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F 31a **NOMINATIONS—FEDERAL AVIATION AGENCY  
AND COMMERCE DEPARTMENT**

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**HEARING**  
BEFORE THE  
**COMMITTEE ON**  
**INTERSTATE AND FOREIGN COMMERCE**  
**UNITED STATES SENATE**  
EIGHTY-SEVENTH CONGRESS  
FIRST SESSION

ON  
NOMINATIONS OF NAJEEB E. HALABY, TO BE ADMINIS-  
TRATOR OF THE FEDERAL AVIATION AGENCY; AND  
ROBERT E. GILES, TO BE GENERAL COUNSEL,  
DEPARTMENT OF COMMERCE

FEBRUARY 21, 1961

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NOMINATIONS—FEDERAL AVIATION AGENCY  
AND COMMERCE DEPARTMENT

HEARING  
COMMITTEE ON  
INTERSTATE AND FOREIGN COMMERCE

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

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## CONTENTS

---

Nomination of Najeeb E. Halaby:	
Statement of—	
Halaby, Najeeb E., nominee for Administrator of the Federal Aviation Agency, Washington, D.C.-----	Page 5
Kuchel, Hon. Thomas H., a U.S. Senator from the State of California, Senate Office Building, Washington, D.C.-----	11
Nomination of Robert E. Giles:	
Statement of—	
Giles, Robert E., nominee for General Counsel of the Department of Commerce, Washington, D.C.-----	3
Jordan, Hon. B. Everett, a U.S. Senator from the State of North Carolina, Senate Office Building, Washington, D.C.-----	1
Letter submitted by—	
Ervin, Hon. Sam J., Jr., a U.S. Senator from the State of North Carolina, Senate Office Building, Washington, D.C.-----	1



NOMINATIONS—FEDERAL AVIATION AGENCY  
AND COMMERCE DEPARTMENT

TUESDAY, FEBRUARY 21, 1961

U.S. SENATE,  
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,  
Washington, D.C.

The committee met, pursuant to notice, in room 5110, New Senate Office Building, at 10:30 a.m., Hon. Warren G. Magnuson (chairman of the committee) presiding.

The CHAIRMAN. The committee will come to order.

There are several other members of the committee who are on their way. We did schedule the meeting for 10:30, but some of them are not here yet.

We will proceed with the witnesses.

First on the agenda is the nomination of Robert Giles of North Carolina to be General Counsel for the Department of Commerce.

Here with us today is our distinguished colleague, Senator Jordan, of North Carolina, who would like to make a brief statement on the nomination of Mr. Giles.

Also, we will place in the record at this point a letter from Senator Ervin, of North Carolina, highly recommending him.

(Letter follows:)

U.S. SENATE,  
COMMITTEE ON THE JUDICIARY,  
February 20, 1961.

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

DEAR SENATOR MAGNUSON: Due to the fact that I have just returned home to recuperate from a hernia operation at the Naval Hospital at Bethesda, it will be impossible for me to attend the hearing on Tuesday, February 21, at 10 a.m. concerning the nomination of Mr. Robert E. Giles, of North Carolina, to be General Counsel of the Department of Commerce.

I would like to state that I heartily endorse the confirmation of Mr. Giles. He is a prominent attorney of my State and well qualified to render distinguished service as General Counsel for the Department of Commerce. I hope the committee will unanimously recommend his confirmation.

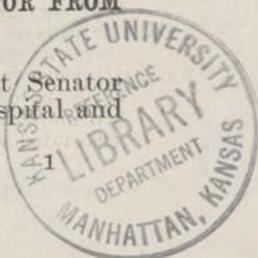
Sincerely yours,

SAM J. ERVIN, JR.

The CHAIRMAN. You may proceed, Senator.

STATEMENT OF HON. B. EVERETT JORDAN, U.S. SENATOR FROM  
THE STATE OF NORTH CAROLINA

Senator JORDAN. Mr. Chairman, I am very sorry that Senator Ervin could not be here this morning. He was in the hospital and just got home yesterday.



I won't go into the biographical background of Mr. Giles as you have that and it will go in the record.

Mr. Chairman and members of the committee, a few weeks ago I had the pleasure of appearing before you in behalf of Hon. Luther Hodges. At the time you were considering his nomination as Secretary of Commerce.

Today it is my pleasure to appear in behalf of a longtime associate of Secretary Hodges, the Honorable Robert E. Giles. I am sure there is no question about the confirmation of his nomination as General Counsel for the Department of Commerce.

I have known Mr. Giles for many years. He joined the State government in North Carolina in 1955 as assistant attorney general. He later joined the Governor's personal staff as his administrative assistant and served in that capacity until he came to Washington in January as Deputy General Counsel in the Department of Commerce.

All of the members of the committee will be working closely with Mr. Giles in the future. You will find Mr. Giles to be a thoroughly competent attorney, a most conscientious public servant, a man of unquestioned integrity, and a gentleman of the highest order.

As a result of being able to obtain men like Bob Giles for the service in the Federal Government, all of us can feel more secure about the conduct of public affairs and the future of our Nation.

I recommend without reservation that the committee approve his nomination.

Thank you, Mr. Chairman.

The CHAIRMAN. Any questions of Senator Jordan?

(No response.)

The CHAIRMAN. Thank you, Senator.

Senator ENGLE. Just one question. How many more nominees are coming from North Carolina? They are running neck and neck with Harvard now.

Senator JORDAN. We have a lot of good men left down there. Whenever you run short, we will find some more.

The CHAIRMAN. Thank you, sir.

Senator JORDAN. Thank you, sir.

The CHAIRMAN. Mr. Giles, we have your biography which you submitted in full.

(The biography of Robert E. Giles follows:)

Robert E. Giles was born June 11, 1924, in Spartanburg County, S.C.

He attended public schools in North Carolina, and the University of North Carolina at Chapel Hill, receiving his B.S. in commerce in 1949, and his doctor of law degree from the university's law school in 1952.

He enlisted in the Army Air Corps in June 1942 as a private, was subsequently appointed an aviation cadet and commissioned a second lieutenant in 1943. He served as first pilot and crew commander of a B-17 bomber, and was assigned to the European theater. He was released from active military service in November 1945 as a first lieutenant. He now holds the rank of major in the U.S. Air Force Reserve.

Under appointment by Secretary of Commerce, Luther H. Hodges, he has been serving as Deputy General Counsel of the Department. He was associated with Secretary Hodges as administrative assistant during the latter's term as Governor of North Carolina (1957-61). Prior to that time, he was assistant attorney general for North Carolina (1955-57). From 1953 to 1955 he was assistant director, Institute of Government, and assistant professor of public law and government, University of North Carolina. From 1952 to 1953, he was associated with the firm of Lassiter, Moore & Van Allen, Charlotte, in the pri-

vate practice of law. In 1947 he was employed by Southern Appliances, Inc. (wholesale firm), as assistant credit manager; in 1946, he was employed by the Commercial Credit Corp. in its Greenville, S.C., office as unit loan manager; and in 1941-42, he was secretary to the manager of a textile firm in Spindale, N.C.

In 1948, he married the former Alice Ryland, of Richmond, Va. They have four children, Martha, 10; David, 8; Lewis, 6; and Nancy, 1½.

He is a member of the North Carolina State bar and is admitted to practice in Federal courts, including the U.S. Supreme Court.

The CHAIRMAN. Mr. Giles, as was pointed out by Senator Jordan, is pretty much a North Carolinian, having gone to school there. He has been down at the Department of Commerce for a few weeks now, have you not, Mr. Giles?

Mr. GILES. Yes, sir.

The CHAIRMAN. He has been in an acting capacity, or filling in—and you also were administrative assistant to Governor Hodges, the now Secretary, when he was Governor of North Carolina?

Mr. GILES. Yes, sir.

The CHAIRMAN. Prior to that, you were assistant attorney general for North Carolina, and also had some experience in the teaching of administrative law, public law, at the university.

I note that in 1952 and 1953, you were associated with the firm of Lassiter, Moore & Van Allen in the private practice of law, and then you worked prior to that time with Commercial Credit Corp. in Greenville.

Now, do you have any commercial interests, Mr. Giles, that you think would be in conflict with your duties as General Counsel of the Department of Commerce?

#### STATEMENT OF ROBERT E. GILES, NOMINATED TO BE GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE

Mr. GILES. No, Mr. Chairman, I do not.

The CHAIRMAN. Would you file with the committee a list of your investments and holdings, so that we may have it on record?

Mr. GILES. Yes, sir.

The CHAIRMAN. You are somewhat familiar with the duties of the General Counsel. Do you act as General Counsel for the whole Department or just the section involving the administration of the Department?

I mean, you act as General Counsel, say, for the Weather Bureau? The Maritime Board have their own.

Do you act as General Counsel for the Under Secretary for Transportation, and for the Foreign Commerce Division, and for every shop?

Mr. GILES. Well, sir, my understanding of the departmental orders which spell out the General Counsel's duties in detail make him responsible more or less on a personal service basis to the Secretary and the secretarial staff, Under Secretaries and assistants and in addition, the General Counsel has the overall responsibility, Department-wide, for the provision of legal services.

That does not mean—

The CHAIRMAN. The point I make is that each shop is separated down in the Department and have what they call their counsel or legal service.

Mr. GILES. That is right.

The CHAIRMAN. Your job would be, first of all, to advise the Secretary?

Mr. GILES. That is right, yes, sir.

The CHAIRMAN. As his legal counsel, and secondly, what I wanted to get at, what supervisory powers do you have, if any, over the legal counsels in the various departments?

Mr. GILES. I understand in practice that has been more or less policy except in one division by departmental order and that is the Patent Division, and the General Counsel of the Department has no immediate or direct supervision there except on matters which are not really patent law.

For example, congressional relations, or policy which would affect—

The CHAIRMAN. Does the Patent Division have a Congressional Relations Department?

Mr. GILES. No, sir, I said, except that one. In other words, the General Counsel—

The CHAIRMAN. I mean we need a few things up here, but I don't think we need to be patented yet.

Mr. GILES. I agree. But it is my understanding of the departmental orders, which I have read, and of the general practice in the past, sir, that the General Counsel is sort of the housekeeping office on legislative matters, relations with congressional committees, and he is to see that the Secretary and the others get the detailed information which enables them to set the policy and deal directly with the congressional committees.

The CHAIRMAN. Speaking of congressional relations, now there are several bills introduced, which are sent to the Department of Commerce for their comment.

Mr. GILES. Yes, sir.

The CHAIRMAN. Supposing Senator Kuchel and I introduce a bill to revise the Patent Department, which we probably should do—

Senator KUCHEL. We probably should.

The CHAIRMAN. And we send it to the Department of Commerce for comment. Would you be the one that would make that comment or would advise the Secretary what to say to the Congress or would the lawyers in the Patent Department do it?

Mr. GILES. The inquiry would come in to the General Counsel's office, Mr. Chairman, and from there, we would see that it is routed direct to the Commissioner of Patents' Office; also to the Assistant Secretary for Domestic Affairs, under whose broad jurisdiction that would come, with information to the Secretary and the Under Secretary. Then as a matter of procedure, the Patent Office would develop its own comments on that bill and that would come on up to the Assistant Secretary for Domestic Affairs, who would review it himself, and add his own comments or determine whether he would approve it.

The CHAIRMAN. Or change it?

Mr. GILES. Or change it; yes, sir.

Then the General Counsel's office would sort of keep track of that and see, we would hope, that you got a response back within a reasonable time. Depending on the specific issue, its policy importance, the Secretary might or might not express a personal judgment.

The CHAIRMAN. Yes, naturally the Secretary, but I think what we would like to know from you is if you feel that in those cases, there would be no hesitancy or no administrative blockade for you and the Secretary, or your advising the Secretary, to completely change what might be the opinion of the legal counsel, say, in any given shop down at the Department, the Patent Office, or some place else?

Mr. GILES. No, sir, I don't think there would be any hesitancy at all.

The CHAIRMAN. Any time there are suggested changes in one of those places, you usually find that those people down there are not very susceptible to advising that something be changed. That is why I think the General Counsel in such a big department as the Department of Commerce should beef up his job to the extent he feels free and clear to advise the Secretary as to necessary changes, and the Secretary would do it. I am sure Secretary Hodges would feel that way, that this is so important because otherwise you never get any changes underneath, whether it be a legislative or an administrative order.

Mr. GILES. Yes, sir.

The CHAIRMAN. I think your experience, as you have told me, since you have been down there, is that is just what you would like to do.

Mr. GILES. That is right, yes, sir.

The CHAIRMAN. Any questions by the members of the committee?

Senator MONRONEY. I have none. Thank you.

The CHAIRMAN. The Senator from Indiana?

Senator HARTKE. I have none.

The CHAIRMAN. The Senator from California?

Senator ENGLE. No, I support the nominee. Friend Jordan has convinced me and the witness has convinced me.

The CHAIRMAN. If there are no further questions, we thank you very much for coming and you should submit that statement. We will put your biographical data in the record in full.

Mr. GILES. Thank you, Mr. Chairman.

#### STATEMENT OF NAJEEB E. HALABY, NOMINEE AS ADMINISTRATOR OF THE FEDERAL AVIATION AGENCY

The CHAIRMAN. All right. The nomination of Najeeb E. Halaby, of California, to be Administrator of the Federal Aviation Agency.

Mr. Halaby has submitted his biographical data which we will place in the record in full.

(Biographical statement follows:)

##### BIOGRAPHY OF NAJEEB E. HALABY

Designated by President Kennedy to be Administrator of the Federal Aviation Agency

Najeeb E. Halaby was born in Dallas, Tex., on November 19, 1915. He received his A.B. degree from Stanford University in 1937, and studied law for a year at Michigan Law School and 2 years at Yale Law School, receiving his LL.B. from the latter in 1940. He was admitted to the California bar in 1940 and the District of Columbia bar in 1948.

From 1940 to 1942 he practiced law in Los Angeles, Calif., with the firm of O'Melveny and Myers. He acquired his first pilot's license in 1933, became a commercial pilot instructor for the Army Air Corps in 1940, and 1942-43 he was a production test pilot for the Lockheed Aircraft Corp. in Burbank, Calif.

During World War II he became a naval aviator. He established the Navy's first test pilot school, flight tested the first American made jet aircraft, the Bell P-59, and made the first continuous transcontinental jet powered flight. He also served as assistant chief of the fighter section at the Naval Air Test Center, Patuxent River, Md.

After World War II, Mr. Halaby became Chief of the Intelligence Coordination Division, Department of State, later serving as Foreign Affairs Advisor to the Secretary of Defense. He subsequently became the first chairman of the North Atlantic Treaty Organization Military Production and Supply Board and in 1950-51 he served as Assistant Administrator for Mutual Security in the Economic Cooperation Administration. In 1952 he became Deputy Assistant Secretary of Defense for International Security Affairs from which he resigned in late 1953.

In 1955-56 he served as vice chairman of the White House advisory study group whose report led to the creation of the Federal Aviation Agency.

In addition to his experience in aviation and government, Mr. Halaby has had an active career in business and finance.

Immediately before his nomination by President Kennedy to FAA, he had his own law firm, N. E. Halaby & Associates, in Los Angeles, was secretary-treasurer of Aerospace Corp., a firm which is principal technical adviser to the Air Force missile and space program; and served as president of American Technology Corp.—a technical ventures group in southern California. During 1957-59 he was executive vice president and director of Servomechanisms, Inc., a maker of airborne electronics equipment.

Mr. Halaby is a member of the board of directors of the Flight Safety Foundation, Society of Experimental Test Pilots, Town Hall of Los Angeles, Aero Club of Southern California, and Quiet Birdmen.

Mr. Halaby is married to the former Doris Carlquist of Spokane, Wash., and Anchorage, Alaska. They have three children—Lisa, Christian, and Alexa. His legal residence is Santa Monica, Calif.

The CHAIRMAN. I think in view of the importance, or the specifics detailed in this job, that maybe a portion of this ought to be read here now for the benefit of the committee.

Mr. Halaby was born in Texas. He received his A.B. degree at Stanford, studied law at Michigan, and 2 years at Yale. He is a graduate of Yale Law School, and was admitted to the California bar and the District of Columbia. And from 1940 to 1942 he practiced law in Los Angeles.

Then he acquired his first pilot license in 1933 and became a commercial pilot instructor for the Army Air Corps in 1940 and 1942. In 1943 he was production test pilot for Lockheed.

During World War II—There isn't much left there of World War II—you became a naval aviator.

How long did you stay at Lockheed?

Mr. HALABY. Somewhat over a year and 2 months.

The CHAIRMAN. So, he became a naval aviator at the end of World War II.

Mr. HALABY. September 1943—was near the middle, I think.

The CHAIRMAN. But you were there a year?

Mr. HALABY. Yes, sir.

The CHAIRMAN. You had a reserve status all the time, did you not?

Mr. HALABY. No, I did not. I was a civilian at that point and was taken into the Navy in September of 1943 and served the next 2½ years as a test pilot at the Naval Air Center, Patuxent River, Md.

The CHAIRMAN. Then you had experience in the flight testing of the first American jet aircraft, the Bell P-59, and made the first continuous transcontinental jet-powered flight.

Then he also was down here at Patuxent, Naval Air Test Center.

After World War II the nominee became the Chief of the Intelligence Coordination Division, Department of State.

What is that?

Mr. HALABY. It was a position offered me to attempt to bring into the Department of State the kind of intelligence organization that had been developed in the armed services, and a valiant group of us thought we could put an intelligence organization into the State Department. After trying that for a while, I took off for the Defense Department in May 1948.

The CHAIRMAN. I understand what you were trying to do.

Mr. HALABY. Yes, sir.

The CHAIRMAN. Then you served as Foreign Affairs Adviser to the Secretary of Defense?

That is when you went to the Defense Department?

Mr. HALABY. Yes, sir. Mr. Forrestal offered me a position.

The CHAIRMAN. And he became the first chairman of the North Atlantic Treaty Organization Military Production and Supply Board, and Assistant Administrator for Mutual Security in ECA, 1950 to 1951. Then, in 1952, he became Deputy Assistant Secretary of Defense for International Security Affairs.

And then in 1955 and 1956 you served as vice chairman of the White House aviation facilities study group, whose report led to the Curtis plan and the creation of the FAA.

Senator MONRONEY. That was the Curtis Committee.

Mr. HALABY. Harding Committee and then Curtis Committee.

The CHAIRMAN. Since that time you have been in California as secretary-treasurer of the Aerospace Corp., a firm which is the principal technical adviser of the Air Force missile and space program.

Now, I think there has been some curiosity about what is the Aerospace Corp. I think maybe you might clear the record on that right now.

Mr. HALABY. Aerospace Corporation was formed at the suggestion of the Secretary of the Air Force about a year ago, and it was born out of the need of the Air Force for scientific and engineering advice on the ballistic missile and space systems.

They found that the Civil Service, as good as it is, could not attract the kind of scientists and engineers that would give them the highest quality and the most up-to-date systems engineering advice. And so they formed a nonprofit corporation.

A distinguished Board of Trustees was selected and I served as counsel and secretary in forming that Corporation.

It is now located in the El Segundo area, composed of about 1,800 scientists, engineers, administrative people, and it is the principal technical arm of the Ballistic Missile Division, and therefore responsible for advising the Air Force on all of the major space systems.

The CHAIRMAN. I understand, again, it is a nonprofit organization?

Mr. HALABY. That is right.

The CHAIRMAN. Those who work are salaried; is that correct?

Mr. HALABY. That is right.

The CHAIRMAN. I also understand that there are some other benefits other than the exact salary in that there are retirement benefits. Is that correct?

Mr. HALABY. They have a retirement plan under which the employee contributes and the company contributes. It is just getting started, so it is not yet a very substantial plan.

The CHAIRMAN. You have resigned from that organization?

Mr. HALABY. I have resigned as an officer of the corporation, and they have offered to put me on a leave of absence without any pay and without any duties. The vestige of interest that I would retain would be some group life insurance, group health insurance, and the contribution I have made to the pension trust plan. The beneficiaries of this are my wife and family. I have no other connection with the Corporation.

Senator PASTORE. May I ask a question on this Aerospace Corporation?

You say that the Civil Service was incapable of attracting the proper scientific minds, and for that reason this Aerospace Corporation was created. What is the top pay of any scientist in the corporation? I mean, I am not being critical about this; I am just curious whether or not we can't attract these people because we are unable to pay them enough, and then we get ourselves a gimmick or gadget in order to attract people, but the only attraction is the fact, if we get out of civil service we can pay them more money for the work. What is the top pay for scientists in the Aerospace operation?

Mr. HALABY. The top pay of the scientists in this organization can only be described as what is required to get the men to do the job.

Senator PASTORE. In other words, on a contract basis?

Mr. HALABY. It is on an employment basis. But to get a man away from a corporation such as Ramo-Wooldridge Corp. to come and work for the Government, instead of for capital gains and bonuses, is the amount in each case which they have to pay.

We want concentrated on these ballistic missiles and space programs the best men we can get to do this, and the Aerospace Corporation has had to pay the necessary salaries.

Senator PASTORE. What is the highest salary, without naming the individual who gets it?

Mr. HALABY. You are thinking in terms of a scientist who is working on a project?

Senator PASTORE. That is right.

Mr. HALABY. I would say in the order of \$40,000, and a comparable civil service pay is a little less than half of that at the very top grade.

Whether this is the right kind of public policy is something you gentlemen will determine, but it is a fact of life that if we want to get the best people working for the U.S. Government on the best space systems, we have to get them through some technique like this, and not through our traditional Civil Service.

Senator PASTORE. I am not being critical at all. But it only points up the fact the only reason why we can't attract some people in Government is because we don't pay enough. Then we have a super-duper corporation and we call it nonprofit, to make it sound good, but essentially what it means is you are getting yourself into a gimmick so you can give somebody \$40,000 a year, if he is worth it, and that is the only way you can get him.

Mr. HALABY. I have this same problem—if I am confirmed and sworn in—in the FAA, because the most I can pay a scientist to develop the aviation system on which we all rely for safety and economy is \$19,500, whereas the Bell System, or RCA, or Bendix, can pay him \$40,000, \$50,000, \$75,000 for doing a less important job.

Senator MONRONEY. You see one of the tragedies is that the man who has to direct the whole thing is Secretary of Defense. He gets \$25,000, and yet the men who have to do the work for him in these highly technical fields, are not obtainable under \$40,000. And you can't adjust up the salaries of Cabinet members and others to compensate for what you are paying for men who are actually working under him in these scientific fields.

The CHAIRMAN. I want to get on here, now.

The Senator from California is here.

Aerospace would be reimbursed by the company that wanted the project looked into; is that the way it worked?

Mr. HALABY. No, sir. Aerospace is paid by the Air Force to work for the Air Force.

The CHAIRMAN. Oh, by the Government, under contract.

Mr. HALABY. By the Government; yes, sir. They do not have contracts with private organizations and, by their charter, are prohibited from having contracts with private organizations.

The CHAIRMAN. So in other words, the Air Force pays Aerospace to go out and do what you have just described?

Mr. HALABY. That is right, sir.

The CHAIRMAN. And Aerospace in itself never attempted to make any profit, but to get people; is that about it?

Mr. HALABY. That is right. And to provide services; and I believe Senator Pastore has put it very candidly.

Senator SCHOEPEL. Mr. Chairman, I would like to ask this question. In other words, the Air Force farms this out to your Aerospace nonprofit corporations, is that it?

Mr. HALABY. Unable to do it within the Air Force and the civil service.

Senator SCHOEPEL. I understand.

Mr. HALABY. They hire the services of scientists and engineers to do this high quality, highly technical work for them, and for them alone.

Senator SCHOEPEL. And they determine the salaries to pay them?

Mr. HALABY. They do.

Senator SCHOEPEL. Air Force through appropriations picks up the tab element?

Mr. HALABY. That is right. My role was simply that of assisting in its formation, in its legal establishment, in the work of this Board of Trustees, and in trying to hold the cost of it down as Treasurer.

The CHAIRMAN. Do you know any other—being from the Defense Department—do you know any other branch from Defense Department, Navy or Army, that does the same thing?

Or is this peculiar with the Air Force? Maybe you don't know, but if you do, we would like to find out about it.

Mr. HALABY. Well, I find myself testifying on matters of concern to the Secretary of Defense, Mr. Chairman.

The CHAIRMAN. I am not asking you on policy, just asking: Do you know of any other similar arrangements?

Mr. HALABY. Yes; there are a variety of ways of getting the best engineering talent brought to bear on American systems problems. The Air Force has used this technique most extensively and not-for-profit corporation under contract for the Air Force to do a job that might, if we had a different kind of Government service policy and procedure, could have been done within the Government.

The Army has an organization, I think several organizations, working in this area. One of the first ones was an adjunct of Johns Hopkins, which did some of the very earliest missile work.

The Navy has been less inclined to use this technique, rather to do it within the naval officer corps, and within the civil service, but here and there they have placed contracts for the services of people they could not bring into the Government service. And it has been successful.

Other agencies such as the AEC and the NASA have had to resort to this.

Senator PASTORE. They do it by private contract with the educational institutions, as you have in Los Alamos, Sandia, N. Mex. I am not being critical of this. I think it is quite necessary, but it only points up a deficiency that does exist.

Mr. HALABY. I should never volunteer a comment, but the value of public service in the United States is not adequately appreciated. The value of the service of Senators and Congressmen, whose salaries tend to be the ceiling on the salaries to the public service people, is not recognized. The salaries to the civil service personnel are not recognized, in my judgment, and a new appreciation of this will be part of our growing up as a nation to its responsibilities.

The CHAIRMAN. During 1957 and 1959, you were executive vice president of Servomechanisms, Inc. Could you tell us just briefly about that?

Mr. HALABY. That is an electronic company that makes equipment for airplanes, missiles, and ground systems. They make some very complicated computers, fire-control systems, missile-launching and missile-tankage systems.

The CHAIRMAN. You have severed your relations with that company?

Mr. HALABY. I have completely severed my relations with that company.

The CHAIRMAN. The rest of the biography is you are a member of the Flight Safety Foundation and Quiet Birdmen. What are Quiet Birdmen?

I have listened to Mr. Engle up in the air. He is not very quiet with the sputter of his.

Mr. HALABY. Well, the Royal and Ancient Order of Quiet Birdmen is not quite as funny as it sounds. It is a group of men who have and continue to pioneer in flying. They do a lot of hangar flying, too. In fact, the local chapters are called "hangars."

I hope that between Senator Engle and me, and some of the other Quiet Birdmen in the audience, we can get you to a meeting, Senator Magnuson, because that is the only way to explain what the Quiet Birdmen are.

The CHAIRMAN. We'll stay in the hangar?

Mr. HALABY. Yes, sir.

The CHAIRMAN. I will come to that meeting if we stay in the hangar.

Mr. HALABY. It's the only place you can get in orbit on the ground. [Laughter.]

The CHAIRMAN. I suggest you invite the whole committee.

Mr. HALABY. Yes, sir; I am sure the local hangar will do that soon.

The CHAIRMAN. Now, Mr. Halaby has also given the committee a list of his investments and holdings, which we will place in the files of the committee.

Now the senior Senator from California is here, Mr. Kuchel, and he wants to make a short statement. Sorry to keep you waiting, but you got a good invitation while you were here.

#### STATEMENT OF HON. THOMAS H. KUCHEL, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator KUCHEL. I will accept it, Mr. Chairman.

Mr. Chairman, I am glad to appear here as one of the California Senators to recommend the approval by this committee, and then by the Senate, of Mr. Najeeb E. Halaby, who is a fellow Californian.

There is no need for me to repeat now what you, Mr. Chairman, read into the record, concerning Mr. Halaby's career, and the varied public responsibilities which he has assumed in the days gone by.

I think from the standpoint of intelligence, education, Mr. Halaby is supremely qualified to become Administrator of the Federal Service Agency, a position to which he has been appointed by President Kennedy.

I think to the high credit of the President, this appointment is not political. If I may be permitted to say so, Mr. Chairman, I wish to speak for the public in appearing before this committee today. I am interested in the people who fly, so are you. I am interested in the safety of the people who use planes either commercially or otherwise in the air over our Nation. The Federal Aviation Agency is a creature of the Congress. It came into being, as I well recall, to endeavor to bring a maximum of safety to the people who use aircraft aloft.

In order to discharge the responsibility of that office, the Administrator of that agency needs to be completely devoted to the public interest. He needs to be impervious to pressure of any kind. He needs to demonstrate a devotion to duty and a courage which will make the wisdom of the Congress in creating this position completely vindicated.

I have had the pleasure of knowing Mr. Halaby over the last 8 years, not at all well, but I do know him, Mr. Chairman, by his reputation, by his high reputation in the State of California to which he is entitled by his conduct as a lawyer, as a public servant, and as a citizen.

On this basis, I think it highly important that the members of this committee and then the Senate as a whole indicate, if they are so minded, and I think they are and will be, that here is an individual who has a tremendous responsibility to discharge to the people, to the people of this country, and to that extent, give him an endorsement

which will underwrite our faith in his devotion to duty and in his courage to do a job free from any kind of pressure, recognizing a dedication to the people of this country which the office that we created is designed to serve.

This is all I have to say, Mr. Chairman. I trust, of course, that the committee will unanimously approve this American and that the Senate thereafter will indicate by its vote its judgment that here is an individual who has the attributes of which I speak this morning.

Thank you.

The CHAIRMAN. Thank you, Senator Kuchel.

Any questions by the members of the committee?

Senator ENGLE. I would like to concur in the statements made by my senior colleague and to add that Mr. Halaby's extensive experience and background in aviation flying, his broad experience in government, which is indicated by his biographical sketch, and his associations in business as well, which have dealt very largely in technical fields, give him a unique background and qualification for this office which is a tough assignment and one that has been highly controversial.

I support his nomination and I think that he will do a good and competent job and I thoroughly concur and associate myself with the remarks made by my senior colleague, and hope that this committee will confirm Mr. Halaby as will the U.S. Senate.

The CHAIRMAN. Thank you, Senator Kuchel.

Unless there are any further questions—

Senator YARBOROUGH. Mr. Chairman?

The CHAIRMAN. The Senator from Texas has a question.

Senator SMATHERS. I wanted to question whether or not you represent all the public or just California?

Senator KUCHEL. You know, I think it is a good thing for a Republican Senator to come here and to indicate that this nominee has support, not only among my faithful brothers on this side of the table, but also my few colleagues from the Republican Party as well. To that extent, I try to be a little bit nonpartisan on this occasion.

Senator SCOTT. Go in peace, brother.

The CHAIRMAN. All right, now.

The chairman wants to ask Mr. Halaby one question and we will proceed with questioning by the other members.

The Federal Aviation Agency, as you know, was created in 1958. Actually, it is a comparatively new agency. I personally think there is some overlapping and division of authority when we spun off the Federal Aviation Agency and made it a separate agency, between them and the CAB, in regard to what would be the jurisdiction of both agencies, or either, in the case of air safety and investigation of accidents.

I read in the paper this morning that the Chairman of the CAB had testified yesterday, in front of Senator Monroney, that they were short of money to investigate accidents.

Now we are about to discuss the confirmation of a nominee for Administrator of the Federal Aviation Agency, which we established in 1958. We said to continue the Civil Aeronautics Board as an agency of the United States, but to create a Federal Aviation Agency to provide for regulations and promotion of civil aviation, in such a

manner as to best foster its development and safety, and to provide for safe and efficient use of the air space by both civilian and military aircraft, and for other purposes.

Now, have you come to any ideas as to whether or not you will make recommendations to us or could give us your viewpoint as to whether or not there is an overlapping in this problem of air safety and what should be done about it—if you have any ideas—between the two? No one is criticizing the work of either one, but there has been some conflict and we went into it very forcefully last year during the time of the Lockheed accidents, and I think it caused no end of confusion, and in the public mind some confusion. I wonder if you had any ideas on that?

Mr. HALABY. As you know, Mr. Chairman, the Aviation Subcommittee of this committee is in the midst of hearings on this subject. The new Chairman of the CAB testified yesterday, and I had the privilege, at Senator Monroney's invitation, to be here and listen to his testimony.

If you report favorably on my nomination, and I am sworn in, then I would have something to do about this. I have some questions about it at this time. I do not have a conviction about it.

The act, if you read it, places responsibilities for air safety on both of these agencies. It specifically says that the CAB will have the job of promotion of safety in air commerce and the FAA has the promotion and encouragement and development of safety in civil aeronautics, et cetera, and they both have staffs working in this field. Their responsibilities are different and yet there is some overlap, and whenever you have two governmental agencies with overlapping jurisdictions, you have potential friction and trouble.

I can only say that if sworn in, I will carry out the act as written; that is my job.

Mr. Boyd, I believe, is a very fine, very objective, very able man. Melvin Gough is a man for whom I have the greatest respect, and he is head of their Safety Division. Boyd, Gough, and I have already discussed this problem and intend to do what we can to make the legislation work.

If, after some experience, I reach a conviction that this definition of responsibility ought to be made more precise, I hope I will have the opportunity to express those convictions to you. Right now I think it is dependent upon the personalities and the abilities of the people to make this work within the overlap.

The CHAIRMAN. Then I won't pursue this further, because you probably will give some testimony to Senator Monroney's subcommittee. I wanted just to suggest though, that if you feel, and you say your job will be to carry out the law as written, and Mr. Boyd's job is to carry out the law as written, but if you feel or he feels or both of you feel that the law should be changed or clarified so we won't run into this possibility of friction, I hope that you will come to this committee and so recommend.

Mr. HALABY. Yes, sir.

The CHAIRMAN. I know you know each other well and so far have tried to work these things out or discuss them together.

Any questions by members of the committee?

Senator Pastore?

Senator PASTORE. No.

The CHAIRMAN. The Senator from Oklahoma?

Senator MONRONEY. Mr. Chairman, this is probably the most demanding job in the Government. It is one of the hardest to fill and the available candidates for the job come down to very, very few in number. In the first place, a man must have the absolute ability as a pilot to inspire and to convince the thousands of pilots that fly under his regulations that he can fly just as well as they can. Certainly Mr. Halaby, who has been flying since 1933, has been a test pilot, has been in the forefront of the active aviation field as a private pilot today, knows the problems of the military without being a part of the military. He is a civilian, essentially. He knows the problems of the airlines and those things. On top of that, he has been in the forefront of the highly technical field of electronics and the other navigational aids that must become increasingly important in the safe use of the diminishing airspace that we have.

I think Mr. Halaby fulfills both of these tests plus the conviction that I have in talking to him and observing his vast experience with the Harding and Curtis committees, and with the other relationships he has had in various other lines of business, ability to be an administrative officer that would fully qualify on this third point.

Certainly it is with a great deal of pleasure that I intend to gladly vote for his confirmation, and feel that he will fulfill the great demands of this most important agency with great distinction.

Senator SMATHERS. Mr. Chairman?

The CHAIRMAN. Excuse me.

The Senator from Kansas?

Senator SCHOEPEL. I will defer to the Senator from Florida, if he desires to ask some questions.

Senator SMATHERS. I thank the able Senator from Kansas.

I would only like to echo the high recommendations which have been given to this fine young man. I think it is a top quality appointment. I have not been privileged to know him as others have, but in the very brief association which I have had with him, I have been impressed by his independence, by his integrity, I am sure, and certainly by the long experience which he has had. So I am happy to support his nomination.

I would like to ask this question, however, only generally. I would like to ask, as the designated FAA Director, have you had any opportunity to consider the problem which has already arisen in the Bureau of Aviation Medicine as to whether or not the fact that a pilot has suddenly attained the year of 60 or 55, that by virtue of having done that, he is automatically considered unable thereafter to safely fly a plane?

Mr. HALABY. Well, I have certainly heard of this problem and have the kind of impressions about it that the citizen reading the newspaper has had. I have not had an opportunity to go into the pros and cons of the ruling of my predecessor that upon reaching his 60th birthday a pilot with an air transport rating shall no longer be in command of an airliner filled with passengers. It is clear to me that this is a ruling that I must examine, reexamine, and get the best advice I can.

Beyond saying that I will do that as conscientiously and as deliberately as a lawyer-pilot can do, I don't believe I could say. Meanwhile, of course, the ruling is in effect.

Senator SMATHERS. I wouldn't want you to say other than what you have said and I am grateful for your having said that.

There is an opinion, and I am one of those who share it, that just because a man attains a certain age, it should not automatically mean that he has suffered such physical deterioration that he is no longer qualified to do the job for which he has studied and trained himself. Now it may be that at 48, or 40, there are people who physically cannot pass the exam and certainly they should not be permitted to pilot a plane when people have entrusted their lives to their reactions and their judgment.

I would also direct your attention to what I think is a rather harsh regulation in this same area, where your predecessor indicated, and I don't know that he, himself, did it, but his group of medical advisors did it, and I might say that I was—I am one of those who thought your predecessor did a fine job in most every instance, but in this one instance there was apparently a ruling that came out that if a pilot had at any time ever suffered any type of physical disability, that forever after, it was concluded that he could never recover from it.

I have had in my State a couple of instances where what I think are qualified pilots have suffered a serious disability on one occasion, but there is ample medical proof that they have recovered from it, but having had it, and because of the rules, they are never again permitted to fly. Consequently, they are never again permitted to enjoy the occupation for which they have trained themselves.

I would merely suggest to you, sir, that you take a look at that to see whether or not, in your judgment, it might be too harsh.

Mr. HALABY. Senator, I am going to do that. I am responsible to a variety of pilots in the sense that I must take into account their interests, the guy who just wants to go out and fly for fun alone, or with his kids or with his wife. If he is flying alone, that is one kind of flying. Then there is the guy who flies for hire, who flies the company airplane, or if it is a big company, might even fly a large transport-type aircraft. Then there is the military pilot who has to use this air space of ours, and then there is the airline transport-rated pilot, who is authorized once he is given a certificate, to fly 125 people at 600 miles an hour over crowded, densely populated areas. That is quite a different kind of flying.

We have to take into account the interests of all of those pilots. We have to take into account the people in the airplanes, as well as the people under the airplanes, and to think or to pretend that I had the wisdom of Solomon, to be the only one who knew what was the public interest would be most presumptuous. But you have placed upon me the responsibility for making rulings subject to court review and I will make them in accordance with my very best ability.

Senator SMATHERS. All right, sir. I don't want to take you out into deep waters where you don't properly belong, but I would merely call to your attention the fact, as you already know, that there is a tremendous strike going on in the airline industry at the present time which is doing great damage to not only just my State of Florida, but I think to the Nation. The question is whether or not flight engineers should be pilot-trained or not. I don't want to ask you anything about it at the moment except that I do hope that you will continue to acquaint yourself with that problem, because I am satisfied that the

time is going to shortly occur when you will be called upon, probably by the Aviation Subcommittee, to express your judgment as to whether or not these flight engineers should be also qualified as pilots.

This matter ought to be settled in the public interest and everything has been done that can be done and thus far, I think some irresponsible individuals in that flight engineers' organization are doing not only the public great injury but their own union. I think it is ultimately going to lead to asking you and others who are qualified to make an expression as to what ought to be done with that particular problem and I just leave it right there and suggest you don't answer.

Thank you, Mr. Chairman.

Mr. HALABY. I accept your advice.

The CHAIRMAN. The Senator from Kansas.

Senator SCHOEPEL. Mr. Halaby, I am glad to have you here this morning participating in this hearing. I know you are going to be confirmed for this most important assignment. I want to ask you about three or four questions, if I may.

I recognize that you are just now entering into this from your previous activities and I know you want to do a good job in the interest of the public safety that is involved and the progressive advancement of this great new method of transportation, with all the new refinements that are coming on.

First, I want to ask you this: I know it has generally been the policy to keep good men, qualified men, in the departments. Will it be your policy, without regard to politics, to retain qualified people in their positions and will you appoint only qualified people when the vacancies occur?

Mr. HALABY. Yes, appointments and replacements will be on the basis of merit.

Senator SCHOEPEL. Now I want to ask you this question: Do you favor ownership of the FAA communication facilities or do you favor utilizing common carrier facilities?

Mr. HALABY. I believe I understand the question to mean should the Government own and operate communications facilities for general aeronautical purposes or should it use the facilities of the airlines which are set up under a company which I believe is called ARINC?

Senator SCHOEPEL. That is only partially the question. There has been some information given out that there might be a move made to transfer some of these facilities to common carriers in the field of communications.

Mr. HALABY. Subcontract to private corporations?

Senator SCHOEPEL. That is right and to take it out of the category of the governmental operation of it as now set up.

Mr. HALABY. I see. Well, any answer I gave you would be a superficial one and I would like an opportunity to dig into it and give you a more reasoned answer.

Senator SCHOEPEL. Surely.

Mr. HALABY. However, at the present time, as you know, both the FAA system and the military system use the land lines of the public utility corporations, many of which are part of the Bell System. So in that sense, and inevitably, communication services are obtained under contract with private corporations, just as we install a telephone in an office at FAA. So there is already substantial amount of com-

munication service hired from public utility companies. Now whether that should be extended out and have these services provided under contract, by the private corporation, is a matter I would certainly want to study before taking any action.

Senator SCHOEPEL. I appreciate your position on that and after you have studied it, I wish that we might have the benefit of what factors would influence your choice between Government ownership of FAA communication facilities and those offered by any general common carrier such as you have indicated. Could you do that later on?

Mr. HALABY. Yes, sir, I will. And as you know, the military radar facilities of the United States are very extensive.

Senator SCHOEPEL. That is right.

Mr. HALABY. An investment of well over \$3 billion over the last 10 years in the military air defense radar network and how to get the most out of these dollars of public investment is one of the most challenging features of this job. The annual maintenance cost of this network is very substantial. This is a problem quite as important as determining how private corporations can give the most to the Government per dollar.

Senator SCHOEPEL. One further question: If we assume that all of these facilities, or if you assume that they are all equally balanced, I would like to ask you the \$64 question. You may not want to answer it now but answer it after further deliberation. Do you favor Government ownership of common carrier facilities? I would like to have your views with reference to that on this record.

Mr. HALABY. I certainly do not think the Government should buy or take over the Bell System.

Senator SCHOEPEL. One final question. I note that there was a great emphasis placed upon safety and what we can do in the interests of it and that is as it should be, but it is somewhat disturbing when you see reported as has been reported by the Associated Press recently, about the Lockheed Aircraft Corp. at Burbank, Calif., I note that they paid a fine of about \$6,000. When they point out such things that Eastern Airlines in inspecting two of the Electras last April, some weeks after their delivery, found an industrial type vacuum cleaner in the fuel tank of one plane, and in No. 1 fuel tank on another, they found a rivet squeeze gun, 20 screws, and a piece of a paper cup.

American Airlines inspecting 34 Electras last March and April found instances in 14 of the planes of missing bolts and nuts, bolts of improper length, and incorrect bolts that had worked loose.

Western Airlines in October of 1959 found trash in the left wing area of an Electra, after Lockheed had conducted major modifications including installation of a wing reinforcing band.

Western's initial inspection of another Electra last April disclosed cracks in the wing rib section, ranging in lengths from 4½ to 33 inches. Tank ceiling compounds in some of the cracks and tool marks at 4½-inch intervals the length of the entire crack. Now some FAA inspector had to pass that and some plant inspectors had to pass on those things.

I know you are just going in here. I understand you are to appear before the subcommittee handling these matters by the distinguished junior Senator from Oklahoma. Might we have some suggestion from you as to what should be done in instances like this and what your policy would be?

Mr. HALABY. Senator, these mistakes in installation and cleanup and quality control are obviously deplorable. I can only say that I will do what I can to see that they don't happen again. However, in saying that, I know you understand that 40,000 people will be reporting to me if I am sworn in as Administrator, less than 2,000 of these people have the job of trying to inspect within the flight standards FAA has set up, all of the operations of all of the civil aircraft; the pilots, the engineers, the mechanics, the operators, and the whole industry.

You could not inspect every inspector in every operation in the United States under any circumstances and some of these inspections and controls have to be delegated out, otherwise we would have a horde of Federal inspectors in a kind of air police state, which we can neither afford nor do we want, and so you have to rely to some extent on the people who are using the equipment to police themselves.

This is inevitable in this business. What you can do is spotcheck at critical points with the number of people you have available.

We must remember that the pilot, the engineer, the mechanic, the owner, and the stockholder are all responsible for the public interest. The economic pressure is on them to provide the safest, most efficient, most economic service. And the responsibility in the first instance is on the guy who screws on that nut, who fails to pick up the dropped bolts. Then it is on the inspector, and then it is on his boss, and then it is on the owner, and then it is on the Government to come along and be sure these guys are using the right policies and procedures.

But the Government is not running this airline; it is not screwing on this bolt; it is not leaving that vacuum cleaner in that fuel tank. This was a mistake by some guy, somewhere, and all I can say is within that framework I will do what I can to see that the quality control procedures and inspections are adequate within human possibility to prevent this sort of thing.

Senator SCHOEPPPEL. I appreciate your viewpoint, but here was an aircraft that was pulled in out of the general aviation transportation system lines, this model, for checking against some of the things that they figured was causing the failures that resulted in deaths, too many of them. And yet, at this final stage, some inspectors failed to find those things. I do appreciate your alertness to this and I think we should be alerted, the public should be alerted to what happened, so as to pinpoint the responsibility because it goes to one major thing, safety in the use of those airplanes in the public interest.

Mr. HALABY. Senator, the Electra problem is one that has kept me awake nights since the President asked me to take on this problem.

It is true I was a production test pilot about 17 years ago at the Lockheed Aircraft Corp. To any of the pilots in the room, they would not regard that as a policymaking position. A company test pilot is just a man out on the flight line being told what airplanes to test and at what time. And I held that position for several months and like all pilots, complained and filled out the squawk sheets.

Now, I have no connection with Lockheed and don't seek any, but the fact is, the Lockheed Electra is the backbone of our short-range air fleet in the United States today. It is also in market competition with an aircraft or aircrafts built by foreign manufacturers.

Now, I could have said that was General Quesada's problem, that it was the past, and I wouldn't go near the Electra and that might have been the clever thing to do. But it is not the way I see it, because I feel that the question of the soundness of such an airplane and the confidence of the public in its structural soundness and healthiness of that airplane is very important to the public, to the airlines, to the pilots who fly it, to the engineers and to the mechanics, to the whole American public.

Now, knowing that this would come up, I have carefully prepared a statement which I won't read in detail, but what it says in effect is, I felt, upon being nominated, even though I was only an FAA consultant, that I should look into this, and so I looked into it, and I went through all the data that I could find in the Government, in the Federal Aviation Agency, in the CAB, and the NASA, and reviewed it personally.

I then went and talked to pilots who had flown the airplane, airline pilots as well as test pilots.

Now, once you have been in this game of testing airplanes, you don't take anybody else's word for it, unless you have to. So I thought, in view of the public importance of this, I would go and fly the airplane myself. And so I arranged to have Lockheed and FAA Government pilots take me out in the plane. After brief familiarization, I flew the airplane for more than 2 hours, through a very carefully preplanned test program. And in the course of that program I tried to simulate three of the accidents which had nothing whatsoever to do with structural failure. They were operational accidents, the one in Boston and the two in LaGuardia. I simulated them insofar as you can with hindsight to see what might have happened and whether it was the plane's fault or some other fault.

I then took the airplane, in gusty air, to approximately 40 knots in a shallow dive beyond the speed which it is permitted to fly under General Quesada's ruling of January 5, 1961.

Now, this was not an extensive nor a heroic test flight; it was simply to satisfy myself that the data and all that people said was true, and that the airplane could be flown well beyond the speeds and the conditions which you, as a traveling member of the public, would be asked to fly in it. And I personally am convinced the airplane is sound. It is a healthy airplane; it is relatively easy to fly; the public should approach that reservation desk thinking, not whether this airplane is airworthy or not, but whether it is being operated safely and economically and comfortably by the owners and the pilots and the engineers and mechanics who are operating it.

The CHAIRMAN. Any questions from the Senator from South Carolina?

Senator THURMOND. Mr. Chairman, I don't have any questions. I just want to say from the experience and training that Mr. Halaby has, he is well qualified to fill this position, and I have been deeply impressed with his statements here this morning and the responses to the questions that have been asked him, and I feel that he will fill this position in a highly competent manner.

The CHAIRMAN. The Senator from New Hampshire?

Senator COTTON. I would like to add my own statement that I have been very much impressed by Mr. Halaby's statements and am very happy that he is going to assume the responsibilities of this task.

I would just like to call your attention to one matter, without going into it deeply and without expecting you to do so. One of the problems that has faced the subcommittee and the full committee upon which we have had some degree of disagreement, only in degree, however, is the matter which will be an important part of your responsibilities, that of granting, which I am sure we will and hope we will, will be to extend aid to airports, Federal aid, which will be a part of your responsibility, of course, as laid out in the statute to grant this aid.

I am wondering if you have any fixed ideas or convictions or would care to comment on the question of whether either all or at least a major part of this aid should be devoted to those things that have to do with the safety of landing, of flying, of the use of the airport, and that little or none of it should be used. Of course, this is my own opinion—at least, the very smallest amount of it should be used purely for airport facilities for the benefit of passengers, and so on.

Have you given that any thought?

Mr. HALABY. Well, Senator, I had an opportunity to very briefly read the bill which you have proposed, and in which you have been joined by other distinguished members of this committee, and it seems to me that this bill moves in the right direction.

If I were here as a partisan, I would suppose I would say that both parties are now moving together on the way in which the Federal Government should aid local airports.

Now, I have made a recommendation to the President through the Budget Director regarding the airport aid program for fiscal 1962.

Until the President has made it a part of his program, it is simply my recommendation.

Now as a matter of personal philosophy, I feel that the most important use of Federal airport money is to get the airplane down on the ground safely and efficiently. And that safety is the paramount consideration in the use of Federal funds.

The secondary consideration would be comfort and convenience. I have heard it said that the Federal Government should get him down safely and also keep him warm and dry, referring to the passenger. I must say in terms of my own philosophy keeping him warm and dry is more of the responsibility of the community in which he is then sitting or standing, but there will be exceptional cases, I think, where it is essential to the growth of a national air transportation system that the Federal Government provide aid in the terminals.

But in my personal judgment it should be rather exceptional.

Senator COTTON. I thank you for your statement, sir.

The CHAIRMAN. Senator Yarborough, from Texas.

Senator YARBOROUGH. Mr. Halaby, I think that you will need all of these fine qualities that you have exhibited here and that the distinguished Senator from Oklahoma has so well summarized in the administration of this agency.

I will just state one personal experience which shows the growing urgency of the air traffic safety problems. There was an agency in Memphis, Tenn., that sold insurance to Reserve officers over the country through selling Lloyd's of London policies. I formerly carried one of those policies covering accidents in flight, if you were not the pilot, but a passenger. It was a \$100,000 policy. A few months ago, they canceled that—Lloyd's of London canceled it.

They said losses are so heavy in air transportation, they could no longer afford to insure people. A bunch of American companies re-insured it, and I continued to carry that \$100,000 policy. Within the past 30 days, I have received a notice from the agency that they would refund the balance of the unearned premium, that air losses are so heavy, that these companies refused any longer to issue insurance policies of the type that I have been carrying for a number of years.

So I will have to stop and buy insurance at the airport, if I want insurance, for each flight.

I think nothing better illustrates the experience of those insurance companies. We presumably improve our air safety things and get insurance cheaper, but not only did they not raise the rates, but they said, "We are through with that kind of insurance."

On another note, this chart of the Federal Aviation Agency, regional manager for region 2, the office is located at Fort Worth, Tex. There have been rumblings during the past 45 days that certain people in certain companies want to move that region 2 headquarters office from Fort Worth, Tex., to some point back near the Atlantic seaboard.

I am not asking you to express an opinion on that now, but I just express the hope and the wish and opinion you will not find that the new frontier for region 2 is back east of the Mississippi River.

I have no further questions.

Mr. HALABY. I don't know about this, Senator Yarborough, and it does not sound right to a maxim have young bureaucrats go east. It ought to be the other way around. Don't you think?

The CHAIRMAN. The Senator from Pennsylvania?

Senator SCOTT. I defer to the Senator from Kentucky.

The CHAIRMAN. Does the Senator from Kentucky have any questions?

Senator MORTON. I would say I would like to have Mr. Halaby aboard. I have known him and his record for a number of years. I commend the new administration and the American people on obtaining his services.

Senator SCOTT. Could I make a brief comment?

The CHAIRMAN. Yes, sir; go ahead.

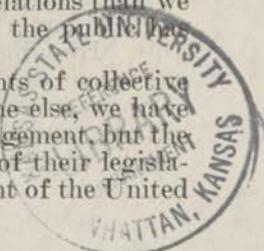
Senator SCOTT. Mr. Halaby, I think it is quite obvious to all of us that you have these excellent qualifications. Certainly it would be my privilege to join in confirmation proceedings.

I would like to make a comment which I will assume that you prefer not to answer, simply to get the thought in the public domain, if I may.

That is, we are all very much concerned over widespread strikes affecting transportation, surface strikes, strikes in the airlines that occur at the peak of snowstorms, strikes where the grievances sometimes seem disproportionate to the inconvenience to the public.

It does seem to me that the Congress ought to give a priority in considering a better handling of labor management relations than we have presently evolved, and that the convenience of the public has been the most neglected concept.

We have all been concerned in preserving the rights of collective bargaining, in protecting those who work for someone else, we have expressed comparable concern in the problem of management, but the public, frustrated, reduced to the unaccustomed use of their legislation, compelled to cancel engagements, the Government of the United



States impeded by people who cannot get to Washington with their services and their ideas, all of these things, it seems to me, put upon the administration and the Congress the responsibility to think anew, and to act anew, and to get this problem moving, so we can move America ahead.

I know the problems of the Secretary of Labor are very great. I know he has certain emergency powers which I would be sure he hesitates to use, and yet I think the time has come when some method of solving problems affecting national transportation services operated in the public interest, protecting the interests and the welfare of the public, ought to receive a higher priority than it is now receiving, and the patience of the public has been as long-suffering as Job, as you mentioned.

I simply throw this out into the area to indicate that I myself am entirely ready to consider legislation designed to preserve the interests of those engaged in collective bargaining, but also to find some means to keep the airlines running, to keep the trains running, wherever possible, some means by which we can meet one of the most disgraceful situations with which we are concerned, and that is, that neither labor nor management seem to give proper consideration to the public welfare when they are engaged in these bloody internecine conflicts. I don't offer a solution, I could cite better examples than myself of solutions offered in advance of problems, but here is a solution and a problem; here is a problem that ought to be met if we can meet it with some new solution.

I of course don't expect any comment from you, unless you care to make an observation, but I do think it is high time that the Congress ought to consider this and the President ought to recommend something.

Mr. HALABY. I will make a very brief comment, because to me this is right at the heart of the matter. We, I think we, and I don't mean you gentlemen or anyone here in particular, but we as a Nation neglected the national aviation system until very recently.

We did not attend to it very much, we did not concentrate resources on it very much; we did not bring the scientists in on it, as we had on the missile programs, and others.

We did not give it the kind of tax money that was needed. And now, we are just about now reaping the detriment of neglect. It is obvious that we are spending more money per airplane this year than we have ever spent before, but if we had spent a third of that 10 years ago, certainly if we had spent all of that 10 years ago, we would not have this situation today where the traffic is increasing, the density and frequency and variety of the traffic over New York, or Chicago, or Pittsburgh, or Los Angeles is increasing just as population is increasing, just as people have more money to spend on airplanes and air travel until very recently of course.

So that traffic is galloping ahead, but we have only started to install, to buy, the new kind of equipment that would relieve some of this. Even more difficult is the recruitment and training of personnel to man this equipment, which is new to them.

So we are at the confluence of a very rapid increase in traffic and activity and the installation of a new system. On top of that, we are in an economic recession, and with new equipment, fear of un-

employment and insecurity, we have got a situation for a while here where we have to restrain air traffic with all the inconveniences involved to make it safe.

Now is the job of the Administrator, the President, this committee, first, to set some goals on where we are going from here, and then to try to get there as rapidly as we can.

In a few years, if I am successful, we ought to have a system that will permit all people to use the airways safely and efficiently. We are not using it efficiently now because we have neglected it for 18 out of the last 20 years. Now this does not mean it is unsafe to fly. Those insurance matters are disturbing, but you can still go out and buy a policy at the airport and I think it is a tribute to American aviation that there were only about 130 fatalities in the one midair collision of airliners last year. Tragic and horrible as this was, it is a record to build from toward even greater safety.

The highways witness over 40,000 fatalities a year. And we are modernizing our highway system. People die of heart attacks; people die falling down stairs, in trains, boats, buses, and we are all working toward safety and longevity. But when you think of the growth in traffic, the complexity of the machinery that is involved, it is a great thing that the risks of flying are as low as they are, but it is not good enough. We have got to make it safer and more efficient and more comfortable.

Senator SCORR. I agree with you entirely. I was interested, particularly in your comment of the density of air traffic, because that certainly is very great over New York; it is very great over Washington; the public is putting up with enormous inconveniences in its desire to increase its own travels by air. Everything from the ticket counter up or down, seems to frustrate the average passenger.

Many of these problems are so familiar that I am certainly not going to belabor them, but they could be improved.

It ought to be possible, when you want to travel by air, to do so if the weather permits. But with regard to the density of traffic, I would suggest to you that the Philadelphia airport area does not suffer from that density of traffic to which you are referring to in regard to New York and Washington, and we are available as an alternate airport, we have the facilities, I have used it many times. We have far less planes than LaGuardia and Idlewild. Often the planes coming in from Baltimore, Washington, and New York, use Philadelphia of necessity.

We would like to see more scheduled airlines in that area, and we would also like to see more traffic diverted from the altogether dangerous air space over New York City.

Thank you.

The CHAIRMAN. The Senator from California?

Senator ENGLE. I have made my comment, thank you.

The CHAIRMAN. The Senator from Alaska?

Senator BARTLETT. Mr. Halaby, does the Aerospace Corporation undertake studies and missions only as directed by the Air Force?

Mr. HALABY. Yes, sir.

Senator BARTLETT. In reading your biography, Mr. Halaby, I discovered that in addition to every other good reason—and there are many of them—why I should vote favorably on your nomination,

there is one that applies particularly to me: that is, your wife comes from Alaska.

May I ask you her father's first name?

Mr. HALABY. Her father's first name is Frank, and his last name is Carlquist.

Senator BARTLETT. You have my vote. [Laughter.]

Senator YARBOROUGH. I think, Mr. Chairman, we all noted that first line in that biography, that Mr. Halaby was born in Dallas, Tex.

The CHAIRMAN. He is married to a charming lady who comes from Spokane and Anchorage, it says in the biography.

Senator ENGLE. Mr. Chairman, may I suggest that Texas and Washington and Alaska are certainly fine places to be from.

The CHAIRMAN. Mr. Halaby, if you have no objection, we will place your statement regarding the Electras, the airworthiness, in the record in full.

Mr. HALABY. Fine.

The CHAIRMAN. I think you briefed it.

#### AIRWORTHINESS OF THE LOCKHEED ELECTRA AIRCRAFT

Statement by N. E. Halaby, Administrator-designate of the Federal Aviation Agency, before the Senate Interstate and Foreign Commerce Committee on February 21, 1961

In response to numerous inquiries and statements of concern about the airworthiness of the Electra, all of which indicated a certain amount of public anxiety due to recent accidents, I felt that one of my first responsibilities was to look into the problem for myself. My approach was to get all of the available data in the files of the Federal Aviation Agency and study it carefully, and to speak to the engineers and pilots who had participated in definition of the problem and its solution. Next, I consulted with the personnel of the Civil Aeronautics Board and the National Aeronautics Space Administration. I then spent many hours with the manufacturer of the airplane—Lockheed Aircraft Co.—and later talked to airline pilots who are flying it day after day. This data, which had been developed at a cost of many millions of dollars by the manufacturer, and to a less amount by the Government, was persuasive that the cause of the two inflight disintegrations of the airplane had been isolated, and that all prudent and necessary modifications to the structure of the airplane had been ascertained and tested. However, it seemed wise, in a matter of such public importance, to make a 2½-hour test flight myself with both FAA and Lockheed pilots and engineers accompanying me.

After a period of familiarization, I assumed flight control of the airplane and conducted a series of flight maneuvers that simulated the three operational accidents which did not involve the structural integrity of the airplane. Then I flight tested the airplane at speeds and conditions well in excess of those permitted by current regulations for passenger operations to satisfy that the airplane was able to do what had been claimed for it—and that it was structurally strong and healthy.

My conclusion, after this investigation, is a very simple one. The Electra is a sound, airworthy airplane; and the public may use it with confidence, it being assumed of course that the owners and operators of the aircraft are maintaining it and flying it within the standards established by this Agency. The action taken by my predecessor on January 5, 1961, in releasing the speed restrictions on the airplane, will be affirmed, if I am confirmed and sworn in as Administrator of the Federal Aviation Agency.

The CHAIRMAN. I just want to ask you a couple of questions.

The chairman is chairman of the Appropriations Committee in the Senate that handles the FAA appropriations. Many of the things you talk about require someone to sign that check, or recommend it.

Have you looked at the present FAA budget as submitted by President Eisenhower?

Mr. HALABY. Yes, sir. I have not been in the official position of Administrator, but it has been the practice of the President and Budget Director to ask the incoming people—who, like I, have been on a consultant status for the last week or so—to look at the old budget and recommend modification, if any. That deadline was yesterday, and I met it. I made three or four specific budgetary recommendations, and then I have had to say—reluctantly, but conscientiously—that I don't know how much, if any, more we need for air traffic management and research and development, and I can't possibly know that until I fully understand the system we have now, its assets and liabilities, and until I bring in the kind of scientific review talent which I intend to bring in to help me ascertain whether we are going forward with all the benefits of modern technology, and getting all of the double duties out of the military dollars we can get.

So if you are wondering whether I am proposing a multimillion dollar increase, I have to say that as soon as the President accepts or rejects my recommendations this will be published. I would have to reserve on the major area of possible requirements until I have studied it for several months.

The CHAIRMAN. Of course, you will have a chance to present that. But I am to understand that there are some modifications. Oftentimes the modifications are not necessarily on the total amount, but place the emphasis here, instead of there—on the different parts of the program.

Now, this committee is—we haven't had the benefit of having General Quesada up here for some weeks. We will probably see him in another place. But this committee has struggled with Chantilly Airport for I don't know how many years. We authorized it some 7 years ago, and it finally got started. We had a lot of problems, and now I understand it is on the way.

But just for the benefit of the committee, when is Chantilly going to be open for operation, generally speaking?

Mr. HALABY. I don't know the answer. But being a little presumptuous, I found this was one of the more wiggly snakes that I found in Quesada's box. Pandora's box was nothing compared to this one—and I don't mean that there are a lot of mistakes, or anything; I just mean that there are some wiggly, difficult problems that, if you are not careful, will turn around and bite you. He had the same problems before him; and I might say in passing that although he may have done things I would not do, and he may have done some things in ways I would not have done them, the man was the most dedicated, determined, and conscientious public servant, not only transitioning with me, but in the conduct of his office; and I think the American public owes that man a great deal of gratitude for the hours and sweat and, probably, some tears that he put in.

Now, this Chantilly airport is a big airport, and its cost was estimated a couple of years ago to be around \$86 million, which compares with a \$300 million airport at Idlewild and a \$200 million airport in Los Angeles. Its delivery date—when you could buy a ticket out there—was due early this year.

I felt there was enough of a problem here to call in the experienced leaders of three of our greatest airport aggregations, Los Angeles, Chicago, and New York. I had them for several days looking hard at this—at no cost to the Government—just what they could give out of their experience. Now they have told me—and in turn, I will tell the Director of the Budget—that this airport cannot be made available for public use for at least 15 months, and that the cost of it will be substantially greater than previously estimated.

I don't know whether that is so or not, but here are three men who know more about it than I will ever know, and they have so advised me.

The CHAIRMAN. I didn't hear your last statement.

Mr. HALABY. They estimate that it will take at least 15 months to get it ready for passenger use, and that it will cost substantially more than estimated by the previous administration. They may be right, and they may be wrong, but they are three very experienced men who looked at it—I believe objectively, and so I will be coming to your Appropriations Committee with the story as I see it.

The CHAIRMAN. But the way it looks now, it will be in 1962?

Mr. HALABY. Yes, sir.

The CHAIRMAN. Instead of 1961.

Mr. HALABY. Yes, sir.

The CHAIRMAN. That will make approximately 8½ years since this committee authorized its construction.

Mr. HALABY. I am sorry; I don't know when it was authorized, nor do I know when the appropriations were actually made available.

The CHAIRMAN. I was just making the statement.

Now, you have submitted here, we have here, the chart of the Federal Aviation Agency, the administrative chart.

Have you seen that?

Mr. HALABY. Yes, sir.

The CHAIRMAN. Do you intend to make any changes in that, or will this be the general chart you will proceed with?

Mr. HALABY. Well, I have had a little experience in business, and I believe there can be a little consolidation in that chart; and yet, I haven't had the authority to dig into it and do anything about it. After a period I believe that I will make some changes in it.

Obviously, there are needs and there are preferences, and I guess I am like anybody else—I have a few preferences.

As to personnel, I have, thank God, come to this office without campaigning for it, or without committing anything to anybody or any group, except the President of the United States. I don't see how you can take a professional agency, technical agency, like this, except as it is when you get there, and then learn about it, select the best available people and go forward from there.

The CHAIRMAN. Mr. Halaby, you have been a private pilot for some time, and there are many in the country. Without passing upon their so-called complaints of the operation of the Federal Aviation Agency in the past 2 years, I think you are generally familiar that there has been some controversy and friction between the office and the private pilots. I don't know how many organizations of private pilots have sent to this committee different complaints in regard to rules and regulations and things that the FAA has either imposed upon them or

suggested that they be imposed. In some cases they have said that, "within a year we are going to issue such and such an order." I imagine it will take some time to go into the merits of their complaints, but generally speaking I have tried to put them together and they have three things that I think you should be aware of. You probably are.

One concerns the balance needed between rules and regulations required for the safety and guarantee of civil rights of private pilots. I can give you a long list of which they have submitted to the committee. And you will have to look at them.

The second question raised by the association, about former military men filling the top civilian posts in aviation, that is a perennial problem.

But the last, I think, makes a point we all can understand without going into detail: the lack of public awareness of the percentage of airtime recorded by civil aviation as related to commercial aviation, and they consider that to cause the resultant apathy toward civil aviation.

I suppose that these are matters—if and when you get down there—you will have to look at.

I have a long list of problems and frequencies in different airports which they think have been stacked a little bit for commercial, as against the civilian flier. And I was surprised myself at the number of miles flown by private pilots in the past year, and many of their problems and complaints seem to be somewhat legitimate. I do appreciate that when the top job here was starting out; you had to put first things first, and move down to this, but I will submit this report to you and, without belaboring it now, I am sure there are some of the things in regard to private pilots you will be in agreement with.

I don't know what the accident rate is for private pilots compared to the mileage flown by commercial pilots, the percentage figures of that kind. We had that unfortunate accident of two of them last night in soupy weather. Now whether you should have control over that or not is a problem. But it could just as well have been a full plane, and then it would have been much more serious.

So I will submit this to you.

Any further questions of Mr. Halaby?

Oh, excuse me. The Senator from Indiana. I know he has some questions.

Senator HARTKE. Thank you, Mr. Chairman. I do have one or two.

Mr. Halaby, I suppose you are familiar with the new policies which have been instituted by President Kennedy in regard to permitting news facilities greater access to what goes on in the Government, are you not?

Mr. HALABY. Yes, sir; I am.

Senator HARTKE. Are you in sympathy with this approach?

Mr. HALABY. I am.

Senator HARTKE. Generally speaking, you do feel the public has a right to know what their Government is doing?

Mr. HALABY. Yes, sir.

Senator HARTKE. Do you feel that as long as it does not involve matters of the internal security of the country that the public who flies on airplanes, generally speaking, and uses planes, that they have a particular right to know those things which affect public safety on airlines?

Mr. HALABY. They certainly do. Of course, with every right goes a duty to be responsible, just as the men of the press here have the right of access to a public official—which I intend to respect—they, too, have a duty to report the facts and not their personal opinions and preferences, and they will certainly get an opportunity from me to learn, as early as I know, what is going on.

Senator HARTKE. In the event that those people in charge of the communication of public information through the news media, in the event that they exercise their right to comment and even to criticize, you would not deny them this privilege, would you?

Mr. HALABY. Of course not. There is a difference between reporting and editorializing. That is the one I was making. Let them have proper access; let them report and editorialize but let us know which.

Senator HARTKE. You wouldn't feel such criticism was an intention to abuse the Administrator or to stop efforts toward public safety, would you?

Mr. HALABY. No; I would not.

Senator HARTKE. You certainly respect the American privilege of the right to differ and the right to differ publicly?

Mr. HALABY. Certainly.

Senator HARTKE. All right.

Now, in regard to the committee itself, do you believe that there is an executive privilege with the Administrator, that is, in regard to matters which involve the Agency; and do you believe you would have the right to withhold from this committee either in public session or in executive session, information concerning the activities of the Agency?

Mr. HALABY. Well, I think the President has an executive privilege. I think the circumstances under which a subordinate of the President has an executive privilege are practically nonexistent. There may be a peculiar set of circumstances involving public safety, that would endow the FAA Administrator with some kind of privilege. Just sitting here with you now, I can't think of them.

Senator HARTKE. That is a welcome change from your predecessor, I may say that.

Mr. HALABY. I think every human gets defensive under attack, and the man was under attack and it is human to defend one's self.

Somehow, I want to take the initiative in informing people, getting their understanding and, as a result of understanding, getting not unquestioning support but at least their responsible cooperation.

Senator HARTKE. At the present time, in the specific field, do you feel that we in the United States have an effective plan for our complete effective system for air traffic control?

Mr. HALABY. No, I don't, Senator, and the reason we don't have one is the neglect of most of the last 20 years, for which everyone of us has a little bit of responsibility. And I don't think, by the way, if you have 50 saints surrounding me in this job that we could have such a system right away. There is going to be a period of several years here when the best talents of the United States are brought to bear on this before we can have an efficient and economical and—most of all—fully safe system that will accommodate everyone all the time. It is just going to take that long to conceive, design, buy, install, and train people in the use of this new system. And it is going to cost money.

Senator HARTKE. In regard to that proposition, you mentioned salaries a while ago about civil service. You recognized that the top controller salary is \$8,950. Do you think this is adequate to attract competent people in this field?

Mr. HALABY. Senator, I don't know whether that is the salary or not; but let's assume that it is.

Senator HARTKE. Assuming.

Mr. HALABY. Because I am sure you have looked into it, I think this is a very tough job, and comparable responsibility in private industry—and, of course, there really isn't one—probably would command more money. What I can do about it, within the restraints of appropriations, Civil Service regulations, and all the vast intricacies of a huge civil service, I don't know; but obviously I want to try to do what's right for the United States.

Senator HARTKE. Do you have any preconceived ideas as to whether or not air traffic control is strictly an engineering problem, or do you feel that it is going to require the use of people who are active in the field of air traffic control?

Mr. HALABY. The people who are active in the field of air traffic control are the men who are making the present equipment work. In most cases they have not been responsible for developing or procuring that equipment. They have been told, "Here is a job. Here is the equipment, and here is the system." I think they have been involved in developing the procedures of the system. They have a lot to contribute toward the future system, but I am afraid or, rather, I am convinced that the concept of a future system for the period 1965 to 1970 has got to be primarily that of systems scientists and engineers, such as the men in the Bell System, such as the men who have worked on the ballistic missile system, such as the scientists and engineers in the universities, and in the great American corporations.

Now to just put an abstraction up there, for several billion dollars, that the fellows who are now operating the system don't understand and can't use, and don't believe in, would be bad public policy.

Senator HARTKE. Well, you were a member of the Curtis Committee, were you not?

Mr. HALABY. I was Vice Chairman of the Harding Committee, and then I helped Mr. Curtis as a consultant for a short period.

Senator HARTKE. There was no liaison on that Committee, or no member of that Committee who was actually in the field of air traffic control; isn't that right?

Mr. HALABY. There was no member of the Harding Committee that was; it wasn't a representative committee. That may be why it got something done. There wasn't an adversary group, like so many Washington committees. It was a group of people who had some understanding and experience and tried to get a job done without representing anybody. But in Mr. Curtis' organization, I don't know whether he had an air traffic controller or not. If he didn't he certainly should have taken into account their ideas and abilities, I believe.

Senator HARTKE. I take it from what you have said that you agree with your predecessor's statement of January 13, that its responsibility for determining needs of air traffic control rests with the engineers and research and development, and not with the air traffic control office?

Mr. HALABY. Well, I haven't seen the statement, so again—

Senator HARTKE. I am not asking you to verify the statement; I am talking about the principle.

Mr. HALABY. Right. As far as I am concerned, General Quesada is now in charge of a baseball team.

Senator HARTKE. I understand.

Mr. HALABY. If the President swears me in I will be in charge of the FAA.

Senator HARTKE. I am not interested in talking about General Quesada. I am talking about a statement of principle enunciated on January 13.

Mr. HALABY. Let me state my principles on which I will operate.

Senator HARTKE. In this particular field I will be delighted to hear.

Mr. HALABY. And this principle is we have some people who are working hard and under difficult circumstances, with equipment that is just now being installed and which should have been installed 10 years ago. They are the guys who have to operate that equipment, 5 minutes from now and a year from now.

Now, there is another concurrent job for me to get done; that of putting together a new system, and I want those fellows who are working the present system to be consulted, but I am not going to place the responsibility on them for conceiving systems engineering, and developing the new system. They are going to participate in it, but they are not going to be responsible for the research and development program.

Senator HARTKE. I can understand that, and I think it is proper. I do think they should participate. Let's see whether this is true, though, when the FAA was established and they selected Atlantic City as a new research center, and took it away from the good State of Indiana—Indianapolis, Ind.—I am not being critical of that except that it was involved, and some of the particular experiments and some of the research at that time was discontinued. Among these projects which were discontinued was the inservice improvement for air traffic control of which we have been speaking. And yet last week—I don't know with your consent or without, or under your direction or without—FAA's research department rushed through a contract, and I have no fault to find with them giving the contract because it went to a fine concern, Hazeltine of Indianapolis, to work on a radar hand-off system, the very thing that was proposed a few years ago and we rejected by the same research people in FAA.

Would you care to comment whether this was done with or without consulting you and whether or not you approved of this rush contract?

Mr. HALABY. Senator, I was not consulted. I did not direct the action, and I don't know anything about it.

If Hazeltine in Indianapolis got the contract—

Senator HARTKE. I am delighted.

Mr. HALABY. You must be delighted.

What the background on it is, I just don't know.

It is a fact, as I understand it, that Hazeltine bought the physical facilities from, perhaps, the General Services Administration, or someone, and that those facilities formerly were used by the Federal Government and Hazeltine, like so many other electronic companies, has a great capability to offer the United States.

Senator HARTKE. The point of it is, there are really two fields in this system of air traffic control indicated awhile ago. One is inservice; that is the thing to do that we are doing today, is that right?

Mr. HALABY. Yes, sir; the present and the future.

Senator HARTKE. The other is this long-range thing and in this we can't neglect the present setup at all. Isn't that right?

Mr. HALABY. We have to keep the system running as it is with all its assets and limitations. That is the first job.

Senator HARTKE. And yet this was discontinued and left in abeyance for almost a year and a half, and all of a sudden, right before you come up for confirmation, we have a rush contract through for this.

I wonder whether you would follow that same procedure of trying, in the closing days of your administration, to follow this same type of procedure?

Mr. HALABY. Well, the past is the past, and only the lessons remain. And I guess, if I am not out of order in suggesting this, that maybe you and Senator Monroney could take this up with the people in connection with your air safety hearings because I honestly don't know a thing about it.

Senator HARTKE. But you would be willing to look into it?

Mr. HALABY. Yes, sir.

Senator HARTKE. Among other projects which were discontinued on change to Atlantic City from Indianapolis was fire inerting techniques and tests.

Were you familiar with these tests that were made?

Mr. HALABY. Fire inerting technique for quenching fires in crashes?

Senator HARTKE. Yes, on landings particularly; yes, that is right.

Mr. HALABY. I know a little about the techniques of trying to stop a fire before it gets going full blast. I do not know what the program was before or what it is now.

Again, I will have to investigate it.

Senator HARTKE. You would be willing to do that?

Mr. HALABY. Yes, sir.

Senator HARTKE. Another one of the safety research programs which was discontinued was the birdgun test for windshields and engine ingestion system, and now FAA has recently announced a crash program that originally went to Atlantic City with the facility.

What I am getting into there are a number of research programs which were evidently being conducted and were discontinued and all of a sudden now, when we get into a crash, they want to come back to them.

One other particular field I want to go into, and that is research which is supported by the Department of Defense for a common system of air traffic control. The legislation which created the FAA gave this responsibility to the FAA to perform all common systems air traffic control research. As a result, the Department of Defense has invested over \$50 million into the FAA research program. There are present indications from the Department of Defense, or at least within some of their people, that they are completely dissatisfied with the progress that is being made in this, and that they are contemplating asking Congress for authority to perform their own research in this field.

Would you care to comment upon this?

Mr. HALABY. Well, I just hope that isn't so.

While on the Harding Committee in 1955-56, several of us concentrated our attention on the potentialities for using the semi-automatic ground environment system (SAGE) and the military radar network for air traffic control as well as for identification and interception of Russian bombers. As you know over \$3 billion has been spent in this radar network and computer combination. The annual maintenance cost, as I understand it, is in excess of \$400 million a year, and, according to recent indication by officials, the danger of a Russian bomber attack is not decreasing.

Now, the potentialities of this system for civilian military traffic control are great and getting double duty out of those dollars is a high priority item on my list of things to do. I do not know whether the military is satisfied with the progress that has been made. I know I am not, and will concentrate a lot of attention on doing this.

At the same time, as you see here on this table a model of an experiment, air height surveillance radar, the FAA has spent several million dollars developing a radar tower that will give the precise height at a distance of 50 miles of an airplane as small as a Piper Cub for purposes of guiding it into the runway. Now they must have done that because the military was not doing it.

All I can do is get in and learn and try to do the best I can with it.

Senator HARTKE. Do you care to express any opinion concerning the requirement that foreign carriers, that is, carriers of passengers particularly, be required to follow the same safety requirements as domestic carriers, and if you do not, I will understand why? I just want to know whether you care to express an opinion.

Mr. HALABY. We have something to say about this. In the first place, fortunately and if we keep ahead in the field of aviation, both our allies and our potential enemies, and I think we have to keep ahead rather than fall back as we have in some other fields, if we keep ahead, we will be selling foreigners our airplanes and the FAA has a very elaborate certification program on the aircraft and the equipment the aircraft carry.

So when they are delivered to the foreign carrier, in most cases and respects they are of comparable structural and equipment integrity to our own. Now, whether the Government has any right to reach out to Mexico City, or to Paris, or to London, and say, thou shalt fly this aircraft in this or that way, that is the operational regulations and the controls, I guess I have very serious doubts. I believe there are serious legislative and constitutional limitations.

Senator HARTKE. Yet the problem which was presented by the death of our distinguished colleague's son and his daughter-in-law was for all intents and purposes, by the finding which was made at that incident, caused by the very failure of this particular airline to follow the same procedures as would have been followed by a domestic carrier in the United States, and yet it did originate from the United States. Isn't that true?

Mr. HALABY. I don't know all the details. I read that a Constellation crashed in Jamaica, piloted by Colombian pilots and that on that occasion, these very fine people were killed. We had an

example comparable in some respects to this a few weeks ago when tens of people were saved in a foreign air liner that went off the runway in Idlewild.

All I can say is within the treaties and international agreements and the statutes, we will do all we can to see that Americans are protected. I can't do any more than that.

Senator HARTKE. But it is right for the people to know in the United States when they board these planes, which are not of domestic control, that they are not required to abide by the same regulations for public safety as are our planes, isn't this right?

Mr. HALABY. I think there is some lack of public understanding on this and it would be helpful.

Senator HARTKE. I would like to ask you, when you were testifying in answer to Senator Schoepfel's question about the Electra, you made the statement that "We cannot afford."

Do you feel there is a price tag on public safety? Let me put it back into context, in which I think it was stated. You stated the fact that you had 40,000 employees in substance, and that it was physically impossible for the Government to afford the type of inspection which would prevent such things from happening.

Mr. HALABY. I don't know how the Russians do it. Maybe their air safety procedures are primitive, maybe they aren't. But we are a free enterprise country and we do rely on first the individual mechanic and engineer and pilot, because he is right there. He knows exactly what the situation is.

We rely secondly on private ownership and only thirdly do we rely on the Federal Government. I feel this is the right way.

Now, where do we get the right balance between governmental restraint and personal freedom? We are striving for it all over this Government. In aviation, we know personal freedom of action a lot better than we know unity of action. I hope in some way I can improve that understanding because it is essential to getting this job done.

Now, I don't believe you would want, and I certainly don't want, to have 100,000 FAA personnel, 80,000 of which are inspecting every mechanic and every engineer and every pilot every minute. There are just not that many big brothers in my scheme of things.

Senator HARTKE. Don't you feel, Mr. Halaby, there are methods by which the supervision and inspection, particularly, can be implemented even with the personnel that you have at the present time?

Mr. HALABY. I would welcome any suggestions about it because I am a little uneasy having the inspection of the maintenance work of a company being self-inspected. I don't feel as though I really know what is going on.

I don't feel as though the Government would be fully apprised and yet it is responsible for inspection, but the alternative is to have more and more inspectors, more and more police men, and I don't think that is a good alternative. So there must be some way between letting people inspect themselves and having big brothers all over the place. We must get this sense of responsibility which first must be in the individual doing the job.

Senator HARTKE. Your predecessor indicated in a recent article in Harpers magazine, and by implication at least, indicted the manufacturers, the operators, the carriers, the pilots, and all these people as being opposed to public safety and exerting pressure against public safety. And by implication, by reading the article, I gather the impression that he was the only man interested in air safety and these other individuals and groups and organizations were opposed to air safety. Certainly you don't share this view, do you?

Mr. HALABY. I certainly do not. I was quoted, too, for the statement, as I recall, there are a lot of pressure groups and I am going to get on a white horse and represent the public against these pressure groups.

That is certainly the last thing I have in mind, because no one is that omnipotent or omniscient in the first place, and in the second place, these groups, and there are special interests, and they interpret public interests, each of them a little differently from the other, but they are interested in the public because the public is the source of their income, the source of their satisfaction, and pride.

But if we can just start getting all these pressures and forces working toward a result rather than toward each other, we are going to get somewhere.

Senator HARTKE. I would hope that we can rely upon these public carriers, and I think we can, that they are as interested in public safety as we are. They don't want their planes to come down. They don't want to have people killed and injured. They don't want to lose their equipment and pilots.

The pilots certainly don't want to die, and I would think that these people, of all people, are probably as interested in public safety and I would hope they are, as is the FAA administration. But in the final analysis, you have to recognize that you are the final authority, isn't that right?

Mr. HALABY. No, I am not the final authority. I work for the President, and the President is part of a Government composed of an executive, legislative, and judicial branches. There are adequate provisions. You know the Constitution better than I do, but there are adequate provisions in this Constitution, so no matter what I do, it is reviewable by the judicial system of the United States. I hope that will always be the case.

Now all I can do is to exercise the authority you have put on me deliberately.

Senator HARTKE. I appreciate that, and I think you have accurately stated that as such, but in this field, this authority you are expecting to represent the public interest in the field of aviation, is at the moment delegated by Congress to the Federal Aviation Administrator, isn't that true?

Mr. HALABY. Yes, sir.

Senator HARTKE. Now you stated that the Electra problem has kept you awake at night. I want to know, this plane you say you tested, was this a modified Electra or was it one of the ones that had not been modified?

Mr. HALABY. It was a modified Electra, modified in accordance with the FAA approved regulations, and has since been delivered to the regular airline fleet.

I wanted you to know, as I think you do, that my predecessor restored this Electra airplane to its design speeds on January 5. I don't have to do anything official to do it. I could just say, that is his problem, but I felt that was not conscientious or responsible, so I dug into it myself. So all I will do, if you confirm me and the President swears me in, is to let that order stand.

Senator HARTKE. Did you look inside the fuel tank of this plane before you flew it?

Mr. HALABY. No, I did not, Senator.

Senator HARTKE. You understand what I am getting at—honestly this is something that absolutely you couldn't expect any pilot to do, could you?

Mr. HALABY. Right.

Senator HARTKE. Have you a right to assume these people are doing their job?

Mr. HALABY. Yes, sir.

Senator HARTKE. Isn't there disciplinary authority sufficient to require, even under the present setup, proper inspection of these planes, even if it is done by the manufacturer himself?

Mr. HALABY. If there is a violation of a flight standard put out by the FAA, by a mechanic, he can be disciplined. He, under the present setup, has a right of appeal from any penalty we might impose on him.

Now, as you know, I didn't know whether there was a vacuum cleaner in that tank except—

Senator HARTKE. Or paper cup or riveting machine.

Mr. HALABY. Except—let me tell you what the pilot does before he takes off. He goes through a very complicated and precise checklist and he does everything but fly it before he takes off. If there is a vacuum cleaner, or a paper cup, or any obstruction in the fuel line, he has a good chance of finding it out, not a complete chance.

If after he gets into the air that tank runs blank or dry because there is one guy down at the bottom of this pile who did, and he gage, he may or may not. So there is designed into the airplane some protection.

Now, Gross, the president of Lockheed, didn't know that vacuum cleaner was in there. The Lockheed general manager didn't, but there is one guy down at the bottom of this pole who did, and he probably just goofed off.

Now I don't care whether you are building an automobile or bottling a bottle of Coca-Cola, people are going to make mistakes. You are going to find a little ground glass here and a monkey wrench there.

Senator HARTKE. I am interested in knowing, are you going to excuse these mistakes?

Mr. HALABY. I hope I don't look like I will. I certainly am not.

Senator HARTKE. In other words, people who fly these planes—Senator Yarborough has this canceled \$100,000 insurance policy. When he climbs on these planes he has a right to assume that the Federal Aviation Administrator, appointed and confirmed by Congress, had done everything in his power to make sure this doesn't happen.

What I would like to have is assurance from you that there would be just a little bit more than casual hope that everybody is going to be responsive to what is good and if necessary, you are willing to

invoke disciplinary action against these firms, individuals, whoever it is. We saw it in the electric field. Some people went to jail. That didn't involve necessarily anything except fixing a price. This involved people's lives, and is a very serious matter.

Mr. HALABY. Senator, I agree with you, and the first thing you can do if you are sitting on top of this pile, is to get a spirit within the organization that is aware of both the rights and the duties of the individuals involved.

The second thing you can set up is policies, and policies don't mean anything unless there are procedures that are designed to carry those policies out, and in the end, there is a fellow out on the flight line who understands, who is motivated, who is prepared to be objective, and he is inspecting a man who has a job to do. He may be an employee, a management man, but he is an individual who was charged with buttoning up that wing or that tank without a foreign object in it.

I can't match man for man every employee in the airline industry and I know you don't want me to.

Senator HARTKE. I am not asking you to, but I am asking you to try to get a commitment from you, which I seem to have difficulty in getting, that you are going to exercise the authority which this Congress has given you to impose such restrictions upon these people who are going to inspect these planes and to make it understandable to these people that they are charged with the public safety.

Mr. HALABY. I would do just that, but don't expect any more of me than can be done because on the one hand someone else will say, this guy wants 20,000 new slots for inspectors and that is not the way to get this job done.

Senator HARTKE. I understand that, Mr. Halaby, and what I am getting at is the point that I would like to see the situation such that you would feel you had the authority to go ahead and prevent these things from happening.

Let's put this in its proper perspective. The statement referred to by Senator Schoeppel. This was the so-called last gap action by your former Administrator, on January 18, January 20 at noon his resignation became effective, in which he submitted this compromise proposal to the Lockheed Corp.

Now you stated a while ago, something about vacuum cleaners, but I am sure one thing that a pilot doesn't go out and check to see is whether sealing compound has gone into the crack in a wing, do you, or to see whether all the bolts are the proper length.

Now this statement was given by him, and this suggested compromise, and I would like to know whether under the circumstances, in case you came to the close of your administration, whether within a day or at most 2 days, or a day and a half, that you would offer a way out for what appears to be a very serious violation of public safety or whether you would have the good conscience to permit your successor to make such a judgment?

Mr. HALABY. I don't want to be too precise and long winded in my answer. I think in general my answer to your last question is yes, I would certainly try to avoid leaving my successor with a controversial item which I had decided very recently, but the fact is that I don't know just what the circumstances of this were and so I don't know all the factors that went into his decision.

I would like to say that I don't feel a responsibility to do things the way my predecessor did nor do I feel a desire to overturn everything he did.

What I am going to do is examine his decisions and rulings and if they are right, in my judgment, I will confirm them. If they are wrong, I will change them.

Now, on this one, I am sorry to say, I just don't have the facts, but God knows I feel a sense of responsibility for the public safety and within the authority and the capability of a 40,000-man agency, I will do everything that I can to assure that the people in the field do their jobs of protecting the public.

Senator HARTKE. In the same answer to Senator Schoepfel, you indicated the Electra was the backbone of a short range fleet. I think that is what you said, and it was in competition with foreign manufacturers of similar equipment. It is also in competition with domestic manufacturers of similar equipment; isn't that true?

Mr. HALABY. Well, I don't know of any competitive design that is being offered and manufactured in the United States. For example, Douglas Aircraft Co. has an arrangement with a French company for the manufacture of the Caravelle if purchasers appear in large enough numbers. They are now offering to sell French-built Caravelles. There has been talk of an all jet competitor with the Electra from several manufacturers.

My point was, there are roughly 200 of them in the fleet. You and I go to Washington Airport and we are offered a seat on one and I am not singling out the Electra as the airplane you ought to fly on. I am just saying the Electra is an airworthy airplane and if you want to fly on it, consider if its convenience, comfort, and economy are competitive.

Senator HARTKE. Yes.

Let me ask you: Do you know of any other aircraft which is flying today which has a known structural defect in it other than the Electra in commercial flights, major structural defect?

Mr. HALABY. The FAA found, and my very, very brief test confirmed that there aren't major structural defects in the Electra.

Senator HARTKE. There are not?

Mr. HALABY. They are not. Those aircraft have been returned to service unrestricted, according to all the data of all the Government agencies, and do not have structural defects in them.

Senator HARTKE. I am talking about the ones which have not been brought back for modification.

Mr. HALABY. They are being operated on a restricted basis and there is no indication that the FAA has found that when operated on that restricted basis they are unairworthy.

Senator HARTKE. I didn't ask that. I asked whether or not these planes, the ones which are not modified, certainly they have the structural defect which is considered sufficient to require this overhauling program, have they not?

Mr. HALABY. Right.

Senator HARTKE. I have asked you whether or not there is any other plane in commercial aviation use which has a major structural defect which is flying and carrying passengers in the United States?

Mr. HALABY. To my knowledge there are none, and if one were discovered through some unusual set of circumstances we would then take action to be sure it was restricted in its operation until a fix had been provided that would permit it to resume its normal operation.

Senator HARTKE. I was rather surprised. I didn't want to go into that. I thought it was pretty generally understood this was the only plane which had a structural defect which has been continued in operation.

Now, you made the statement then that it is in foreign competition?

Mr. HALABY. Wait a minute, Senator. I don't know why we want to bring into question one airplane out of our fleet that has been fixed. I don't know what the purpose of it is.

Senator HARTKE. Wait a minute, Mr. Halaby.

Have all the Electras been fixed that are flying today; is that true?

Mr. HALABY. The Electras that are flying at their designed speeds have been fixed.

Senator HARTKE. I didn't ask that. I am talking about the Electras that are flying today. Are all of them repaired and modified?

Mr. HALABY. I can't be sure. Most of them have been repaired and modified.

Senator HARTKE. But they did fly—

Mr. HALABY. There are still a few with a placard in front of the cockpit saying you shall not exceed these speeds.

Senator HARTKE. That is exactly right. I don't think there is any disagreement to what the facts are here. I certainly would hope not.

What I started into, and didn't get into that, I was wondering whether you are going to give greater sympathy to domestic manufactured planes in the field of public safety than you are to a foreign manufactured plane?

Mr. HALABY. Of course not. Not in the field of public safety.

Senator HARTKE. Then what difference does it make, as far as you are concerned to say that this is the backbone of a short range air fleet which is in competition with foreign manufacturers?

Mr. HALABY. I didn't say that. I said this was the backbone of the American medium range fleet and on this airplane the passenger who wants to buy a ticket depends. The pilots depend on its continued operation. The engineers depend on its continued operation. The mechanics who serve it, the ground crews that are clustered around it; and this is an important piece of the American aviation system.

I told you that I investigated it personally. I find it a healthy piece of equipment.

Senator HARTKE. Let me ask you: Let's take this personal investigation; didn't it require rather exhaustive tests to find structural defects?

Mr. HALABY. Yes; it did.

Senator HARTKE. Do you feel you went through the same testing procedures that these test pilots did at Lockheed?

Mr. HALABY. No; I did not.

Senator HARTKE. In other words, you gave the same—

Mr. HALABY. No; I did not.

Senator HARTKE. Don't you feel in this thing you have more or less prejudged the qualities of this plane upon one pretest of your own?

Mr. HALABY. If I had prejudged, I would not have gone near it. I would have let things stand the way my predecessor found it.

Senator HARTKE. What I am getting at, do you intend to substitute the judgment of the FAA Administrator as a test pilot for all of the tests that all these other people in the airlines have, from the manufacturer?

Mr. HALABY. No; I do not, Senator.

Senator HARTKE. Don't you think this establishes a rather difficult precedent, that if there is any other plane called in to question that the question shall be then directed to the Administrator to go out and test fly this thing himself and make a statement following that as to whether it is safe or not?

Mr. HALABY. It is a precedent I am prepared to follow whenever appropriate to the circumstances.

Senator HARTKE. Would you substitute your judgment then for that of the people who are in this field to test these planes?

Mr. HALABY. Senator, I am not substituting my judgment. I am simply making a personal check on a judgment made by thousands of other people in and out of the Government and in view of the public importance, interest in this, I felt it was called for.

For example, suppose the mayor of a city had an emergency; there was a fire in a school in the city and that there were other schools in that area that might be subject to the same kind of fire. Would it be wrong for the mayor to go and look at the other schools and maybe try out one of the fire hoses, or the fire doors to be sure every precaution had been taken?

Senator HARTKE. I think it would be all right to try the fire hose or something else, but don't you think he would want to say that the ultimate question would be left up to those people who are charged with the responsibility of doing the testing?

Mr. HALABY. Well, Mayor LaGuardia went out to a lot of fires. I am not going out and fly every airplane, but I am going to personally investigate and assure myself wherever it is appropriate.

Senator HARTKE. All right.

That is all the questions I have, Mr. Chairman.

The CHAIRMAN. Any further questions?

Senator MONRONEY. I have one further question.

The CHAIRMAN. We have just one question. The Senator from Oklahoma.

Senator MONRONEY. Many of these questions on safety will be further explored obviously in the study that we plan for a 2-week period on aviation safety.

Title 3, section 302, paragraph G, of the Federal Aviation Act, when it was written, reads as follows:

#### STUDY OF SPECIAL PERSONNEL PROBLEMS

The Administrator shall make a study, in consultation with other affected Government agencies, of personnel problems inherent in the functions of the Agency, giving due consideration to the need for (1) special qualifications and training, (2) special provisions as to pay, retirement, and hours of service, and (3) special provisions to assure availability, responsiveness, and security status of essential personnel in filling national defense requirements, and shall report the results thereof, and make recommendations for legislation thereon, to Congress on or before January 1, 1960.

This was a very important part of the act, unfortunately because of some unsettled problems with the military as to the joint use of civilian controllers in military towers, the problems were so great, that the old administration could not meet this deadline.

More than a very substantial percentage of your 40,000 personnel are air traffic controllers. These men are dedicated, they are the backbone of the daily service to millions of aircraft passengers and to the pilots that fly.

There is considerable concern of the committee members that are familiar with working conditions with the morale, with the long hours without breaks, and other personnel problems that have grown up through the years and the traffic load has increased and margin of tolerance to space and speed have diminished, that it is very urgent that at the earliest possible time, consistent with good judgment, that the Congress receive these recommendations from the agency so that we can forthwith hold hearings and during this session pass legislation that would correct what we think is a growing erosion on the esprit de corps and a diminishing of the available men of the character and type that you would like to take and continue, a high degree of service that has existed in the past in air traffic control towers.

My question is: Will you consider this one of the urgent matters along with many of the other urgent matters that are before you so that we can expect legislation to help set up a new and improved personnel system as to these air traffic controllers?

Mr. HALABY. Yes, sir.

Senator MONRONEY. Thank you very much.

One further question: Are you in favor of air cargo?

Mr. HALABY. Well, the most precious air cargo is me, you and me and other human beings.

I very much think that the combined civil-military development of a modern air cargo fleet is a way in which I can carry out the responsibility you all have laid on me for the development of civil aeronautics. All I can say is that there seems to be a good start on the military procurement of an air cargo aircraft that promises the greatest returns for the civil use that any aircraft developed in this way has ever promised. I will do everything I can to further it.

I also favor some attention on the VTOL-STOL, the very high lift short-range aircraft and on the supersonic transport as a long-range development.

Senator MONRONEY. You will take seriously the admonition you are to be in the forefront and motion of the "new frontier" of aviation?

Mr. HALABY. Yes, sir.

Senator MONRONEY. That is all.

The CHAIRMAN. If there are no further questions, thank you, Mr. Halaby.

At this time the committee will meet in executive session.

(Whereupon, at 12:55 p.m., the committee was adjourned.)

