby here in Washington, are continually pounding on Congress, on the people in the Pentagon, to ship these people via 6-cent travel, and they are very successful and have been successful. I know everybody in Congress is interested in saving money, but this is one place where the money is really going right down the drain, on the 6-cent travel.

On the charter business, particularly overseas, our big complaint is with the Civil Aeronautics Board and the restrictions they place upon us. A group of people, a group of Americans or a group of Polish-Americans, or Israel-Americans, should be able to go out and charter an airplane to go to their homelands for a month or 2 weeks vacation in the summertime. Our Government is spending millions of dollars around the world trying to obtain friends. What could be more helpful than taking a bunch of Polish-Americans or Israel-Americans to their homeland to spread the word for a month. But you can't do this. There is too much redtape. There is a carrier sitting here in the room that took a bunch of people last year to a foreign country, and in the postflight report that the Board makes you file there was one passenger missing coming back. This was a terrible thing. Well, the poor man had such a good time in his homeland he died. He had a heart attack and died, but the Board criticized it because they didn't know what happened to him. They thought it was a phony deal. This is how bad it really is. If the Congress would help us get the Board regulations relaxed to the point where we could carry more people over there and not only over there—our company had a group of 47 ministers turned down last week from Brussels coming over here. We had an empty airplane ferrying back from a group we had taken to Paris. We tried to get an exception to carry back 47 ministers that could only afford to come back with us. They couldn't afford a scheduled airline fare or the foreign carrier fare. We were turned down because we could not adjust our tariff to meet this demand. If it had been a full airplane load of ministers, it would have been all right. But 47 did not fit the tariff and we could not carry these people back. Consequently, they are not coming over here.

On the charter deal, we had a group at New York University about 2 weeks ago. A little 17-year-old campus girl was organizing this group. The Civil Aeronautics Board continually hammered away at us for days and days and days, and at the dean of the university, to try to get the group bona fide. In the meanwhile, another boy on the campus organized a 2–D Club, he called it, got people off the streets from two other universities that we know about, and it was approved on KLM with no problem at all. Our group was finally approved and did go, but it was an awful battle. The foreign carriers are siphoning off an awful lot of the North Atlantic business. The testimony this morning brought out an interesting point. I believe they should be entitled to some of the business. I don't want to discriminate against them. But I think that the Board should be equally as rigid on the foreign carriers as they are on us.

That is all I have to say, sir.

(Full statement follows:)

PREPARED TESTIMONY OF GEORGE S. PATTERSON, GENERAL MANAGER, PRESIDENT AIRLINES, INC.

Mr. Chairman, as general manager of President Airlines, Inc., I appreciate very much the opportunity to present our airline's views in this proceeding. I appear today to urge immediate enactment of legislation affording a permanent foundation for the growth of an industry whose value both to the general public and to the Military Establishment has been clearly found to exist after 9 years of continuous administrative litigation.

My own background in commercial aviation spans almost a quarter of a century beginning with service in the maintenance department of American Airlines and encompassing tenure in such positions as director of maintenance and engineering of Alaska Airlines, and superintendent of maintenance of Slick Airways as well as my present position. I have also served in the capacity of president of the Independent Airlines Association.

My association with President Airlines, Inc., commenced in the summer of 1960 shortly after the carrier was awarded a transfer of the certificate of public convenience and necessity for supplemental air service previously held by California Eastern Aviation. At the present time the carrier employs 70 people in its airline operation and has its main base of operations at Lockheed Air Terminal at Burbank. At the same time we have established facilities at Chicago, New York, and Paris, France.

Although President Airlines has been performing in supplemental air transportation for less than a year, I believe our activities in that relatively short period have epitomized the operational flexibility envisoned by the Board in creating the class of supplemental air carriers.

Thus, we have actively participated in commercial air movements for the Defense Establishment. At the same time, we have actively utilized the individual sale phase of supplemental authority in the transportation of recruits between the Northeastern and Midwestern United States and Lackland Air Force Base. In fact, it was our participation in this latter transportation which enabled President to survive the traditionally lean winter months.

During the present summer, President envisions performance at rate structures within reach of the average tourist, of approximately 60 transatlantic passenger charters for such diverse parties as colleges, teachers associations, and social and religious groups, as well as emergency charters for the transportation of refugees from the Communist tyranny. Our present aircraft fleet consists entirely of modern pressurized DC–6 equipment—and we envision an ultimate transition to jet equipment.

Mr. Chairman, I believe that the demonstrated flexibility in President's operations to date clearly illustrates the wisdom of the Board's original decision in awarding supplemental certificates and accentuates the urgent public interest factors impelling the enactment of permanent legislation. Certainly, based on the nature and scope of President's activities since the inception of its operations, it is manifest that the carrier's very survival is directly contingent upon final receipt of permanent and stable authority in both the individual sale and charter phases of supplemental service.

Another factor requiring immediate enactment of permanent legislation lies in the ever increasing necessity for upgrading of supplemental air carrier equipment. This is absolutely vital if our industry is to remain competitive in such facets of its designated spheres of activity as transatlantic charters and individual sale service. Moreover, the Defense Establishment has in recent months conditioned participation in a substantial portion of its airlift requirements upon acquisition of modern aircraft. The acquisition of relatively expensive modern equipment depends, in turn, upon the availability of adequate financing. In this connection it has been our experience all too frequently that the consummation of satisfactory financial arrangements is virtually impossible under the uncertain and unstable nature of our present authority. Our company has explored many possible arrangements including public stock offerings and bank loans. Certainly, prospective investors are manifestly unlikely to be attracted toward a temporary authority shrouded in uncertainty, constantly subject to protracted legal proceedings. By the same token, banks and lending institutions are extremely hesitant to offer satisfactory accommodations under such circumstances.

On behalf of President Airlines, Inc., and all of its personnel, I wish to thank you once again, Mr. Chairman, for this opportunity to present our views in support of legislation going to the very survival, not only of our company, but of the entire supplemental air carrier industry.

Mr. WILLIAMS. Thank you very much.

Mr. Patterson, have you read any of the bills that are presently before the committee?

Mr. PATTERSON. Yes, sir.

Mr. WILLIAMS. I want to ask you the same question that I asked Mr. Burwell earlier today. Do you feel that the supplemental carriers could live with the bill that has been presented by the Board?

Mr. PATTERSON. I don't believe our company could unless the trip frequency was increased to 15 or 16 trips. If this was done, I believe we would be satisfied.

Mr. WILLIAMS. In other words, then, I take it that if the committee should accept the Board bill, you would just as soon have no bill at all?

Mr. PATTERSON. No, sir. I didn't say that. But from an economic standpoint, and the standpoint of survival, being strong financially as far as our company is concerned, we need more individual trip authority, and we need a relaxation of the Board's oversea charter regulations.

Mr. WILLIAMS. You indicated that you employed some 70 people, most of them were night crews. How do you handle your maintenance?

Mr. PATTERSON. Our maintenance is contracted for at the present time.

Mr. WILLIAMS. How many aircraft do you operate?

Mr. PATTERSON. At the present time we are operating two oversea DC–6B's, and we are acquiring a DC–7C at the present time.

Mr. WILLIAMS. So you hope to have three aircraft?

Mr. PATTERSON. For this year, yes, sir.

One other thing I might raise one point on, Mr. Chairman, is this: that the supplemental carriers in the past several years have purchased approximately 60 long-range aircraft from the scheduled airlines of this country at a figure of approximately $700,000 per airplane. I don't know where the scheduled airlines think they are going to get rid of this equipment if they put us out of business.

Mr. WILLIAMS. That is a new thought that has not been expressed here. That would be a problem with the scheduled airlines.

Does that conclude your testimony?

Mr. PATTERSON. Yes, sir.

Mr. WILLIAMS. Thank you very much.

Mr. PATTERSON. Thank you for the time.

Mr. WILLIAMS. The next witness is Mr. Robert Fraley.

STATEMENT OF ROBERT E. FRALEY, ATTORNEY, ON BEHALF OF QUAKER CITY AIRWAYS, INC., PAUL MANTZ AIR SERVICES, INC.

Mr. FRALEY. Thank you, Mr. Chairman.

Mr. Chairman, my name is Robert E. Fraley. I am an attorney and member of the bar of the State of Oklahoma.

Mr. WILLIAMS. I notice that your statement is rather lengthy, Mr. Fraley.

Mr. FRALEY. Mr. Chairman, if I am permitted to do so, I would like to place my prepared statement into the record and touch on it. I don't intend to read it verbatim. There are some points I would like to make.

Mr. WILLIAMS. Very well. Your statement will be received for the record.

(Statement referred to follows:)

STATEMENT OF ROBERT E. FRALEY, ATTORNEY, ON BEHALF OF QUAKER CITY AIRWAYS, INC., PAUL MANTZ AIR SERVICES, INC.

My name is Robert E. Fraley. I am an attorney and member of the bar of the State of Oklahoma, presently residing in Los Angeles, and employed by the law firm of Keatinge & Older. I represent the interests of Quaker City Airways, Inc., and Paul Mantz Air Services, Inc., before this committee.

I do not in this statement intend to elaborate upon the history and background of each of these carriers for whom I speak. These particulars have been previously fully set forth before this committee during the hearings which took place in May of 1960, preceding the passage of Public Law 86-661, 74 Stat. 527. Neither does it seem an appropriate utilization of time to attempt to duplicate the development of the historical facts pertaining to the supplemental and large irregular carrier since the passage of the Civil Aeronautics Act of 1938. These matters have been or will be fully touched upon by statements and testimony presented to this honorable committee by Mr. Clayton Burwell, president of the Independent Airlines Association and the Supplemental Air Carrier Conference, and others. My purpose here is to present support for amendments to H.R. 7318 which I have proposed and to explain why I believe they are improvements in the bill submitted by the Civil Aeronautics Board. Preliminary to this discussion, however, it does seem necessary to reemphasize the public interest concern and the need of continuing service of a type which we propose to perform in the future.

In its decisions and opinions over the years, the Civil Aeronautics Board has repeatedly found that the public interest required the establishment of a class of supplemental air carriers with authority to provide planeload charter flights and limited frequency noncharter service for passengers and cargo in domestic, intraterritorial (except within Alaska), oversea, and, for cargo only, foreign air transportation. In addition, the Board's transatlantic charter policy, now contained in part 295 of the Board's economic regulations, provides that certain passenger flights in foreign air transportation, on a planeload charter basis only, may be performed by supplemental carriers if a special exemption is granted before such trips are flown.

By issuance of order 13436, on January 28, 1959, in docket No. 5132, entitled "The Large Irregular Air Carrier Investigation," and a decision accompanying such order, the Board made the following statement on page 1 of its opinion:

"The Board's 1955 decision herein resolved the issues of the need for and proper scope of supplemental air transportation. In it the Board found that the public interest required the establishment of a class of carriers, authorized to perform supplemental air transportation, which was defined to include planeload charter flights, together with such limited noncharter service as does not amount to a conventional frequent route-type service of the kind provided by the major airlines who form the backbone of our national air transportation system. The basis and the precise terms of the Board's decision on the need and scope issues need not be repeated here, for they are discussed at length in the original 1955 decision, the opinion on reconsideration, and in our opinion and order, issued contemporaneously herewith, rejecting a second group of petitions for reconsideration of that decision."

It may be significantly noted that the Board recognized the difference in the type of service that had been provided by the supplementals from the type of service provided by the major airlines described as conventional frequent route-type service. We will elaborate on this point in a later portion of this statement.

By the opinion accompanying order No. E-16277, issued by the Civil Aeronautics Board on the 17th day of January 1961, in docket 5132, entitled "Supplemental Opinion and Order," the Board reaffirmed its previous findings of need for and the proper scope of supplemental air service as required by the public interest. Again recognizing the tremendous national contribution provided to the military by irregular carriers during the Berlin blockade and the Korean conflict, and subsequently on military charters, the Board declared as follows:

"We have from their inception considered the irregulars as comprising one class of carriers who perform a wide variety of services, and who have the necessary flexibility to switch from one area of operations to another, and from one or more types of service to others, depending upon where these

carriers can find the greatest demand which they are in a position to meet. Thus, * * * not all irregulars have been or are interested in operating individually ticketed operations over high-density segments. Others have found contract and charter work to be more lucrative. Still others prefer international operations. But the common denominator and, and indeed, the importance of this class to the transportation needs of this country is the fact that, unhampered and unrestricted by schedule and route requirements, they have the necessary flexibility to make themselves available to serve whenever and wherever the demand exists."

On page 19 of this same decision, the Board summarized its position on need for this service as follows:

"Our present decision to certificate supplemental service in foreign, oversea, and intraterritorial air transportation, is the logical and necessary implementation of the Board's several prior decisions in this proceeding. Those decisions, with the detailed findings set forth therein and the discussions of the parties' contentions, establish that supplemental air service of the scope heretofore defined is required by the public interest, convenience, and necessity, and that the carriers being certificated are qualified to perform it. These findings are not confined to the domestic aspect of supplemental service but apply as well in the oversea, international, and intraterritorial areas. These latter spheres, where surface transportation is comparatively slower in relation to air than it is domestically, are at least as subject to fluctuations of need as is domestic air transportation. That such fluctuations may be sudden, large scale and of a character that is significant to national policy is illustrated by the Korean and Berlin airlifts. Supplemental carriers, untied to route service obligations, can bring the necessary flexibility required promptly to fulfill such needs, and the public benefits involved cannot be measured by the volume of traffic normally moved, without considering the vital importance of availability of service in time of need. Other demonstrated benefits of supplemental operations, including the innovation of new and useful types of service, the provision of special services for unusual kinds of traffic, and the development of services which tend to promote and preserve low-cost transportation for the public, have been referred to in previous decisions and will not again be described."

As will be recalled by this committe, the attacks which the large trunkline air carriers have made on the Board's orders have resulted in two court decisions, one, entitled *American Airlines* v. *Civil Aeronautics Board*, 235 F. 2d 845 (July 19, 1956), the other, *United Airlines* v. *Civil Aeronautics Board*, 278 F. 2d. 446 (April 7, 1960). In neither of these decisions did the courts determine the Board's error to be in its findings of need and public interest for this service. Present and past criticism have all been directed to the scope of the authorization provided rather than the need for such service. At the risk of belaboring the point, the House Committee on Interstate and Foreign Commerce on June 15, 1960, in its Report No. 1877, to accompany H.R. 7593, at page 10 thereof, stated as follows:

"The Board has found that the supplemental air carriers have performed a useful public service and have a definite place and role in meeting this Nation's air transportation needs. These carriers as a class have performed valuable services responsive to a public need in the field of charter and specialized services; in meeting needs for individually ticketed services in peak periods which could not be met by the certificated carriers; in innovating and developing aircoach services; and in meeting military needs for airlift. There can be no doubt that the continued existence of the irregular air carrier fleet is of real value in terms of national defense, and it is evident that the future ability of the irregular air carriers to serve the military, as they are doing now and have done so ably in the past, depends upon their ability to operate their planes in commercial activities when not engaged in service for the military."

Three points stand out in the last quoted paragraph: (1) That supplemental carriers have performed valuable services responsive to a continuing public need; (2) that the continued existence of these carriers is of real value in terms of national defense in their ability to serve the military; and (3) that their very existence to perform these most needed srevices depends upon their ability to operate their planes in commercial activities when not engaged in service for the military.

The Senate Committee on Interstate and Foreign Commerce, on June 13, 1960, in its Report No. 1567, to accompany S. 1543, at page 5 thereof, stated as follows:

"The issue of the need for and the proper scope of supplemental air transportation, as we have noted, was the subject of painstaking and protracted investigation and study by the Board over a period of many years. The Board's interim decision in 1955 resolved that issue (Order No. E–9744, Nov. 15, 1955) on a finding that the public interest requires the establishment of a class of carriers authorized to perform supplemental air transportation of a kind and character which does not amount to a conventional, frequent, route-type service as provided by the major airlines. During committee hearings, the criticism leveled at the present measure, as submitted by the Board, was not directed to the issue of need for such transportation but rather to its scope with the suggestion that the supplementals be authorized to operate on a charter basis only. There is no demonstrated justification which would warrant our rejection of the considered conclusion of the Board which certainly cannot be said to be the product of hasty judgment.

"Your committee is satisfied that supplemental air carriers constitute a significant and valuable part of the Nation's air transportation system. They have not requested or received any governmental subsidy and under existing law or the amendment here proposed, these carriers are not eligible for such assistance. They have pioneered in the development of aircoach travel, have stimulated the growth of air freight or all-cargo carriage, widened the range of commercial air-charter business and aided our military departments in transporting personnel and supplies. In the Berlin airlift in 1948 and the Korean airlift in 1950, these carriers supplied a substantial part of vital airlift capacity. Together with our regular-route carriers, they constitute an invaluable asset for emergency defense requirements."

If the supplemental air carrier class is to perform the useful and necessary services which have been assigned to it, it is an academic fact and a problem of high school economics that financial stability in some measure or another must be assured. In this regard we do not refer to Federal subsidy support, but rather to a definite, determinable, and permanent authorization to operate from the Congress by the passage of this legislation. At no time in their long period of history antedating the Civil Aeronautics Act of 1938 have the nonscheduled carriers had any type of definite, definable or permanent-type authority. This uncertainty has made investment capital difficult, and at times impossible, to come by. Legitimate banks and institutional investors have been loath to add this additional risk factor to what has been generally recognized as a speculative investment (see decision of the Civil Aeronautics Board in Docket 808 entitled "General Passenger Fare Investigation," decided Nov. 25, 1960, in the opinion as attached to Order E–16068) with a result that money necessary to sustain current operations, provide additional and new modern type equipment suitable for the military needs, and promotional activities to develop new traffic, have been drawn from other sources at extremely high rates of interest. It is believed that the passage of the legislation we are supporting here will eliminate this risk factor and attract the needed capital. The passage of this legislation we believe will recognize that through their operations over the years, the supplemental carriers may be considered to have developed certain equities in the general field of nonroute, large aircraft services, and thus to have a historic interest in such business which should not be ignored. (P. 20 of the Board's opinion accompanying Order No. E–16277, dated Jan. 17, 1961.)

Rather than repeat here the entire draft of H.R. 7318, as amended by our proposals, I will read our proposed amendments, discussing each in turn. May I direct your attention to numbered paragraph 33, of H.R. 7318 which is the third paragraph on the first page. Our amendment would make the paragraph read as follows:

"Supplemental air transportation means air transportation rendered pursuant to a certificate of public convenience and necessity which authorizes the holder to perform (1) unlimited charter operations on a planeload basis for the carriage of passengers and property in interstate, oversea, territorial, and foreign air transportation, with the word 'charter' herein being defined as air transportation performed pursuant to an agreement for the use of the entire capacity of an aircraft, * * *."

The emphasis here is on the word "authorizes" in lieu of words of limitation. This substitution provides the type of permanent authority of a measurable degree which is absolutely necessary to the financial stability and economic well-being of this class of carriers. The word "authorizes" affixes a right at

the direction of the Congress which may not in subsequent months or years be tampered with by well meaning, but perhaps sometimes misguided, persons in the regulatory agency. As will be seen in the discussion to follow, this would also provide a fixed amount of operating authority which would stand inviolate until such time as Congress desired to change it on the basis of changing circumstances.

The next portion of our amendment which we propose as a substitute for section 1 of H.R. 7318 reads as follows:

"(2) Individually ticketed passengers or individually waybilled cargo operations in the frequency of not more than 20 flights per month in the same direction between any single pair of points, in interstate, oversea, and territorial air transportation, including a further limitation of not more than 2 flights per day in the same direction between any single pair of points in interstate, oversea, and territorial air transportation, and (3) supplemental air carriers shall have the right of first refusal in the operation of all charter trips in interstate, oversea, and foreign air transportation. The Board shall implement this section by appropriate regulation."

At first glance this would appear to be a request for twice the amount of service presently authorized. As a practical matter, this would not be the case at all. Examination of flight reports on file with the Civil Aeronautics Board will show that a major portion of supplemental passenger traffic moves on the weekends; that is, between major points such as Los Angeles and New York, most of the traffic between these points would be moving on Fridays and Sundays. The existence of heavy weekend traffic is not peculiar to the supplemental carrier industry. Anyone who has attempted recently to travel on a weekend or holiday knows of the difficulty in securing a coach reservation within a week of departure time. This is particularly true of long distance or transcontinental flights between major cities. If, indeed, our service is to be supplemental in nature, here is an area that needs support. The public needs this additional transportation made available to it. This portion of the amendment envisions that a carrier might schedule two flights in each direction on Friday between two major transcontinental points with returning trips of two flights in each direction on Sunday night each weekend. This would aggregate a total of at least 16 of the total 20 authorized flights in each direction, and during some calendar periods with an additional weekend falling within the month's period, the entire 20 flights would be utilized on weekend traffic. The further limitation in this paragraph of restricting schedules to a maximum of two flights per day in each direction will meet the objections made that a yearly allocation of flights would cause a blanketing of schedules in the more lucrative market areas.

If two flights per day in each direction are scheduled between any two points, it can easily be seen that the maximum number of flights flown during any 30-day period would cover only a 10-day scheduling period. The effect would be little difference than the provision of an extra section to a flight under the present authority.

The third alteration we have made falls into section 3 of H.R. 7318 on page 5. Reading this section, our proposed amendment would place a "period" toward the end of the first sentence after the word "practicable" and eliminate the words "and may designate only the geographical area or areas within which service may be rendered." Express authority to delimit geographic areas of operation in our judgment would create a completely impractical situation and if carried out to one possible, logical conclusion, would amount to nothing more than the establishment of route segments for supplemental carriers. This is entirely contrary to congressional and Board concept of supplemental carrier utilization and operation, the major point being to maintain the flexibility and availability of supplemental service to meet the needs wherever they may arise. The difficult and time-consuming process of route awards to new areas or areas which need additional service is a fact which presently plagues the best administrative legal minds in the country today. During this period of process by the Board's overworked and understaffed bureaus, any city or community should be able to request supplemental air carrier service, without the restriction that this language would place upon the availability of such service. In any event, the last sentence of section 3 affords all of the protection the large carriers need, if any be needed at all, from the diversionary effects of supplemental air service. This portion reads as follows:

"* * * Nothing in this subsection shall prevent the Board in specifying the service to be rendered under a certificate for supplemental air transportation for placing such limitations on such certificate as it may find to be necessary to assure that the services are limited to supplemental air transportation: *Provided*, That the Board may not impose such limitations upon certificates issued pursuant to paragraphs (1) and (2) of subsection (d)."

It is believed that this language was similar to that suggested by the Air Transport Association during last year's hearings.

At every occasion when the irregular carriers or supplemental carriers have sought some definite or even temporary authority, the hue and cry has been made that these operations would have a devastatingly diversionary effect on the revenues of the certificated route carriers. This "bogey man" should no longer be permitted to be dragged out and paraded before these committees unless fully sustained by an evidentiary record. In the previously cited opinion of the Board accompanying order No. E–16277, the Board pointed out on page 5 of such opinion that the interim operating experience of the supplemental carriers as cited in the petitions of complainants (which attacked the issuance of certificates on this ground) not only failed to undercut the rationale of the 1955 decision, but actually confirmed the Board's earlier judgment when it rejected intervenors' emphatic and repeated assertions that the scope of the authority prescribed for supplemental carriers would have a devastating, diversionary effect on the revenues of the certificated route network. The Board noted that the interim experience showed such fears were, as the Board had anticipated, wholly unfounded. On page 6 of such opinion, the Board said that:

"Despite general assertions by intervenors that supplemental air service is or may be diversionary, the practical economic effect which the present decision will have in changing the current air transportation picture is very limited. and no significant impact on existing route services is involved in any area." Further in its opinion, the Board noted that the supplementals will continue in their proper function of meeting special and fluctuating traffic demands of the types referred to in the Board's previous decisions, demands which the large trunk carriers, whose operations and facilities are geared to the needs and obligations of serving their routes, cannot readily or economically serve.

The major reason that no diversion will occur, regardless of the number of flights authorized to be performed by supplementals, is the simple fact that the supplementals are not in competition for the same market of business as that of the regularly scheduled carriers. Most of the passengers traveling aboard supplemental carriers simply cannot afford to pay the higher fares charged by the regular scheduled airlines. These are the same people who may normally be found in our bus stations, soldiers on leave, families moving to a new geographic area, relatives traveling to funerals, and people of modest means who find it an absolute necessity to use air transportation to reach long-distant points in a short time. This middle-class and lower-middle-class type of person is just as entitled to air transportation as those of more fortunate means which the large regular carriers seem to prefer. A comparison of the fares of the supplementals and the certificated carriers will bear out this point. Approximately 2½ years ago, the lowest coach fare of a regularly certificated carrier operating between Los Angeles and New York was $98.50, plus tax. The fare of the supplemental carriers operating between the same points was $80 plus tax. At the present time, the regularly certificated carriers charge $131 for the cheapest tourist accommodation, while the supplemental carrier's fare is still $80. Thus, we can see that the larger carriers, instead of attempting to serve this market area, are moving farther and farther away from it. It is our considered opinion that they do not desire to serve this market, that they never have, and never will provide the service to these people which is so badly and presently needed.

In the hearings of last year, a great deal was said by the opponents of the legislation about violations. Arguments were there made, as they have been made in the past before the Board, that the tendency to commit violations of the act and economic regulations and the alleged violative nature of the supplemental operators made them unfit as holders of certificated authority. Until recently, and since August of 1957, I filled the office of chief of the legal division of the Bureau of Enforcement at the Civil Aeronautics Board. As the Board's former chief enforcement attorney, I believe I can speak with some authority on the numbers and types of violations prevalent in the industry. If

my memory serves me correctly, and the public records of the Board may be examined to determine the accuracy thereof, that during the last 18 months when approximately 40 formal enforcement cases have been processed before the Civil Aeronautics Board, only a small handful of such cases involved supplemental carriers. Examination of that record will show that almost every major airline in this country was a respondent at least one time during that period.

A matter of recent occurrence deserves final comment. I refer to the outrageous, unfair, and possibly illegal treatment that the supplemental carriers received in the latest award of MATS commercial augmentation airlift contracts. The conclusions that I am setting forth herein were drawn from a conference held on June 9, 1961, at Washington, D.C., in the office of the Honorable Howard W. Cannon, U.S. Senator from Nevada.

This conference was attended by representatives of several supplemental air carriers and officials of the MATS procurement office of the U.S. Air Force. Mr. Edward Driscoll, spokesman for the MATS group, disclosed that the successful bidders under the current RFP will be the only companies considered eligible to bid on future allocations and all potential additional requirements of a call-type nature during the next 3-year period. Through the device of a selection criterion described as "expansion capability," a restrictive monopoly has been established by a governmental department, which excludes the entry and participation of all other qualified air carriers for future business of this type. The announced policies which cover the next 3-year period have, in effect, supplanted the CRAF requirements for type equipment eligibility by collateral means of defining priorities in the allocation of these awards. As this committee well knows, supplemental air carriers have been major participants in the CRAF program. The inability to compete for this business is, in effect, a withdrawal of the major incentive to maintain availability of aircraft to the CRAF program. The detriment to the CRAF program can obviously be seen. Without belaboring the committee with further details of our objections in this area, we note that the House Military Operations Subcommittee conducted a review on Monday, June 19, of the MATS commercial airlift policies.

Our reason for discussing it at all at this time is to merely demonstrate our need for additional individually ticketed and individually waybilled authority of a permanent, fixed nature. This is the second year in a row the supplemental carriers, at great expense to themselves, have had to come into the Nation's Capital and defend their right and entitlement to participate in the MATS contract awards. While the matter was corrected last year, and we hope at least the same result will be achieved this year at the conclusion of the House hearings, we think the handwriting is clearly on the wall that we will ultimately, by some legalistic means, be finally closed out of this military business. The only ray of sunshine in this dismal picture is the turndown by the Civil Aeronautics Board, on June 15, of the Logair and Quicktrans proposals of a number of the awards in question. While one of these awards was to a supplemental carrier, it was deemed by the Board to be uneconomical, which in fact it was, following the private negotiations of the price downward and unconscionably below that which the carrier had proposed.

We wish to make it clear to this committee that we do not oppose the Board's bill as such, nor do we oppose the amendments submitted or offered by the Independent Airlines Association and the Supplemental Air Carrier Conference. Our proposed amendments will correct, in some measure, the inequities contained in the other bill and amendments and will meet most, if not all, of the valid objections proposed by those who desire no legislation at all for this carrier class.

I wish to thank the committee for making this time available to Paul Mantz Air Services and Quaker City.

AMENDMENT TO H.R. 7318

Strike out section 1 after the enacting clause and insert the following:

"That section 101 of the Federal Aviation Act of August 23, 1958, as amended, is amended by redesignating paragraphs (32) and (33) as (34) and (35) respectively, and inserting therein two new paragraphs to read as follows:

"'(32) "Supplemental air carrier" means an air carrier holding a certificate of public convenience and necessity authorizing it to engage in supplemental air transportation.

"'(33) "Supplemental air transportation" means air transportation rendered pursuant to a certificate of public convenience and necessity which au-

thorizes the holder to perform (1) unlimited charter operations on a planeload basis for the carriage of passengers and property in interstate, oversea, territorial, and foreign air transportation, with the word "charter" herein being defined as air transportation performed pursuant to an agreement for the use of the entire capacity of an aircraft, (2) individually ticketed passenger or individually waybilled cargo operations in the frequency of not more than twenty flights per month in the same direction between any single pair of points in interstate, oversea, and territorial air transportation, including a further limitation of not more than two flights per day in the same direction between any single pair of points in interstate, oversea, and territorial air transportation, and (3) supplemental air carriers shall have the right of first refusal in the operation of all charter trips in interstate, oversea, and foreign air transportation. The Board shall implement this section by appropriate regulation.'"

Strike out of line 8 and line 9 of section 3 the words: "and may designate only the geographic area or areas within which service may be rendered," so that amended section 3 should read as follows:

"SEC. 3. Subsection (e) of section 401 of the Federal Aviation Act is amended by adding the following text: 'A certificate issued under this section to engage in supplemental air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable. Nothing in this subsection shall prevent the Board in specifying the service to be rendered under a certificate for supplemental air transportation from placing such limitations on such certificates as it may find to be necessary to assure that the services are limited to supplemental air transportation: *Provided*, That the Board may not impose such limitations upon certificates issued pursuant to paragraphs (1) and (2) of subsection (d).'"

Mr. FRALEY. I would like to state further that I am employed presently by the law firm of Keatinge & Older, and I represent the interest of Quaker City Airways, Inc., and Paul Mantz Air Services, Inc., before this committee. Both of these carriers are currently in operation with Constellation-type aircraft. They are flying and operating primarily in the individual ticketed passenger area.

Mr. Chairman, as I said, I didn't intend to follow my statement. I would like to remind the committee that there has been considerable testimony, unrebutted testimony, touching upon the fact of need for supplemental service. This need has been described by the Board in 1955 and 1959 as a need for individually ticketed business, military business, and special services in the nature of charter. This committee, or perhaps I should say the parent committee of the House Interstate and Foreign Commerce Committee, last year, in connection with the temporary legislation, found that there was a need for this service and a place for the supplemental air carriers in the national industry picture.

As I said, the Board, again, in January of this year, 1961, found again in rejecting complaints of diversion and lack of need, found again that there was a need for this service.

It might be well to again remind the committee that the two Court decisions which were brought about by the attacks of the large regular carriers on the supplemental industry, one entitled *American Airlines* v. *Civil Aeronautics Board* (235 F. 2d 845), and the other *United Airlines* v. *Civil Aeronautics Board* (278 F. 2d 446), that in neither of these decisions did the courts determine the Board's error to be in its findings of need and public interest for this service.

We believe, Mr. Chairman, that if the supplemental air carriers class is to perform the useful and necessary services that have been assigned to it, that it is an academic fact and a problem of high school economics that financial stability in some measure or other must be

assured. In this regard, we do not refer to Federal subsidy, but rather to a definite, determinable, permanent type of authorization to operate from the Congress by the passage of this legislation. Since the beginning of existence, since the regular or supplemental carriers, and certainly since the passage of the Civil Aeronautics Act of 1938, we have had no type of permanent authority. We have had not one night's rest, Mr. Chairman, of knowledge that tomorrow we would be in business. As stated by previous witnesses, this uncertainty has made investment capital difficult, if not impossible at times, to come by. Legitimate banks and institutional investigators have been loath to add this additional risk factor to what has been generally recognized as a speculative investment.

The result is, Mr. Chairman, that money necessary to sustain our current operations, to provide additional and new, modern type of equipment suitable for the military needs, and the promotional activities to develop new traffic, have been drawn from other sources at extremely high rates of interest. The passage of this legislation, we believe, will eliminate this risk factor and attract the capital that we need. It will also recognize that through their operations over the years, the supplemental carriers may be considered to have developed certain equities in the general field of nonroute and large aircraft services and thus to have a historic interest in such business which should not be ignored.

Rather than repeat here the entire draft of H.R. 7318 as amended by our proposals here, I will read our proposed amendments and discuss each one in turn.

If I could direct your attention to numbered paragraph 33 of that bill, which is the third paragraph on the first page, our amendment would make the paragraph read as follows——

Mr. WILLIAMS. Which bill is that?

Mr. FRALEY. 7318. It is on page 10 of my statement, Mr. Chairman.

> Supplemental air transportation means air transportation rendered pursuant to a certificate of public convenience and necessity which authorized the holder to perform: (1) Unlimited charter operations on a planeload basis for the carriage of passengers and property in interstate, oversea, territorial, and foreign air transportation, with the word "charter" herein being defined as air transportation performed pursuant to an agreement to use of the entire capacity of an aircraft.

Here the emphasis is on the word "authorizes" in lieu of words of limitation. I might say here that the so-called Moulder bill, H.R. 7512, I believe it is, in our judgment has a similar defect in that it includes the word "limited" to a certain number.

Mr. WILLIAMS. As I understand it, this whole controversy grew out of a question of whether or not the Civil Aeronautics Board had a right to issue limited certificates. As I understand it, the very purpose of this legislation before us is to authorize them to issue limited certificates.

Mr. FRALEY. Yes. Obviously, sir, there is going to be a need for some reasonable——

Mr. WILLIAMS. But you want to throw the charter field wide open and make it unlimited?

Mr. FRALEY. No, sir. What I am referring to here is to the individual ticketed field, primarily.

Mr. WILLIAMS. Did you want to make that unlimited?

Mr. FRALEY. No. I recognize the need for a reasonable ceiling, but what we need now, sir, is a floor, not a ceiling. The floor that we have now is 10 flights. If at the very least, by this legislation, that floor could be established, and we think that is entirely inadequate, this would be something of a permanent nature that you could go to a banking house and say "We have this much authority. How much money will you let us have to buy new equipment?" That is our point.

If the Board receives its appropriation for this $50,000 and immediately enters into this investigation, from my experience, as an old CAB man, it convinces me that it would be 2 or 3 years at least, and then with a court battle on top of that, before we would have the Board's best judgment as to what our final authority, let's say, would be.

By that time, the situation would probably have changed again, and we would be under attack either over here or over there. The substitution of the word "authorizes" and I think it is important, would give us this permanent type of authority of a pleasurable degree that we could live with.

The next portion of our amendment, Mr. Chairman, which we propose as a substitute for section 1 of H.R. 7318, reads as follows: "(2) Individually ticketed passengers or individually billed cargo operations in the frequency of not more than twenty flights per month in the same direction between any single pair of points, in interstate, oversea, and territorial air transportation, including a further limitation of not more than two flights per day in the same direction between any single pair of points in interstate, oversea, and territorial air transportation; and (3) Supplemental air carriers shall have the right of first refusal in the operation of all charter trips in interstate, oversea, and foreign air transportation. The Board shall implement this section by appropriate regulation."

I might say at this point, Mr. Chairman, before you ask me, the first refusal—when we drafted this section, our concepts of first refusal would not apply to charters by the regular carriers over their own routes. This is the concept that we had on it. It would apply to off-route charters only.

It might appear at this juncture that we are asking for twice the amount of authority that we previously have had and now have, but it isn't that way at all, sir. The examination of the flight reports on file with the Civil Aeronautics Board will show that the major portion of supplemental air traffic moves, and this is between your long-distance transcontinental points, on the weekends. That is, most of them depart on Fridays with return trips coming back on Sundays. This heavy weekend traffic is not peculiar to our industry. If you have attempted, or anyone has attempted, to secure a coach flight or a tourist flight from Los Angeles to New York or going the other way, you have probably found as I have in this last 2 months that you can't get a reservation within 1 week from departure time. It just can't be done.

We think that this additional authorization will fill this public need for the lower priced transportation.

This portion of the amendment envisions that a carrier might schedule two flights in each direction on Friday between two major

transcontinental points, with returning trips of two flights in each direction on Sunday night each weekend. This would aggregate a total of at least 16 of the total of 20 authorized flights in each direction and during some calendar periods with an additional weekend falling within the month's period, the entire 20 flights would be utilized on weekend traffic. The further limitation in this paragraph of restricting schedules to a maximum of two flights per day in each direction will meet any objections made that a yearly allocation of flights would cause a blanketing of schedules in the more lucrative market area. If two flights per day in each direction are scheduled between any two points, it can easily be seen that the maximum number of flights flown during any 30-day period would cover only a 10-day scheduling period. The effect would be little different than the provision of an extra section to a flight under the present authority. And there is some question—I think the Board has not yet clearly determined on this point—that we may be legally permitted to operate an extra section under our present authority.

In other words, flight 376 from Los Angeles to New York might run one airplane out at 8:15 and another at 8:30, and that would constitute one flight. I have seen no definitive statement or opinion of the Board that "flight" means single plane service.

If I could ask the chairman to keep in mind that the need for this transportation has already been affixed and determined, I would refer you to some figures from a Civil Aeronautics Board office of carrier accounts and statistics quarterly report of air carrier financial statistics. The date of the report is September 1960, but it covers a summary of profit and loss for supplemental air carriers of all services for the 12 months ended June 30, 1960, and the 12 months ended June 30, 1959. The totals for 1960, and I refer now only to passenger, which is individually ticketed service, was $20,457,000. For the preceding fiscal period 1959, it was $19,253,000. This is in revenue dollars. This chart does not permit a breakdown of the civilian and military into domestic and international, but it does necessarily show that these figures I have just quoted are individually ticketed revenues in domestic only. This is so, Mr. Chairman, because the supplemental carriers or large irregular carriers have never at any time had authority to perform oversea or foreign services—well, oversea or foreign individually ticketed services. So the figures herein under "passenger" must necessarily refer to domestic, individually ticketed services.

There are approximately—I checked this due to a discussion that came up this morning, and I believe yesterday, as to the number of carriers engaged in this individually ticketed area—approximately 18 of the carriers in this field. Ten of them derive most of their revenues from individually ticketed operations. The other eight perhaps form one trip a week. Of the 10 that I mentioned that are mainly in this area, the 3 carriers that have been referred to so much as those subject to the recent Supreme Court decision, were the major operators during these periods that I am quoting figures for. The gross revenue dollars from individually ticketed passengers for the so-called Great Lakes group, including Great Lakes Airlines, Curry Air Transport and Trans-Alaskan Airlines, for 1960, was $9,415,000; for 1959, the gross dollar revenue was $8,113,000. Comparing that

with the totals, Mr. Chairman, it is obvious that the departure of these carriers from this individually ticketed field is going to leave a considerable gap. Almost half of the business has been performed by these carriers. We believe that 20 trips, to give us almost twice what we have now, to give us twice what we have now, is necessary to continue to provide the supplemental service in individually ticketed operations that we have now.

I would like to say that I concur with the remarks made by Mr. Patterson. From my own observations, I think it is too bad that the committee's procedures do not permit the taking of a view that you might find in a personal damage suit, where the jury could be carried out to the scene and actually observe what went on. I have personally observed these people. They are bus passengers. You will find them there with their little carboard suitcases, with many children. Frankly, these are people who, as he stated, could not afford to ride the regular carriers.

If the committee will bear with me for a short time longer, I would like to demonstrate a point or two as to why there is such a difference.

Comparing some of the fares of the supplementals and the certificated carriers, approximately 2½ years ago, the lowest coach fare of a regularly scheduled certificated carrier operating between Los Angeles and New York was $98.50 plus tax. The fares of the supplemental carriers operating between the same points was $80 plus tax. At the present time, the regularly certificated carriers, and these are jets, charge—and here I would like to make a correction in my statement which I show as $131, and its actually, I am told, supposed to be $138, for a coach accommodation. The supplemental carriers fare is still $80. You may say "Well, that is jet travel, but, in actuality, Mr. Chairman, there is no other type of travel available to the public today, long distance, over transcontinental routes, than jet travel. I travel that way, and you do, too. I prefer it. When I come here, I ride on American Airlines. But there are people who can't afford it.

Another comparison: Los Angeles to Honolulu, one supplemental has a one-way fare of $75; United and Pan American, on the other hand, have a one-way fare of $133. There is a difference there of $116 round trip. This is substantial. I believe as Mr. Burwell mentioned, there is a flight, and to be sure that I am not caught up short, there is a flight from Los Angeles to New York, a piston-driven flight, operated by TWA, where the fare is $105 plus tax. This is the one that he mentioned that took approximately 19 hours flying time. The supplementals which run nonstop flights run about 8 or 8½ hours, or one stop. That is at $88 plus tax, compared to $105.

Taking up now our third alteration that we would ask the committee to make of the Board's bill, H.R. 7318, that amendment falls into section 3, on page 5. Reading this section, our proposed amendment would place a period toward the end of the first sentence after the word "practicable" and eliminate the words "and may designate only the geographical area or areas within which service may be rendered." In our judgment, the express authority to delimit geographic areas of operation would create a completely impractical situation. This, we believe, is entirely contrary to congressional and

Board concept of supplemental carrier utilization and operations, the major point being to maintain our flexibility and availability to serve needed points.

As the chairman is well aware, I am sure, of the difficult and time-consuming nature of route-type awards, we think that any city or community which is hard pressed for service should be free and readily available to come to some supplemental carrier and ask for air service. A geographic limitation might, and probably would, eliminate that opportunity.

I will make one brief comment, if I may, sir, on this possible argument of diversion, which may be made, which has not been made yet, and it has never been established on any body of evidentiary record. Taking the New York to Miami or the Philadelphia-Miami route that was the subject of discussion this morning, Eastern, National and Northeast Airlines run nonstop piston and turboprop equipment between those points for $73.50 round trip. Most of the nonscheds operating out of New York, for example, run one-stop to Miami at $70, with older equipment. On the way over here from lunch, I rode by National Airlines' window and saw a sign advertising a new fare of $66.80. Mr. Chairman, I think you will agree that anyone that can ride on those major airlines is not going to ride on a supplemental because they have better equipment and better schedules.

As a final remark, Mr. Chairman, I would like to comment in this area about violations. The testimony last year was filled with it, and I assume it will be raised again, about the tendency of these operators to violate the act and the economic regulations.

If you will pardon a personal reference, until recently, and since August of 1957, I filled the Office of Chief of the Legal Division of the Bureau of Enforcement at the Civil Aeronautics Board. As the Board's former chief enforcement attorney, I think I can speak with some authority on the numbers and types of violations prevalent in the industry.

If my memory is correct, and the record of the Board may be produced to sustain it, the public records, during the last 18 months, approximately 40 formal enforcement cases were processed before the Civil Aeronautics Board. Only a very small handful of such cases involved supplemental carriers.

On the other hand, an examination of that record will show that almost every major airline in this country was a respondent at least one time during that period. One major carrier "came up to bat" three times.

I would like to call the chairman's attention to the MATS problem, which I will not go into as it is in my statement. As you know, the committee is investigating it this week. We would like to have been present to have heard what they said but we felt this was much more vital to our continued existence.

We do feel that that business is slowly but surely being taken away from us, and this we think is further need for this. If we are going to have any availability to the Government in a craft program or in times of a national emergency, we are going to have to have some more individually ticketed authority.

I thank the committee for making the time available to us. I will be glad to answer any questions.

Mr. WILLIAMS. Thank you very much, Mr. Fraley. Mr. Fraley, what two points, terminal points, do these two airlines chiefly operate into and out of?

Mr. FRALEY. They are primarily operating from San Francisco to Chicago, San Francisco-New York, Los Angeles-Chicago, Los Angeles-Detroit, Los Angeles-New York, Los Angeles-Dallas-Miami, New York-Miami, Philadelphia-Miami, in that general pattern.

Mr. WILLIAMS. You say that this is primarily a ticketed service?

Mr. FRALEY. Yes, sir.

Mr. WILLIAMS. This airline depends primarily on that. Does it depend altogether on that?

Mr. FRALEY. At the present time I would say not altogether. They are doing some charter business, or they are planning some charter business through the association exchange.

Mr. WILLIAMS. What percentage would be ticketed and what percentage would be charter on these two airlines?

Mr. FRALEY. I would believe that 90 percent or 95 percent would be individually ticketed under the present plans of operation.

Mr. WILLIAMS. You are suggesting that you be given a 20-trip authority between any two given points?

Mr. FRALEY. Yes, sir.

Mr. WILLIAMS. As a practical matter, how do you operate these flights? For instance, you have service between Los Angeles or, let's say, San Francisco and Chicago, just to take those two points.

Do you advertise in the papers that you are operating service between San Francisco and Chicago, Mondays, Wednesdays, and Fridays, for example?

Mr. FRALEY. Generally that is right, sir, although you cannot advertise more than your 10 trips. You can only hold out a maximum of 10 trips.

Mr. WILLIAMS. Let's say Mondays and Fridays.

Mr. FRALEY. Yes, that is generally the case.

Mr. WILLIAMS. What is your load factor?

Mr. FRALEY. Frankly, sir, on a weekend flight and on Thursday, where we have actually the excursion fare of $80 between New York and Los Angeles running Monday through Friday, but since most people prefer to ride as close to the weekend as they can, apparently——

Mr. WILLIAM. What is your average load on these flights?

Mr. FRALEY. I do not have it percentagewise, but they go out full almost every time. It is a very full load factor.

Mr. WILLIAMS. What assurance would I, as a ticket purchaser, have that that plane is going to take off on schedule and take me from Los Angeles to Chicago, even though I may be the only person that bought a ticket on the plane?

Mr. FRALEY. Well, I think practical economics would indicate that you would be purchased a ticket on another airline at the least inconvenience to you, under your example.

Mr. WILLIAMS. Let's say I buy a ticket on Quaker or Mantz Air Services. I contract with Mantz Air Service to carry me there in a Mantz aircraft. What assurance do I have that I am going to be taken from Los Angeles to Chicago on the date specified on the ticket, on the contract, on schedule?

Mr. FRALEY. If this carrier has published a schedule, made it available, in the Airline Guide or in any other publication media, you have the same protection that any other passenger who purchases a ticket on American Airlines does.

In other words, if the flight is not performed, and this is a recurring matter, or if it recurs to the knowledge of the Civil Aeronautics Board, it constitutes, and has constituted in the past, a violation under section 411.

Mr. WILLIAMS. That still does not answer my question. Let's assume that I get out to the airport and there are only a handful of passengers out there. Let's say that no passengers show up, and you have advertised the flight. Do you go through with the flight?

Mr. FRALEY. I would say if we have a return load coming back, or if there are passengers, let's say, in New York going to Miami, the flight would proceed; yes. We have to reposition airplanes to handle advance bookings. These bookings take place a month in advance sometimes.

Mr. WILLIAMS. All right, you have said that you want a 20-trip authority. What two points would justify that 20-trip authority?

Mr. FRALEY. I think New York-Chicago.

Mr. WILLIAMS. Let's take those two points. You have asked for permission to fly 20 trips back and forth between New York and Chicago.

Mr. FRALEY. Right.

Mr. WILLIAMS. Are you also asking that you be required to fly 20 trips between New York and Chicago?

Mr. FRALEY. No, sir; I am not.

Mr. WILLIAMS. In other words, you are asking for something that the regular airlines do not have?

Mr. FRALEY. I do not believe I understand your question.

Mr. WILLIAMS. The regular, scheduled air carriers have to fly that route whether they have 1 person in the plane or 20, do they not?

Mr. FRALEY. Yes.

Mr. WILLIAMS. What you are asking is permission to make at least 20 flights, and not be compelled to make those flights unless you, yourself, decide that it is a profitable venture.

Mr. FRALEY. Well, I wouldn't want to answer a categorical question, but I would say certainly that the economics of the situation would dictate that if you found that on Mondays, Wednesdays, and Thursdays you were not getting enough passengers to make a trip profitable, and you could position the airplane in some other way, you would not make that flight, and within a reasonable time or within the time that you could do it, you would alter your schedule.

What I am saying is that experience has convinced me, at least, that most of the travel, where there is a need, where there is an overflow of business, it is for weekend flights in this low-cost market area. The other carriers, I think, are missing the biggest bonanza in their lives by not taking their old equipment, talking about American, Eastern, and what have you, and instead of selling it off, I think they could operate these so-called economy flights and have all of this business. But they are not doing it. They are geared in the other direction. They are going more deluxe and more first-class everyday. This market is just not being served.

Mr. WILLIAMS. The bone of contention in this controversy seems to be the ticketed service.

Mr. FRALEY. Yes, sir; I think that is the case.

Mr. WILLIAMS. While I recognize the matter of charter service as constituting somewhat of a problem, of course, I do not regard that as being too much of a hurdle for this committee to overcome.

What degree of responsibility do you think should be exercised by these carriers with respect to these ticketed schedules? Are you bound by a schedule of any kind other than by the advertisements that you made and the contracts you made with the individuals?

Mr. FRALEY. No, sir; we are not. There is no requirement to file these with the Board.

Mr. WILLIAMS. The CAB does not require you, for instance, to go through with what you have advertised that you are going to do?

Mr. FRALEY. Well, no one can compel any carrier to fly or actually perform under its contract. That would fall into a civil lawsuit. I might say in an aside here that in the last 2 or 3 years, as a member of the Enforcement Bureau, the question of economic cancellation, that is what we called it, word of art, has been a matter of considerable study. This would be economic cancellation by the certificated carriers.

My personal opinion, and I will not bind anybody presently there, is that this is a false, misleading, and deceptive practice, to hold out the schedule and availability of a flight, and then cancel out for a spurious reason, such as mechanical or weather or something like that, and not perform that flight. That is my personal opinion on it and I think ultimately that may be realized in some Board decision somewhere down the line.

Mr. WILLIAMS. What I am trying to figure out is this: If you are going to get this weekend trade—which, it has been suggested, is the cream of the week——

Mr. FRALEY. That is the suggestion.

Mr. WILLIAMS. And you realize that it is, of course, between two points where there is quite a bit of traffic, you do not land at Hush Puppy, Miss., for instance——

Mr. FRALEY. No, sir.

Mr. WILLIAMS (continuing). But you land in New York and Chicago, but you would not land in between. If you are going to get that kind of service, then don't you think that some responsibility should go with it?

Mr. FRALEY. Yes, sir; I do. I think it is no excuse to say that because the certificated carriers are presently doing it and have done it, canceling out flights because they have no payload—that is no excuse to me, as far as I am concerned.

Everyone should be required to perform. It is a binding contract. As a lawyer, you recognize that it is, but the idea of having to sue some carrier who is incorporated three States over is just impractical and impossible. I think there should be some regulation or control over performance under schedules.

Mr. WILLIAMS. When a supplemental carrier advertises that it is going to fly between Chicago and New York at a certain hour on a certain date, and then for reasons other than mechanical or unforeseeable circumstance—something beyond their own control—they can-

cel that flight, willfully, then do you feel that the CAB should have some means of imposing some kind of civil penalty on this airline for having so violated its contract with the public?

Mr. FRALEY. Yes; I do. First, let me say as a former CAB man, we tried for 10 years to get civil penalties as effective remedies. But I think that the Board now has the power, still has such authority as it is, enforcement authority, to bring an action against that carrier to cease and desist such operation in the future. It has not done so against any carrier up to now.

Mr. WILLIAMS. Mr. Devine?

Mr. DEVINE. Just to supplement what the chairman has said, I have had personal experience with a certificated airline that starts at O'Hare and goes to Dayton, to Columbus to Washington then to New York. I have taken the Columbus to Washington leg on DC–7 equipment with as few as four passengers which, of course, economically is deeply in the red. Yet they are required to perform on that flight. I think that is an example of what the chairman is speaking of in their requirement.

Mr. FRALEY. They are morally required, Mr. Devine, but they are not legally obligated to, under the law.

Mr. WILLIAMS. No; but the point he is making is that the scheduled carrier is legally and morally obligated to carry those passengers, whereas, you escape the legal responsibility.

Mr. FRALEY. The point is we are both legally and morally obligated to do so, but there has been no enforcement to date against the large carriers doing it. There has been no enforcement against the supplemental carriers for doing it.

Mr. WILLIAMS. At what point does a supplemental carrier become a scheduled carrier?

Mr. FARLEY. He becomes a scheduled carrier when he advertises and holds out though public media that he has a schedule, that he flies on Monday and Friday. Then he is a scheduled carrier. He is not a regulraly certificated carrier.

Mr. WILLIAMS. When he makes that a scheduled operation, why shouldn't he be subject to the same rules and regulations that a regularly scheduled carrier is subject to?

Mr. FRALEY. I think that is reasonable.

Mr. WILLIAMS. In other words, if you advertise that you are operating flights between New York and Chicago on Mondays and Thursdays and Saturdays, then why shouldn't you be stuck with that?

Mr. FRALEY. I think you should.

Mr. WILLIAMS. Whether you have one passenger or a plane load of passengers?

Mr. FRALEY. I think you should.

Mr. WILLIAMS. Is there anything in this legislation that would do that?

Mr. FRALEY. No, sir; nowhere in the legislation. None of the proposed bills would place that requirement, as I see it, upon the supplemental industry.

Mr. WILLIAMS. Then you advocate that in the writing of this legislation, the committee must certainly amend the legislation so as to place that responsibility on these carriers who are, in actuality, operating as scheduled carriers?

Mr. FRALEY. No, sir; I think it can be handled by Board regulation as the requirements are for the certificated carriers, other certificated carriers, to do what you say. In other words, regulations cover that.

We would like to be teated the same as the certificated carriers in this area. We are willing to live up to what they have to do.

Mr. WILLIAMS. You are willing to go before the Board and get a certificate of public convenience and necessity to operate between two points?

Mr. FRALEY. No, sir; I am afraid not.

Mr. WILLIAMS. You say you want the same treatment. That is what they have to do.

Mr. FRALEY. Insofar as the responsibilities of operation are concerned, and as far as sanctions are concerned, that may be imposed on our operation.

Mr. WILLIAMS. I am sure you can understand the problem that this committee is up against in that respect.

Mr. FRALEY. Yes, sir; I sure do.

Mr. WILLIAMS. Thank you very much.

The next witness is Mr. Jesse Stallings.

STATEMENT OF JESSE STALLINGS, INDEPENDENT AIRLINES ASSOCIATION

Mr. STALLINGS. I want to thank you for the privilege of appearing here today. I regret that I do not have a prepared statement.

My name is Jesse Stallings. I am president and principal stockholder of Capital Airways, of Nashville, Tenn. Capital is probably the largest of the so-called supplemental carriers. We employ today approximately 650 people and operate over 50 aircraft, primarily in worldwide charters and military contract operations.

We also perform contracts for various other Government agencies, such as NASA, and we operate some airplanes under a bailment situation for the Army.

I will try to be as brief as possible, and possibly will speak in generalities.

To qualify my statements, I think I should give you something of my background in aviation. I have been a pilot for over 32 years. I came up through the barnstorming days of aviation. I was a scheduled airline pilot with one of the major carriers for approximately 14 years. Another pilot and I started Capital Airways immediately following World War II, in 1946, with one light training airplane, and it has grown to a relatively large company today. We have done this without benefit of subsidy, and purely on a competitive market.

We think that a great savings to the taxpayer has occurred in the fact that we have flown military freight for the Air Force at rates as low as 9 cents per ton mile, and also, of course, have transported military passengers overseas at round trip for as low as $170 between New York and Europe.

Today, one of our principal sources of revenue is North Atlantic charters which, of course, as you know, is very seasonal. This business we feel has a very definite potential if some of the redtape and stringent regulations could be modified.

For instance, to process one charter application, our legal fees alone run approximately $150. Some of the details involved in securing one of these exemptions actually borders on the ridiculous. Last year we were flying a temperance group out of Chicago to Europe. One of the carriers who was certificated across the route protested this exemption on the basis that they had seen a member of this group in a bar taking a drink, so I think that is carrying it rather to an extreme.

I will not belie the issues——

Mr. WILLIAMS. Did the CAB entertain that protest?

Mr. STALLINGS. No, sir; it did not. It was rejected. But still, the protest was made and it required us to write letters and get the people of this group to write letters. Then it cost the taxpayers some money in that someone at the Board had to process this silly thing.

I believe that many of these regulations, which I think the Board has under consideration at present, could be modified or abandoned completely, and that it would afford air transportation to many groups today who could not afford to fly by other means of transportation.

We have engaged in some individually ticketed passenger business. We at one time operated between New York and Miami. We have operated Chicago-Miami. We operated that for approximately a year. At present we are not operating any scheduled flights on individually ticketed basis.

As I think has been previously testified—unfortunately I was not here yesterday and did not get here until late today—I think the question of the MATS awards has arisen during this period. This, to our company, is a very serious blow due to the fact that in the past, while we have had an open rate or competitive rate, competitive bidding, we have had a certain advantage in that our indirect costs are lower than a larger airline's would be, which was the only competitive advantage, of course, that we had.

Now, with this floor placed under the rates, what you are speaking of, in essence, is a system of allocation, and that has destroyed our competitive advantage as far as military business is concerned. We suffered severe loss in some of our contracts for the coming fiscal 1962.

As to my position here, and reason for appearing before your committee, I would like to state that I feel that these supplemental carriers are a very definite national asset, particularly, as you know, we have a deficiency in national airlift, which has been well publicized.

When you say a deficiency in national airlift, in essence what you are speaking of is a mobilization base. I think that all of these carriers have expansion capability, and for that reason do increase that mobilization base. Of course, the greater the number of carriers the greater your mobilization base.

That is based on airplanes in being. When you say mobilization base, you are talking about everything that it takes to make an airplane run as well as the airplanes. It does take all of the groundwork to go with it to fly airplanes.

For that reason, I feel that it would certainly be in the interest of our country if some type of permanent operating authority could be granted to these carriers.

Thank you, sir.

Mr. WILLIAMS. Thank you, Mr. Stallings. Did I understand that you are not operating any ticketed service now?

Mr. STALLINGS. Mr. Chairman, we do. Frankly, we fly both the Atlantic and the Pacific, in both oceans. Frequently in getting airplanes from one coast to the other we do individually ticketed business. This is really necessary to the type of operation we conduct due to the fact that most charters are sold 2 to 3 months in advance.

Mr. WILLIAMS. What is the bulk of your operation—charter?

Mr. STALLINGS. Yes, sir; that and military contract flying is the bulk of our operation. We fly, as I said, worldwide charters. Approximately 78 percent of our gross revenue is derived from military contract flying.

Last year we grossed in the neighborhood, through all of our activities, in the many phases of aviation, approximately $15 million.

Mr. WILLIAMS. Approximately what percent of that would be in the ticketed operations?

Mr. STALLINGS. I could not give you an accurate figure. I could obtain that.

Mr. WILLIAMS. Would it be negligible?

Mr. STALLINGS. Yes, sir; it would be negligible.

Mr. DEVINE. Did you say you represent Capital Airways?

Mr. STALLINGS. Yes, sir.

Mr. DEVINE. You are dealing in freight as well as passengers?

Mr. STALLINGS. Yes, sir; we do. We fly one contract for the Air Force called "Log-Air" which is an Air Force scheduled freight airline. It connects the various military bases, particularly SAC and Air Materiel Command. We have been flying on this operation for approximately——

Mr. DEVINE. What type of equipment do you fly?

Mr. STALLINGS. We are flying C–46's. We have 42 C–46's on this Log-Air system.

Mr. DEVINE. You said your gross for last year was approximately $15 million?

Mr. STALLINGS. Yes, sir.

Mr. DEVINE. Can you give us an idea of approximately what your net was?

Mr. STALLINGS. Well, actually, we showed a slight operating loss for last year.

Mr. DEVINE. A slight loss?

Mr. STALLINGS. Yes, sir.

Mr. DEVINE. I believe that is all.

Mr. WILLIAMS. Thank you very much.

Mr. STALLINGS. Thank you.

Mr. WILLIAMS. The next witness will be Mr. Ralph Cox.

STATEMENT OF RALPH COX, JR., PRESIDENT, UNITED STATES OVERSEAS AIRLINES, INC.

Mr. COX. Mr. Chairman, thank you for this opportunity.

I have a written statement I would like to submit.

Mr. WILLIAMS. The committee would be very glad to receive it. Without objection, it will be included in the record at this point.

(Mr. Cox's prepared statement follows:)

STATEMENT OF RALPH COX, JR., PRESIDENT, UNITED STATES OVERSEAS AIRLINES, INC.

On behalf of United States Overseas Airlines, Inc., and myself as president, I wish to express appreciation to the members of this committee for the opportunity to be heard in full support of H.R. 7318. To emphasize the importance attaching to this hearing, USOA and all other supplemental air carriers can assure you that over a period of some 15 years, our segment of the air transport system has not enjoyed 1 single day of operating authority which was not subject to the chaotic uncertainties of court appeal and complicated phases of a mammoth proceeding before our regulatory agency.

That USOA and other members of this class have survived and prospered in the performance of true supplemental service, despite legal and economic attrition and lack of certification, bespeaks the soundness of the Civil Aeronautics Board's decision in 1959 and proves our public need.

I believe that my background and the circumstances leading to my entrance into the field of supplemental air transportation are fairly typical of others in our industry. In fact, as the Board has found, the supplemental industry was born of a public need following cessation of hostilities of World War II. It was during the period of awakening that air transportation had its start insofar as the average traveler was concerned.

Thus, with the advent of aircoach travel, inaugurated by the supplementals, a new era in air transportation began. USOA was one of those early beginners which stepped in to fill a public and military need.

My background in aviation dates from 1939 when I entered the U.S. Navy as an aviation cadet. Following my discharge from the Navy, I served with American Export Airlines, Inc., as navigator, second officer, and first officer and with American Overseas Airlines, Inc., in the capacity of captain. In January 1946 I entered the field of irregular, now supplemental air transportation with the purchase of one-half interest in the lease of a C–47 transport aircraft.

That same year I purchased a C–54 aircraft from the War Assets Administration which I had converted to passenger configuration. It was in November 1946 that I conducted my first independent flight from New York to Arabia under charter to the Arabian-American Oil Co.

Expansion of operations continued over the ensuing years during the course of which we took on additional equipment and established a complete maintenance base at Wildwood, N.J. My company was initially known as Ocean Air Tradeways. United States Overseas Airlines, Inc., was incorporated in 1950.

Since that time, although our operations have remained based in Wildwood, N.J., USOA has conducted its operations all over the world. Since its inception, I have continually served USOA in responsible executive positions, first as president, then as executive vice president, and, since August of 1959, again in the capacity of president. During this time the carrier has experienced a steady rate of growth.

United States Overseas Airlines, Inc., currently employs more than 500 people, including management, flight personnel, maintenance crews, field operating personnel, and airport and city ticket sales people. Our fleet of DC–6 and DC–4 aircraft spans the globe in the performance of charter and individually ticketed air transportation in both military augmentation and commercial operations. We have ticket offices and airport facilities at such major points as New York, Chicago, Detroit, Miami, Dallas, Los Angeles, San Francisco, Honolulu, Guam, and Okinawa.

Our airline was one of the first to answer the call during the historic Berlin crisis and responded with equal effectiveness in the Korean conflict. This record of service in the national defense has continued up to and including the present time and has encompassed active participation in the Arctic DEW Line project, the Navy Quicktrans cargo operation and MATS flights throughout the entire world. Within the past 9 months USOA's MATS operations have taken its crews and aircraft to such diverse locations as England, France, and Germany in the Atlantic and Hawaii, Guam, Japan, and the Philippines in the Pacific.

United States Overseas Airlines is a member of the civil reserve air fleet and has committed its equipment to the Government for use in time of a national emergency.

Up to this time, USOA has expended thousands of dollars in the legal pursuit of a permanent form of operating authority to issue from the Civil Aeronautics

Board. At this point, we can only reiterate our extreme dismay at the 1960 decision of the U.S. court of appeals, rendering virtually useless our 8-year effort and reducing, in effect, our operating authority to its hectic and chaotic posture of the 1940's. We were gratified that Congress in June of 1960 recognized our plight through the enactment of legislation preserving our status quo until March of 1962. We are truly appreciative of your present interest in seeking ways and means in this busy session of permanently alleviating our plight.

Mr. Chairman, I want to emphasize that the flexibility of our present varied operations is the only possible means through which our fleet may be maintained and expanded to supplement the demands of the general public and accommodate the needs of the military; therefore, we must make full use of our diversified 10-trip authority and charter rights in order to maintain our economic stability and growth.

We must make full use of such avenues of revenue as military and civilian charter flights, which have included such recent examples as the transportation of 467 U.S. Air Force Academy third- and fourth-year cadets at one time from Colorado Springs to New York; the members (over 300) of the senior officers' class of the Armed Forces Staff College from Norfolk, Va., to Cherry Point, N.C.; Hungarian refugees to havens all over the world during the Communist purge of Hungary; and a party of students from Nationalist China destined to our Nation's principal institutions of higher learning. Then in October of 1960, we felt especially honored when our services were requested for performance of a 1-day tour covering the entire State of Florida in transportation of that State's highest officials and of the principal advisors to Vice President Johnson. More recently, USOA has performed numerous commercial charters for well-known domestic business firms and is currently engaged in the performance of a steady flow of tours to our new State of Hawaii at rates readily available to the general public.

USOA, together with other supplementals provided in excess of 20 percent of the total passenger transportation to Hawaii in 1959—all at rates attractive to the average traveler and geared to generate and stimulate air travel. Then in 1960 USOA continued its active participation in the burgeoning Hawaiian market and expanded its transpacific individual service operations to include a regular weekly service across the Pacific to Okinawa. USOA's record in transpacific individual sale service has been such as to merit specific recognition and commendation by the Civil Aeronautics Board. Thus, in the recent *Trans Pacific Route* case, Docket 7723 et al, in which USOA was an active applicant, the Board lauded our company with the following findings:

"In 1958, USOA operated a total of 851,000 plane-miles in the transpacific area, 280,767 being in individually ticketed flights between the mainland and Hawaii. It carried 7,557 passengers in 1958 between the mainland and Honolulu with an average load factor of 64.5 percent although it did not begin this operation until June of that year. The carrier achieved even greater success in its operations in 1959, performing 267 individually ticketed flights in the market and carrying 19,379 passengers with an average load factor of 71.6 percent. During the first two quarters of 1960, USOA attracted 9,806 mainland-Hawaii passengers and expanded its transpacific operations to include a regular weekly service between the west coast and Okinawa via Honolulu, Wake Island, and Guam." Pages 21–22.

USOA remains a significant factor in the transpacific basin and is the third leading U.S. carrier both in the California-Hawaii and U.S.-Orient markets. In fact, USOA is the only airline offering direct scheduled service between Okinawa and such major traffic points as California, Honolulu, and Guam. By connections at Okinawa USOA's low-cost services are made available to many travelers to and from such major oriental points as Free China, Hong Kong, Thailand, Japan and Korea. Among those utilizing USOA's transpacific service have been Miss Universe contestants from points throughout the Far East and a party of Boy Scouts from Free China.

During the imminent summer season USOA and other supplementals will carry numerous commercial charter trips to Europe and foreign points. These charters will comprise student and study groups, choral societies, general business clubs, and a wide variety of qualified groups which otherwise could not afford such a trip.

USOA for 3 years has been the holder of the U.S. Navy quicktrans contract which involves the nationwide carriage of Navy priority cargo by air.

Our convertible aircraft which are used on our limited passenger route service are such that expandable cargo space is utilized on nearly every trip with

fill-in shipments produced through our business relationships with the Nation's domestic and international airfreight forwarders. Thus, by this method our pressurized aircraft operations combine passenger and cargo movements—and all possible through full exploitation of our versatile authorization.

Mr. Chairman, our airline fulfills a public need. This is manifest from our actual operating statistics. Thus, our captains have accumulated a total flying time considerably in excess of 390,000 hours in diversified operations throughout the entire world. During the year 1959 our total miles flown amounted to 6,795,640. Our revenue-passenger-miles were 206,000,350 out of a total in excess of 286 million available seat-miles. Throughout the same period we transported 170,719 passengers, both civilian and military, to points all over the world.

Mr. Chairman, a supplemental airline is unique in that it is a component of the only commercial ready reserve air fleet in this country. These carriers are in the air day and night—week in and week out—month in and month out—year in and year out. There are over 100 aircraft in our industry, including DC–3, DC–4, DC–6, DC–7, C–46, 1049 Constellation, and Boeing 377's. These aircraft are manned by highly qualified pilots and crews—not restricted to fixed- or routine-type operations.

May I, at this point, present to the committee, a typical example of the experience and qualifications of the average supplemental aircraft pilot in command.

He flew in World War II and the Korean hostilities as an air transport or Naval Air Transport Service pilot. This duty took him to all parts of the world and conditioned him to extremes in exercising his expert pilot capabilities. He is presently a commissioned Reserve officer. He has current pilot certification of the highest order, recognized and authorized by the FAA and CAB. He is a qualified line check pilot and transition instructor. He is more often than not, a combination pilot, navigator, engineer, and dispatcher.

In these pliant capacities he exercises his unique training proficiently where facilities might not be adequate or aircraft maintenance and navigational aids might be lacking. He is capable and employs his capability in the day-to-day transportation of cargo, ranging from shipments of live monkeys to highly technical assimilation and transport of vaccine such as hoof-and-mouth disease serum to distraught cattle areas over the world.

His range of passenger service finds him employing his flexible talents to assignments varying from a coordinated movement of the U.S. War College classes to the provision of some 90 percent collectively of the total required airlift for the summer reserve training programs for all the armed services.

He participated in such emergency situations as the Berlin and Korean airlifts—and was responsible, in large part, for the lift requirements necessary to the construction of the Western Hemisphere DEW line in the Artic. He has the versatile ability to operate into and out of areas and airports—remote and unfamiliar. This versatility, Mr. Chairman, was again illustrated by the fact that the supplemental air carrier captains and crews were in the forefront of the heroic evacuation of refugees from the chaotic terror which only last summer engulfed the new African Republic of the Congo.

In other words, a supplemental air carrier pilot in command, based upon his flexible capabilities, can successfully and efficiently fly from any area or airport to any other area or airport, without further instructions except the carrier's original order to proceed from place to place. He needs only gas, oil, and a capable aircraft.

United States Overseas Airlines desires to continue its part in the progressive development of this vital segment of the Nation's air transport system. But to do so requires unequivocal license for the full range of authority found by the Civil Aeronautics Board to be in the public interest.

Freed from the day-to-day harassment and the economic attrition of the longest administrative proceeding in the annals of law, our industry, with assurances, can foresee new vistas to be pioneered in this still infant field of commercial air transportation.

Wherefore, we ask your earnest consideration and favorable action on H.R. 7318 and amendments.

Mr. Cox. I have a few remarks I would like to present.

Mr. WILLIAMS. First, would you identify yourself for the record?

Mr. Cox. My name is Ralph Cox, Jr. I founded, and I am the president of, United States Overseas Airlines. We have been operating for just about 15 years.

I would like to point out some observations relative to this allegation that we are "taking so much cream, skimming the cream," and we are diverting so much traffic from the scheduled carriers.

I think it is quite insignificant when your records show that about 99.78 percent of the scheduled traffic is held by the scheduled carriers. In other words, we have about twenty-two one-hundredths of 1 percent. That is really better than Ivory soap, as far as the purity goes, as to their market.

Secondly, I think that we are on the bottom. We cannot very well "skim the cream." When I say the bottom—even airports. For instance, at La Guardia Airport we have to go to the old Marine Terminal Building. It is practically a warehouse in its state of disrepair at the present time. We are not in a position, in other words, at La Guardia and many of these other large airports, to even come in contact with the flow of traffic.

We are, in effect, a mile or two away on the other side of the field where people do not even know about us. It is quite a difficult job, in fact, to get our passengers there by taxi. They get to the wrong terminal. We have a backroom in this terminal which is virtually empty. We cannot have a counter in the front. It is a very difficult job for the public to even find us. There is a large empty room. It has been empty for almost 10 years now. Pan Am used to have it at La Guardia, at their main offices departure terminal. We unsuccessfully attempted to get that room for 4 years now.

In San Diego we cannot even get a counter in the terminal, in spite of the fact that three or four car rental agencies do have counterspace. The Federal law says that an air carrier should get preference on this sort of thing. We have not gone to court to try to get this counterspace, but I simply point it out as an indication of the harassment and the pressure and discrimination that we have suffered.

As far as the 10-trip authority, which is the big bone of contention, that is a ratio that was derived about 10 years ago, and it was intended to be a yardstick catalytic effect. In other words, the public need, according to the Board's findings, after about 8 years, was that we constituted a catalytic effect and were a convenient yardstick for the public, the public good.

In the past 10 years, the scheduled carriers have tripled their speed, doubled their loads, doubled their scheduled services. We still have our 10 trips. Their ratio grows and grows and our competitive, catalytic effect gets smaller and smaller. Actually, if you had a taxpayers' lobby here, I would think they would be asking that we increase our schedules just to maintain an even ratio of competition to furnish this yardstick public need.

Originally, we did have the right to fly scheduled flights to Europe. Back in 1947 our carrier flew to Europe on a scheduled basis. Gradually things happened to us. We were not adept at protecting our rights. One thing happened to us in that we were denied foreign air transportation really without any hearing on it. This happened back in 1947.

We were small and young and divided. We could not defend ourselves. So we were blocked right out of that market. Gradually, then, this 10-trip thing came about. I just want to point out that it is an insignificant portion of the traffic that we take, but it is a great

and valuable contribution to the general economy and to the public, itself, in constituting this governing effect, this catalytic effect.

On this 10-trip thing, if we are going to render the service and be a public need, with 10 trips a month, our costs are three or four times greater. In other words, we have to hire people by the month, not for two or three times a month. We have to pay rent for the whole month, and have offices and phones. So our cost of procurement can be five or six times as great as if we did fly more frequently.

Therefore, it costs us a great amount to render this service. We have to have income to live. Either we are justified in being in existence or not. Up until now, our military and commercial in our company have been about equal, military traffic and commercial; that is, ticketed passengers. This charter that they have talked about, commercial charter, I do not think amounts to 5 percent of anybody's income.

If you want to consider MATS business as charters, then it is a different figure. But commercial traffic, from our experience, has to be ticketed. It is, in effect, that I might not want to make a speech today, but I want the right to do it, I want freedom of speech. It is the same with this.

If we do not have freedom to come in and sell tickets, we do not render a public service. We might just as well be relegated out because we cannot render the service apart from the military reserve airlift that we render to the public unless we render it on a ticketed basis.

Mr. WILLIAMS. I hate to interrupt you, but the bells have rung for another rollcall and the committee will have to recess. I hate to interrupt you right in the middle of your testimony, but we will come back as soon as we can after we have answered this call. We will try to get as far as we can this afternoon.

Mr. Cox. Thank you very much.

Mr. WILLIAMS. The committee will recess for approximately 15 or 20 minutes.

(A short recess was taken.)

Mr. WILLIAMS. The subcommittee will be in order.

You may continue, Mr. Cox.

Mr. Cox. Thank you, sir.

The Civil Aeronautics Board found that we were pioneers in air-coach and that we were creators of new innovations and that we had this good yardstick effect. That is why I feel that we must be kept for the public good.

We have to have enough authority to live with. As an example of in the future, I feel that a great vacuum is being formed as the railroads cut back on their passenger service. I, for one, would say that we could fly those economy railroad coach passengers for half of the scheduled airline fares.

At the present time, our company is flying from Miami to New York, Detroit-Chicago, southern California, San Francisco, Honolulu, Wake, Guam, and Okinawa. In fact, we are the only carrier flying between Okinawa and Guam. There isn't even any airmail service.

We are not allowed to carry that, however, and between Okinawa and Honolulu we are the only direct service. We do not divert traffic.

As a matter of fact, we create traffic, and a lot of our hard-won passengers eventually graduate to the scheduled air carriers. If we are diverting so much since 1955 when we were authorized to fly 10 trips a month on a scheduled basis, so far no ATA member has complained through a Board proceeding that we are hurting them. As a matter of fact, in that proceeding, the Board said if we flew 15 percent or more of the traffic between two points it would be almost prima facie evidence that they were not supplying the service, and that the Board would probably initiate a proceeding.

Consequently, we feel that this diversion is just a big—it is the big lie technique against us. We are not diverting any substantial traffic, not 0.22 percent.

The other thing I would like to mention is that the 10-trip business was originally set up as a ratio, and since that 10-year period the scheduled airlines have increased their seats moving, the speed of the seats, the numbers, greatly. I do not have exact figures, but it is several times. If that is the case, if we were a public need, to compete 10 times a month in those days, the scheduled carriers need a lot more competition now just to stay even, and in the meantime, about 75 percent of our carriers have dropped out of the picture completely.

Ten years ago there were over 100. Today they are really 10 or 15 actively in this competitive position. Consequently, as far as the public need is concerned, we are just decreasing and diminishing so fast that I am surprised, really, that there is not some move to urge us to give more competition in this field.

On the MATS business, there is another example. We live, as I said, by about half of common carriage and half of MATS, military business. This company has had the quick-trans Navy cargo service for the last few years. I am told now that we have lost it because we were not the low bidder. Right after that the Board said that—I think it was Slick Airlines that won the bid—said they were too low and they said they would have to raise their bid.

We are the low bidder now, since the Board said they would have to raise their price. So we have lost that contract. Therefore, to be around next year, if we are going to bid on it, we have to have this commercial market to fall back on, or at least to live on. We have about 400 people, up to 500, occasionally, working for us.

Our main base is Wildwood, N.J. That is a depressed area. We are actually the largest single employer in Cape May County. We have this maintenance base with over 150 people working there. It is a great national asset in case of emergency. If there were trouble tomorrow, we could operate 15, 20, or 30 airplanes out of there without any great strain.

That, in itself, is a great national asset, compared with, well, MATS, for instance, is basing their criteria to award contracts today on the numbers of airplanes. Well, a broker can get a dozen numbers of airplanes. So if we do not have some commercial activity to fall back on, and we do not have it unless we get protection from this bill, we just will not be here for any need.

I do not think we can argue any more. The Board took 8 years. They said we were all these assets, yardstick, national defense, et cetera. We are now at the point where we have to—well, we will

not be here, and that is a fact, for very much longer, unless we have clear-cut authority.

I heard some other witness mention about would we be obligated to fly the trips. I would say yes. In our experience for the last 4 years in common carriage, we have flown trips with as few as six passengers. I was on a trip recently to Honolulu. We only had six passengers. But we have to fly the trips because the public will not support us if we do not.

If we start canceling trips, your name is mud with the public from then on. I do not think there is any criticism of our obligation to stand up to these schedules. If we have the schedules, we will fly them. As a matter of fact, that is our problem. We do not have enough authority to fly schedules.

I think that, sir, just about winds up my observations on this for what it is worth to you.

Mr. WILLIAMS. Thank you very much, Mr. Cox.

How large an operation is yours? How many aircraft do you have?

Mr. Cox. We are operating 18 four-engine airplanes. Six are the DC–6 pressurized type and 12 are the DC–4 type. We have roughly between 400 and 500 employees. The route mileage from Miami to Okinawa is about 11,000 miles. That is not counting the quick-trans mileage, which is coast to coast and Boston to Alameda, via about 17 intermediate stops.

Mr. WILLIAMS. On your ticketed operations, what is your average load factor?

Mr. Cox. The average load factor? We had a presentation on the Hawaiian case recently and it was around 71 percent. Coast to coast it varies from 50 to 70 percent.

Mr. WILLIAMS. In other words, are your planes on the average from 50 to 70 percent fully loaded?

Mr. Cox. On the year-round basis, yes, sir. In the summertime, of course, the loads are up considerably.

Mr. WILLIAMS. Your load factor is considerably under some of the others, is it not?

Mr. Cox. Our load factor is, yes, sir. The carriers that have been flying daily automatically get a better load factor for this simple reason: A man wants a round-trip ticket and you take him out on Tuesday to New York, but you are not coming back until Saturday. He has to come back Thursday so you lose your round trip. So you lost that passenger.

That is one of the problems on not having a proper frequency. I think, speaking of that, that this frequency is a very relative thing. In the old days it was something like sailing ships. A trip possibly overseas was once a week or you went every other day. Today they want to know what hour you go on, not what day, and it is very difficult for us to compete when we say we go Tuesdays and Fridays, especially on round-trip passengers.

But I feel that we still, in spite of that, have rates just about half of the lowest scheduled coach rate. We have a $72 tariff, plus tax, from New York to California, and in the reverse, where the flow is a little different, the traffic is different, we have an $88 fare. So that is $160 round trip, and we still get good loads, comparatively speaking.

But you cannot give a proper service with 10 trips a month. Just the economics on your overhead is out of line.

Mr. WILLIAMS. One of the carriers testified earlier that his load factor was up in the 90-percent bracket—95 or 98 percent. That is what I was basing my comparison on. Your load factor is considerably lower than that.

Mr. COX. It has been lower than theirs, there is no question about it. We maintain it is because of our inadequacy of frequency. That is what is doing it. A daily service today from us is still insignificant compared to the tremendous flow of traffic and the few people that actually fly the scheduled airlines. I think the latest survey showed 8 million customers. That is not a very great amount, considering the business, the railroad trains and so forth. So, as that increases, public-need-wise we have to have some sort of a ratio, like the cost of living index, where it goes up as the great mass of traffic goes up.

We even had a proposal that we have discussed, sir, that as the railroads drop their scheduled runs there is going to be a problem. In fact, I read where the President has a study to combine all these departments of transport in the country. We feel that some combination of buses and a service like ours, a low-cost service, without all the frills and champagne, will be the answer. In other words, practically every small hamlet could have air service by getting on a bus and riding 50 miles to a satellite airport. We feel that we can do that for half the price of the scheduled jet coach today. In fact, we are doing it, practically. This would fill a great need. Even the working man can't spend 5 or 6 days on a bus going coast to coast. A DC–6 is still a 300-mile-an-hour airplane. You don't have to have a jet for that type of service. It is a great increase over a 40-mile-an-hour bus average.

We have another problem, well, the country has a problem, on this congestion at major airports. Why not go into a city like Trenton, N.J., and we can bus the passengers into the metropolitan area on this extra low cost service? It would serve two services, public need, plus it would uncongest, to a degree, some of this traffic congestion we have. Something has to be done. It is getting worse and worse every day.

I don't like to complain about what has happened to us, and I don't know if you are aware of it, but there have even been hearings in the Celler committee, where there has been so much pressure and discrimination and actual illegal actions by some of the large carriers against us to drive us out of markets, to prevent us from getting even a sales representative on a military base; things like this have happened. It has just been 10 years of harassment. But in spite of that, the public has patronized us. I think we have demonstrated a public need by the mere fact that we have gotten so much support from the public.

I mentioned before La Guardia as an example. It is almost impossible to make any sort of a decent arrangement with the port authority. I don't have basic proof of who motivates them and why they don't do it, but there is no reason why we can't be side by side at the main terminal with all the other carriers. But actually, we have to be on the other side of the field. We are just third-class citizens in that respect.

To reiterate, that is one reason why we can't divert too much. Nobody knows about us. A third of our passengers come from references from their friends who have flown with us. That is a significant thing.

They have never heard of us, but their friends who flew with us told them about it and they call us up. We are not standing out where they can trip over us, to divert them. We can't take full page ads. It is impossible. We couldn't possibly justify anything like that. So we have to get our passengers basically from word of mouth, from the fact that we have a very low-cost service, and that is all we do. We just give them air transportation without the frills. It isn't jet, of course. It is like rail coach. There is no question that our passengers come from that source, the buses, the railroads, the people who have never flown before.

I am sure that that would stand up under investigation. The CAB doesn't seem to have figures on it. We have our small statistics, just our carrier. I think Mr. Patterson is right, that it around 70 percent that have never flown before. Talk to our stewardesses and they don't know how to fasten seat belts. Many are scared, they have never been on a plane. We are sort of a training school for the passengers. We don't mind it, we are happy to do it.

Mr. WILLIAMS. Mr. Hemphill?

Mr. HEMPHILL. One of the things that has concerned us about this problem has been the fact that there is a market for only so much air carrier service in a given area. Would you say that is true?

Mr. Cox. I would say that is true of the red carpet service. There are only so many vice presidents of banks and those who can afford it, but I don't think it is true of the service that we render. I don't think we have scratched the market that exists in this real low-cost transportation.

Mr. HEMPHILL. I had in mind a regular scheduled carrier which goes into a market which is practically already absorbed. He is in competition with those already in there and he is also in competition with you. In meeting competition, he still has to have the scheduled flights he is supposed to, flights which he has listed. He still has the maintenance costs on the good days and the maintenance costs on the bad days. He has to have his equipment on the good days and his equipment on the bad days. By bad days, I mean when you don't have enough passengers to pay for the service you are rendering, actually, to cover the costs.

What are your people's attitude about coordinating your schedules in such a way that when the market overflows you people would be of service on some basis? Has there ever been any effort at coordination at all?

Mr. Cox. Between the scheduled airlines and ourselves, sir?

Mr. HEMPHILL. Yes.

Mr. Cox. We have attempted it on many occasions, but I will tell you, frankly, we have been rebuffed most of the time. In our own experience, way back in 1947 we were carrying passengers from Paris to New York, and we took about 60 percent of the passengers from TWA overflow. They were happy to coordinate with us at that time. We have had the occasional, but it is the exception rather than the rule. We would be happy to do it, but they are not about to coordinate or cooperate very much because they regard us as a threat and a competition.

Well, when this strike took place recently we volunteered and sent telegrams to the major carriers and asked them if we could be

of assistance to them in taking their passengers that they were really jammed up with, and we suggested that even their ticketing facilities be used. We were turned down on that request. That was 3 or 4 months ago.

Mr. HEMPHILL. I am thinking about the public which has been taught to believe that the United States, because it participates in air traffic in many different ways, safety, airports, everything else, thinks the United States is going to monitor the airlines through the regulatory agencies provided. People go to the airport to get a flight and cannot get a flight.

Mr. Cox. That is right.

Mr. HEMPHILL. That is the public interest. The regular carrier doesn't put on any extra planes that I have been able to see when I have been left. I have had experiences as everybody else. You people are not available, or at least if you are available nobody knows about it. So the public would suffer right there.

Mr. Cox That is right.

Mr. HEMPHILL. Our interest is to protect the public and it seems that you people experienced in the business would be able to adjust to that protection. But here we are in the situation that you people are at odds with the regular carriers and they are at odds with you, and probably jealous of competition, that is one thing. But I am thinking of serving the public. You are talking about overflow. What happened to those people that didn't get to fly?

Mr. Cox. That is a good question. I have seen it happen here in Washington, where there were stranded passengers and we have had two DC–4's sitting in Wildwood, 100 miles away. We have attempted over the years to get them to say "Well, we will take them," but they will not do it. American or United do not want to admit that they would have to call in one of us little guys to help out, whether it is their fault or not. They are not going to do it.

Mr. HEMPHILL. If it is a profitable operation, it looks like you could arrange some way, I think legally, to split the profits and they furnish the business and you furnish the service. It would be to the public advantage.

Mr. Cox. It would be in the public interest, absolutely.

Mr. HEMPHILL. Of course, I realize that is a naive approach, but we have to think about the man who wants the service.

Mr. Cox. That is true. I wonder what happens to those people. I guess they go by bus or train or something.

Mr. HEMPHILL. I can tell you what happened to the railroads. Their service is so lousy, and their roadbeds are so rough, so many of their people almost insult you, that you don't want to ride the railroads. I like to ride a train occasionally, if I have the time. But they don't want to give you service, apparently.

Mr. Cox. And that vacuum that I mentioned, I don't know what they are going to do to fill it. Think of the millions of people that travel by rail and bus. In the next 10 years, what will happen as the economy and the society demands higher speed all the time? The scheduled airlines are not in that market, and I don't think they have any intention to get into it. They were forced into air coach by our competition, very reluctantly. There is a very great vacuum there. I think some study will probably show how critical it is one of these days.

Mr. HEMPHILL. The railroads can give you the service. They have the brains and know-how. They can give it to you if they make up their minds to. Here we are getting rid of our passenger service, apparently, with the railroads, and if some major catastrophe came to this country where we had to use the airlines or other things, what are we going to do? It is a serious defense problem as well as a problem of public service.

Mr. Cox. It is.

Mr. HEMPHILL. If Congress is going into the business of regulating transportation, which apparently it has decided to do over the years, I think our problem is a little bit bigger than the picture presented here. I think our problem is making sure that the people get the service, bus, rail, or air as they prefer, and not be forced into service that they don't prefer because of a lack of the service that they do prefer.

Mr. Cox. That is true.

Mr. HEMPHILL. I think we are a great Nation and we have the right of preference.

Mr. Cox. Competition tends to alleviate some of those things. I have listened to quite a few presentations and I have yet to hear the scheduled airlines voice much concern over the public interest. It is usually they are afraid we are going to siphon off their cream. As I said before, we are on the bottom, we can't get any cream. In fact, I doubt that there is cream in the entire industry, for that matter. It is a tough business. But competition is certainly needed, and I think we render that competition, even if it is only on a token basis, as a yardstick.

Mr. HEMPHILL. Thank you very much.

Mr. WILLIAMS. Mr. Macdonald?

Mr. MACDONALD. I just have one question. I was interested in page 4 of your statement where you point out that you have been doing quite a good deal of work in the charter field. I was wondering whether you have been able to increase your charter work recently, or has it decreased, or stayed about the same. That is question one.

Question two is the definition of what constitutes a charter has has intrigued me for some time. I actually have not been able to get a final definition. I was wondering if you could supply that for me.

Mr. Cox. I will attempt to, sir. You asked if our own charters have grown. I would say "No." As a matter of fact, charters are a snare and a delusion that they talk about, in my opinion.

Mr. MACDONALD. When you say "they," who do you mean?

Mr. Cox. The industry. There have been a lot of the carriers, a lot of the scheduled carriers, that have expounded this charter thing. But it is tough enough to get a family together to go to a place without getting 100 people and you can't build a business on charters. You will usually end up having to charge double because you come back empty and you wait 2 or 3 weeks and go back and pick them up. Let's say you go to Honolulu. You can't afford to keep a plane there for 3 or 2 weeks while the people take their vacation, and you can't likewise, afford to fly it back empty and then go back empty again, unless you have another charter to go. You can't schedule charters. There are just not that many and they don't dovetail that many. That is why the individually ticketed schedules service is of such importance. Charters are an added attraction. They are necessary,

really, for the public to have if they want it, but it is an additive thing. Our experience has been that it is just that.

They talk about charters and I think they confuse the committee possibly. Military charters are not what we are speaking of here. This is commercial charters. Military groups are contracts with the Government, and they often group those statistics and it misleads you. You think that there is a lot of business here on charters, but that is military group movements.

What was your other question?

Mr. MACDONALD. The question was, How do you define or how does the regulatory agency define a charter? I have never been able to determine what a charter is.

Mr. COX. My information is that this definition of a charter is basically a restrictive thing. It is defined and narrowed and compounded to restrict rather than help. I feel, personally, that a charter group should be a group of people on a tour that wants to go from here to there. I am told that in Europe that is about the interpretation given. You don't have to be all blood relatives or in a club so many years. But if you have a congenial group, they may have only met yesterday, but they are all going from here to there and they can charter a plane or a bus and go.

Mr. MACDONALD. You said that you felt that charter was a snare and a delusion.

Mr. COX. To our economic success.

Mr. MACDONALD. Wouldn't it be helpful to you, and I don't know, I am just asking—it would seem to me, but I am asking you the question—wouldn't it be helpful to you if the definition of the charter was on which the people didn't all have to be blood relatives, wouldn't a looser definition of a charter be helpful to your business?

Mr. COX. Yes, sir, that would help. But I don't think you can build a business on that. We existed——

Mr. MACDONALD. You are not just speaking for you?

Mr. COX. I am speaking for our carrier and I think it applied to the other carriers in our supplemental group. We exist on a diet of several things—military business, common-carriage business, the charters, which are the smallest part and some of this cargo contract operations, such as quicktrans and logair. That is basically what we exist on. They change. One day you might have military business and the next day you may have nothing.

Mr. MACDONALD. I am not talking about military. I am talking about a concrete example which I will not bore you with, but if a group in Boston decided to charter a plane and wanted to go to London. Let's say they had a membership club, had been in existence for a long time, it was not a travel agent gimmick but actually a club. Yet they were refused the right to take this charter on the grounds that—I don't know what grounds, really. I have a correspondence file this thick [indicating], but I still don't know why they were refused. It would seem to me, knowing nothing very much about your business, that this would be the field where there wouldn't be the competition and the throatcutting that I suppose there is between the big companies and yourselves, where you would be able to expand the charter service.

Mr. Cox. As a matter of fact, it is quite competitive. The foreign scheduled airlines have increased their business in charters over 400 percent just in the last year. It is a good field for some of the scheduled carriers that are flying that route. They can screen their groups and block seats on airlines and maneuver it. It is a field for them.

Mr. MACDONALD. We just passed a bill from this committee and a conference report just came out the day before yesterday, I believe, or yesterday, for which the Congress appropriated some $5 million a year for this tourist business. I sponsored one of the bills, so obviously I am for it. But it strikes me that unless we get you all into this business, unless you expand in that direction, the foreign carriers are going to get all of this charter business, hauling these people over and back.

Mr. Cox. That is very true.

Mr. MACDONALD. I am not trying to tell you your business, but it would seem to me, and that is why I asked the question, that it would be a good thing for you if we could work these two bills in such a way as to have some relativity to help you.

Mr. Cox. That is true.

Mr. MACDONALD. If you could give some suggestions, I know that I, as one members of this committee, would be very open to them, because I think it is a field in which we could do the public a service, the Government a service, and perhaps yourself a service.

Mr. Cox. It would greatly help our business in the summertime, in the European market, for instance, if there was a more liberal definition of this or some livable definition for what a charter is. But as I understand it, the charter definition was adopted by the International Air Transport Association, composed of all the scheduled foreign and American carriers internationally, and the Board just more or less adopted that.

If you would define it more liberally, would the IATA people have their own definition and we have another?

Mr. MACDONALD. The IATA has nothing to do with the U.S. Government, as you know. In many ways, it is an international cartel, isn't it?

Mr. Cox. That is right.

Mr. MACDONALD. Therefore, talking to me as a Congressman about what IATA is going to do to overrule the Congress is kind of waving a red flag at me.

Mr. Cox. Me, too.

Mr. MACDONALD. So I wouldn't be bothered by what IATA did, necessarily. But I am asking you, would it be helpful to your industry to have a definition of charter lodged in such a way that you could benefit under it?

Mr. Cox. Yes, sir.

Mr. MACDONALD. You said originally that it wouldn't, that it was a snare and a delusion.

Mr. Cox. It is, to this extent, that it is a 3-month business. If you give us the most liberal charter interpretation, our charter, as far as I can see, might as well fold up because you can't leave object charters alone.

I was talking about the ticketed authority which we still have. The reason I say it is a snare and a delusion is perhaps part of that is because of, shall we say, this crazy definition of it. But we have found

that so many times we get to Europe and you can't get a group back, so you end up running two empty legs and you lose money.

We have lost money on them. To get the charter started, you say to one group "All right, we will take you over there and bring you back 2 months later." Well, then you hope you can fill in the empty legs. You have committed by then for several of them.

Then if you cannot fill in the empty legs for various reasons, it is a very serious gamble. That is why I say it is that.

Mr. WILLIAMS. Mr. Devine.

Mr. DEVINE. On these so-called charter flights where you may have the possibility of coming back deadheading, do you consider that in setting up your charter rates, to try and balance out some of the loss?

Mr. COX. Do you mean having the lower rate?

Mr. DEVINE. Say you get a charter flight from New York to London and they won't come back for 2 months. You know you can't leave your equipment there for 2 months.

Mr. COX. That is right.

Mr. DEVINE. So you may have to come back deadhead?

Mr. COX. That is right.

Mr. DEVINE. In making your rates from New York to London, do you take that into consideration?

Mr. COX. We do; yes. But usually we price ourselves out of business and they say, "We can get it cheaper from someone else." We have had that experience for the last 2 years.

Mr. DEVINE. By the trunk carriers?

Mr. COX. Either by some of the foreign trunk carriers or possibly one of our cargo freight carriers in this country.

Mr. DEVINE. That interested me when my colleague, Mr. Macdonald, mentioned the fact, and we got into this question. Is it Sabina?

Mr. COX. Yes, sir; that is Belgium.

Mr. DEVINE. I was talking last week with a flight captain on one of the certificated airlines, and he said that the foreign airlines are bidding us out of business through the local travel agents.

I imagine that affects you just as much as it does the certificated carriers?

Mr. COX. It does, yes.

Mr. DEVINE. They talk about payola, Mr. Chairman, there may be a strong hint of payola in this travel agent field.

Mr. COX. The rumor has it that that is so.

Mr. HEMPHILL. As a matter of fact, I think we discovered in this committee on another occasion that in the balance of fees-getting business, the foreign transportation people, the foreign hotel people and others, are allowed to give a travel agent who secures business a certain fee or pieceage of whatever it costs.

We in this country do not practice that. That is a field in which we may have to make some adjustment, especially since we hope to promote travel to the United States.

Last year, I asked different people on airlines what they were paid. Of course, personnel overseas, on foreign airlines are paid less. One time I had a tourist flight and a lady came back and said, "Don't you want to sit up there in the first-class section?"

No one ever did that on an American airline for me. I wanted to see what happened to 43,000 Americans who had passed through that city

the year before. It seemed to me to be a fertile field if you could solve these problems and get the business for America.

Mr. Cox. That is true.

Mr. DEVINE. Have you made an effort along that line?

Mr. Cox. Well, we have made an effort. We made a very strong effort to get American dependents in Europe and charter the plane to them or American soldiers on leave, charter our plane to them and bring them back. They are not charterable.

Mr. DEVINE. Why?

Mr. Cox. That is some of the Civil Aeronautics Board interpretation of it. We cannot do it.

Mr. WILLIAMS. They don't compose what they call a homogeneous group?

Mr. Cox. I guess so; yes, sir.

Mr. MACDONALD. They are all in the same Army, aren't they?

Mr. Cox. Yes, sir.

Mr. HEMPHILL. Has that lack of being able to charter resulted in a failure to give the service to the people, or to the armed services overseas?

Mr. Cox. I would say it has. It has probably prevented a lot of those boys from coming home. They couldn't afford to come any other way and they have taken their leave there.

It has probably prevented many of their families from visiting them. It has affected it. I would say that the public is the most injured in this whole picture, if you come right down to it. They don't get what they are entitled to, when you interpret these rules and regulations. There is no question about that.

Mr. WILLIAMS. If that is all, thank you very much.

Mr. Cox. Thank you.

Mr. WILLIAMS. The next witness on our list is Mr. John Becker.

I am informed that Mr. Becker's statement will be filed for the record.

(Statement referred to follows:)

STATEMENT BY JOHN P. BECKER, PRESIDENT OF MODERN AIR TRANSPORT, INC.

My name is John P. Becker. I reside in Murray Hill, N.J. I am the president of Modern Air Transport, Inc., a supplemental air carrier which holds a certificate issued by the Civil Aeronautics Board. I have been flying for 26 years and, since 1953, I have been the active president of Modern Air Transport. I own all of the stock of the company. In the course of operating Modern I feel that I have made a real contribution to my country. Modern has logged more than 50,000 hours of flight time carrying common-carriage passengers, charter parties, and military personnel. We have never had an accident involving injury or fatality to a passenger or crew member. We have never had a violation charged against us for failing to observe any safety regulation whatsoever.

I have built up this business by personal, 7-days-a-week attention. I take a lot of pride in the fact that my airplanes are clean, comfortable, and in perfect operating condition. I have never had a black mark with respect to service, reliability, or performance.

Mr. Chairman, I am in the period of transition. At the present time I have four C–46 aircraft. These cannot be used for the military this year, as they were last year, because there is a claim that they are outdated airplanes. Actually, the whole airplane inside and out is as good as any twin-engine airplane flown by any commercial airline, other than jet-type aircraft. The only objection is that the C–46 airplanes are not pressurized and, unfortunately, they cannot be economically pressurized.

We have just completed a charter trip for the Montana Chamber of Commerce for an air tour through Canada and Alaska. Those people were very happy both with the airplane and service. Yet, military business is traveling at individual rates of 6 cents or 7 cents per mile, whereas last year we were providing that transportation at a group rate of less than 3 cents per passenger mile.

Since we have been unable to change the military attitude toward the C–46 airplane, it is necessary for me to acquire different type aircraft if I am to continue in this business.

At the moment I am very reluctantly engaged in negotiations for Constellation aircraft. I say I am reluctant because I have no assurance that I will have the necessary room to operate the airplane.

What I need is nothing more than what any other businessman needs; that is, some assurance from the Government that my license will be continued and my market will be clearly defined.

The Board's bill that you have under consideration would not do either. As a minimum we need a permanent certificate and the Board should be directed to issue permanent certificates. It is very difficult to explain to a bank why my certificate is still in effect. It remains in effect only so long as the court of appeals continues to stay its order reversing the Board. The court has not said it will allow the certificates to remain in effect permanently. In fact, the court has told the Board that the Board has no authority to issue my certificate. As originally issued, the certificate was for a 2-year period, and the 2 years have gone by. I filed an application for renewal and I am told that this automatically keeps my certificate in effect, but banks and lenders of money do not accept this explanation without considerable investigation and they take it into account in discussion of the terms of loans and interest rates.

We have told this to the Civil Aeronautics Board, but it has not yet issued a certificate of indefinite duration to any supplemental carrier, nor has it said it will do so if this bill is passed. Therefore, I plead with you that you incorporate a provision to the effect that the certificates to be issued shall be of unlimited duration. Issuing supplemental carriers certificates of unlimited duration will not relieve them in any way from the obligations which they owe the public, nor would such action in any wise reduce the degree of control which the Board has over the carriers. We shall continue to file reports, tariffs, and abide by all the regulations of the Board as we have ever since I have been president of this company.

The second reason for my reluctance in negotiating for large aircraft is that I realize those aircraft have to be filled with fare-paying passengers. I have grave doubts that I can obtain proper utilization with only 10 trips per month.

If the number of trips were increased to a maximum of 192 during the year, I would have no doubt that I could make money with the larger airplanes. With that number of trips available I believe that Modern and the other supplemental carriers will be able to continue to make innovations for the public benefit. As you know, the Board has held that the supplemental carriers are responsible for the development of the aircoach business and we should have room to operate in order to make further contributions in the public interest. Every contribution which has come from the supplemental carriers has come without the benefit of any Government subsidy.

Modern, and other carriers similarly situated, are facing the problem now of whether they should acquire larger aircraft. Committees of the Congress, as well as the Board, have said that our fleet of aircraft is a material contribution to national defense. If we are to maintain our fleet, we must have permanent certificates and the right to operate at least every other day.

This country was built on and still favors the principle of free enterprise. The policy of our Government is to encourage small business generally, and aviation should be no exception. Just because we are small, and just because we are known as supplemental carriers, there is no reason why we should not have the basic rights of any other business, that is, permanent authority to do business and a market large enough to enable us to acquire newer type aircraft and use them to public advantage. Continued growth of the supplemental business requires permanent certificates and a minimum of 192 trips per year.

Mr. WILLIAMS. I have an indication that Mr. Robert Goodman will file a statement also.

(The statement follows:)

STATEMENT OF ROBERT C. GOODMAN, PRESIDENT OF SATURN AIRWAYS, INC.

My name is Robert C. Goodman. I am president of Saturn Airways, Inc., Post Office Box 48–182, Airport Branch, Miami, Fla.

Saturn is a supplemental air carrier which has been operating under various orders of the Civil Aeronautics Board since January 1948. Saturn holds a temporary certificate of public convenience and necessity from the Board. As this committee is well aware, the Board's authority to issue these certificates has been the subject of extensive litigation. This certificate, however, grants rights only for domestic operations; any operations that we conduct in foreign commerce must be by Board exemption from the Federal Aviation Act of 1958. My hope is that this Congress will enact legislation which will bring an end to the uncertainty under which we operate and enable us to operate under permanent certification.

With the authority which we have had up to the present, Saturn has engaged in three principal types of operations: firstly, in the movement of recruits for the Department of Defense; secondly, in domestic charter flights for private groups; and, thirdly, in an operation into which we have just entered this year, the transatlantic charter market. We have offices located in Miami, Fla.; New York, N. Y.; and London, England, with a total of 48 employees, 33 of whom are operating personnel. In short, we are a small airline operating in an extremely limited area of the overall air transportation market.

My principal problem, simply put, is to stay in business in the face of the doubtful state of the operating authority under which Saturn must operate in the present state of the law. I need to modernize my fleet of aircraft, and to do this I need capital. If I am to attract capital, whether by way of investment or loan, I must be able to give some assurance that I will be in business long enough to show a fair return on investment or to repay whatever loans may be made to Saturn.

In the course of the years in which it has operated as a supplemental carrier, Saturn has progressively increased the number of aircraft in its service; has enjoyed a steady increase in the value of its assets; has had a perfect safety record; has never been the subject of enforcement proceedings by the Board. As matters now stand, however, I find it impossible to attract capital into my company. Obviously, no businessman will be interested either in becoming a part of or of extending credit to an airline which may shortly lose its operating authority. Thus, for reasons having no relation either to the soundness of the operation of my airline or its business prospects, Saturn finds itself in an extremely perilous position.

Until 1960 Saturn operated twin-engine, nonpressurized, transport category C–46 aircraft with passenger configuration. These aircraft are now obsolete. Within the last few years the public, as well as the military, have come to demand four-engine pressurized equipment. Partially to satisfy this demand, Saturn purchased two DC–6B aircraft. Now, there is an increasing demand by the public and the military for jet aircraft. The purchase of these aircraft, which in time will be essential to my survival, will require long-term financing, an impossibility for a carrier whose existence could end in March of 1962. Yet without such a modernization program, and the necessary financing, Saturn cannot hope to be an effective and integral part of this Nation's air transportation system.

It is my hope that this Congress will enact legislation which will provide Saturn with the permanent authority it needs to stay in business. I am not asking for subsidy. I am not asking for anything which the Board has not found to be in the public interest. I am simply asking for legislation which will give Saturn the opportunity to satisfy a demand which is recognized by the Board, the military, and the public.

Mr. WILLIAMS. I have an indication that Mr. Mr. Douglas Bell is also willing to file his statement. He will be permitted to do so.

(Statement of Mr. Bell follows:)

STATEMENT OF DOUGLAS T. BELL, PRESIDENT, ASSOCIATED AIR TRANSPORT, INC.

My name is Douglas Talbot Bell, I am president and general manager of Associated Air Transport (Associated), and on behalf of Associated, I wish to express my appreciation for this opportunity to express my company's views on a matter of very deep importance to the future of the supplemental air carrier industry. I have been engaged in aviation ever since 1939, when I became an apprentice at the Utica (N.Y.) Municipal Airport. Then, in 1942, I established an aircraft repair shop at Detroit, Mich., located at the city's municipal airport. This establishment performed maintenance on all types of aircraft, a considerable portion pursuant to military contract. I entered the U.S. Naval Reserve in 1944 and during my service was attached to various Navy Air Transport Service (NATS) squadrons. Upon my discharge in 1946, I reactivated my repair shop, which I operated until 1948. Therefore, I entered the field of irregular, now supplemental, air transportation as a pilot with Nationwide Air Transport, based at Miami, Fla., eventually becoming chief pilot. Upon the merger of Nationwide, in 1951 with Resort Airlines, I became chief pilot and later director of operations of that company. I left Resort in December of 1954 in order to begin studies for a degree in aeronautical engineering at the University of Washington. I interrupted my studies in the spring of 1955, and served for a brief period as pilot for All American Airways, Inc. Later in the year I established Bell Aviation, Inc., an aircraft delivery service which delivered multiengine military surplus aircraft throughout the world. Thereafter, in 1956, I acquired a controlling interest in Associated Air Transport, becoming its president and general manager.

I am the holder of an FAA airline transport pilot's certificate rated on DC–3, DC–4, C–46, and Lockheed Lodestar aircraft; an FAA flight instructor's rating on both airplanes and rotorcraft; and an FAA airframe and powerplant certificate. I am also an FAA-certified ground school instructor with ratings in navigation, aircraft, aircraft engine, civil air regulations, meteorology, and radio navigation; an FAA-certificated aircraft dispatcher; and an FAA-certificated flight engineer. I have over 11,000 hours in flight experience which has been accumulated throughout the world.

Associated Air Transport is one of 25 supplemental air carriers whose certificates were declared invalid by the U.S. Court of Appeals for the District of Columbia, and whose continued operations are permitted only by virtue of temporary legislation enacted in the previous Congress. Our base of operations is located at the Miami (Fla.) International Airport, where we employ 30 people, a figure which has ranged as high as 45 during peak traffic seasons. Our present fleet consists of DC–4 and C–46 aircraft, which we hope to augment very shortly with Super Constellation equipment.

We believe, Mr. Chairman, that our company typifies the type of flexible and diversified operation which the Board envisioned in certificating us for continued supplemental air service. Thus, since our full reactivation of operations in June of 1957, we have been an active and regular participant in domestic commercial troop movements for the Military Establishment. During the same period we have performed a considerable number of cargo charter flights to various points in the Caribbean and Central and South America and occasional passenger charters to Mexico and pursuant to exemption authority from the CAB. We have also transported a considerable number of college athletic groups within the United States.

One of the outstanding examples of Associated's flexibility may be found in our performance during winter months in recent years of vegetable charter flights between Florida and Andros and Abaco islands in the Bahamas. It is this type of operation which illustrates the need for the continued existence of the supplemental carriers. Thus the energies and resources of the certificated route carriers must, of necessity, be utilized in the development of their routes. This being the case, it is manifestly unlikely that they could make available sufficient aircraft for proper performance of such specialized services.

Nor have our activities been by any means exclusively confined to the charter field. We have utilized our authority for limited individual passenger service in order to alleviate the needs occurring during peak seasons of the year (i.e.,

the Christmas season in the New York-Miami and Chicago-Miami service). In further implementation of its 10-trip authority, Associated frequently has set up special scheduled flights in order to accommodate furloughed military personnel and other similar groups. These flights have all been performed at a fare structure substantially below those offered by the trunk air carriers who have so vigorously fought our individual flight authority. In fact, the backbone of our present operations consists of the transportation on an individually ticketed basis of Air Force recruits between various midwestern cities and San Antonio, Tex. Hence, our company's very existence is dependent upon continued and stable authority covering all facets of supplemental service.

Our plans for the future contemplate the acquisition of pressurized equipment such as DC–6 and Super Constellation aircraft and the expansion of our operations to include the performance of transatlantic passenger charters, oversea augmentation flights for the Military Air Transport Service, and domestic Logair cargo movements for the Air Force.

I am here today, Mr. Chairman, to urge the enactment of H.R. 7318 which would authorize the issuance of certificates of public convenience and necessity for supplemental service, without regard to terminal and intermediate points. It is only through legislation that the impediment to the healthy growth of the supplemental air carrier industry can be removed. Thus the protection and dignity afforded by a certificate is absolutely indispensable if the industry is to achieve any degree of success in obtaining the financing necessary for the acquisition of modern aircraft and the contemplated expansion of operations. For many years the uncertainty of our status and future has hampered us in obtaining working capital. This same factor has strongly militated against our acceptance by a substantial portion of the traveling public, including charter groups and individual passengers. By the same token, the Military Establishment has in recent months conditioned the continued participation in its airlift requirements, both domestic and foreign, upon the acquisition of modern equipment, which acquisition is extremely difficult for carriers lacking a stable operating authority. Certification will also facilitate the obtaining of the necessary permits from those foreign countries into which our diversified operations have carried us. It is the position of Associated Air Transport that its very survival is dependent upon its ability to participate in both charter and individually ticketed air transportation. The point to be made is clear. If our supplemental fleet is to effectively perform in the interests of national defense and serve as a ready reserve capable of immediate mobilization, we must be able to achieve full economic utilization of our aircraft. This cannot be assured absent the authority to perform individually ticketed flights. There have been countless occasions when we have performed military and commercial charter movements with no assurance that a return payload could be obtained. It is in this connection that the authority for individual sale service is so vital to our continued existence. This authority allows us to set up special flights on which we can sell tickets to furloughed military personnel and members of the traveling public whom we could not properly accommodate under the charter portion of our authority, thus assuring us of the necessary payload on the return portion of the journey.

In summary, Mr. Chairman, Associated Air Transport, Inc., strongly urges the enactment of legislation at this session of Congress which will allow for all facets of true supplemental service, both charter and individual sale. In view of the importance of this matter, both to Associated and to our industry, I greatly appreciate this opportunity to set forth the views of our company.

Mr. WILLIAMS. The last witness on the list is Mr. Blatz.

STATEMENT OF F. ALFRED BLATZ, PRESIDENT OF BLATZ AIRLINES, INC.

Mr. BLATZ. Mr. Chairman and members of the committee, I would like to thank you for the opportunity of appearing here. I have a statement which I would like to file on behalf of my company.

I am the president of Blatz Airlines, Inc., of Los Angeles, Calif.

Mr. WILLIAMS. You may file your statement.

(Statement of Mr. Blatz follows:)

STATEMENT BY F. ALFRED BLATZ, PRESIDENT OF BLATZ AIRLINES, INC.

My name is F. Alfred Blatz. I reside in Los Angeles, Calif., and am president of Blatz Airlines, Inc. I entered the aircraft field in 1942 when I was asked by Firestone Rubber and other aircraft companies to develop parts of the bullet-proof tank to make it effective. At that time I developed approximately 20 patents by which the tank was made effective and usable for combat purposes. I operated two plants for the duration of the war. Because of my interest developed during those years in the aircraft field, I decided to buy surplus aircraft from the Government and build them into airliners.

In 1947, I organized Blatz Airlines, Inc., and since that time have operated the company in supplemental air service.

Operations were commenced in 1947 with offices at the Long Beach Airport. The early operations consisted of charter flights in the local area and flights to La Paz, Baja California. Flights were also operated to the San Francisco-Oakland area, and to Las Vegas, Nev. Aircraft were chartered by Las Vegas hotels for a few flights. Orchestras, football teams, and other sports organizations were transported.

Later the company operated transcontinental flights from Long Beach and Los Angeles airports to New York and other eastern points via Kansas City, Chicago, New Orleans, and other points. Flights from Burbank to Oakland and from Burbank to San Diego were operated on a daily basis, and the company leased a second DC–3 airplane to accommodate the additional traffic it developed. Round-trip flights transporting construction workers employed in the Pacific Ocean islands were operated between San Francisco and Chicago, and flights were made from San Diego to eastern and southern points in the United States, and return, transporting servicemen on a charter-group basis. For 4 to 5 years, Blatz Airlines, Inc., was engaged in the military CAM business, flying throughout the continental United States and coast to coast.

Its operations today consist primarily of charter flights in intrastate air transportation between Burbank and Oakland, Calif., and Burbank and San Diego, Calif., and interstate flights on a charter basis and on a common carriage basis from San Francisco and Oakland, Calif., to Reno, Nev., and from Burbank and Long Beach, Calif., to Las Vegas, Nev. These latter flights were solely on a round-trip basis.

We now have six airplanes flying. Our safety record since inception of operations in 1947 is perfect.

I want to urge the committee to report legislation which will do two things: (a) give us permanent certificates, and (b) let us operate up to 192 trips annually between the same 2 points.

There is no excuse for not giving the supplemental carriers the same permanent-type authority which the Congress has legislated for trunklines and local service carriers. We have been in business for 14 years, and it seems unnecessary to force us to operate on short-term authorizations. The Board has found a continuing public need for supplemental service, both now and in the future, and certificates of unlimited duration should be issued.

Let me give you an example of why the 192 trip authority is desirable by giving you the history of our efforts to serve Hawthorne, Nev. Hawthorne was on a local service route, but the Board allowed the local service carrier (Bonanza Air Lines) to suspend that service. A new club was opened there and the club members wanted air transportation to and from the San Francisco and San Jose areas.

At the same time, the people at Hawthorne asked us if we would operate a service for them. Among other things, they wanted us to carry newspapers because they were waiting 2 days for newspapers.

We filed an application with the Board on August 23, 1960, asking for an exemption to serve Hawthorne. One local service carrier (Pacific Air Lines) objected, and the Board turned down the request.

We then went back to the Board, this time asking for an exemption to provide a special service for patrons of the club. This was filed on March 28, 1961, and the Board still has not decided the request. In another case, where TWA asked to provide the same service for a club at Lake Tahoe, the Board granted the request in 31 days (docket 11939) but we cannot even get an answer in 75 days.

The time it takes the Board to act on applications for certificates is almost beyond belief.

We wanted to fly to Las Vegas more than 10 times per month. We asked for an exemption and it was denied. We then filed an application for a certificate on December 19, 1956 (docket 8429). We didn't get a hearing until March of 1959, and we are still waiting for a decision.

One purpose of supplemental carriers is to meet sudden demands as they arise. When these demands can be met by charter service, we can rise to the occasion without difficulty, because we have the right to fly unlimited charters. We do this for the forest firefighters all the time. But, when there is a new demand, like the people at Hawthorne who wanted us to carry in newspapers, the charter authority is of no avail. The present 10-trip per month authority is too restrictive for a satisfactory service.

If we had the 192 trip authority, we would definitely meet some existing demands for service at Hawthorne, Winnemucca, Reno, Elko, and Las Vegas.

The very limited number of trips, and the narrow definition of charter, has actually denied the supplemental carriers the right to exploit a market after they developed it. We started flying to Las Vegas, for the hotels, many years ago. Today we are prevented from flying enough trips to benefit from the market we developed. In 5 years, the Civil Aeronautics Board has not been able to decide our application for a certificate. The result is that the hotels operate their own airplanes. The Hacienda Hotel now uses six airplanes. Other companies which have no operating authority from the Board claim to be "part 45 operators" and take over the profitable business which we originated. The Board has ordered some of them to cease and desist, but the Board doesn't seem to be able to enforce its orders.

If we are given the authority which we ask for, we will at least be in a position to continue service in new markets which we pioneer.

It is my belief that legislation is the only solution to this problem. The Board and the courts have had it before them for active consideration for 10 years. The time has come for some authoritative action which cannot be upset. The supplemental industry has proved itself and the Congress should pass the legislation necessary for the continuance and development of the industry.

I urge you, therefore, as a minimum to give us unlimited charter rights, 192 individually ticketed trips per year between the same two points, and a certificate of unlimited duration.

Mr. BLATZ. On page 3 of my statement, I would like to reiterate there that we have six airplanes flying. We have now six DC–3's. We are still in the antiquated class. We haven't graduated to the higher class.

We are flying mainly on the California coast, and also over into Las Vegas and also Hawthorne, Nev. We have had for the past several years applications with the Civil Aeronautics Board for a flight from 6 p.m. to 6 a.m. in the morning, taking care of some of the vacationers and people who like to travel into the Las Vegas area and into Hawthorne, Nev., taking a chance at some of the gambling establishments.

Some of them go up, of course, for a week or two at a time. We have had that in for several years. However, we have not yet received anything back from the Board. The Board is still considering our case.

I want to urge the committee to report legislation which will do two things: (1) Give us permanent certificates; (2) let us operate up to 192 trips annually between the same two points.

We, as carriers, who have been in business for about 16 years, couldn't possibly exist if we had to depend upon the charter work which we obtain, which is a very small part of our business.

We feel further that there is no excuse for not giving the supplemental carriers the same permanent types of authority which the Congress has legislated for trunklines and local service carriers. We have been in business now for 14 or 15 years and it seems unnecessary to force us to operate on short-term authorizations.

This is because of the fact that we have a lot of difficulty in financing our operations, financing the purchase of new aircraft, when we are on such a short-term authorization.

The Board has found a continuing public need for supplemental service both now and in the future and certificates of unlimited duration we feel should be issued.

An example of why the 192-trip authority is desirable, can be had by giving you the history of our efforts to serve Hawthorne, Nev. Hawthorne was on a local service route, but the Board allowed the local service carrier (Bonanza Air Lines) to suspend that service.

A new club was opened there and the club members wanted air transportation to and from the San Francisco and San Jose areas.

At the same time, the people at Hawthorne asked us if we would operate a service for them. Among other things, they wanted us to carry newspapers because they were waiting 2 days for newspapers.

We filed an application with the Board on August 23, 1960, asking for an exemption to serve Hawthorne. One local service carrier (Pacific Air Lines) objected, and the Board turned down the request.

Mr. WILLIAMS. How large a city is Hawthorne?

Mr. BLATZ. In the area of 8,000 to 10,000 people.

We then went back to the Board, this time asking for an exemption to provide a special service for patrons of the club. This was filed on March 28, 1961, and the Board still has not decided the request.

In another case, where TWA asked to provide the same service for a club at Lake Tahoe, the Board granted the request in 31 days (docket No. 11939) but we cannot even get an answer in 75 days.

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One purpose of supplemental carriers is to meet sudden demands as they arise. When these demands can be met by charter service, we can rise to the occasion without difficulty, because we have the right to fly unlimited charters.

We do this for the forest firefighters all the time. But, when there is a new demand, like the people at Hawthorne who wanted us to carry in newspapers, the charter authority is of no avail.

No one is yet serving that point.

The present 10-trip-per-month authority is too restrictive for a satisfactory service. We couldn't exist on the 10 trips per month.

If we had the 192-trip authority, we would definitely meet some existing demands for service at Hawthorne, Winnemucca, Reno, Elko, and Las Vegas.

The very limited number of trips, and the narrow definition of charter, has actually denied the supplemental carriers the right to exploit a market after they developed it.

We started flying to Las Vegas, for the hotels, many years ago. Today we are prevented from flying enough trips to benefit from the market we developed. In 5 years, the Civil Aeronautics Board has not been able to decide our application for a certificate.

The result is that the hotels operate their own airplanes. The Hacienda Hotel now uses six airplanes. Other companies which have no operating authority from the Board to claim to be "part 45 operators" and take over the profitable business which we originated.

Mr. WILLIAMS. You said in 5 years the CAB had not been able to decide your application for a certificate. Have you applied for a certificate of public convenience and necessity to operate a scheduled carrier or a nonscheduled carrier?

Mr. BLATZ. For extended authority as a supplemental carrier, yes, sir; on three different occasions. The last one is now what they call the *Pacific Southwest Service* case.

It has been several years since that was filed. I mention the dates in my statement.

The Board has ordered some of them to cease and desist, but the Board doesn't seem to be able to enforce its orders.

If we are given the authority which we ask for, we will at least be in a position to continue service in new markets which we pioneer. Some of these markets which we have pioneered we are not able to continue, such as in the *Hawthorne* case.

It is my belief that legislation is the only solution to this problem. The Board and the courts have had it before them for active consideration for 10 years. The time has come for some authoritative action which cannot be upset. The supplementary industry has proved itself and the Congress should pass the legislation necessary for the continuance and development of the industry.

I urge you, therefore, as a minimum to give us unlimited charter rights, 192 individually ticketed trips per year between the same two points, and a certificate of unlimited duration. That will allow us to get our financing and so forth to carry on as a supplemental air carrier.

Mr. WILLIAMS. You have made what I consider to be an excellent statement, even though it has been very brief. I have no questions. I do want to congratulate you on a splendid statement.

Mr. Macdonald?

Mr. MACDONALD. I just have one very short question. Under what right does a hotel operate these charter flights?

Mr. BLATZ. Under a so-called part 45 certificate.

Mr. MACDONALD. What is that?

Mr. BLATZ. That is issued by the Federal Aviation Agency, not the Civil Aeronautics Board. That is a separate authority.

Mr. MACDONALD. In the same way that a company can operate a plane?

Mr. BLATZ. No, that is a part 43 operation, that is a private enterprise, such as Sky-Tek. There are a number of companies.

Mr. MACDONALD. What would prevent hotels from putting in a whole bunch of airplanes? If they have 6, why not put in 60?

Mr. BLATZ. That is what they are doing. They are gradually expanding over the United States, running the people into Las Vegas. That leaves us out in the cold.

Mr. MACDONALD. Is it scheduled or unscheduled?

Mr. BLATZ. They run their own business on a scheduled basis, surely.

Mr. MACDONALD. A scheduled airline, with the only basis of their operation covered up by the fact that they are attached to a hotel?

Mr. BLATZ. They just carry their own passengers, their own people who go into their hotel.

Mr. MACDONALD. They have six airplanes?

Mr. BLATZ. Yes, sir; large aircraft. That is, all except one is large.

Mr. MACDONALD. I never heard of the Hacienda.

Mr. BLATZ. It is on the upper end of the strip as you go into Las Vegas. They own two hotels there.

Mr. MACDONALD. They must have quite a turnover. What kind of hotel is it?

Mr. BLATZ. It is certainly a large hotel. A neighbor of mine owns it, who lives five doors from me.

Mr. MACDONALD. Thank you.

Mr. DEVINE. I think this case is ridiculous, where you asked for an exemption and it was denied, where you filed your application for a certificate in 1956 and didn't get a hearing until 1959. That is 2 years ago, and you don't have a decision yet.

Mr. BLATZ. That is correct.

Mr. DEVINE. You would rather have an adverse decision than none at all; wouldn't you?

Mr. BLATZ. We would like to know where we stand. We don't now.

Mr. WILLIAMS. I think perhaps this case will be referred, and it will be, to the Subcommittee on Regulatory Agencies for its consideration.

Thank you, Mr. Blatz.

I believe Mr. Blatz is the last witness scheduled for today.

The parent committee has scheduled for tomorrow morning an executive session, so that will preempt our time, I presume, and make it impossible for us to meet.

We will meet again on Friday morning and continue until we have completed the day's testimony.

The committee will stand in recess until 10 o'clock Friday morning.

(Whereupon, at 4:45 p.m., the subcommittee recessed, to reconvene at 10 a.m., Friday, June 23, 1961.)

LIMITED AIR CARRIER CERTIFICATES

FRIDAY, JUNE 23, 1961

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS
OF THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to adjournment, in room 1334, New House Office Building, Hon. John Bell Williams (chairman of the subcommittee) presiding.

Mr. WILLIAMS. The committee will come to order, please.

This morning our first witness is Mr. Stuart Tipton, president of the Air Transport Association. Mr. Tipton.

STATEMENT OF STUART G. TIPTON, PRESIDENT, AIR TRANSPORT ASSOCIATION OF AMERICA, ACCOMPANIED BY CLIFF STRATTON, JR.

Mr. TIPTON. Mr. Chairman, Mr. Friedel, I am president of the Air Transport Association of America, which has as its members virtually all of the certificated scheduled airlines of the United States. It is a pleasure to come before the committee and we appreciate the opportunity to do so to discuss the important bills that are before the committee. I have submitted quite a lengthy statement on this subject which contains much material bearing on the issues before the committee. However, if it meets with the approval of the committee, I will submit this complete statement for the record, and hit the highlights of it in my presentation this morning.

Mr. WILLIAMS. The committee will be very happy to follow that procedure.

(The statement referred to follows:)

TESTIMONY OF STUART G. TIPTON, PRESIDENT AIR TRANSPORT ASSOCIATION OF AMERICA

My name is Stuart G. Tipton. I am president of the Air Transport Association of America, which is composed of substantially all of the certificated, regularly scheduled airlines of the United States. Our membership includes the trunklines and local service airlines operating within the continental United States, airlines operating in and to the new States of Alaska and Hawaii, U.S.-flag international airlines, helicopter airlines, and all-cargo airlines.

My testimony is addressed to various pending bills which embody a wide range of proposals for certification of supplemental air carriers.

PRESENT SCOPE OF SUPPLEMENTAL OPERATING AUTHORITY

The supplemental air carriers, as you know, are presently authorized to operate as follows:

Domestically, "individually sold services" (*i.e.*, individually ticketed passengers and individually waybilled air freight shipments) can be offered on a scheduled basis, with a limit between any given pair of points of 10 round trips per carrier per month. Plane load charter services can be operated without limitation as to frequency.

Internationally, the 10-flight and the unlimited charter grants extend only to air freight services. The Board has, however, followed a liberal policy of permitting international passenger charters by supplemental carriers by specific exemption.

Operations of this scope have been authorized by the Civil Aeronautics Board on the ground they are "additional and supplemental to * * * and not a mere duplication of" the services of the certificated scheduled carriers operating over regular routes.

At the moment, these operations are conducted under temporary authority pursuant to Public Law 86–661 of July 14, 1960, 74 Stat. 527, which expires in March 1962.

This temporary, or "stopgap" legislation was enacted after the U.S. Court of Appeals, District of Columbia Circuit, in an opinion dated April 7, 1960, held invalid certificates issued by the Civil Aeronautics Board to some 25 supplemental carriers embodying the 10-flight and unlimited charter grants for interstate operations. The court held that the certificates violated the Federal Aviation Act of 1958 in various respects. Most important of these were the Board's attempt, by conditioning a certificate, to limit frequency of schedules; the Board's failure to specify, in each certificate, the points to be served; and the Board's failure to make adequate findings of "fitness" under the statutory terms.

SYNOPSIS OF PENDING BILLS

The pending bills, for the most part, go much further than merely to enable the Board to issue valid certificates for the present scope of supplemental carrier operations. Some of them would substantially expand, or authorize the Board to substantially expand, the scope of such operations.

A quick rundown of the bills follows. I will discuss them in greater detail later.

S. 1969 and H.R. 7318, which are identical, would authorize the Civil Aeronautics Board to issue certificates for supplemental air transportation. The definition of "supplemental air transportation" in the bill is very broad, and the Board's ultimate power under the bill would be correspondingly broad. Under it, the Board could not only issue certificates covering the presently authorized scope of supplemental carrier operations; it could also issue certificates for operations of a far broader, and presently undefined, scope.

We will oppose these bills.

H.R. 7512 would not leave the question of possible enlargement of the scope of supplemental carrier operations for the future; it would do it right now, and on a major scale. For example, the 10-flight grant would be expanded forthwith to 192 flights per year. This would permit each supplemental carrier to conduct a daily scheduled operation for 6 consecutive months over any of all routes. The 25 or so supplementals who would be automatically certificated under H.R. 7512 could thus operate, in the aggregate, as many as a dozen flights a day over every existing route, smothering the presently certificated carriers.

Another unsound feature of H.R. 7512 would give supplemental carriers the unqualified "right of first refusal" on "all charter trips" anywhere in the world. The public would thus be deprived of freedom to choose a scheduled carrier for charter, so long as any supplemental carrier demanded its "right" to operate the charter—a "right" which would apparently exist, under the proposed statute, regardless of price, quality of service, or any other consideration deemed important by the prospective charterer.

We will oppose H.R. 7512.

H.R. 7679 reflects a different approach. It would, by a simple one-sentence amendment to the Federal Aviation Act, clarify the Board's authority to issue certificates, solely for charter operations, without having to go through the laborious, if not impracticable, specification of each point to be served. Such

all-charter certificates could merely specify the area or areas within or between which charter operations could be conducted. Thus, the certificate might authorize charter service anywhere within the continental United States, or between specified States and Hawaii, and so forth.

We will support H.R. 7679. It would establish a sound and practicable basis for supplemental carrier operating authority. I will discuss the reasons for this conclusion more fully below.

REASONS FOR ATA POSITIONS ON PENDING BILLS

The basic reasons for the Air Transport Association's positions on these pending bills are:

(1) The current financial crisis of the domestic scheduled industry calls for reduction, rather than expansion, of supplemental air carrier operating authority.

(2) Continuation of individually sold authority for the supplementals, under the proposed bills, involves perpetuation of such unsound regulatory practices as—

(*a*) use of the certificate as a device to dictate schedules, equipment and facilities;

(*b*) issuance of certificates permitting individually sold route-type service, without specification of the points to be served; and

(*c*) certification on the basis of general fitness, regardless of the limited experience and fitness of the particular applicant.

(3) The "first refusal" provision of H.R. 7512 is unfair to the public and the scheduled airlines.

(4) All-charter authority affords a suitable and practical basis for supplemental carrier operations.

I will not explain in some detail the reasoning underlying each of the above points.

THE CURRENT FINANCIAL CRISIS OF THE DOMESTIC SCHEDULED INDUSTRY CALLS FOR REDUCTION, RATHER THAN EXPANSION, OF SUPPLEMENTAL AIR CARRIER OPERATING AUTHORITY

As a background for its present deliberations, we believe the committee should refresh itself on the history of the supplemental carriers and their operating authority, and also on the critical financial conditions of the domestic scheduled airlines. As that history makes clear, the current financial plight of the scheduled carriers is a weighty consideration in determining the permissible scope of supplemental carrier operations.

It has been suggested that the supplemental carriers have long been in operation under color of law and pursuant to a thoughtful and considered plan of regulation by the Board. This simply is not the fact. The "large irregular" operators came into existence beginning in 1945 without the knowledge, intention or any purposeful action by the Board. As a matter of fact, before the Board even had a chance to formulate a program to bring these operators within the regulatory framework of the act, many of them were engaging in extensive intercity common carrier operations without the least semblance of regulation. There followed a series of regulatory measures together with enforcement proceedings against the more flagrant violators, a program which, however well-intentioned, proved unequal to the problem it was intended to solve. After 5 years of ineffectual attempts to regulate, the Board in 1951 launched the large irregular carrier investigation. When the investigation was only half finished, the Board suspended the taking of evidence, and in 1955 issued a decision on an incomplete record. It should have been no surprise that the policy of that decision and the attempt to implement it under section 416(b) of the act were held invalid by the courts. There followed more proceedings, another decision in which the policy of the 1955 decision was swallowed whole, and an attempt to issue certificates which were clearly in violation of the plain language and the regulatory plan of the act. In short, the present situation is the product of years of ineffectual regulation followed by two decisions which in their very inception should have been recognized as contrary, not simply to the form of the act, but the basic congressional policies announced in it.

When the Board determined, in 1955, to expand the scope of supplemental carrier operating authority, it did so in the light of its then evaluation of the financial condition of the scheduled industry—an evaluation which subsequent events have proved to be wrong.

The 1955 decision recognized that the routes operated by the scheduled airlines—routes over which they have a statutory obligation to provide adequate service—constitute the Nation's "basic air transportation system." The 1955 decision purported to enlarge the scope of operating authority of the supplementals only within what the then Board deemed would be "additional and supplemental to * * * and not a mere duplication of" the certificated route services. And the 1955 decision very pointedly said:

"*It is the fundamental health and prosperity of the certificated carriers* that has permitted us to expand the area of competitive services by those carriers. And it is the same health and prosperity *that permits us to enlarge the area of operations of our supplemental air carriers* without undue concern over the impact of this action upon our certificated route system." (Emphasis supplied.)

The Board has never really reexamined the scope of supplemental carrier operating authority since that 1955 decision. At the outset of its 1959 decision, it stated categorically that the 1955 decision "resolved the issues of the need for and proper scope of supplemental air transportation." The 1959 decision then went on to pass on the qualifications of the various applicants, and to award certificates to those found qualified, in reliance on the 1955 decision as establishing the scope of operations to be permitted the supplementals. Likewise, in its presentations to Congress last year in support of supplemental carrier certificate legislation, the Board relied upon, but did not purport to reexamine, the 1955 determination.

It is accordingly significant that the 1955 expansion of supplemental carrier operating authority rested on an optimism as to "the fundamental health and prosperity" of the certificated carriers which would not be justified today. Indeed, at no time since 1955 could the Board have cited the "health and prosperity" of the certificated industry as grounds for expanding the scope of supplemental carrier authority. For, since 1955, there has been steady year-by-year deterioration of the financial results of domestic scheduled airline operations, which reached a new low in 1960.

THE CURRENT FINANCIAL PLIGHT OF THE DOMESTIC SCHEDULED AIRLINES

The current earnings picture of the domestic airlines, taken as an industry, is dismal. The local service and helicopter lines have not yet reached the point of being self-supporting, and hence must rely on subsidy. In 1960, the 12 domestic trunklines reported an industry net profit of only $1,188,000, or less than six one-hundredths of 1 percent profit margin on gross operating revenues of almost $2 billion. To give you a measuring stick: the domestic trunklines earned as profit 5 cents on every $83 of sales; the typical U.S. corporation earns about 5 cents on every dollar of sales.

Of the 28 domestic passenger carrying lines, 21 either depended on subsidy, or operated at a loss; only 7 operated at a profit. And even for these seven, the 1960 profits were far from satisfactory. The best profit margin that any of them achieved was 3.7 percent of sales. None of them came up to the rate of return on investment which the Civil Aeronautics Board has found necessary for the airlines to achieve their public service role under the Federal Aviation Act.

As you know, the Civil Aeronautics Board recently completed its 4-year general passenger fare investigation. One of the Board's major undertakings in that proceeding was to determine the rate of return on investment needed by the airlines. Return, in the regulatory sense, consists of net profit after taxes, plus interest on long-term debt. The proper level of the return on investment, for a given industry, is determined by the cost of capital—i.e., the level of interest and earnings needed to attract lenders and equity investors, in view of the returns investors can expect from industries of comparable risk and economic potential. In the Board's words—and I quote from the decision in the case:

"*Cost of capital.*—In determining the fair and reasonable return, as that term is judicially defined, the Board must reach an end result which provides earnings sufficient to cover all the costs consistent with the furnishing of adequate and efficient air transportation. Among these costs must be included a return to the owners of the enterprise which is not only comparable to the results of similar undertakings, but which will insure the retention and attraction of capital in amounts adequate to foster economic health and development."

The Board made a thorough analysis. It had before it voluminous testimony of prominent financial experts, including a study prepared by an independent expert specially retained by the Board for the proceeding. The Board concluded that the rate of return on investment needed by the domestic trunklines is 10.5 percent—or, more accurately, 10.25 percent for the so-called Big Four—American, Eastern, United, and TWA—and 11.125 percent for the other eight trunklines.

To illustrate what this means: the investment of the 12 trunklines attributable to domestic operations—i.e., after excluding investment attributable to international operations—in 1960 was slightly over $1.6 billion. On this they should have earned, at the rate of return found needed by the Board, $172 million. This would have covered interest payments of $43.8 million, and provided a profit after interest of $128.2 million. Instead, as previously noted, the trunkline profit after interest was only $1,188,000—or an "earnings deficiency," so to speak, of $127 million.

One of the things that is particularly disturbing is that 1960 was merely the worst of 5 successive bad years for airline earnings. Over these 5 years, the trunkline industry's earnings deficiency—computed on the same basis as above—has been in successive years: $9.5 million, $55.8 million, $47.9 million, $45 million, and $127 million, for a cumulative earnings deficiency, over the 5-year span, of $285.2 million, or a yearly average of $57 million less than the earnings the Board has found the industry needs to stay healthy. Not since 1955 has the trunkline industry as a whole achieved the rate of return prescribed by the Board's standards. The picture for the industry during these 5 years is summarized in the table below:

[Dollars in millions]

Year	Operating revenues	Net profit	Profit margin	Interest on debt	Rate of return	Earnings deficiency
			Percent		*Percent*	
1956	$1,263	$57.7	4.6	$10.0	7.2	$9.5
1957	1,420	27.0	1.9	16.2	4.6	55.8
1958	1,513	44.8	3.0	24.5	6.2	47.9
1959	1,799	61.7	3.4	32.2	7.1	45.0
1960	1,943	1.2	.1	43.8	2.7	127.0
Total	7,938	192.4		126.7		285.2
Average per year	1,588	38.5	2.4	25.3	5.5	57.0

As you can see, the industry's current financial plight is not simply the result of the 1960 recession—although that no doubt aggravated it. The industry has been undergoing depressed earnings for several years—and the end is not yet in sight.

Before leaving this table, however, I would like to point out one or two items of particular significance. As you will note, the operating revenues of the industry have increased steadily, and in 1960 were $680 million above 1956, or 54 percent. This reflects in part growth in traffic. The revenue ton-miles carried by the domestic trunklines increased from 2.4 billion in 1956 to 3.3 billion in 1960, or 38 percent. The growth in revenues also reflects in part fare increases granted by the Board in 1958, 1959, and 1960—the first significant price adjustments for this industry since 1948.

But this growth in service, in traffic carried, in gross revenues, has not been carried through to net profit. Operating expenses have been outstripping revenue growth.

Another noteworthy item in the above table is the very rapid increase in interest charges to be borne by the industry. As you will see, the industry had in 1956 what now seems like a relatively slight interest burden of $10 million. Even though 1956 was a subnormal year, the interest was well covered, and the industry still had a $57.7 million net profit. By 1960, however, the industry's interest burden had quadrupled to $43.8 million—and the industry had virtually nothing left after meeting its interest payments. This very great increase in interest reflects, of course, the debt that the industry has taken on to finance the jet reequipment program. The jet reequipment program is one of the most important current aspects of this industry, involving, as it does, a truly dynamic growth in the public service potential of the air-

lines. My immediate point is that depressed earnings are today more dangerous in this industry than at any time in the past, because of the debt and interest load. We already have one near-bankruptcy among the trunklines, as a result of which we now have 11, instead of 12 trunklines.

And, finally, as noted in the last column, the industry has accrued over these 5 years a very substantial earnings deficiency, having earned some $285.2 million less than what should have been earned at the Board-prescribed level. This means, of course, that the carriers' reserves have been depleted, or have not been kept at the desired levels. It also means that, in some cases, the carriers have taken on more debt than would have been the case had they had earnings to plow back into the business—and this, let me note here, is an industry which historically has always plowed back the bulk of its earnings. As was brought out in the *Passenger Fare* case before the Board, the domestic trunklines paid out as dividends 28 percent of net profits, retaining the rest for growth and expansion. Typical public utilities, in sharp contrast, paid out 78 percent of their profits, and general U.S. corporate experience was a 49-percent payment. And, last but not least, the cumulative earnings deficiencies of the trunklines has meant that many investors have not received dividends on their investment.

Another indicator of the extent of this 5-year airline depression is that, over these 5 years, five of the trunklines failed to realize the Board-prescribed rate of return in any one of the 5 years, six failed to realize it in 4 of the 5 years, and only one realized it in as many as 3 years. In 1956, 6 of the trunklines realized—and 6 failed to realize—the needed rate of return; in 1957, 1 of the 12 did it; in 1958, none of them did it; in 1959, 2 did it; in 1960, the score was again zero. All of this is summarized in the table below, where X indicates that the carrier's rate of return met the Board's standard for that year.

	1956	1957	1958	1959	1960		1956	1957	1958	1959	1960
American	X					National	X				
Braniff						Northeast					
Capital						Northwest					
Continental						TWA					
Delta	X					United	X				
Eastern	X					Western	X	X		X	

The operating results, by individual airlines, for the most recent year—1960—are set forth in the table below:

Financial results of domestic trunkline operations, calendar 1960

[Dollars in millions]

Airline	Operating revenues	Profit (or loss)	Profit margin	Interest on debt	Rate of return	Earnings deficiency
			(*Percent*)		(*Percent*)	
American	$421.6	$12.1	2.9	$9.6	5.9	$15.9
Braniff	75.8	1.1	1.5	1.6	4.4	4.1
Capital	104.2	(10.1)	(—)	2.6	(—)	13.2
Continental	61.0	1.7	2.8	3.0	6.9	2.9
Delta	128.4	3.6	2.8	2.6	7.1	3.6
Eastern	263.8	(3.7)	(—)	5.4	0.7	22.7
National	66.4	(4.5)	(—)	2.2	(—)	10.1
Northeast	37.9	(10.8)	(—)	1.8	(—)	11.8
Northwest	86.2	1.1	1.4	2.2	4.3	5.4
TWA	277.1	(0.3)	(—)	3.2	1.4	18.0
United	355.9	8.5	2.4	8.4	5.1	17.1
Western	64.3	2.3	3.7	1.0	6.7	2.2
Total	1,942.6	1.2	0.06	43.8	2.7	127.0

As you will note, from the third column, labeled "Profit or loss," seven of the trunklines reported profits, five reported losses, in 1960. The amounts involved virtually balanced out, so that the industry net profit was $1.2 million. As

shown in the next column, the best profit margin recorded by any of those seven carriers who had profits was 3.7 percent of operating revenues—gross sales, in the language of most businesses. Likewise, none of the carriers realized the rate of return on investment which the Board has found necessary. And, as the last column shows, the earnings deficiency—the amount by which net profit plus interest fell short of the Board's standard—ranged for individual companies form $2.2 to $22.7 million, aggregating $127 million for the industry for the year 1960.

Against this background, it is clear that reliance could not be placed today on what the Board in 1955 called the "health and prosperity" of the certified carriers as an excuse for enlarging the scope of supplemental carrier operating authority.

Indeed, the steady deterioration of the certificated airline financial results since 1955 suggests that, if there is now to be a reexamination of the scope of supplemental operations, that scope should now be curtailed rather than again expanded.

THE ADVERSE IMPACT OF INDIVIDUALLY SOLD "SUPPLEMENTAL" SERVICES ON THE SCHEDULED AIRLINES

The latest data published by the Board on the financial and operating results of the supplemental air carriers are for the fiscal year ending June 30, 1960.

During that fiscal year, the 25 supplementals to whom the Board issued certificates in its 1959 decision reported individually sold revenues of $11,574,000, mostly from individually ticketed passengers.

In addition to this, individually sold revenues of $9,764,000 were reported by irregular carriers whom the Board did not certificate. The bulk of this—$9,497,000—was reported by the three carriers (Great Lakes, Currey, and Trans Alaskan) making up the Skycoach combine, whom the Board found unfit for certificates and who have operated under stay pending completion of judicial review proceedings.

About $200,000 of individually sold revenues were reported by carriers whose applications for supplemental certificates are still pending, having been previously deferred for further hearings.

The aggregate revenues of the supplemental carriers—certificated and noncertificated—from individually sold services for fiscal 1960 were thus $21,338,000.

These revenues, had they not been diverted to the supplemental carriers, could have made a significant contribution toward improved earnings by the scheduled carriers. The $11,574,000 of individually sold revenues reported by the certificated supplementals was 9.6 times the domestic trunkline profit of $1,188,000 for calendar 1960. The $21,338,000 of individually sold revenues for all the supplementals was 17.7 times the domestic trunkline profit.

And it is demonstrable that by far the greater part of these revenues would have flowed to the scheduled carriers had the supplementals not conducted individually sold services, particularly the carriage of individually ticketed passengers. This is apparent from the nature of the operations, which I will review briefly.

Of the $11,574,000 of individually sold revenues reported by the 25 certificated supplementals in fiscal 1960, a total of $9,549,000—or over 82 percent—was reported by the three carriers: Transocean, U.S. Overseas, and Capitol Airways, as follows:

Transocean	$3,602,000
U.S. Overseas	5,133,000
Capitol Airways	814,000
Total	9,549,000

Analysis of the flight reports of these three carriers, as filed with the Civil Aeronautics Board for the year ended June 30, 1960, reveals that the bulk of their individually sold operations were over routings directly competitive with scheduled carrier routes. Transocean's operations were principally between California and Hawaii. U.S. Overseas operated almost entirely in the classic nonsked pattern: New York-Miami, Chicago-Miami, and transcontinental flights between New York, on the one hand, and Los Angeles or San Francisco, on the other, usually via Chicago, with frequent stops at Washington and Detroit. Capitol concentrated its individually sold operations in the Chicago-Miami and New York-Miami markets.

The New York-Miami operations of U.S. Overseas and Capitol offer a revealing example of how supplemental carrier operating authority can be used to skim the cream of a route. Each of these carriers tended to operate about eight flights a month, in each direction, between New York and Miami. These flights were almost without exception concentrated in the Friday-Saturday-Sunday period—the time of week when traffic is best, in that market, as vacationers start and end their trips.

Thus, the three scheduled airlines certificated to serve that route were left with the lean days of the week, and given less opportunity to recoup on what should have been the best traffic days.

In this connection it should not be overlooked that all three of the scheduled carriers certificated to serve the New York-Miami route suffered net losses in 1960.

While the most serious diversionary operations of the supplementals were concentrated in fiscal 1960—as in prior years—in the transcontinental and Florida markets, there is beginning to emerge another, and highly disturbing pattern. Within the past year to 18 months, the supplementals have developed a regular pattern of virtually daily service from Chicago to San Antonio and from New York to San Antonio, the latter routing occasionally picking up such intermediate points as Philadelphia, Washington, or Pittsburgh. These operations, we understand, are aimed principally at carrying Air Force recruits to Lackland Air Force Base for basic training.

This recruit traffic, it should be pointed out, was originally developed by various of the scheduled airlines. The original development of this traffic reflected a vigorous sales effort by the certificated carriers to convince recruiting officers of the feasibility and advantages of air service for recruit movements. The recruit movements can be readily handled on normal scheduled operations, and have been a significant source of revenue to carriers such as Braniff, with its Chicago-Texas and New York-Texas routes.

The last time we checked—about 8 weeks ago—these Air Force recruit movements were running about 1,400 passengers a month out of the New York area, and about 1,200 passengers a month out of the Chicago area.

The loss of these revenues is bad enough. What is really disturbing is the method of operation, and the portent of future increased diversion—particularly if the individually ticketed authority of the supplementals were to be enlarged.

The way the supplementals conduct this San Antonio operation, as we understand it, is this:

The recruits are individually ticketed. Accordingly, no one supplemental participates more than 10 times a month in either the New York to San Antonio, or the Chicago to San Antonio operation. But some days one supplemental, and some days another operates the flight. The supplementals collectively thus offer a daily service, Monday through Friday. And this is sold through what amounts to a joint sales force on the payroll of the supplemental carrier trade association.

Whatever the argument that this sort of concerted activity to establish a daily schedule under guise of the 10-flight grant falls within the letter of the law, it is nevertheless a clear evasion of what the Board said it was authorizing when it gave the supplementals the 10-flight privilege.

And, the more one probes into this operation, the more apparent are its deleterious effects on the basic, scheduled airline system. The recruits—together with other passengers—are collected at central points, such as New York and Chicago, from the surrounding area. Thus, a scheduled airline—or a railline or busline—may be used as a "feeder" providing the short-haul transportation from, say, Boston or Providence to New York. Whenever the supplementals can assemble a passenger load sufficiently near the capacity of the airplane to be profitable, they take the long-haul part of the trip, New York to San Antonio. If it appears that, on a given day, the group will be too small to be profitable, the supplementals do not operate, and it is up to the scheduled airlines to provide the lift. Conversely, any excess on a given day may be reticketed on the scheduled carriers as being cheaper than operation by a supplemental at a less-than-capacity load.

Here we have the complete inversion of the concept the Board enunicated in its supplemental carrier decisions. Here we have, in practical effect, the scheduled airlines supplementing the supplementals—feeding them short-haul traffic, handling their overflow, providing the backup for the days they do not operate.

And the manner in which the supplementals have, through concerted action, invaded this established scheduled airline market holds serious portents for the future. There are persistent rumors that they are planning to set up more such routes, perhaps from west coast points to San Antonio, as well as in other areas.

This San Antonio pattern of operation could well be the embryo of disastrous inroads by the supplementals into scheduled airline markets. In the particular instance, the collective operation has already achieved virtually daily schedules over two routes. The potential, even under the present 10-flight grant, is staggering. The 25 certificated supplementals, in the aggregate, could operate up to 250 flights a month, in each direction—8 flights a day—over any or all domestic routes.

And, if H.R. 7512 were to be enacted, the potential for disruption of the scheduled airline system would be multiplied immeasurably. For H.R. 7512 would authorize each of the supplementals to operate 192 individually ticketed flights a year between each pair of points. This would permit one supplemental to operate a daily schedule for 6 consecutive months. Then a second supplemental could take over the route for the next 6 months. It would be a simple matter for the sales and ground personnel to transfer from one payroll to the other every 6 months. Thus, 2 supplementals could maintain a daily, year-round service; 4 could make it twice a day; 6 could make it 3 schedules a day; and so on up to 12 flights a day, if all 25 supplementals were to operate in the same market. And this could be repeated over and over, in any or all the markets in the Nation.

What this would amount to would be the virtual abandonment of the regulatory basis of the Federal Aviation Act. For such reasons, we regard H.R. 7512 as extremely dangerous, and, accordingly, we oppose it.

CONTINUATION OF INDIVIDUALLY SOLD AUTHORITY FOR THE SUPPLEMENTALS, UNDER THE PROPOSED BILLS, INVOLVES THE PERPETUATION OF UNSOUND REGULATORY PRINCIPLES.

To this point, I have been critical of individually ticketed and individually waybilled authority for the supplemental air carriers because of the adverse impact on the financial and economic conditions of the scheduled airline industry. I have pointed out that the Board justified its 1955 decision to enlarge the supplementals' authority on the grounds of the "health and prosperity" of the scheduled airlines. I have pointed out that this justification is inapplicable today—and, indeed, could not well have been advanced at any time since 1955. I have pointed out how the individually sold operations of the supplementals under the 10-flight grant have been damaging to the scheduled airlines, and how their continued possession of this authority threatens even more serious damage in the future.

At this point I would like to turn to another, and separate, ground of objection to continuation of the supplementals' individually sold authority; namely, that it is unsound in principle for the Board to have the power to do such things as—

(*a*) use the certificate as a device to dictate schedules, equipment, and facilities;

(*b*) issue certificates for individually sold, route-type service, without specifying points to be served;

(*c*) certificate on the basis of "general" fitness, regardless of the limited experience and fitness of the particular applicant.

Before taking up these points, I would like to review briefly the background of the Federal Aviation Act of 1958 and its predecessor, the Civil Aeronautics Act of 1938.

As the committee will recall, the Civil Aeronautics Act of 1938 was adopted to deal with a situation which one of the congressional committees recommending the legislation described as "chaotic." Of the $120 million invested in the industry to that date, half had been lost. The excesses of unregulated competition and lack of security of route jeopardized ability to attract private investors and build the kind of air transport systems the public interest demanded. As the late Senator McCarran eloquently put it, the legislative studies by this committee and other committees "revealed that if we were to expect air transportation to develop into a sturdy form of transportation, rather than a perilous adventure, the economic stability of this industry had to be assured."

Progress toward this goal of a sturdy, economically stable, air transport industry is far from complete. For the investor in an airline, the adventure has not

ceased to be perilous. The low earnings and fiscal turbulence of the last 5 years make clear that an airline certificate is not a sinecure. They also make clear that, at the present time, proposals for change in basic elements of the act should be scrutinized with particular care, and adopted only if careful deliberation indicates they will strengthen—and not weaken—the underlying congressional plan for regulation of air transportation.

The keystone of this regulatory plan, as has often been said, is the certificate of public convenience and necessity.

The Congress has carefully defined the terms and content of such certificate, and the conditions upon which it can be issued, so as to insure that it not only will give the holder a measure of security of route, but also will assure that his operations wil lserve the public interest. At the same time, the act seeks to make sure that certificate holders will function as private enterprise—companies dedicated to public service, subject to Government regulation in the public interest, but nevertheless private enterprise.

Thus, the certificate prescribes the points to be served, and the service to be rendered. The certificate issues only after the applicant has proved that the particular service authorized by the certificate will serve the public convenience and necessity, and has also proved that he is fit, willing and able to perform that service propertly and lawfully. Once the certificate issues, the holder is obligated to provde safe and adequate service, at just and reasonable rates, under honest, economical, and efficient management. The certificate may not, however, be used as a device whereby a Government bureau circumscribes and controls the holder's right to provide the number of trips, and the equipment and facilities, which his service to the public requires between the points and in the type of service covered by his certificate.

These elements of the certificate and the certification process are important and embody sound regulatory concepts. The pending bills—S. 1969, H.R. 7318, and H.R. 7512—would detract from the soundness of the regulatory plan in significant respects.

IT WOULD BE UNSOUND TO USE THE CERTIFICATE TO DICTATE SCHEDULES, EQUIPMENT, AND FACILITIES

Take, first, the matter of a certificate limitation upon the right to add to or change schedules, equipment, accommodations, or facilities.

As I noted a moment ago, while the act seeks to enlist private enterprise in the public service, under appropriate regulation by a Federal agency, it does not contemplate that such private enterprises will become mere creatures of the Federal agency. Thus, while section 401(e) of the act directs that the certificate shall specify the points to be served, and the service to be rendered, by the certificate holder, it also specifically states:

"No term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require."

This is a very important provision to insure that this industry is regulated as private enterprise serving the public interest. It says that once the Board finds a given carrier fit to provde a given service—passenger, mail, cargo, helicopter, or whatever—between specified points, it shall not then seek to manage such details of his business as telling him what schedules he can operate, and when, or—to take another example—whether he can use new or only secondhand equipment.

This inhibition against Government dictation of schedules and equipment is, we submit, the soundest of regulatory concepts. If the public needs a carrier's service, and the Board certificates the carrier for that service, the carrier should be free to compete as vigorously as he can, to build up his business as much as he can, to operate as often as he can, and to use whatever equipment he can. This is, we submit, the course most consistent with a free, competitive economy harnessed to public service. If the very certificate that authorizes an airline to provide a particular service were also to limit the quantum of service to be provided, then we would have the most vicious sort of planned economy. The certificate holder would be told to compete, but not too much; to serve, but not too much; and to make his business as successful as he could, but not any more successful than preordained by the regulatory plan.

We believe—and I would like to make this very clear—that it is sound for the Board to regulate by determining what service the public needs, by what

carriers, and where. The Board should, we believe, be in a position to certificate two or six or nine or other number of carriers to compete between a given pair of points in passenger, mail, and freight, or to certificate only a single such carrier between a pair of points, as it determines the public need; to determine that over certain routes one or more all-cargo carriers are needed; to authorize helicopter service, or pickup mail service, or escorted tour service, in certain areas—but not in others—in accordance with the public need. Such regulation of the service to be rendered, and where it is to be rendered, is sound within the concept of the act. It harnesses the carrier to needed public service—and gives full scope to his initiative and ingenuity and resources to provide that public service the best he can.

It is not, on the other hand, sound to attempt to regulate by authorizing a carrier to provide a service, but only a little bit of it. Such an approach is uneconomic. It circumscribes the carrier's opportunity to apply his initiative and enterprise; it deprives him of the fruits of his endeavor; and it inhibits him as a competitive force.

The provision of section 401(e) of the act which forecloses the Board from conditioning a certificate so as to limit the number of schedules was carefully drawn by the Congress to serve just such purposes as I have outlined. A proposal that the regulatory agency be empowered to limit schedules was considered at some length—and then killed—by a congressional committee. I will not, at this time, review the legislative history at length. A single quotation should be sufficient. Commissioner Joseph B. Eastman apparently struck the proposal its deathblow when he testified:

"While the bill gives the Commission authority to fix standards of service, the air carriers propose that the Commission be given specific jurisdiction, upon complaint of other air carriers, to limit the number of schedules flown. This is an unusual limitation upon competition, and they should prove their case at public hearings before you propose it." Hearings on S. 2 and S. 1760 before a subcommittee of the Senate Committee on Interstate Commerce, 75th Congress, 1st session, 338 (1937).

The Board, nevertheless, would now like to have this power. It has, indeed, already—and despite the clear language of section 401(e) of the act—sought to exercise such power. Early in 1959, it purported to certificate some 25 carriers, the former large irregulars, for a so-called supplemental service. One feature of these certificates was to have been a limitation that the holder could not operate more than 10 individually ticketed flights in each direction between any given pair of points in any calendar month. Such a limitation clearly violates both the letter of the act, and the purpose of the congressional mandate. It was, not surprisingly, stricken down by the U.S. Court of Appeals, District of Columbia Circuit. The purported certificates were set aside as unlawful, and the matter remanded to the Board for further, lawful, proceedings.

The court thus, in effect, told the Board it had undertaken to regulate in an unlawful and unsound manner, and admonished it to pursue, on remand, a sound regulatory approach.

We believe the Congress should likewise direct the Board to develop a proper regulatory approach, within the congressional mandate. We believe the Congress should reject proposals to the contrary.

Under S. 1969 and H.R. 7318, the Board would be given a potentially far-reaching blank check to condition certificates so as to control and limit schedules, equipment, facilities, and accommodations. The Board would be empowered to issue certificates for "supplemental air transportation," which would contain "such limitations as to frequency of service, size or type of equipment, or otherwise, as will assure that the service so authorized remains supplemental * * *." Moreover, section 401(e) of the act would be amended so as to authorize, in a certificate for "supplemental air transportation," limitations "to assure" that the services are "limited to supplemental air transportation."

These amendments are, in any view, loosely drawn. There is no understandable definition of "supplemental air transportation," which apparently could mean whatever the Board chose to regard it as meaning, at any given time, so long as the Board inserted in the certificate a limitation on schedules or equipment "or otherwise" and said that this would "assure that the service so authorized remains supplemental." The Board has previously said, in an order issued in 1955, that the term "supplemental" is relative and "not susceptible of rigid definition." And, in an article published the following year, one Board member went even further and characterized the local service carriers as offering

"a valuable supplemental service." By the same token, the service of the all-cargo and helicopter carriers could perhaps be deemed supplemental. And, for that matter, I suppose it could be argued that the services of any carrier newly certificated between points already being served are supplemental and therefore subject to limitation to keep them supplemental. S. 1969 and H.R. 7318 do not tie the limitation the Board could impose to 10 flights a month or any other number; it could, for all that appears in these bills, be 2 flights a day, or 5, or 10, or 50, or some number to be prescribed in a periodic directive as to the current definition of "supplemental."

But I am not here to carp at the looseness of the draftsmanship of these bills. We have, as I have tried to indicate, a basic objection to any proposal that would enable the Board to attempt to regulate by controlling such matters as the schedules and equipment of a carrier. We think this is unsound. We think the Board has, for many years, been on an unsound regulatory tangent by attempting to deal with the so-called irregulars or supplementals on the basis of limitation of schedules. It is, we believe, high time that the Board pursue a regulatory approach to this group of carriers based on the regulatory principles embodied in the act.

H.R. 7512 would compound the error by writing a numerical limitation on schedules into the act. It avoids the pitfall of giving the Board an undefined "blank check" to limit schedules by certificate conditions. But, having accepted the unsound principle of schedule limitation in a certificate, it proceeds to set the limitation at so high a figure—192 flights a year—as to make the limitation meaningless for the purpose it is ostensibly intended to serve.

IT WOULD BE UNSOUND TO PERMIT ISSUANCE OF CERTIFICATES, FOR INDIVIDUALLY SOLD ROUTE-TYPE SERVICE, WITHOUT SPECIFICATION OF POINTS TO BE SERVED

The first sentence of section 401(e) of the act provides that:

"Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered * * *."

The requirement that the certificate designate the points to be served, as well as the service to be rendered, is, we believe, important to the sound implementation of the congressional regulatory plan. A carrier could scarcely be expected, much less required, to provide adequate service, absent a designation of points. The purpose of requiring the Board to find a need for service would be neglected if the carrier could then fly anywhere. There could be neither security of route, nor regulatory control of competition, if carriers were free to pick and choose, start up and abandon, routes at will.

As the legislative history of the act will show, the Congress had such concepts in mind when it deliberately adopted the specification-of-points requirement in section 401(e).

One of the reasons the Board's purported certificates for "supplemental" air service were held unlawful is that the Board ignored the plain language of this requirement, and sought to issue certificates which did not specify points, but authorized the holders to fly anywhere in individually ticketed services (subject to the 10-flight limitation). This departure from the act the Court quite properly struck down.

Here, again, S. 1969 and H.R. 7318 propose that the Congress change the act so as to override the Court decision. The suggestion is that a certificate for "supplemental air transportation"—whatever that means—"shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and may designate only the geographical area or areas within which service may be rendered."

This we regard, for reasons previously indicated, as unsound for individually ticketed services. An individually ticketed service, by its very nature, should be responsive to the needs of the public for service between particular points. If there is a need for such route service, the Board should so find when it issues the certificate. If it cannot so find, as to any given pair of points, the certificate should not issue.

It is to be recognized, however, that for a charter service, specification of points may not be important. The Congress so recognized when it provided, in the last sentence of section 401(e) of the act, that a certificate holder may make charter trips "without regard to the points named in its certificate, under regulations prescribed by the Board." In so doing, the Congress recognized that ability

to conduct charter trips, without being trammeled by the particular combination of points set forth in the route certificate, was an essential adjunct to the route service. Where the customer's requirement is for a planeload service, it frequently embraces a combination of points not wholly on the carrier's routes, and perhaps not covered by any combination of certificated routes. Moreover, since the demand for planeload service between any given pair of points is likely to be sporadic, it does not always readily lend itself to advance specification of points in the certificate.

It would, accordingly, do not great violence to the regulatory scheme if the Board were to issue certificates solely for charter trips which, in lieu of specifying "points" to be served, designated the area or areas within or between which the charters were to operate. The recent Court litigation, as we understand it, did not particularly focus upon the propriety of an "area" certificate for all-charter operations. On the other hand, there could well be a question, at this juncture, whether an all-charter certificate might not have to specify points, pursuant to the first sentence of section 401(e) of the act, even though the last sentence of that section might make such specification appear superfluous. If this is deemed a problem, a simple clarifying amendment should suffice to make crystal clear the Board's authority to issue all-charter certificates on an "area" basis. This could be modeled on the second sentence of section 401(e) of the act, and would read as follows:

"A certificate issued under this section to engage solely in charter trips in air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate the area or areas within or between which such charter trips may be flown."

We would have no objection to such amendment.

IT WOULD BE UNSOUND TO PERMIT CERTIFICATION ON THE BASIS OF "GENERAL" FITNESS, REGARDLESS OF THE LIMITED EXPERIENCE AND FITNESS OF THE PARTICULAR APPLICANT

Section 401(d) of the Federal Aviation Act imposes the basic requirement that the Board shall not issue a certificate unless it "finds that the applicant is fit, willing, and able to perform such transportation properly, and to conform to the rules, regulations, and requirements of the Board hereunder."

S. 1969 and H.R. 7318 would modify this established "fitness" standard, in the case of applicants for supplemental certificates, by adding the qualification that the Board "give consideration to the conditions peculiar to supplemental air transportation, including the nature of the public need found to exist and the extent of the obligation imposed on an air carrier engaging in such air transportation to provide the service authorized by the certificate."

This qualifying language was originally suggested by the Board last year, for the following stated reason: "The present stringent requirement of fitness should be reduced so that only general findings of fitness need be made for supplemental service."

In our view, the Congress should not countenance the proposed tampering with the "fitness" test for certification. It is one of the act's most important protections to the public interest.

The "fitness" standard is not, of course, a standard peculiar to the Federal Aviation Act. The Congress incorporated exactly the same language in the Motor Carrier Act of 1935, and for exactly the same purpose, to screen out the unfit and irresponsible, and thus protect the public. Likewise, the same language appears in most State public utility laws, many of which predate the Federal legislation.

The urgency of retaining and applying in air transportation the fitness standard—the "stringent" fitness standard, if you want to use the Board's adjective—can be readily documented. The long and sorry history of the abuse and mistreatment of the public by miscellaneous "nonsked" and "irregular" carriers is a case in point. It can be directly related to the Board's failure to apply the fitness standard to these carriers.

This committee is, of course, familiar with the broad outlines of this sordid story. I would, nevertheless, like to review some aspects of it briefly, so as to put in perspective the importance of the fitness standard. And, before doing this, I would like to emphasize our belief that the bulk of the 25 carriers to whom the Board purported to issue "supplemental" certificates are blameless of the sort of misconduct which blackened the name "nonsked" and are no doubt fit for future operations under appropriate regulatory authority. But—and this

I would also like to emphasize—we do not believe the Board has yet done the job it should have done, under the statute and in the public interest, in screening out the unfit.

The nonscheduled or large irregular carriers, it will be recalled, originally got into business some 15 years ago under a broad, blanket exemption which required none of them to show either fitness or a need for his services. By 1947, the Board found that operations by some of this group had "* * * resulted in numerous complaints to the Board concerning tariff and operating practices, including but not limited to failure of such carriers to perform the services agreed upon, great variations in the fares and rates charged by the same carrier for comparable service, failure to make refunds to passengers and shippers for transportation not performed, misrepresentation of equipment, facilities, and services, and use of inadequate and makeshift equipment and facilities." (Regulations No. 388, May 5, 1947, 12 F.R. 3076.)

These abuses of the public were, it will be noted, the typical sort of thing likely to occur where a carrier goes into business without adequate financial resources, a proper organizational basis, and a plan for operations prepared by competent personnel—the classic tests of fitness, applied by the Board in normal certificate cases.

But, unfortunately, the Board did not, at that time, undertake a program to apply a fitness standard to these carriers. It merely required the "large irregulars" to obtain a letter of registration—which issued upon a simple one-page application, without any requirement as to need or fitness. At one time, there were 109 of these letters of registration outstanding; the 25 carriers to whom the Board purported to issue supplemental certificates are the survivors.

By 1949, it became apparent the "letter of registration" program had not solved the problem. The Board found that "* * * the widespread abuses noted by the Board in its findings attached to the revision of section 292.1 in May of 1947 have not only continued, but in many respects have become greater and more flagrant." (Regulations No. ER–142, April 13, 1949.)

At this point, the Board announced a program for a carrier-by-carrier review of the qualifications of each of the "large irregulars," looking toward either cancellation of the carriers' letters of registration, or issuance of a specific individual exemption. This program was not, however, carried through. Instead, in 1951, the Board instituted the *Large Irregular Carrier Investigation*, docket No. 5132. The specific fitness of each of the irregulars and the need for his particular services, were among the stated issues in this proceeding.

And, if ever a record showed the importance of painstaking application of the fitness standard, this one did. Voluminous evidence was adduced by, among others, local governments and better business bureaus, who—as the Board found in 1955—were "interested primarily in assuring protection against malpractices of which many irregular carriers and their ticket representatives or owners have been guilty." Based on this record, the Board and its examiners, in their 1955 decisions, cataloged—but in greater detail—essentially the same abuses the Board had found in 1947.

Thus, it was found in 1955 that "the record is replete with evidence that there has been widespread violation of law and regulation and failure to fulfill the duties to the public which a common carrier should assume. These matters have taken the form of * * * stranding of passengers, failure or refusal to make refunds on tickets where the prospective passenger was not carried. Many operations have been started on the basis of complicated financial manipulations whereby there was no money invested in the business. In some cases, the transportation tax collected from the travelers for the Federal Government was used as working capital."

And the examiners declared that while they "do not find that all of the irregular carriers have engaged in these wrongdoings, so many have done so that the matter cannot be shrugged aside as one of isolated individual defections."

This record, running back so many years and featuring findings made, in almost the same words, in 1947, and again in 1949, and again in 1955, is convincing evidence of the importance of regulation based on specific findings of each carrier's fitness. On each occasion, the Board was referring to the sort of abuse of the public which most likely reflects attempted operation by a carrier lacking the financial resources and organizational responsibility that meet the fitness standard.

Against this background, we believe that the Congress should reject the Board's present proposal that "only general findings of fitness need be made for supplemental service." For entirely too long, the public has had to suffer the

consequences of operations by carriers who never met the fitness standard which the Congress adopted in 1938.

As the Board has advised the Congress, the purpose of this proposal for general findings of fitness is to enable the Board to rely upon the same sort of findings of fitness that it made in its 1959 decision granting supplemental certificates. These are the findings which the court struck down as not in compliance with the act. And even a brief analysis of these findings will indicate doubt that the Board has yet attempted an adequate screening of these carriers for fitness, having in mind the important protection to the public involved. Thus, one of the applicants who was found fit had a net worth of barely $19,000, including a fleet consisting of a wrecked DC–3 purchased for $75, and another of the applicants had a negative net worth of over $188,000. The first had not operated at all for 6 years, and the second only sporadically since 1954; nevertheless, each was given certificate authority to operate nationwide passenger or cargo services. This sort of approach is virtually an open invitation to more of the stranding of passengers, failure or refusal to make refunds which has been all too frequent in the past.

Under the Board's general findings of fitness, carriers which had formerly operated only charter flights, or flew exclusively for the military, were authorized to engage in individually ticketed passenger service; carriers which had flown only overseas were authorized to operate domestically; carriers which had carried only freight were authorized to transport passengers; carriers which had operated mainly in or from Alaska or from southern California, were authorized to conduct all of the above types of operation throughout the United States. This sort of scatter-shot approach to fitness the Court recognized as contrary to the congressional mandate. As the Court said: "In many instances, the prior operations of individual applicants had been small or specialized, and in many instances the financial resources, adequate for the types of operations theretofore conducted by the carriers, were inadequate for operations of the scope authorized by the certificates."

But the inadequacy of this generalized approach to fitness becomes even more apparent when one considers cases where the Board apparently would have certificated the applicant as "fit," had not the vagaries of fate caused it to reopen the proceeding for additional evidence.

Thus, the Board's 1959 decision found one applicant "fit" on the basis that, while its corporate balance sheet showed inadequate finances, its principal stockholder was a man of means who could make good any losses. This, in itself, is a curious finding for a regulatory agency, since it seems to say that a wealthy man can rely on his personal wealth to establish financial "fitness" of an incorporated carrier—but still keep himself in a position to draw at will the corporate veil against the carrier's creditors. In any event, it transpired that the principal stockholder had died shortly before the Board's decision. The Board discovered this fact before the certificate had been physically delivered to the carrier, and withheld issuance of the certificate pending further proceedings to determine what provision, if any, had been made to replace the prior stockholder. The significant point may well be that, had death here occurred some few weeks later, when the certificate was firmly in the hands of the corporate applicant, there would have been no way for the Board to recall its action.

In another instance, the Board's examiners found an applicant financially "fit," but the Board deferred final decision because of a reported change in management. On September 25, 1959, the Board entered an order, consented to by the carrier, which suspended its operating authority on the ground that it had become bankrupt and ceased operations, and because of its "failure to make refunds of tickets purchased from it," failure "to perform flights due to its financial inability to provide the necessary flight equipment and personnel" and "to give proper and adequate notice * * * to persons holding tickets and reservations," which activities "caused great financial and personal hardships involving the subjection of many passengers to inconvenience and serious physical discomfort."

And so, in September 1959, we find a Board order, directed to a carrier which was apparently regarded as financially fit under the "general" fitness standards the Congress is now asked to approve, which echoes the same things the Board found wrong in its public statements in 1947, 1949, and 1955.

In our view, there is no reason why the Congress should now amend the act so as to validate relaxation of the fitness standard.

THE "FIRST REFUSAL" PROPOSAL IN H.R. 7512 IS UNFAIR TO THE PUBLIC AND THE SCHEDULED AIRLINES

H.R. 7512 proposes that, by law, "supplemental air carriers shall have the *right* of first refusal in the operation of *all* charter trips in interstate, oversea, and foreign air transportation." [Emphasis supplied.]

This would mean that a member of the public would be denied the right to choose to charter from a scheduled airline so long as any supplemental exercised its "right."

The public would be deprived of this freedom of choice even if the supplemental's price were higher.

It would be deprived of this freedom of choice even if the supplemental's equipment were inferior.

It would be deprived of this freedom of choice even if the supplemental had left stranded its last three loads of passengers.

It would be deprived of this freedom of choice whatever the potential charterer's reason for not wanting to charter from the supplemental which demanded its "right."

But this is not all. The supplemental's "right," under the sweeping language of H.R. 7512, would extend so far that a scheduled airline could not even operate a charter over its own certificated route so long as any supplemental asserted its "right," at any price and under any conditions.

A case can be made for a policy, a regulation, or a law that assures a carrier of equal opportunity, or even preferential opportunity, to provide charter and contract services over the routes for which it holds certificates of public convenience and necessity. The certificate holder is obligated by law to provide adequate service over the route. It is only equitable to give him equal, or greater, rights to operate charter and contract services over that route than accrue to a carrier who has no obligation to serve the route.

No case can, however, be made for giving carriers—such as the supplementals—who have no obligation to provide any service whatsoever, a statutory right to oust certificated carriers from charter service over their own routes.

ALL-CHARTER AUTHORITY AFFORDS A SUITABLE AND PRACTICAL BASIS FOR SUPPLEMENTAL CARRIER OPERATIONS

Certificates solely for charter operations would be consistent with the regulatory approach of the act, and would rest on sound principles. Such certificates would embody regulation based on what service is to be provided, where, and by whom, instead of trying to permit certain carriers to engage in a little scheduled air transportation, but not very much. And it is clear that contract and charter services have provided a fertile and growing field for the certificated supplemental carriers—a field which, indeed, constitutes the bulk of their operations.

The latest revenue data for the supplementals, published by the Board, are for the year ended June 30, 1960. These data are based on the supplementals' official financial reports to the Board. Comparison of the fiscal 1960 data with those for prior fiscal years shows that, since the Board by its 1955 decision enlarged the scope of supplemental charter operations, the supplementals have expanded rapidly in the charter field. The rate of increase, for the 25 certificated supplementals, is indicated in the table below:

Year ended June 30—	Contract and charter revenues	Percent increase	
		Over prior year	Over fiscal 1956
	(*Thousands*)		
1956	$21,910		
1957	24,036	9.7	9.7
1958	27,788	15.6	26.8
1959	39,696	42.9	81.2
1960	47,111	18.7	115.0

During this same 5-year period, while the charter and contract revenues of the 25 certificated supplementals more than doubled, the operating revenues of the domestic trunklines increased by only about 12 percent per year. It is thus abundantly clear that the charter field which the Board opened to the supplementals in 1955 gave them a very real opportunity for business growth.

These same revenue data, as reported by the supplementals and published by the Board, also reveal that charter and contract services have generated the bulk of the revenues of most of the 25 certificated supplementals. Individually ticketed passengers and individually waybilled freight services are of lesser importance. Thus, for the 2-year period ended June 30, 1960, Transocean and U.S. Overseas—only two of the certificated supplementals—accounted for almost 85 percent of the individually sold revenues of the entire group of 25 carriers. For the remaining 23 carriers, charter and contract accounted for 94 percent of total transport revenues, and individually sold services accounted for only 6 percent.

The eagerness with which some supplemental carrier spokesmen seek access to noncharter markets should not be permitted to obscure the facts as to their growth and success in charter markets.

It should be noted that the Board's two hearing examiners, in their initial decision which led to the Board's 1955 decision, originally found that the authority granted these carriers should be basically only to conduct charter operations, and should not include authority to conduct individually ticketed services of a route-type nature. Two members of the Board advocated the all-charter approach, but were outvoted by the three members who felt that a limited individually ticketed authority should also be granted. Thus, of the seven men who devoted their talents and expertness to deciding the scope of the authorization, four rejected the notion that the 10-flight grant for individually ticketed flights would serve the public interest and accord with the sound regulatory concepts of the act, while only three favored a limitation-of-schedules approach.

Available data—such as those cited above—would seem to indicate that the four were right, and the three were wrong. This is particularly so since the three based their decision on the notion that the "health and prosperity" of the certificated carriers "permitted" expansion of supplemental carrier operations. Whatever may have seemed to be the "health and prosperity" of the scheduled airlines in 1955, in no year since could any such basis have been asserted for expanding supplemental operations.

The Board has not, in any public pronouncements since 1955, reaffirmed its 1955 decision on the basis of reevaluation in the light of developments since 1955. It has, at each stage, merely said this was decided then, and so should be done. Indeed, the current Board is in the paradoxical position of asking the Congress to amend the act so it can certificate the supplementals for the scope of operations deemed sound in 1955—or for an undefined greater scope of operations—while at the same time it asks the Congress for an appropriation to hire outside consultants to make a "study" and tell it what the proper role of the supplementals should be. The Board has requested a $50,000 appropriation for this purpose. Part of the justification for this request, in the Board's testimony before the Subcommittee on Independent Offices, House Committee on Appropriations, on March 27 of this year, was "We have to have some detailed thinking based on studies of what should be the role of the supplemental air carriers in the future * * *. I do not think any of us can give you any answer today on what we think it should be."

The situation is accordingly this: The "health and prosperity" basis of the 1955 decision is exploded. The Board has not reexamined that decision. The Board appears uncertain that its prior decision was right.

Under all the circumstances, we submit that this is no time for the Congress to enlarge the operating authority of the supplemental air carriers. Nor is it a time for the Congress to empower the Board to enlarge the supplementals' operating authority, in an undefined manner, at an indefinite future time, under a scheme which involves basically unsound regulatory principles. The most that the Congress should do, at this time, would be to amend the act so as to make clear that the Board could issue certificates for all-charter operations.

Such congressional action would not foreclose the Board from completing its studies—either through outside consultants or through its own staff—and then proceeding as an up-to-date evaluation of the problem might indicate. Meanwhile, the supplementals would be enabled to conduct all-charter operations, on a sensible and practical basis, consistent with the regulatory precepts of the act.

For such reasons, we support H.R. 7679. We oppose H.R. 7512, H.R. 7318, and S. 1969.

Mr. TIPTON. In reviewing the testimony which has been put before the committee in the legislation that is before it, it appears that what the Civil Aeronautics Board has presented to the committee, and what they have asked the committee to do, is twofold: First, to validate certain certificates issued a number of years ago to the supplemental air carriers, which certificates were held to be unjustified legally by the court of appeals, and thus were held invalid.

Second, they have asked the committee to go beyond that, and to give the Board broad new powers to issue a different type of certificate. The new type of certificate would be identifiable primarily by the fact that it could be issued notwithstanding one of the major principles written into this statute in the beginning. This committee back in 1938 and its associated committee in the Senate decided that the Civil Aeronautics Board in issuing a certificate could not place limitations upon schedules, equipment, or accommodations of the air carrier. The Board recommends that the committee abandon that principle with respect to the supplemental certificates.

Those are the two things the Board has asked this committee to do. In determining whether the Board's recommendations should be agreed to, it is important to recognize the problems that will necessarily result from going forward with those suggestions. In granting these original certificates to the supplemental carriers which in very brief provides that they may operate full plane charters and that they may operate each of them 10 trips a month between any two pairs of points in individually ticketed service, the Board did, and recognized that they did, establish authority for a very high volume of additional air transportation operation in this country, over and above the scheduled air transport system which, as you gentlemen know, is a very elaborate, extensive, and highly competitive system. The Board recognized that, went forward and did it anyway.

In considering whether that conclusion should be validated, ratified in effect by this committee, it is necessary to consider that decision in the light of today's conditions in the air transport industry. This committee follows the fortunes of the air transport industry very carefully, I know, and we appreciate it. But let me just emphasize some circumstances with which the committee is familiar that affect our industry right now. We are in a acute financial depression, and there is no doubt about it. I will spell out in some detail the manifestations of this depression.

It is interesting to recognize that when the Civil Aeronautics Board issued these certificates some years ago in the proceeding, the scheduled carriers argued that the extensive certificate grants involved would hurt the scheduled air transport industry financially. The Board took that argument into consideration and issued these certificates with the elaborate additional air transport authority they provided and said this:

It is the fundamental health and prosperity of the certificated carriers that has permitted us to expand the area of competitive services by those carriers, and it is the same health and prosperity that permits us to enlarge the area of operations of our supplemental air carriers without undue concern over the impact of this action upon our certificated system.

That statement was made in their decision in 1955 which defined the scope of supplemental carrier operating authority, and it was on that basis that the Board gave these carriers such extensive authority upon the basis that at that time the health and prosperity of the scheduled air transport industry was sufficient to permit these elaborate grants.

Now, look at today's situation, and it is necessary, since this committee is asked to validate the Board's condition, it is necessary to see whether that fundamental determination of the Civil Aeronautics Board any longer holds true. I think very quickly the conclusion will be reached that that conclusion is not true. In 1960, the 12 domestic trunklines reported an industry net profit of $1,188,000 on a gross business of $2 billion. What that means is this: The domestic trunklines earned a profit, as profit, 5 cents on every $83 of sales. The typical U.S. corporation earns about 5 cents on every dollar of sales. Consider this record particularly on the basis of the Board's conclusion in its general fare investigation with which this committee is familiar. It was an important investigation which extended over a period of 4½ years which had as one of its main purposes the determination of what rate of return, what level of profit, the industry should have in order to continue its growth and development and in order particularly to finance itself through private financing.

The Board conducted this investigation with literally mountains of evidence before it, with many financial experts testifying, including an expert especially retained by the Board for the proceeding.

The Board determined after all this that the return on investment needed by the domestic trunklines to continue their development to finance themselves was 10½ percent on their investment.

Mr. WILLIAMS. You mean 10½ percent annually on their investment?

Mr. TIPTON. On their investment, that is right. A rate of return of 10½ percent on their investment.

To illustrate what this means in terms of money, the investment of the 12 trunk lines attributable to domestic operations in 1960 was slighly over $1.6 billion. On this they should have earned at the rate of return found needed by the Board $172 million. This would have covered interest payments of $43.8 million and provided a profit after interest of $128.2 million. Instead, as previously stated, the trunkline profit after interest was only $1,188,000, or an earnings deficiency of $127 million. That is not just 1960. That has been going on now for 5 years. We have an accumulated earnings deficiency on that basis over this 5-year period of $285.2 million. A deficiency of that much.

There is a table on page 11 of my statement which sets forth in detail those figures. I shall not read it except to point up the fact that it does illustrate how far short the industry is falling of what the Board considered after this investigation was necessary for our development. There are one or two things that need to be emphasized about that table.

One thing it does is that it shows we have had a great growth in traffic. It shows further that that great growth in traffic has not been carried forward to earnings. This is a very important characteristic because it indicates great promotional efforts and successful promotional efforts in making traffic grow, but no earnings.

The second thing that is extremely important to this committee that has long been familiar with railroad difficulties is how our interest charges have gone up. In 1956, as you will note, we had $10 million annually of interest to pay. That is a fixed charge you have to pay or go bankrupt.

Mr. FRIEDEL. Mr. Chairman, may I ask the witness a question?

Mr. WILLIAMS. Mr. Friedel.

Mr. FRIEDEL. Mr. Tipton, on page 11, I notice in 1960 your operating revenue was $1,943 million. Your net profit shows $1,200,000.

Mr. TIPTON. That is right.

Mr. FRIEDEL. Then you show a rate of return of 2.7 percent. If you show a net profit, how can you show a deficit?

Mr. TIPTON. In considering what the Board means and what we mean by rate of return, it is actually your profit-plus-interest charges. So in measuring the rate of return, the net profit was $1.2 million as you notice on the bottom there, the interest on debt was $43.8 million. That is what we had to pay in interest before we got what was left over. That works out to a rate of return on investment of 2.7 percent.

Mr. FRIEDEL. Are you anticipating your earnings deficiency on what the CAB feels you are entitled to?

Mr. TIPTON. I see where I have not made myself clear. We are not showing an industry deficit. We are coming about as close as we can to it. We are not showing an industry deficit. We actually made a little bit less than $1,200,000.

Mr. FRIEDEL. I understand that.

Mr. TIPTON. But on the Board standard our deficiency on what we should have earned in order to be in good shape was $127 million.

Mr. FRIEDEL. You are thinking of the rate of return that the CAB thought you should make on your investment. That would have been $127 million more.

Mr. TIPTON. Just about—$128.2 million. What I am emphasizing here is that the Board set up a standard of what we should have made in order to be regarded as economically sound, which is our objective, and their objective, too, and in this 5-year period we have fallen short by $285 million. I was emphasizing, as I went along here, that our interest charges have gone up from $10 million in 1956 to $43.8 million in 1960, over a 5-year period. This year we were able to meet those interest charges, but just barely. Our jet reequipment program is continuing and further borrowings will be required and further increased interest charges will be involved. I emphasize the interest charges particularly because they are a fixed charge. They can't be passed like a dividend. They are a fixed charge and you must make it or you will go bankrupt. That is just real clear. The reductions in earnings have a further important impact. Our industry has all during its existence maintained itself, and maintained its growth and its development of new equipment and new practices and the like, to a very high degree on retained earnings. I am sure airline stockholders would agree with me on that, because airline stockholders have not received much attention or money. When we have earnings deficiencies of this sort, we still have to maintain and continue our development. So what that means is borrowings instead of using retained earnings.

As these figures quite clearly show, the industry cannot manifest that growth and prosperity at the present time that the Board relied

upon in granting these certificates originally. We do not have the health and prosperity that they referred to. As a matter of fact, with the heavy burdens of the jet revolution being compounded to a certain extent by a leveling off presently of our growth, and that leveling off is carrying forward into the first 4 months of this year, too—we suffered a $16 million loss as an industry, and this is not an earnings deficiency. This is a loss of $16 million for the first 4 months of this year. It is a matter which is giving our industry deep concern, and I think it must give this committee deep concern, too.

Now, it is sometimes said, and has been in the past, that the scope of authority of the supplemental carriers does not make any difference anyway because they have no impact on the financial health of the scheduled airline system. I think we must examine that conclusion very carefully now, because of the very difficult state of the scheduled air transport system's financial health at the moment. So let us look at the traffic figures of the supplemental carriers, the 25 supplementals, that the Board issued certificates to.

The latest data published by the Board on their financial and operating results is for the fiscal year ending June 30, 1960. During that year the 25 supplemental certificate holders reported individually sold revenues of $11,574,000. In addition, individually sold revenues of $9,764,000 were reported by irregular carriers whom the Board did not certificate. The aggregate revenues were $21,338,000 for the supplemental carriers.

Mr. FRIEDEL. Can you break that down between the military and the public?

Mr. TIPTON. This is individually ticketed traffic. It does not include charter traffic where most of the military traffic is carried. It may include some individually ticketed military personnel, but it is not primarily that, I am sure; $21 million in the aggregate. Just to get the significance of that figure, that happens to be 17.7 times the domestic trunkline profit for 1960.

Mr. WILLIAMS. Are you referring to the gross revenues received by these supplemental carriers?

Mr. TIPTON. That is right.

Mr. WILLIAMS. And are you referring to your net or your profit?

Mr. TIPTON. That is right, the $21 million of gross revenue from individually ticketed traffic.

Mr. WILLIAMS. Do you know how much was profit to these supplemental carriers?

Mr. TIPTON. No, I can't state their profit. The point is that this is $21 million of revenue that was diverted from a scheduled airline system which in view of the fact that that system must operate anyway and has been operating during this period at load factors of under 60 percent, if carried by the certificated carriers, would have been carried forward to net profit by the certificated carriers. The important thing here is the amount of traffic diverted, and not the profit the supplementals made on it. What is more, as you look at the patterns of service provided by the supplementals, you find that they are conducted over routes served by the certificated carriers. The flight reports show that they were almost all over routings directly competitive with scheduled carrier routes. For example, Transocean's operations were principally between Hawaii and Cali-

fornia. U.S. Overseas operated almost entirely in the classic nonschedule pattern, New York-Miami and Chicago-Miami and between New York and Los Angeles and San Francisco, usually via Chicago. Capitol concentrated on the Chicago-Miami and New York-Miami markets. The pattern of operations also indicates how this 10-flight authority for individually ticketed business can do real damage in specific instances. For example, the New York-Miami operations of U.S. Overseas and Capitol, each of those carriers tended to operate about eight flights a month in each direction between New York and Miami. These flight were almost without exception on the Friday, Saturday, and Sunday period, the time of the week when traffic is best in that market as vacationers start and end their trips. So that the three scheduled carriers that operate the service, New York-Miami, were left with the lean days of the week and given less opportunity to recoup on what should have been the best traffic days.

Mr. FRIEDEL. Are you saying that the three supplemental carriers fly from Miami to New York?

Mr. TIPTON. The supplemental carriers that I was referring to here are U.S. Overseas and Capitol, two of them, that conducted operations between New York and Miami. There are three scheduled airlines that operate that same route, Miami-New York. That is Eastern, Northeast, and National. In considering these operations by the supplemental carriers on the weekends, as I have noted, you have to take into account the fact, noting again the chart on page 15, Eastern, National, and Northeast in the aggregate lost $19 million operating that route during 1960.

Another illustration of the impact of this individually ticketed supplemental operation on scheduled carriers is the operation which we have just seen develop in recent months dealing with recruit traffic from the Northeast to San Antonio and from Chicago down to San Antonio. It indicates a method of service that is obviously possible under the 10-trip authority and which should give everyone concerned a great deal of difficulty. Here is the picture:

Quite a long time ago the scheduled carriers developed a very extensive program in convincing the military agencies that they could use air transportation to serve their recruit traffic, their traffic moving recruits from all parts of the country into the major training base at San Antonio. They got convinced, and the scheduled carriers developed a good business that way. Recently, that recruit business has tended to dry up, for this reason. Several of the supplemental carriers who have the right to operate 10 trips a month between, for example, New York and San Antonio, and Chicago and San Antonio, have arranged their operations so that they in effect provide service 5 days a week up and down that route. The recruit traffic thus is provided with the necessary service, and in effect what has happened is that the scheduled carriers that long handled that business have become supplemental to the supplementals, because there are carriers in New England that gather up the recruit traffic, take the short haul into New York or Newark, pick up by supplementals operating the pattern I have described into San Antonio. If the supplementals in arranging this transportation find that they have more recruits than they can handle on a particular flight, they put them on the scheduled airlines so we back them up, in effect, with capacity.

The net effect of it is that the scheduled system has lost that traffic and it has moved into supplemental operations. It amounts, as I recall, to 1,400 passengers a month out of New York and 1,200 passengers a month out of Chicago. That is a very substantial diversion.

Mr. FRIEDEL. What is the reason for that? Can they do it cheaper or furnish better service?

Mr. TIPTON. They can do it cheaper. They don't have to operate service all the time. They can arrange their loads very effectively so as to move them at very high load factors. The net effect has been to provide that kind of diversion.

Mr. FRIEDEL. Will you develop that matter where you said three supplemental airlines work together and run 5 days a week?

Mr. TIPTON. That is right. Under the Board's certificate authority, each one is permitted to operate in individually ticketed services 10 trips a month. For three that is daily. If three get together in their service, that is a daily service between these two pairs of points. That is a pretty dependable service going every day.

Mr. FRIEDEL. Is that permitted under the present law?

Mr. TIPTON. I have not examined the legality of this particular kind of operation. At least no one that I know of has made a charge of illegality against it. There might be some question about it, but we have not made any such charges. The fact of the matter is that it can be done.

Mr. WILLIAMS. It would appear to me that there might be a possibility that the antitrust laws might take over the cases where these airlines get together and operate in that fashion. Have your attorneys explored that possibility?

Mr. TIPTON. No. I am too awestruck by the difficulty of the antitrust laws to make an offhand comment on it, too. I must say I never considered the possibilities that there was an antitrust violation here.

Mr. WILLIAMS. I would think that the airlines would consider practically every possibility if they are really this much concerned over the operation of these supplementals. I just wonder what steps have been taken by the airlines.

Mr. TIPTON. I will tell you what steps have been taken. There is a clash of salesmen over it right now, each one trying to sell the transportation people of the military on routing the traffic their way. That is what the airlines are doing about it right now. I suppose that is a pretty good thing to do about it. I think that it does illustrate the point. Of course, it is not the first time that anyone ever considered this possibility because it is an obvious possibility to run these operations end on end between two pairs of points and wind up with a daily service that really provides great difficulty for the airlines over whom you are operating. In the Miami-New York business it is particularly difficult because that is a very highly competitive route in which the carriers are having real trouble. In that case any bit of traffic that goes off a scheduled airline system gives them reason for concern.

One brief comment on H.R. 7512 which provides for the operation by each of the supplementals of 192 individual ticketed flights a year.

Mr. WILLIAMS. That is the Moulder bill.

Mr. TIPTON. That is right. That would permit one supplemental to operate a daily service for 6 months between his chosen two pairs of points or more. Then a second could move in for the second 6

months. It would be a very simple matter of transferring personnel from one payroll to another every 6 months and establish a daily service just about anyplace you wanted to establish it. I think the net effect of this, considering the great difficulty with which the scheduled industry is faced now, is that adding this individually ticketed service with all of its possibilities of confusion and chaos and expanded unknown competition, that it is quite clear that the extension of this individual ticketed authority holds possibility of hurting the scheduled system a great deal. It is in a situation right now where it cannot afford to be hurt further.

I have been talking for the most part about the practical present application of the individually ticketed authority. Let me move now to a discussion of this Board proposal in principle. They propose that in the case of a supplemental certificate they be permitted to regulate the schedules, equipment or accommodations of a carrier—a certificated carrier—in any fashion they choose. A supplemental certificate really is not defined in the bill proposing it. The Board has, I am sure, recognized that the term "supplemental" is a very vague term, one that does not submit to easy definition. Nevertheless, by calling a certificate supplemental, the Board is relieved of this prohibition which forbids them to regulate the schedules, equipment, or accommodations of a carrier. That prohibition which appears in 401(e) of the Federal Aviation Act did not just get in there when nobody was looking. That was a provision which was disputed before the committee, discussed at length, and it was finally inserted. As a matter of fact, it was at the suggestion of Commissioner Eastman of the ICC that the committee decided that a regulatory agency should not be given that power. I don't think that the regulatory agency should ever be given that power, because it permits not regulation but management. Regulate your schedules—so many schedules a month, a week or any other kind of limitation on schedules that seems to be appropriate at the moment. Equipment—decide your equipment, what kind it shall be, how much it shall be. Accommodations—what provisions shall be made for the traffic that you are going to carry. It was a wise decision to say that if a certificate was issued, those phases of the operation could not be regulated by the regulatory agency but were to be determined by the management.

This limitation upon schedules in effect says that we are going to certificate you to provide a type of operation, but we are going to fix it so that you can't provide very much. It says you can develop, but not very much. You can operate, but not very much. You can provide a public service, but not very much. One difficulty with that is that it is just contrary to human nature. An operator who gets a certificate is successful, he wants to expand his business and to move on and to give more public service. It is flying in the face of that tendency to say that he cannot give very much of it. Under the present law, the certificates require service over these routes, and they in effect tell you, "You expand and develop your business the best way you know how," and that is what has been done. That is to the great credit of the industry, I think, even though we have gotten ourselves into difficulties as the result of it from time to time. The important thing is that if you authorize a carrier to conduct a particular service, then he should be permitted and required, as a matter

of fact, to develop his business the best way he knows how, to use the equipment that he thinks fits his service, to provide the accommodations that he thinks are right. No regulatory agency should be permitted to tell him he can't. As we have said to the committee, we have supported the giving to the supplemental carriers a full plane charter authority. In making that recommendation, we have contemplated that the ones that have this full plane charter authority within a particular area will be told "Operate just as many charters as you can get and operate the finest equipment you can get hold of, or the oldest, so long as it is safe, depending upon your managerial judgment."

We would not like to have this type of restriction imposed upon scheduled carriers and we don't recommend them for anybody. I think the Board is asking for too much when they ask to be relieved of that restriction. I think this committee would be doing long-term, great damage by withdrawing that principle from the statute. I am turning now to page 33 of my statement.

I want to talk now again in principle relating to the Board's proposal. At the present time the statute provides that a certificate may not issue to an applicant unless the Board finds that the applicant is fit, willing, and able to perform such transportation properly and conform to the rules, regulations and requirements of the Board thereunder. The Board asked the committee to endorse a change in the law, which would add a qualification to that, which would say in effect that giving consideration to the conditions peculiar to supplemental air transportation, including the nature of the public need found to exist and the extent of the obligation imposed on an air carrier engaging in such air transportation to provide the service authorized by the certificate.

This qualifying language is a little difficult to understand. The only real basis for understanding as to what it is intended to mean is the reason given by the Board which says that the present stringent requirement of fitness should be reduced so that only general findings of fitness need be made for supplemental service.

Here again the committee, I believe, would be making an unsound recommendation if it concurs with any reduction in the standards of fitness which are now in the Civil Aeronautics Act. The committee should be convinced not on the basis particularly of what I say here, but what the Board itself has said. The Board, after several years of operation of experimental or irregular carriers, whatever their names were during this period, in 1947 after an investigation the Board found that some of the operations of the group resulted in numerous complaints to the Board concerning tariff and operating practices, including but not limited to failure of such carriers to perform the services agreed upon; great variations in fares and rates charged by the same carrier for comparable service; failure to make refunds to passengers and shippers for transportation not performed, misrepresentation of equipment, facilities, and services, and use of inadequate and makeshift equipment and facilities. These were public abuses which were cropping up because authorizations for these carriers to operate had been issued without any test of fitness.

Mr. WILLIAMS. Was that the old *North American* case?

Mr. TIPTON. That was a general investigation, I think, Mr. Chairman. In 1947 the investigation was a general investigation. It

resulted in that kind of conclusion by the Board. Then in 1949, after some further attempts at regulation, but not the introduction of real tests of fitness, the Board again found that the widespread abuses noted by the Board in its findings, that I have just read, have not only continued, but in many respects have become greater and more flagrant.

Then in 1955, on the scope of authority for supplemental carriers, the Board reached virtually the same conclusion in a quotation which I shall not read, appearing on page 37 of my statement. That manifests the results of the failure on the part of the Board for many years of not applying tests of fitness in authorizing flight carriage in the United States. It illustrates as good as I can say the need that Congress contemplated when they wrote that test of fitness in the statute. It should not be changed.

In discussing this, the Board has told the committee that the purpose for establishing these general findings of fitness is to enable the Board to rely upon the same sort of findings of fitness that it made in its 1959 decision granting supplemental certificates. These are the tests of fitness that the Court struck down as not in compliance with the statute. We believe, and obviously the Court reached the same conclusion, that the Board did not even then give an adequate test of the fitness of the carriers that it was considering. One of them, who was found fit, had a net worth of barely $19,000 including a fleet consisting of a wrecked DC–3 purchased for $75. Another had a negative net worth of over $188,000. It is that kind of economic weakness or complete lack of any economic strength that results in public abuses of the kind the Board had previously talked about.

I think that a review of the material contained in my statement, as well as the material to which reference has been made, will make it perfectly clear that the Board's request for this amendment is not in any respect justified. I would have no doubt that most of the supplemental carriers who are now operating would tell you the same thing I am telling you. The test of fitness should be severe and stringent and what is more that they can pass them. I think there can be no argument for supporting that recommendation of the Board.

Now, to come to the concrete suggestion which we make to the committee. It has often been said, and I have often been charged to being dedicated to putting the supplemental carriers out of business—and that is far from the case—I think that they have established a place for operation and have justified authority to operate. I think they have done a job in the charter field. I think that they should have their certificates validated with respect to full plane charters.

The legislation pending before the committee providing for the necessary amendment for that purpose we support. It is a simple amendment. It is H.R. 7679 introduced by Mr. Collier. It provides the necessary amendment by which valid certificates can be issued providing for charter service. We do not believe that it is either necessary or wise to include in that authority individually ticketed authority. The record made by the supplemental carriers shows that the field in which they have been devoted most of their time, and have been most successful, is the charter field.

On page 43 of my statement appears a table which I think is of great significance, because it shows the growth of charter development by

supplemental carriers from 1956 through 1960. It shows that during that period their revenues have more than doubled in the charter field, and to give a basis for comparison of the general growth of air transportation, the operating revenues of domestic trunklines increased by only 12 percent per year during that period. The charter field is obviously one in which there is room for growth, and in which they have been successful. The charter field has provided the bulk of the revenues of most of the 25 certificated supplementals. For a 2-year period ended June 30, 1960, Trans-Ocean and U.S. Overseas, only two of the certificated supplementals, accounted for almost 85 percent of the individually sold revenues of the entire group of 25 carriers. For the remaining 23 carriers, charter and contract accounted for 94 percent of total transport revenues, individually sold services for only 6 percent.

Considering the fact that the charter field has been demonstrated to be one in which the supplementals have been successful in producing this growth, and considering the fact that the individually ticketed service proposals demonstrably impair the ability of the scheduled airline system to maintain itself, it would seem clear to us that the proper course would be to provide the necessary amendment so that certificates for charter service can be provided and limited to the provision of charter services.

We recommend, therefore, to the committee that the bill I just referred to, H.R. 7679, be reported, and that the Board's proposals and the proposal as you heard from Mr. Moulder, be rejected, not only because of their practical adverse effect, but because of the violation of the basic principles of the Federal Aviation Act, which both of them manifest. Thank you very much.

Mr. WILLIAMS. Thank you, Mr. Tipton. As has always been the case since I have been a member of this committee, you have made a very excellent presentation of the point of view of your association. Mr. Friedel?

Mr. FRIEDEL. Mr. Tipton, I also want to compliment you on a very informative statement. You are in favor of the Collier bill. That would only limit them to charter service.

Mr. TIPTON. The Collier bill would authorize the Board to issue charter certificates but would not make the amendments which are necessary to permit this limited individually ticketed business.

Mr. FRIEDEL. What is your definition of charter service?

Mr. TIPTON. The basic definition of a charter is when the entire capacity of an airplane is taken by a person for his own use. In stating that definition, I think that all of us have to recognize that definition of charter does involve difficulties. It always has and presumably always will. The important thing is that the charter be a valid charter of the entire airplane without permitting evasions of the statute, both the rate regulations and the certificate regulations, by the creation of charters by travel agents or others who create charters commercially.

Mr. FRIEDEL. Mr. Tipton, I don't know whether or not you were here, but it was brought out in the testimony that the temperance group wanted to charter a flight. They found out that one of these persons had taken a drink before, and he was not a member of the temperance group, and they could not charter the plane. Would that be your definition of a charter flight?

Mr. WILLIAMS. May I interrupt you there, Mr. Friedel? As I recall—and correct me if I am wrong—the flight was chartered but there was a point raised apparently by the ATA that because one of the members had been seen to take a drink this was not a homogeneous group under the definition as it was propounded by the Board and they interceded in an attempt to keep this charter flight from being granted. I think that is the way it was. I think the intervention was unsuccessful but it did constitute harrassment and the objection was made to that type of harrassment. Are you familiar with that case?

Mr. TIPTON. No. I do want to say this, Mr. Chairman. In view of my many appearances before this committee in support of drinking on board airplanes, I am sure you will believe me when I say that the intercession that you refer to was not from the Air Transport Association. I am not familiar with that case, Mr. Friedel.

Mr. FRIEDEL. I am trying to get the definition for charter service.

Mr. TIPTON. We have had a definition of charter service in part 207 of the Civil Aeronautics Board's regulations for quite awhile, which is used to regulate the performance of charter service by scheduled air carriers. As you recall in the statute, a scheduled airline that gets a certificate can provide charters without reference to the points named in its certificate, subject to regulations provided by the Board. They adopted such regulations and they have been in effect for many years. It has proved to be a workable definition of charter. I would be glad to submit that regulation to the committee, with additional comments, if that would be helpful.

Mr. WILLIAMS. Do I understand that applies only to the case of oversea flights? That is where homogeneity is not imposed.

Mr. TIPTON. May I introduce Mr. Clif Stratton, assistant general counsel of the Air Transport Association, who will go forward with that one.

Mr. STRATTON. Part 207 to which Mr. Tipton referred applies to scheduled certificated carriers both on domestic and overseas or foreign flights. The homogeneity rule so to speak that you referred to as I understand it comes out of the transatlantic charter policy which applies to the specific exemptions for conduct of transatlantic charters by carriers other than those certificated for those routes. As I understand, it is basically the same as the IATA carriers arrived at by agreement with themselves to have an industry self-regulation. So it has been made uniform in that respect as far as the North Atlantic is concerned.

Mr. WILLIAMS. The question, then, in my mind, as to why this would not be applicable all the way across the board if it is desirable in the interest of the public, is why would it not be applicable to domestic charter flights as well as oversea charter flights?

Mr. STRATTON. The only suggestion I could make offhand on that is that I don't believe there have been serious problems domestically of the type that were encountered in the North Atlantic with respect to sort of fictitious charters, you might call them, where in effect somebody would allegedly charter an airplane, and then go out and peddle the seats for whatever he could get the members of the general public to pay. It evades the tariff rules and breaks down the purpose of having certificates.

Mr. WILLIAMS. The same problem could arise in domestic flights as easily as in transatlantic flights.

Mr. STRATTON. It could, sir. I imagine if it began to become the same sort of problem domestically, you might well find attempts to arrive at the same sort of thing that they have dealt with in the transatlantic charter policy and over the North Atlantic in these rules.

Mr. WILLIAMS. Do you advocate, Mr. Tipton or Mr. Stratton, that the same yardstick be applied domestically?

Mr. STRATTON. As I say, domestically we have not encountered the problem. I have not really given any thought whether it would be desirable to amplify. We have had the definitions in part 207 for domestic flights which have proved adequate in the domestic field for 10 years, as far as I am aware.

Mr. WILLIAMS. You would not advocate at this time that the same rule be applied to domestic charter flights?

Mr. STRATTON. No, I would not.

Mr. WILLIAMS. You make a distinction between the domestic charter flights and oversea charter flights.

Mr. STRATTON. I would not make the distinction that way. I would say the North Atlantic charters have presented a particular problem because of a combination of economic facts having to do with the cost of the trip, with the nature of the people who would like to take charters in that field. I am no great expert in this but this has been my impression from watching that situation. It presents a particular problem that has not arisen thus far elsewhere. As I say, that is why I would not advocate it.

Mr. WILLIAMS. Is the principle the same?

Mr. STRATTON. I think the principle is the same. Trying to get at preventing evasions of what is intended when you charter a planeload for transportation of yourself, your own company personnel, a group of whatever size it may be that charters a plane, and it is a group that somehow exists for some purpose other than merely chartering the plane.

Mr. WILLIAMS. Do I understand that this is in line with the IATA policy?

Mr. STRATTON. I understand that the Board has incorporated into its transatlantic charter policy essentially the same things that were adopted by IATA. I am not thoroughly familar with IATA rules because that is a different organization.

Mr. FRIEDEL. The thing I was leading up to is this. We just passed a bill to encourage tourists traveling nonsched from overseas. The cost will be a very big part of the undertaking. The supplemental air carriers would be in a better position to have this low cost of bringing tourists coming into the United States. Is your group going into that field and try to encourage more tourists at a cheaper cost? One fixed rate for hotels, meals and everything included?

Mr. TIPTON. It has been clear that there has been a great demand for charters particularly on the North Atlantic. As Mr. Stratton has said, the demand is great there and has presented some difficult problems. I think that traffic promotion efforts on all our parts taken with this new legislation that the committee put forward is going to provide for additional traffic development there.

On the question of price—and that is always going to be important in developing that business—I think that the price reductions which

have been made in the scheduled service have resulted in a great deal of traffic development already, and they will continue to. We are a little concerned at the present time with a fall-off in traffic in the season that is just starting for reasons that are not quite clear at the moment. That traffic is going off. One of the things that makes it possible to reduce rates is high volume. It is awfully hard to predict at the present time with this apparent reduction in traffic as to what impact that is going to have on the rates that it will be possible to charge. I think we will have available the charter method and the regular airline method of developing that traffic.

Mr. FRIEDEL. Can you tell me why the traffic has fallen off? Are the foriegn airlines getting more passengers?

Mr. TIPTON. It is total traffic, Mr. Friedel, across the Atlantic. You are very familiar, I know, with this. As far as American-flag carriers on the North Atlantic are concerned, our share of that business has fallen off very drastically in the past few years. That gives us concern. But of even more concern now is a current dropoff in total traffic even for the foreign-flag carriers and ourselves as well.

Mr. FRIEDEL. This gives me concern, too. I want to know how to get the passengers back. It was testified that the jets are more economical to operate. Is that true?

Mr. TIPTON. Yes. They are a much more productive airplane than the piston airplanes. They have great capacity and high speed. You never get advantage of that great economy unless you fill them. That is the difficulty, always, of course. They are a much more economical airplane to fly.

Mr. FRIEDEL. Do you think if there was a reduction in the rate that you might encourage more people to fly the American-flag ships?

Mr. TIPTON. I suppose within limits that would always be true. That has been the reason, of course, for these drastic reductions of rates in that market over the years. I don't have my figures on that right available, but as you know, we have progressed from a virtual lack of any kind of tourist rates on there to very sharply reduced promotional fares.

Mr. FRIEDEL. Mr. Chairman, I have just one brief statement, and then I am through. I just want to make this observation. You agreed and the Chairman of the CAB agreed that the supplemental air carriers are needed, and they must be in business. I am for keeping them in business. I am opposed to them disrupting the regular scheduled airlines. We want to keep them in business, but I don't want them to run flights out of Friendship and hurt our oversea flights or regularly scheduled airlines. I will do what I can to help them, but I still want to keep everybody happy. That is all, Mr. Chairman.

Mr. TIPTON. I think your statement makes a very important distinction. That is, as to what business. I think the area in which they have conducted their operation is primarily charter, and it is in that area where they have the least adverse impact on the scheduled system.

Mr. WILLIAMS. Mr. Jarman.

Mr. JARMAN. Thank you, Mr. Chairman. I would like to join my colleagues, Mr. Tipton, in complimenting you on a very well prepared statement.

In Chairman Boyd's testimony to our committee, he said at one point in his statement that there should be no doubt that the continued

existence of the supplemental air carrier fleet is of real value in terms of national defense. Is all or a large part of the supplemental service to the military by charter?

Mr. TIPTON. Yes. Certainly a very high percentage of it is, I was going to say, quickly that all of it was, because that is the way it moves. There may be some modest amount of individually ticketed business. It is very modest. Insignificant I would say.

Mr. FRIEDEL. Charter or contract?

Mr. TIPTON. It is the same thing in this instance, Mr. Friedel. It is a charter service provided under a contract.

Mr. JARMAN. Then in your opinion would the passage of the Collier bill, 7679, have any appreciable effect on the supplementals' ability to continue their service to the military?

Mr. TIPTON. I think it would have an appreciable effect. I think it would help it a great deal. One of the things that the Collier bill would provide is a certificate that is valid, and no one can say it is not. They would have certificates. Presumably through the normal processes of Board regulation the number of charter carriers would be held in check by the requirements of public convenience and necessity. They would have a permanent place and some protection against undue competition in the charter field. I just have not the slightest doubt that by thus producing carriers of more solid economic basis, the efforts and contributions to the military would be improved.

Mr. JARMAN. Then it would follow from what you say that in your own estimation, our posture of national defense would not be impaired.

Mr. TIPTON. It would not impair it in the slightest.

Mr. JARMAN. Chairman Boyd went on to say—

and it is evident that the future ability of a supplemental air carrier to serve the military as they are doing now and have done so ably in the past depends upon their ability to operate their planes in commercial activities when not engaged in service for the military.

Would you agree with that?

Mr. TIPTON. It seems to me that by giving them charter authority that they can use in either commercial or military operations you meet that requirement that Mr. Boyd has stated. They will charter commercially and they will charter to the military. This certificate would not prevent them from doing that. So that meets that requirement that Mr. Boyd was talking about.

Mr. JARMAN. This involves the question of individually ticketed service and perhaps my colleagues are more familiar with this, but for my own information, exactly what is the system for an individually ticketed service by supplementals? You speak of a soldier going from New York to San Antonio. What actually is the procedure whereby he gets his ticket on a supplemental and takes his flight?

Mr. TIPTON. I don't know that I can answer that question as to the precise procedure. The recruit business to which I referred is business that is sold to the transportation officers of the military. They are the ones who decide who is going to handle the business.

Mr. WILLIAMS. Is that handled under some kind of exemption from the Board?

Mr. TIPTON. No, it is under their—for the recruit business within the United States to which I am referring—current certificates with

the 10-trip authority. In the commercial business it is sold by travel agents and a variety of other ways, I assume.

Mr. JARMAN. Let us assume an individual took a nonmilitary trip and decides to fly from New York to Miami. How much assurance does he have when he buys a ticket on a supplemental that the plane is actually going to fly at the indicated time; that the trip is actually going to be made?

Mr. TIPTON. I think it largely depends upon the responsibility of the carrier. There have been cases in the past where he had no assurance at all and often was disappointed.

Mr. WILLIAMS. That same thing holds true in the case of some of the scheduled airlines.

Mr. TIPTON. You are exactly right. There we at least like to think that we have good reason for canceling. I am a little conscious of that right at the moment, Mr. Chairman. I had some difficulty getting back from Chicago yesterday.

Mr. JARMAN. Are there some instances in which the supplemental has canceled the flight simply because it did not have enough passengers on the flight?

Mr. TIPTON. I can't assert that as of the moment. The records of the Board in these various investigations have shown that there have been cases in the past.

Mr. JARMAN. I ask based upon your own information.

Mr. TIPTON. Based upon my personal information, I can't answer the question.

Mr. JARMAN. Do you know of any statistics that would show the reasons for cancellation of flights by supplementals? Is there any source where we could get that kind of information?

Mr. TIPTON. I would doubt it. At least I know of none. We file reports with the FAA on mechanicals. No, I know of no source of statistics on that subject.

Mr. JARMAN. I think my line of questioning is prompted by part of what you have set out on pages 20 and 21 of your statement in which you refer to the service to San Antonio. Down at the bottom of page 20 you say that whenever the supplementals can assemble a passenger load sufficiently near the capacity of the airplane to be profitable, they take the long-haul part of the trip, New York to San Antonio. If its appears on a given day the group will be too small to be profitable, the supplementals do not operate, and it is up to scheduled airlines to provide the lift. How do they go about this? What is their system for so indicating that they will not make the trip on a given day?

Mr. TIPTON. They undertake the transportation. As far as I know, they have provided for the transportation of those recruits to their destination. As I say, if they have more than they can handle then they buy tickets on a regularly scheduled airline. I have heard no indication that the conduct of this recruit service by the carriers doing it has resulted in a failure on their part to provide the transportation one way or another.

Mr. JARMAN. I noticed the other day that Eastern flew its shuttle service from here to New York with one passenger because it was an advertised service and a scheduled operation every hour. I was just curious as to whether there are instances and whether we could

actually get the evidence of supplementals that have canceled flights after having sold them to passengers because they felt that the business did not justify the flight. That is certainly one aspect of this picture that I was interested in hearing more about.

Mr. TIPTON. I know of no source of current statistics on that. There is much evidence with respect to this sort of thing in the various Board's investigations of the carriers which have preceded the grant of certificates to a number of them.

Mr. JARMAN. Are the fares charged between given points the same on a supplemental as they would be on a regularly scheduled airline?

Mr. TIPTON. I am not familiar in detail with supplemental fares at the moment. Many times they are less.

Mr. JARMAN. That is controlled by regulation, is it not?

Mr. TIPTON. They are regulated in this sense. Being common carriers, they are required to file tariffs with the Civil Aeronautics Board, and they do so. If the Board wishes to challenge those fares, it can do so the same way it can with any air carrier's fares.

Mr. JARMAN. The point I wanted to get straight in my own mind is whether one of the attractions of flying the supplemental carriers is the reduced fare over the rate charged by a scheduled airline.

Mr. TIPTON. I would reasonably be sure it was.

Mr. JARMAN. On flights from New York to San Antonio for military personnel going to Lackland Air Force Base, do you know whether those flights are at a reduced rate?

Mr. TIPTON. They are less.

Mr. JARMAN. Thank you.

Mr. WILLIAMS. Mr. Tipton, testimony has been given before the committee that indicates only a negligible percentage of ticketed passengers are carried by the supplemental carriers. I don't recall what the figure was, but it was somewhere around 2 or 2½ percent. Are the airlines really concerned over that? Do they consider that competition?

Mr. TIPTON. Under current circumstances, they surely do. They surely do. Taking one segment, which has been a favorite for supplementals, New York to Miami, with three carriers operating at very low load factors, in the low fifties, losing during 1960 $19 million, any traffic moving over that is of significance. The reason for it is that the service must be maintained. Those operations have to go up and down there every day on schedule.

Mr. WILLIAMS. We recognize the problem. We don't deny that. The thought occurs to me that 2 or 2½ percent is, relatively speaking, a negligible thing. Isn't it a fact that what you are mostly concerned about is the possibility or the danger, if you want to put it that way, of a tremendous expansion in these supplemental carriers in the future which would take a sizable amount of traffic off the scheduled airlines?

Mr. TIPTON. There is no doubt that the future potential is great. I suppose you are right. If you try to measure the importance of the various things we are concerned about, the No. 1 concern here is an expansion of the individually ticked authority either by a combination of carriers or by increase in the authorized number, or a variety of things of that sort. It is the future potential. I don't want to indicate that the carriers are not concerned about the current situation. Sure, $21 million when compared with an almost $2 million

of revenue does not look like very much. But $21 million under the circumstances that have prevailed in the system during this year is a tremendous amount because we made, as an industry, only $2 million. Most of that $21 million of revenue, if it had gone on scheduled carriers, would have been carried forward to profit, simply because our load factors have been very low and the service has to be provided.

Mr. WILLIAMS. There is one factor that has not been mentioned here, and that is that when the regularly scheduled carriers reach the point where they are actually losing money, then they become eligible for subsidy. Is this correct?

Mr. TIPTON. That is right.

Mr. WILLIAMS. So therefore the risk on the part of the scheduled carriers is really not quite as great as it might appear.

Mr. TIPTON. I suppose that if there is anything that the trunklines of the United States don't want to do, and also the international airlines, is to get back on subsidy. This is for a lot of reasons which would take me a long time to state. The fact that they do not want to get back on subsidy is illustrated by the fact that there have been very large losses in this industry and the trunklines have not applied for it with the exception of the Capital situation with which you are all familiar in which they applied for subsidy in order to protect their position. I thought it was made reasonably plain that that application was not very popular. The net effect of it, of course, was to cause Capital Airlines to disappear and become a part of United.

Mr. WILLIAMS. Most of these supplemental carriers who have ticketed flights between major points do their flying on the weekends or during the heavy load periods.

Mr. TIPTON. I suspect so.

Mr. WILLIAMS. What is the load factor of your scheduled airlines between two given major points? Let us take New York-Miami on the weekends. Do they operate with a high load factor on the weekends or a low load factor?

Mr. TIPTON. I can't give you figures broken down by days of the week. I can get them. I haven't got them with me now. I would have no doubt about the general answer to your question, that is, that the heavy days for virtually every carrier in the system are the weekend days. That seems to be clear. Also it is clear under present circumstances with a very high capacity of the system and a very low general load factor that there is no shortage of capacity. A passenger may have to leave at 11 o'clock instead of 9 o'clock, or something of that sort, but there are seats available. More than we like to see.

Mr. WILLIAMS. There are seats available at the rates that are charged by the scheduled carriers on the weekends. Do I understand correctly that once your carriers have been granted permission to fly between two major points on schedule, that there are no further requirements as to frequency of flights or as to types of aircraft that you may use?

Mr. TIPTON. There are no restrictions on schedules except in this sense. The Board has the power to make sure that we give adequate service to each point on the line. In that instance they can, after an investigation, say, "You have to put on more service between here and there." To that extent they have exerted the power over schedules.

Mr. WILLIAMS. It has been testified here that the service that supplemental carrier X is rendering between New York and Miami, just to take those two points as an example, is a low cost, coach service, using piston aircraft. In a sense it is second-class service, whereas the airlines are operating what might be called first-class service at a higher rate. Is there anything in the law or in the regulations of the Civil Aeronautics Board that would prevent scheduled airlines from using some of their piston equipment to offer the same type of low-cost service between these major points? In other words, if the airlines are so concerned over this traffic, why have they not made an attempt to compete with this traffic since it would appear to me, at least, that they would have sufficient piston equipment and certainly would be in better financial shape to offer this type of service. Why isn't it that the airlines, of this business is profitable, have not gone into the same type of business?

Mr. TIPTON. There has been developing a great deal of use of piston equipment for a lower price service. They have been put into coach service. As Mr. Jarman pointed out a moment ago, the Eastern experience of the shuttle service using pistons at a reduced rate. The operations, so-called air bus, that Eastern has been conducting. A lot of that is going on. There is not any doubt about it because we have a great deal of piston equipment. Rate reductions have been put forward. I think the important thing here is that the statute contemplates that carriers are certificated over these routes and once they get their certificate they are bound to provide the service, and also in return for being bound to provide the service, they are supposed to get a measure of protection against additional competition on the route. This ten-trip authority flies in the face completely of that principle in the statute, because what that 10-trip authority says is that if you have that authority you can pick your own route and operate wherever you like and whenever you like. This deviates very substantially from the concept of regulation that the Congress had in mind. It is that which the Board's bill would eliminate.

Mr. WILLIAMS. We are very well aware of the problems that arise from granting any kind of trip authority. The purpose of my line of questioning is to try to determine, if at all possible, if there really is a place in our transportation system for supplemental ticketed operations. It has been testified by the proponents of the three bills here, or the two bills—the Board's bill and the Moulder bill—that the traffic that is carried—the ticketed traffic—by the supplemental carriers is not siphoned away from the airlines, but is traffic which would otherwise take surface transportation. One of the witnesses stated that on his airline a survey had been made and some 70 percent of the passengers on a flight between two major points, were first-time passengers. In other words, they were people who were riding the airplane for the first time and who would not have been on the aircraft if it had not been for the extremely low fare which was charged. He indicated, and I think possibly there is some merit to his argument, that the supplemental carriers are introducing a great mass of the American public to air transportation, and as a result the airlines themselves eventually profit by this. Would you like to comment on that?

Mr. TIPTON. Yes, I would like to comment. I would like to convince the committee that is not a place where the supplemental carriers can make a contribution. Here is my reason. One of the main objectives of the entire scheduled air transport industry all the time I have been connected with it has been to develop and expand the business. It is reasonably clear at this point that the long-haul business, the constant traveler is turning to air transportation anyway. The railroads have brought that to this committee's attention. The area of growth at the present time is the private automobile market. People that go from here to there in private automobiles. The problem is how to get them out of their automobiles into airplanes. You don't need supplemental carriers in order to convince airlines that they have to get their business that way. The first rider is going to get the opportunity to take his first ride whether there are supplemental carriers there or not. There will be and are now available coach rates, available excursion rates, available special rates of all sorts.

Mr. WILLIAMS. Isn't it also a fact, though, that even with the available coach rates that the supplemental carriers are still offering ticketed service at a rate which is greatly below the scheduled coach rates? This is a factor which may attract passengers who would otherwise go by train or bus but who would not fly the higher priced airlines.

Mr. TIPTON. The supplemental rates usually are lower. For that reason they would provide, probably, some additional incentive, because of the lower price. But I think we still come back to the fundamental economic problem which is whether or not we are going to maintain the regulatory system that has been set up, or whether we are not. I would guess if we laid aside these questions of maintaining a regulatory system and driving toward one that provides an adequate service and develops the air transport business and stays on a solid economic foundation, if you laid aside those objectives, and devoted yourself entirely toward rate reduction to get more passengers out of automobiles, that we could get more passengers out of automobiles. But at the same time we would do the ultimate development of the system damage.

Mr. WILLIAMS. The inference that I would get from what you have just said is that if this legislation were passed, the supplementals would be given carte blanche authority to operate without any regulation whatsoever. You did not mean to infer that the Board would relinquish all control over these supplemental operations. The fact is, is it not, that the Board would have authority to take action to correct abuses if these carriers were engaged in such abuses. I will be perfectly honest with you. The one thing that disturbs me is this. The question of how to handle it is the problem that I think this committee is up against. In view of what happened in the *Great Lakes* case, for instance, where three carriers did not live up to the Board's rules regarding frequency of flights, how could the Board enforce a 10-flight limitation or any limitation if the Board's bill should be enacted? Would you comment on that?

Mr. TIPTON. I would have no doubt that it would be extremely difficult to enforce that kind of a limitation, I would guess there would be no end of enforcement problems as the result of that. I might comment on the introduction of your statement there. I did not mean

to indicate to the committee that this bill would relieve the supplemental carriers of regulation. What it does do is to permit them to conduct an individually ticketed business without any regulation as to the routes to be flown and the points to be served. That area of regulation would not apply to them.

Mr. WILLIAMS. Then summing up your testimony, would it be fair to say that you take the position that supplemental carriers do have a place in air transportation insofar as they are conducting a charter service is concerned, but they do not properly have a place with respect to ticketed service?

Mr. TIPTON. That is exactly right, Mr. Chairman.

Mr. WILLIAMS. Mr. Friedel, do you have any further questions?

Mr. FRIEDEL. I have just one more question. This 10-ticketed round trips with 25 supplemental carriers, wouldn't the whole 25 make 10 trips a month from New York to Miami?

Mr. TIPTON. Yes. They are free to operate their 10 trips where they care to within the United States. So they could concentrate on one route or spread out into two routes or do anything they please. There is potential for very severe competition as the result of the 10 trips.

Mr. WILLIAMS. Mr. Jarman.

Mr. JARMAN. I have no further questions.

Mr. WILLIAMS. I believe that is all, Mr. Tipton.

Mr. TIPTON. Thank you very much, Mr. Chairman and members of the committee.

(The following letter was later received from Mr. Tipton:)

AIR TRANSPORT ASSOCIATION,
Washington, D.C., June 30,1961.

Hon. JOHN BELL WILLIAMS,
Chairman, Transportation and Aeronautics, Subcommittee, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: During the hearing on June 23, I undertook to submit additional written comments on the definition of "charter." Attached hereto is a memorandum which reviews the unsoundness of the proposed definition of "charter" in H.R. 7512, and sets forth and explains the background of pertinent Board regulations defining "charter", and outlines some of the regulatory problems.

Our basic conclusions are:

(1) There is no present need to amend the Federal Aviation Act with respect to the definition of "charter." The problem is basically a regulatory one. It is essential to maintain standards of charterworthiness which safeguard against fictitious charters being set up by ticket agents or others who sell individual tickets to the general public. The Board should have appropriate flexibility to control or modify these standards in the light of experience and changing conditions.

(2) The Board's basic definition of "charter" has given rise to no serious problems in domestic passenger operations. Conditions in the North Atlantic travel market have necessitated more detailed regulation—and more frequent amendments to the regulation—to prevent individually ticketed operations under guise of charter.

(3) The attack on the Board's charter regulations as "unclear" distorts the problem. At the very time the supplementals are trying to lead the committee members to believe the transatlantic charter rules of the Board are "unclear", one of the supplementals has obtained an extensive new seasonal authorization on the basis that the "tests of charterworthiness * * * are explicit and well understood." (See discussion in attached memorandum.) The supplementals are thus trying to have it both ways.

(4) The proposed definition of "charter" in H.R. 7512 is defective. It is unclear and, indeed, dangerous. It fails to incorporate any controls to prevent fictitious charters which would actually entail sale of individual tickets to the general public.

(5) While there is no present need for congressional definition of "charter", it may well be desirable to amend section 401(e) of the act, as proposed in H.R. 7679, so as to make crystal clear that a certificate to engage solely in charter operations need not specify points or routes, but can specify the "area or areas within or between which" charters may be flown. Such an amendment would forestall any future litigation on the question of whether an all-charter certificate has to "specify points" in view of the first sentence of section 401(e). This would mean that the Board could put the supplemental carrier industry on a firm, certificated basis with respect to charter operations.

Very truly yours,

S. G. TIPTON.

DEFINITION OF CHARTER IN H.R. 7512

H.R. 7512 would authorize the supplemental air carriers to perform "* * * (1) unlimited charter operations on a planeload basis for the carriage of passengers and property in interstate, oversea, and territorial air transporation, with the word *'charter'* herein *being defined as air transportation performed pursuant to an agreement for the use of the entire capacity of an aircraft*, * * *" (Emphasis supplied.)

Spokesmen for the supplementals have urged adoption of the italicized language as a "clear definition" of "charter." They have alleged that the Civil Aeronautics Board has no workable definition of "charter," and that congressional action is needed to remedy the siuation.

The latter part of this memorandum will challenge the validity of these allegations. Before getting to that, however, it should be pointed out that the definition of "charter" in H.R. 7512 is completely unclear. It would invite conduct under guise of "charter" which would undermine the tariff posting, certification and other regulatory controls embodied in the Federal Aviation Act.

H.R. 7512 gives the illusion of defining "charter" simply—an illusion created by ignoring such questions as who makes the "agreement for the use of the entire capacity of an aircraft", and how he uses that capacity after making the agreement. To illustrate:

Example 1.—A ticket agent enters into an "agreement for the use of the entire capacity of an aircraft" to be flown from A to B. He then peddles boarding passes, the price varying according to what he can persuade the customer to pay.

Example 2.—J. Doe places an advertisement in the newspaper: "Have agreement of use of airplane, A to B, Friday. Big discounts from published fares if you see me quick."

Example 3.—Ninety ticketed passengers are at Idlewild, awaiting departure of their Los Angeles flight, when one of them announces "We can make an agreement with another airline for use of the entire capacity of an aircraft. Just cash in your tickets here, and you'll save X dollars each."

Each of the foregoing examples meets, literally, the definition of "charter" set forth in H.R. 7512.

Each of them involves, in fact, the sale of individually ticketed air transportation.

The draftsmen of H.R. 7512 might tell the committee that conduct such as these examples would not be "charters." If so, the language they have chosen is not clear.

If, on the other hand, the draftsmen's view is that these examples would be "charters," then H.R. 7512 invites the undermining of the Federal Aviation Act. In each of these examples, there would be none of the tariff controls envisaged by the act; the price to a given passenger would appear on no publicly posted tariff, but could vary quixotically; there could be undue discrimination, preference and prejudice, so that passengers seated side by side might pay different "fares"; statutory restrictions on free and reduced-rate transportation would be inapplicable; and so forth. Likewise, the certification controls envisaged by the act would be broken down—the certificate holder, obligated to provide adequate scheduled individually ticketed service, would never know how many of his passengers, even after having made reservations and bought tickets, might disappear pursuant to "agreements for the use of an aircraft."

The danger that the H.R. 7512 "charter" definition would lead to just the sort of abuses outlined in the cited examples is heightened by the fact it is a bob-tailed version of the CAB's long-established definition of "charter." The Board has been careful, in defining "charter", not only to recognize the "use of the entire capacity" concept, but also to incorporate in the definition language directed to the questions who makes the agreement, and how the capacity is to be utilized. This is essential to prevent abuses such as outlined in examples 1, 2 and 3, above.

The Board's basic definition of "charter" was codified in 1951 in part 207 of the Board's economic regulations, applicable to certificated route carriers. This definition reads:

"(a) 'Charter trip' means air transportation performed by an air carrier holding a certificate of public convenience and necessity where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage or for the movement of property, on a time, mileage or trip basis.

"(1) by a person for his own use.

"(2) by a person (no part of whose business is the formation of groups for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons as agent or representative of such group,

"(3) by two or more persons acting jointly for the transportation of such group of persons, or their property,

"(4) by an air freight forwarder holding a currently effective letter of registration issued under part 296 or part 297 of the economic regulations for the carriage of property in air transportation.

"Within the meaning of this regulation, a charter trip shall not be deemed to include transportation services offeed by an air carrier to individual members of the general public or performed by an air carrier under an arrangement with a person (other than an air freight forwarder defined in subsection (4) above) who provides or offers to provide transportation to the general public or transportation services engaged by persons paying for such services an amount aggregating in excess of the transporting carrier's duly published charter rate of fare."

The part 20 definition provides, in the words of the Board's own summary—"Section 207.1, in substance, prohibits the offering by a direct air carrier of 'charter' services to individual members of the public, and the performance by a direct air carrier of 'charter' services for an indirect air carrier, promoter of 'charter' groups, a ticket or travel agent, or for persons paying for such 'charter' services an amount aggregating in excess of the direct carrier's duly published charter rate." (Order No. E–9221, May 20, 1955 (mimeo, p. 2).)

It will be noted that H.R. 7512, in purporting to define "charter", paraphrases the language of the initial sentence of the part 207 definition, so far a sit covers an "agreement for the use of the entire capacity of an aircraft." By ignoring the remaining provisions of the part 207 definition, however, H.R. 7512 leaves it completely unclear whether the intent is to proscribe, or to permit, or to leave it to the Board by regulation to proscribe or permit, the various abuses involving sale by ticket agents or others of individual tickets for space on flights operated under "agreement for use of the entire capacity of an aircraft."

The definition of "charter" in part 207 has, we believe, proved workable and clear insofar as passenger charters are concerned.[1] It has been applicable to the certificated route carriers, for both domestic and international operations, for over 10 years without amendment.

Essentially the same language has been incorporated in the operating authorizations for the supplemental air carriers. (See appendix A, attached hereto.) In thus adopting, for the supplementals, the basic definition of "charter" that had long been inapplicable to the certificated carriers, the Board sought to make very clear that this would authorize such "charter business * * * as lodges, clubs, and other groups traveling to a convention, student and alumni groups going to a particular game, etc.

"Charter arrangements of this character have always been considered to be valid charters and we see no reason for adopting a different definition where such arrangements are made with irregular air carriers." (22 CAB 838, 864 (1955).)

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[1] Due to extremely limited experience with charters by freight forwarders, we express no view as to the adequacy of part 207 in this respect.

In view of the Board's language, it is hard to understand why spokesmen for the supplementals sought to leave with the committee the impression that charters for football fans and servicemen on furlough were not permissible. It is perfectly clear that the Board intended to authorize a charter for fans going to a football game. It is also clear that such a charter is authorized by the proviso in the definition of charter for supplementals (item "(iii)" of appendix A hereto) which includes charter by "two or more persons acting jointly for the transportation of themselves * * * or of a group of persons." Likewise, in the case of servicemen stationed at a domestic base going on furlough.

THE SPECIAL PROBLEM OF TRANSATLANTIC CHARTERS

While the basic definition of "charter" in part 207 has proved satisfactory in most areas—particularly for domestic purposes—the Board has deemed it necessary to develop additional safeguards to prevent abuses under the guise of "charter" in the transatlantic (United States-Europe) markets.

One of the basic problems in the transatlantic charter field has been establishment of more detailed guidelines to prevent formation of groups by solicitation of the general public. These guidelines—sometimes referred to as the "homogeneity" rules—seek to define the size of the club or organization from which the charter group can be formed, the length of time membership must be held, and so forth. As the Board describes the thrust of these rules in part 295 of the economic regulations (order ER–326, April 28, 1961, p. 4):

"With regard to the prohibition against charterers obtaining participants for a charter group by soliciting the general public, the rule prevents the forming of a group by (1) general advertising or (2) by unlimited soliciting of charter participants from an organization easy to join, and of uncertain or large and scattered membership. The rule thus provides the general framework within which to judge the charterworthiness of the cases on their own facts. For example, in accordance with the provisions of section 295.30, as amended, prospective charter participants solicited without limit from organizations or other entities with a total membership of more than 20,000 (except colleges or universities located in one local area) would be considered as solicited from the general public which would preclude their charter trip. However, if the solicitation of charter participants should be limited to a group of selected delegates who are members of a large association with scattered membership, the size of the association would not appear to bar the charter." [2]

The Board has applied the tests of charterworthiness, as set forth in part 295, for several years in passing upon applications for specific exemptions to permit noncertificated carriers to conduct particular charter flights. Hitherto, such applications had to be filed in advance for each flight.

A recent relaxation of these procedures involves issuance of a seasonal exemption authorizing the carrier to conduct transatlantic charters, without advance approval of specific charters, through September 30, 1961. The first of these seasonal exemptions was issued to the supplemental carrier, Saturn Airways, by order No. E–16967, June 20, 1961. The Board recites therein (mimeo., p. 6):

"* * * the charter concepts and tests of charterworthiness have developed and crystalized so that today they are explicit and well understood within the industry.

* * * * * * *

"* * * we are satisfied that the new method of authorization will not open the door to the operation of 'spurious' charters or unduly divert traffic from the route-type carriers. As we have indicated, the tests of charterworthiness are now understood * * *"

If the supplemental spokesmen's criticisms of the Board's charterworthiness tests as "unclear" are well founded, there is no basis for the Board's order, and it should be withdrawn or set aside.

If, on the other hand, the Board is on sound ground when it bases this order on the finding that "tests of charterworthiness * * * are explicit and well

[2] Thus, if the organization is participating in a scientific convention abroad, the individuals selected to read papers at the convention may be organized into a charter group. Or if an international organization is to hold a meeting, delegates elected by various chapters might properly be organized into a charter group." [Footnote by the Board.]

understood within the industry," there is no basis for the supplemental spokesmen's allegations.

A noteworthy aspect of the Board's transatlantic charter policy is that it has not been static, but has changed from time to time in the light of the problems of the day.

Thus, in 1950, the Board followed an extremely liberal policy, under which various noncarrier entities formed groups and "chartered" aircraft. The Board, in a statement released March 16, 1951, announced termination of that policy in light of unsatisfactory experience because, among other things, "A number of passengers were left stranded in Europe and others were subjected to unreasonable delays in obtaining return passage when they did not deal directly with the carriers operating the aircraft."

Thereafter, for a period ending in 1955, the Board followed a policy of approving noncertificated charters only where "charter was essential to the success of the movement." This had the effect of permitting "only such movements as refugee charters and ships' crews charters with any frequency." (Order No. E–9221, May 20, 1955 (mimeo., p. 3), 1955 transatlantic charter policy.)

By 1955, however, the Board was of the view that a more liberal policy could be followed, provided that appropriate safeguards were preserved against "the potentiality of adverse effects upon the scheduled services of the regularly authorized transatlantic carriers. To minimize this possible danger, we are retaining the definition of charter contained in part 207, and are adding thereto new provisions relating to the activities of promoters, indirect air carriers, and ticket agents. We are also including other substantial safeguards for the protection of the public and the regular air carriers." (Order No. E–9221, supra, p. 3.)

Since that time, the Board has followed a liberal policy of issuing specific exemptions for noncertificated carriers to conduct transatlantic charters. The governing conditions—and particularly the tests of charterworthiness—have been refined and restated from time to time, so as to keep abreast of current conditions and problems. The most recent such restatement is part 295 of the Board's economic regulations, transatlantic charter trips, issued as ER–326, effective April 28, 1961.

Currently, the Board has instituted the transatlantic charter investigation, docket No. 11908, to consider applications for authority to operate transatlantic charters and to review the regulations pertaining to such charters. As an interim measure, during the pendency of this investigation, the Board has indicated that it plans to issue seasonal exemptions for transatlantic charters—the first of which was issued to Saturn Airways by Order No. E–16967, June 20, 1961, supra.

The foregoing summary reviews in only the most general outline the Board's transatlantic charter policy during the past dozen years. It points up, however, a highly important consideration. The policy has been—and quite properly so—responsive to the Board's views of changing needs and changing conditions. This has entailed frequent modification of the definitions, terms, and conditions applicable to transatlantic charters involving noncertificated carriers. Manifestly, these needs and conditions will continue to change. The field is, accordingly, one calling for skilled and intelligent regulatory action, the precise detail of which may vary from time to time. The existing Federal Aviation Act provides an adequate framework for such regulation of "charter." As the Board has observed, "Congress must be taken to have used 'charter trips' with the intention of signifying its usual and ordinary connotation, which is merely a flight involving a contract for the entire capacity of the aircraft * * *" (Charter Flight Tariff Investigation, 15 CAB 921, 923 (1952).)

The basic guideline being this clear, an appropriate function of the Board is to prescribe regulations, as needed from time to time, to prevent abuses through ticket agents, solicitation of the general public, or other devices for conducting individually ticketed operations under the guise of "charter." There is a substantial danger that an attempt by the Congress to spell out, in full detail, the limits of "charter" would import an unnecessary rigidity into the field, this hampering ability of the Board to deal with changing circumstances, as well as entailing extremely detailed legislation.

For such reasons, our view is that there is no present need for the Congress to undertake a detailed definition of "charter" in the Federal Aviation Act.

APPENDIX A

EXCERPT FROM CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SUPPLEMENTAL AIR SERVICE ISSUED PURSUANT TO CAB ORDER NO. E–13436, JANUARY 28, 1959

"(2) As used in the certificate, the term 'planeload charter air transportation means air transportation where the entire capacity of one or more aircraft has been engaged on a time, mileage, or trip basis—

"(i) by a person for his own use, or

"(ii) by a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons and/or their property, as agent or representative of such group, or

"(iii) by two or more persons acting jointly for the transportation of themselves and/or their property or of a group of persons and/or their property, or

"(iv) by an indirect air carrier authorized, under any applicable part of the economic regulations of the Board, to charter aircraft from a direct air carrier,

and where such air transportation does not include services (a) offered by or on behalf of the holder hereof for the carriage of individual members of the general public who are formed into or joined with any group with the direct or indirect assistance or participation of the holder hereof, or (b) performed under an arrangement with a person (other than an indirect air carrier authorized as hereinabove set forth) who provides or offers to provide transportation to the general public, or (c) engaged by persons paying for such services an amount aggegating in excess of the holder's duly published charter rate or fare."

Mr. WILLIAMS. Mr. Burwell has indicated that he would like to submit a supplemental statement. The record will be kept open for a reasonable length of time to provide anyone an opportunity to submit statements or supplemental statements on this subject.

I believe we have one more witness who was scheduled. Mr. Commerce indicated that it would be satisfactory with him to file a statement and if there is no objection, the committee will be very glad to receive it for the record.

(The statement referred to follows:)

STATEMENT OF ROBERT E. COMMERCE, PRESIDENT, AIR LINE DISPATCHERS ASSOCIATION

The Air Line Dispatchers Association is an organization which is more than 22 years old, and which represents the federally licensed aircraft dispatchers of the scheduled airlines of the United States. We have contracts with 24 airlines. At the moment we do not represent any supplemental airline dispatchers, but we have done so in the past.

The function of an aircraft dispatcher is to provide for the safe operation of airline flights by overseeing the planning and execution of operations, from the standpoint of safety and economy. The dispatcher shares equal responsibility with the pilot for the origination, continuation, diversion and termination of flights. Either pilot or dispatcher has authority to cancel if the flight cannot be operated with complete safety. The safety principles and regulations are enunciated in the Civil Air Regulations of the FAA and in the air carriers' own operating rules which are FAA approved.

We shall confine our remarks in this hearing to only those matters affecting the public interest, recognizing there are equally large issues at stake, including the economic survival of the airlines that employ us.

We have noted that the nature of the present legislation under consideration appears to be to establish the service of the supplemental carriers in such a manner as to put them on an operating par with the scheduled airlines. In fact, it seems to us that the unrestricted right to operate 192 flights a year between any two points could result in combinations that would lift the supplementals to a preferred or exalted position with respect to the scheduled airlines, that of providing the service without the restrictions and controls that normally

would apply. We further observe that CAB figures indicate that the percentage gain in all revenue passenger miles from fiscal 1959 to fiscal 1960 for the supplemental airlines is about 59 percent. We also know that the scheduled lines suffered financial reverses in 1960 and indeed the 35-year-old trunkline with which I personally had been employed was obliged to merge to stave off possible bankruptcy. The CAB has taken the posture that what happens to the scheduled airlines and their employees is in the public interest, and we think that is proper.

We also think that there are other serious matters in the public interest, namely, the fitness of the supplementals to perform the service they seek, and the equity under the safety regulations in behalf of the people who buy the tickets.

We are under the impression that two irregular carriers are continuing to operate under legislative waivers despite the fact that the CAB has questioned their fitness to perform. Let us now assure the committee that we have no interest in providing operational control services for anyone who does not have the financial ability or the willingness to live by the letter of the Government's regulations which are designed to protect the public. One of our members who attended an accident hearing involving a now defunct irregular deplored the suggestion that one of our qualified people should prevent such tragedies, by saying, "I would not subject any dispatcher to the daily diet of violations which this carrier apparently engaged in as a regular thing."

Safety regulations requiring ground control are issued in separate parts and are designed to fit the operations of—

1. Scheduled domestic carriers,
2. Scheduled American-flag carriers operating abroad,
3. Certain nonstop transcontinental nonscheduled carrier operations.

No such rules have been applied to supplemental carriers in the United States nor to foreign carriers operating into the United States. A number of foreign carriers have established ground-control facilities despite the lack of a requirement, and a few supplementals have voluntarily established or leased dispatch service. It should be generally noted that regulations follow and do not precede the development of an industry. In 1955 the Board perceived a need for additional expansion in the irregular air carrier business and it produced Order E–9744 permitting the scheduling of 10 flights a month between two points. The move was bitterly opposed by the scheduled carriers, and we will say nothing further about the legislative and regulatory background here because it is well known to you. One basis of the protests, however, was that while irregular carriers were given this unprecedented latitude in operating scheduled flights, they were not required to observe the same safety regulations that applied to scheduled airlines. Not even the subsequent action of the Board in granting certificates of convenience and necessity to 23 carriers produced any change in the operating regulations. The Board has said that this question of safety is for the Federal Aviation Agency to resolve, that it concerns itself only with the fitness of the carrier to conduct the operations it proposes.

Despite the fatal crash of a General Airways DC–3 near Kerrsville, Tex., in 1959, and the crash of an Arctic Pacific C–46 at Toledo in 1960, the FAA has not seen fit to act. Both these accidents pointed up the need of operational supervision, such as is exercised by the scheduled airlines.

Our purpose here is not to demean the excellent safety record of many supplemental carriers, because they have a right to be justly proud of their performance. However, the conditions that were present in the aforementioned accidents were of the type that operational supervision would eliminate. We refer to flagrant violation of pilot on-duty time limitations. To takeoffs in zero-zero conditions. To flight beyond the safe limit of the plane's fuel capacity. To planned visual flight in known instrument conditions. To flight in known icing conditions that were unsafe for the type of aircraft. To failure to designate suitable alternates for takeoff and for landing. To minimum equipment requirements.

The irregular carriers have been operating in the same environment as the scheduled carriers. Excluding jets, they use the same type aircraft, into the same airports and terminals, using the same navigational facilities, under the same weather and other operating criteria, as the scheduled lines.

We believe that their operations should be subject to safety regulations of the same stringency as those that apply to the scheduled airlines, if they are to compete on as equal a footing as proposed by this legislation.

The impact of this pending legislation is somewhat terrifying to our members, whose job opportunities are presently stifled by the slow rate of growth in the scheduled airlines. However, if Congress sees fit to grant such powers to the CAB, we respectfully recommend that Congress should likewise establish a need for reasonable equity in safety regulations by bringing the level of operational control on the supplementals up to that of the scheduled airlines of the United States. Commonsense would so dictate.

Thank you.

Mr. WILLIAMS. We also have a statement from Mr. Clarence R. Miles of the Chamber of Commerce of the United States.

(The statement referred to follows:)

CHAMBER OF COMMERCE OF THE UNITED STATES,
Washington, D.C., June 22, 1961.

Hon. JOHN BELL WILLIAMS,
Chairman, Subcommittee on Transportation and Aeronautics, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Chamber of Commerce of the United States supports the substance of H.R. 7318 which would provide for the continuance of a classification for certificated supplemental air carriers.

It is obvious that legislation of more permanent nature is needed for the continued regulation of supplemental air carriers.

Without proper certification, the supplemental air carriers would be able to operate in helter-skelter fashion, as the market dictates, in direct competition with the scheduled air carriers which are committed to the restrictions of their certificates. This inequity to the scheduled air carriers could engender destructive "gray area" operations in the air carrier industry. Experience has shown that regulated for-hire transportation often is adversely affected by unregulated for-hire competitive transportation. It is a known fact, for instance, that serious problems have developed in the regulated motor common carrier system as the result of gray-area operations in the motor carrier industry.

Further justification for the need to regulate the supplemental air carriers is the substantially large, and increasing, total operating revenues derived from this kind of operation. During a 12-month period ending June 30, 1960, those supplemental air carriers reporting to the CAB had total operating revenues of almost $81 million. During the previous 12 months, these carriers had total operating revenues of almost $71 million. Thus in 1 year their total operating revenues increased by $10 million. If the supplementals were left to grow in a law-of-the-jungle atmosphere with this economic potential, the results most assuredly would prove destructive in future years to the regulated scheduled air carriers.

I would appreciate it if you will give these views consideration and make this letter a part of the record of the hearings on H.R. 7318.

Cordially yours,

CLARENCE R. MILES,
Manager, Legislative Department.

Mr. WILLIAMS. The committee will stand adjourned.

(Thereupon, at 11:50 a.m., a recess was taken subject to call.)

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