Y 4
.C 73/2
Ai 7/10
Senate- Commerce
Ai 7/10
C73/2
87th

SUPPLEMENTAL AIR CARRIERS

GOVERNMENT
Storage

HEARINGS

BEFORE THE

AVIATION SUBCOMMITTEE

OF THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 1969

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

JUNE 26, 29, AND 30, 1961

Printed for the use of the Committee on Commerce

KSU LIBRARIES
A11900 965444



U.S. GOVERNMENT PRINTING OFFICE
72185 WASHINGTON : 1961

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

COMMITTEE ON COMMERCE

WARREN G. MAGNUSON, Washington, *Chairman*

JOHN O. PASTORE, Rhode Island
A. S. MIKE MONRONEY, Oklahoma
GEORGE A. SMATHERS, Florida
STROM THURMOND, South Carolina
FRANK J. LAUSCHE, Ohio
RALPH YARBOROUGH, Texas
CLAIR ENGLE, California
E. L. BARTLETT, Alaska
VANCE HARTKE, Indiana
GALE W. McGEE, Wyoming

ANDREW F. SCHOEPPEL, Kansas
JOHN MARSHALL BUTLER, Maryland
NORRIS COTTON, New Hampshire
CLIFFORD P. CASE, New Jersey
THRUSTON B. MORTON, Kentucky
HUGH SCOTT, Pennsylvania

EDWARD JARRETT, *Chief Clerk*
JEREMIAH J. KENNEY, Jr., *Assistant Chief Clerk*
HAROLD I. BAYNTON, *Chief Counsel*
JOHN M. McELROY, *Assistant Chief Counsel*
WILLIAM T. BEEKS, Jr., *Staff Counsel*

SUBCOMMITTEE ON AVIATION

A. S. MIKE MONRONEY, Oklahoma, *Chairman*

GEORGE A. SMATHERS, Florida
STROM THURMOND, South Carolina
CLAIR ENGLE, California
E. L. BARTLETT, Alaska

NORRIS COTTON, New Hampshire
ANDREW F. SCHOEPPEL, Kansas
THRUSTON B. MORTON, Kentucky

CONTENTS

Statement of— Page

Anton, James, Quaker City Airways and Mantz Air Services, Lockheed Air Terminal, Burbank, Calif 153, 185

Blatz, F. Alfred, president, Blatz Airlines, Inc., Lockheed Air Terminal, Burbank, Calif 164

Boyd, Hon. Alan S., Chairman, Civil Aeronautics Board, Washington, D.C., accompanied by John H. Wanner, General Counsel, and Ross I. Newmann, Associate Counsel 4

Burwell, Clayton L., president, Independent Airlines Association, and Supplemental Air Carrier Conference, 1411 K Street NW., Washington, D.C., accompanied by Dewitt T. Yates, counsel 54, 131

Cannon, Hon. Howard W., a U.S. Senator from Nevada, Senate Office Building, Washington, D.C 119

Commerce, Robert E., president, Air Line Dispatchers Association, 4620 Lee Highway, Arlington 7, Va 186

Cox, Ralph, Jr., president, United States Overseas Airlines, Inc., Cape May County Airport, Box 234, Wildwood, N.J 138

Fraley, Robert E., attorney, Quaker City Airways, Inc., and Paul Mantz Air Services, Inc., care of Keating & Older, 3325 Wilshire Boulevard, Los Angeles, Calif 123, 133

McDonald, Angus, assistant director, National Farmers Union, 1404 New York Avenue NW., Washington 181

Patterson, George, president, President Airlines, Inc., 13273 Ventura Boulevard, North Hollywood, Calif 147

Pigman, Reed, president, American Flyers Airline Corp., Meacham Field, Fort Worth, Tex 158

Sparkman, Hon. John, a U.S. Senator from Alabama, Senate Office Building, Washington, D.C 121

Stallings, Jesse, president, Capitol Airways, Berry Field, Nashville, Tenn 135

Tipton, Stuart G., president, Air Transport Association of America, 1000 Connecticut Avenue NW., Washington, D.C., accompanied by Clif Stratton, Jr 193

Statement submitted by—

Goodman, Robert C., Saturn Airways, Inc., Box 48-182, Airport Branch, Miami, Fla 279

Letters submitted by—

Gurney, Hon. Chan, member, Civil Aeronautics Board, Washington, D.C 24

Miles, Clarence R., manager, Legislative Department, Chamber of Commerce of the United States, 1615 H Street NW., Washington, D.C 279

Reports from Government agencies:

Civil Aeronautics Board, dated June 5, 1961 280

Department of Commerce, dated June 29, 1961 282

Federal Aviation Agency, dated July 11, 1960 283

General Accounting Office, dated June 9, 1961 283

SUPPLEMENTAL AIR CARRIERS

MONDAY, JUNE 26, 1961

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON AVIATION,
Washington, D.C.

The committee met, pursuant to notice, at 10:18 a.m., in room 5110, New Senate Office Building, Hon. A. S. Mike Monroney (chairman of the subcommittee) presiding.

Senator MONRONEY. The Subcommittee on Aviation will be in session.

The Aviation Subcommittee of the Senate Committee on Commerce will commence hearings this morning on S. 1969, a bill to amend the Federal Aviation Act of 1958, as amended, top provide for a class of supplemental air carriers, and for other purposes.

The bill was introduced by Senator Warren G. Magnuson, chairman of the committee, at the request of the Civil Aeronautics Board. On April 7, 1960, the U.S. Court of Appeals for the District of Columbia, in *United States Lines, et al.* v *Civil Aeronautics Board*, decided that the Board did not have authority to grant limited certificates of public convenience and necessity to supplemental air carriers. As a result of this decision, Congress enacted Public Law 86–661, approved July 14, 1960, as a stopgap measure to give the Civil Aeronautics Board authority for 20 months to permit supplemental air carrier operations.

S. 1969 would:

1. I make clear that a carrier may request, and be authorized to perform, limited services supplemental to those furnished by the regular air carriers, and authorize the Board to issue certificates of public convenience and necessity for supplemental service containing limitations on the type and extent of service authorized:

2. Authorize the Board to grant blanket authorization to carriers without having to designate specific points;

3. Reduce the present stringent requirement of fitness so that only general findings of fitness need be made for supplemental service; and

4. Grant statutory operating rights to existing holders of supplemental air carrier certificates in the nature of a "grandfather" right.

(The bill follows:)

[S. 1969, 87th Cong., 1st sess.]

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101 of the Federal Aviation Act of August 23, 1958, as amended, is amended by redesignating paragraphs

Staff Counsel assigned to this hearing: William T. Beeks, Jr.

(32) and (33) as (34) and (35), respectively, and inserting therein two new paragraphs to read as follows:

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

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

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

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

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

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

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

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

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

SEC. 3. Subsection (e) of section 401 of the Federal Aviation Act is amended by adding the following text: "A certificate issued under this section to engage in supplemental air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and may designate only the geographical area or areas within which service may be rendered. Noth-

ing in this subsection shall prevent the Board in specifying the service to be rendered under a certificate for supplemental air transportation from placing such limitations on such certificate as it may find to be necessary to assure that the services are limited to supplemental air transportation: *Provided,* That the Board may not impose such limitations upon certificates issued pursuant to paragraphs (1) and (2) of subsection (d)."

SEC. 4. (a) Any air carrier entitled to certification under section 401(d)(3)(ii) of the Federal Aviation Act, as amended herein, may perform operations under its existing authority for thirty days from the date of enactment of this Act, and if it has filed application pursuant to said section 401(d)(3)(ii) within said thirty days, until the Board has acted upon such application. Any air carrier whose application for certification as a supplemental air carrier is pending before the Board and which (A) has operated in interstate air transportation as a supplemental air carrier pursuant to authority granted under Board order E–9744 of November 15, 1955, and (B) had an application for a certificate as a supplemental air carrier pending before the Board on July 14, 1960, may continue to operate in interstate air transportation under its existing authority until the effective date of an order of the Board disposing of such application. Any carrier whose operating authority in interstate air transportation under Board order E–9744 is continuing soley by virtue of a judicial stay of a Board order, insofar as such order would otherwise terminate such operating authority, is hereby authorized to continue to operate, subject to all conditions and limitations contained in order E–9744 or imposed by the court, until the court shall lift such stay or until the final disposition of judicial review proceeding, whichever shall first occur.

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

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

Senator MONRONEY. We are pleased to have as our first witness the Honorable Alan S. Boyd, Chairman of the Civil Aeronautics Board.

Mr. Boyd, we are happy to have you. You may proceed in your own way, sir.

STATEMENT OF HON. ALAN S. BOYD, CHAIRMAN, CIVIL AERONAUTICS BOARD; ACCOMPANIED BY JOHN H. WANNER, GENERAL COUNSEL, AND ROSS I. NEWMANN, ASSOCIATE GENERAL COUNSEL

Mr. BOYD. Mr. Chairman and members of the committee, the Board appreciates this opportunity to appear in support of S. 1969, which would authorize the Civil Aeronautics Board to issue certificates of public convenience and necessity containing limitations on the type and extent of service authorized.

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

In September 1951, the Board instituted the large irregular air carrier investigation to determine (1) the future role of the large irregular carriers and the extent of operations which would be permitted; (2) the selection of carriers to receive authority; and (3) whether authorization should be by certificate or exemption.

After extended hearings the Board, in 1954, with some 30 applicants still remaining to be heard, decided to expedite the proceeding by splitting it in two parts—(1) the public interest issues—the role to be assigned to the irregular carriers and the scope of authority to be granted; and (2) the consideration of individual qualifications.

Thereafter, on November 15, 1955, in order E–9744, the Board issued its decision on the public interest aspects of the case. The Board found that the irregulars—thereafter to be called supplemental air carriers—comprise a "separate class of carriers" performing varied ando flexible services and are available to operate whenever and wherever a demand exists.

It further found that its action in authorizing a continuation of these unique services would not adversely affect the certificated route carriers. The Board determined that unlimited charter authority should be granted, together with authority to perform individually ticketed or waybilled service not to exceed 10 flights per month in each direction between any two points. The 10-flight limitation was derived from an average of the 8 to 12 flights permitted under the prior regulations.

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

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

On January 28, 1959, the Board issued its decision in docket 5132 granting temporary certificates of public convenience and necessity

for supplemental air service to a number of carriers found by the Board to be fit to receive them (order E–13436).

On July 8, 1959, the Board issued several other certificates (order E–14196) for a total of 25 such certificates. Under these certificates, supplemental air carriers were authorized to render unlimited plane-load charter service and conduct, without reference to any specific terminal or intermediate points, not more than 10 flights carrying individually ticketed passengers or individually waybilled property in the same direction between any single pair of points in any calendar month. This authorization was limited to interstate air transportation.

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

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

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

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

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

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

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

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

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

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

> The issue of the need for and the proper scope of supplemental air transportation, as we have noted, was the subject of painstaking and protracted investigation and study by the Board over a period of many years. The Board's interim decision in 1955 resolved that issue (order No. E–9744, November 15, 1955) on a finding that the public interest requires the establishment of a class of carriers authorized to perform supplemental air transportation of a kind and character which does not amount to a conventional, frequent, route-type service as provided by the major airlines.
>
> During committee hearings, the criticism leveled at the present measure, as submitted by the Board, was not directed to the issue of need for such transportation but rather to its scope with the suggestion that the supplementals be authorized to operate on a charter basis only. There is no demonstrated justification which would warrant our rejection of the considered conclusion of the Board which certainly cannot be said to be the product of hasty judgment.
>
> Your committee is satisfied that supplemental air carriers constitute a significant and valuable part of the Nation's air transportation system. They have not requested or received any governmental subsidy and under existing law or the amendment here proposed, these carriers are not eligible for such assistance.
>
> They have pioneered in the development of aircoach travel, have stimulated the growth of airfreight or all-cargo carriage, widened the range of commercial air-charter business and aided our military departments in transporting personnel and supplies. In the Berlin airlift in 1948 and the Korean airlift in 1950, these carriers supplied a substantial part of vital airlift capacity. Together with our regular-route carriers, they constitute an invaluable asset for emergency defense requirements.
>
> In view of the legal dilemma confronting the Board, your committee concurs in the view expressed by the Chairman of the Board, Mr. Gillilland, that this legislation is essential to sustain the supplemental air carrier industry in its present role in our Nation's air transportation system.

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

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

S. 1969 was introduced by Chairman Magnuson on May 25, 1961, at the Board's request. Section 1 of the bill defines "supplemental air carrier" and "supplemental air transportation."

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

Section 2 would also permit the Board to issue "grandfather" certificates to those carriers now holding unrevoked supplemental air carrier certificates or interim operating authority under Public Law 86–661, who have furnished service thereunder or have performed operations for the military. Such operations must have been performed between the time the certificate or operating authority became effective and the date of enactment of S. 1969. Certificates for supplemental service issued pursuant to this "grandfather" provision must contain the same terms, conditions, and limitations as set forth in the certificates or operating authority previously issued.

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

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

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

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

Section 4(a) also continues the operating authority of four carriers whose applications for certificates were denied by the Board in its order of January 28, 1959 (order E–13436), and whose authority under order E–9744 terminated with such denial. These carriers have filed appeals with the courts, and are now operating pursuant to a judicial stay of the Board's order. Their petitions for certiorari were denied by the U.S. Supreme Court on June 19, 1961, but the mandate has not yet issued. Section 4(a) continues the operations of these carriers until the stay is lifted by the Court or until the case is disposed of by the Court.

Section 4(b) preserves all existing enforcement procedures as well as the Board's right to institute such proceedings with respect to violations which may have occurred prior to the enactment of S. 1969. It also authorizes the Board to impose sanctions for prior violations upon either the "grandfather" certificates or upon any supplemental certificates issued under this bill.

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

The Board's order of January 28, 1959, E–13436, issued temporary certificates of public convenience and necessity for supplemental air

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

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

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

The domestic traffic of the supplemental carriers increased from 312 million passenger-miles in fiscal 1959 to 346 million in 1960. This traffic was 40 percent civilian and 60 percent military. The international traffic of the supplementals increased from 696 million passenger-miles in 1959 to 1.4 billion in 1960, 18 percent of which was civilian and 82 percent military. This includes all traffic, that is, individually ticketed, charter, and contract.

The supplemental carriers increased their total transport operating revenues from $51 million in 1959 to $59 million in 1960. Contract and charter services, both military and civilian, accounted for $40 million in 1959 and $48 million in 1960.

Revenue from individually ticketed services, both passenger and freight, was $11 million in 1960, the same as in 1959. The supplemental industry as a whole—which showed a net loss in 1959 after taxes of $8 million—showed a loss of only $5 million in 1960.

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

In conclusion, Mr. Chairman, the Board wishes to reiterate the importance of enacting appropriate legislation to resolve the problems confronting the supplemental air carrier industry. We recommend, therefore, the enactment of S. 1969.

There is attached to this statement for the information of the committee a detailed statement covering the operations of the supplemental carriers for the calendar years 1956 through 1960.

The Bureau of the Budget has advised that it has no objection to the Board's testimony from the standpoint of the administration's program. Member Chan Gurney has prepared a separate statement which is attached. Other Board members are in accord with the sentiments expressed in this statement.

(The attachments to the prepared testimony follow:)

EXHIBIT A

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132

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

TOTAL FOR 23 CARRIERS [1]

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	$2,722	$524	$2,707	$17,074	$23,027	306,528
1957	5,074	531	3,559	21,000	30,164	447,025
1958	7,661	1,335	9,287	26,703	44,986	820,557
1959	12,234	925	13,381	26,055	52,595	1,264,972
1960	8,237	405	10,660	44,988	64,290	1,793,143
Total, 5 years	35,928	3,720	39,594	135,820	215,062	4,632,225
Percent of total for carrier:						
1956	12	2	12	74	100	
1957	17	2	12	69	100	
1958	17	3	21	59	100	
1959	23	2	25	50	100	
1960	13	1	16	70	100	
Weighted average, 5 years	17	2	18	63	100	
AMERICAN FLYERS AIRLINE CORP.						
Amount:						
1956	$12		$112	$231	$355	5,653
1957	18		86	242	346	5,958
1958	14		41	241	296	5,409
1959	11		151	131	293	3,999
1960	134	$14	182	1,065	1,395	27,798
Total, 5 years	189	14	572	1,910	2,685	48,817
Percent of total for carrier:						
1956	3		32	65	100	
1957	5		25	70	100	
1958	5		14	81	100	
1959	4		51	45	100	
1960	10	1	13	76	100	
Weighted average, 5 years	7	1	21	71	100	
ASSOCIATED AIR TRANSPORT, INC.						
Amount:						
1956			$44		$44	
1957			23	$319	342	7,320
1958			182	502	684	11,931
1959	$36		289	812	1,137	23,465
1960	45		466	645	1,156	22,748
Total, 5 years	81		1,004	2,278	3,363	65,464
Percent of total for carrier:						
1956			100		100	
1957			7	93	100	
1958			27	73	100	
1959	3		25	72	100	
1960	4		40	56	100	
Weighted average, 5 years.	2		30	68	100	

See footnotes at end of table, p. 17.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

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

BLATZ AIRLINES, INC.

[In thousands]

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

CAPITOL AIRWAYS, INC.

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

COASTAL AIR LINES [5]

Amount:						
1956		$5		$156	$161	
1957		[6]			[6]	1
1958				690	690	23,839
1959	$15	37	$65	253	370	8,512
1960			7		7	
Total, 5 years	15	42	72	1,099	1,228	32,352
Percent of total for carrier:						
1956		3		97	100	
1957						
1958				100	100	
1959	4	10	18	68	100	
1960			100		100	
Weighted average, 5 years	1	3	6	90	100	

See footnotes at end of table, p. 17.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

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

CONNER AIR LINES, INC.

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956			$1		$1	
1957	$126				126	3,601
1958	1	(6)			1	1
1959			3		3	23
1960						
Total, 5 years	127	(6)	4		131	3,625
Percent of total for carrier:						
1956			100		100	
1957	100				100	
1958	100				100	
1959			100		100	
1960						
Weighted average, 5 years	97		3		100	

IMPERIAL AIRLINES, INC.[7]

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

JOHNSON FLYING SERVICE, INC.

Amount:						
1956		$6	$319		$325	853
1957			257		257	1,136
1958			380		380	1,189
1959			397		397	1,389
1960			658		658	1,086
Total, 5 years		6	2,011		2,017	5,653
Percent of total for carrier:						
1956		2	98		100	
1957			100		100	
1958			100		100	
1959			100		100	
1960			100		100	
Weighted average, 5 years		(4)	100		100	

See footnotes at end of table, p. 17.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

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

PAUL MANTZ AIR SERVICES

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956		([6])	$62		$62	810
1957		$1	17		18	399
1958			1		1	
1959						
1960		2			2	
Total, 5 years		3	80		83	1,209
Percent of total for carrier:						
1956			100		100	
1957		6	94		100	
1958			100		100	
1959						
1960		100			100	
Weighted average, 5 years		4	96		100	

MODERN AIR TRANSPORT, INC.

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

OVERSEAS NATIONAL AIRWAYS

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

See footnotes at end of table, p. 17.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

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

PRESIDENT AIRLINES, INC.[8]

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956						
1957						
1958						
1959						
1960	$63			$182	$245	4,809
Total, 5 years	63			182	245	4,809
Percent of total for carrier:						
1956						
1957						
1958						
1959						
1960	26			74	100	
Weighted average, 5 years	26			74	100	

QUAKER CITY AIRWAYS, INC.

Amount:						
1956	$1		[6]	$18	$19	374
1957	5		$11	6	22	572
1958	12	$3	8	120	143	3,258
1959						
1960		11	15		26	
Total, 5 years	18	14	34	144	210	4,204
Percent of total for carriers:						
1956	5			95	100	
1957	23		50	27	100	
1958	8	2	6	84	100	
1959						
1960		42	58		100	
Weighted average, 5 years	9	7	16	68	100	

VANCE ROBERTS

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

See footnotes at end of table, p. 17.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

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

SATURN AIRWAYS, INC.[9]

[In thousands]

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

SOURDOUGH AIR TRANSPORT

Amount:						
1956						
1957						
1958						
1959			$7		$7	177
1960			44		44	545
Total, 5 years			51		51	722
Percent of total for carrier:						
1956						
1957						
1958						
1959			100		100	
1960			100		100	
Weighted average, 5 years			100		100	

SOUTHERN AIR TRANSPORT, INC.

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

See footnotes at end of table, p. 17.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

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

STANDARD AIRWAYS, INC.

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	$8	([6])			$8	194
1957			([6])		([6])	9
1958			$9	$4	13	279
1959						
1960	256				256	6,263
Total, 5 years	264		9	4	277	6,745
Percent of total for carrier:						
1956	100				100	
1957						
1958			69	31	100	
1959						
1960	100				100	
Weighted average, 5 years	95		3	2	100	

STEWART AIR SERVICE

Amount:						
1956	$65		$212		$277	4,364
1957	39		362		401	3,167
1958	35		368		403	5,178
1959	46		393		439	8,542
1960			490		490	10,706
Total, 5 years	185		1,825		2,010	31,957
Percent of total for carrier:						
1956	23		77		100	
1957	10		90		100	
1958	9		91		100	
1959	10		90		100	
1960			100		100	
Weighted average, 5 years	9		91		100	

TRANS INTERNATIONAL AIRLINES, INC.[10]

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

See footnotes at end of table, p. 17.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

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

TRANSOCEAN AIRLINES

[In thousands]

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

U.S. OVERSEAS AIRLINES, INC.

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

See footnotes at end of table, p. 17.

SUPPLEMENTAL AIR CARRIERS CERTIFICATED IN DOCKET 5132—Continued

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

WORLD AIRWAYS, INC.

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	----------	----------	$83	$499	$582	10,057
1957	----------	----------	----------	2,227	2,227	29,119
1958	----------	----------	6	2,412	2,418	25,757
1959	$7	----------	1	569	577	8,951
1960	4	----------	1,391	2,768	4,163	61,649
Total, 5 years	11	----------	1,481	8,475	9,967	135,533
Percent of total for carrier:						
1956	----------	----------	14	86	100	----------
1957	----------	----------	----------	100	100	----------
1958	----------	----------	(4)	100	100	----------
1959	1	----------	(4)	99	100	----------
1960	(4)	----------	33	67	100	----------
Weighted average, 5 years	(4)	----------	15	85	100	----------

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

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

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

[4] Less than 0.5 percent.

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

[6] Less than $500.

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

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

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

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

Source: CAB form 242 reports.

EXHIBIT B

SUPPLEMENTAL AIR CARRIERS AUTHORIZED PURSUANT TO ORDER E–9744

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

TOTAL FOR 5 CARRIERS [1]

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956	$1	$1	$555	$440	$997	1,666
1957	63	----	271	169	503	8,280
1958	153	----	294	1,707	2,154	35,409
1959	89	(4)	283	1,758	2,130	47,639
1960	550	----	904	1,711	3,165	50,922
Total, 5 years	856	1	2,307	5,785	8,949	143,916
Percent of total for carrier:						
1956	(5)	(5)	56	44	100	----
1957	12	----	54	34	100	----
1958	7	----	14	79	100	----
1959	4	----	13	83	100	----
1960	17	----	29	54	100	----
Weighted average, 5 years	9	(5)	26	65	100	----
AIR CARGO EXPRESS, INC.						
Amount:						
1956	$1	$1	----	$436	$438	1,358
1957	----	----	----	----	----	----
1958	34	----	$2	370	406	9,853
1959	20	----	----	208	228	6,571
1960	----	----	----	----	----	----
Total, 5 years	55	1	2	1,014	1,072	17,782
Percent of total for carrier:						
1956	(5)	(5)	----	100	100	----
1957	----	----	----	----	----	----
1958	8	----	1	91	100	----
1959	9	----	----	91	100	----
1960	----	----	----	----	----	----
Weighted average, 5 years	5	(5)	(5)	95	100	----
AIRLINE TRANSPORT CARRIERS, INC., DOING BUSINESS AS CALIFORNIA HAWAIIAN AIRLINES						
Amount:						
1956	(4)	----	$5	----	$5	172
1957	$26	----	41	$41	108	2,941
1958	48	----	109	1,176	1,333	16,948
1959	43	(4)	61	959	1,063	22,857
1960	220	----	377	822	1,419	33,579
Total, 5 years	337	(4)	593	2,998	3,928	76,497
Percent of total for carrier:						
1956	----	----	100	----	100	----
1957	24	----	38	38	100	----
1958	4	----	8	88	100	----
1959	4	----	6	90	100	----
1960	15	----	27	58	100	----
Weighted average, 5 years	9	----	15	76	100	----

See footnotes at end of table, p. 19.

SUPPLEMENTAL AIR CARRIERS AUTHORIZED PURSUANT TO ORDER E–9744—Con.

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

ARGONAUT AIRWAYS CORP.

[In thousands]

	Transport revenues [2]					Total revenue passenger-miles [3]
	Individually ticketed passenger	Individually waybilled freight	Charter		Total [2]	
			Civilian	Military		
Amount:						
1956			$550	$4	$554	
1957			223		223	
1958			111		111	
1959			28		28	
1960			78		78	
Total, 5 years			990	4	994	
Percent of total for carrier:						
1956			99	1	100	
1957			100		100	
1958			100		100	
1959			100		100	
1960			100		100	
Weighted average, 5 years			100		100	

MIAMI AIRLINE, INC.

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

WORLD WIDE AIRLINES, INC.

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

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

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS [1]

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

[In thousands]

TOTAL FOR 28 CARRIERS [1]

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

[1] Total for 28 carriers as follows:

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

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

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

Source: CAB form 242 reports.

EXHIBIT C

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

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

[In thousands]

TOTAL FOR 3 CARRIERS [2]

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

ARCTIC-PACIFIC, INC. [5]

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

See footnotes at end of table, p. 22.

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

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

AVIATION CORP. OF SEATTLE, DOING BUSINESS AS WESTAIR TRANSPORT [8]

[In thousands]

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

GENERAL AIRWAYS, INC.[10]

Amount:						
1956	$35	$2	$268	$958	$1,263	28,685
1957	39	25	690	383	1,137	30,691
1958	72		1,110	440	1,622	38,368
1959 [6]	9		25	125	159	4,821
1960 [6]						
Total, 5 years	155	27	2,093	1,906	4,181	102,565
Percent of total for carrier:						
1956	3		21	76	100	
1957	3	[7] 2	61	34	100	
1958	5		68	27	100	
1959	6		16	78	100	
1960						
Weighted average, 5 years	4	1	50	45	100	

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

Source: CAB form 242 reports.

SUPPLEMENTAL AIR CARRIERS [1]

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

TOTAL FOR 31 CARRIERS [1]

[In thousands]

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

[1] Total for 31 carriers as follows:
Carriers certificated in docket 5132 (exhibit A) ---- 22
Carrier (Vance Roberts) that received interim operating authority under Public Law 86-661 (exhibit A) ---- 1
Carriers authorized pursuant to order E-9744 (exhibit B) ---- 5
Carriers with special circumstances relating to their certificates (exhibit C) ---- 3

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

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

Source: CAB form 242 reports.

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

For the interest of the committee we have a letter to the Aviation Subcommittee. We should have the letter read by the counsel of the committee so that we will have the full Board's view before this committee as we start the hearings.

Mr. BEEKS. The letter is dated June 26, 1961, and is addressed to the Honorable A. S. Mike Monroney, chairman, Aviation Subcommittee, Committee on Commerce, U.S. Senate, Washington, D.C.

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

As you and the members of your committee know, the need for this additional legislation has resulted from a reversal by the U.S. Court of Appeals for the District of Columbia Circuit (*United Air Lines, et al.* v. *C.A.B.*, 278 F. 2d 446) remanding the decision of a majority of the Board in the *Large Irregular Carrier Investigation*, docket No. 5132. Further court proceedings on this matter have been stayed pending the enactment of further legislation or the expiration of Public Law 86–661 enacted by the Congress last year to preserve the status quo for 20 months from July 14, 1960. In the *Large Irregular Carrier* case, the Board awarded certificates of public convenience and necessity to 23 former large irregular carriers to engage in interstate air transportation limited to 10 round trip flights per month between any two points carrying individual ticketed passengers or cargo but unlimited as to charter flights. Further proceedings were ordered with respect to eight additional carriers. The 10-trip authority, for example, permits a carrier to operate 10 round trips monthly between New York and Los Angeles in addition to 10 round trips per month between any other two points in the United States. The authority to operate between any two cities in the United States simultaneously is limited only by the availability of equipment by each carrier. With this authority, the supplemental carriers could concentrate their operations in the heavy traffic markets on which the trunkline carriers depend for their financial success. Additional competition in route-type operations by a substantial number of supplemental carriers is certainly not required or necessary. The financial condition of the trunkline industry today as evidenced by the losses experienced by several of the carriers during the past year and the first quarter of 1961 shows that it cannot stand additional competition.

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

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

of its income from individual ticket operations, showed a net loss on all operations of $577,000 in 1960 and $1,350,000 in 1959.

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

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

One additional point requires elaboration. The bill (S. 1969) under consideration proposes an amendment of section 401 of the Federal Aviation Act to authorize the Board to issue supplemental certificates for interstate, oversea and foreign air transportation. It is urged that the amendment be limited to interstate operations only. Currently, the international routes to and from the United States are served by several U.S.-flag carriers who are competing with approximately 67 foreign air carriers. As a result of this competition, the market for the U.S.-flag carriers has decreased substantially each year for several years. In 1950 our flag carriers carried 74.7 percent of the market, but in 1960 carried only 54.7 percent of the total passenger traffic. Although the traffic in numbers of passengers has increased considerably during this period, unlimited competition by the supplemental carriers could very well cause the frequency and quality of our flag services to deteriorate. This in turn would seriously affect their financial condition.

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

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

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

Respectfully submitted.

CHAN GURNEY.

Senator MONRONEY. Thank you very much, Mr. Chairman, the industry generally has admitted that charter flights are not only necessary but are not destructive to the regular certificated air carriers. Isn't this the thing that the Board has found through the years?

Mr. BOYD. That is my understanding.

Senator MONRONEY. And they have set up certain systems, some of which have been complained about, for the determining of what class of traffic and how long a person must be affiliated with an organization

or things of that kind in order to be eligible for transportation on the charter flights?

Mr. BOYD. Yes, sir. That is true in international.

Senator MONRONEY. If I understand correctly, in the hearings we had last year there was very little opposition to the charter flights by the supplemental carriers in that the regular scheduled carriers did not choose to engage very heavily in this particular field, although they still wished to have the right to do it, but that their business being more or less the supplying of service on regular certificated routes, made this a rather negative item in their business.

Mr. BOYD. That is right, sir.

Senator MONRONEY. This bill before us, while it extends permit certification, includes the complete right of charter service without limitations wherever and whenever the loads can be secured under the present CAB regulations?

Mr. BOYD. That is true domestically. The supplemental carriers still would not have the right to operate internationally without exemptions from the Board because they have no certificate authority, and, of course, any certificate authority granted to them in the international field is subject to the approval of the President under section 801 of the act.

Senator MONRONEY. In other words, under the bill, S. 1969, no supplemental air carrier would be, per se, allowed to engage in charter flights internationally?

Mr. BOYD. That is correct.

Senator MONRONEY. He would have to operate under an exemption granted by the President.

Mr. BOYD. That is correct.

Senator MONRONEY. What would the finding of fact have to be in order to justify the exemption? Would it be one trip or what?

Mr. BOYD. At the present time the Board has just revised it rules in this connection, and has provided now for a blanket exemption to operate over a period of months. Our first order under what is called the transit line of charter policy, the amended transit line of charter policy, was issued last week to one of the supplemental carriers authorizing it, I believe, to engage in international charter operations until the 30th of September on a blanket basis.

I would like to ——

Senator MONRONEY. Between any two points, United States and foreign, or anywhere in Western Europe?

Mr. BOYD. Between any points United States and foreign. Of course, one of the points would have to be United States, as I understand it.

Senator MONRONEY. It would not be a regular route between the United States and Paris, or the United States and Frankfurt?

Mr. BOYD. No, sir.

Senator MONRONEY. They would be certificated to fill in the heavy traffic period when seats might not be available on the other American aircraft?

Mr. BOYD. That is correct, sir, with the added proviso that it would be subject to the conditions established by the Board providing for homogeneity of the charter group.

I would like to clarify one answer I gave you earlier. As far as the certification in international operations, under this law the Board would have the power to certificate a carrier to operate charters by certificate internationally, subject, of course, to the President's approval. But this would give the Board that authority.

Senator MONRONEY. This wouldn't necessarily "grandfather" international certificates of those who previously held certificates limited per se to domestic?

Mr. BOYD. That is right.

Senator MONRONEY. In other words, as I understand the bill—correct me if I am wrong—it is only for a certain limited period that those who do hold these certificates of convenience and necessity now have their full operating authority as it has been in the past prior to the Supreme Court decision.

Mr. BOYD. That is correct, sir.

Senator MONRONEY. And you would grandfather these carriers in—I think you testified that 22 have 5-year certificates and I think 9 have 2 year.

Mr. BOYD. Actually the situation is that of the original 25 which were certificated, 22 are now operating, 11 operating with 5-year certificates, and 11 operating with 2-year certificates.

Then we also have an additional nine carriers operating under our exemption order, and provision is made in the bill for them to come in under the grandfather provisions also.

Then we have one more carrier whose authority is based on Public Law 8661, the law under which the carriers are presently operating until March 14 of next year, and provision is made in this bill to extend that certificate.

These carriers by virtue of this grandfather clause would not acquire any permanent certification. They would acquire the rights that they had under the prior certificates or exemption authority.

Senator MONRONEY. Of the 22 that have been certificated, you say 11 are operating for 5 years and 11 for 2 years, and you have 9 operating under exceptions. Are these the ones that are on appeal or that the Board has not yet completed the finding of fact for the certification?

Mr. BOYD. No. I have a breakdown here. Of these, four have applications pending before the Board, one has an application which was denied by the Board for activity, and four are applications denied by the Board whose appeals were pending until last week when the Supreme Court upheld the Board's action, but the mandate has not come down yet on the latter four.

Senator MONRONEY. When the mandate is received, this will terminate their exemption authority under the permission to operate until the appeal is finally concluded, is that correct?

Mr. BOYD. That is correct. Those four carriers comprise what is know as the Great Lakes group.

Senator MONRONEY. Actually we are talking about 22 against whom there is no question as to their certificates.

Mr. BOYD. That is right.

Senator MONRONEY. Then you have four of the nine operating under exemptions that have now completed their normal legal circuit.

Mr. BOYD. That is right.

Senator MONRONEY. And these cases are actually moot now because there is no further legal recourse so far as we know.

Mr. BOYD. So far as we know.

Senator MONRONEY. If they could find a way through court, they would still be able to operate under the exemption authority.

Mr. BOYD. That is right.

Senator MONRONEY. What about the other five?

Mr. BOYD. The other five have interim operating authority under this bill. Four of these have applications pending before the Board on which action has not been taken prior to the court's decision last year—last July. One other has an application pending which had previously been denied by the Board, but on appeal was remanded to the Board for further proceedings.

We have in addition one other carrier who was certificated under the present law, 8661.

Senator MONRONEY. Would he be added to the 22?

Mr. BOYD. That is right, he would be added to the 22.

Senator MONRONEY. In this bill you say the charter can be granted for not only domestic but international on the finding of need and convenience and necessity.

Mr. BOYD. Fitness, yes, sir.

Senator MONRONEY. That is the nearly unanimous opinion, with the exception of Senator Gurney, who is the other member of the Board who in his letter——

Mr. BOYD. I don't think he questions the legal authority that would be granted by this bill.

Senator MONRONEY. What I meant, he questioned the widsom, on the basis of the additional competition of supplying planes across the North Atlantic. So far as the case stands, the Board, and most of the evidence adduced in the past, has been more or less in favor of the charter service under the homogeneity of the Board's charter provisions?

Mr. BOYD. Yes, sir.

Senator MONRONEY. Have you given any thought to maybe loosening those up a little bit?

Mr. BOYD. Yes, sir.

Senator MONRONEY. Some of the people complain that the homogeneous groups may not actually become homogeneous or even organized 3 months prior to the departure of the charter flight. For instance, I had a case that I believe I submitted to you about a group of young students chosen from some of our leading eastern colleges to participate in the Winant social service program in helping in social work for international experience in England, and these students cannot be recruited prior to 6 months before departure because in the first place they don't know whether they are going to graduate from their universities or not, and cannot possibly book the flights within the 6-month rule and pay whatever deposit is necessary.

Mr. BOYD. We are undertaking a review of our charter policy, Mr. Chairman. It would be, from the Board's point of view, from an administrative point of view, much simpler for us if there were a no-holds-barred proposition.

Senator MONRONEY. A what?

Mr. BOYD. If there were a no-holds-barred proposition. In other words, any time a group of people could get together and charter an airplane, if there were no necessity of the Board approving or disapproving; however, our basic responsibility is to the certificated carriers of this country. The regular route carriers have got to be protected. We can't just turn loose completely and permit charters to operate as we see it today on this no-holds-barred basis, because the result would be to put travel agents in the business of soliciting groups at the expense of the regular route operators.

Senator MONRONEY. I can well understand that you could, through no-holds-barred on charters, very seriously threaten the integrity of the certificated route structure. Sometimes I question whether we do not go the extreme limits.

Mr. BOYD. We are reviewing our policies to see whether or not they can be liberalized.

Senator MONRONEY. Perhaps in going to an international conference or something like that, an organization should not have to drop off a legitimate member of the Kiwanis International because he lacked 1 month of qualifying under the 6-month rule or something of that kind; is that what you have in mind?

Mr. BOYD. That is right, sir, although I doubt seriously that we——

Senator MONRONEY. But the rule would apply, the 6-month rule?

Mr. BOYD. That is right.

Senator MONRONEY. I think the Board should have some discretion in the matter, or whoever administers it for the Board.

Assuming then that the Board is strongly in favor, with the exception of one, of the charter service, both permitted internationally, would it be your feeling that the Board would not automatically certificate all of these irregular carriers in the same degree or in the same manner?

Mr. BOYD. That is certainly what we had in mind in the drafting of this act, that there would be distinctions made.

Senator MONRONEY. In other words, in the *Large Irregular Carrier* case, in the certificates, everyone who came in was either qualified for the full badge or was denied any right to fly; is that right?

Mr. BOYD. I will say "Yes," Senator.

Senator MONRONEY. Within safety limitations and things of that kind?

Mr. BOYD. Yes, sir.

Senator MONRONEY. Your idea now with this bill is that some, if they justified through equipment or experience or financial stability their competence, would perhaps be given both domestic and international and some would be given just domestic charter; is that correct?

Mr. BOYD. I think that is a good possibility; yes, sir. The bill would give the Board flexibility to act in this area as it found the public need.

Senator MONRONEY. Assuming enactment of S. 1969, does the Board contemplate consolidating into a single proceeding applications for regular and supplemental certificates?

Mr. BOYD. No, sir. That, as I understand it, would be legally possible, but we have no contemplation of that.

Senator MONRONEY. And you would presume then to take the supplemental certificates, one by one——

Mr. BOYD. We would hope to.

Senator MONRONEY (continuing). Rather than in bloc, and that the route structure or the privilege that they would have under this would be controlled by the Board in the granting of the individual certificate?

Again I come back: today they all have the same kind?

Mr. BOYD. That is right.

Senator MONRONEY. Your feeling is that under this bill you may differentiate between one carrier and another, based on his ability or the need or the proposal that he submits?

Mr. BOYD. We would have the authority to do that, and I should point out, too, if my recollection is correct, Senator, we are dealing with fewer carriers than was the case when this Large Irregular docket 5132 came up. They have been winnowed out quite a bit.

Senator MONRONEY. Since you have been considering certain applications for certain types of service, would this limit the intervenors so that only those certificated route carriers who were affected or claimed to be affected adversely by the proposed supplemental certificate would be eligible to protest the decision?

Mr. BOYD. All I can say there, Mr. Chairman, is that we would like to limit the situation to the extent we can act with some expedition. We don't want to become involved in another series of cases that is going to run for years and bleed these carriers white in legal fees.

Senator MONRONEY. And leave up in the air the purchase of equipment and modernizing of fleets or various things. I know this has been before this committee since I first came on it, I think in 1952. It always has been a hot potato with the entire industry.

Would this then enable the Board to act on proceedings, on applications for supplemental authority?

You say it would speed this?

Mr. BOYD. We certainly hope so.

Senator MONRONEY. Do you have any new procedures to suggest?

Mr. BOYD. No. I should say that I am accompanied by our General Counsel, Mr. John Wanner and our associate general counsel, Mr. Newmann. Mr. Wanner has a committee with a specific duty of working with the practitioners and with the staff to develop expeditious procedures. Mr. Wanner has spent a lot of time on Capitol Hill in the last month and a half holding my hand and hasn't got much done on this. We do have this project underway and expect some tangible results.

Senator MONRONEY. Does the Board have the authority to enforce the economic provisions of the FAA Act?

Mr. BOYD. No, sir. This is an area where the Board has moaned and groaned for years. We have, in our judgment, utterly inadequate means of enforcing the economic provisions of the act. Our authority is limited to cease-and-desist orders. These are really in cases such as, if I may refer back to this Great Lakes group, utterly ineffective. It takes years to get final action. After the Board has issued its cease-and-desist order we then go to court and start all over again.

We do have the power to revoke licenses for, I would say, the majority of violations of the Federal Aviation Act, whether it be by

the regular route carriers or the supplementals. We are sort of in an all or nothing position.

Revocation is a very serious remedy to ills that are substantial. We get a lot of things more in the area of mail fraud rather than first degree murder. And you don't revoke certificates for something like that.

Senator MONRONEY. This economic regulation has again been one of the very difficult problems that this committee has faced up to for a long time. If the act were extended, and the right given for a more liberal charter policy, domestic and international, and certain trips per month, the Board would then need some other enforcement means to see that the actual 10 flights per month between 2 points was not violated, or that through pooling arrangements it was not actually in fact a daily service by consortion, we will say, of three of the supplemental carriers; is that correct?

Mr. BOYD. We would need more authority as far as being able to penalize illegal actions by the certificated carriers. We have been forced into courts in the past in dealing with operations which the Board has found to be clearly illegal.

Senator MONRONEY. What I am driving at is that you say the only authority you have now is to revoke completely the license. Would an economic penalty of so much per illegal flight, levied against a violating carrier, give you some degree of control which you now lack?

Mr. BOYD. Yes, sir; it would. I think from the Board's point of view it would feel that a better method of reaching this would be authority to issue a monetary penalty, for example, based on violations of the act, because I want to make it very clear that all violations of the act do not come from supplemental air carriers.

Senator MONRONEY. We have had this economic penalty before us. You have asked for it repeatedly against the certificated carriers, the route carriers?

Mr. BOYD. That is right, sir. We have a bill now before the Congress, S. 8965, which provides for the civil penalties.

Senator MONRONEY. And that could be used for economic violations as well as minor safety or minor abuses in various fields which would transgress the FAA statutes?

Mr. BOYD. That is right, sir.

Senator MONRONEY. Do you feel that economic penalties, if finally granted or made a part of this bill, would be sufficient to hold this supplemental service as the Board might find; for example, to 10 flights per month—is that specified in the act?

Mr. BOYD. No, sir; that is not specified. That is by Board order. One of the things we seek is the continued flexibility because we don't know whether 10 flights will be the right number in the future or not. However, the economic penalties I think would achieve the purpose that you stated, because the only reason that I could think of at the moment for operating an illegal flight would be the hope of profit. If the Board were in a position to remove that profit it should be a pretty effective bar.

Senator MONRONEY. And these flights are usually quoted on a very low basis and it wouldn't take too great an economic penalty to make them unprofitable?

Mr. BOYD. Yes, sir.

Senator MONRONEY. The limitation by the very word supplemental means additional. Therefore there is a limit to how great the additional number of flights could be when it is found by the Board that you would like to have the economic authority. So that whatever that limit is, the Board could enforce it without the necessity of completely putting the line out of business.

Mr. BOYD. Absolutely, Mr. Chairman. I would like to urge most strongly that the civil penalities not be attached to this bill so that they would apply only to supplemental air carriers. I think this would be doing a grave injustice to the supplementals and it would be tying the hands of the Board at the same time, giving the Board no authority to deal with the regular route carriers when they happen to default, as well as the indirect air carriers, the air freight forwarders, under the Board's jurisdiction.

Senator MONRONEY. What I am getting at is that a lot of fear has been expressed to the committee members that this would become another airline and that without proper regulation to insure that these supplementals stay within their certificated authority the bill might become dangerous to the larger certificated route-type carrier.

While it might be the intent of the Congress to apply this to all carriers alike, passage of this bill without the passage of the bill that you mention might arouse such opposition in one House or the other that it might be difficult to save this rather important part of our aviation industry.

Mr. BOYD. We would be delighted to see both bills go in tandem, Mr. Chairman.

Senator MONRONEY. Do you mean combine the two bills?

Mr. BOYD. I mean go through together.

Senator MONRONEY. Unfortunately we have to pass one bill at a time.

We get the point that you would like to have some effective means of enforcement. Would it be possible, under the type of certificate you envision, to enable a regular booking office with a certain type of association name to actually operate a full monthly schedule through the pool use of this number of flights which each certificated carrier would fly?

Mr. BOYD. My impression, Mr. Chairman, is that the North American combine was doing that several years ago, and that court action, coupled with Board proceedings, very effectively brought that to a halt. I don't believe that it could occur in the future. I wouldn't say it couldn't occur, because that is a matter of people getting together. But as far as continuing in existence, I am confident that we have case laws which would permit the Board to bring that to a sudden halt as soon as it were known.

Senator MONRONEY. Senator Cotton, do you have some questions?

Senator COTTON. This bill—you said at the opening of your statement, that you were here speaking for the bill, and was the bill largely prepared under your supervision? Is it a CAB bill?

Mr. BOYD. Yes, sir.

Senator COTTON. Under that bill, could the CAB permit supplemental carriers to be eligible for subsidy payments?

Mr. BOYD. No, sir, we don't think so. However, just to make absolutely sure, we would propose an addition on page 3 of the bill to follow line 6 to read as follows:

In fixing and determining rates for the transportation of mail by any supplemental air carrier, the Board shall not take into consideration clause 3 of section 406(c) of this Act.

Senator COTTON. In other words, you suggest that we write into the bill this amendment which would make it clear that it doesn't have a subsidy?

Mr. BOYD. Yes, sir.

Senator COTTON. Under this bill could a regularly certificated carrier also apply for a certificate as a supplemental carrier?

Mr. BOYD. Yes, sir.

Senator COTTON. Is it conceivable that the CAB would ever permit a regularly certificated carrier to have a certificate as a supplemental carrier as well?

Mr. BOYD. I can only say that the Board has no contemplation of such a possibility, Senator Cotton.

Senator COTTON. At present, a carrier could not form a separate corporation which would be in a sense controlled by it, to attempt to go into the supplemental carrier business. Is that correct?

Mr. BOYD. Absolutely. We have very good safeguards.

Senator COTTON. And that is legally provided against, and is the subject of checking constantly by the CAB?

Mr. BOYD. Yes, sir.

Senator COTTON. When the Board first decided to certificate supplemental air carriers in 1955, it found that such supplemental service would not damage the regular air carrier. Do you believe the Board will make the same finding in this respect today in the light of the financial record of the regular carriers last year?

Mr. BOYD. Absolutely. There is no question in my mind that experience has buttressed our beliefs in this regard.

Senator COTTON. In other words, the operation of the supplemental air carriers, last year, for instance, did not have any adverse effect on the income of the regular carriers?

Mr. BOYD. We are not aware of it. I should say in that connection, however, or qualify my answer to this extent: That there was this group of four carriers known as the Great Lakes Group who were operating in our judgment illegally, and it has taken the Board 5 years, I believe, to get them out of business.

As far as the vast majority of the supplemental carriers who have operated completely legitimately and within the scope of their authority, we are not aware that this has caused any detriment to the regular route carriers at all.

Senator COTTON. To phrase it another way, the operation of all of the supplemental carriers that had the approval of the Board in your opinion did not adversely affect the income of the regular carriers.

Mr. BOYD. That is correct.

Senator COTTON. This may be anticipating the testimony to come. It has appeared, and been represented from various sources—I suppose from regular carriers—that all regular carriers together made a profit of less than $2 million on gross revenues of almost $2 billion in, I believe, the last year.

Does the Board accept those figures, or does the Board feel that those figures do not truly reflect the profit, taking into consideration equipment and other things?

Mr. BOYD. We accept that figure. I don't think it is as much our accepting the figures as ATA using the Board's figures. Those are our figures, if I am not mistaken.

Senator COTTON. Those are your figures?

Mr. BOYD. Yes, sir.

Senator COTTON. Does that represent a healthy air transportation picture when all of the regular carriers make that small percentage of profit?

Mr. BOYD. No, sir. It has been and is a matter of continuing great concern to the Board.

Senator COTTON. If it has been the subject of deep consideration, what would be the Board's feeling of how to deal with that situation?

Mr. BOYD. This is a tough question, Senator, because I am sure you realize that the Board has not involved itself in the management of the airlines. There are several reasons that we can pinpoint for the poor economic showing of the carriers last year. The biggest one is, of course, the general economic situation in this country.

Air transportation is more sensitive to general economic conditions than are most other service businesses.

Senator COTTON. You are now referring to the Republican depression?

Mr. BOYD. No, sir, but if you so characterize it I will certainly accept it.

Senator COTTON. I just wanted to know. Let the record show that that was a facetious remark.

Mr. BOYD. No, I expect that the Democrats can find some similar situations in their background, if you want to look far enough back.

Senator COTTON. We will know as soon as we know the figures on air transportation for this year.

Mr. BOYD. I don't think that this is due to any political situation, because another major factor last year was a series of very tragic airline crashes, each of which momentarily shook the confidence of the public in the air transportation system. Another was the fact——

Senator COTTON. Excuse me for interrupting, but regardless of anything else, that interests me. Is it a fact that there is an appreciable slump in passenger traffic immediately following an air crash?

Mr. BOYD. I am so advised by airline managements, yes, sir, that the load factors just drop off as if they had gone over a precipice immediately after a major accident.

Senator COTTON. Excuse me for interrupting.

Mr. BOYD. Another factor was labor-management difficulties resulting in some work stoppages which cost the carriers a great deal of money.

Another was in the early months of 1960 there was some very bad weather throughout the country which raised havoc with the performance of the carriers, and consequently with the revenues that they were able to receive, while at the same time increasing their expenses.

These are things that entered into the picture. One other that I certainly don't want to overlook is that last year, calendar 1960,

brought about the big jump in transition costs into jet aircraft. I don't have the figures involved, but you have the problems of the expense of training crews to fly, the maintenance crews to maintain and repair the aircraft, and, in addition, such things as schedule.

An aircraft that is flying roughly 200 miles an hour faster than the existing aircraft in the system in itself creates tremendous problems and great expense. So you had the great bulk of that landing on the carriers last year at the same time when all these other things were causing their position to deteriorate.

Senator COTTON. Do you feel that that is an added expense of transition which will not be reflected as strongly this year or next?

Mr. BOYD. It will be reflected to roughly the same extent this year. Next year that expense will drop off significantly.

Senator MONRONEY. Will the Senator yield?

Senator COTTON. Just after one more question. I want to ask you about the supplemental carriers. They showed an increase in profit. Do they have any of these problems, either labor or transition into a new type of plane?

Mr. BOYD. No, sir; not that I am aware of.

Senator COTTON. They are not attempting to run jet planes?

Mr. BOYD. So far as I know, there are none operating today.

Senator MONRONEY. What I wanted to amplify is that they had a heavy expense with the introduction of pure jets, maybe only two schedules a day but requiring a full jet ground crew, and maintenance on those. At the same time you had the turbine-powered prop-driven as well as piston-driven aircraft. That all adds up to a heavy ground maintenance that probably would not occur later when the fleets get more or less homogenous. Is that correct?

Mr. BOYD. That is very true. This is also a significant factor when a lot of jets are being brought in for the first time. Maintenance men are trained at the factory, and they know how to fix an airplane when they come back from the factory.

Where they have been operating, working on DC–7's, for example, for 5 years, when something goes wrong they can go to it immediately and fix it. Whereas with the 707 or DC–8 they may know what is wrong in a general way but they don't have that familiarity with it to be able to go find it, and fix it. They have to spend a lot of time and waste motion trying to get right to the trouble. It is a matter of familiarity.

Senator MONRONEY. I have often heard it said that when all of the pure jets are finally delivered the world's scheduled airline seating capacity will have doubled in number; is that correct?

Mr. BOYD. Yes, sir; I think that is correct.

Senator MONRONEY. Therefore, it takes a few years to adjust. Traffic doesn't zoom up that fast, and it takes a few years to adjust. Even though the jets may be carrying a few passenger loads, many of the older type piston aircraft are still on the runs and may be flying virtually empty. So this makes quite a difficult situation in which it is necessary to adjust the revenue passengers to the doubled size of the world's fleet.

Mr. BOYD. That is very true. It would, now, in the handling of baggage, providing of food for the aircraft, cleaning of the aircraft, turnaround, and things like that. All of this is going to snowball

in the transition to the jet. This has been true, of course, in the time of each reequipment program. It seems to have been of greater effect with the jets. And also a lot of this came along at the time of the nonpartisan recession last year.

Senator COTTON. On page 12 of your statement, midway down the page, you have:

> Revenue from individually ticketed services, both passenger and freight, was $11 million in 1960, the same as in 1959, referring, of course, to supplemental carriers.

Do you have separated the revenue from ticketed passengers and ticketed freight?

Mr. BOYD. Yes, sir.

Senator COTTON. Could you give it to us or insert it at that point in your statement, or both?

Mr. BOYD. Yes, sir. We will provide that.

Senator COTTON. You would rather provide it later?

Mr. BOYD. I have some figures available now which might go to answer your question.

Senator COTTON. To save time, why don't you insert them?

Mr. BOYD. All right, sir. In exhibit A we have the figures for the calendar years. The reference in my testimony was to the fiscal year. If you would like us to provide that information on the fiscal year basis, I will be glad to do it.

Senator COTTON. Just so we would have it. I thought it would be of interest to separate those figures on page 12 of your statement if it isn't too much trouble.

Mr. BOYD. No, sir; we can do that. The proportion will run about the same as it did in calendar 1960.

Senator COTTON. The income is, as indicated in the income from individual waybill freight, a very small portion?

Mr. BOYD. Yes, sir.

Senator COTTON. So it is mostly passengers?

Mr. BOYD. That is correct.

Senator COTTON. It is my understanding now that the Board has the right to limit the charter service.

Mr. BOYD. Yes, sir.

Senator COTTON. Do you limit it?

Mr. BOYD. Yes, sir; internationally we do.

Senator COTTON. But not domestically?

Mr. BOYD. That is correct.

Senator COTTON. What would be your reaction if the bill were to specifically authorize unlimited planeload charter service in addition to giving the Board discretion as to additional types of service?

In other words, to open the door for charter service and retain the Board's discretion on individual ticketed service and other services.

Mr. BOYD. I think we would have to oppose that, Senator.

Senator COTTON. Could you briefly say why?

Mr. BOYD. Yes, sir. This term "unlimited charter service," as we understand it, would create a real monster in that it would permit individuals, presumably travel agents, to go out and solicit people, individuals, to join in a group to fly charter instead of taking trips on individual ticketed flights. We think this could have a very dangerous impact on regular route carriers.

Senator COTTON. You think that practice is resorted to in some degree now?

Mr. BOYD. No, sir.

Senator COTTON. Not any?

Mr. BOYD. Not to our knowledge.

Let me put it this way: the practice is resorted to on occasion because the Board turns down charter applications where it finds these situations. So to say it is not resorted to would be incorrect. It is resorted to on rare occasions.

Senator COTTON. But you feel that the Board has enough personnel and is in a position so that you are catching most of them.

Mr. BOYD. Yes, sir; we think so. As a matter of fact, we think we may be catching a few that we should let through.

Senator COTTON. The regular airlines have the right to furnish charter service, am I correct, so long as it doesn't exceed 2½ percent of their flights or their revenues.

Mr. BOYD. That is by regulation, and it is 2½ percent of the plane-miles flown per quarter.

Senator COTTON. They can do that without restriction up to that point?

Mr. BOYD. That is right.

Senator COTTON. Do those charter flights by the regular certificated airlines have to be confined to areas or between points where they are certificated to fly regularly, or can they go anywhere?

Mr. BOYD. They can go anyhere domestically.

Senator COTTON. Restricting it to 2½ percent of the miles flown, what is the purpose of that restriction?

Mr. BOYD. My impression is that the Board put this restriction on because it felt, and feels, that the regular route carriers have a primary responsibility to provide regularly scheduled services. Except for very few unusual periods in the history of the regular route carrier, they have not had the equipment to provide the regularly scheduled service and a charter service of any magnitude at the same time.

Senator COTTON. They wouldn't be likely to attempt to furnish too much charter service, would they, because that is a lower rate of income, lower rate than their regular ticketed passenger service, is it not?

Mr. BOYD. I don't know what they would attempt to do, Senator. There are as many different ideas about how they ought to run their airlines as there are company managements. I couldn't say.

They can operate, without restriction, charters over their routes. This limitation is on charters off-route.

Senator COTTON. This limitation is to prevent one airline which happened to have some unused or surplus equipment at some period from going into another airline's certificated territory, is that it?

Mr. BOYD. I think generally that is correct; yes, sir.

Senator COTTON. That is the purpose of the restriction?

Mr. BOYD. Yes, sir.

Senator COTTON. In other words, an airline that is certificated to fly between New England and Florida, or between New York and San Francisco, or Los Angeles, can run all the charter services that they want to, provided they have the equipment, between those points.

Mr. BOYD. That is correct.

Senator COTTON. Without limitation of 2½ percent or anything else.

Mr. BOYD. That is correct.

Senator COTTON. Does the same rule apply to the supplemental airlines?

Mr. BOYD. They have no route.

Senator COTTON. They can run theirs anywhere.

Mr. BOYD. Yes, sir.

Senator COTTON. In charter service?

Mr. BOYD. Yes, sir.

Senator COTTON. Do they have to get the approval of the Board for each charter service?

Mr. BOYD. Not in the domestic United States. They have had to get that approval for international flights.

Senator COTTON. Why is that distinction drawn?

Mr. BOYD. I would say the Board found that there was a need for a charter service. A charter service is——

Senator COTTON. I beg your pardon. I didn't make my question clear.

Why does the Board draw the distinction between international service and domestic service in the matter of limiting the supplemental airlines?

Mr. BOYD. We have been unable to award any certificates in the international field to supplemental air carriers. That is the basic reason. In addition to that, our flag carriers were on subsidy up until 1957, I think, when Pan American went off subsidy. So we were not interested in permitting anything that could possibly be considered a diversion from the subsidized carriers.

Senator COTTON. Do I understand that no permission has been granted by the Board, that there have been no international charter services by supplemental airlines?

Mr. BOYD. There are extensive international charter services, but the——

Senator COTTON. What did you say?

Mr. BOYD. No certificate authority. We have acted in the past on the transatlantic charters on a case-by-case or charter-by-charter exemption approval.

Senator COTTON. In other words, if a supplemental airline wants to take the Federated Women's Clubs to Switzerland, they apply to you for that trip.

Mr. BOYD. That is right, sir.

Senator COTTON. But domestically they can take the women's clubs anywhere in the United States—Yellowstone Park, Arizona, Florida, anywhere else—and not apply to you.

Mr. BOYD. That is correct.

Senator COTTON. And run them just as often, as frequently as they desire.

Mr. BOYD. That is correct.

Senator COTTON. Under the proposed bill, what would be the situation in regard to international charter service?

Mr. BOYD. It would be the same.

Senator COTTON. It would be the same.

Mr. BOYD. Yes, sir.

Senator COTTON. Always in my questioning of anybody I get back to the fact that I represent a State that is hungry for air service and can't get enough of it, at least at the right time.

Northeast has been very good to us.

Is it possible, under the present law or under the proposed bill, for the CAB to say to a supplemental airline, "If you are going to apply for permission for regularly flying so many trips a month between New York and Miami, or New York and Los Angeles, that you must, between the months of May and September send one flight every 2 weeks, or one flight every week into the resort area of the White Mountains and back on a weekend?"

Mr. BOYD. I don't believe that we would have that authority, Senator, to go into a geographic requirement. We would have the authority, under this S. 1969, to place limitations on the certificate to assure that the carriage was supplemental. But the point you raise would not really, as I see it, shooting from the hip, constitute a supplemental service in the sense we have been thinking about it.

Senator MONRONEY. Under the present law they—by "they" I mean the supplemental carriers—have been able, without direct authority from the Board, to have 10 trips a month between New York and Los Angeles, and 10 trips a month between New York and Miami, and 10 trips a month between Washington and Chicago?

Mr. BOYD. Yes, sir.

Senator COTTON. In other words, they have all the trips they wanted, except they are 10 trips between any 2 points?

Mr. BOYD. Yes, sir.

Senator COTTON. Under the bill even that limitation would be off?

Mr. BOYD. Oh, no.

Senator COTTON. That would still be on?

Mr. BOYD. Yes, sir.

Senator COTTON. Under present law can the Board allow them 20 trips?

Mr. BOYD. Yes, sir.

Senator COTTON. Between New York and Los Angeles, for example?

Mr. BOYD. Yes, sir.

Senator COTTON. That is true under the bill?

Mr. BOYD. Yes, sir.

Senator COTTON. While they may have 10 trips anywhere they want them between two points, where the traffic is heavy and revenue is more "juicy" and may even come to the Board and get permission for even more, there is no way that they can be required to help out on any of the marginal territory as a condition precedent to getting extra permission. I am not talking about the 10 trips that they are allowed. When they come to the Board and say, "Instead of 10 trips we think we ought to have 20 trips between New York and Los Angeles," the Board couldn't possibly say, "How would you feel about sending a DC–3 into Wyoming once a week, or into New Hampshire once a week, or into some other sparsely populated unfortunate area?"

Mr. BOYD. The Board would have the authority to impose reasonable conditions, Senator, but so far as I know none of the supplementals are operating DC–3's; they are all operating, I believe, the bulk of them, four-engine equipment. Of course reasonable men

could differ about a service that you mentioned to a very fine State such as New Hampshire.

I should point out, Senator, in connection with your statement, last year the legitimate supplementals had a total of some $8 million in individually ticketed revenues. The balance of their income came from civil and military charters. They lost some $5 million last year. So apparently they haven't been getting too much use out of the juicy markets.

Senator COTTON. I didn't mean by that language to indicate bias or to reflect on supplemental airlines. I am sure I want to be fair between the both of them, but it seems to me that under the law, both present and proposed and I would like your comment on this—that the approach of the CAB to the supplemental airlines is purely negative. You can limit them, you can restrain them, but there is nothing in the world that you can require of them for the benefit of the public and of those who seek to avail themselves of their service, while the authority over a certificated regular airline is positive as well as negative—and I am thankful for that and appreciative of what the Board does—and you are able to force them, even at a loss, to render at least a minimum service to the marginal markets. Is that a fair characterization?

Mr. BOYD. I certainly wouldn't differ with it in terms of philosophy. I would say this, however, that the regular route carriers have a theoretical right to subsidy which the supplementals do not have, in addition to which they do have the authority to carry mail, which should be of some benefit to them.

The supplementals have not had any authority of that type. Plus which it has certainly been the custom of the Board, the policy of the Board, to try to see to it in developing a sound system of air transportation that the regular route carriers who have these marginal points to serve also have some markets on which they can earn some profits to offset these marginal or loss points.

The fact that a market is available doesn't mean that a supplemental will be able to get into it and mine any ore out of it. It depends a lot on the service provided by the regular route carriers.

Certainly what the Board has done with the supplementals has been in the nature of a negative approach. I should say that we do feel that the mere authority to provide charter transportation, unlimited charter transportation in the United States has served a great public need.

Senator COTTON. I have two more questions. This may seem farfetched but it is carrying that thought through. The Board apparently feels almost unanimously, and very strongly, that the supplemental service, service by supplemental lines, is a real necessity and a requirement for the convenience, the transportation of the public. They are performing a very necessary function. That is correct, isn't it?

Mr. BOYD. Yes, sir.

Senator COTTON. If that is so, why should they be necessarily barred from subsidy. If they are performing a very necessary function and the Board is seeing to it that what they perform is restricted to a necessary and beneficial function, then why shouldn't they be as entitled to a subsidy as a regular certificated carrier?

Mr. BOYD. I can't speak for the Board on this because we haven't discussed it, but my own judgment on the matter is this, Senator: That these carriers should be provided with sufficient military business to overcome any requirement for subsidy.

Senator COTTON. So in a sense they are getting a subsidy in the form of military business?

Mr. BOYD. No, they are not getting a subsidy. Assuming they can get the business from the military, which is something that can't necessarily be taken as fact, they are providing a day's work for a day's pay without any question. And they are also providing a very substantial reserve air fleet.

Also, I think the trend of the times would indicate that the philosophy of subsidy really was to develop from its inception an air transportation system in this country. We have an air transportation system in this country today. So far as I know the supplementals have not indicated a desire to be subsidized.

I want to sort of try to protect my rear, here, if I may, to the extent of saying that we are still working on feeder lines and helicopters and need subsidy for those operations. But other than that we do have a pretty good network of air transportation in this country.

Senator COTTON. But not a very healthy network, as you indicated earlier when commenting on the $2 million profit out of a $2 billion business.

Mr. BOYD. That is true, but this is a business where transitions have been often abrupt. If this were 1955 I would be sitting before you gentlemen trying to explain why the carriers were making so much money, and I hope I have to do that again in the future.

Senator COTTON. I hope so, too.

It is your feeling that it is impractical, and probably impossible, and perhaps unjust, for the CAB to attempt to advocate statutory authority and to exercise statutory authority to demand of the supplemental airlines as a condition precedent to the privileges the CAB grants them, the assumption of some of the responsibilities in air transportation?

Mr. BOYD. I wouldn't say it was an impossibility at all. I have grave questions about the advisability of it. I don't know, for example, how you would work the thing. Your interest is keenly and properly in New Hampshire. There are a great many other areas in this country where similar situations might exist. This looks to me as if it could be pretty much of a downhill road because, for one reason or another, the Board might find that the White Mountains deserve service from June to Labor Day, and then we might find that 50 other places did, also, and the first thing you know the supplementals are not supplemental at all. They would have to spend so much time—spending on their conditions precedent that they would be unable to provide the service for which they were originally certificated.

Senator COTTON. Anything that I said I don't want to reflect in any way, shape, or manner on Northeast Airlines. In fact, I am very much concerned—if the chairman will pardon my referring to this in this hearing, as it is perhaps not germane—docket 12285, recent order E–16931, indicates that the CAB has grave doubts about the financial stability of Northeast and doubts it even before a complete hearing

on the problem, and suggests that there might have to be a merger of some kind.

Naturally anybody from my section, Maine, New Hampshire, or Vermont, shivers when we read something of that kind because we are extremely worried about our future service. I think Northeast has strained every nerve certainly in the last 12 months to try to take care of us, and has done remarkably well and at a loss. We are only one section of the country which faces that sort of thing.

I was surprised when you said awhile ago that it was your understanding that the supplementals operated almost exclusively four-engine planes. Carrying small loads in a two-engine plane is not a profitable venture as a rule.

Nobody questions where politicians go when they die, but I sometimes wonder what happens to the DC–3's when they go out of service. I can't help but feel that somewhere along the line of this operation of supplemental airlines—and I want to be completely openminded and fair to them—if they aren't going to take on some of these responsibilities, too. I just can't quite feel that it is impossible that the CAB—I don't say impossible because you didn't say that—impractical, inadvisable, for the CAB to consider whether or not they should take some portion of it.

I won't belabor the matter.

I am through, Mr. Chairman.

Mr. BOYD. I can say that we will give serious consideration to this idea that you have suggested, however. However, to get to the four-engine aspect of the thing, they can't fly the Atlantic on less. They can't fly to Mexico very practically with two-engine equipment. Their operation is essentially a long-haul operation. If they had two-engine equipment instead of four-engine equipment I don't believe the military would be half as concerned about them as being an aid in time of emergency.

I am sorry that I am in no position to comment on the order to which you just referred in view of the fact that it is a pending case.

Senator COTTON. I didn't expect you to. I apologize for bringing it in.

Mr. BOYD. At the present time the Board has no thoughts of changing the character of the supplemental carriage. We will look into this situation to see if there is something that can be done that would further the public interest.

Senator COTTON. If they are going to remain or increase their ticketing——

Mr. BOYD. Actually on that point their individually ticketed service has been declining. So far as the legitimate carriers are concerned, they are down $2 million—the total was down $2 million from the prior year on individually ticketed service.

Senator COTTON. Thank you, Mr. Chairman.

Senator MONRONEY. I think the distinguished Senator from New Hampshire raises an important point. It might be said that if the supplementals are going to get their ice cream on the New York-to-Miami route, they ought to eat their spinach on developing some new traffic areas that are actively served during a brief vacation period. This is a certificate of convenience and necessity that you issue, and it is for public service. I think the development of new traffic may

also be an important function of the supplemental carriers. They can develop new traffic by cut rates, but always to the high-density areas.

Mr. BOYD. Let me say in this regard that by their charter operations they develop new traffic. This business of cake and spinach, for most of the supplementals it has been only spinach, with an awful lot of sand in it. There has been very little cake at the table where they have been eating.

Your service to places like the White Mountains—and I can certainly understand the need for service there; it is one of the finest vacation lands in the country——

Senator COTTON. Thank you.

Mr. BOYD. But I wouldn't be at all surprised if Senator Cotton holds the belief, so as many other people do, that if you just get a lot of service there, that many people will use it. It doesn't follow. We have spent an awful lot of the Government's money trying to prove that this will happen on subsidized transportation. People say if you put the frequencies in at the right times, the schedules at the right time of day, and if they would go north and south instead of east and west people would flock out to the airport, but it just doesn't happen, gentlemen.

Unfortunately, in this day and time, with the very fine system of highways we have in the country, areas such as in New England will continue to suffer because it is cheaper and easier to drive from the great metropolitan areas of New York and Boston and Philadelphia than it is to fly.

Senator MONRONEY. Have you ever tried to fly to the White Mountains or Nantucket in the summertime?

Mr. BOYD. Yes, sir; and Northeast is doing an excellent job. They have four-engine equipment every place they can land four-engine equipment now. DC–6's, I think, are providing a very good schedule of services. This is admittedly better than it was a couple of years ago. And also it is true, as Senator Cotton mentioned, that they are losing their shirt in the process.

Senator COTTON. I think it is true that a much better job is done with four-engine equipment there, and also true, and I think in fairness I should say that I do realize that they do know how to run the airlines. I have been chagrined to find when we get some service that I would get on the plane and there weren't many people on there.

Off the record.

(Discussion off the record.)

Mr. BOYD. Let me point out that no more than the regular route carriers can the supplementals afford to own an aircraft to operate on Friday night. Unfortunately your business peak seems to come at the same time all over the country. I don't think we could say to them that you have got to have aircraft available to catch this peak on Friday night, even though there is no place to use them the rest of the week, because they have got to maintain an operation through the week in order to pay their bills and maintain their crews and what not. But we will certainly see what we can do about this, because I have a great deal of sympathy for the situation, having been thrown off several planes myself, not having been a VIP.

Senator MONRONEY. Senator Thurmond?

Senator THURMOND. Mr. Chairman, a good many questions that I had in mind have been answered. However, I do have several more. The Senate is in session and I have to be over there. Is the Chairman coming back this afternoon or tomorrow morning, either one? Or will this conclude the session of witnesses? If so, I would have a few questions. Otherwise, I can transmit some questions and have them answered for the record.

Senator MONRONEY. It is the intent of the chairman, if possible, to have the Chairman come back at 2:15 today, if he can.

Mr. BOYD. I am at your disposal.

Senator MONRONEY. Before this phase closes, according to my arithmetic, your statement showed that in 1960 the 23 supplemental carriers generated and ticketed passengers to the extent of $8,237,000 in the whole year; is that correct?

Mr. BOYD. Yes, sir.

Senator MONRONEY. Comparing that with the tabulation of the trunklines, both foreign and domestic, U.S.-flag lines, they developed $1,942,600,000. My mathematics, if correct, show that the supplemental carriers' ticketed traffic was only four-tenths of 1 percent of the total ticketed traffic of the airlines.

Mr. BOYD. That is about correct.

Senator MONRONEY. So that is about the degree of interference that we are talking about on the ticket operation of the supplemental carriers?

Mr. BOYD. Yes, sir.

Senator MONRONEY. The committee will stand in recess until 2:15 this afternoon.

(Thereupon, at 12:10 p.m., the committee was recessed, to reconvene at 2:15 p.m., this same date.)

AFTERNOON SESSION

Senator MONRONEY. The Aviation Subcommittee will resume its hearings.

When we adjourned at noon Senator Thurmond had some questions he was anxious to ask the Chairman of the CAB and if you are ready we will have you go forward.

Senator THURMOND. Thank you, Mr. Chairman.

Mr. Boyd, I have several questions here I wanted to ask you.

In Senator Gurney's statement starting at the bottom of page 2 and going over to page 3, he says:

> Since only a limited few carriers have used the individual ticket and waybill authority from 1955 to the present, little need exists for this type of service. If at any time an emergency should require the services of a supplemental carrier for purposes other than charters the Board can invoke its authority under section 416(b) under the act to authorize such operations.

Do you have any comment on those two sentences?

Mr. BOYD. I think I would agree with Senator Gurney's characterization of the use of the individually waybilled cargo. That has been used to a very small extent. I would have to differ with him on the individually ticketed operation. The fact that we are talking here about relatively small sums aggregating some $36 million for individual ticketed passenger operations over the past 5 years does not indicate little use so much as to me it indicates little industry.

In other words, the supplemental carriers have relied on this to a considerable extent but you put them all together and they still don't stack up in a very broad scale compared to the regular route carriers. This is one of the reasons why the Board has not been concerned about them diverting significant amounts of traffic from the regular route carrier.

Senator THURMOND. I notice here he states on page 2:

Of all the carriers operating supplement services 76 percent of the total noncharter receive use received by only three carriers.

Do you agree with that?

Mr. BOYD. I certainly would not argue with Senator Gurney's figures; we have calculated our figures another way so I'm not in the postion to make a categoric answer as to whether that is correct.

I'm sure that the figures are correct in the light in which they are used.

Senator THURMOND. Then he says:

Of these three carriers one is now bankrupt and the others are operating on the pending appeal of the Board's decision denying it continuing authority.

The third carrier, although receiving 40 percent of its income from individual ticket operations showed a net loss in all operations of $477,000 in 1960 and $1,350,000 in 1959.

Do you have any comment on that?

Mr. BOYD. I'm not sure who he is talking about.

Senator THURMOND. That's next to the last paragraph on page 2.

Mr. BOYD. Yes, sir, I found that. The bankrupt carrier is probably Transocean Airlines; who the other two are I am not aware. I could go through these figures that are attached in exhibit B and see if I could find those, but they don't show profitability, anyway.

I would say this, regardless of Senator Gurney's statement, the fact is that there are quite a few of these carriers operating very actively all the time. The fact that these three carriers may have gone broke, the other losing money, doesn't mean that the bulk of the supplemental carriers are out of business by any means.

Senator THURMOND. In view of the facts set out on page 2 of Mr. Gurney's letter to the chairman of the subcommittee with reference to the noncharter operations of the supplemental carriers, on what basis can authority for supplementals to engage in individual ticketing and waybill operations be justified?

Mr. BOYD. I'm not sure I understand that question. The only reason I can see in the first place why anybody would object to the supplementals engaging in individually ticketed transportation services would be that they were causing serious diverson from the regular route carriers. If that is not the premise then I can see no reason to object to their individually ticketed authority because if they are carrying people obviously they are providing a public service, and I don't think any one has yet attempted to make a serious point that these operations have, in fact, caused serious detriment to the regular route carriers.

Senator THURMOND. He mentions in the middle of the page, the last sentence of the second paragraph—

It is my firm belief that the future of the supplemental air carrier industry lies in the further development of the charter market and not in attempting to engage in a route-type operation of any kind.

Mr. BOYD. Yes, sir; and he does believe that. We have discussed this at great length and he and I have no difference, nor do any of the other members of the Board differ with him in the belief that the supplementals should and will engage in further development of the charter markets. Where we split is that Senator Gurney is concerned about the individually ticketed operation and like a lot of people very sincerely feels that this is a great danger; they are not able to point to any damage that has been done yet, but the future danger is always present from individually ticketed operations. We don't see it that way, we feel that we have very good control and will have under this bill if it becomes law to see to it that such an inherent danger, if that is what it is, does not become a reality.

As a matter of fact, when the 10-flight-per-month authority was granted to these supplemental carriers one of the conditions was that the route carriers could come in and complain on any particular operation if they felt it was detrimental to their operation.

I believe there was one complaint.

Now, I wouldn't want to hold to that, but I will say this, since I have been at the Board now a year and a half there have been no complaints.

Senator THURMOND. Mr. Boyd, earlier this morning the Supreme Court denied certiorari in the *Great Lakes* case, finally brought to a conclusion the illegal Great Lakes operations which had been going on since 1953, I believe.

Now, would you explain what the Board can do or could do if you have reason to believe that the illegal operations of Great Lakes are being transferred to some dormant certificate, and tell us how you could prevent or stop such illegal operations without going through years of labored procedure before the Board and the course as happened in the *Great Lakes* case?

Mr. BOYD. Well, I can't tell you how that can be done, Senator. The Great Lakes people have all of the rights of due process of the law that anybody else has in this country, and if their counsel are sufficiently adroit to tie something like this up in court for years as they have done it will be a darn long time before anything like that can be accomplished in the future, but, so far as the Board is concerned what we can do: first of all, the transfer of any certificate is subject to Board approval; secondly, the assumption of control of a certificate is subject to Board approval. So, we can deny the approval, we can refuse to grant approval, and if the operation becomes a defacto one despite our disapproval, having found first that this was, in fact, a transfer of Great Lakes operations, then we would be forced to go to court, which is where we have been with this current thing.

Senator THURMOND. Do you have the figures to show how many certificates you have refused to approve?

Mr. BOYD. No, sir.

Senator THURMOND. On transfers, I mean.

Mr. BOYD. How many transfers?

Senator THURMOND. Yes.

Mr. BOYD. Are you talking about supplementals?

Senator THURMOND. Transfer of certificates.

Mr. BOYD. Of supplementals only?

Senator THURMOND. Yes.

Mr. BOYD. No, sir; we will provide those figures for you.

Senator THURMOND. I wish you would provide that for me.

Do you feel that dormant certificates should be suspended or just allowed to continue?

Mr. BOYD. Well, this sort of gets me in a never-never land, Senator, because we have to define what is "dormancy" in the first place.

Now, the Board has been operating on the theory that a certificate operated in 1961 is not a dormant certificate.

Senator THURMOND. Does your Board have a definition for a "dormant certificate"?

Mr. BOYD. No, sir.

Senator THURMOND. Had you considered maybe preparing a definition, supplying one for what a "dormant certificate" is?

Mr. BOYD. Well, we have been giving some thought to a regulation on the subject, Senator, but really I believe the matter will be pretty well resolved after we are able to go through the procedures that are set up in this act. I don't think we will have too much of a problem about this in the future.

Senator THURMOND. My understanding is that these certificates have been transferred.

Mr. BOYD. Some certificates have been transferred.

Senator THURMOND. Numbers of times. Is that true?

Mr. BOYD. I don't think that's correct.

Senator THURMOND. Would you supply that information for the record?

Mr. BOYD. Yes, sir; we will give you full information on all of the supplemental carriers with certificate authority with transfers that have been sought and——

Senator THURMOND. Is it true that some companies were operating and closed down because of illegal operations and were able to continue under one of these dormant certificates?

Mr. BOYD. Not to my knowledge.

Senator THURMOND. Would you look into that and if you have any information available would you supply that for the record?

Mr. BOYD. We would be glad to give you all information we have about transfers—sought, granted, and the conditions under which they were granted.

Senator THURMOND. Do you feel it is too far to go to provide no authorization for individual ticketing and waybill operations?

Mr. BOYD. To provide no authorization?

Senator THURMOND. Yes.

Mr. BOYD. Yes, sir; I think that's too far to go.

Senator THURMOND. While you are here I would like to mention another question, Mr. Chairman, that may be a little bit off the subject, but we don't get him down here often and if you don't object I would like to ask him this question.

Senator MONRONEY. All right.

Senator THURMOND. I think you will agree that most of the traveling public now are traveling by plane, passengers.

Mr. BOYD. Common carrier transportation; yes, sir.

Senator THURMOND. So, it is very important that the cheapest rates be provided for the traveling public as possible. Some weeks ago I went up to Boston to speak at the Massachusetts Institute of

Technology, to the students there, and going up I have forgotten the amount I paid, but whatever it was—and they didn't have a plane coming back, I was told, and I learned that Senator Goldwater was returning. It seems he had gone up to speak to the Harvard students and he was returning the same night, and I learned he was on a coach plane, so then I inquired about that, and was told, "Oh, yes, we have a coach plane." Well, that wasn't even mentioned to me until I approached them about it. That turned out to be about $7 or $8 or more less than the plane I went up on and the identical type plane was used for the coach service as was used for the plane I went up on upon which I paid about $7 or $8 more.

Mr. BOYD. Yes, sir.

Senator THURMOND. I'm just wondering if the matter shouldn't be looked into to provide coach service all over this country if people want it and not make them pay $7 or $8 for a meal or pay a large amount additional for some plush service they may not want or may not feel able to pay.

I'm interested in the traveling public; that's my only interest in this matter, it's my only interest in being in the Senate, just trying to serve the public, and I think there is a very fine opportunity for the Board to serve the public in seeing that the accommodations are provided to the members of the public as cheap as possible.

Mr. BOYD. We have an investigation currently before the Board now on short-haul coach services, what constitutes adequate service in short-haul markets. I should say also that the amount of coach travel comprises more than 50 percent of the total travel now. There has been a more or less steady increase in the amount of coach service made available and utilized.

I think we are seeing really the dying days of first-class service. The situation that you ran into, going to Boston, undoubtedly had to do with the Board's provision several years back which permits the carriers to utilize their first-class equipment after certain hours of the night for coach services. This was brought about in order to provide cheaper rates for people who were willing to undergo a greater amount of inconvenience in traveling in order to save money on the one hand and also to provide the air carriers with an opportunity to get better utilization out of their equipment on the other hand.

Senator THURMOND. If the public will be served better from an economic standpoint by having all coach travel, wouldn't it be worth looking into rather than to try to please a few individuals who have plenty of money and able to pay more?

In other words, I think the general public's interest has to come first, doesn't it?

Mr. BOYD. This is certainly true.

Senator THURMOND. I wondered if enough consideration had been given to that.

Mr. BOYD. Of course, you have put your finger on one of the most difficult problems in the whole business, and that is what is adequate service. From the standpoint of dollars and cents it would certainly be cheaper if everybody had coach service available; however, it would not be cheaper for the carriers to operate to any appreciable extent, and the carriers except for capital gains last year would have lost $10 million on their operation.

Now, in the short-haul markets at any rate it would take about 25 percent more people to bring them out even on the dollars as compared to what they do in first-class service.

Senator THURMOND. From South Carolina I have never been able to get a coach to Washington that I can recall, and I understand there may be a few trips that are coach trips that are $7 or $8 less, but it only takes about 2 hours and I would certainly take a coach and save $8 on the trip up here because they are all comfortable and I would like for you to look into it a little bit down my way if you would.

Mr. BOYD. Yes, sir. We have got several things involving South Carolina before us.

Senator THURMOND. We Members of Congress who are not rich Members have a right difficult time keeping our budgets balanced.

Mr. BOYD. Yes, sir, I can appreciate that.

Senator THURMOND. We don't get traveling expenses everywhere we go.

Mr. BOYD. We are very much interested in this. I must point out that the Board is not running the airlines, however.

Now, we are regulating the airlines, we are not running them, and you get into a pretty touchy problem here of management prerogatives when you start saying that you are going to put coach service in this market and that market unless you can make a clear finding that the existing service is inadequate. It is a very complicated problem, Senator.

Senator THURMOND. I can imagine it would be.

Now, I am wondering, I am anxious to see helicopter service for the public, because I feel that is very important. Could you tell us just what progress is being made?

Mr. BOYD. Yes, sir, the Board is very much heartened with the progress being made.

Unfortunately, every type of program seems to start out in a rosy hue and the people involved in it say within a year or 2 years or 3 years everything will be fine and we won't need any money.

As you know, the helicopter operations at New York, Chicago, and Los Angeles are subsidized. Unfortunately, some of the Members of Congress had the impression that these carriers were going to need a little subsidy for 18 months or 2 years to get organized and then they wouldn't need any more money. That hasn't proved to be the case. The types of equipment that have been manufactured up to now have been utterly incapable of an economic operation.

Beginning in September of this year, a new type of helicopter, one manufactured by Sikorsky and one manufactured by the Vertol Division of Boeing, will begin operation in these three cities. The new helicopters will transport 23 to 28 people—25 people on the average—as compared to a maximum of 13 people on the existing craft.

The new ones are twin jet turbines, twin engine as compared to single engine in the past. This one feature itself will make a tremendous difference in the operation of these helicopters.

Prior to the advent of the twin engine helicopter it has been impossible to fly over congested areas because of safety requirements; it has been impossible to fly in instrument conditions, and it has been a practical impossibility to fly at night to any extent. All of this will be changed with these new helicopters.

They have a theoretical chance of a break-even operation. It will be some several years before they can achieve that. The jet helicopters will not be affected by temperature the way the existing helicopters are. I am informed, for example, that when the temperature reaches 90° a 12-passenger helicopter today is limited to between 7 and 8 passengers, the jets won't have that problem, so we think that we are reaching the dawn of a new era in helicopter operations.

Now, the Board has been making subsidy payments to these three carriers as pilot operations because this is the only way we can see that experience in the operation of equipment and providing a market for commercial equipment can be made available to reach the economic state so that then helicopter operations will be feasible all over the country. We feel very strongly that this has got to be continued because we are seeing such tremendous strides of progress.

Senator THURMOND. Do you foresee when you can eliminate the subsidies?

Mr. BOYD. For helicopters?

Senator THURMOND. Yes.

Mr. BOYD. My guess at the moment would be some time in the late sixties. Now, some of the helicopter operators are much more optimistic than the Board. We are taking a rather conservative view about this, but I would say sometime in the late sixties as far as the Board is concerned.

Now, we expect the amount of subsidy to start declining in fiscal 1964.

Senator THURMOND. Thank you, Mr. Boyd.

Mr. Chairman, thank you.

Senator MONRONEY. Thank you very much, Senator. I have had an opportunity to go over this very fine document of the analysis or the supplemental air carrier earnings for the past 5 years. I have just done a little bit of mathematics that may be slightly in error, but it appears to me that out of the total earnings of all of the supplemental carriers on ticketing over a 5-year period the total earnings is in the neighborhood of $36,748,000. This includes all of the supplemental air carriers. You have some of those that are exempt under the special provisions, but that total comes out at $37,482,000?

Mr. BOYD. Yes, sir.

Senator MONRONEY. Of this amount, two carriers accounted for $29,587,000 of that $36,748,000, which meant that all of the other carriers had over 5 years earning and ticketing of only $7,161,000 or an average per year of $1,432,200—that is for all the other carriers.

I note in examining the gross earnings, one of these, the No. 1 ticketed traffic carrier was Transocean which had a 5-year individually ticketed passenger service of $16,832,000, but carried only $80,000 in traffic for last year.

Now, what has happened to them?

Mr. BOYD. Bankruptcy.

Senator MONRONEY. Then they would lose through bankruptcy their charter under the grandfather clause?

Mr. BOYD. No, I believe, Mr. Chairman, that they are eligible to apply—I am not sure about that, but if they have operated in 1961 either in military or individually ticketed they would be eligible to apply.

Senator MONRONEY. U.S. Overseas had $4,358,000 last year so they apparently are carrying it. But it is quite significant to me going over this how minor the amounts are that the bulk of these carriers earn. I can't see how it can have any great threat unless past history is not indicative of the future. I was just going over the list from the figures you compiled, five of them had absolutely no earnings over the past 5 years in ticketed passenger service; nine have earnings over a total of 5 years of only $150,000 total, or an average of $30,000 a year in ticketed service; four have between $150,000 and $300,000 over 5 years, or a yearly average of $60,000 or less per year; three of them have ticketed service over the 5-year period of $1 million or less, for an average of $200,000 per year.

Nine have $500,000 over 5 years or an average of $100,000 per year; and only three have over $1 million or an average of $200,000 per year.

So, actually, the lines that we are talking about having significant mileage or revenue operations and ticketing are very small out of the total numbers. I didn't realize it could have been this small.

Mr. BOYD. Senator, I would like to say that you may have heard and you will undoubtedly hear some heralds of doom because of this authority the Board seeks to have to grant the supplementals, but I don't think the facts will bear out this portent of doom in any way, shape, or form; and yet we feel it is essential that the Board have the authority to grant certificates where the circumstances are such to require it in our judgment to these carriers to operate an individually ticketed service, otherwise we would certainly have no way to get Senator Cotton up to the White Mountains in the summer, for example.

Senator MONRONEY. This was amazing to me to find out how few operators have any significant volume at all, and yet I have been told, and I presume it is an economic fact of life, that unless they do have some right to have individual ticketed service at some points in the year that while they are waiting for charters, military or civilian charters, they would have no other way of keeping their crews on active flying status or their planes in an operational way; is that correct?

Mr. BOYD. Yes, sir, we think that is correct. Now, it should be pointed out that of the supplementals there are two lines of thought as you can see from your résumé of the figures. Some of the supplementals are devoting their full energies, as I understand it, to charter operations and are not interested in the individually ticketed authority to any extent.

Others, such as USOA and Transocean, went to the other extreme and the bulk of them rest in the middle, operating both charter and individually ticketed.

Senator MONRONEY. But in all those cases except in the two, Transocean and the U.S. Overseas, their gross revenue on ticketed passengers dropped down materially because you have only three that go over a million dollar figure on a 5-year basis, nine over a half a million on a 5-year basis; and you get down to the vast majority of them they are much less than that, numbering in the high preponderance of under a million dollars a year over 5 years which means only $200,000 per year.

Mr. BOYD. That is right.

Senator MONRONEY. So, if history means anything these people couldn't be a significant threat to any of the airlines. It would be pretty hard to define their gross revenue if you deduct the two big leaders in the field who accounted for, as I say, nearly $30 million out of $36 million for the two operators.

Mr. BOYD. I think I can say without any great fear of contradiction that I have a tremendous concern for the welfare of the certificated regular route carriers; I think I have tried to evidence that in my activities as a member and Chairman of the Board and I frankly have no concern over the possibility of these supplemental carriers putting any major dent into the operations of the regular route carriers, Mr. Chairman.

Senator MONRONEY. This is one way that you can keep a small business interest in the field of aviation and in the carriage of people and articles by air; is that correct?

Mr. BOYD. That is right, sir.

Senator MONRONEY. And these people also become the customers of the airlines, do they not, to buy the planes as they are phased out of the major airlines to make way for the glamorous jets to pick up the 6's and 7's and the Connies and put them to future utilization?

Mr. BOYD. That is true, and it is also entirely possible, although we have no figures on it, that after an individually ticketed flight in a supplemental carrier packed like a sardine, that these people are generating business for the regular route carriers to boot.

Senator MONRONEY. It may stimulate more people to fly, but they might want a little more legroom.

Mr. BOYD. That is right.

Senator MONRONEY. Senator Bartlett, do you have any questions?

Senator BARTLETT. No questions.

Senator MONRONEY. The bill, S. 1969, proposes a new section, 401 (d), paragraph 3(i), to the Federal Aviation Act which would establish a different fitness test for supplemental tests than now in the act. How do these fitness tests differ?

Mr. BOYD. This test applied in the act is found on page 2, beginning line 19.

> In determining whether or not an applicant for such certificate is fit, willing, and able the Board shall give consideration to the conditions peculiar to supplemental air transportation, including the nature of the public need found to exist and the extent of the obligation imposed on an air carrier engaging in such air transportation to provide the service.

This is a method whereby, if the bill becomes law, the Board can ascertain the fitness of the carrier on the basis of the service that the carrier proposes to operate rather than the requirement that the court seems to lay down in its decision which led to the submission of this bill.

As we understand the court decision, it said if you certificate a carrier to operate up to 10 flights a month between any 2 city pairs in the country, its fitness should show that it has the resources to operate between all pairs of points within the United States and this, of course, is a manifest impossibility.

Senator MONRONEY. They can operate without the fixed bases or without the necessary individual airline service at the various terminals that they serve by getting Butler Aviation, or some other such company, to service the planes?

Mr. BOYD. Yes, sir; I think that certainly is correct, plus the fact that you certainly would not require the same working capital, for example, of carriers who are obtaining the majority of their revenues from a military operation, which all of these carriers are.

Senator MONRONEY. With respect to international charters by supplementals can't the Board police those as well as they police domestic charters with respect to travel agents simply manufacturing the charter groups?

Mr. BOYD. Well, we think we do.

Senator MONRONEY. You do it now on an exemption basis rather than on a right to fly international charter service?

Mr. BOYD. That is right.

Senator MONRONEY. But you propose to authorize the international as well as the domestic?

Mr. BOYD. If we find the need.

Senator MONRONEY. But if you can find out whether it is a true charter or a manufactured one, why, you would have the same instrumental test to detect this?

Mr. BOYD. Yes, sir.

Senator MONRONEY. Do foreign air carriers fly international charter flights which originate in this country?

Mr. BOYD. Yes, sir.

Senator MONRONEY. Is this material in number?

Mr. BOYD. I am not sure how the number stacks up, Mr. Chairman, how it compares to the total. Now, the foreign air carriers are providing or did provide last year about four times the number of charter flights that the U.S. carriers did, and a good portion of those came from the United States.

Senator MONRONEY. You mean originated in the United States?

Mr. BOYD. Yes, sir.

Senator MONRONEY. Is there any tendency with the coming of the jet equipment for oversea foreign lines to commit their older planes for charter flights from the United States?

Mr. BOYD. Yes; I think there is.

Senator MONRONEY. Do they quote rates below the regular scheduled rates?

Mr. BOYD. Oh, surely.

Senator MONRONEY. How much below? Do you have any idea what the range in price is?

Mr. BOYD. No; I don't, Mr. Chairman. I think that the Board requests figures where exemptions are required. Of course, you realize the foreign air carriers, the certificated foreign air carriers, can operate on route charters without any requirement from the Board. They would be subject to IATA rates, but IATA doesn't have a charter rate, I don't believe.

I think that, as a matter of practice, the prices are pretty standard based on type of equipment.

Senator MONRONEY. It would be far below even the tourist or the economy fares.

Mr. BOYD. Oh, absolutely.

Senator MONRONEY. Do you think that the American scheduled airlines will be interested in implementing our drive to encourage tourism to originate flights originating in Europe to various points in the

United States on a circle tour, or would this more properly be apt to fall in the role of the supplemental carrier?

Mr. BOYD. If the information I have seen on the purchasing power of the Europeans is correct I would say it would fall more properly in the area of the supplemental carriers, because the regular route carriers, as I understand it, have to devote the bulk of their equipment to individulally ticketed operations, so they would not be able to utilize planeload charters to any appreciable extent.

Senator MONRONEY. Particularly during the times that traffic is most likely to move heavily, they will be using all of their equipment for that?

Mr. BOYD. That is right.

Senator MONRONEY. Do you think it might be a field for aiding in our effort to balance off tourism to this country by special attention being paid to oversea charters originating in Europe?

Mr. BOYD. Yes, sir; that sounds as if it has very good possibilities.

Senator MONRONEY. Could they operate beyond New York, then, these supplemental carriers, if they originate a flight, we will say in the Netherlands or Germany, could they sell a circle tour that might include New York, Washington, Chicago, Seattle, Los Angeles, Dallas, Tex., and so on back to New York and on back across?

Mr. BOYD. I think they would have the legal right to do that; yes, sir.

Senator MONRONEY. Under this bill?

Mr. BOYD. Yes, sir.

Senator MONRONEY. I see. Fine, I have no further questions. Thank you very much, Mr. Boyd, for your appearance here and for these statistics. I believe for the record we should incorporate this exhibit A that the chairman has introduced setting forth how the revenue is earned by all of the supplemental carriers, including those that are now certificated and those that are flying under exemption.

I would like to have that put in the record.

Our next witness, Mr. Clayton L. Burwell.

STATEMENT OF CLAYTON L. BURWELL, PRESIDENT, INDEPENDENT AIRLINES ASSOCIATION AND SUPPLEMENTAL AIR CARRIER CONFERENCE; ACCOMPANIED BY DeWITT T. YATES, COUNSEL FOR BOTH ASSOCIATIONS

Mr. BURWELL. Mr. Chairman, it is true that I picked up a little combat fatigue along the way. If it is agreeable with the chairman I would like to have entered in the record my statement and quickly to touch on several points without taking the time to read it.

It seems to me that you are down to the heart of this now and I can eliminate a good deal of the usual history and bragging about an industry and so on and get straight to the heart of it.

Senator MONRONEY. You may proceed in the way most comfortable to you, either by having someone read portions of your statement or taking it and excerpting it yourself, or in any manner you choose.

Mr. BURWELL. If I may——

Senator MONRONEY. Your whole statement will appear at this point in the record.

(The statement follows:)

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

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

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

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

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

The total transport revenues of these 12 carriers from domestic operations in 1960 was slightly less than $2 billion and their charter revenues $10,414,000 or approximately 0.5 percent. From the table (exhibit No. 4) you can see that approximately the same percentage obtained in 1959.

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

The remaining exposure is in the field of individually ticketed traffic carried by supplementals under their authority to perform 10 round trips per month and amounts to an estimated 0.22 percent of the total revenues of the 12 domestic trunk carriers from domestic operations.[7] The 0.5 percent of total revenues

---

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

[2] Docket No. 5132.

[3] *United Air Lines et al.* v. *CAB*, CADC No. 15025 et al.

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

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

[6] See table on charter revenues as a percentage of total transport revenues of domestic trunklines in domestic operations, 1959–60 (exhibit No. 4).

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

KANSAS REFERENCE LIBRARY DEPARTMENT MANHATTAN, KANSAS

maximum exposure on charters and the estimated maximum exposure of 0.22 percent on 10-trip authority, when added, gives an overall exposure of 0.72 percent in the commercial domestic field. This is all the contest is about and has been about for 15 years, and we're still at it. During this period, the revenues of the supplementals decreased from $70 million in 1952 to $62.8 million in 1959 or a loss of $7 million gross. During the same period, the route carriers increased their gross from $1.75 billion in 1952 to $2.6 billion in 1959 for a gain of almost $1 billion.

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

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

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

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

The supplementals flew the first planes to Vienna in 1956 to airlift the Hungarian refugees out of Europe. The Arctic DEW line was supplied in substantial part by supplementals. In the Lebanon crisis, our carriers were to offer in response to an emergency phone call from the military 38 four-engine aircraft within 4 hours.

In its opinion in docket 5132, in November 1955, the CAB stated:

"The continued existence of their (supplemental air carriers) fleet is of real value in terms of the national defense * * * it is evident that the (supplemental) air carriers have the necessary flexibility to meet the demands of the military."

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

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

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

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

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

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

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

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

[12] Order No. E–9884.

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

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

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

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

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

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

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

---

[13] Exhibit No. 8.
[14] See pt. II of application for authority to conduct transatlantic passenger charter flights—statement of supporting information (exhibit No. 9.
[15] CAB Order E–9744, dated Nov. 15, 1955.
[16] CAB Order No. E–14638, dated Nov. 12, 1959.

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

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

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

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

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

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

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

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

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

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

Pro rata charter operations between the United States and Europe

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

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

Why is it the Board takes all this effort to narrow the common law definition of charter, the Interstate Commerce Commission and Maritime Commission concept of charter and to narrow the definition of charter as applied in most European countries?

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

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

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

For many years, the British Government has permitted the British independents (supplemental carriers) to carry planeloads of travelers on all-expense tours throughout Europe and hundreds of thousands of Britishers and other Europeans travel in this manner. The number of large packaged tours brought to America in the last few years by air is relatively insignificant compared to the potential. Leroy Tours, a well-known British tour organizer, last year carried over 50,000 British passengers to the Continent on packaged tours and none to the United States.[20] He states:

"There is no doubt that we hold a vast potential from our United Kingdom clients for 'package' tours to the U.S.A."

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

Another leading British travel agent, Lanseair, through its director, Mr. Henry C. Morritt, says:[21]

"We do feel that there is a fantastic potential within Europe for travel to the West, but this will always remain largely unavailable to us all while the present fare structure and basis of charter operations transatlanticwise are kept to the present regulations, and we also feel that in view of the fact that your organization is now entering into the European/U.S.A. traffic in a very serious manner, that through your good offices some approach could be made to the CAB, and any other authority necessary, whereby some definite realization of the present regulations could be brought about for the European traffic to the West, which would enable this present unequal balance to be leveled out by giving the European tourist the opportunity to visit the Western Hemisphere on a more realisic fare basis."

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

We believe that so long as IATA controls the price of all the air travel across the oceans that the purposes of H.R. 4614 to stimulate significant increase of foreign tourists to America will die aborning. This is certainly true if the Civil Aeronautics Board continues to follow the lead of IATA in this area. On the

---

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

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

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

[22] Exhibit No. 12.

contrary, the stimulation of charter service and authority to carry planeloads of all-expense tourists from Europe at lesser rates will develop the traffic very rapidly. For these reasons, we ask you to define and clarify a charter rather than force us to have it defined by IATA, who will certainly define us out of business.

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

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

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

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

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

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

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

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

---

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

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

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

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

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

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

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

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

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

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

If improvements in cabin service, reservations, and ticketing procedures, etc. were the results, the fare increases again would be understandable..

Mr. Paul J. C. Friedlander, travel editor of the New York Times, showed a rare insight into this problem in an article published in the Times on June 26, 1960:

"Only recently have the carriers begun to admit, first privately and now sometimes in public, that some of their vaunted competition is not true competition, and that it may not be worth what it costs the passenger. The airlines all fly the same equipment, cover the same distance between cities in the same flying time, serve the same kind of food (often indistinguishable in looks and taste), put different but similar uniforms on strikingly similar cabin attendants, make the same kind of mistakes day in and day out in reservations and advance bookings, make the customer suffer through the same confusion when he tries to book

a seat and put him through the same kind of exhausting nervous tension at the airports while awaiting for his flight and, later, for his luggage. * * *

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

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

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

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

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

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

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

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

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

"American, however, did something else at the same time. On April 23, 1958, it filed a tariff proposing to give service at coach fares on DC–7 planes with first-class seating configuration on nonstop transcontinental flights departing during the off-hour period between 10 p.m. and 3:59 a.m. This seemed to be, at least in part, a competitive move in answer to TWA's siesta service. Instead of giving the first-class passenger more leg room for his money, American proposed to give the coach passenger more leg room, reasoning perhaps that this more comfortable service at a low cost might siphon off some of the passengers who would otherwise have paid the higher first-class fare to ride in TWA's siesta-seats. To anyone who believes in the virtues of the competitive system, this seemed a very healthy development. Two large carriers competing vigorously for an important segment of traffic were each giving the customer more for his money in an effort to gain a larger share of the market—in precisely the same way that producers of consumer goods and services—both essential and luxury—have throughout our economic history done a better job for the American consumer

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

under the spur of competition. This seemed a healthy development also in view of the fact that one of the crucial problems for the airlines in the next decade is to increase traffic substantially and that this can probably be accomplished only by lower fares and improved service.

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

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

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

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

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

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

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

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

Senator BREWSTER. You do not think so?

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

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

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

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

"Mr. LANDIS. No; it is not.

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

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

---

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT No. 1

INDEPENDENT AIRLINES ASSOCIATION SUPPLEMENTAL AIR CARRIER CONFERENCE

MEMBER CARRIERS, 1961

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Saturn Airways, Inc., Post Office Box 182, Miami International Airport, Miami, Fla. Robert C. Goodman, president.

Sourdough Air Transport, Box 54, Boeing Field, Seattle, Wash. A. R. Johansen; Burbank office: 10901 Sherman Way, Sun Valley, Calif.

Southern Air Transport, Post Office Box 114, Miami International Airport, Miami, Fla. F. C. Moor, president.

Standard Airways, Inc., Lockheed Air Terminal, Burbank, Calif. S. B. Craft, president.

Trans-Alaskan Airlines, care of Keatinge & Older, 3325 Wilshire Boulevard, Los Angeles, Calif. G. F. Anton, vice president.

Trans International Airlines, 5800 Avion Drive, Los Angeles, Calif. Kirk Kerkorian, president.

Transocean Air Lines, Oakland International Airport, Oakland, Calif. Orvis M. Nelson, president.

United States Overseas Airlines, Inc., Cape May County Airport, Post Office Box 234, Wildwood, N.J. Ralph Cox, Jr., president.

World Airways, Inc., Oakland International Airport, Oakland, Calif. Edward J. Daly, president.

World Wide Airlines, Inc., Building L 126, Oakland International Airport, Oakland, Calif. S. E. Spicher, president.

EXHIBIT No. 2

I. Supplemental air carriers whose certificates were validated under Public Law 86–661, July 14, 1960, and who currently hold certificates:
American Flyers Airline Corp.
Associated Air Transport, Inc.
Aviation Corp. of Seattle
Blatz Airlines, Inc.
Capital Airways, Inc.
Coastal Cargo Co.
Conner Air Lines, Inc.
General Airways, Inc..
Johnson Flying Service
Imperial Airlines, Inc. (formerly Regina Cargo Airlines, Inc.)
Paul Mantz Air Services
Modern Air Transport
Overseas National Airways, Inc.
President Airlines (formerly California Eastern Aviation, Inc.)
Quaker City Airways, Inc.
Saturn Airways, Inc. (formerly All American Airways, Inc.)
Sourdough Air Transport
Southern Air Transport, Inc.
Standard Airways
Stewart Air Service
Trans International Airlines (formerly Los Angeles Air Service)
Transocean Air Lines
United States Overseas Airlines, Inc.
World Airways, Inc.

II. Supplemental air carriers which have been recommended for certificates by the Examiner with the case now pending before the CAB:
Airline Transport Carriers
Argonaut Airways Corp.
Miami Airlines, Inc.
S.S.W., Inc.
World Wide Airlines, Inc.

III. Supplemental air carriers whose certificate has been approved by the CAB, but has not been issued: Purdue Aeronautics Corp.

IV. Supplemental air carriers who were denied certificates in docket 5132, and have an appeal in the courts:
Central Air Transport, Inc.
Currey Air Transport, Ltd.
Great Lakes Airlines, Inc.
Trans-Alaskan Airlines

V. Supplemental air carrier who received a certificate from the CAB after the publication of Public Law 86–611: Northwest Air Service

EXHIBIT No. 3

A 10-year comparison of operating results in the supplemental airlines industry

[In thousands]

	Revenue passenger miles	Cargo ton miles	Operating revenues	Profit or (loss)
1950	764, 829	32, 857	$34, 105	$1, 018
1951	1, 016, 292	79, 475	61, 835	3, 370
1952	1, 251, 685	78, 713	83, 249	7, 524
1953	1, 256, 911	75, 279	70, 028	(1, 239)
1954	1, 242, 224	53, 215	54, 664	(2, 755)
1955	1, 395, 682	74, 601	76, 824	4, 329
1956	1, 004, 052	110, 376	67, 609	452
1957	767, 287	86, 707	50, 454	(2, 434)
1958	1, 152, 988	89, 196	65, 204	(3, 621)
1959	1, 589, 997	83, 106	76, 180	(8, 997)
Fiscal 1960	2, 143, 971	73, 004	80, 955	(4, 756)

Sources:
1950–51, American Aviation magazine annual review issues.
1952–60, CAB quarterly reports of air carrier financial statistics and monthly reports of traffic statistics.

EXHIBIT NO. 4

Charter revenues as a percentage of total transport revenues of domestic trunklines in domestic operations, 1959–60

	Charter revenues	Total transport revenues	Percent charter
1959:	*Thousands*	*Thousands*	
American	$278	$369,634	0.1
Braniff	398	65,986	.6
Capital	92	108,002	.1
Continental	247	45,346	.5
Delta	1,295	103,547	1.3
Eastern	653	270,069	.2
National	648	66,835	1.0
Northeast	37	31,319	.1
Northwest	270	85,593	.3
T.W.A.	1,303	272,423	.5
United	2,874	311,255	.9
Western	186	58,680	.3
Total	8,281	1,788,689	.5
1960:			
American	1,754	419,902	.4
Braniff	826	75,568	.1
Capital	303	103,813	.3
Continental	292	60,426	.5
Delta	533	127,547	.4
Eastern	300	261,022	.1
National	1,428	66,499	2.1
Northeast	59	37,667	.2
Northwest	410	85,377	.5
T.W.A.	1,646	275,501	.6
United	2,419	353,191	.7
Western	444	64,038	.7
Total	10,414	1,930,551	.5

Source: CAB form 41 reports, schedule P.–1.2.

EXHIBIT NO. 5

Distribution of revenue passenger-miles carried by the supplemental airlines, 1955–60

12 months ended—	Revenue passenger-miles				
	Domestic		International		Total
	Civilian	Military	Civilian	Military	
	Volume of traffic				
Dec. 31, 1955	591,579	240,060	124,517	439,526	1,395,682
Dec. 31, 1956	512,299	208,229	116,573	166,951	1,004,052
Dec. 31, 1957	203,759	219,832	226,048	117,647	767,287
Dec. 31, 1958	315,547	191,826	279,644	365,971	1,152,988
Dec. 31, 1959	377,293	243,541	355,079	614,084	1,589,997
Sept. 30, 1960 [1]	399,047	207,809	263,535	1,554,434	2,424,825
	Percent distribution				
Dec. 31, 1955	42.4	17.2	8.9	31.5	100.0
Dec. 31, 1956	51.0	20.8	11.6	16.6	100.0
Dec. 31, 1957	26.6	28.6	29.5	15.3	100.0
Dec. 31, 1958	27.4	16.6	24.3	31.7	100.0
Dec. 31, 1959	23.8	15.3	22.3	38.6	100.0
Sept. 30, 1960 [1]	16.4	8.6	10.9	64.1	100.0

[1] Latest data available.

NOTE.—Distribution detail for 1954 not available.

Source: CAB, reports of air carrier traffic statistics.

EXHIBIT No. 6

Development of aircoach revenue passenger-miles in domestic trunk airline schedule services, 1949–60

	Revenue passenger-miles			Percent coach
	1st class	Coach (millions)	Total	
1949 [1]	6,319	251	6,560	3.8
1950	6,710	1,056	7,766	13.6
1951	8,933	1,278	10,211	12.5
1952	9,766	2,355	12,121	19.4
1953	10,579	3,719	14,298	26.0
1954	10,913	5,321	16,234	32.8
1955	12,489	6,716	19,205	35.0
1956	13,577	8,066	21,643	37.3
1957	15,012	9,488	24,500	38.7
1958	14,391	10,045	24,436	41.1
1959	15,853	12,274	28,127	43.6
1960	14,846	14,387	29,233	49.2

[1] 1st year of any significant volume of coach operations by domestic trunklines.

Sources: CAB "Handbook of Airline Statistics, 1949–56," and monthly reports of air carrier traffic statistics.

EXHIBIT No. 7

Dollar cost of commercial airlift procured by MATS

Carrier	Fiscal year 1955	Fiscal year 1956	Fiscal year 1957	Fiscal year 1958
Slick Airways, Inc	$301,882.77	$4,265,934.18	$8,459,103.91	$7,071,815.19
Overseas National Airways, Inc	534,210.68	3,016,079.03	2,288,717.70	400,437.16
Flying Tiger Line, Inc	1,534,918.45	3,023,673.39	6,539,140.70	19,033,989.14
California Eastern Aviation, Inc	829,420.36	4,478,186.50	4,687,054.43	3,523,759.14
Capital Airways, Inc	159,927.85	596,243.71	1,964,453.70	2,057,273.55
Seaborad & Western Airlines, Inc	426,788.50	10,117,491.65	10,256,172.41	11,895,876.12
Trans Caribbean Airways, Inc	192,807.39	728,256.90	879,337.34	43,618.96
Twentieth Century Airlines, Inc	224,484.50	3,512,188.47	259,435.26	184,086.85
U.S. Overseas Airlines, Inc	446,262.10	1,744,081.31	572,412.55	408,613.70
Pan American World Airways, Inc	235,847.54	3,822,909.41	5,294,216.37	4,553,290.75
Transocean Airlines, Inc	432,552.91	1,222,337.74	2,709,143.22	3,006,273.53
Viking Airlines, Inc	173,494.70	1,097,162.84	0	0
Peninsular Air Transport	149,067.53	202,273.31	0	0
Trans World Airlines, Inc	0	333,236.40	513,577.26	1,417,696.58
Resort Airlines, Inc	0	253,314.99	1,810,321.80	154,694.40
Great Lakes Airlines, Inc	0	2,138,370.78	782,598.02	0
Los Angeles Air Service	0	922,350.48	101,423.76	0
Northwest Airlines, Inc	0	555,257.70	461,186.71	79,902.33
Central Air Transport, Inc	0	396,199.63	448,428.88	188,536.79
CAT, Inc	0	0	110,129.80	0
World Airways, Inc	0	0	1,369,153.30	2,347,054.68
Pacific Northern Airlines	0	0	11,250.00	64,672.18
General Airways, Inc	0	31,065.75	54,671.45	50,691.91
United Airlines, Inc	0	99,761.20	4,840.62	0
California Hawaiian Airlines	0	0	0	276,200.50
Meteor Air Transport, Inc	0	360,472.76	170,076.32	0
Alaska Airlines	0	0	0	4,107.34
Atlantic area (common carrier)	0	0	0	22,500.00
Total	5,641,665.28	42,916,848.13	49,746,935.51	56,785,090.80

[Reprinted from Federal Register of April 28, 1961]

EXHIBIT No. 8

CIVIL AERONAUTICS BOARD, ECONOMIC REGULATIONS, EFFECTIVE APRIL 28, 1961

[Reg. ER–326]

PART 295—TRANSATLANTIC CHARTER TRIPS

Revision of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 20th day of April 1961.

This part contains the amended general requirements governing applications for, and operations under, individual exemption orders authorizing the performance of transatlantic passenger charter flights by United States air carriers other than carriers certificated to provide unlimited passenger service over designated routes. The regulation does not itself grant any authority for the operation of transatlantic passenger charters and any carrier seeking such authority must file application in accordance with the provisions of this part for an exemption pursuant to section 416(b).

Historically, a major objective of the Board has been the development of the potentially large mass international travel market in the United States without undue diversion from the regularly-scheduled, individually-ticketed services of United States and foreign flag route operators. In furtherance of this objective, the Board has granted individual authorizations for transatlantic charter flights to carriers not otherwise thereunto authorized, but has also imposed and from time to time has redefined standards for charter eligibility of groups. Thus, in 1957, we amplified the general criteria for charter eligibility which we had followed in 1955 and 1956. These criteria were largely those that had been previously developed by the carriers and the Board, and had been embodied in IATA Resolution 045, which contains the requirements established by scheduled international route operators for their own operations. In 1958, we made these criteria more specific and susceptible of precise application. And in 1959, we embodied them with minor modifications in an Economic Regulation (Part 295), given them greater stability and legal effect than theretofore. In 1959, we also concluded the Foreign Off-Route Charter Investigation, Docket 7173, in which foreign air carriers were for the first time authorized to perform off-route charters in air transportation. In addition to amending their permits to provide this authority, we promulgated a new Economic Regulation (Part 212) and established as guides for issuance of a charter authorization standards similar to those in Part 295. In 1960, after the IATA carriers had finally undertaken, upon the Board's suggestion, to provide more definitive and enforceable standards for their own operations, we understook to modify Parts 295 and 212 in order to conform our requirements in substantial respects to those now provided in amended IATA Resolution 045.[1] Consequently, at such time charter requirements for all classes of transatlantic carriers had become substantially similar.

During the developmental period of this program, the Board considered it necessary and desirable to pass on each individual passenger charter flight in foreign air transportation by supplemental and certificated cargo carriers, and Part 295, as hitherto in effect, thus required special authorization by exemption for each charter.

However, on November 14, 1960, the Board issued a notice of proposed rule making (EDR–21, Docket 11907, 25 F.R. 10944) in which it proposed to amend Part 295 to provide, instead, the framework within which it might grant temporary (seasonal) blanket exemption authority. Upon consideration of all relevant matter in the comments received in response to the notice, the Board has decided to adopt revise Part 295 substantially as proposed.

The regulation contemplates the granting of temporary exemption authority, during the tourist charter season, individually to those supplemental and all-

[1] It was also necessary to impose as conditions to approval of Resolution 045 certain standards, especially with respect to travel agency participation in charters, which IATA had not provided for in the Resolution. See Order E–16295, dated January 23, 1961.

cargo carriers which are also applicants in a now current proceeding to determine whether such carriers, or any of them, should be certificated to conduct transatlantic passenger charters[2] and which are otherwise qualified. This regulation further sets forth the criteria and conditions which shall be observed in conducting passenger charter operations pursuant to such temporary authority as may be granted hereafter.

It should be noted that such exemptions as may be subsequently granted will be within the seasonal period of transatlantic charter activity from April through September. Further, pending completion of the aforesaid charter investigation, seasonal exemptions will be annually renewable upon regular application as set forth in § 295.5 of the part. Of course, applications for exemption authorization for individual charter trips may still be made in conformity with Part 302 of the Board's Procedural Regulations, and insofar as charterworthiness is concerned, the standards of this regulation will be largely determinative of the disposition of such applications. However, the Board does not contemplate that it will grant individual flight approvals to supplemental or cargo carriers where the carrier either has not applied, or has applied and been found unqualified, for the seasonal exemption herein contemplated, except in unusual or compelling circumstances.

The Board believes that several basic considerations support the conclusion that seasonal passenger charter authority in the transatlantic market for supplemental and all-cargo carriers will be in the public interest. It is recognized that there has been a substantial and sustained growth of transatlantic passenger charters and that supplemental air carriers have provided a significant part of this service. During the 1960 season, for instance, supplemental carriers conducted a total of 226 flights or approximately 17 percent of the combined number of flights conducted by Part 295 and IATA carriers. There is reason to believe that such services by these carriers will continue to be needed. The charter season is, for the most part, also the extremely busy regular service season over the North Atlantic for the IATA carriers. Further, these latter carriers have generally been engaged in a jet reequipment program and may increasingly find it uneconomic to maintain appropriate facilities to operate piston aircraft merely to serve a seasonal charter market. Yet, jet capacity and costs may be such as to reduce substantially the potential of jet aircraft for charter services, particularly with respect to small groups. From its contacts with chartering groups in past years, the Board is informed that such groups have sometimes been unable to obtain charter flights at the times they desired them.

A second major consideration is that it no longer is administratively necessary to retain the requirement that nonroute operators obtain special authority for each charter. The standards of charter eligibility are now sufficiently precise and understandable to preclude substantial inadvertent violations of charter principles which would lead to a breakdown in the proper distinction between charter and individually-ticketed services and thus have a serious adverse effect on regularly scheduled services.

A third consideration for the present action is the economic and administrative burden which supplemental and cargo carriers have had to sustain in being required to obtain special approval for each passenger charter trip. These carriers are relatively small particularly as compared with passenger route operators, and the necessity of obtaining prior authorization for each charter makes advance planning of their operations considerably more difficult. As comments from carriers reveal, equipment must often be committed a substantial time in advance and projection must be made with respect to the economical use of aircraft (e.g., resolving the problems of filling empty ferry legs). It was further stated in comments that amelioration of these factors would afford greater opportunity for the subject carriers to maintain and develop all their services. Comments also indicated that the expense, time and paperwork required for preparing and pursuing so many applications is not insignificant in total effect, and the adverse sales impact of a charterer's knowing that specific authorization must be sought from the Board appears to be undue competitive disadvantage. Comments showed that such factors may well have been instrumental in causing withdrawal from the market of seemingly successful passenger charter operators and apparently have contributed to the changing identities of carrier participants in transatlantic charter operations.

---

[2] Transatlantic Charter Investigation, Docket 11908.

Since the market for these carriers is seasonal, its attractiveness from an economic standpoint is limited.[3] Under these circumstances, relatively small impediments can loom as large factors in a decision to devote resources to it.

These three basic considerations noted above have prompted the Board to institute the proceeding to investigate whether certificates should be granted to those carriers which would undertake on a sustained basis to meet such need as may exist for passenger charter services additional to those provided by the passenger route operators. The same considerations also indicate that any exemptions which may be issued to such carriers pending final determination in the aforesaid proceeding should be on a seasonal rather than an individual charter basis.

Various objections to the proposed regulation were received from transatlantic passenger route carriers. Thus, they assert that the contemplated blanket exemptions would be issued on the theory that supplemental and all-cargo carriers have a right to be in the transatlantic passenger market free of the disadvantage of adherence to a prior approval procedure which does not apply to route carriers. However, the Board's conclusion that a change from individual to seasonal exemption would be in the public interest is not based on the concept of affording relief because of any rights in the market. The rule contemplates appropriate temporary relief for qualified carriers coming within its purview in the conduct of operations which supply a needed supplementation of other services. It is consonant with the declared policy of the Board to develop charter services as the public interest requires. It does not place the supplemental and all-cargo carriers on an equal competitive basis with transatlantic route operators which retain the advantages of more stable authorizations, market identification, larger sales organizations, and in case of on-route charters, established stations. Further, seasonal exemptions, like individual charter exemptions, can be granted only if they satisfy the requirements of section 416(b).

Comments also asserted vagueness of the Board's tentative conclusions concerning the burden involved in existing procedures, and question whether any appreciable burden would be removed from the supplemental and all-cargo carriers by eliminating the requirement of prior approval. These comments also question the Board's conclusion that the identification of carriers participating in this traffic has changed because of the burden of making prior application, and call it unsupported and a mere guess, advocating the hypothesis that the transatlantic passenger charter service is inherently unprofitable for supplemental air carriers. Conversely, other comments from a route air carrier object that the regulation would attract additional supplemental and all-cargo carriers to this market. Comments of supplemental and all-cargo operators generally tend to confirm the Board's tentative conclusion, derived from processing of Part 295 charter applications during the past years, that the prior apprvoal requirement was a serious administrative and economic burden. Since exemptions will be granted only upon application and in accordance with the provisions of section 416(b), the regulation as such is not determinative of the number of authorizations which the Board will issue thereunder. Of course, no exemption will be issued to other than qualified carriers.

It is also asserted that a change in seasonal authorizations is untimely in that it would result in substantial awards not required by any emergency and in the face of doubt as to whether decision in the certificate proceeding, Docket 11908, will result in awards of any charter authority. Various arguments relating to the issues in that proceeding are made to show the existence of such doubt. Another carrier comments that the awards would prejudge the certificate proceeding. However, as stated above, the Board presently deems continuation of the transatlantic charter services of supplemental and all-cargo carriers necessary in the public interest, and this revision of the regulation merely reflects the Board's conclusion that this should be accomplished by seasonal grants. Any exemption that may be issued will be for the peak charter season of the year and renewal of such exemption will require a de novo determination under section 416(b). The issue of seasonal exemptions will not prejudge the certificate proceeding, Docket 11908, or any issue therein.

Objection to the regulation is also made on the ground that transatlantic charter operations by supplemental and all-cargo carriers adversely affect the

---

[3] We, of course, recognize that the fluctuations in MATS' policy and its effect on the availability of backhauls affect the economy of charter service and the desirability of participation in this market.

economy of the scheduled airlines, at the very time when unnecessary duplication of service should be eliminated and such operations are not needed. We do not conceive of the transatlantic passenger charter service as unnecessary duplication. Thus the Board believes that the standards of Part 295 adequately protect the scheduled route carriers from undue diversion.

Further comment was submitted advocating that this regulation should be effectuated only after formal hearing. The hearing to be held in the certificate proceeding which we have instituted will be directed to the long range needs and authorizations in the transatlantic passenger charter field. The comments contained nothing that would establish that hearings prior to the issuance of this regulation are required as a matter of law or by public interest considerations. Although this regulation, by itself, grants no rights, the Board is adopting the regulation in the belief that the requisite findings under section 416(b) can be made in the event that an application is filed by a properly qualified applicant. There will be adequate opportunity for objection respecting any particular application for temporary authority filed pursuant hereto.

In further comments received, objection has been made to the exclusion of any supplemental carrier from eligibility for exemptions under this rule and especially to exclusion on the ground that the supplemental carrier is not an applicant for a charter certificate in the above-mentioned proceeding. Conversely, other comments deplored an alleged lack of adequate standards or limitations to insure the fitness of carriers granted blanket authority. The Board is satisfied that the public interest justifies keying its transatlantic charter policy to the operations of those carriers which have exhibited a sustained interest in the operation of transatlantic charters. Further, this Part contemplates that successful applicants will have met completely adequate standards of fitness. Section 295.5 now specifically requires that applications be accompanied by such additional supporting information as data showing whether the applicant possesses aircraft capable of providing the service; whether capital required to operate is available to it; whether it has made arrangements for protecting charterers' deposits so as to be in a position to make prompt refunds when flights are not operated; whether it has definite plans to operate, such as signed conditional contracts or options; whether it has a reasonable program for assuring on-time departures and for suitable substitute arrangements where emenrgency situations necessitate substitute service; whether it will provide a point of contact overseas for charter groups for securing information regarding return trips; and that it has the ability to conform to all the provisions of the Act and the requirements thereunder. Previous experience in the transatlantic pro rata charter market will also be a factor to be considered.

It was also suggested that all-cargo carriers be excluded from this Part in conformity with a concept of encouraging specialists to devote their endeavors to developing their own limited markets. The proposition would have greater force if the all-cargo carriers were firmly established in their regular cargo work on a stable and sound economic basis. The role of the all-cargo carrier in the subject charter services may be better determined after decision in the Domestic Cargo-Mail Service Case (Docket 10067, et al.). There is insufficient reason to exclude all-cargo carriers at this time from this regulation.

Sevreal comments were submitted suggesting greater safeguards against violations of bona fide charter operations hereunder. It was proposed that basic charter data be filed prior to each flight with the Board, be open to public scrutiny and objection and be subject to disapproval by the Board. Concern was also voiced as to the availability of effective sanctions.

Charter standards are now sufficiently clear and precise and so well known to carriers that there can be no confusion on the part of an operator or his competitor as to what constitutes a violation of the Board's charter concept. Any substantial violations can be expected to become readily known to competing carriers and could be reported to the Board by appropriate complaint. Further, information on every charter flight must be filed monthly pursuant to this part and can serve as an additional source of information available to the public for checking on the validity of operations performed. In addition, much more detailed data, under certification of charterer, travel agent, and carrier, as to each charter operation must be retained by the carrier available for Board inspection. With such opportunity to discover violations being available there is little likelihood that carriers would knowingly engage in unauthorized operations and risk the quite sufficient sanction of later not being eligible for renewed exemption authority or not being found fit for a charter certificate.

Such authority as may be issued under this part will be subject to amendment or revocation in the discretion of the Board.

While it is true that the self-interest of supplemental and all-cargo air carriers would not directly cause them to protect the individually-ticketed passenger market, their self-interest in remaining eligible for renewal of authorizations and eventual certification will constitute a strong incentive for them to abide by the regulation.

From the fact that in the past some carriers submitted charter applications which the Board had to reject, it does not follow that they would have performed such charters on their own responsibility. It is expected that the carriers will, for their own protection, ask for an advisory opinion in doubtful cases, and for a waiver in cases more clearly outside the standards of these rules.

In addition to the above, other comments were received urging the Board to make several changes not specifically dealt with in the notice of proposed rule making. The American Society of Travel Agents proposed a 23-day year-round excursion fare on individually-ticketed services in lieu of the provisions of Part 295. It may be noted that the recent meeting of IATA at Cannes did not result in a proposal to the Board of such a fare, and thus we have no basis for considering this proposal in connection with the subject amendment of this part. One cargo carrier suggested a limitation on carriage of cargo on passenger charter ferry legs to avoid undue diversion from cargo carriers. There has been no showing of any undue diversion through prior operations conducted under the provisions of Part 295 and the change from individual flight exemptions to blanket authorities should not unduly increase the chances of such an occurrence. Another carrier suggested inclusion of a rate floor to prevent uneconomic operations. This is not now found necessary inasmuch as the transatlantic passenger charter market has not exhibited any tendency toward extreme rate cutting.

Several other proposals not dealt with in the notice were submitted in response thereto. Thus, comments were received urging the Board to allow for split charters whereby the aircraft is shared by separate charter groups; to permit any relative residing with a member of the charter group to participate in the trip as a member of his "immediate family", and to permit travel agents to participate in charter administration and allow them to receive commissions for charter services performed for the carrier even though they are members of the charter organization. The Board does not consider such amendments advisable. Split charters would tend to erode the concept of charters as plane load operators. Inclusion of all household relatives beyond spouse, children and parents (the usual resident categories) lends itself to abuse since determination of the true residential status of other relatives is not easily accomplished. The matter of relaxing restrictions on travel agents has been periodically considered and no new showing has been made which would warrant changing the Board's established position on the provisions mentioned.

Four supplemental carriers proposed liberalization of the prohibition against paying commissions to travel agents in excess of five percent of the total charter price or of the commission rate paid by a passenger carrier certificated to conduct regular service between the same points. They argued that supplemental carriers cannot engage in charter price competition with route operators, since the agent's commission, based on a lower charter price, would actually result in less remuneration for him and jeopardize his impartial representation of supplemental operations as opposed to certificated operations. The ceiling on commissions should not be lifted. It has served to reduce the incentive for promoters to act as indirect air carriers and to "create" charters through individual solicitation of the general public. In light of the limited nature of Part 295 operations, and the advisability of having distinctive safeguards for such operations, the proposed modification of the subject provision does not appear advisable.

Some carriers also suggested amendment of Part 295 to clarify permissible carrier solicitation of charter groups, advertising of individual rates for participants in pro rata charters, and carrier advertising of ground-tour arrangements. Section 295.11(a) states that a carier shall not engage directly or indirectly in any solicitation of individuals as distinguished from the solicitation of an organization for a charter trip. Consistent with this provision carriers may engage in advertising not directed to the individual. To permit advertising of a pro rata charge by itself would encourage the carriers to direct advertising at individuals rather than officers of bona fide organizations and would in effect en-

courage individuals to form "clubs" for purposes of chartering. It should be noted that a charter is not in a position to state what a pro rata charge will be since such charge depends on the number of seats on the aircraft that are actually filled and such other matters as the administrative expenses assessed against pro rata shares in each particular charter. On the matter of advertising land tours, we do not interpret Part 295 as prohibiting such advertising so long as it is directed at groups rather than at individuals. Advertising of land tours directed at individuals would be an indirect method of soliciting individuals for charter flights. However, we interpret Part 295 as permitting a carrier to speak of the availability and general price range of land tours when it addresses its advertising to groups, and to refer such groups to tour operators.

Several carriers proposed elimination of § 295.2(j) which sets forth a presumptive standard for judging bona fide members of charter organizations and a safeguard against the carriage of spurious charter groups. The Board finds this provision should be retained expressly to avoid the admission of members through public solicitation for purposes of charter flight participation. The definiation of bona fide members is modified in accordance with the notice of rule making. Previously it included a presumption that members were not bona fide unless they had belonged to the charter organization at the time of the filing of the application for special authority to conduct the particular charter. With the removal of this requirement for individual trip authorization the presumption was tentatively changed to refer to persons as not being bona fide unless belonging to the organization at the time it gives "notice to its members of firm charter plans."[4] Objection was made to this definition as being too vague. To be more restrictive might unduly hinder charter participation. There will be many instances where a charter's "notice to its members of firm charter plans" will indicate a flight date which may serve to show a specific charter arrangement. Since such solicitation notices must be filed with the carrier under this Part and be retained by it for possible Board inspection there is insignificant likelihood that the proposed standard of bona fide members as here amended will lead to spurious charter participation.

Comment was also received from the System Route Committee, Pilots-Pan American World Airways. This group felt that liberalization of charter rules would curtail charters by Pan American and adversely affect their job advancement. In the light of our discussion herein there is no showing of any possible injury sufficient to warrant further limitations concerning operations covered by this regulation.

In view of the foregoing, the Board finds that the subject amendment of Part 295 is in the public interest.

New § 295.5 contains the requirements for application for the new exemption authority. All former provisions which related to Board approval of specific aspects of charters not generally permitted under this part (such as provisions in § 295.33(a)(2) and § 295.35(b)(3) have been omitted. The effect of this is that air carriers which receive authority under this part may not perform charters which do not comply with this part in every respect unless a waiver has been granted by the Board pursuant to § 295.3.

Similarly, former § 295.17 which required individual postflight reports to the Board is being eliminated. However, such information will have to be filed with the carrier by the travel agent and the chartering group as before. The revised provisions of Part 295 require the filing of a report by the carrier within 15 days after the close of each month concerning each charter trip operated during such month; setting forth (a) date of trip; (b) points served; (c) number of round-trip and one-way passengers; (d) name of chartering organization; (e) description of chartering organization disclosing basis for conclusion that group is bona fide; (f) name of travel agent; and (g) basis for construction of tariff charge.

---

[4] The full definition § 295.2(j) reads as follows: "'Bona fide members' means those members of a charter organization who have not joined the organization merely to participate in the charters as the result of a solicitation directed to the general public. Presumptively persons are not bona fide members of a charter organization unless they are members at the time the organization first gives notice to its members of firm charter plans and unless they have actually been members for a minimum period of six months prior to the starting flight date. This presumption will not be applicable in the case of charters composed of (1) students and educational staff of a single school, and immediate families thereof, (2) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (3) participants in a formal academic study course abroad. In the case of all other charters, rebuttal to this presumption may be offered for the Board's consideration by request for waiver."

These provisions will be found in new § 295.6 which also refers to the necessary record-retention requirements incorporated in Part 249.

Amendment to § 295.30 has been incorporated raising to 20,000 the former numerical maximum of 15,000 for chartering groups drawn from an area other than a local area. This has been accomplished in conformity with Board Orders E–16147 and E–16295, Docket 11879 approving an amendment to the IATA Charter Resolution carrying out a parallel change.

Apart from the aforementioned changes, the provisions of Part 295 remain substantially the same. As previously noted, the rule contains restrictions on the transatlantic passenger charter business which guard against the entry into the field of direct air carriers and which also prevent charterers from soliciting the public or segments of the public for charter flights. In addition, there are protective provisions guarding participants in charter trips from inequitable burdens and charges.

With regard to the prohibition against charterers obtaining participants for a charter group by soliciting the general public, the rule prevents the forming of a group by (1) general advertising or (2) unlimited soliciting of charter participants from an organization easy to join, and of uncertain or large and scattered membership. The rule thus provides the general framework within which to judge the charterworthiness of the cases on their own facts. For example in accordance with the provisions of § 295.30 as amended, prospective charter participants solicited without limit from organizations or other entities with a total membership of more than 20,000 (except colleges or universities located in one local area) would be considered as solicited from the general public which would preclude their charter trip. However, if the solicitation of charter participants should be limited to a group of selected delegates who are members of a large association with scattered membership, the size of the association would not appear to bar the charter.[5]

Further, in the case of employees of a business whose total employment would apparently render a charter ineligible for approval, a valid charter might be solicited from the employees of two or more plants of such enterprise, provided the total number of employees in such plants would be sufficiently limited as to meet the tests applied by the Board in the case of a single organization. Also, the decision to limit the charter solicitation to the plants involved would necessarily have to be made prior to solicitation for the charter, and each such charter (if there were more than one) would have to be locally administered, independently of the others. It would be inappropriate to make a general solicitation of the employees of the entire enterprise and subsequently limit the charter group in an attempt to conform with the criteria of the regulation.

In those cases, furthermore, where federations of groups are the organizations from which charter groups are sought to be derived, several issues under the solicitation criteria set forth herein would necessarily arise: for instance, whether the federation provides services directly to members of several separate organizations in a given locality, or is merely a superstructure tying several individual associations together. Factors to be weighed would include the relationship of members represented by such federation to the total population of the area covered by the federation, past history of joint activities sponsored by the federation, and whether the federation exists only nominally as a means of exchanging information, with participation limited to meetings of representatives of each member group and individual membership therein being merely a matter of record or form at the most.

To facilitate advising a prospective charterer of (1) charter prerequisites and (2) the opportunity to obtain advisory opinions on charterworthiness, it is provided that a copy of this regulation shall always be sent to each prospect directly by the carrier concerned. The carrier, where known, will receive a copy of any advisory opinion requested by a charterer.

In order to facilitate the use of this regulation by charterers, the Board has decided to reissue the regulation with all amendments incorporated therein rather than to promulgate an amendment to the regulation as a separate document. In consideration of the facts that the subject amendment is principally a relaxation of heretofore existing restrictions; that the amendment relates only to

[5] Thus, if the organization is participating in a scientific convention abroad, the individuals selected to read papers at the convention may be organized into a charter group. Or if an international organization is to hold a meeting, delegates elected by various chapters might properly be organized into a charter group.

operations to be authorized in the future; that waivers of the provisions of the regulation may be granted where justified in the public interest and warranted by special or unusual circumstances; and that time is of the essence since the transatlantic charter season is approaching, the Board finds that the public interest requires and good cause exists for making this regulation effective upon less than 30 days following publication.

In consideration of the foregoing, the Civil Aeronautics Board hereby reissues Part 295 of the Economic Regulations (14 CFR Part 295), effective April 28, 1961, as follows:

Sec.

295.1 Applicability.
295.2 Definitions.
295.3 Waiver.
295.4 Separability.
295.5 Application for exemption authority.
295.6 Reporting and record retention

SUBPART A—PROVISIONS RELATING TO PRO RATA CHARTERS

REQUIREMENTS RELATING TO AIR CARRIERS

295.11 Solicitation and formation of a chartering group.
295.12 Pre-trip notification.
295.13 Tariffs to be on file.
295.14 Terms of service.
295.15 Agent's commission.
295.16 Prohibition against payments or gratuities.

REQUIREMENTS RELATING TO TRAVEL AGENTS

295.20 Limited activities.
295.21 Permissible solicitation, sale or ticketing of individual participants for land tours.
295.22 Agents who are members of the chartering organization.
295.23 Prohibition against double compensation.
295.24 Prohibition against incurring obligations.
295.25 Prohibition against payments or gratuities.
295.26 Statement of supporting information.

REQUIREMENTS RELATING TO THE CHARTERING ORGANIZATION

295.30 Solicitation of charter participants.
295.31 Passengers on charter flights.
295.32 Participation of immediate families in charter flights.
295.33 Charter costs.
295.34 Statements of charges.
295.35 Passenger manifests.
295.36 Statement of supporting information.

SUBPART B—PROVISIONS RELATING TO SINGLE ENTITY CHARTERS

295.40 Tariff to be on file.
295.41 Terms of service.
295.42 Commissions paid to travel agents.

SUBPART C—PROVISIONS RELATING TO MIXED CHARTERS

295.50 Applicable rules.

SUBPART D—PROCEDURE FOR ADVISORY OPINION ON THE ELIGIBILITY OF A CHARTERER

295.60 Advisory opinion.

AUTHORITY: §§ 295.1 to 295.60 issued under sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply secs. 407(a) and 416(b), 72 Stat. 766, 771; 49 U.S.C. 1377, 1386.

§ 295.1 Applicability.

This part establishes the requirements governing applications for, and operations under, individual exemption orders authorizing for periods up to 180 days but terminating not later than September 30 of any year, the performance of pro rata; mixed and/or single entity charter flights for transatlantic passengers by United States flag air carriers other than carriers certificated to provide unlimited individually ticketed passenger service over designated routes. Each application will be considered and passed upon by the Board in accordance with the statutory standards of section 416(b) of the Act. Such application shall be filed and submitted in compliance with the applicable provisions of this part. Operations under any such individual exemption authorizing the performance of transatlantic passenger charter flights shall be conducted in conformity with the pertinent requirements of this part unless otherwise specifically authorized by the Board. The provisions of this regulation shall not be construed as limiting any other authority to engage in air transportation issued by the Board.

§ 295.2 Definitions.

As used in this part, unless the context otherwise requires—

(a) "Charter flight" means transatlantic air transportation performed by a direct air carrier where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage, on a time, mileage or trip basis:

(1) By a person for his own use (including a direct air carrier or surface carrier when such aircraft is engaged solely for the transportation of company personnel or commercial passenger traffic in cases of emergency) ; or

(2) By a representative (or representatives acting jointly) of a group for the use of such group (providing no such representative is professionally engaged in the formation of groups for transportation or in the solicitation or sale of transportation services).

With the consent of the charter, the direct air carrier may utilize any unused space for the transportation of the carrier's own personnel and property.

(b) "Pro rata charter" means a charter the cost of which is divided among the passengers transported.

(c) "Single entity charter" means a charter the cost of which is borne by the charterer and not by individual passengers, directly or indirectly.

(d) "Mixed charter" means a charter the cost of which is borne, or pursuant to contract may be borne, partly by the charter participants and partly by the charterer.

(e) "Person" means any individual, firm, association, partnership, or corporation.

(f) "Travel agent" means any person engaged in the formation of groups for transportation or in the solicitation or sale of transportation services.

(g) "Charter group" means that body of individuals who shall actually participate in the charter flight.

(h) "Charter organization" means that organization, group or other entity from whose members (and their immediate families) a charter group is derived.

(i) "Immediate family" means only the following persons who are living in the household of a member of a charter organization, namely, the spouse, dependent children, and parents, of such member.

(j) "Bona fide members" means those members of a charter organization who have not joined the organization merely to participate in the charter as the result of a solicitation directed to the general public. Presumptively persons are not bona fide members of a charter organization unless they are members at the time the organization first gives notice to its members of firm charter plans and unless they have actually been members for a minimum period of six months prior to the starting flight date. This presumption will not be applicable in the case of charters composed of (1) students and educational staff of a single school, and immediate families thereof, (2) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (3) participants in a formal academic study course abroad. In the case of all other charters, rebuttal to this presumption may be offered for the Board's consideration by request for waiver.

(k) "Solicitation of the general public" means (1) a solicitation going beyond the bona fide members of an organization (and their immediate families), such as advertising directed to the general public by radio, television, newspaper, or magazine, or (2) the solicitation, without limitation, of the members of an organization so constituted as to ease of admission to membership, nature of membership, area of residence of members, and size of membership, as to be in substance more in the nature of a segment of the public than a private entity.

§ 295.3 Waiver.

A waiver of any of the provisions of this regulation may be granted by the Board upon the submission by an air carrier of a written request therefor not less than 30 days prior to the flight to which it relates provided such a waiver is in the public interest and it appears to the Board that special or unusual circumstances warrant a departure from the provisions set forth herein.

§ 295.4 Separability.

If any provision of this part or the application thereof to any air transportation, person, class of persons, or circumstances is held invalid, neither the remainder of the part nor the application of such provision to other air transportation, persons, classes of persons, or circumstances shall be affected thereby.

§ 295.5 Application for exemption authority.

Proceedings on applications for exemption authority pursuant to section 416 (b) of the Federal Aviation Act of 1958 to conduct transatlantic passenger charter flights (pro-rata, mixed and/or single entity charters) shall be governed by §§ 302.400 to 302.409 of this chapter (Rules 400 to 409 of Part 302 of the Board's Procedural Regulations), subject, however, to the following additional or different provisions:

(a) Applications may be filed only by air carriers which are applicants in good standing for transatlantic charter authority in Transatlantic Charter Investigation, Docket 11908, instituted by Board Order E–16023 of November 14, 1960.

(b) Applications for exemption authority shall be filed with the Board at least 60 days prior to the proposed first flight under such authority.

(c) The application shall state whether authority to fly pro rata charters, mixed charters, and/or single entity charters is requested; the scope of the charter service to be provided; and the program to be employed for screening charters for full compliance with this part (including provisions for canceling charter contracted for but found not to be bona fide). It shall also be accompanied by all other pertinent data including but not limited to a showing whether the applicant possesses aircraft capable of providing the service; whether the capital required to operate is available to it; whether it has made arrangements for protecting charterers' deposits so as to be in a position to make prompt refunds when flights are not operated; that it has appropriate pro rata charter tariffs on file with the Board pursuant to § 295.13; whether it has definite plans to operate, such as signed conditional contracts or options; whether it has a reasonable program for assuring on-time departures and for suitable substitute arrangements where emergency situations necessitate substitute service; whether it will provide a point of contact overseas for charter groups for securing information regarding return trips; and that it has the ability to conform to all the provisions of the Act and the requirements thereunder.

(d) Copies of the application shall be served on each direct air carrier certificated to provide unlimited transatlantic passenger service.

§ 295.6 Reporting and record retention

(a) Fifteen days after the end of each calendar month, each carrier holding operating authority pursuant to this part shall file with the Board's Bureau of Economic Regulation a report setting forth the following information pertaining to each charter flight performed during said month pursuant to such authority:

(1) Date of trip;

(2) Points served;

(3) Number of round-trip and one-way passengers;

(4) Name of chartering organization;

(5) Description of chartering organization disclosing basis for conclusion that the group is bona fide (identify criteria relied upon);

(6) Name of travel agent; and

(7) Construction of tariff charge.

(b) Prior to performing any charter flight pusuant to this part the carrier shall execute, and require the travel agent (if any) and charterer to execute, the form "Statement of Supporting Information" attached hereto and made a part hereof.

(c) Each air carrier holding operating authority pursuant to this part shall comply with the applicable record-rention provisions of Part 249 of this subchapter, as amended.

Subpart A—Provisions Relating to Pro Rata Charters

Requirements relating to air carriers

§ 295.11 Solicitation and formation of a chartering group

(a) A carrier shall not engage, directly or indirectly, in any solicitation of individuals (through personal contact, advertising, or otherwise) as distinguished from the solicitation of an organization for a charter trip.

(b) A carrier shall not employ, directly or indirectly, any person for the purpose of organizing and assembling members of any organization, club, or other entity into a group to make the charter flight.

§ 295.12 Pre-trip notification.

Upon a charter flight date being reserved by the carrier or its agent, the carrier shall provide the prospective charterer with a copy of this regulation, Part 295.[1] The charter contract shall include a provision that the charterer, and any agent thereof, shall only act with regard to the charter in a manner consistent with this regulation and that the charterer shall within due time submit to the carrier such information as specified in §§ 295.34 and 295.35 and submit to each charter participant the information identified in § 295.34. The carrier shall also require that the charterer and any travel agent involved shall furnish it in due time for review before flight the information required in §§ 295.36 and 295.26, respectively.

§ 295.13 Tariffs to be on file.

At the time an exemption application is submitted the carrier shall have on file with the Board a tariff showing all its rates, fares, and charges for the use of the entire capacity of one or more aircraft in air transportation and all its rules, regulations, practices and services in connection with the transatlantic pro rata charter transportation which it offers to perform. Tariffs filed pursuant hereto shall expressly recite that the transportation may not be furnished unless the Civil Aeronautics Board specifically exempts the air carrier from the requirements of section 401 of the Federal Aviation Act of 1958.

§ 295.14 Terms of service.

(a) The total charter price and other terms of service rendered pursuant to authority granted under this part shall conform to those set forth in the applicable tariff on file with the Board and in force at the time of the respective charter flight and the contract must be for the entire capacity of one or more aircraft. Where a carrier's charter charge computed according to a mileage tariff includes a charge for ferry mileage, the carrier shall refund to the charterer any sum charged for ferry mileage, which is not in fact flown in the performance of the charter: *Provided,* That the carrier shall not charge the charterer for ferry mileage flown in addition to that stated in the contract unless such mileage is flown for the convenience of and at the express direction of the charterer.

(b) The carrier shall require full payment of the total charter price or the posting of a satisfactory bond for full payment prior to the commencement of the air transportation.

(c) In the case of a round-trip charter, one-way passengers shall not be carried except that up to five percent of the charter group may be transported one way in each direction. This provision shall not be construed as permitting knowing participation in any plan whereby each leg of a round-trip is chartered separately in order to avoid the five percent limitation aforesaid. In the case of a charter contract calling for two or more round-trips, there shall be no intermingling of passengers and each planeload group shall move as a unit in both directions.

§ 295.15 Agent's commission.

The carrier shall not pay its agent a commission or any other benefits, directly or indirectly, in excess of five percent of the total charter price as set forth in the carrier's charter tariff on file with the Board, or more than the commission related to charter flights paid to an agent by a carrier certificated to render regular service on the same route, whichever is greater. The carrier shall not pay any commission whatsoever to an agent if the agent receives a commission from the charterer for the same service.

§ 295.16 Prohibition against payment or gratuities.

A carrier shall make no payments nor extend gratuities of any kind, directly or indirectly, to any member of a chartering organization in relation either to air transportation or land tours or otherwise. Nothing in this section shall restrict a carrier from offering to each member of the charter group such advertising and good will items as are customarily extended to individually-ticketed passengers (e.g., canvas traveling bag or a money exchange computer).

---

[1] Copies of this regulation are available by purchase from the Superintendent of Documents, Washington 25, D.C. Single copies will be furnished without charge on written request to the Publications Section, Civil Aeronautics Board, Washington 25, D.C.

REQUIREMENTS RELATING TO TRAVEL AGENTS

§ 295.20 Limited activities.

A travel agent may not assist in the organization or assembly of a charter group, handle the sale of the air transportation to any individual members of a group, or otherwise engage in the administration of the charter flight (including signing the charter agreement for the charterer or collecting or disbursing pro rata shares of participants). The agent may arrange land tours for a charter group provided he deals with the group as a whole. He may deal with individual members of a group regarding land tours only under the circumstances indicated in § 295.21. While his services may be utilized to prepare brochures or other literature describing all aspects of the charter trip, the distribution of such material to individual participants must be confined to the hands of the charterer. Nothing in this section, however, shall prohibit the carrier from having a travel agent make distribution to the charter flight participants of boarding passes pursuant to Warsaw Convention practices.

§ 295.21 Permissible solicitation, sale or ticketing of individual participants for land tours.

A travel agent may deal with individuals for land tours (including ticketing and receipt or individual deposits for such tours) if such persons, on an individual basis after arranging for charter participation, initiate a contact with him to request of him land tour arrangements different from those which have been made available to the charter group as a whole through the organizer of the group. A travel agent (or person controlled by, controlling, or under common control with such travel agent) who does not assist in the engaging of aircraft for the charter [2] and does not receive remuneration from the carrier in connection with the charter may, in addition, solicit (i.e. initiate the approach to) individual members of the charter group (i.e., persons who have already arranged for charter participation) for land tours, and with respect to such tours receive deposits and conduct ticketing of such individual members.

§ 295.22 Agents who are members of the chartering organization.

If a travel agent, or officer, director, or employee of such an agent, is a member of the chartering organization, such agent, or officer, director, or employee, may not receive, directly or indirectly, any commission or other compensation with respect either to the charter flight or the land tour. Subject to this prohibition, he may participate in those activities, and only those, permitted to other travel agents.

§ 295.23 Prohibition against double compensation.

A travel agent may not receive a commission from both the direct air carrier and the charterer for the same service, nor may he receive directly or indirectly any part of the administrative labor cost referred to in § 295.33(c).

§ 295.24 Prohibition against incurring obligations.

A travel agent shall not incur any obligation on behalf of a chartering organization relating to the expenses of solicitation or organization of the individual participants in the chartering organization, whether or not it is intended for the organization to assume ultimately the obligation incurred.

§ 295.25 Prohibition against payments or gratuities.

A travel agent shall make no payments nor extend gratuities of any kind, directly or indirectly, to any member of a chartering organization whether in relation to air transportation or otherwise. Nothing in this section shall restrict a travel agent from offering to each member of the charter group such advertising and good will items as are customarily extended to individually-ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

§ 295.26 Statement of supporting information.

Travel agents shall execute, and furnish to air carriers, section A or Part II of the Statement of Supporting Information, at such time prior to flight as required by the carrier to afford it due time for review thereof.

---

[2] This would include assistance in any form which would place the carrier under even an implicit obligation to the agent for having procured the charter. However, it would not include mere discussion between agent and charterer about the several airlines which the charterer might wish to contact.

REQUIREMENTS RELATING TO THE CHARTERING ORGANIZATION

§ 295.30 Solicitation of charter participants.

As the following terms are defined in § 295.2, members of the charter group may be solicited only from among the bona fide members of an organization, club or other entity, and their immediate families, and may not be brought together by means of a solicitation of the general public. Charter participants solicited without limit from organizations or other entities with a total membership of more than 20,000 (except colleges or universities located in one local area) shall be considered as solicited from the general public.

§ 295.31 Passengers on charter flights.

Only bona fide members of the charterer, and their immediate families, may participate as passengers on a charter flight. Where the charterer is engaging round-trip transportation, one-way passengers shall not participate in the charter flight except as provided in § 295.14(c). When more than one round-trip is contracted for, intermingling between flights or reforming of plane-load groups shall not be permitted and each plane-load group must move as a unit in both directions.

§ 295.32 Participation of immediate families in charter flights.

The immediate family of any bona fide member of a charter organization may participate in a charter flight. The immediate family of such member shall be construted to include only the following persons who are living in his household, namely, the spouse, dependent children, and parents of such member.

§ 295.33 Charter costs.

(a) The costs of charter flights shall be prorated equally among all charter passengers and no charter passenger shall be allowed free transportation; except that (1) children under twelve years of age may be transported at a charge less than the equally prorated charge; (2) children under two years of age may be transported free of charge.

(b) The charterer shall not make charges to the charter participants which exceed the actual costs incurred in consummating the charter arrangements, nor include as a part of the assessment for the charter flight any charge for purposes of charitable donations. All charges related to the charter flight arrangements collected from the charter participants which exceed the actual costs thereof shall be refunded to the participants in the same ratio as the charges were collected.

(c) Reasonable administrative costs of organizing the charter may be divided among the charter participants. Such costs may include a reasonable charge for compensation to members of the charter organization for actual labor and personal expenses incurred by them. Such charge shall not exceed $300 (or $500 where the charter participants number more than 80) per round-trip flight. Neither the organizers of the charter, nor any member of the chartering organization, may receive any gratuities or compensation, direct or indirect, from the carrier, the travel agent, or any organization which provides any service to the chartering organization whether of an air transportation nature or otherwise. Nothing in this section shall prevent any member of the charter group from accepting such advertising and good will items as are customarily extended to individually-ticketed passengers (e.g., a canvas traveling bag or a money exchange computer).

(d) If the total expenditures, including among other items compensation to members of the chartering organization, referred to in § 295.33(c) above, but exclusive of expenses for air transportation or land tours, exceed $750 per round-trip flight, such expenditures shall be supported by properly authenticated vouchers to be given to the carrier with the "Post Flight Report" required pursuant to § 295.34.

§ 295.34 Statements of charges.

(a) Any announcements or statements by the charterer to prospective charter participants of the anticipated individual charge for the charter shall clearly identify the portion of the charges to be separately paid for the air transportation, for the land tour, and for the administrative expenses of the charterer.

(b) Within 15 days after completion of each one-way or round-trip flight the charterer shall complete and supply to each charter participant and the air carrier involved a detailed report showing the charge per passenger transported and the charterer's total receipts and expenditures. This report shall be submitted in the form of, and contain such information including the above as more fully specified by, the "Transatlantic Charter—Post Flight Report" annexed hereto and made a part of this part.

§ 295.35 Passenger manifests.

(a) Prior to each one-way or round-trip flight a manifest shall be filed by the charterer with the air carrier showing the names and addresses of the persons to be transported and specifying the relationship of each such person to the charterer (by designating opposite his name one of the three relationship categories hereinafter described). The manifest may include "stand-by" participants (by name, address and relationship to charterer).

(b) The relationship of a prospective passenger shall be classified under one of the following categories and specified on the passenger manifest as follows:

(1) A bona fide member of the chartering organization at the time the organization first gave notice to its members of firm charter plans and will have been a bona fide member of the chartering organization for at least six months prior to the starting flight date. Specify on the passenger manifest as "(1) member."

(2) The spouse, dependent child or parent of a bona fide member who lives in such member's household. Specify on the passenger manifest as "(2) spouse" or "(2) dependent child" or "(2) parent." Also give name and address of member relative where such member is not a prospective passenger.

(3) Bona fide members of entities consisting only of persons from a study group, or a college campus, or employed by a single Government agency, industrial plant, or mercantile company, or persons whose proposed participating in the charter flight was permitted by the Board pursuant to request for waiver. Specify on the passenger manifest as "(3) special" or "(3) member" (where participants are from a study or campus group or from a Government agency, industrial plant or mercantile company).

(c) In the case of a round-trip flight, the above information must be shown for each leg of the flight and any variations between the eastbound and westbound trips must be explained on the manifest.

(d) Attached to such manifest must be a certification, signed by a duly authorized representative of the charterer, reading:

The attached list of persons includes every individual who may participate in the charter flight. Every person as identified on the attached list (1) was a bona file member of the chartering organization at the time the chartering organization first gave notice to its members of firm charter plans, and will have been a member for at least six months prior to the starting flight date, or (2) is a bona fide member of an entity consisting of (i) students and educational staff of a single school, or (ii) employees of a single Government agency, industrial plant, or mercantile establishment, or (3) is a person whose participation has been specifically permitted by the Civil Aeronautics Board, or (4) is the spouse, dependent child, or parent of a person described hereinbefore and lives in such person's household, or (5) is a bona fide participant in a charter composed of participants in a formal academic study course abroad.

(Signature)

§ 295.36 Statement of supporting information.

Charterers shall execute and furnish to air carriers section B of Part II of the Statement of Supporting Information at such time prior to flight as required by the carrier to afford it due time for review thereof.

SUBPART B—PROVISIONS RELATING TO SINGLE ENTITY CHARTERS

§ 295.40 Tariff to be on file.

The direct air carrier shall have a currently effective tariff on file with the Board prior to flight which discloses all the rates, fares and charges for the use of the entire capacity of one or more aircraft in air transportation and all its rules, regulations, practices and services in connection with the transatlantic single entity charter transportation which it offers to perform.

§ 295.41 Terms of service.

The total charter price and other terms of service shall conform to those set forth in the applicable tariff filed in accordance herewith and the contract shall be for the entire capacity of one or more aircraft.

§ 295.42 Commissions paid to travel agents.

No direct air carrier shall pay a travel agent any commission in excess of five percent of the total charter price or more than the commission related to charter flights paid to an agent by a carrier certificated to fly the same route whichever is greater.

SUBPART C—PROVISIONS RELATING TO MIXED CHARTERS

§ 295.50 Applicable rules.

The rules set forth in Subpart A of this part shall apply in the case of mixed charters.

SUBPART D—PROCEDURE FOR ADVISORY OPINION ON THE ELIGIBILITY OF A CHARTERER

§ 295.60 Advisory opinion.

An air carrier or prospective charterer may request an advisory opinion from the Bureau of Economic Regulation, Civil Aeronautics Board, Washington 25, D.C., regarding the eligibility of the prospective charterer to obtain charter service in accordance with this regulation. The Bureau's opinion will be based on the representations submitted and shall not be binding upon the Board in any proceeding in which the lawfulness of the respective charter may be in issue. Such representations should include as much of the information specified by section B, Part II, of the Statement of Supporting Information annexed to this part as is available to the person requesting the advisory opinion.

NOTE: The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

By the Civil Aeronautics Board.

[SEAL] JAMES L. DEEGAN,
Acting Secretary.

[F.R. Doc. 61-3893; Filed, Apr. 27, 1961; 8:54 a.m.]

EXHIBIT 9

ER-326
Effective: April 28, 1961

APPLICATION FOR AUTHORITY TO CONDUCT TRANSATLANTIC PASSENGER CHARTER FLIGHTS --STATEMENT OF SUPPORTING INFORMATION

PART I - To be completed by air carrier applicant for single entity, mixed, or pro rata charter. (Where more than one round trip flight is to be performed under the charter contract, clearly indicate applicability of answers.)

1. Name of transporting carrier: _____

2. Commencement dates of proposed flight (s):

   (a) Going: _____

   (b) Returning: _____

3. Points to be included in proposed flight (s):

   (a) From: _____
   To: _____

   (b) Returning from: _____
   To: _____

   (c) Other stops required by charterer: _____
   _____

   (d) Technical stops required by carrier: _____
   _____

   (e) Planned routing: _____

4. (a) Type of aircraft to be used: _____

   (b) Seating capacity: _____

   (c) Number of persons to be transported: _____

5. (a) Total charter price: $_____

   (b) If pro rata or mixed charter, does charter price conform to tariff on file with the Board? _____

   (c) If pro rata or mixed charter, explain construction of charter price in relation to tariff on file with the Board(in case of mileage tariff, show mileage for each segment involved and indicate whether segment is live or ferry.) _____

6. (a) Has the carrier paid, or does it contemplate the payment of any commissions, direct or indirect, in connection with the proposed flight? YES _____
   NO _____

   (b) If "yes" give names and addresses of such recipients and indicate the amount paid or payable to each recipient. If any commission to a travel agent exceeds 5 percent of the total charter price, attach a statement justifying the higher amount under this regulation. _____
   _____
   _____

7. (a) Will the carrier or any affiliate provide any services or perform any functions in addition to the actual air transportation? YES _____ NO _____

   (b) If "yes," describe services or functions: _____

8. Name and address of charterer:

9. If charter is single entity, indicate purpose of flight:

10. On what date was the charter contract executed? _____

11. If the charter is pro rata, has c opy of Part 295 of the Civil Aeronautics Board's Economic Regulations been mailed to or delivered to the prospective charterer?
    YES _____ NO _____

APPLICATION FOR AUTHORITY TO CONDUCT TRANSATLANTIC PASSENGER CHARTER FLIGHTS -- STATEMENT OF SUPPORTING INFORMATION

PART II - To be completed for pro rata or mixed charters only:

Section A - To be supplied by travel agent, or, where none, by the air carrier or an affiliate under its control where either of the latter performs or provides any travel agency function or service (excluding air transportation sales but including land tour arrangements):

1. (a) Is the travel agent a member of the chartering organization?
YES_____ NO_____

(b) Is any officer, director, employee or family member of the travel agent a member of the chartering organization? YES_____ NO_____ If answer is "yes," give name(s) of such person(s) and designate whether such person(s) be an officer, director, employee, and/or family member:_____

2. Has agent furnished solicitation materials to charterer? YES_____ NO _____
If answer is "yes," supply copy of each type of material herewith.

3. What specific services have been or will be provided by agent to charterer on a group basis?_____

4. What specific services have been or will be provided by agent to individual participants in the proposed charter?_____

5. (a) Did or will the agent collect deposits from individual participants in the charter?
YES_____ NO_____
If answer is "yes," explain:_____

(b) Did or will the agent collect deposits from the person(s) organizing the charter?
YES_____ NO_____ If the answer is "yes," are the deposits in the form of a check, draft or money order drawn on the account of the chartering organization? YES_____ NO_____ If not so drawn, explain: ____

6. Has the agent incurred any obligations on behalf of the chartering organization relating to the expenses of solicitation or organization of the individual participants in the chartering group whether or not it is the intention of the chartering organization to assume ultimately the obligations incurred: YES_____ NO_____

7. Has the agent or, to his knowledge, have any of his principals, officers, directors, associates or employees compensated any member of the chartering organization in relation either to the proposed charter flight or any land tour? YES_____ NO_____

8. Does the agent have any financial interest in any organization rendering services to the chartering organization? YES_____ NO_____
If answer is "yes," explain:_____

_____
1/

Verification

STATE OF _____) SS:
COUNTY OF _____)

_____, being duly sworn, deposes and says that
Name
to the best of his knowledge and belief all information presented in Part II, Section A of this Statement is true and correct.

_____
Signature and address of travel agent or, if none, of authorized official of air carrier (as to questions 2-8) where such carrier or an affiliate under its control performs any travel agency function or service (excluding air transportation sales but including land tour arrangements).

Sworn to before me this day,
the _____ of _____, 19

_____
(Signature of person administering oath. Also, set forth here below the name, address, and authority of such person)

(SEAL)

Warranty

I, _____, represent and
Name
warrant that I have acted with regard to this charter operation (except to the extent fully and specifically explained in Part II, Section A) and will act with regard to such operation in a manner consistent with Part 295 of the Board's Economic Regulations.

_____
Signature and address of travel agent or, if none, of authorized official of air carrier (as to questions 2-8) where such carrier or an affiliate under its control performs any travel agency function or service (excluding air transportation sales but including land tour arrangements).

APPLICATION FOR AUTHORITY TO CONDUCT TRANSATLANTIC PASSENGER CHARTER FLIGHTS -- STATEMENT OF SUPPORTING INFORMATION

PART II - Section B -- To be supplied by charterer:

1. Description of chartering organization, including its objectives and purposes:

2. What activities are sponsored by the chartering organization?

3. When was the organization founded?

4. Size of membership: 2/ Present Last year
Year before last

5. Qualification or requirements for membership in organization and membership fee, if any:

6. Has there been any reference to prospective charter flights in soliciting new members for the chartering organization? YES NO

7. Give geographic distribution of membership. (If confined to one city, it will be sufficient to so indicate, otherwise describe local or larger area.) 3/

8. If total membership in the chartering organization is less than 1,000, submit list showing names and addresses of members in good standing. 4/ If total membership in the chartering organization is 1,000 or more, state where a list of members is available for inspection. (Groups of 1,000 or more may be required to submit membership lists upon specific request.)

9. Attach list of prospective passengers, showing for each: Name, address, and whether a member of chartering organization or relationship to a member of chartering group. (Note: This is a list of prospective passengers and does not necessarily have to represent the passengers actually carried.)

10. Purpose of trip:

11. What are requirements for participation in charter?

12. How were prospective participants for charter solicited (attach any solicitation material)? _____

13. Will there be any participants in the charter flight other than (1) members of the chartering organization or (2) spouse, dependent children, and parents of a member of the chartering group, residing in the same household with the member?
YES _____ NO _____

14. Will there be any members of the chartering organization participating in the charter who will have been members of the organization for a period of less than six months prior to flight date? 4/ YES _____ NO _____
If answer is "yes," give names of participants who will not have been members for six months and justify (see §295.2(j)): _____

15. If there is any intermediary involved in the charter, other than the travel agent whose participation is described in Section II (A), submit name, address, remuneration and scope of activity: _____

16. Estimated receipts: _____ X _____
(Pro rata charge) (No. of passengers)

= $_____
(Estimated receipt from charter)

Estimated receipts from other sources, if any: Explain: _____

(a) Total receipts $_____

Estimated expenditures, including aircraft charter (separately itemize air transportation, land tour, and administrative expenses):

Item	Amount	Payable to

(b) Total expenditures $_____ Explain any difference between (a) and (b): _____

17. Are any of the expenses included in item 16, above, to be paid to any members of the chartering organization? YES _____ NO _____ If "yes," state how much, to whom and for what services: _____

18. Is any member of the chartering organization to receive any compensation or benefit directly or indirectly from the air carrier, the travel agent, or any organization providing services in relation to the air or land portion of the trip? _____.
If "yes," explain fully: _____

19. Will any person in the group (except children under two years) be transported without charge? YES_____ NO_____

20. Will charter costs be divided equally among charter participants, except to the extent that a lesser charge is made for children under twelve years old?
YES_____ NO_____

21. Separately state for the outbound and inbound flights the number of one-way passengers anticipated to be transported in each direction:_____

22. If more than one round trip is contracted for, will each plane-load group move as a unit in both directions? YES_____ NO_____

23. If transatlantic charters have been performed for organization during past 5 years, give dates and name of carrier performing charters:_____

24. Has a copy of Part 295, "Transatlantic Charter Trips," of the Economic Regulations of the Civil Aeronautics Board been received by the charterer?
YES_____ NO_____

Verification of Charterer 1/

STATE OF_____) SS:
COUNTY OF_____)

_____ and _____
(name) (name)
being duly sworn, hereby separately depose and say that to the best of the knowledge and belief of each of them all the information in Part II, Section B, of this Statement is true and correct.

_____
(Signature and title of officer - This should be the chief officer of the chartering organization except in the case of a school charter, in which case verification must be by a school official not directly involved in charter.)

Sworn to before me this day, the _____ of _____, 19

_____
(Signature of person administering oath. Also, set forth here below the name, address and authority of such person)

(SEAL)

_____
(Signature - person within organization in charge of charter arrangements).

Sworn to before me this day, the _____ of _____, 19

_____
(Signature of person administering oath. Also, set forth here below the name, address and authority of such person)

(SEAL)

Warranty of Charterer

I, _____ and _____,
(name) (name)

epresent and warrant that the charterer has acted with regard to this charter operation (except to the extent fully and specifically explained in Part II, Section B), and will act with regard to such operation, in a manner consistent with Part 295 of the Board's Economic Regulations.

_____
(Signature and title of officer - This should be the chief officer of the chartering organization except in the case of a school charter, in which case the warranty must be by a school official not directly involved in charter.)

_____
(Signature - person within organization in charge of charter arrangements)

Verification of Employer 1/

(To be furnished where eligibility to participate in charter is dependent upon employment by a particular entity).

STATE OF _____)
COUNTY OF _____) SS:

_____, being duly sworn, deposes and says that to the
(name)
best of his knowledge and belief the answers to questions 4 and 7 of Part II, Section B, of this Statement are true and correct insofar as they represent the number and employment location of persons employed by

_____.
(name of employer entity)

_____
(Signature and title of authorized official of employer)

Sworn to before me this day, the
_____ of _____, 19

_____
(Signature of person administering oath. Also, set forth below the name, address, and authority of such person)

(SEAL)

Warranty of Air Carrier

To the best of my knowledge and belief all the information presented in this statement, including but not limited to, those parts verified by the charterer and the travel agent, is true and correct. I represent and warrant that the carrier has acted with regard to this charter operation (except to the extent fully and specifically explained in this statement or any attachment thereto) and will act with regard to such operation in a manner consistent with Part 295 of the Board's Economic Regulations. 5/

(Signature and title of authorized official of air carrier)

This must be retained by the air carrier for two years pursuant to the requirements of Part 249, but open to Board inspection, and to be filed with the Board on demand.

1/ Whoever, having taken an oath before a competent --- person --- that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both. Title 18, U.S.C., §1621.

2/ This figure should represent the number of persons eligible to participate in the charter by reason of their employment, membership, enrollment, etc. For example, if the charter is being sponsored by an employee recreation association but is open to all employees (whether or not affiliated with the association) the membership figures should represent the total of all the employees, not merely the membership of the association.

3/ If eligibility to participate in the charter is dependent upon employment by a particular entity, the answer to this question should reflect the geographic location of the plants or offices in which those persons are employed.

4/ Not applicable to college campus or study-group charters, nor to charters limited to employees of a single Government agency, industrial plant or mercantile company.

5/ Any air carrier, or any officer, agent, employee, or representative thereof, who shall, knowingly and wilfully, fail or refuse to keep or preserve accounts, records and memoranda in the form and manner prescribed by the Board, or shall, knowingly and wilfully, falsify, mutilate, or alter any such report, account, record or memorandum, shall be guilty of a misdemeanor and, upon conviction thereof, be subject for each offense to a fine of not less than $100 and not more than $5,000. Title 49, U.S.C. §1472.

TRANSATLANTIC CHARTER POST FLIGHT REPORT

Instructions:

The charterer shall complete and file a report in this form with the air carrier within 15 days of each one-way or round-trip charter flight. A report in this form shall also be furnished each charter participant by the charterer within 15 days after completion of each one-way or round-trip charter flight.

1. Name of carrier: _____

2. Name of chartering organization: _____

3. Analysis of charterer's receipts:

   (a) _____ (No. one-way psgrs.) X _____ (Charge per psgr. 1/ (including amounts later refunded)) = _____

   (b) _____ (No. round-trip psgrs.) X _____ (Charge per psgr. 1/ (Including amounts later refunded)) = _____

   (c) Receipts from other sources (explain) = _____

   (d) Total receipts / (a) + (b) + (c) / = _____

4. Analysis of charterer's expenditures:

Item of expenditure 2/	Paid to 3/	Amount
	Total 4/	

Verification 5/

STATE OF _____)
COUNTY OF _____) SS:

I, _____, being duly sworn, hereby depose and say that this report has been prepared by me or under my direction that I have carefully examined it and that to the best of my knowledge and belief it is a complete and accurate statement, and a copy hereof has been distributed to each charter participant.

_____
(Signature of person in charge of charter arrangements)

Sworn to before me this day,
the _____ of _____, 196

_____
(Signature of person administering oath. Also, set forth here below the name, address, and authority of such person)

(SEAL)

1/ If charter cost was not divided equally among all participants actually transported, indicate clearly the individual amounts collected and the number of passengers paying each such amount.

2/ As a separate item there should be listed here a total of all the amounts refunded to the charter participants; also list separately air transportation, land tour, and administrative expenses (showing compensation for labor and personal expenses paid to any member of chartering organization).

3/ Disclose any relationship to chartering organization.

4/ If this item does not agree with item 3(d), submit an explanatory statement as to the reasons therefor. If the total expenditures (including among other items compensation to members of the chartering organization but exclusive of expenses for air transportation or land tours) exceed $750 per round trip, such expenditures shall be fully supported by vouchers submitted to and retained by the direct air carrier operating the charter. Such vouchers must cover all expenditures made on behalf of the chartering group including any expenditures for banquets, gifts, local transit, etc.

5/ Whoever, having taken an oath before a competent --- person --- that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall, except as otherwise expressly provided by law, be fined not more than $2,000 or imprisoned not more than five years, or both. Title 18, U.S.C. §1621.

EXHIBIT No. 10

LEROY TOURS,
Royal Tunbridge Wells, Kent, England, February 3, 1961.

AIR CHARTER EXCHANGE,
Washington, D.C.

DEAR SIRS: As you are probably aware, I am a large-scale operator of European "package" tours from the United Kingdom varying in price for a 14-day holiday for between 18 and 100 guineas with the majority in the 40-guinea range.

My yearly program has a capacity of the order of 60,000 to 70,000 seats and last year we carried over 50,000 passengers to the Continent. The majority of our bookings are by direct recommendation and application although we do conduct a national advertising campaign and take bookings through our 750 agents.

There is no doubt that we hold a vast potential from our United Kingdom clients for "package" tours to the United States. Before we can launch such a scheme it will be essential for the price of a 14–15 day "package" to come within their reach and, as we see it, there are two main obstacles in the way at the moment:

(*a*) The excessive transatlantic charter rates.

(*b*) Reasonable all-in terms for accommodation and food in the United States.

We understand from our good friend, Mr. Thunell, that there is a fair chance that in the light of this potential your Civil Aeronautics Board may well be disposed to relax their existing restrictions to bring them into line with European practice and eagerly await developments along these lines.

We do not visualize any problems in coach transport in the United States but it is an absolute essential of our "packages" that the cost is fully inclusive door to door (including service charge).

I have sent two copies of our 1961 brochure by separate airmail. This will give you a good idea of our European "packages"—all tours prefixed by the letter A fly for part of their journey.

Yours faithfully,

LEWIS LEROY.

EXHIBIT No. 11

LANSEAIR TRAVEL, LTD.,
London, January 26, 1961.

Mr. B. MANSFIELD,
General Manager, Independent Airlines Association,
Washington, D.C.

DEAR MR. MANSFIELD: I would first like to say what a great pleasure it was meeting you recently on your short visit to London, and to offer my congratulations with regards to your appointing Hans Thunell as your sales manager. We shall all very much miss Hans in London, but do feel that you could not have made a better choice for the job that you require.

As you know, we are extremely interested in promoting general travel from Europe to the United States, and it is for this reason that I am primarily writing to you. To the average person, one of the greatest deterrents for travel to the United States, and for that matter, any part of the Western Hemisphere, is primarily the cost involved. Not so much the actual cost for services within the United States, such as hotels, inernal transfer, and sightseeing, but the transatlantic fare. When one bears in mind the money available to the average European tourist in relation to the money available to the average American tourist, there is a great differential. We have always found that one can place the normal expenditure for yearly vacations at approximately 15 percent of the gross yearly income. This is at the present time in the United Kingdom £600 per year, which would therefore, allow £90 available for vacation purposes, or $252. In the United States, where the average salary is in the region of $5,000 per year, this leaves availability for vacations, on the same percentage, $725. Therefore, bearing in mind these differentials and the fact that the air fare, transatlanticwise is identical for either United States or European citizens, it does seem that the Europeans are at a disadvantage.

As you are probably aware, for travel from the United Kingdom to the Continent the national carriers offer to the agencies, tour basing fares which are, of course, illegal as far as the CAB are concerned, and it is also possible for charter agreements to be made by agencies to operate certain fixed sched-

EXHIBIT 12

TTG reporters survey the 1961 air, sea and tour . . .

Wanted: an all-in tour to America for under £200

THE cost of a holiday tour to North America—at least £230 for two weeks on present prices—is the major factor deterring more British tourists from visiting the U.S.A. and Canada.

This is the majority opinion of tour operators, airlines and shipping companies asked by *TTG* this week to comment on the potential market for trans-Atlantic holiday traffic.

Proposals to set up a U.S. government tourist bureau in the U.K. appear to be universally welcomed. One of its chief functions would be to dispel present misconceptions that North America is "for millionaires only."

Tour operators arranging North American holidays report few difficulties in setting up tours, but some say that the U.S.A. must become more 'tourist-minded.'

'Fares cut' call

Although some carriers blame the cost of holidaymaking within North America for discouraging would-be tourists, tour operators are emphatic that trans-Atlantic fares must be reduced.

They feel that a two-week tour, including meals, must sell for less than £200 if new and bigger markets are to be tapped.

The following comments, by a representative selection of companies dealing in North American traffic, apply mainly to the U.S.A., although similar remarks can be made in many cases about Canada.

TOUR OPERATORS

AMERICAN EXPRESS: "We hope that both air and steamship companies can get down to some sort of 30-day ticket, possibly on an ITX basis," said Mr. R. Vance, travel department manager, London.

The trans-Atlantic fare, he added, was definitely the principal deterrent to expanding North American holidays. Arranging tours in the U.S.A. and Canada presented no difficulties.

One of the first duties of a U.S. tourist office—"which we welcome"—should be to make it known that the cost of holidays within the U.S.A. was not expensive, bearing in mind the distances involved.

At present, said Mr. Vance, due to trans-Atlantic fares, a two-week tour could not be arranged for less than £210-£230, excluding meals.

Cost-conscious tourists chose the eastern seaboard, the most popular circuits being New York-Washington - Chicago - Niagara Falls - Boston, or a round trip Montreal - New York taking in Ottawa, Toronto, Niagara Falls and Chicago.

Those with more money choose the Pacific coast—particularly San Francisco.

Mr. Vance described advance bookings for North American tours as being on about the same level as last year. There was, however, a small increase in enquiries.

CONSORT WORLD TRAVEL (van Ommeren): High cost is the principal deterrent to would-be tourists to North America, the present average tour price being £250 plus meals, said Mr. K. Wachter, tours manager.

"I should like to see an all-in price of £150 for two weeks, including meals," he said, based on a return journey fare of about £60.

No difficulties

There were no particular difficulties in setting up tours to the U.S.A. and Canada, but a tourist office could do vital work in the U.K. educating the people that North America is "not a millionaire's paradise."

The U.S. tourist industry should also educate Americans into the acceptance of tourists from other countries.

THOS. COOK & SON: Shortage of money, lack of publicity, restricted time available for holidays, and the need to apply for U.S. visas in person—these are seen by Thos. Cook & Son as difficulties in the way of developing tourism to North America.

Although bookings are "slightly up," interest remains steady, said a spokesman—and will remain so until more is done to publicise North American holidays.

For this reason, the company was in favour of a U.S. tourist office being set up here. Its duties should be to promote, publicise, advise, and issue literature.

New York and Niagara Falls were quoted as the two top tourist draws. Other desirable places were out of reach for time and money reasons.

FRAMES' TOURS: Since 1958, the trend has been away from escorted tours in favour of independent travel, said Mr. E. J. Denman, manager, American Department.

The eastern seaboard of the U.S. and Canada was popular, but the biggest draw was the Pacific coast.

New market

Average cost of a 25-day escorted tour, with demi-pension accommodation, was £275-£300. If the all-in cost of a North American holiday could be brought below £200, a new market would be tapped, he said.

Mr. Denman strongly criticised delays in customs clearance at the port of New York, which, he said, were not an encouraging start to a tour.

Whilst some travellers objected to the need for visas, Mr. Denman said this was not a major deterrent, and there were generally no appreciable delays in obtaining them.

HOULDER BROS.: A bigger interest in North American travel is indicated by a five- or six-fold increase in enquiries, and bookings are "much better than last year," said Mr. Peter Warner, joint manager.

Whilst winter tours based on the 17-day excursion fare were popular, in summer the more expensive tours were selling better than the cheaper ones.

Price was the biggest disadvantage in promoting travel to North America. A year-round excursion fare was needed, in order to bring the cost of a two-week holiday to £200 or less.

U.S. office needed

A tourist office was definitely needed in the U.K. to assist travel agents and tour operators, and to publicise the U.S.A. generally.

It should have at its head an experienced travel man, not a government official, Mr. Warner stressed.

POLY TRAVEL: Inclusive tour traffic to the U.S.A. was the same as last year, reported Mr. Peter Gibson, publicity manager. There was more interest in North America—but not in package tours.

New York was in popular demand—probably due to business travel. There was little interest in the U.S. west coast.

"The simple matter of pounds, shillings and pence" was the key to sales resistance in North American business, said Mr. Gibson.

A tourist office was needed in the U.K., but it had "a long job ahead of it," in making travel agents and the public better informed.

WAYFARERS: U.S. tourist authorities were strongly criticised by Mr. K. Gellan, manager of the company's America and Canada travel department.

Requests for literature and lists of forthcoming events had not been acknowledged, he claimed. There were "dozens of instances" which indicated lack of co-operation from existing tourist organisations in the U.S.A.

Mr. Gellan added that until more was done officially to promote the North American tourist trade, Wayfarers was not inclined to spend any more big sums of its own on promotion.

Most of the people now travelling to North America for non-business reasons were visiting friends or relations, he added.



KLM Passenger Flights now operate from and to

LONDON AIRPORT CENTRAL

where all Passenger and Operations Departments are located

KLM CHECK-IN COUNTER... CHANNEL 3 (Ground Floor)

Cargo flights will continue to operate from and to **LONDON AIRPORT NORTH**
where Import and Export Freight sections are located

NEW TELEPHONE NUMBERS	**SKYPORT 4321**
PASSENGER ENQUIRIES:	**Extension 5609 5610**
EXPORT FREIGHT ENQUIRIES:	**Extension 5624**
EXPORT FREIGHT BOOKINGS:	**Extension 5623**

THE WORLD OVER KLM ROYAL DUTCH AIRLINES

KANSAS STATE UNIVERSITY
LIBRARY
REFERENCE
DEPARTMENT
MANHATTAN, KANSAS

ules during the course of the season to points from the United Kingdom to the Continent, which, as is normal on all charter fares, offer a considerable saving to those taking part. Agencies, once the initial license has been granted, are allowed to publicize and sell to the general public on a seat basis.

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

Almost all of the countries in Western Europe and many in the east have found that the greatest source of revenue is the tourist traffic and in view of the recent unsatisfactory balance-of-payments situation that has arisen, a vast increase in tourist traffic into the United States would, without any doubt whatsoever, go a long way to bring about a more satisfactory and equal balance, but as I have stated, this could only be done when facilities are made available for the vast potential that we have, and unfortunately this can only ever be accomplished by the relaxation of regulations which would allow either for regular scheduled services with tour basing fares, or for open charter for inclusive tour operations allowing for direct sale on a seat basis to the general public.

I feel sure that if your company were to pursue this matter and the Government office involved were to make inquiries into this situation, they would find that the facts that I have stated will be substantiated by other people in our trade and the general public, also.

I shall be visiting Washington toward the middle part of March when I hope I will have the opportunity of meeting you again, and perhaps we may be able to discuss this matter in greater detail.

Kindest regards.

Yours sincerely,

HENRY C. MORRITT, *Director.*

EXHIBIT No. 13

Air fares between leading points where new routes were granted in the southern transcontinental service case, before and after start of new service

	1-way fares			
	1st class		Coach	
	Jet	Piston	Jet	Piston
New Orleans-Los Angeles:				
Before	$125.00	$117.00	$98.60	$90.60
After	125.00	117.00	98.60	90.60
Atlanta-Los Angeles:				
Before	145.15	137.15	113.15	105.15
After	145.15	137.15	113.15	105.15
Miami-San Francisco:				
Before	196.90	186.90	150.20	136.55
After	196.90	186.90	150.20	136.55
Miami-Los Angeles:				
Before	174.95	164.95	135.85	125.85
After	174.95	164.95	135.85	125.85

NOTE.—New routes were placed in operation and "new" fares became effective June 11, 1961.

Source: Official Airline Guides, March and June 1961.

EXHIBIT No. 14

FEDERAL AVIATION AGENCY,
Washington, D.C., March 21, 1960.

MR. CLAYTON L. BURWELL,
President, Independent Airlines Association,
1328 Eye Street NW., Washington, D.C.

DEAR MR. BURWELL: I am impressed by the fine safety record made by your association's member airlines, and I am grateful for the reassurance such an outstanding record gives to the flying public.

You have set an enviable goal for the rest of the industry. Your achievement speaks well for rigid safety standards and careful adherence to the principles of air safety.

My congratulations for 5 years, 3½ million passengers, and 6 billion passenger-miles of safe flying.

Sincerely,

E. R. QUESADA, *Administrator.*

Mr. BURWELL. Thank you, sir; if I may I will ask Mr. DeWitt Yates, counsel for both associations, to read such portions as need to be read.

Mr. Chairman, this is the 15th anniversary of the supplemental air carrier industry, and therefore we feel we are not the fly-by-nights or the people who have been around for a few months; as a matter of fact, we have been here for years—certainly insofar as the 1938 act is concerned, we are particularly grateful for the Congress, first, last year for commuting our death sentence and we are on the brink of being exterminated. We are hopeful that the Congress this year will take a little longer look and decide what our life should be for the use of the public.

I think the chairman appreciates, and the members of the committee, very clearly the problems of trying to get financing on equipment that requires 5 to 8 years amortization with only authority, perhaps 18 months. Further than that, the industry as you can see from exhibit 3, is going broke. The only purveyors are not the big airlines. We would like to purvey a little bit ourselves.

I think you will notice in 1959 we lost $8 million; in 1960 we lost $5 million, which relatively speaking may show some improvement. Several years ago we were making some money and out of the last 4 or 5 years we have had pretty consistent losses.

Accordingly we hope that you will be able to take a long look and do something for us at this session.

I think that already you have reduced this argument or contest which has now lasted 15 years with the big airlines on the one side wanting to exterminate us, and doing a pretty good job inasmuch as in 1947 we had 700 members and now only about 23 or 24, depending on your definition of dormancy before you.

In deciding the area in this contest—can you hear me all right, Mr. Chairman?

We have a chart here and our calculation is that the entire area of overlappage or financial exposure to diversion as between the two industries, the big industry and our little one is less than three-quarters of 1 percent and that is all the contest is about.

Now, the first exhibit here shows at the top the domestic revenues from domestic sources of the 12, now 11, big trunk carriers; those are the only people that presented exposure to diversion there.

The figure at the botton of $10 million, when expressed as a percentage of the approximately $2 billion represents less than one-half of 1 percent.

Senator MONRONEY. That is the domestic scheduled airlines and their charter?

Mr. BURWELL. This is all the charter revenue of the 12 domestic trunk carriers, so the conclusion is that if we were to be able in some way to divert and take all of that, which of course, is impossible, because much of their charters are in jets and equipment that we don't have, much of it is prestige charters and much of it for many reasons we can't get, but on the gloomy assumption, and we seem to have a lot of gloom in here, that we took it all, this is what we would take.

So that is the maximum exposure diversion of the big carriers charter revenue to us.

Now, the second exhibit goes to the field of individually ticketed operations and I think comes out fairly close with the computation that you made, certainly we don't care to quibble over something as small as one-tenth of 1 percent of this revenue.

Our figures show, according to our estimate, that the maximum diversion of any individually ticketed traffic for the 12 trunk carriers would approximate 0.22 percent. They are having a little mechanical difficulty there, but that is the conclusion, and I think it came out without going into a lot of the—it came out pretty close to your computation made here that it was less than four-tenths of 1 percent.

We will be glad to settle for your figure, all we are trying to do is to reduce in proper perspective some of the very exaggerated claims made in very general terms that we, rather than several other causes are the cause of the airlines' problems, and I think in view of the fact that you have made that computation and the Chairman of the Board pooh-poohed these claims that we are not in any way responsible for their sickness. I think we have made our point.

Senator MONRONEY. You have measured that against passenger revenue-miles?

Mr. BURWELL. Yes, sir.

Senator MONRONEY. I was merely taking the dollar figure to the ticketed part of the revenue, vis-a-vis, the ticketed part of the scheduled airline carriers, so we actually are not in too much difference. We measure it one way by revenue-miles, you come out this way; you measure it by revenue related to the trunk carriers on the ticketed passengers.

Mr. BURWELL. I will quickly concede, Mr. Chairman, that in the airline business, as any other business, it is better to compute things in dollars than it is revenue passenger-miles.

Senator MONRONEY. Because there may not be dollars there.

Mr. BURWELL. I will accept your figure, sir.

I think the net point is that the whole argument of the maximum potential diversion we are talking about is less than 1 percent.

Now, sir, I think in conclusion on this point of maximum revenue diversion that it is difficult to believe that an industry of a gross of $2 billion can really be hurt badly by that kind of possible exposure and I think it is even more difficult to believe that you can maintain the might of competition in an important industry with any less overlappage than that.

Now, I will eliminate some historic remarks here about where the industry has been for the simple reason that I think the committee is fairly familiar with it and I think that the Chairman of the Board pointed out that we had in the public interest pioneered aircoach, certain amount of pioneering in airfreight, at least alumni such as the all-cargo carrier people are, and that we have pioneered, according to the Board, the commercial charter field and most of all, we have pioneered the military contract business out of which we are presently being squeezed, and which I will go into a little further later on.

I won't do any more bragging about that. I tried to document it somewhat, and in view of the fact that everybody seems to agree that we have done this pioneering with the exception of the big carriers that won't even deny it, maybe we are betting a dead horse on this.

I would like to bring you up to date quickly on what the industry is in the point of equipment and capacity.

During the 15 years that we have been trying to get out of the land of Israel and find the promised land, we have built up a fleet of 164 aircraft; 101 of these are overseas capable; 63 are suitable for support of limited and guerrilla warfare, with those I am referring to C–46's in various degrees of modernization, some of them are so much modernized that somebody in World War II would not even recognize one of them.

This fleet, together can lift at any one time approximately 10,000 people. If it is a 2-hour trip they can lift another 10 at the end of it, and somewhat over a thousand tons of cargo. They support or employ more than 1,200 pilots, most of whom, I think it is significant, have not had experience limited to definite routes like Chicago to Milwaukee, but have flown around the world. They could go to Saigon tomorrow, or Africa or wherever you wanted to send them, without having to change most of the books or cockpit. They support directly or indirectly approximately 5,000 maintenance personnel, and I think that all the members of the committee are sufficiently familiar with airpower and its possible use in the military circumstances to appreciate the fact that it takes far more than the air plane itself. It takes trained crews, both maintenance and pilots, and it takes them with a fairly versatile background because of the uncertainties of where and under what type of terrain and conditions the war will be fought.

I will not go back over the history of our participation in the Berlin airlift, the Korean airlift and several other emergencies, other than to remark that while we hope it isn't true if the headlines are to be believed at all we may have another Berlin airlift, and it may be that we will get another opportunity to be of some use.

Senator MONRONEY. This fleet is available almost on an ever-ready basis because you have no definite commitments to supply a routine trunkline traffic, is that not correct?

Mr. BURWELL. Exactly, sir. We are not any more patriotic but we are a whole lot more available and we operate in a completely different way and I may just take a minute while on that point to say why our availability can be implemented so quickly.

On a day-to-day basis we have an operation center here in Washington, through the use of telephones, teletype, and so forth; we follow the exact location 24 hours a day, 7 days a week, of each of our planes, its maintenance status, its economic commitments, and so on.

This is tied into the military and they could call us, for instance, tomorrow, and say, we want so many planes at such and such a place, and certainly within a matter of hours, less than hours, in a matter of minutes, we could tell them what availability we have and how many we could put there, could issue the instructions. We don't need a lot of lawyers in it, we don't need the OCDM in it, all we need is for them to ask us and tell us that they will pay us, and from past experience we will be willing to credit them.

This was illustrated in the Lebanon crisis where they did call us and in less than 2 hours we told them we would have 38 oversea engine aircraft with the proper crews exactly where they wanted them. It so happened it turned out they didn't need them, but this is in our view the readiest availability there is to the military out of the civilian air fleet.

Now, if I could get right to the point of what it is that we want other than some slightly more permanent certification to the end that we can do some financing we are interested in two areas: One, a clear definition of charter and perhaps a liberalization of it and I am about to tell you why. That is the first thing. The second thing is we would like some more trip authority.

We did suggest at one time that we would certainly be interested in something like first refusal on charters or some protection. I would like to say here and now that basically our history has been one of wanting to be free to do a little competing. We still believe that competition is a healthy thing in the airline industry. We believe that they have substituted abalone and luxury, as some newspaper writer said, for price competition and what the people want is price competition, just as Senator Thurmond said, he hadn't any coach service and he ought to have some. We don't believe most people want this kind of luxury; they want a price.

Now, however, if there isn't going to be any competition or even a shadow of it in there, of course, we would like to have a little protection also, but we prefer to be free to compete a little bit to getting a place in protection which we think is the dead hand that is still laid on a big industry and the reason for the gloom and the narrow profits.

To turn to what we do want we want a clear definition in the act of what is a charter. It is my impression that under the common law a charter is simply a plain load hiring of the aircraft and accordingly there ought to be some pretty good reasons for messing around with the common law definition.

I think the members understand that at the moment this definition in effect can be altered by regulation. We have one set of standards, domestically, under regulation known as 207. We have a radically different set of standards as to what is a charter in the international field incorporated in a document known as the transatlantic charter policy.

Now, the regulation 207 domestically is all right, we are not here griping about that. It takes care of the problem of travel agents originating individually ticketed people into a group by simply saying that you can't do that, and there hasn't been any trouble with it.

Now, this thing of travel agents originating these tours is a great big red herring that is put in here in my view to confuse you about the really sorry charter definition we have in the international field. I want to tell you why it is sorry.

In the first place, the definition was not derived from the common law, it wasn't derived from the ICC, it wasn't derived from anything except a resolution passed by the International Air Transport Association, known as IATA, and known widely as nothing but an international cartel for price fixing.

Now, lest you think my language is a little intemperate I would like to read a three-line definition of them by the CAB itself, because I want to talk just a little bit about the source of this charter definition.

Senator MONRONEY. What page is that on in your statement, Mr. Burwell?

Mr. BURWELL. Mr. Chairman, this is not in my statement, this is in the report of the Antitrust Subcommittee, Committee on the Judiciary, House of Representatives, 1st session, House Resolution 107, on the airlines, and it is taken from page 225. This is a quote of what the Board described IATA as:

> At the same time the Board advised Congress that the situation demanded it be given greater powers over the international rates and stated: "No proper concept of governmental responsibility can justify leaving the ultimate determination of fair and reasonable international rate structure wholly in the hands of an all-embracing international cartel."

It seems to me the Board's characterization is a little less temperate than mine.

Now, what happened is in IATA they want to keep fares up on an individual ticketed basis, they don't want to widen the area of charter because that is the cheaper form of transportation, so they worked up a definition without precedent as far as I can tell in judicial or transportation and always to make it so narrow that people like us, even though we have charter authority from the Congress, if they can cut it down, we are dealing in a smaller and smaller market.

Now, my only complaint is that the Board adopted this definition or resolution hook, line, and sinker, and you can compare the IATA resolution and the transatlantic charter policy, and perhaps for some minuscule detail they are word for word the same.

Without laboring it I think the chairman can understand that it is pretty difficult to be given an area to explore and then have your enemies define how big that area is going to be, and that is exactly what has happened here.

To make that even worse IATA has a police force which undertakes to keep its members in line with IATA resolutions, but in this charter filed the CAB does not, with its Federal agents, police whether the IATA members conform to the charter from the point of homogeneity and those things, their whole police force is on us, but they levy IATA with a kind of honor system which I certainly suggest is ill-placed to police their people, so the same people police all the foreign carriers and Pan-American and TWA out of IATA and we are policed out of CAB.

Now, so much for the history and the general evil of this. I want to tell you the practical application.

The practical application is that many things you would think would be a perfectly letigimate and desirable group to go across the Atlantic or in effect if you are doing anything to try to get them over there.

Admittedly this is a little extreme but I would like to give you a little extreme. One of our people got up a charter of a temperance union, while they were going through this elaborate administrative process with an inordinate amount of paper shuffling and uncertainty with the group whether they could sail or not, one of the flag carriers complained to the Board that they had seen one of this group take a drink at a bar.

Now, in fairness to the Board they did overrule that but this is the sort of ridiculous extremes these things can go to.

I have in my statement, and I think it is too boring to read, but about four pages describing the exact procedural detail that we were forced through to take one charter, and I think anybody that reads that would conclude that it is about as difficult a borderline case to take one of these charters as it is to merge two airlines.

The problem is they have in addition to certain set numerical standards, if you get a certain number, then they say, "Aha, you are just taking people from the general public."

An illustration of this was the British Bar Association last year who wanted very much to come straight to Washington. After a whole lot of razzle-dazzle the Board said that was not a charterworthy group because there were more than 20,000 British lawyers and that that made them part of the British public and that this would be an evil thing and it was uncharterable; the result was and I saw a lot of them personally—they came over to participate with the American Bar Association—and a lot of good fellowship. They arrived here, resentful, perplexed, wanted to know what kind of a Board we had over here, and they were forced to go to Montreal because the Canadians were a little bit more liberal about chartering the thing.

Now, these illustrations can be multiplied, I don't want to take up your time with them, but I think you can readily appreciate that you would have difficulty explaining to the flint-eyed banker the exact limits of what you are trying to develop with the money that he is going to give you.

The chairman put his finger on a very important aspect of this whole charterworthiness problem when he asked about the national effort to get foreign tourists over here.

I appeared before the House committee, we submitted a lot of economic figures, and the conclusion of it, as far as I am concerned, is that it is a very laudable bill with national objectives to reduce the gold flow and to increase the international understanding we think would come from foreigners seeing our great country and mingling with us, but that it is not any more than $5 million down the rathole unless the air fares across the Atlantic and the other oceans are brought within the reach of the type of European you want here.

The expense account traffic is still going to flow through the turnstiles of IATA, but if you are trying to promote the real tourism to the United States the people just simply don't have that money.

IATA's answer is if you don't have the money, stay at home, but if the national answer is that you want them here, most of them work and do not have time to come by boat, so they are either coming by a charter or there is going to have to be some way to get the IATA fares down.

I can make one safe prediction that all of the machinery of our Government can never get the IATA fares down except through a little bit of competition and that will bring them down awfully quick.

As small as we are last year, we advertised some off-season charters, I have forgotten the price but they were low, and inside of a week there were big ads in the New York papers by our flag carriers to carry charters to within $3 of what we were carrying them for.

So, the only way to deal with IATA in my opinion is to give them just a little competition and they react very quickly.

Senator MONRONEY. Do the regular scheduled lines have to submit their charter flight rate to IATA or can they publish independently a lower rate?

Mr. BURWELL. I'm not sure I can answer that, Mr. Chairman.

I believe IATA controls the charter rates as well as the individual ticketed thing, but I could be wrong about it.

Senator MONRONEY. Counsel advised me that Mr. Boyd testified that IATA has no charter rate.

As I understand it they regulate the eligibility of all others for charter, but not the IATA rate.

Mr. BURWELL. The second big point, it seems to me, on the desirability of charter in addition to working in with what I assume is the national policy and effort to promote tourism is, I think, the very alarming progress that the foreign flag carriers have made in the charter market in the last year. It seems to me if there is any rationale at all in trying to keep us out and keep us alive it would be for the purpose of perhaps leaving it open to Pan Am and TWA the facts would indicate, however, in 1959, and I have in my statement the exact figures, but they show that in 1959 the foreign-flag carriers took roughly around 250 or 260 charters across the Atlantic; in 1960 this figure had jumped over a thousand, so it is roughly over a 400 percent jump.

Meanwhile, if you lump us and the all-cargo people and the American-flag carriers, Pan Am, TWA together, my recollection is that we stayed about the same. Accordingly, these rules of our homogeneity and this IATA charter definition we are talking about, in actual practice seemed to help the foreign carriers and don't even help Pan Am and TWA, so this is the first broad area that we are concerned about. We ask you to look into it. We ask you to give us a uniform definition, both domestically and in the international field, on charter. We ask you to put it into the act. Then it has some assurance that it won't be tinkered with by each little person that has a different idea about it.

Now, the definition we ask you to put in is the same definition that has worked so successfully domestically; namely, the common law definition of a planeload hiring but with the proviso that ticket agents will not be permitted to organize charters on an individually ticketed basis. We don't argue about that, we simply say to the extent that is the problem it can be easily taken care of.

Senator MONRONEY. You show on page 17 the case of some airline that is based in California but maintains executive offices in Luxembourg and New York, which has four DC–4 aircraft, and in 1959 and 1960 chartered 32 charters for a specific rate between points in the

United States and points overseas, and you detail some of those served and point out that yet each of the foregoing charters were performed without any reference whatsoever to CAB rules and regulations; no application filed, no Board authorization was either sought or obtained.

Is there much of this going on where an airline that may be physically based in the United States but maintaining oversea executive offices is exempt from CAB?

Mr. BURWELL. Mr. Chairman, I don't have any proof that there is a great deal going on; the real fact is we don't know. This is what is known in the trade, of course, as a part 45 operator who in point of legal theory the Board has no economic control over. The basic point we were trying to make in this was that we who have gone through certain extraneous processes of selection in the 9-year proceeding where we were selected, and another year or two for the courts, and down bothering you here, we got certificates.

Now, the net result of it at the moment is that the certificates we got—to the extent they extend the charter—restrict the field and make us jump a whole lot of loops on what is a homogeneous group and what isn't a homogeneous group, whereas a fellow who is not under jurisdiction of the Board at all, who has never been through any screening process, who just borrowed some money from his Aunt Mamie and got several DC–4's and starts running, as the Chairman expressed it, a "no holds barred" definition of charter.

So, it just seems to us that in this particularly narrow area you are a whole lot better off outside of being certificated than you are if you are certificated.

Senator MONRONEY. The reason they could fly these without permission was not what I presumed it to be, that they had an executive office located outside of the country, the fact that they were flying under an exemption order.

Mr. BURWELL. No, sir; I don't believe that is it. I think the reason is that being a part 45 operator they are outside of the Board's jurisdiction.

Senator BARTLETT. What is a "part 45 operator"?

Mr. BURWELL. Senator, that is one that in theory is not allowed to hold themselves out to the public to take on charters from all comers. A classic example would be a guy who merely wants to contract with the Ford Motor Co., let's say, to carry spare parts around. Now, the problem is that the lines of how many charters he can take or obscure in practical application such as this one, he took 30-something charters in approximately 1 year.

Now, that is as many as—more than most of our people with at least certificated authority to carry charters have been able to take, but because in theory he is a private carrier the Board doesn't bother him at all—he doesn't file any reports; he doesn't have the people around inspecting him to see whether he is abiding by any laws because they are not the laws applying to them.

Counsel advises me that among other things the examiner said in respect to this, that so long as the group was homogeneous the Board had no jurisdiction at all over them.

Now, I want to say one more thing before I get off of charter about this word "homogeneous." It sounds more like milk to me, but as I

understand it you just don't go out and get a group of 50 or 100 worthwhile Americans that haven't got enough money to go to Europe with IATA rates but want to go to Europe, maybe college students, they may be going over there on some art project, but that isn't enough. You have to have a metaphysical thread tying this group together in some way that would delight a medieval logician and they have to fill out a real fat questionnaire on what is this thread that ties them together.

The thread can't be of recent origin, the thread must have existed for longer than 6 months, and the thread cannot be used as—it cannot be related to travel, and I doubt seriously if the National Geographic could go, for instance.

You have to have your dues paid up; you have to belong to the club for 6 months; the club cannot embrace more than 20,000 members; and, most of all, overlying it is this metaphysical thread.

Now, you can understand how widely people would differ about whether this thing, tying in together, intangible as it is, is legitimate or isn't legitimate.

The questionnaires they put out—I have attached a copy here—I suppose quite properly, but fairly ominously, advise the charterer, who is some fellow who in many instances never heard of the CAB, that the slightest misstatement subjects him to a fine up to $2,500 and/or 5 years in prison.

It strikes me that this isn't the type of atmosphere to start a vacation to Europe, if you are trying to generate air travel.

Now, if you are trying to cut it down, then I agree it does a very good job, but I think without trying to be funny about it all of us can visualize some fellow who knows nothing except he wants to go to Europe and get away from his business cares and is trying to be a nice guy and taking charge of this for his club and comes to the end of it and sees all that, he just—if he is like most of us—is going to have his trip ruined and say, "Why did I ever try?"

Now, this is the kind of thing in all earnestness that I believe would not only help our business, I earnestly believe it would help everybody. I am not here representing everybody—whether it helps everybody or not, we want it—but I do think earnestly that it will help everybody.

Senator MONRONEY. Would you think that if you provided that, the backing would have to be made on a nonprofit basis where groups such as certain classes in a university could organize themselves to go together during the summer, not necessarily as a member of a club for 6 months thereof (it would be highly important if they were studying history or economics to go together), but which were not organized for profit by a booking agent but rather through the normal process of originating a group charter, that that would be a more adequate test; that is, take the profit of booking out to relieve the incentive of someone substituting charter privileges for what might be called common carriage.

The rule is in there to prevent a charter from becoming common carriage. If where the charter is genuine and originates on a nonprofit basis, and you find out about it, and you advertise that they can charter a plane that will come to their hometown and depart from the interior of the country and take them to two or three points

in Europe and return at a certain figure, would this be an adequate test?

Mr. BURWELL. I certainly do; I think the point is very well taken.

I frankly think that the simple way to take care of it, if it is the will of the committee that they desire to take care of it, is to apply regulation 207, which by everybody's testimony has worked well domestically, into the foreign field. I don't think there is any peak problem in the foreign field as related to the domestic other than the fact that, right or wrong, the Board several years ago, as I say, adopted the IATA definition and the IATA definition is the one that is so confusing and requires a police force solely dedicated to how minor operations are to keep it all straight.

If you extended 207 into the international field with the proviso, as is the case in 207, that a travel agent can recognize these, I think it would be adequately taken care of.

Senator MONRONEY. You don't have to have the homogeneity.

Mr. BURWELL. The homogeneity is not required in the domestic operations. I think that is the real problem. I mean, historically, the concept of the charter is a clear thing. It is a clear thing if you go down to charter a bus, and I don't see why putting wings on it should complicate it so. It is a clear thing if you were chartering a railroad car or with the Maritime Commission a steamship, so what is the reason for—I mean, this goes back to stagecoaches—what is the reason for getting it all complicated just because the vehicle takes off? And the reason is IATA. It is just that simple.

Senator MONRONEY. Did IATA give you any problems, or would the oversea landing rights give you any problems if you were not following the IATA system?

Mr. BURWELL. I don't believe so, Mr. Chairman. This is a matter of speculation, but this is the first thing that the IATA people always fan around if it looks like anything is going across that may be against their interest.

Now, I don't believe it will. As a practical matter, if the foreign countries say this will bring too many charters in, if Air France, for instance, went to the French Government and said, "This will bring too many charters in here," the answer will be quite clear: We would like to have all the Americans come over here and spend American dollars that we can get, so I don't think—we haven't any trouble with these foreign countries on a charter basis and I don't think we will have.

Senator MONRONEY. Doesn't Great Britain have one line Via King, or something like that, that flies nothing but charters?

Mr. BURWELL. They have several, Mr. Chairman. While we are on the question of foreign carriers, there are a couple of things I would like to say.

One is, as you know, the British Government for a long time, and still, gives all the military—did and I think still gives all the military charge to their independents, the supplementals.

Now, secondly, they have just done an almost incomprehensible thing by our standards; namely, they have just certificated a supplemental across the Atlantic.

Senator MONRONEY. We will have to recess momentarily. The committee will stand in recess.

72185—61——8

(Recess.)

Senator MONRONEY. The Aviation Subcommittee will resume its hearings.

Mr. BURWELL. Mr. Chairman, I had about another half a minute on charters, and I will try to quickly go over the coach thing, and I am through.

On the charter, as a matter of interest with the foreign carriers, first, just 2 days ago the British Air Transport Board certificated one of their supplementals, namely, Condor-Eagle, across the Atlantic with a regular route. I only bring this in as a little bit of a measure, at least the British attitude of really trying to use these boys in the national interest, whips off somebody, I know.

Now, I am informed that the Italian Government, for instance—of course, they have a national airline; it is a member of IATA, but presumably to be cute about it they control a subsidiary called SAM. I presume that this is to keep the very successful operations of Icelandic Airlines, which I think indicates what can be done in a somewhat free market rather than one controlled by IATA.

So at least as it is explained to me, the Italians have got a big team in IATA and they are getting a little team outside of IATA. I understand that several national carriers are doing this.

Senator MONRONEY. Will these be charter or will these be sub-IATA rates on a regular scheduled basis?

Mr. BURWELL. Of that I am not clear, that is a good question.

Maybe I can find out and try to put it in the record later.

Now, the last thing on the charter is that I am sure you are pretty familiar with the level of IATA rates.

To illustrate when we get back to the tourism thing, if you are really trying to get people out of Europe to come here, if you are serious about it, the effective minimum rates of IATA this summer of jet, coach, whatever the cheapest is, is 7.1 cents a mile. I don't have to draw a contrast between that and the income of the European or even an American trying to get across there.

The cheapest piston engine economy class is 6.5 cents a mile. So, I think that the first thing the European father looks at, even scrutinizes more than an American father, and that is plenty, is the price of it.

Senator MONRONEY. Roughly, this 7.1 cents a mile for jet and 6.5 for piston is not quite illustrative. Isn't it approximately $500 a round trip economy class jet and about $425 piston, on your economy class?

Mr. BURWELL. That sounds just about right.

Senator MONRONEY. If my memory serves me correctly, that is about it. And yet on the contract carriage that you have engaged in, and your people and various other lines, the rate comes down to under $200 a round trip, does it not?

Mr. BURWELL. Yes, sir; about $200.

The last thing on charter is, and it also bears on the hope of building some tourism over here, is that apart from the price the Europeans, and I use the British specifically, have been used to traveling in all-expense groups, the type you touched on in referring to circle tours.

One operator, for instance, a relatively small operator last year, took 50,000 people on all-expense tours from Britain throughout the Continent and not a single one to the United States.

Senator MONRONEY. Is that air carriers?

Mr. BURWELL. Yes, sir; they used the independents for it.

Now, our Board, of course, would not permit this over here because the all-expense concept would not come under the homogeneity rule.

In addition to the price barrier, it seems to me that it is just ordinary country salesmanship if you want the people to come over here, rather than give them a lot of new rules with which they are unfamiliar; if you regard him as a customer rather than a prisoner, then it behooves you to try to have a rule in line with the way they are used to traveling.

There is an area where the travel agent is important because he does organize and generate this travel and traditionally people go to him, but the protection against taking ordinary individual ticketed passengers is that everybody in the airplane is going on an all-expense tour, so, again, it seems to me that it is well worth a look of the committee in the promotion of tourism and so on to take a look at the all-expense tour method of travel.

Senator MONRONEY. Would that be on a charter basis, in your estimation?

Mr. BURWELL. I don't think it is technically—well, it is not a charter basis under the present Board rules. Under the definition that we would like to get it would be.

Senator MONRONEY. What I was getting at, would you recommend this as a charter, a full planeload that would have to go the whole trip, the whole tour, or would you want it on the exemption basis of so many round trips a month, or so?

Mr. BURWELL. We would like to have it as a charter.

Senator MONRONEY. In other words, there is a fear on the part of the regular scheduled lines—of course, there are a lot of fears—but there is a fear, particularly about the ticketing, I observed, that is greater than the fear of charter, even though they do not engage in charter as your statistics showed more than one-half of 1 percent, or less.

Their prime fear is that you will get into the ticketed business against them.

Mr. BURWELL. I recognize—I think a lot of their fears are silly. This one I have to say in all candor that I think there is something to it from their point of view of having a clear line of demarcation.

My own view of the way to generate business is I don't really see anything so terrible about a travel agent getting out and filling up an airplane, regardless of who it goes on.

This is the way to build up the whole market, but I realize in the practical context of what we are asking you to do that you are properly concerned about a clear line of demarcation to protect them to some extent against a raid in their ticketing business.

Now if I could go briefly to the trip authority phase of this, Mr. Chairman, I will try to wind up quickly.

Actually, you know so much about this that I don't like to repeat, but I think you know that—let's start right out with the transcontinental situation and whether or not in view of the figures you saw

about the minuscule possible diversion we have had, whether or not some trip authority does not tend in a little petty way to force these people to give a little coach service.

Now, at the moment let's take American Airlines, for instance, which is certainly one of the fiinest operators in the business. They have been so concerned on driving people into jets, and I won't bore you with the specific prices, but in my statement I believe you will see that it is about $50 difference across country to go by jet coach and piston engine coach on one of our carriers.

Now, the best piston engine aircraft coach service they offer is somewhat over 19 hours coast to coast, and it makes over 11 stops.

Now, I don't regard this as service at all by supplemental standards. Our service across country would make one stop in Chicago, it would be considerably cheaper and would use comparable equipment; namely, DC–6 or a large Constellation.

I think that this may in some measure touch on Senator Thurmond's concern about why does not he have coach service. The answer is that they don't really want to give coach service in the sense that we want to give it.

Now, true, 50 percent of their seat-miles are in coach Service, but along with that the prices have risen to the point where we do not really regard it as coach service any more. Certainly in highly dense areas. I don't think that there will be any return to fares, let's say, $30 or $40 cheaper across country unless there is a little bit of incentive in there to point up the type of piston engine services that I referred to of Americans. Nineteen hours across country, it gets back to almost DC–3 days.

One other thing on the need for trip authority is that we have suggested, or we would like to have, 16 trips, preferably cast on an annual basis so we could draw them down more with respect to the seasonal period of 7 months rather than having the rigid monthly use use it or lose it policy.

Now, the reason the 16 trips is used, other than the normal idea to try to advance yourself, is the fact that the 10 trips has in many instances proved uneconomical. I think you remember Chairman Boyd saying that they arrived at the magic figure of ten by compromising 8 and 12.

However, it does not work out very well in actual practice because if you get 3 trips a week, for instance, you have to get them when the triffic flows, and your utility, it seems to me, is in relieving the overflow of traffic, that is what we are for, but if you get 3 a week, why, that would make 12 right there. So, what we really want is four trips a week if the traffic warrants it.

Senator MONRONEY. That would be round trip?

Mr. BURWELL. Yes, sir.

Now, the basic reason why everybody needs some trip authority whether they plan to go into common carriage or not, I think you are familiar with from last year; namely, that in order to successfully carry out charter and particularly where you are under restrictive rules about it, if you get a plane out on the west coast and you have a charter on the east coast and somebody wants to give you a hard time about whether it is the right kind of charter or not you can just take the thing under your 10-trip authority.

Now, that is a practical consideration in this because obviously you cannot ferry aircraft across the country for charter flights and still come out in an economic way, you have got to watch your deadhead mileage.

Senator MONRONEY. If you got up to four trips a week, however, between New York and Miami, you would have had a better thing, almost, than the scheduled airline for the capacity you were running if that is per company or per plane. Which is it?

Mr. BURWELL. Per company.

Senator MONRONEY. Per company. But if you take three supplementals running on a four-trip-a-week basis—most of the airlines run now on a 6-day schedule and have 2 losing days which they have to maintain service—you would be getting the best of both in that.

In other words, it would be almost a regular frequency where you would be able to commit your planes and your use to doing only that which would be overflying and paralleling on the profitable days of the week the service now required to be rendered 7 days a week by the scheduled airlines.

Mr. BURWELL. One of the reasons we arrived at 16 and thought it was a reasonable request was we took the seats—we took New York and Miami as an example, and I don't have the exact figures here but I can put them in the record if you think they are appropriate.

We took the seats available of the then New York-Miami carriers, and I believe National and Eastern, and then we took the seats available recently with Eastern, National, and Northeast, and the increase between the seats available in 55, when the Board thought we should have 10 trips, relative to the seats available on the big carriers compared with today, would warrant increasing our trip authority to about 16.

Now, I realize that is a debatable type of test but it at least pinned down the general argument that I would put forward that the Board tied us to a static concept with 10 trips in 1955 in a rapidly and dynamically increasing industry.

Do I make myself clear?

Senator MONRONEY. Yes, I find myself, though, somewhat disagreeing with everybody—with the scheduled airlines, with the supplementals, and with the CAB. I think by the very definition of the word "supplemental" it means that you will give an extra service that is not readily obtainable by those that are permanently certificated for daily and regular service. I can see various times of the year when this service would not only be highly profitable but highly desirable from the standpoint of the passenger and perhaps from the standpoint of the scheduled airline itself, to relieve the overflow traffic for which they may not have any extra equipment or be able to lease it for the carriage of the full traffic that is available on that route.

Somewhere they all fall between the chairs. We know this traffic is available, that there is a backlog, many times in movement from Miami to New York, and a backlog movement from New York to Miami. And because this is seasonal I would think that it would be highly desirable that these people not be compelled to wait a week or 10 days to get air service obtainable. It would seem to me that maybe there would be a way to take care of the capacity that is oversubscribed at certain periods by allowing supplementals on application to fly any number of flights to remove that backlog.

Mr. BURWELL. Mr. Chairman, we have tried that, and I realize this seems like a bunch of children quarreling to you, but specifically we have tried to several times to get the big carriers to regard us as supplemental.

Now, the most recent incident was the occasion of the strike, and we sent wires to the principal big carriers and said that we were available, that we would let them do the ticketing, that we wanted to help move the public. For reasons best known to themselves, as they always do, they say, much obliged, drop dead.

Senator MONRONEY. Macy's doesn't want to turn customers over to Gimbels.

Mr. BURWELL. That is right, sir. But that is the practical reason why, and I think your concern is not only proper but very logical, if we are supplementals why can't we do a little business together. And the reason is that it takes two people to do some business and they don't want to do any business with us.

Senator MONRONEY. I don't mean that you would actually ever get the airlines to buck over to you their overflow or their backlog. But it seems to me that wherever the CAB through its checks on the movement of traffic finds that there is not available equipment to move this traffic between high density points promptly, that it would be logical if it could wire or have a priority list that rotates or some method by which it could say: "We need schedules on this run."

I think the scheduled airlines, not knowing when they will be paralleled and overthrown at a rate far lower than they are able to quote any tourist or committee, properly are afraid that their small amount of traffic will be diverted to extraordinary carriage that actually in the true meaning of supplemental is not supplemental because it is not needed at that time.

Mr. BURWELL. Well, that is the way they feel about it.

I don't want to take up your time with general philosophy but I am a little driven into commenting on the big airlines plight because by implication, while I know the committee doesn't believe it, but by implication over and over again it is more or less implied that in some way we are responsible for it, and I think we all realize that is a pinprick.

Senator MONRONEY. The very figures, except for two airlines, show that they did less than a million and a half a year of ticketed traffic. This is not very much traffic. But it is not necessarily that competition does exist but always the fear of possible competition.

Mr. BURWELL. This fear, of course, has been in their hearts for, oh, 15 years, and actively so with all kinds of dire predictions for some 7 or 8 years, and it has never come to pass.

Meanwhile, they have—not on a profit basis but on a size basis they have certainly waxed fat and we have waxed lean.

Now, one thing that does concern me that it may be that the committee might lose sight of the box we are in at the moment because it is very current, and that is this, that as one of our carriers expresses it we sit on a three-legged stool—one leg being military business and one leg being charter business, and one leg—that is civilian charter business—and one leg being ticketed business.

Now, I am not going into a tirade on this, it is just a simple economic fact. So far as the MATS business was open, dog-eat-dog

competition, whether that is good or bad, we did well with the exception perhaps of one carrier that lost his shirt, but the industry got a lot of business.

Now, once they set floors that attracted the big carriers in, the route carriers, and maybe that is good, but if at the same time it attracted them in they have got a lot of vague criteria now rather than price, allocating this business, and we are being squeezed out.

Now, I can use one carrier as an illustration. For years he has derived 40, 50, or 60 percent of his revenue from military business. As of today he doesn't have a dollar's worth. Now, that simply means one thing, he either must have a wider area for his civilian business or he ought to quit.

Again, I am not saying whether the military way of doing the business here is good or bad, but it is a fact if you look at the breakdown of how much these boys' existence has been for militarw business, if they are not going to continue to get it then they either have to turn in their leggings or quit or they have to have some area for civilian exploitation which is bigger than it used to be.

Senator MONRONEY. I still feel that there would be very few schedules perhaps being flown from now until September or October between New York and Florida; is that correct?

Mr. BURWELL. Certainly relative to the winter there are very few.

Senator MONRONEY. I mean the big load comes in December, January, February, and March. If you were to increase the schedules rather than go to four a week you could have a chaotic condition during the thin traffic period when both you and the scheduled airlines would be losing money by the division of the traffic. It seemed to me that it would be better to have allowable whatever you have available to be used during the months where the CAB or some group thereof could say there is a demand for supplemental service and it is opened and those who have applied to run it would be given their schedules.

Mr. BURWELL. Well, of course, that was one thing we had in mind was putting it on an annual basis. Now, I would be less than candid if I didn't say this: The Board has so many problems that frankly on a quick basis they don't know where the traffic demand is as well as we do. I mean, they have to have a study, this isn't critical, and by the time the study is completed the traffic is gone.

Our people deal with the people. They see them hanging around the airports trying to get out. They asked them whether this happens often and that is the way you decide whether a market is any good.

I am sure you have thought about it and other members of the committee, but it is a startling fact, really, that our people can get any traffic against these big, fine carriers unless the big carrier is not giving the people something they want. They may give service that the Board says is adequate and everybody thinks is terrific, but the final arbiter in this business is the American public. I don't believe that at any time, legal or illegal, that any of our operators have ever contrived to take a lot of big airline traffic except by giving the public something that the public wants and demands and doesn't know how to tell Washington that it wants it, and part of that I concede is price.

Now, from the committee's point of view I am not suggesting that you turn back the clock and make this a free competition like Peoples

Drug, but on the other hand I think it is a mistake to carry the protection of these people to the point where the public doesn't have any choice in the matter and so long as you can keep the impact reasonably small and not hurt them it points up what the public does want.

Senator MONRONEY. Yes, but still every airline that is scheduled to fly a fixed schedule has to fly the unprofitable points as well as the profitable and has to fly it in the unprofitable months as well. For that reason I think they are entitled to a degree of protection in that fixed service which you are not required, as we learned this morning when we were talking with Senator Cotton, to provide to New England. There are times when I think supplemental service becomes genuinely supplemental and the high volume of traffic moving would certainly justify the economics of ticketed service at that point. At other points where the traffic is very low, and likely not to be profitable to any operator, there is no use making the losses greater by parallel or additional supplemental service.

Mr. BURWELL. I quite agree with that, sir. What I was really trying to say and didn't say clearly is that our people are just as concerned about avoiding duplication and direct competition under normal conditions with the big airlines as anybody else, for the simple reason they pay a bigger penalty—namely, going broke. The fact that they go in there at all indicates either (1) that there is overflow traffic not being served, or (2) that they are offering something which the public wants more than it wants the big airline service.

Now, I appreciate that would give you concern, but it is so small it seems to me that it does have something to recommend it. They have a very good point, I agree, that we are not required to serve these off-route places, but I think they exaggerated. In my experience with aviation, the situations are extremely rare where a big carrier comes in and says carrying the burden of serving all these small places is so onerous we would like to turn over these stops to the feeder lines, for instance.

Senator MONRONEY. They are doing that?

Mr. BURWELL. They have begun to do a little of it, but looking back over 10 years they don't really come in and say, well, if somebody would like to have a big chunk of my routes I would like to give them to them. They are beginning a little with the feeders.

Senator MONRONEY. And in the merger with Capital and United that was one of the agreements. Capital's route structure had to be divested of many of the small points and low-revenue points that had to be turned over to the feeders for service.

Mr. BURWELL. Getting to Senator Cotton's concern about the White Mountain area, I would predict that the problem there would be Northeast. I think it might be perfectly feasible, we have some DC–3's and if the traffic was there we could go in on weekends, then Northeast will holler. We would be willing to entertain that very seriously, but Northeast would have a fit.

Senator MONRONEY. Surely there should be some way when the traffic patterns are oversupplied that some green light could be given to take over with genuinely supplemental service.

Mr. BURWELL. Well, perhaps the fact that they don't come in and complain to the Board, at least historically, has been pretty good evidence that they are really not hurt much in the past and that

this concern is mainly for the future rather than anything that has happened to them in the past.

I think that is about all I have, sir.

Senator MONRONEY. Thank you very much for your appearance here.

On Thursday the individual carriers will appear—Robert Fraley, Quaker City Airways; Ralph Cox, Jr., president, United States Overseas Airlines; Jesse Stallings, president, Capital Airways; George Patterson, president and general manager, President Airlines, Inc., Burbank; and Reed Pigman, president, American Flyers, Fort Worth, Tex. This will be at 10 o'clock Thursday.

Friday we expect to hear the Air Transport Association.

Did your associate have anything he wished to add?

Mr. YATES. No, I didn't, Senator.

Senator MONRONEY. Thank you very much for your patience with this committee and we we are sorry we had to be interrupted.

We are recessed until 10 o'clock Thursday morning.

(Whereupon, at 5 p.m., the committee was adjourned, to reconvene at 10 a.m., Thursday, June 29, 1961.)

SUPPLEMENTAL AIR CARRIERS

THURSDAY, JUNE 29, 1961

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON AVIATION,
Washington, D.C.

The committee met, pursuant to adjournment, at 10:15 a.m., in room 5110, New Senate Office Building, Hon. A. S. Mike Monroney (chairman of the subcommittee) presiding.

Senator MONRONEY. The Aviation Subcommittee will resume its hearings on the supplemental carrier bill.

We are honored today to have not only one of the most distinguished Members of the Senate, but a man who is also a distinguished member of the aviation fraternity, a member who is an Air Force Reserve general and a pilot.

We are happy to have you here, Senator Cannon, and we appreciate your taking the time to appear before this committee.

STATEMENT OF HON. HOWARD W. CANNON, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator CANNON. Thank you very much. I appreciate the opportunity to appear before the committee today.

As a member of the Armed Services Committee, I am very much interested in S. 1969 which would amend the Federal Aviation Act of 1958 and provide a class of supplemental air carriers, and other purposes.

During the 15 years of their existence supplemental air carriers have played an important role in national defense. Their prompt and efficient response in the Korean airlift, Berlin airlift, Hungarian airlift, and the DEW line operation is a matter of record.

This industry of small airlines can be justly proud of its part in small emergencies. I am aware of the system and facilities used by the supplemental air carriers to respond to the demands of the Defense Department for troop movements on an around-the-clock, day-to-day basis. The carriers proved themselves able and responsible when activated by the armed services.

Most important, perhaps, is the system of the supplemental air carrier industry in doing business with the military in such a fashion that it provides an effective airlift ready to carry out military missions in a matter of hours if a national emergency should arise.

As I have said in the past, I believe we have had altogether too many illustrations of the deficiencies in our airlift potential, and I am sure the legislative committees concerned with this will bear me

out in this statement. This is a time when we should be doing everything we can to increase our airlift capabilities rather than to harass and place obstacles before an industry which serves so useful and necessary functions for both civilian and military.

In a recent policy announcement the MATS reported to all segments of the civilian air transportation industry that they must make plans to upgrade equipment if they expect to be awarded military air transportation contracts in the future. Operating on an interim authority, such as these carriers are now faced with, certainly does not offer them much of a growth potential, nor does it give them an opportunity to negotiate bank loans for the purchase of the most modern aircraft. At present, it is my understanding that 70 percent of the industry's gross revenue in 1960 was derived through military business.

Unless these smaller airlines are granted legislation which will provide them a long-range and definite place in the air transportation structure of the Nation, they will be stymied in their aim to modernize their fleets and thus qualify for future MATS contracts.

I hope, Mr. Chairman, that my colleagues will recognize the necessity of coming to the immediate rescue of the supplemental air carriers and enact legislation during this session which will preserve this important fleet of air carriers during this critical time and for the future.

I believe that after some 15 years of official encouragement, Congress should make permanent that which the governing agency, the CAB, has found to be in the public interest and in the interest of our national defense. I urge Members of the Senate, and particularly members of the committees affected in the study of this problem, to give their most earnest and painstaking attention to a problem that merits immediate action.

It has been suggested that the supplemental air carriers should be deprived of their right to handle individually ticketed passengers. This proposal would limit the supplemental air carriers to charter flights.

Supplemental air carriers have transported individually ticketed passengers since they were first authorized by the Civil Aeronautics Board in 1938. The Board's bill, S. 1969, and the statement of the Chairman of the Board to this subcommittee strongly support the continuation of authority to operate individually ticketed flights.

Many supplemental air carriers offer individually ticketed services to the public at fares which are markedly less than the fares of the major airlines. Many thousands of persons are introduced to air travel by the supplemental air carriers each year. A very small minority—I understand less than 1 percent—of these passengers are diverted from the major airlines.

I must say, Mr. Chairman, that I understand that this minority is less than 1 percent on an estimated basis.

The remainder of these passengers—many of the remainder of these passengers—would not travel by air without supplemental air carrier service.

These airlines are unique in that they have never been subsidized, nor are they now seeking subsidy, by the Federal Government. In addition to efficient, alert, and dependable day-to-day service to the military, supplemental airlines deserve much of the credit for holding

the line on air transportation costs through their policy of low-fare aircoach travel.

Their record of performance to the Department of Defense has been outstanding up to this date, and I am confident that with a fair chance for economic development and growth through legislation which is equitable and fair, the future will find the supplemental air carriers responding to their Nation's needs at any time and under every condition.

I urge that this distinguished subcommittee allow the supplemental air carirers to continue to make their contributions to the Nation.

I thank you very much.

Senator MONRONEY. Thank you very much, Senator Cannon, for that statement and for the sense of urgency that you have brought to this hearing with the threat of Berlin, which probably not only would require all of our military airlift, but would certainly require a great portion of our civilian airlift as well, and we know from past experience that the independent airlines are ever ready and pilots are trained to fly anywhere in the world on as short as possible notice.

I appreciate your urgency also in asking the committee and the Congress to pass legislation this session. As you know, it was a temporary extension bill which was passed late last session that extends this only until about April 1, and consequently, any delay in planning or placing orders for new aircraft would thus set back modernization of the fleets which the Defense Department has so urgently required in the carriage for which they place their contracts. I am sure the committee is going to try to get legislation to the floor.

It is my understanding that the House subcommittee has already passed a bill similar to the one before us that the Civil Aeronautics Board has recommended.

Senator CANNON. I might say, Mr. Chairman, that in connection with the placement of contracts by the military, one of their governing criteria apparently has been the ability shown by these carriers for expansion and certainly it is not reasonable to expect that they can go on with unlimited expansion plans under the present legislation that now governs. They have to have some assurance that they are going to be able to continue to operate as carriers rather than go on a day-to-day or month-by-month or year-to-year basis.

Senator MONRONEY. With less than a year to go, about 10 months to go, very few bankers or finance people would look with favor on applications for financing new aircraft.

We hope that we can make this matter permanent so that there will be no further question about it.

Senator CANNON. Thank you very much.

Senator MONRONEY. We are happy for your appearance.

Our next witness is the distinguished Senator from Alabama, John Sparkman. We are very happy to have you appear before our committee. Please proceed in your own way.

STATEMENT OF HON. JOHN SPARKMAN, U.S. SENATOR FROM THE STATE OF ALABAMA

Senator SPARKMAN. Mr. Chairman, thank you for this opportunity to appear before your subcommitee to testify on S. 1969, a bill to provide for a class of supplemental air carriers.

In both 1951 and 1953, the Senate Small Business Committee held hearings and submitted reports to the Senate on the role and the future of what were then called irregular airlines. I served as chairman of the committee during the first hearings; former Senator Edward Thye, our Republican friend from Minnesota, had the honor of serving as chairman during that brief aberration, known as the 83d Congress, when his party controlled the Congress.

In each of those reports, the Small Business Committee concluded that these fledgling airlines, who had done so much to expand the frontiers of civil aviation during the postwar years, deserved an opportunity to continue to serve the Nation. At the same time, we recognized that "the certificated carriers are the backbone of our air transportation system and their economic stability should not be jeopardized." (S. Rept. 822, July 31, 1953, p. 16.)

It was not impossible to reconcile these seemingly divergent views, according to all members of our committee (both reports were filed by a unanimous committee), since the irregular carriers developed and drew from a completely different market than that tapped by the certificated carriers.

We concluded that the irregulars were undoubtedly making a tremendous contribution to everyone concerned with civil aviation, because they were inducing people to fly who never would have done so, had there not been a concept of economical air transportation, as initiated and practiced by the irregulars. We felt that pie to be sliced was so much bigger that both the certificated and the noncertificated would have a bigger piece than would have been the case had there been no irregulars.

Although the Senate Small Business Committee has undertaken no formal studies since 1953, we did request a detailed report on competition from the Civil Aeronautics Board in 1956. The Board's detailed reply to our request was published as a committee print, entitled "Materials Relative to Competition in the Regulated Civil-Aviation Industry, 1956." The CAB's report naturally pointed up the tremendous growth in all phases of air transportation between 1951 and 1956.

In its reply to the committee's question:

what effect would a substantial increase in demand have on the competitive opportunity of nonscheduled carriers to obtain trunkline certificates?

the Board answered in these words:

With respect to the opportunity of nonscheduled carriers to obtain trunkline certificates, an increase in traffic demand, all other things being equal, would undoubtedly be a favorable consideration.

Thus, in 1956, the CAB did appear to favor granting certificates to these irregular carriers, as the demand for air transportation rose. Obviously, however, no appropriate occasion seems to have arisen during the past 5 years for any supplemental air carrier (as they are now called) to qualify for full membership in the ex-club of certificated air carriers.

In closing, Mr. Chairman, I should like to make several personal comments on the legislation now before you.

I feel strongly that this committee should make every effort to protect the supplemental airlines, the true small businesses of civil aviation. I know that many of them have found it all but impossible

to survive under the conditions of the temporary licenses granted them by the Civil Aeronautics Board.

In view of the important contributions made to our national defense from the Berlin airlift through the Korean war and up to the present in the economical and efficient supplying of our far-flung military garrisons, these small airlines have earned our gratitude.

In view of their imaginative pioneering and their vision of a civil air network which would bring flying within pocketbook range of all segments of our population, these small airlines have demonstrated their ability to bring healthy competition and vastly expanded markets to all airlines.

One word of caution before I leave. Whenever there is any sort of a set-back in our Nation's economy, many shortsighted businessmen, and some public officials, call for an end to competition and plead for restrictions against entry to newcomers.

Fortunately, our proven American way of free enterprise legally blocks such restricting impulses in almost all areas of our economy. And when the sun of economic recovery and mounting demand again begins to shine, we are grateful that we could not follow the counsel of despair.

I, therefore, call upon this subcommittee—and the entire Congress—to look ahead imaginatively to the golden years of civil aviation, years which are still before us. I predict that these supplemental air carriers will still at that time be making significant contributions to the national welfare and that all of us will be rewarded in knowing that we did our part in allowing them to survive the dark days of the early sixties.

Senator MONRONEY. Our next witness is Mr. Donald Fraley of Quaker City Airways.

Mr. Fraley, you may proceed in your own way.

STATEMENT OF ROBERT E. FRALEY, ATTORNEY, ON BEHALF OF QUAKER CITY AIRWAYS, INC., AND PAUL MANTZ AIR SERVICES, INC.

Mr. FRALEY. Thank you, Mr. Chairman.

Senator MONRONEY. You have a written statement. If you desire, we will put it in the record and if then you can summarize, the committee will be happy to have you do that. We have quite a long list of witnesses to be heard today.

Mr. FRALEY. That was my plan, Mr. Chairman, to conserve the committee's time and patience, if my statement may be entered in the record.

Senator MONRONEY. It will be entered in full.

(The statement referred to follows:)

STATEMENT OF ROBERT E. FRALEY, ATTORNEY, ON BEHALF OF QUAKER CITY AIRWAYS, INC., AND PAUL MANTZ AIR SERVICES, INC.

My name is Robert E. Fraley. I am an attorney and member of the bar of the State of Oklahoma, presently residing in Los Angeles, and employed by the law firm of Keatinge & Older. I represent the interests of Quaker City Airways, Inc., and Paul Mantz Air Services, Inc., before this committee.

I do not in this statement intend to elaborate upon the history and background of each of these carriers for whom I speak. These particulars have been previously fully set forth before this committee during the hearings which took

place in May of 1960 preceding the passage of Public Law 86–661, 74 Stat. 527. Neither does it seem an appropriate utilization of time to attempt to duplicate the development of the historical facts pertaining to the supplemental and large irregular carrier since the passage of the Civil Aeronautics Act of 1938. These matters have been or will be fully touched upon by statements and testimony presented to this honorable committee by Mr. Clayton Burwell, president of the Independent Airlines Association and the Supplemental Air Carrier Conference, and others. My purpose here is to present support for amendments to S. 1969 which I have proposed and to explain why I believe they are improvements in the bill submitted by the Civil Aeronautics Board. Preliminary to this discussion, however, it does seem necessary to reemphasize the public interest concern and the need of continuing service of a type which we propose to perform in the future.

In its decisions and opinions over the years, the Civil Aeronautics Board has repeatedly found that the public interest required the establishment of a class of supplemental air carriers with authority to provide planeload charter flights and limited frequency noncharter service for passengers and cargo in domestic, intraterritorial (except within Alaska), overseas, and, for cargo only, foreign air transportation. In addition, the Board's transatlantic charter policy, now contained in part 295 of the Board's "Economic Regulations," provides that certain passenger flights in foreign air transportation, on a planeload charter basis only, may be performed by supplemental carriers if a special exemption is granted before such trips are flown.

By issuance of order 13436, on January 28, 1959, in docket No. 5132, entitled "The Large Irregular Air Carrier Investigation," and a decision accompanying such order, the Board made the following statement on page 1 of its opinion:

"The Board's 1955 decision herein resolved the issues of the need for and proper scope of supplemental air transportation. In it the Board found that the public interest required the establishment of a class of carriers, authorized to perform supplemental air transportation, which was defined to include planeload charter flights, together with such limited noncharter service as does not amount to a conventional frequent route type service of the kind provided by the major airlines who form the backbone of our national air transportation system. The basis and the precise terms of the Board's decision on the need and scope issues need not be repeated here, for they are discussed at length in the original 1955 decision, the opinion on reconsideration and in our opinion and order, issued contemporaneously herewith, rejecting a second group of petitions for reconsideration of that decision."

It may be significantly noted that the Board recognized the difference in the type of service that had been provided by the supplementals from the type of service provided by the major airlines described as conventional frequent route type service. We will elaborate on this point in a later portion of this statement.

By the opinion accompanying order No. E–16277, issued by the Civil Aeronautics Board on the 17th day of January 1961, in docket 5132, entitled "Supplemental Opinion and Order," the Board reaffirmed its previous findings of need for and the proper scope of supplemental air service as required by the public interest. Again recognizing the tremendous national contribution provided to the military by irregular carriers during the Berlin blockade and the Korean conflict, and subsequently on military charters, the Board declared as follows:

"We have from their inception considered the irregulars as comprising one class of carriers who perform a wide variety of services, and who have the necessary flexibility to switch from one area of operations to another, and from one or more types of service to others, depending upon where these carriers can find the greatest demand which they are in a position to meet. Thus, * * * not all irregulars have been or are interested in operating individually ticketed operations over high density segments. Others have found contract and charter work to be more lucrative. Still others prefer international operations. But the common denominator and, indeed, the importance to this class to the transportation needs of this country is the fact that, unhampered and unrestricted by schedule and route requirements, they have the necessary flexibility to make themselves available to serve whenever and wherever the demand exists."

On page 19 of this same decision, the Board summarized its position on need for this service as follows:

"Our present decision to certificate supplemental service in foreign, overseas, and intraterritorial air transportation, is the logical and necessary implementation of the Board's several prior decisions in this proceeding. Those decisions, with the detailed findings set forth therein and the discussions of the parties'

contentions, establish that supplemental air service of the scope heretofore defined is required by the public interest, convenience, and necessity, and that the carriers being certificated are qualified to perform it. These findings are not confined to the domestic aspect of supplemental service but apply as well in the overseas, international, and intraterritorial areas. These latter spheres, where surface transportation is comparatively slower in relation to air than it is domestically, are at least as subject to fluctuations of need as is domestic air transportation. That such fluctuations may be sudden, large scale and of a character that is significant to national policy is illustrated by the Korean and Berlin airlifts. Supplemental carriers, untied to route service obligations, can bring the necessary flexibility required promptly to fulfill such needs, and the public benefits involved cannot be measured by the volume of traffic normally moved, without considering the vital importance of availability of service in time of need. Other demonstrated benefits of supplemental operations, including the innovation of new and useful types of service, the provision of special services for unusual kinds of traffic, and the development of services which tend to promote and preserve low cost transportation for the public, have been referred to in previous decisions and will not again be described."

As will be recalled by this committee, the attacks which the large trunkline air carriers have made on the Board's orders have resulted in two court decisions, one, entitled *American Airlines* v. *Civil Aeronautics Board* (235 F. 2d 845 (July 19, 1956)), the other, *United Airlines* v. *Civil Aeronautics Board* (278 F. 2d 446 (Apr. 7, 1960)). In neither of these decisions did the courts determine the Board's error to be in its findings of need and public interest for this service. Present and past criticism have all been directed to the scope of the authorization provided rather than the need for such service. At the risk of belaboring the point, the House Committee on Interstate and Foreign Commerce on June 15, 1960, in its Report No. 1877, to accompany H.R. 7593, at page 10 thereof, stated as follows:

"The Board has found that the supplemental air carriers have performed a useful public service and have a definite place and role in meeting this Nation's air transportation needs. These carriers as a class have performed valuable services responsive to a public need in the field of charter and specialized services; in meeting needs for individually ticketed services in peak period which could not be met by the certificated carriers; in innovating and developing air-coach services; and in meeting military needs for airlift. There can be no doubt that the continued existence of the irregular air carrier fleet is of real value in terms of national defense, and it is evident that the future ability of the irregular air carriers to serve the military, as they are doing now and have done so ably in the past, depends upon their ability to operate their planes in commercial activities when not engaged in service for the military."

Three points stand out in the last quoted paragraph: (1) That supplemental carriers have performed valuable services responsive to a continuing public need; (2) that the continued existence of these carriers is of real value in terms of national defense in their ability to serve the military; and (3) that their very existence to perform these most needed services depends upon their ability to operate their planes in commercial activities when not engaged in service for the military.

The Senate Committee on Interstate and Foreign Commerce, on June 13, 1960, in its Report No. 1567, to accompany S. 1543, at page 5 thereof, stated as follows:

"The issue of the need for and the proper scope of supplemental air transportation, as we have noted, was the subject of painstaking and protracted investigation and study by the Board over a period of many years. The Board's interim decision in 1955 resolved that issue (Order No. E–9744, November 15, 1955) on a finding that the public interest requires the establishment of a class of carriers authorized to perform supplemental air transportation of a kind and character which does not amount to a conventional, frequent, route-type service as provided by the major airlines.

"During committee hearings, the criticism leveled at the present measure, as submitted by the Board, was not directed to the issue of need for such transportation but rather to is scope with the suggestion that the supplementals be authorized to operate on a charter basis only. There is no demonstrated justification which would warrant our rejection of the considered conclusion of the Board which certainly cannot be said to be the product of hasty judgment.

"Your committee is satisfied that supplemental air carriers constitute a significant and valuable part of the Nation's air transportation system. They have not requested or received any governmental subsidy and under existing law of the amendment here proposed, these carriers are not eligible for such assistance. They have pioneered in the development of aircoach travel, have stimulated the growth of air freight or all-cargo carriage, widened the range of commercial air-carrier business, and aided our military departments in transporting personnel and supplies. In the Berlin airlift in 1948 and the Korean airlift in 1950, these carriers supplied a substantial part of vital airlift capacity. Together with our regular-route carriers, they constitute an invaluable asset for emergency defense requirements."

If the supplemental air carrier class is to perform the useful and necessary services which have been assigned to it, it is an academic fact and a problem of high school economics that financial stability in some measure or another must be assured. In this regard we do not refer to Federal subsidy support, but rather to a definite, determinable, and permanent authorization to operate from the Congress by the passage of this legislation. At no time in their long period of history antedating the Civil Aeronautics Act of 1938 have the nonscheduled carriers had any type of definite, definable, or permanent type authority. This uncertainty has made investment capital difficult, and at times impossible, to come by. Legitimate banks and institutional investors have been loath to add this additional risk factor to what has been generally recognized as a speculative investment (see decision of the Civil Aeronautics Board in Docket 808 entitled "General Passenger Fare Investigation," decided November 25, 1960, in the opinion as attached to Order E–16068) with a result that money necessary to sustain current operations, provide additional and new modern type equipment suitable for the military needs, and promotional activities to develop new traffic, have been drawn from other sources at extremely high rates of interest. It is believed that the passage of the legislation we are supporting here will eliminate this risk factor and attract the needed capital. The passage of this legislation we believe will recognize that through their operations over the years, the supplemental carriers may be considered to have developed certain equities in the general field of nonroute, large aircraft services, and thus to have a historic interest in such business which should not be ignored. (P. 20 of the Board's opinion accompanying Order No. E–16277, dated January 17, 1961.)

Rather than repeat here the entire draft of S. 1969, as amended by our proposals. I will read our proposed amendments, discussing each in turn. May I direct your attention to numbered paragraph 33, of S. 1969 which is the third paragraph on the first page. Our amendment would make the paragraph read as follows:

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

The emphasis here is on the word "authorizes" in lieu of words of limitation. This substitution provides the type of permanent authority of a measurable degree which is absolutely necessary to the financial stability and economic well-being of this class of carriers. The word "authorizes" affixes a right at the direction of the Congress which may not in subsequent months or years be tampered with by well meaning, but perhaps sometimes misguided, persons in the regulatory agency. As will be seen in the discussion to follow, this would also provide a fixed amount of operating authority which would stand inviolate until such time as Congress desired to change it on the basis of changing circumstances.

The next portion of our amendment which we propose as a substitute for section 1 of S. 1969 reads as follows:

"(2) Individually ticketed passengers or individually way biled cargo operations in the frequency of not more than 20 flights per month in the same direction between any single pair of points, in interstate, oversea, and territorial air transportation, including a further limitation of not more than 2 flights per day in the same direction between any single pair of points in interstate, oversea, and territorial air transportation, and (3) supplemental

air carriers shall have the right of first refusal in the operation of all charter trips in interstate, oversea, and foreign air transportation. The Board shall implement this section by appropriate regulation."

At first glance this would appear to be a request for twice the amount of service presently authorized. As a practical matter, this would not be the case at all. Examination of flight reports on file with the Civil Aeronautics Board will show that a major portion of supplemental passenger traffic moves on the weekends; that is, between major points such as Los Angeles and New York, most of the traffic between these points would be moving on Fridays and Sundays. The existence of heavy weekend traffic is not peculiar to the supplemental carrier industry. Anyone who has attempted recently to travel on a weekend or holiday knows of the difficulty in securing a coach reservation within a week of departure time. This is particularly true of long-distance or transcontinental flights between major cities. If, indeed, our service is to be supplemental in nature, here is an area that needs support. The public needs this additional transportation made available to it. This portion of the amendment envisions that a carrier might schedule two flights in each direction on Friday between two major transcontinental points with returning trips of two flights in each direction on Sunday night each weekend. This would aggregate a total of at least 16 of the total 20 authorized flights in each direction, and during some calendar periods with an additional weekend falling within the month's period, the entire 20 flights would be utilized on weekend traffic. The further limitation in this paragraph of restricting schedules to a maximum of two flights per day in each direction will meet the objections made that a yearly allocation of flights would cause a blanketing of schedules in the more lucrative market areas. If two flights per day in each direction are scheduled between any two points, it can easily be seen that the maximum number of flights flown during any 30-day period would cover only a 10-day scheduling period. The effect would be little difference than the provision of an extra section to a flight, under the present authority.

The third alteration we have made falls into section 3 of S. 1969 on page 5. Reading this section, our proposed amendment would place a period toward the end of the first sentence after the word "practicable" and eliminate the words "and may designate only the geographical area or areas within which service may be rendered." Express authority to delimit geographic areas of operation in our judgment would create a completely impractical situation and if carried out to one possible, logical conclusion, would amount to nothing more than the establishment of route segments for supplemental carriers. This is entirely contrary to congressional and Board concept of supplemental carrier utilization and operation, the major point being to maintain the flexibility and availability of supplemental service to meet the needs wherever they may arise. The difficult and time-consuming process of route awards to new areas or areas which need additional service is a fact which presently plagues the best administrative legal minds in the country today. During this period of process by the Board's overworked and understaffed bureaus, any city or community should be able to request supplemental air carrier service, without the restriction that this language would place upon the availability of such service. In any event, the last sentence of section 3 affords all of the protection the large carriers need, if any be needed at all, from the diversionary effects of supplemental air service. This portion reads as follows:

"* * * Nothing in this subsection shall prevent the Board in specifying the service to be rendered under a certificate for supplemental air transportation for placing such limitations on such certificate as it may find to be necessary to assure that the services are limited to supplemental air transportation: *Provided*, That the Board may not impose such limitations upon certificates issued pursuant to paragraphs (1) and (2) of subsection (d)."

It is believed that this language was similar to that suggested by the Air Transport Association during last year's hearings.

At every occasion when the irregular carriers or supplemental carriers have sought some definite or even temporary authority, the hue and cry has been made that these operations would have a devastatingly diversionary effect on the revenues of the certificated route carriers. This bogey man should no longer be permitted to be dragged out and paraded before these committees unless fully sustained by an evidentiary record. In the previously cited oponion of the Board accompany order No. E–16277, the Board pointed out on page 5 of such opinion that the interim operating experience of the supplemental carriers

as cited in the petitions of complainants (which attacked the issuance of certificates on this ground) not only failed to undercut the rationale of the 1955 decision, but actually confirmed the Board's earlier judgment when it rejected intervenor's emphatic and repeated assertions that the scope of the authority prescribed for supplemental carriers would have a devastating, diversionary effect on the revenues of the certificated route network. The Board noted that the interim experience showed such fears were, as the Board had anticipated, wholly unfounded. On page 6 of such opinion, the Board said that:

"Despite general assertions by intervenors that supplemental air service is or may be diversionary, the practical economic effect which the present decision will have in changing the current air transportation picture is very limited, and no significant impact on existing route services is involved in any area."

Further in its opinion, the Board noted (on p. 8) that the supplementals will continue in their proper function of meeting special and fluctuating traffic demands of the types referred to in the Board's previous decisions, demands which the large trunk carriers, whose operations and facilities are geared to the needs and obligations of serving their routes, cannot readily or economically serve.

The major reason that no diversion will occur, regardless of the number of flights authorized to be performed by supplementals, is the simple fact that the supplementals are not in competition for the same market of business as that of the regularly scheduled carriers. Most of the passengers traveling aboard supplemental carriers simply cannot afford to pay the higher fares charged by the regular scheduled airlines. These are the same people who may normally be found in our bus stations, soldiers on leave, families moving to a new geographic area, relatives traveling to funerals, and people of modest means who find it an absolute necessity to use air transportation to reach long-distant points in a short time. This middle class and lower middle class type of person is just as entitled to air transportation as those of more fortunate means which the large regular carriers seem to prefer. A comparison of the fares of the supplementals and the certificated carriers will bear out this point. Approximately 2½ years ago, the lowest coach fare of a regularly certificated carrier operating between Los Angeles and New York was $98.50, plus tax. The fare of the supplemental carriers operating between the same points was $80 plus tax. At the present time, the regularly certificated carriers charge $131 fo rthe cheapest tourist accommodation, while the supplemental carrier's fare is still $80. Thus, we can see that the larger carriers, instead of attempting to serve this market area, are moving farther and farther away from it. It is our considered opinion that they do not desire to serve this market, that they never have and never will provide the service to these people which is so badly and presently needed.

In the hearings of last year, a great deal was said by the opponents of the legislation about violations. Arguments were there made, as they have been made in the past before the Board, that the tendency to commit violations of the act and economic regulations and the alleged violative nature of the supplemental operators made them unfit as holders of certificated authority. Until recently, and since August of 1957, I filled the office of Chief of the Legal Division of the Bureau of Enforcement at the Civil Aeronautics Board. As the Board's former chief enforcement attorney, I believe I can speak with some authority on the numbers and types of violations prevalent in the industry. If my memory serves me correctly, and the public records of the Board may be examined to determine the accuracy thereof, that during the last 18 months when approximately 40 formal enforcement cases have been processed before the Civil Aeronautics Board, only a small handful of such cases involved supplemental carriers. Examination of that record will show that almost every major airline in this country was a respondent at least one time during that period.

A matter of recent occurrence deserves final comment. I refer to the outrageous, unfair, and possibly illegal treatment that the supplemental carriers received in the latest award of MATS commercial augmentation airlift contracts. The conclusions that I am setting forth herein were drawn from a conference held on June 9, 1961, at Washington, D.C., in the office of the Honorable Howard W. Cannon, U.S. Senator from Nevada.

This conference was attended by representatives of several supplemental air carriers and officials of the MATS Procurement Office of the U.S. Air Force. Mr. Edward Driscoll, spokesman for the MATS group, disclosed that the successful bidders under the current RFP will be the only companies considered eligible to bid on future allocations and all potential additional requirements of a call-type nature during the next 3-year period. Through the device of a selection criterion described as "expansion capability," a restrictive monopoly has been established

by a governmental department, which excludes the entry and participation of all other qualified air carriers for future business of this type. The announced policies which cover the next 3-year period have, in effect, supplanted the CRAF requirements for type equipment eligibility by collateral means of defining priorities in the allocation of these awards. As this committee well knows, supplemental air carriers have been major participants in the CRAF program. The inability to compete for this business is, in effect, a withdrawal of the major incentive to maintain availability of aircraft to the CRAF program. The detriment to the CRAF program can obviously be seen. Without belaboring the committee with further details of our objections in this area, we note that the House Military Operations Subcommittee conducted a review on Monday, June 19, of the MATS commercial airlift policies. Our reason for discussing it at all at this time is to merely demonstrate our need for additional individually ticketed and individually waybilled authority of a permanent, fixed nature.

This is the second year in a row the supplemental carriers, at great expense to themselves, have had to come into the Nation's Capital and defend their right and entitlement to participate in the MATS contract awards. While the matter was corrected last year, and we hope at least the same result will be achieved this year at the conclusion of the House hearings, we think the handwriting is clearly on the wall that we will ultimately, by some legalistic means, be finally closed out of this military business. The only ray of sunshine in this dismal picture is the turndown by the Civil Aeronautics Board on June 15 of the Logair and Quicktrans proposals of a number of the awards in question. While one of these awards was to a supplemental carrier, it was deemed by the Board to be uneconomical, which in fact it was, following the private negotiations of the price downward and unconscionably below that which the carrier had proposed.

We wish to make it clear to this committee that we do not oppose the Board's bill as such, nor do we oppose the amendments submitted or offered by the Independent Airlines Association and the Supplemental Air Carrier conference. Our proposed amendments will correct, in some measure, the inequities contained in the other bill and amendments and will meet most, if not all, of the valid objections proposed by those who desire no legislation at all for this carrier class.

I wish to thank the committee for making this time available to Paul Mantz Air Services and Quaker City.

AMENDMENT TO S. 1969

Strike out section 1 after the enacting clause and insert the following:

That section 101 of the Federal Aviation Act of August 23, 1958, as amended, is amended by redesignating paragraphs (32) and (33) as (34) and (35), respectively, and inserting therein two new paragraphs to read as follows:

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

"(33) 'Supplemental air transportation' means air transportation rendered pursuant to a certificate of public convenience and necessity which authorizes the holder to perform (1) unlimited charter operations on a planeload basis for the carriage of passengers and property in interstate, overseas, territorial, and foreign air tranportation, with the word 'charter' herein being defined as air transportation performed pursuant to an agreement for the use of the entire capacity of an aircraft, (2) individually ticketed passenger or individual waybilled cargo operations in the frequency of not more than twenty flights per month in the same direction between any single pair of points in interstate, overseas, and territorial air transportation, including a further limitation of not more than two flights per day in the same direction between any single pair of points in interstate, overseas and territorial air transportation, and (3) supplemental air carriers shall have the right of first refusal in the operation of all charter trips in interstate, overseas and foreign air transportation. The Board shall implement this section by appropriate regulation."

Strike out of line 8 and line 9 of section 3 the words: "and may designate only the geographic area or areas within which service may be rendered," so that amended section 3 should read as follows:

"SEC. 3. Subsection (e) of section 401 of the Federal Aviation Act is amended by adding the following text: 'A certificate issued under this section to engage

in supplemental air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable. Nothing in this subsection shall prevent the Board in specifying the service to be rendered under a certificate for supplemental air transportation from placing such limitations on such certificates as it may find to be necessary to assure that the services are limited to supplemental air transportation: *Provided*, That the Board may not impose such limitations upon certificates issued pursuant to paragraphs (1) and (2) of subsection (d).'"

Mr. FRALEY. I will simply discuss it extemporaneously.

My name is Robert E. Fraley. I am an attorney and member of the bar of the State of Oklahoma, presently residing in Los Angeles and employed by the law firm of Keating & Older. I represent the interest of Quaker City Airways and Paul Mantz Air Services before this committee.

Before reaching the statement, Mr. Chairman, I would like to briefly state the type of operations that these two carriers are now performing and the type that they would propose to perform under the authority of this legislation in the event it becomes enacted into law.

Both of these carriers are based at the Lockheed Air Terminal at Burbank, Calif.; both are currently operating and engaged primarily in the transportation of individually ticketed passengers in the transcontinental market.

Cities presently served are Oakland, Los Angeles, San Diego, Chicago, Detroit, Philadelphia, New York, and Miami. Additional services presently planned to include Dallas, Tex., and Honolulu.

Both of these carriers are operating large four-engine Constellation type aircraft with overwater capability in equipment. Both carriers propose to devote most of their time to individually ticketed traffic in the areas and at times when the need for such traffic is greatest. Paul Mantz Air Services has contracted to perform some transatlantic charters to Europe this summer and hopes to perform some additional charters if the restrictive regulations which presently govern charters in the transatlantic field are relaxed.

Earlier this year, Mr. Chairman, the vice president in charge of sales, Paul Mantz, spent considerable time in Europe, attempting to line up business. This, we think, will tie into the tourist bill which is now——

Senator MONRONEY. This is traffic from Europe, originating in Europe?

Mr. FRALEY. That is correct.

Senator MONRONEY. And there has been very little charter service that way. It is generally the other way around.

Mr. FRALEY. That is true, sir. We feel that the artificial and hard and exclusive rule of homogenity here is again part of our problem. It is probably more difficult for the Europeans to become homogenous than it is for Americans who may have some familiarity with the term.

I would like to come back to this point again a little later in the discussion.

Quaker City Airways is also interested in this area, this European transportation under the charter authority that we hope we will have written into the legislation. At the present time, however, they are planning to secure two additional aircraft and assist in this present

emergency which has been created by the maritime strike. It may not be of knowledge to the committee, Mr. Chairman, but I am informed by recent announcement that the Matson Line, which operates between Los Angeles and San Francisco on the one hand, and Honolulu on the other, has announced that it is going to terminate its excursion trip service to Honolulu for the balance of this season, for this summer season.

You may recall it operates this very fine service; I think they have the *Lurline* and *Matsonia*; I believe they carry around some 600 first-class, or what you would call deluxe, passengers. This will provide several, quite a number of planeloads of aircraft if these lines are off business.

Of course, these passengers will undoubtedly place a heavy burden on the jet service that is being provided, but we hope to pick up some of the coach passengers who can't get space on the jets. This, we think, is a proper supplemental service function.

Senator MONRONEY. Could I ask you there, since Hawaii is now a member of the Union, the charter service or ticketed service under the existing authority of 10 trips a month is permissible without special permission of the board; that is correct?

Mr. FRALEY. That is correct; we can fly 10 trips, and we could ask the Board by exemption for additional authority and we might get it in this present climate.

We have proposed, Mr. Chairman, as a matter of fact, we worked on it the last 2 days, a charter definition which we think should be substituted or rather written into this bill by way of amendment and I discussed this with Mr. Beek as to the propriety of Mr. Burwell coming on again in person to appear here and explain it and in order to avoid any possible rebuttal that might be thought necessary from other persons. If you would permit it, I would like to yield a portion of my time right now and let Mr. Burwell discuss this proposed amendment specifically.

Senator MONRONEY. In order to make the hearings complete, if you have specific language you are asking for in the bill, it should be introduced at this time so any others concerned with the bill for or against would have the advantage of knowing what has been proposed.

Mr. FRALEY. I might say at that time, one of the reasons it becomes necesasry, to be very careful in draftsmanship here, is the last sentence in section 401(f) of the Federal Aviation Act, which permits the Board to establish regulatoins governing charters and special services. Here we hope that the committee would carefully, if they accept our suggestion, avoid the conflict of two inconsistent sections in the law.

I would like to make a few remarks after Mr. Burwell finishes. If I can yield now to Mr. Burwell.

Senator MONRONEY. Mr. Burwell, we will be happy to hear you.

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

Mr. BURWELL. Mr. Chairman, if I may have the privilege of doing so later, I will undertake to draft the exact language. I merely wanted to point out at this time, if I may, that on the assumption that the committee feels that the present charter regulations are un-

dully restrictive, there is no charter definition in the act at present. The first part of 207, which controls the domestic chartering gives in effect, common law definition of a charter and then later places some restrictions on that as to certain types of traffic, particularly individual ticketing. Both from the standpoint of simplicity and liberality, what we would like to have extended in the foreign field is the, in effect, the common-law definition.

Now, the reason we think that it is important to have it even more liberal in the international field than domestic field are two reasons: (1) the fact that as we understand the tourist bill, it is national policy to try to get some people from over here to come here. The overall problem is to promote international understanding. Accordingly, the way they organize things over there is through ticket agents. If you will rule out ticket agents, why that flow will not, in my view, be stimulated.

We are not asking to just be able to organize all sorts of individually ticketed things and admittedly, divert from their flight travel but the way they travel are on all-expense tours, for instance, which in and of itself, it seems to me, gives a pretty sharp dividing line between ordinary individually ticketed traffic and the type of tourists that the new bill is trying to attract.

The second reason, and I won't go into any detail because I think one of our carriers will develop it, that I don't think the committee has to feel too sorry for the flag carriers, either foreign or our own flag carriers, if thee is a little competition in the chater field, for the simple reason that a flight between New York and London, for instance, that goes in June and has to come back in August, may require 12,000 miles of flying or two empty legs. Well naturally, the way they do it, is they take the common cariage flight one way to cover the empty leg, cancel return and bring a charter home. I won't go into any more detail, but I am sure that you can see that is of enormous competitive advantage.

The only other thing I would like to say about it, if I may, of course, as you recall in 401(e) of the present act, there is a clause which says that anybody that has a certificate may make charter trips and special services under such regulations as the Board may prescribe, so that it is a technical matter. I asume a word or two would have to be put in there.

The last thing on this from a technical view is that there is a general catchall clause at the end of the Board's proposed bill which in effect more or less says, notwithstanding anything else, the Board may take such measures as necessary to insure that the supplementals are supplemental and for that reason, if there is any change, the committee intends to clarify the charter definition by definition, I assume, that some exception proviso would have to be put in that catchall clause.

Thank you very much, sir, that is all I have to say. I will be glad to submit something in writing.

Senator MONRONEY. The last clause that you referred to applies to the charter, is that correct?

Mr. BURWELL. I assume it might, Mr. Chairman.

Senator MONRONEY. The point I am making is that I think the concern of the committee is to be sure that on all ticketed route traf-

fic, the supplementals are what the name implies, supplemental service and not regularly scheduled airline service.

On the charter business, however, I think you made a statement which shows that less than one-half of 1 percent of the schedule airlines engaged in charter service; which was a very insignificant part of their business, yet a very major part of your business and so the question before the committee, I think, on charter is how the traffic has moved, who wants this traffic. It appears that the supplementals are ready, willing, and eager to take it and that the scheduled airlines have more or less ignored it if not run away from it.

So this was the point I am making, whether the supplemental language which you mentioned in the Board's bill is a restriction on the charter or is in there as a possible caution on the ticketed traffic.

Mr. BURWELL. I assume, Mr. Chairman, that it was put in as a caution on the ticketed traffic.

Frankly, I am not a sharp enough legislative lawyer to say how it would be read and I would hope that perhaps the report of this committee would make it clear one way or the other whether it is intended to be a restriction on the ticketed business only or whether on all activities.

Senator MONRONEY. We would appreciate at your earliest convenience your submitting your proposed suggestion for draft language on the charter provision and we would like to have it available so that before we have other hearings, proponents and opponents will be able to speak to that language when they testify.

Mr. BURWELL. I will try to have something in the morning for the hearing then, if that is satisfactory.

Senator MONRONEY. We appreciate that very much, Mr. Burwell.

Mr. Fraley, you may continue.

STATEMENT OF ROBERT FRALEY, REPRESENTING QUAKER CITY AIRWAYS, PHILADELPHIA, PA.; MANTZ AIR SERVICES, BURBANK, CALIF.

Mr. FRALEY. I will just add my own comment, if I may, on that point of the protection.

The chairman, of course, has been our champion here and we hate to differ with him on points, but his apparent fixation on this homogeneity rule, we think, requires that the Congress, at least this committee, declare its policy, vis-a-vis this charter operation and declare it in this legislation.

As far as protection on the side, I think Mr. Burwell would permit the Board, in case it became concerned about diversion or successive charter flights to say that is all, and just cut it off, at least for that season.

I think Senator Cannon covered in his excellent testimony a point that I wanted to make much better than I could, namely, that the trouble that we are having now with the MATS ultimate contracts award for the civil airlift program seems to be diminishing our area of operation for the Government.

This, we think, the committee should take into consideration in some report or in some fashion, either in the legislation or in the report, to encourage the Board to consider additional individually ticketed trips.

I know that the chairman himself is intimately knowledgeable of this MATS problem.

On this point of diversion, sir, I know other witnesses have developed this thoroughly from their experience which is more complete than mine, but I would like to emphasize at this point in the record that at least as to the areas I know about, the transcontinental cross-country routes that Quaker City and Paul Mantz are conducting operations in, that they are operating entirely in a different market.

The market is the low-cost economy, less-than-coach class, that the people need and want. I might say in this, all of the discussion by the chairman related to, I believe, he said $11 million worth of gross revenues in this individually ticketed area.

I am sure Mr. Tipton will correct that to show actual amount which is $20 million, half of which or almost half of which were performed by the so-called Great Lakes group which will no longer be in operation.

While I can't speak for them in this regard, since I was on the side of the prosecution at the time those cases were conducted, I do think their operations show a need and demand by the public for the service.

They have been operating, I understand, since November of 1959 under a judicial stay which conditions their operation, under the stay, on compliance with the Board order, so since no action has been taken under that, I assume that those operations since that time have been lawful operations, there being no action taken by the Board to come in and have that stay lifted.

If the Chairman will pardon a personal reference, I would like to anticipate some testimony which comes up every year, came up last year, came up before the House, on this question of violations.

Mr. Tipton has a habit of going back to 1947 and painting this lurid picture of violators who are just waiting for the opportunity to commit additional violations.

Since August of 1957 and until recently, I filled the position as the Chief of the Legal Division for the Bureau of Enforcement at the Civil Aeronautics Board.

During the past 18 months, if my memory is correct, and the Board records will either sustain or refute what I say, that in some 40 enforcement cases that have been handled, only a very small handful of those involved supplemental carriers.

Most of them involved the regular scheduled carriers; in fact, one of them came up to bat three times in that period.

Senator MONRONEY. In that regard, I am aware of testimony before the committee suggesting that the Board be given some authority to deal with economic penalties on a lesser basis than revocation of license.

Would your position be that this would be helpful to maintain the integrity of the operations within the framework of the certificate to permit them to continue to operate, get a quick decision, but still have means of discouraging operations beyond the scope of their certificate?

Mr. FRALEY. Yes, sir; I think it would. I believe the Board has been battling for civil penalties for some 10 years without any success.

The civil penalties obviously should be across the board, available to be applied to all carriers under the Board's regulations.

In this regard, sir, I think I might just refer to one case without mentioning the carrier.

The enforcement proceeding involved, section 411, which is unfair competition or misleading and deceptive practices, as so found by the Board, the Board sanctioned in the case, at the end result of the case, was a cease and desist order.

On the other hand, IATA handling through its enforcement procedures in the same instance, awarded a fine of $20,000. I leave it to you, sir, which is more effective, to restrain a future violation of that type, $20,000 fine or the Board's order to cease and desist.

If there are no further questions, Mr. Chairman, I thank you for this time for Paul Mantz and Quaker City.

Senator MONRONEY. Thank you very much, Mr. Fraley, for your testimony and the full transcript will carry the statement.

The next witness is Mr. Jesse Stallings, of Capitol Airways.

We are happy to have you before us, Mr. Stallings.

Do you have a statement prepared?

STATEMENT OF JESSE STALLINGS, PRESIDENT, CAPITOL AIRWAYS, NASHVILLE, TENN.

Mr. STALLINGS. No, sir; I don't have a prepared statement.

Senator MONRONEY. You may proceed in your own way.

Mr. STALLINGS. I would like to thank you for the opportunity of appearing here, Mr. Chairman.

My name is Jesse Stallings. I am president and general manager of Capitol Airways with headquarters in Nashville, Tenn.

Capitol was founded in 1946 and today employs approximately 600 people. We operate 50 aircraft, transport-type aircraft. We are engaged primarily in military contract flying business, that is, approximately three-fourths of our revenue is derived from military contracts.

Senator MONRONEY. What type of contracts are these, overseas?

Mr. STALLINGS. We fly both types, Mr. Chairman, both kinds of contracts, overseas contracts and also domestic contracts, known as Logair.

Recently, the CAB has placed a minimum on the rates of contract flying, that is awarding MATS contract and domestic contracts and this will have a very adverse effect on our operation in that it destroys the competitive advantage we have and we have open competitive bidding, obviously a small carrier with lower indirect costs has an advantageous position, bidding against a larger carrier, with a higher direct cost.

Of course, they have many advantages that we don't have, obviously, when you do away with competitive bidding, then you are speaking of a system of allocation and the criteria used in making awards is very disadvantageous.

We suffer a terrific disadvantage under this system in that under criteria, the larger carriers are able to get the business because the expansion capability is part of the criteria.

We have been engaged for the last 4 years very extensively in North Atlantic charters.

Senator MONRONEY. This is military?

Mr. STALLINGS. No, sir; these are commercial charters. The North Atlantic charter policy is extremely restrictive and again there we are at a disadvantage in the fact that foreign carriers do not have to comply with all of the restrictions that we do and we will, to illustrate, in 1959, the all-cargo carriers and the supplemental carriers flew approximately 200 North Atlantic charters. Our American-flag carriers flew approximately 200 charters and the foreign-flag carriers approximately 200 charters.

In 1960, the foreign carriers flew 1,800 charters and with a slight decrease in our flag carriers charters and our supplemental charters and we feel that if the North Atlantic charter policy was liberalized, that we could get a much larger share of their market, which is now going to foreign-flag carriers.

Senator MONRONEY. Liberalized in what way, sir?

Mr. STALLINGS. Well, for instance, I think what they call a homogeneous group, that restrictions could be liberalized in that area.

Senator MONRONEY. This large increase in the foreign carriers that you mentioned, 1,800 round trips, you said?

Mr. STALLINGS. Yes, sir; that is my information.

Senator MONRONEY. Last year?

Mr. STALLINGS. That is the approximate figure, of course, Mr. Chairman.

Senator MONRONEY. Did these originate in Europe or originate here?

Mr. STALLINGS. Those originated in the States, sir.

Senator MONRONEY. These 1,800 originated in the States?

Mr. STALLINGS. That is my information, approximately 1,800 flights flown.

Senator MONRONEY. Were there any restrictions?

Mr. STALLINGS. Only the IATA restrictions.

Senator MONRONEY. What is the minimum that IATA permits?

Mr. STALLINGS. I don't know what the minimum rate they permit is.

Senator MONRONEY. You have a minimum below which you can't go on charter?

Mr. STALLINGS. I am sorry, sir.

Senator MONRONEY. Do you have a minimum below which you can go on charter?

Mr. STALLINGS. No, sir; we are not restricted by tariff. It is strictly a competitive open rate situation.

Senator MONRONEY. It is restricted on minimum by the military?

Mr. STALLINGS. Yes, sir; that is correct; that has recently been put into effect, and of course, in essence, this will drive us from the military market, that is, I think it will drive the entire supplemental industry from the military market.

Senator MONRONEY. Unless they can reequip?

Mr. STALLINGS. No, sir. Under the criteria, the more aircraft you have, of course the better chance you have of being awarded business and that is where we will suffer.

Senator MONRONEY. There is a tendency also for the minimum rate to be uniform, at least there is a minimum below which quotations are not supposed to be received on military waiver from the CAB, and the choice then often falls in the allocation on the airlines, either

supplemental or scheduled or all-cargo, who show evidence of trying to reequip with modern aircraft.

Mr. STALLINGS. Mr. Chairman, I think actually it will have just the opposite effect. In the case of supplementals, the modern turbopower aircraft is so much more economical to operate, that competitive factor alone will force the carriers to buy modern aircraft to compete and stay in the market if you had an open rate. I think that where you do have a floor placed on these rates, that it has an adverse effect in the fact that the smaller carriers then will not be awarded any business and of course obviously would have no need for modern equipment.

I believe that the supplementals, if this were not restricted by this floor, they would reequip. In our case we propose to buy DC–8's for the recent MATS contracts that were awarded. This contract was awarded to a large scheduled airline because of their expansion capability, that is, they had more jets than we had, so obviously we could only get one and had a great deal of trouble in financing one single airplane, but again, if we can get a permanent certificate and have a permanent place in the air transport field, it would solve one of our greatest problems, of course, which is financing.

Today it is impossible to do any equity financing in the supplemental field. Of course, using borrowed capital and risk capital, we have to pay exorbitant rates frequently and I think once we are certificated and do have a permanent place, that we can do some equity financing. Of course in line with that, we could procure modern turbopowered aircraft.

Senator MONRONEY. You are one of the companies that own all your aircraft?

Mr. STALLINGS. No, sir, we don't own all of our aircraft, we own approximately, well, we own about 20 aircraft.

Senator MONRONEY. You operate 50, is that correct?

Mr. STALLINGS. That is correct.

Senator MONRONEY. Others on lease from a leasing company?

Mr. STALLINGS. Yes, sir, that is correct; not from a leasing company, on lease from another operator, most of our aircraft. We do lease three Constellations from Lockheed Aircraft Corp.

Senator MONRONEY. Is leasing as economical as ownership?

Mr. STALLINGS. No, sir, it is not as economical, but on these short-term year contracts, you are forced to lease. It would not be economical on a year's contract to go out and purchase aircraft for a year's operation. In fact, the financing of it alone would preclude your purchasing placed on a year's contract.

Senator MONRONEY. Did you have anything further?

Mr. STALLINGS. That concludes my statement, sir, and I would like to thank you for the opportunity of appearing.

Senator MONRONEY. Thank you very much for your appearance here. We appreciate having your valuable testimony.

We will have Dr. Ralph Cox, United States Overseas Airlines.

Will you come forward, sir?

We appreciate having you before the committee, Dr. Cox.

Do you have a prepared statement?

STATEMENT OF RALPH COX, JR., PRESIDENT, UNITED STATES OVERSEAS AIRLINES, INC.

Mr. Cox. I have a prepared statement. I can read it or enter it and then make some comments.

Senator MONBONEY. Whichever you wish to do. We have several witnesses so if you care to enter the complete statement, we will place it in the record, and you can summarize it as you desire.

Mr. Cox. All right, sir. I think I will enter the statement and try to summarize it.

Senator MONRONEY. The statement will be received and placed in the record.

(Mr. Cox's statement in full follows:)

STATEMENT OF RALPH COX, JR., PRESIDENT, UNITED STATES OVERSEAS AIRLINES, INC.

On behalf of United States Overseas Airlines, Inc., and myself as president, I wish to express appreciation to the members of this committee for the opportunity to be heard in full support of S. 1969 and amendments thereto which may expand the authority of supplemental air carriers. To emphasize the importance attaching to this hearing, USOA and all other supplemental air carriers can assure you that over a period of some 15 years, our segment of the air transport system has not enjoyed 1 single day of operating authority which was not subject to the chaotic uncertainties of court appeal and complicated phases of a mammoth proceeding before our regulatory agency.

That USOA and other members of this class have survived and prospered in the performance of true supplemental service, despite legal and economic attrition and lack of certification, bespeaks the soundness of the Civil Aeronautics Board's decision in 1959 and proves our public need.

I believe that my background and the circumstances leading to my entrance into the field of supplemental air transportation are fairly typical of others in our industry. In fact, as the Board has found, the supplemental industry was born of a public need following cessation of hostilities of World War II. It was during the period of awakening that air transportation had its start insofar as the average traveler was concerned.

Thus, with the advent of aircoach travel, inaugurated by the supplementals, a new era in air transportation began. USOA was one of those early beginners which stepped in to fill a public and military need.

My background in aviation dates from 1939 when I entered the U.S. Navy as an aviation cadet. Following my discharge from the Navy, I served with American Export Airlines, Inc., as navigator, second officer, and first officer, and with American Overseas Airlines, Inc., in the capacity of captain. In January 1946, I entered the field of irregular, now supplemental air transportation with the purchase of one-half interest in the lease of a C–47 transport aircraft.

That same year I purchased a C–54 aircraft from the War Assets Administration which I had converted to passenger configuration. It was in November 1946 that I conducted my first independent flight from New York to Arabia under charter to the Arabian-American Oil Co.

Expansion of operations continued over the ensuing years during the course of which we took on additional equipment and established a complete maintenance base at Wildwood, N.J. My company was initially known as Ocean Air Tradeways. United States Overseas Airlines, Inc., was incorporated in 1950.

Since that time, although our operations have remained based in Wildwood, N.J., USOA has conducted its operations all over the world. Since its inception, I have continually served USOA in responsible executive positions, first as president, then as executive vice president, and, since August of 1959, again in the capacity of president. During this time the carrier has experienced a steady rate of growth.

United States Overseas Airlines, Inc., currently employs more than 500 people, including management, flight personnel, maintenance crews, field operating personnel, and airport and city ticket salespeople. Our fleet of DC–6 and DC–4

aircraft spans the globe in the performance of charter and individually ticketed air transportation in both military augmentation and commercial operations. We have ticket offices and airport facilities at such major points as New York, Chicago, Detroit, Miami, Dallas, Los Angeles, San Francisco, Honolulu, Guam, and Okinawa.

Our airline was one of the first to answer the call during the historic Berlin crisis and responded with equal effectiveness in the Korean conflict. This record of service in the national defense has continued up to and including the present time and has encompassed active participation in the Arctic DEW line project, the Navy Quicktrans cargo operation and MATS flights throughout the entire world. Within the past 9 months USOA's MATS operations have taken its crews and aircraft to such diverse locations as England, France, and Germany in the Atlantic and Hawaii, Guam, Japan, and the Phillipines in the Pacific.

United States Overseas Airlines is a member of the civil reserve air fleet and has committed its equipment to the Government for use in time of a national emergency.

Up to this time, USOA has expended thousands of dollars in the legal pursuit of a permanent form of operating authority to issue from the Civil Aeronautics Board. At this point, we can only reiterate our extreme dismay at the 1960 decision of the U.S. court of appeals rendering virtually useless our 8-year effort and reducing, in effect, our operating authority to its hectic and chaotic posture of the 1940's. We were gratified that Congress in June of 1960 recognized our plight through the enactment of legislation preserving our status quo until March of 1962. We are truly appreciative of your present interest in seeking ways and means in this busy session of permanently alleviating our plight.

Mr. Chairman, I want to emphasize that the flexibility of our present varied operations is the only possible means through which our fleet may be maintained and expanded to supplement the demands of the general public and accommodate the needs of the military; therefore, we must make full use of our diversified 10-trip authority and charter rights in order to maintain our economic stability and growth.

We must make full use of such avenues of revenue as military and civiilan charter flights, which have included such recent examples as the transportation of 467 U.S. Air Force Academy third and fourth year cadets at one time from Colorado Springs to New York; the members (over 300) of the senior officers' class of the Armed Forces Staff College from Norfolk, Va., to Cherry Point, N.C.; Hungarian refugees to havens all over the world during the Communist purge of Hungary; and a party of students from free China destined to our Nation's principal institutions of higher learning. Then in October of 1960, we felt especially honored when our services were requested for performance of a 1-day tour covering the entire State of Florida in transportation of that State's highest officials and of the principal advisers to Vice President Johnson. More recently, USOA has performed numerous commercial charters for well-known domestic business firms and is currently engaged in the performance of a steady flow of tours to our new State of Hawaii at rates readily available to the general public.

USOA, together with other supplementals provided in excess of 20 percent of the total passenger transportation to Hawaii in 1959—all at rates attractive to the average traveler and geared to generate and stimulate air travel. Then in 1960, USOA continued its active participation in the burgeoning Hawaiian market and expanded its transpacific individual service operations to include a regular weekly service across the Pacific to Okinawa. USOA's record in transpacific individual sale service has been such as to merit specific recognition and commendation by the Civil Aeronautics Board. Thus, in the recent *Trans-Pacific Route* case, docket No. 7723 et al., in which USOA was an active applicant, the Board lauded our company with the following findings:

"In 1958, USOA operated a total of 851,000 plane-miles in the trans-Pacific area, 280,767 being in individually ticketed flights between the mainland and Hawaii. It carried 7,557 passengers in 1958 between the mainland and Honolulu with an average load factor of 64.5 percent although it did not begin this operation until June of that year. The carrier achieved even greater success in its operations in 1959, performing 267 individually ticketed flights in the market and carrying 19,379 passengers with an average load factor of 71.6 percent. During the first two quarters of 1960, USOA attracted 9,806 mainland-Hawaii passengers and expanded its trans-Pacific operations to include a regular weekly

service between the west coast and Okinawa via Honolulu, Wake Island, and Guam" (pp. 21, 22).

USOA remains a significant factor in the trans-Pacific basin and is the third leading U.S. carrier both in the California-Hawaii and United States-Orient markets. In fact USOA is the only airline offering direct scheduled service between Okinawa and such major traffic points as California, Honolulu, and Guam. By connections at Okinawa USOA's low-cost services are made available to many travelers to and from such major oriental points as free China, Hong Kong, Thailand, Japan, and Korea. Among those utilizing USOA's trans-Pacific service have been Miss Universe contestants from points throughout the Far East and a party of Boy Scouts from free China.

During the imminent summer season USOA and other supplementals will carry numerous commercial charter trips to Europe and foreign points. These charters will comprise student and study groups, choral societies, general business clubs, and a wide variety of qualified groups which otherwise could not afford such a trip.

USOA for 3 years has been the holder of the U.S. Navy quicktrans contract which involves the nationwide carriage of Navy priority cargo by air.

Our convertible aircraft which are used on our limited passenger route service are such that expandable cargo space is utilized on nearly every trip with fill-in shipments produced through our business relationships with the Nation's domestic and international air freight forwarders. Thus, by this method our pressurized aircraft operations combine passenger and cargo movements—and all possible through full exploitation of our versatile authorization.

Mr. Chairman, our airline fulfills a public need. This is manifest from our actual operating statistics. Thus, our captains have accumulated a total flying time considerably in excess of 390,000 hours in diversified operations throughout the entire world. During the year 1959 our total miles flown amounted to 6,795,640. Our revenue-passenger-miles were 206,000,350 out of a total in excess of 286 million available seat-miles. Throughout the same period we transported 170,719 passengers, both civilian and military, to points all over the world.

Mr. Chairman, a supplemental airline is unique in that it is a component of the only commercial ready reserve air fleet in this country. These carriers are in the air day and night—week in and week out—month in and month out—year in and year out. There are over 100 aircraft in our industry, including DC–3, DC–4, DC–6, DC–7, C–46, 1049 Constellation, and Boeing 377's. These aircraft are manned by highly qualified pilots and crews—not restricted to fixed- or routine-type operations.

May I, at this point, present to the committee, a typical example of the experience and qualifications of the average supplemental aircraft pilot in command?

He flew in World War II and the Korean hostilities as an air transport or naval air transport service pilot. This duty took him to all parts of the world and conditioned him to extremes in exercising his expert pilot capabilities. He is presently a commissioned Reserve officer. He has current pilot certification of the highest order, recognized and authorized by the FAA and CAB. He is a qualified line check pilot and transition instructor. He is more often than not, a combination pilot, navigator, engineer, and dispatcher.

In these pliant capacities he exercises his unique training proficiently where facilities might not be adequate or aircraft maintenance and navigational aids might be lacking. He is capable and employs his capability in the day-to-day transportation of cargo, ranging from shipments of live monkeys to highly technical assimilation and transport of vaccine such as hoof-and-mouth disease serum to distraught cattle areas over the world.

His range of passenger service finds him employing his flexible talents to assignments varying from a coordinated movement of the U.S. War College classes to the provision of some 90 percent collectively of the total required airlift for the summer Reserve training programs for all the armed services.

He participated in such emergency situations as the Berlin and Korean airlifts—and was responsible, in large part, for the lift requirements necessary to the construction of the Western Hemisphere DEW line in the Arctic. He has the versatile ability to operate into and out of areas and airports—remote and unfamiliar. This versatility, Mr. Chairman, was again illustrated by the fact that the supplemental air carrier captains and crews were in the forefront of the heroic evcuation of refugees from the chaotic terror which only last summer engulfed the new African Republic of the Congo.

In other words, a supplemental air carrier pilot in command, based upon his flexible capabilities, can successfully and efficiently fly from any area or airport

to any other area or airport, without further instructions except the carrier's original order to proceed from place to place. He needs only gas, oil, and a capable aircraft.

United States Overseas Airlines desires to continue its part in the progressive development of this vital segment of the Nation's air transport system. But to do so requires unequivocal license for the full range of authority found by the Civil Aeronautics Board to be in the public interest. At this time I should like to comment briefly on certain allegations advanced on behalf of the Nation's trunkline carriers relative to our individual sale authority. Specifically, we have been accused of operating services directly competitive with these carriers. This is not the case. As I have previously stated, one of the major routes presently operated by USOA; namely California to Okinawa via Honolulu, Wake Island, and Guam is unserved by any U.S.-flag carrier. This being the case our company cannot, with propriety, be accused of what has been termed a "cream-skimming operation." Moreover, the Board itself ni the *Trans-Pacific Route* case unanimously found the volume of traffic attracted to the California-Hawaii schedules of the supplemental carriers to be a manifestation of an urgent need for a low-cost service in that market not provided by the certificated route carriers. The Pacific operations of the supplemental carriers, therefore, provide cogent evidence of the continued public need for our individually sold services.

As to the other routes encompassed by our individual operations, the big airlines envision something sinister in the fact that we operate only on peak days thereby diverting traffic which would otherwise be attracted to those carriers. Here again, this pattern of operations is entirely consistent with the CAB mandate. Thus, it is on these days, that capacity is at a premium on the trunklines. Not only that, but the great bulk of the traffic normally carried by the supplementals consists of persons unable to travel at the fare structures offered by the route carriers and who would otherwise stay at home or travel by surface transportation. Hence, our industry introduces a whole segment of the population to air travel thereby generating future traffic for the very carriers who have so vigorously fought our individual sale authority. Furthermore, it is difficult to conceive how sevices operated with piston aircraft and relatively sparse accommodations can be competitive with luxury jet services. Along this same line the big carriers overlook the fact that in virtually every major air terminal the supplementals are required to utilize outmoded facilities far removed from the main terminal buildings and the major traffic flows. This is still another major factor negating any competitive impact on the basic route structure.

The solution envisioned by the large carriers to the predicament facing our industry is the issuance of certificates confining the supplementals to charter operations only. At the same time, however, they oppose even a modicum of protection in this field such as first refusal rights indicating that, if anything, they themselves are entitled to preferential treatment with respect to charter performed over their route structure. Speaking on behalf of USOA, I wish to assure you that the company cannot exist without continued authority for individual sale operations. Even the Air Transport Association has recognized that the demand for charter service between any given pair of points is likely to be sporadic and our airline simply cannot maintain its present fleet facilities and personnel with sporadic operations. In any case, the question might well be asked as to why, if the charter market is so lucrative, the trunklines themselves have not attempted greater entry into the field.

In closing my testimony, I feel that freed from the day-to-day harassment and the economic attrition of the longest administrative proceedings in the annuals of law, our industry, with assurance, can foresee new vistas to be pioneered in this still infant field of commercial air transportation.

Wherefore, we ask your earnest consideration and favorable action on S. 1969 and amendments in expansion thereof.

Mr. Cox. I would like in addition to the statement to make some comments on our feelings on our place in this industry.

For instance, the yardstick factor or the catalytic factor that we exert in the industry which has been found by the Board to be needed in the public need, this yardstick factor which creates this spur of competition and more or less establishes a low-cost transportation is a very necessary thing in the overall transportation inasmuch as the coach, as we know it today, was pioneered by our carriers.

72185—61——10

If we don't maintain this yardstick, coach for the masses, as we understand it, and feel, we feel will disappear.

As a matter of fact, right now, the lowest cost aircoach including tax is $152, coast to coast. Our carrier if offering, an economy coach of $72 westbound coast to coast, plus $7 tax. And we do not, we feel, take any passengers to speak of, diverted that is, diverting them from scheduled lines, because most of our customers come from the buslines, railroads, the vacuum now developing in rail transportation for passengers as the railroads drop their passenger services, opens up a very large market.

These people cannot afford to travel on the scheduled carriers actually. I don't know how they will go now with the railroads dropping, unless they go by bus or patronize our services which are very limited in volume.

This 10-trip concept came about around 10 years ago when it was first discussed. We had over 100 carriers at the time. It was contemplated that these 10 trips would be exercised probably by all the carriers. This has not been true and meanwhile, the scheduled carriers have tripled the speeds of their airplanes and doubled their capacities and increased their services and schedules greatly.

Therefore, the competitive effect of our yardstick has diminished and it is ever diminishing.

I would say that if we would have a lobbyist for the taxpayer, he would be concerned about this diminishing yardstick.

In fact, he would, I should think, want more competition to keep a ratio, an even ratio.

The charters which have been highly touted as our salvation, civilian charters, are insignificant in maintaining our carriers. They constitute possibly 5 percent of our gross income. I think that misleading statements as to charters and their impact on our economy have been made because they group MATS flights and CAM flights, military, and contract operations as charter.

We are actually supported by something like a three-legged stool. We depend on military business domestically, the CAMS, day-to-day contracts, MATS, which are sometimes a yearly contract, sometimes they are just day to day also, and the third is the common carriage, the ticketed routes. We definitely need this ticketed authority or we cannot survive because the military contracts for the last 10 years have been too capricious.

You might have them today and you might go without them for a year, which is what has happened to our company. It is fine to be available for defense, we are a definite asset in that respect, it has been so found, but by the same token, we cannot be like volunteer fire departments and be paid just when there is a fire.

In order, therefore, to stay alive we have to have this ticketed business. Our company is 100 percent in the craft program. As far as diversion is concerned, we feel it has been grossly exaggerated, in fact, we feel the Bigley technique has been used against us on the diversion, inasmuch as our figures show we only take about twenty-two one-hundredths of 1 percent in common carriage.

It is like a pinch of salt. We have been accustomed to skimming the cream. This does not seem possible when we are on the bottom. There is no cream for us to skim. We really constitute a training

school for passengers inasmuch as so many of our customers are introduced to flying for the first time.

Our stewardesses are specially aware of this in handling them.

Sometimes as may as 50 percent of the customers have never flown before and those that have flown were introduced to flying by our group of carriers. I know that ATA is complaining that they have such a small profit and they feel that we are responsible for it. We maintain that if it had not been for our creative business getting and new concepts in the last 10 years, they would not probably have never as much business as they have.

It is a short 10 years ago that one of the larger carriers vehemently resisted aircoach, felt that air transportation was a luxury item, it was for the executives and it would never hit the masses.

The contrary has been proven. Some of the larger trunklines are carrying I think 60 to 70 percent of coach services today. I believe that the public interest in this entire picture predominates and should come first.

We have been found to be in the public interest for the simple reason that we provide that automatic free enterprise control with which measurements can be made on service and costs.

Since our carriers pioneered aircoach, we feel that we should not be driven from this market and we certainly feel that we cannot maintain the position limited to 10 trips a month.

There has been no formal proceeding started by any of the scheduled carriers against us, against our carriers for flying too many trips or hurting them as they claim.

Now they have a right to come in and start a proceeding and they have not done so.

I would like to touch on the low-cost foreign traffic. For instance, the administration, the country needs and wants and needs the gold from these foreign customers. There is just a trickle really of foreign nationals visiting our country. We feel that we could unlock that flow of traffic and stimulate a great flow here by introducing the same methods that we have used coast to coast.

In Europe, for instance, the homogeneity rule, as they call it, is not required for charters within Europe by bus, air, or rail. The only homogeneity factor they need is that they have purchased a packaged tour, hotels, and side trips.

Consequently, our present policy on charters from Europe deny the Europeans visiting the United States what they have enjoyed for years on their own continent.

Travel agents in Europe actually set up these charters and promote the group through the sale of packages. As an example, a company called Trans-Air of Sweden had a round-the-world charter last year. They visited many countries. Upon attempting to land in the United States they were denied rights to land and had to land in Mexico and put the passengers on a bus and come in to southern California in order for their customers to visit the United States.

When the plane departed for Europe, they had to take off from Mexico and they were given a right to land in New York for fuel. So we will never tap that market, we feel, in our industry, unless that is clarified.

Another thing I would like to touch on that came up the other day: We feel that we have been grossly discriminated against. We have been harassed, we have had all sorts of dirty tricks played on us by the ATA and by various pressures.

For instance, at the airports, we cannot even get a counter at San Diego. Yet three or four car rental agencies have, in spite of the fact that Federal funds are given to that airport and air carriers are required by law to get preference in that respect at the terminals. We have been, to put it in a slang fashion, relegated to "mud huts" on some of the airports.

At La Guardia, for instance, we are over in the marine terminal. It is an obsolete place, it is not used any more, the old seaplanes used to come in there. It is a mile and a half or so from the main swing. It is difficult to get to. Many times our customers, even the taxi drivers, cannot find it and in that particular instance, right now, the port authority denies our carrier a counter in the main terminal.

Yet the terminal is virtually abandoned and vacant. For 10 years, there has been a large room that Pan American used to have as a lounge. The plaster is falling off the ceiling, windows are broken, we have pleaded for this space, so that at least when customers walk in, they see your sign, and go to your counter.

We are in a backroom with a small operations office. These are some of the reasons why we cannot very well skim the cream. We are not even near the main flow of traffic at many airports.

I noticed the other day there was something mentioned about couldn't we cooperate and be truly supplemental by cooperating with the scheduled airlines when they are oversupplied with customers.

For instance, out of Washington here, some weekends, you just cannot get a flight to New York. Well, we could cooperate, no question about it. Many times I am sure we have had a couple of DC–4's or DC–6's sitting in Wildwood, N.J., a hundred miles away. We could have flown over and filled in, but we cannot get any cooperation.

There is no public interest in this respect. When the strike took place a few months ago, we sent telegrams; we said that we were available to move these priority passengers for whatever help they needed and we suggested if they wanted to use their ticket facilities, et cetera, we could come in and do this, and we were turned down.

They said no, they did not; they did not want to bother with us.

Senator MONRONEY. That was with the scheduled airlines working on their tickets. You were still permitted to ticket on up to your 10 trips a month between any 2 points?

Mr. COX. Yes, sir; not only that; we applied for and received authority to fly in excess of our 10 trips during that emergency period, which no one at the time knew how long it would last, of course. We could not very well come into an airport, let us say, let's say St. Louis, where we do not have any offices or facilities or ramps, and so forth, and do much good unless we had the cooperation of the carrier who had the passengers on his hands and who was tied up in strike; in other words, we would have to have quite a bit of cooperation from him to render the service.

That was denied and I feel that they just did not want to admit that they would have to depend on little guys like us.

Senator MONRONEY. You were still able to offer that service to passengers if they could find you, if you could arrange to have notice given through advertising or otherwise, that you were offering service when the other lines were shut down?

Mr. Cox. Correct. We did and we were flying, of course. We fly a route from Miami, New York, across the United States, Hawaii, all the way out to Okinawa, on this limited basis, about 11,000 miles, and of course, we made—to the best of our ability—we made the public aware that we were still flying.

But to render a true supplemental service, we felt that there were many cities we did not serve, that possibly needed help, too, and our whole industry could have come into a position of possibly great national assistance on a thing like that.

Senator MONRONEY. Many of them had other charters and other work, freight movements, and others, and of course they would not give that up for a temporary week or 2 weeks' service.

Mr. Cox. That is probably so. However, we all can expand our capacities. I don't think any of us are flying more than 4 to 6 to 7 hours a day per plane. That is quite good if we can make that, so that we could operate 10 or 12 hours a day with no strain.

Senator MONRONEY. How many planes do you operate?

Mr. Cox. We are operating 18 four-engine aircraft, 12 DC–4's, and 6 DC–6's, of which 2 DC–6's are leased; the others, all the rest of the fleet, are owned by our company.

We have acquired them over the last few years.

Senator MONRONEY. Where are you based?

Mr. Cox. We are based in Wildwood, N.J., where we have our main maintenance base, approximately 150 people there, we have had for 10 years and we have all of our own equipment.

We can overhaul DC–4's; we have done it several times. And in Oakland, Calif., we have our own engine shop, employing about 60 people, and we do engine overhauls for ourselves, as well as other carriers.

Senator MONRONEY. I believe the statistics we had presented by the CAB showed that as of today, you are the largest carrier of ticketed passengers.

Mr. Cox. I believe that is so.

Senator MONRONEY. The other competitor, I believe is no longer in business; is that correct?

Mr. Cox. Are you referring to Trans-Oceano?

Senator MONRONEY. Yes, sir.

Mr. Cox. Yes; that is true.

I would like to make one other comment, if you don't mind, Senator, and that is in reference to the MATS flights. We need MATS, there is no question. Inasmuch as we are limited on ticketed flights, we need a base to cover our basic overhead in order to be even in this ticketed business at all.

In other words, we cannot survive just on the ticketed business, limited as it is, so we must have this supplemental help from the MATS income. We just had a situation with MATS here. We have, I would say, probably as great a capacity for expansion, really producing and flying, as any other carrier, perhaps more with our maintenance base there could maintain and operate double the flights we maintain.

We are doing 17 or 18 airplanes a day. We could expand that in a real emergency to 30 or 40 and our engine shop on the west coast is our own supporting engine facility.

Now, instead of considering any of these factors, 10 years of building a base, loyal employees, a team which takes many years to put together, they allotted these awards solely on what they call aircraft expansion capability.

An aircraft broker can go out and get a list of airplanes, list their tail numbers, and he can say, I have eight airplanes. He may have them leased on a short-term basis. The owner very well may, and probably would, call the airplanes back if he could sell them or lease them at a higher figure. He does not own a screwdriver. He buys his maintenance from somebody like Lockheed Aircraft Service, who, in case of a war, would not be available to give him this service.

There is no question, it would be like trying to buy a car from General Motors in 1943; they are busy making something more important. That is why we feel that a carrier with its own self-sufficiency, its own ability to stand up and do a job, depends on no one else, is in a much stronger position to render a true defense asset and service to the country than somebody who can go out and promote a half dozen planes overnight.

It is a quick-dollar operation contrasted with the other policy of owning and building permanency.

Senator MONRONEY. Well, this committee has been very much concerned with what we call paper operators for a long time and have strongly urged that preference be given in Government carriage to those who are truly supplementals, certificated carriers.

Sometimes we find a split in the industry, however, which has made it difficult. One afternoon on the floor, I remember, was devoted to trying to restrict it to the certificated supplemental carriers who owned planes.

But the situation, as you well know, got so bad that we had a situation of revolving companies, revolving pilots, revolving planes; I mean, each year, some extremely low bidder would get the contract with a whole raft of leased planes, as you have described, picking up pilots from the last guy that went bankrupt, and so it was just a sort of merry-go-round of annual bankruptcies with the planes and pilots floating from one to another.

This will not give any stability to the industry or provide for a base for getting improved aircraft so necessary to supplement our cargo carriage, particularly in the military field.

Mr. COX. I agree, sir.

Senator MONRONEY. In other words, a supplemental certificate should mean something.

Mr. COX. That is correct.

Senator MONRONEY. It should mean that a man has qualified over a period of time and has been certificated. To consider anybody who can get a fleet of leased planes and put together a so-called airline for the purpose of submitting the bid and then dissolving it the next year, after he has found it unprofitable, sometimes with large unpaid bills to the Federal Government and otherwise, is very unsatisfactory.

I think the military has been trying to at least correct some of that.

Mr. COX. It is poor business for everybody all around, especially

the national interest. I think competition undoubtedly has to enter into it, but I think another thing about MATS, they have engaged for several years in a destructive—they have promoted and encouraged cutthroatism among the smaller carriers until it was a contest to see who would bleed himself white and some of them did.

In fact, that is why some of them are not here today.

I know our carrier did not bid any MATS, we bid MATS for the last 2 or 3 years, but we got nothing, because they felt we were too high and we felt if we did not get that price, we would damage ourselves.

So there is some medium ground they have to get to and I do not take issue with the Board's putting a floor, I think the Board has just said that you cannot bleed yourselve below this point.

However, in allotting or allocating this business, they should not just consider expansion of aircraft.

They don't consider, I said to them the other day, why don't you list, instead of tail numbers, list the names and addresses of your pilots and your qualified mechanics, that is the true criterion of your expansion capability, not just aircraft numbers.

That is a fallacious thing. It is an important factor, but there are many others to be considered

Senator MONRONEY. That is right, ownership of planes, I think, is quite important.

Mr. Cox. Yes, sir.

Senator MONRONEY. It is our planning ahead to try to require greater capacity planes that could have greater overocean capabilities, nonstop, and things of this kind.

We will never get a modern fleet if the rates are so low and the cutthroat competition so keen, that we have nonequity operators who are operating only on paper basis.

Mr. Cox. Yes, sir.

Senator MONRONEY. Senator Bartlett, do you have a question?

Senator BARTLETT. I have no questions, thank you.

Senator MONRONEY. Do you have anything further, Mr. Cox?

Mr. Cox. No, sir; that is all.

Thank you very much.

Senator MONRONEY. Thank you very much.

The next witness is Mr. George Patterson, president of the President Airlines, Inc.

Do you have a prepared statement?

STATEMENT OF GEORGE PATTERSON, PRESIDENT AND GENERAL MANAGER, PRESIDENT AIRLINES, INC., BURBANK, CALIF.

Mr. PATTERSON. Yes, I do, Mr. Chairman. I would like to make a few remarks and submit my statement.

(The complete statement follows:)

PREPARED TESTIMONY OF GEORGE S. PATTERSON, GENERAL MANAGER, PRESIDENT AIRLINES, INC.

Mr. Chairman, as general manager of President Airlines, Inc., I appreciate very much the opportunity to present our airline's views in this proceeding. I appear today to urge immediate enactment of legislation affording a permanent foundation for the growth of an industry whose value both to the general public

and to the Military Establishment has been clearly found to exist after 9 years of continuous administrative litigation.

My own background in commercial aviation spans almost a quarter of a century beginning with service in the maintenance department of American Airlines and encompassing tenure in such positions as director of maintenance and engineering of Alaska Airlines, and superintendent of maintenance of Slick Airways as well as my present position. I have also served in the capacity of president of the Independent Airlines Association.

My association with President Airlines, Inc., commenced in the summer of 1960 shortly after the carrier was awarded a transfer of the certificate of public convenience and necessity for supplemental air service previously held by California Eastern Aviation. At the present time the carrier employs 70 people in its airline operation and has its main base of operations at Lockheed Air Terminal at Burbank. At the same time we have established facilities at Chicago, New York, and Paris, France.

Although President Airlines has been performing in supplemental air transportation for less than a year, I believe our activities in that relatively short period have epitomized the operational flexibility envisioned by the Board in creating the class of supplemental air carriers.

Thus, we have actively participated in commercial air movements for the Defense Establishment. At the same time, we have actively utilized the individual sale phase of supplemental authority in the transportation of recruits between the Northeastern and Midwestern United States and Lackland Air Force Base. In fact, it was our participation in this latter transportation which enabled President to survive the traditionally lean winter months.

During the present summer, President envisions performance at rate structures within reach of the average tourist, of approximately 60 transatlantic passenger charters for such diverse parties as colleges, teachers' associations, and social and religious groups, as well as emergency charters for the transportation of refugees from the Communist tyranny. Our present aircraft fleet consists entirely of modern pressurized DC–6 equipment—and we envision an ultimate transition to jet equipment.

Mr. Chairman, I believe that the demonstrated flexibility in President's operations to date clearly illustrates the wisdom of the Board's original decision in awarding supplemental certificates and accentuates the urgent public interest factors impelling the enactment of permanent legislation. Certainly, based on the nature and scope of President's activities since the inception of its operations, it is manifest that the carrier's very survival is directly contingent upon final receipt of permanent and stable authority in both the individual sale and charter phases of supplemental service.

Another factor requiring immediate enactment of permanent legislation lies in the ever-increasing necessity for upgrading of supplemental air carrier equipment. This is absolutely vital if our industry is to remain competitive in such facets of its designated spheres of activity as transatlantic charters and individual sales service. Moreover, the Defense Establishment has in recent months conditioned participation in a substantial portion of its airlift requirements upon acquisition of modern aircraft. The acquisition of relatively expensive modern equipment depends, in turn upon the availability of adequate financing. In this connection it has been our experience all to frequently that the consummation of satisfactory financial arrangements is virtually impossible under the uncertain and unstable nature of our present authority. Our company has explored many possible arrangements including public stock offerings and bank loans. Certainly, prospective investors are manifestly unlikely to be attracted toward a temporary authority shrouded in uncertainty, constantly subject to protracted legal proceedings. By the same token, banks and lending institutions are extremely hesitant to offer satisfactory accommodations under such circumstances.

On behalf of President Airlines, Inc., and all of its personnel, I wish to thank you once again, Mr. Chairman, for this opportunity to present our views in support of legislation going to the very survival—not only of our company but of the entire supplemental air carrier industry.

Mr. PATTERSON. My name is George Patterson. I am general manager of President Airlines. We have offices in Los Angeles, New York City, and Paris, France. We employ approximately 75 people, most of them being flight crews.

These flight crews have thousands of hours of international flight experience. Our business comes from three sources, domestic military movements, who are moving troops within the country at less than 3 cents a mile, with a schedule airline charging the Government 6 cents a mile.

We also do individually ticketed passenger business, mainly between the west and east coasts.

The passengers that we are moving, 75 to 80 percent of them are flying for the first time and Mr. Cox, his statements, I agree with 100 percent, that we are not siphoning passengers from the scheduled airlines, but we are putting passengers in scheduled airlines seats. Because once a person flies, he is not going to ride the bus or train again.

Today, people that we are carrying for the first time, cannot afford to ride a jet flight across the country, they just do not have that much money. The scheduled airlines appear to be in bad financial shape; however, they are not going out tapping new sources of business. They are not trying to expand their coach configurations and frankly, I don't feel very sorry for them because I think they are just crying about a few people that we are taking, they say, away from them. Actually, I say we are generating more business for them.

Our other type of business is domestic charters and oversea charters. We are flying this year to Europe approximately 60 planeloads. We are flying out of Europe 18 to 20. We are severely hampered——

Senator MONRONEY. Is this civilian or military?

Mr. PATTERSON. Civilian. We are severely hampered by the Civil Aeronautics Board's regulations and our Paris office daily turns down people because they cannot comply with the regulations to travel. They cannot afford to pay the IATA fares, so consequently they are not coming over here.

The administration's tour program is going to fail unless something is done about it.

Two weeks ago, we had 52 ministers out of Brussels that wanted to come over here in one of our empty return flights. We could not get permission from the Civil Aeronautics Board to bring these people over because there were only 51 of them and they wouldn't let us adjust our tariff to that rate. Now if that had been 96 ministers, they could have come. Consequently, these men have to stay in Europe, they cannot come over here.

Senator MONRONEY. Let's go over that again now. The minimum passengers aboard the charter was 52, is that correct?

Mr. PATTERSON. Fifty-one.

Senator MONRONEY. I thought you said you had 51.

Mr. PATTERSON. Let me put it this way: Our rate on file with the Civil Aeronautics Board is for a full planeload. I believe our rate back from Brussels is about $11,000. We had a half airplaneload and went to the Board and said we want to bring these people over for $5,500 and the Board said you can't do it, your tariff is $11,200, or whatever it was, and we can't give you a special tariff to bring these people over, and that was all the ministers in this particular group could get together.

Senator MONRONEY. What happened, the plane came back empty?

Mr. PATTERSON. That is right, the airplane returned empty.

We have had this month, back from Europe, eight or nine empty airplanes that we could have filled.

Now, this is where the tour program is going to fail unless something is done about this, because the Europeans today do not have the money and cannot afford to pay IATA fares. It is just impossible.

Senator MONRONEY. Let me get these ministers straight. Although your charter rate is $11,000, you were willing to take a half planeload back and what these ministers would be paying would have corresponded to a pro rata of the full planeload?

Mr. PATTERSON. That is correct.

Senator MONRONEY. If you had it, so there is no cut rate on the ministers individually?

Mr. PATTERSON. Right.

Senator MONRONEY. Just the fact that there weren't enough ministers to fill up the plane?

Mr. PATTERSON. That is correct.

Senator MONRONEY. You couldn't take ministers and combine the two, apparently, so you came back empty and you say eight other flights have come back empty this summer?

Mr. PATTERSON. This month; the month of June.

Senator ENGLE. May I ask a question? How did the ministers get back?

Mr. PATTERSON. They are not coming——

Senator MONRONEY. They live there.

Senator ENGLE. I thought they had gotten over and had to find a way home.

Mr. PATTERSON. No; they are from over there, and they were coming over here on a 3-week educational program and they cannot come, and our information is that they are not coming; they disbanded the idea.

Senator BARTLETT. May I ask a question?

Senator MONRONEY. Yes, sir.

Senator BARTLETT. If you had been permitted to bring them over, what would they have paid each from Brussels to New York?

Mr. PATTERSON. Approximately $80. However, they were going back, and I believe the round-trip fare—we were going to take them back—it totaled around $206. I could get the figures for you.

Senator BARTLETT. $206. Now if they had gone on a scheduled carrier, what would the cheapest round trip rate have been?

Mr. PATTERSON. Approximately $400—between $400 and $500.

Senator BARTLETT. What type of plane do you fly overseas?

Mr. PATTERSON. DC–6B's.

Senator MONRONEY. Had you had time on this charter to, say, go out and get yourself 50 Baptists to mix with the other denomination, would you have been required to show this homogeneity to try to secure the other half charter?

Mr. PATTERSON. The Board would not have permitted us to mix them, sir.

Senator MONRONEY. You couldn't mix the ministers?

Mr. PATTERSON. No. You mean other ministers from other denominations?

Senator MONRONEY. Suppose you had 50 Catholic priests and you found you couldn't fly the charter on a half basis, and yet these fellows wanted to come over. Could you go out and get 50 Baptist ministers to come along with them?

Mr. PATTERSON. I can't answer that, but I don't believe so.

Senator MONRONEY. It wouldn't have been closely enough related——

Mr. PATTERSON. To the original group.

Senator MONRONEY (continuing). To the original group.

Senator ENGLE. Mr. Chairman, I have a question. What if the 50 Catholics go out and recruit 50 others, say, rabbis, Baptists, and Methodists, and say we are all ministers now, and we all belong to this homogeneous group; we all preach the Gospel; would that apply?

Mr. PATTERSON. I don't believe so, Senator Engle.

Senator ENGLE. That is a pretty silly rule.

Senator MONRONEY. I think this is a very keen point, Senator Engle, that has been raised by this gentleman. In charter service particularly, in trying to originate service to bring representative people of great good will to the United States from abroad, the rule of homogeneity, of close association and alliance or relationship in a similar undertaking, is applied so strictly that it makes charter origination almost impossible, particularly in Europe, where they don't have large groups that would be considered homogeneous. This is one of the strong points, I think, that these gentlemen are making on the international charters.

It is difficult to enforce in the United States, but abroad, it is almost impossible to enforce; not to enforce, but to comply with so that you can secure groups that would like to come over to the United States on a basis lower than the certificated service, which I think you said was about $208 round trip against the minimum of about $450 in the lowest cost piston-engine service that is offered on regular ticketed service.

There is such a great discrepancy between what these people could fly scheduled ticketed service and what they can afford to pay, that the only way they will have a chance to visit America will be on some type of charter service. The rules and regulations are so difficult to comply with as presently existing, on international service particularly, and to a degree on domestic service, that we don't quite split as many hairs as we find the Civil Aeronautics Board doing in this enforcement of homogeneity.

Mr. PATTERSON. There are thousands of Europeans that would love to come over here if this transportation was available to them. I think it is very important that if the administration's tour program is going to succeed, that something be done about it.

Also, the foreign carriers have very little trouble with charters. We had a group last week from a university in New York City that frankly, the people that were putting the group together, a young girl, 17 years old, on the campus, knows very little about Civil Aeronautics Board regulations and the travel agent did not help her a bit. However, this girl was screening her people the best she could. She had a few slip in on her that eventually we got weeded out, but in

the meanwhile, while all this is going on and all the harassment, another student, a boy, a little older, put a notice up on the bulletin board, "Join the $2 club and take a trip to Europe."

He got people off the street, every place. They went to KLM; no problem at all. This is not right, absolutely, it is not right.

Senator MONRONEY. Was KLM flying its regular route structure or off-route structure? As I understand scheduled airlines, the foreign airlines, particularly, do not have to have any homogeneity in their recruitment or their selling charter. Is that correct?

Mr. PATTERSON. That is right. I believe it was en route; it was to London, I know.

Senator MONRONEY. If there had been an offer out, then they would have had a problem of justifying the unit of the group before the CAB?

Mr. PATTERSON. Well, the CAB has in the past, with the foreign carriers, I don't know of any charters that have been turned down for foreign carriage. It seems like it is automatic; they go right through regardless.

Senator MONRONEY. I think these gentlemen were not here when we had the testimony. I believe it preceded Dr. Cox—last year, I think the testimony was, about 200 charters to Europe by the supplementals, about 200 by your certificated airlines, United States, and about 200 by your foreign carriers. This year it is still about 200 or a little less by your supplementals and about 200 or a little less by your American carriers, but I believe you said 1,800 by your foreign carriers; is that correct?

Mr. PATTERSON. That was Mr. Stallings' testimony; yes, sir.

Senator SMATHERS. Is that to Europe, or United States, or where?

Mr. PATTERSON. To Europe.

Senator SMATHERS. In other words, they have gone from 200 up to 1,800?

Mr. PATTERSON. Frankly, the figure I hear was 1,200. Now I don't——

Senator SMATHERS. From 200 up to 1,200, whatever it is, that is in 1 year.

Mr. PATTERSON. One year.

Senator SMATHERS. What lines have jumped up?

Mr. PATTERSON. Well, Lufthansa, Air France, BOAC, SAS.

Senator SMATHERS. How can they? Don't we have agreements with them, bilateral agreements which limit the number of flights that they are flying in to the United States?

Mr. PATTERSON. I don't believe so, Senator.

Senator SMATHERS. Don't we have bilaterals? Don't we limit them as to number of flights?

Mr. PATTERSON. I don't believe so, not on charter flights.

Senator MONRONEY. Just as long as it is on their schedule.

Senator SMATHERS. I think they are not affected. I think we limit them. I think the bilateral tends for them to be limited. They are supposed to be limited, they are not following the limits very well, I agree, but I am just curious now. Now these additional thousand flights, they are being done outside the regular, we will say, the ordinary scheduled flights. They are called charter flights by KLM, Air France, et cetera.

Senator MONRONEY. They are nonticketed.

Mr. PATTERSON. They are outside.

Senator SMATHERS. Nonticketed charter flights.

Mr. PATTERSON. Outside regular flights.

Senator SMATHERS. They have the right to come in to the United States and advertise that way, and get flights and go out?

Mr. PATTERSON. Most of their groups are originated through travel agents, the same as ours. Their rates are highly competitive.

Senator SMATHERS. I know but what I am driving at is, what, if any, limitation is there on KLM with respect to charter flights?

Mr. PATTERSON. In North Atlantic, Senator, I don't believe there are any limitations.

Senator MONRONEY. Or any other.

Senator SMATHERS. Or any others.

Who is the expert here in this room on that? Is there some fellow that is supposed to be an expert?

STATEMENT OF JAMES ANTON, ATTORNEY, QUAKER CITY AIRWAYS, PHILADELPHIA, PA.; MANTZ AIR SERVICES, BURBANK, CALIF.

Mr. ANTON. My name is James Anton. I am a former director of the Bureau of Enforcement of the Civil Aeronautics Board. Presently I am employed by Keating & Older, representing Quaker City and Paul Mantz airlines.

In regard to your question, the foreign air carriers must comply with IATA resolutions. The IATA resolutions——

Senator SMATHERS. IATA is the international organization for what, traffic?

Mr. ANTON. International association of carriers, made up of foreign carriers and Pan-American and TWA.

Now these resolutions govern charter flights. I think they have homogeneity in there. They have also——

Senator SMATHERS. They have a rule of what?

Mr. ANTON. That the groups must be homogeneous.

Senator SMATHERS. Homogeneous. What is that?

Mr. ANTON. In other words, if you are flying Baptist ministers, you can't mix up Episcopalians with those ministers.

Mr. ANTON. These are rules that IATA has laid down that the carriers must follow. The groups must be homogeneous. There can't be any——

Senator SMATHERS. Pasteurized.

Mr. ANTON. Can't be any more than 20,000 belonging to the association, I think it is either 15,000 or 20,000, I am not sure, but it is in that area, and you can't solicit passengers, so in answer to your question, Senator Engle, if his group went out and solicited 50 Baptist ministers to mix up with other ministers, that would have been solicitation and would have been against the rules.

Now, these same rules that IATA has, the Board has adopted in a document known as part 295, which governs the supplemental carrier charter field.

Senator SMATHERS. Before you get off that, I want to ask you, who is in this IATA group?

Mr. ANTON. KLM, oh, there must be 50 carriers, Sabena, KLM, El Italia, BOAC, Air India——

Senator SMATHERS. They have agreed they will not solicit business and groups will be homogenous and so on?

Mr. ANTON. Right.

Senator SMATHERS. Will you get us a copy of this IATA agreement?

Mr. ANTON. Yes, sir; because you see the Board had to approve that resolution and the Board by approving those resolutions, I believe attached to a Board order, is this resolution known as 045. So we could get you a copy of that.

Senator SMATHERS. I think that ought to go into the record.

Senator MONRONEY. It may be in the record. It is in Mr. Burwell's testimony.

Senator SMATHERS. Let me ask you this then. Now, that IATA agreement has been adopted by the CAB to govern supplementals?

Mr. ANTON. That is right.

Senator SMATHERS. So that means our Board does not let the supplementals advertise or solicit business and they can only carry all Baptists or all Methodists or whatever it is?

Mr. ANTON. That is right.

Senator SMATHERS. Does the Board check on this very closely?

Mr. ANTON. As I understand it, up until very recently, each supplemental carrier had to get an exemption for each charter that was flown. And if anybody complained to the Board about that particular charter, then the Board would investigate and if it found that all the qualifications and all of the regulations were not complied with, the Board would deny the charter, deny the carrier from carrying that group.

Senator MONRONEY. We had a case, may I say, detailed to us yesterday, where on various contests that were brought, the group was held up and held up and never did know up until about a day before the departure whether they would be allowed to fly, and this is very disconcerting.

Senators SMATHERS. Have they ever made any determination as to what homogenous means? In other words, would that apply to all Anglo-Saxons, are they homogenous?

Mr. ANTON. You see, that is true, the Anglo-Saxons are homogenous, but there are more than 20,000 of them.

Senator ENGLE. Which makes me very happy.

Senator SMATHERS. The burden of your testimony, as I understand it on this point, is that we have these rules, but on the basis of these rules, these foreign air carriers are actually in fact soliciting business, right?

Mr. ANTON. Well, let us put it this way, maybe they are not being caught at it. Now, I can't say that they are, but the example that he just showed, where an individual posted on a bulletin board in a university, "Join the $2 club and go to Europe," had that been brought to the attention of IATA enforcement agency, and I believe that is composed of about five individuals, they would have investigated it and had they found that to be true, probably would have fined KLM. But when you have 1,200 charters leaving every summer and only five persons to police that, it is an impossible job, which means that

the foreign carriers can solicit or get agents to solicit for them and carry these people that don't comply with their own rules.

On the other hand, the supplemental carriers have to have everyone of these screened by the Board.

Senator SMATHERS. In other words, our Government is making it very difficult for our people to get business which in most instances, is legitimately honest.

Mr. ANTON. That is right.

Senator SMATHERS. These additional 1,000 flights which they carried over these foreign carriers that increased over the last year, where did those passengers originate from? In the United States——

Mr. ANTON. They originated from the United States.

Senator SMATHERS. Is it your contention that in most all of these additional 1,000 flights, American citizens are being carried?

Mr. ANTON. That is right.

Mr. PATTERSON. Yes, sir.

Mr. ANTON. I might this point out——

Senator SMATHERS. No wonder our airlines are in a bad shape.

Senator MONRONEY. But the testimony before the committee of Mr. Burwell was that our certificated airlines fly year to year less than one-half of 1 percent of their revenue in charter, four-tenths of 1 percent, I think, the figures show on revenue. And I think on passenger miles, it is about half, so our certificated airlines are not going after that. But what these gentlemen are insisting on is that we should have some American opportunity to move in with fewer restrictions than those which can be generally applicable to phony ticketing for cutrate service on a regular schedule. This is the problem, I think. The committee has to try and work out some definition of charter that is a little less difficult and that will encourage business.

Senator SMATHERS. Let me ask you this question, do the rules of IATA have to be changed or rules of CAB have to be changed?

Mr. ANTON. No, the rules of the CAB have to be changed.

Senator SMATHERS. Rules of the CAB. Has the CAB given any indication as to how they feel about this?

Mr. Chairman, have you had any testimony on that?

Senator MONRONEY. Yes, we had the CAB here. They were not too encouraging, as I recall the testimony, on changing the definition of charter or the rules pertaining to it.

Senator SMATHERS. In order for you people to be able to compete, just to compete on the same basis as KLM is competing with respect to this charter work, all that would need to be done is a redefinition of what is charter hire, is that what you are saying?

Mr. ANTON. It would have to be more than that, because even if you were to define charter as the carrying of a planeload of individuals in common carriage and you put the definition in that, under section 401 (e) of the act, there is a further provision that says that certificated carriers may charter airplanes or provide special services under regulation by the Board, so the Board would have a definition of what a charter is, but then it could under 401(e), under that clause, that is in 401(e), still regulate the charters of supplemental air carriers by the authority that is in the act, which means that something has to be done to put a proviso in 401(e) which would go to international charters specifically in the form of some sort of an exemption where

the supplemental carriers could operate without undue restrictions or discrimination as to classification between carriers.

Senator MONRONEY. There is another difficulty that has been mentioned by several witnesses. If we are going to encourage European travel this way, we will never encourage much of it unless the rate is very much below the regular scheduled service. The present holding of the CAB prohibits the use of a travel bureau in organizing and promoting this type of service. Europe books all of its traffic through travel bureaus on all-expense tours, and this effectively forestalls American competition.

Senator SMATHERS. Do you think then by the redefinition of charter and an added proviso in section 401, with respect to this type of business, that that would be sufficient to enable your group, your supplemental air carrier group, to compete successfully in getting this type of business?

Mr. ANTON. Yes, sir.

Senator SMATHERS. Have you people got any language for that proviso?

Mr. ANTON. We are working on it today.

Mr. PATTERSON. You see, my feeling is that the reason of a greater—these are flag carriers, they are Government subsidized, they can bring the airplanes back over here empty, and haul these people back.

TWA and Pan Am cannot do that. Our argument is not against Pan Am and TWA in the North Atlantic, it is against the foreign carriers, and they have a lot of surplus equipment, because they are taking on jets, and rather than let that settle, they haven't been able to dispose, they are flying it over empty and carrying these people back. That is one of the reasons for the increase, I feel.

Senator SMATHERS. I am all for them carrying their own people, this way, that is what we are trying to encourage. We have passed a bill getting them to do it, but I don't believe we should handicap our own people in participating in the business of carrying U.S. citizens. I don't see that that makes a great deal of sense.

Mr. ANTON. I would like to make one further point, if I may. The IATA rules and regulations are agreed to by the Board. The Board must agree to those.

Now, the enforcement of those rules and regulations against foreign-flag carriers and against Pan American and TWA lies in the hands of the IATA agency.

Now, the Board could possibly, if it had enough of a force to investigate all of these charters of the foreign carriers, it could by bringing a 411 proceeding, known as unfair method of competition against the foreign carrier for violating the IATA resolutions that the Board has approved of.

However, under another section of the act, the Board does not have any power to inspect the records of foreign carriers, so the Board is helpless to enforce even that.

Senator SMATHERS. Since the existence of the IATA resolution has there ever been an instance where the CAB has brought any charge against any foreign carrier?

Mr. ANTON. Yes, sir.

Senator SMATHERS. For violation of this particular section?

Mr. ANTON. For violation of the charters, no.

Senator SMATHERS. Since the establishment of this kind of arrangement so far as you know, there has never been any violation charged by agents of our CAB against foreign carriers in the charter work?

Mr. ANTON. There has been in this way.

On an informal basis, when it has come to the attention of the Bureau of Enforcement of the Civil Aeronautics Board that a foreign carrier has violated these charter rules and regulations, the Bureau of Enforcement has informed the foreign carrier that it is in violation and normally the foreign carrier then drops the charter and has no more to do with it because I believe that there is the fear that it will come to the attention of the IATA enforcement agency which then would fine that carrier very heavily.

Senator SMATHERS. Has a foreign carrier ever been fined, to your knowledge, under these provisions of the IATA?

Mr. ANTON. I believe so.

Senator MONRONEY. Someone testified there was a $20,000 fine, I believe, earlier today, that was on charter.

Mr. ANTON. There have been a few fines.

Senator MONRONEY. Do you have any further questions, Senator Engle?

Senator ENGLE. No.

Senator MONRONEY. Thank you very much, sir. Do you have anything further to add, Mr. Patterson?

Mr. PATTERSON. Just about 2 minutes here, we are urging, our company would like to see Congress help us on this North Atlantic charter problem, No. 1, as I said before, if the administration tour program is going to succeed, it is absolutely necessary that you do something.

No. 2, our frequency of 10 trips a month, as Dr. Cox testified, is 10 years old. Scheduled airlines have tripled their seats; they have doubled the speed of the aircraft, yet, the Board has done nothing to give us more trip authority.

We feel that we need to be financially strong, approximately 16 trips a month, 15 at the minimum, and as I said before we are not syphoning off any business; we are generating business for the scheduled airlines.

Recently, ATA has been very rough. We had a charter into Indianapolis, to the races last month, three scheduled airlines there, all had notices from ATA not to let a supplemental use their passenger loading ramps and the only way we were able to offload our passengers was that the captain went in to one of the station managers—I couldn't say what airline it was, because he might be fired if I did—he said, "I am going to get a cup of coffee, there is the ramp," and he walked away; so we used the ramp to offload the passengers.

The same thing happened to us in Phoenix about 2 weeks later, and I don't believe this is right.

One other thing, our carriers in the last 5 years have purchased between 50 and 60 piston engine aircraft from the scheduled carriers. If the scheduled carriers want us out of business, what do they think they are going to go with the balance of piston airplanes; there is no other outlet for them.

Thank you.

Senator MONRONEY. These are pretty good planes, DC–6's, DC–7's. You say 50 or 60 have been purchased?

Mr. PATTERSON. Right.

Senator MONRONEY. Senator Engle, any questions?

Senator ENGLE. No.

Senator MONRONEY. Thank you very much, Mr. Patterson, for your testimony.

The next witness, Mr. Reed Pigman, of American Flyers.

Mr. Pigman, we are happy to have you here; we appreciate the opportunity to hear your testimony. I have had frequent conversations with you regarding your problems in the extended scope of your airline operations.

STATEMENT OF REED PIGMAN, PRESIDENT, AMERICAN FLYERS, FORT WORTH, TEX.

Mr. PIGMAN. I appreciate the privilege of appearing before your committee.

I have no prepared statement. I would just like to talk informally.

My name is Reed Pigman. I am president of American Flyers, which has its executive offices in Fort Worth, Tex. Its main operations and maintenance base is at Ardmore, Okla.

American Flyers was established about 20 years ago. I am bringing this to your attention to show you that the supplemental industry is not necessarily a fly-by-night industry, that a great many of the carriers that you have heard testimony on today have been in business over a long period of time successfully.

There are three types of sizes of operations in the supplemental industry like most industries; you have the small carriers, you have the medium-size carrier, and you have the large carrier.

American Flyers, I believe, would come in the classification of approximately the medium-size carrier. But I want to call your attention to the fact that even though we have three classifications of carriers, they are all really small business.

They have usually been started and fostered by an individual who owns approximately 100 percent of the stock of the company and compared to other aviation industries, they are small.

Now American Flyers owns all its aircraft. It leases no aircraft. American Flyers has its own maintenance base. It maintains all its own aircraft.

Now I think that the committee should give special attention to an industry that is willing to invest money in the industry.

Some carriers, of course, lease equipment. They can come in today and go out of business tomorrow. If they have no use for the equipment, they turn it back. But a great many of our industries are not in that position, they own their equipment, they have their own maintenance bases, and they have a tremendous investment in the supplemental industry.

In my opinion, there are only three or four things that the supplemental industry needs, and I think that all of them can be provided by the Congress.

I think we need a definite place in the sun, so to speak. We need a certificate of some kind that we can put on the wall and say, "This is our operating privilege."

Now in addition to that certificate, we need protection.

By that I mean we need a certificate that will stand up, that maybe a change of administration of the country or change of administration of the CAB can't deprive us of.

The next thing we need, the third thing we need, we definitely need a definition of charter. I think in all cases, the testimony has brought out that that we are lacking in that field. Personally, I think a charter should be any group of people who want to charter your aircraft.

They can be Greeks, or they can be Norwegians, they can be Catholics, or they can be Protestants, they can be atheists if they want to, if they all get together and charter your aircraft and divide up the cost.

I think that is the true definition of a charter.

The fourth thing that I think we need, we need a definite field in which to operate. We need in that connection, we need some type of extended ticketed trip authority. For instance, due to an emergency of some kind, possibly Christmas holidays, where the scheduled carriers cannot take care of all the trips that they might have, the scheduled industry should be allowed without having to go to the CAB and get a long hearing, they should be allowed to throw aircraft in and take care of that emergency and there should be probably some limit on this, but over a year's time, not a month's time.

In other words, maybe in December, due to the Christmas rush, it may be due to a strike of a carrier, you should be able to throw all your equipment in and take care of what the public desires. We should have some type of preferred charter privileges where at least we are protected in the charter field.

By this, some scheduled carriers, due to not desiring to necessarily make their main business charter, have an exceedingly low charter rate, much lower than the nonscheduled carriers. They do not intend to make a profit on it, they just want to be competitive. I think that your committee can go a great way in solving our particular problem.

That is all I have. If you have any questions, I will be glad to answer them.

Senator MONRONEY. Mr. Pigman, I think you brought out really the crux of the case. I think there is something the Government may be able to do about it. I also think your own industry has to have more of a united front, to prove that the right of a carrier to have a supplemental certificate means something, that it is like sterling on the silver.

These men have had to qualify over a long period of time and under a great contest of competition and all, to get this certificate, and yet fly-by-nights, paper operators, people flying on exemptions of appeals and legal delays and all, are associated indirectly in the public mind with the law observing the regulated industry of which you are one of the oldest and most substantial members, against whom I do not think the Civil Aeronautics Board has ever had any single complaint.

This is a problem that I see from the testimony before the committee oftentimes and even the military, up until very recently, did not recognize any difference between the well-established certificated supplemental carrier and somebody that organized a paper operation, leased his planes, got together the pilots, often from the last man that failed the year before, and started an airline.

And you need that place in the sun very badly. Whether Congress can help you some, the Civil Aeronautics Board can probably help you more, and then you, I think, have to help yourself a little bit, to where you don't find yourself joining with those who have been denied certificates oftentimes, and merely continuing to fly on an exemption basis while appeals are pending.

Mr. PIGMAN. I agree with you, Senator. We, at American Flyers, have lost a lot of money that we could have made by possibly not complying with the letter of the law. Whether we in lots of cases, we believed the law to be improper, but nevertheless, we have complied to the letter of the law. We have had no violations, we don't intend to have any intentionally, we have tried to operate and I think you will find this true of a great many carriers.

You can point one carrier out, and you can use him for an example, and we have bad carriers, there is no doubt about it, but this is not just in our industry. I can remember way back when the President of the United States closed down every scheduled airline in the United States and said you are going to have to do something about it.

Well, the reason that he had to close them down was because the Congress of the United States really did not provide those scheduled carriers enough of a field to operate in that they could make a profit, so they were cutting corners.

So we are not the only ones that have cut corners, and we have, in our industry, at times in the past. I think you will find, though, at the present that most all the carriers that are left are good, substantial carriers that do not want to violate any regulations and that do not violate regulations and they paid their bills.

Now, in the past, you have had fly-by-night carriers that would not pay their bills. Now I think that a lot of carriers, I know that we attempt and, if at all possible, to go the other extreme in our company that instead of leaving a billing until it is customarily paid, in order to impress the suppliers of goods to us, that we are reputable, we try to pay them within 48 hours after they hit our place of business.

We have a purpose in that, I will admit, that we want to try to show them that we want to do business on a reputable basis with them, and I think you will find the majority of the carriers now are good, reputable people.

Senator MONRONEY. And those who have won their supplemental certificates observe safety provisions against pilots flying excessive amounts of time, or flying in violation of FAA rules, and such things as that.

However, you do have a spectacular accident, perhaps, and your own industry gets a black eye, even though the accident was from a company flying not on a supplemental certificate.

Mr. PIGMAN. That is what we have to combat, I will admit that, and that is something we have to do, too.

I agree with you, that you cannot be the only people involved in this. We have to clean up our own house, and I think that you will find that we are making a real definite effort in that direction because I have been on the board of directors of our association ever since it has been established, and I know, associationwise, we are attempting to do it.

We can't do wonders overnight, we will admit, but I think you will find we have made definite progress.

Senator MONRONEY. Not only do you fly your charter services, and things of that kind, but you also provide maintenance and overhaul for other supplemental carriers?

Mr. PIGMAN. Yes, sir; we do.

Senator MONRONEY. Or even general aviation?

Mr. PIGMAN. Yes, sir; we do. We are established right in the middle of the United States, which is an ideal spot for helping other carriers that are on a transcontinental route.

If they have maintenance, if they have engine trouble, we provide food. We have our own processing plant to process food for our carrier and any other carrier that would like to buy it. We have maintenance available, we handle the passengers, we have dormitories in case they have emergencies where they have to stop for a period of time. We can house their passengers, and we have made a tremendous investment up there to do this with.

Senator MONRONEY. You also train pilots for the scheduled airlines and others, do you not, through complete instrument ratings, and transport pilots?

Mr. PIGMAN. We operate two businesses, both named American Flyers. One is American Flyers, Inc., and one is American Flyers Airlines, Inc.

American Flyers, Inc., is a training school and, frankly, our biggest customers are the scheduled airlines

We receive, I guess, 75 percent of our business, we train, we make a specialty in training airline pilots. We have a great many in our school right now, foreign airlines, as well as domestic airlines, that we are running through our training program.

So, we pretty well know what it takes to make an airline pilot and we have the facilities to do it, so we think we have as fine a group of pilots working for us as any carrier can have.

They are all experts and we have trained all of them. We do not hire anybody that we do not train, so we pretty well know what kind of individuals they are before we put them in charge of an airplane.

Senator MONRONEY. You advocate a liberalization or a clarification of the charter service?

Mr. PIGMAN. Yes, I do. I think, while domestically, it is not as tight as it is foreign in this respect, that on a domestic charter you don't have to get prior approval from the Board.

But you have about the same criteria in the Board in looking at it. You can go ahead and take the charter and then the Board can file a violation against you and fine you if it is an improper charter, where a foreign charter, they have to approve it before you leave.

But on a domestic, you have about the same language, the same thing applies, if you have a—you have to have the same homogeneous group and the same rules apply.

Senator MONRONEY. And you also advocate particularly at certain peak periods of the year, that there should be special consideration given for greater than the 10 trips round trips?

Mr. PIGMAN. That is right. We contend during periods of national emergency, like strikes, like Christmas holidays, and so forth, we should be able to conserve our Brownie points, so to speak, and

be able to go in and haul maybe 50 trips between 2 points during that 30-day period.

Whatever the market will allow, without having to go to the Board, and get approval, because if we have to go to the Board, the emergency over, because by the time it goes through the lengthy proceedings, we think that the 192-trip authority a year is good for that reason, that we can use, maybe 50 of them in one month, and maybe the next month, only use 5 or 10.

But give us enough so that in case of an emergency, in case the business is there, and we have to be competitive, we cannot run an airplane back and forth and not have passengers or not be competitive, so that we can do it in all those people periods.

Senator MONRONEY. Senator Engle?

Senator ENGLE. No questions.

Senator MONRONEY. Senator Smathers?

Senator SMATHERS. No questions.

Senator MONRONEY. We thank you very much, Mr. Pigman, for your helpful testimony in this matter.

We have Mr. Al Blatz, president of Blatz Airlines, Burbank, Calif.

Mr. Blatz, we are glad to have you before us today. We appreciate your testimony. Do you have a prepared statement?

STATEMENT OF F. ALFRED BLATZ, PRESIDENT, BLATZ AIRLINES, INC.

Mr. BLATZ. I have, Mr. Chairman, and I submitted that. I would like to have it put in the record. However, I would like to touch upon it in a few places, if you will allow me to do so.

Senator MONRONEY. We will place your statement complete in the record and then you may highlight it.

(The statement follows:)

STATEMENT BY F. ALFRED BLATZ, PRESIDENT OF BLATZ AIRLINES, INC.

My name is F. Alfred Blatz. I reside in Los Angeles, Calif., and am president of Blatz Airlines, Inc. I entered the aircraft field in 1942 when I was asked by Firestone Rubber and other aircraft companies to develop parts of the bullet-proof tank to make it effective. At that time I developed approximately 20 patents by which the tank was made effective and usable for combat purposes. I operated two plants for the duration of the war. Because of my interest developed during those years in the aircraft field, I decided to buy surplus aircraft from the Government and build them into airliners.

In 1947, I organized Blatz Airlines, Inc., and since that time have operated the company in supplemental air service.

Operations were commenced in 1947 with offices at the Long Beach Airport. The early operations consisted of charter flights in the local area and flights to La Paz, Baja California. Flights were also operated to the San Francisco-Oakland area, and to Las Vegas, Nev. Aircraft were chartered by Las Vegas hotels for a few flights. Orchestras, football teams, and other sports organizations were transported.

Later the company operated transcontinental flights from Long Beach and Los Angeles airports to New York and other eastern points via Kansas City, Chicago, New Orleans, and other points. Flights from Burbank to Oakland and from Burbank to San Diego were operated on a daily basis, and the company leased a second DC–3 airplane to accommodate the additional traffic it developed. Round-trip flights transporting construction workers employed in the Pacific Ocean islands were operated between San Francisco and Chicago, and flights were made from San Diego to eastern and southern points in the United States, and return, transporting servicemen on a charter-group basis. For 4 to

5 years, Blatz Airlines, Inc., was engaged in the military CAM business, flying throughout the continental United States and coast to coast.

Its operations today consist primarily of charter flights in intrastate air transportation between Burbank and Oakland, Calif., and Burbank and San Diego, Calif., and interstate flights on a charter basis and on a common carriage basis from San Francisco and Oakland, Calif., to Reno, Nev., and from Burbank and Long Beach, Calif., to Las Vegas, Nev. These latter flights were solely on a round-trip basis.

We now have six airplanes flying. Our safety record since inception of operations in 1947 is perfect.

I want to urge the committee to report legislation which will do two things: (*a*) give us permanent certificates, and (*b*) let us operate up to 192 trips annually between the same two points.

There is no excuse for not giving the supplemental carriers the same permanent-type authority which the Congress has legislated for trunklines and local service carriers. We have been in business for 14 years, and it seems unnecessary to force us to operate on short-term authorizations. The Board has found a continuing public need for supplemental service, both now and in the future, and certificates of unlimited duration should be issued.

Let me give you an example of why the 192-trip authority is desirable by giving you the history of our efforts to serve Hawthorne, Nev. Hawthorne was on a local service route, but the Board allowed the local service carrier (Bonanza Air Lines) to suspend that service. A new club was opened there and the club members wanted air transportation to and from the San Francisco and San Jose areas.

At the same time, the people at Hawthorne asked us if we would operate a service for them. Among other things, they wanted us to carry newspapers because they were waiting 2 days for newspapers.

We filed an application with the Board on August 23, 1960, asking for an exemption to serve Hawthorne. One local service carrier (Pacific Airlines) objected, and the Board turned down the request.

We then went back to the Board, this time asking for an exemption to provide a special service for patrons of the club. This was filed on March 28, 1961, and the Board still has not decided the request. In another case, where TWA asked to provide the same service for a club at Lake Tahoe, the Board granted the request in 31 days (docket 11939) but we cannot even get an answer in 75 days.

The time it takes the Board to act on applications for certificates is almost beyond belief.

We wanted to fly to Las Vegas more than 10 times per month. We asked for an exemption and it was denied. We then filed an application for a certificate on December 19, 1956. (Docket 8429.) We didn't get a hearing until March of 1959, and we are still waiting for a decision.

One purpose of supplemental carriers is to meet sudden demands as they arise. When these demands can be met by charter service, we can rise to the occasion without difficulty, because we have the right to fly unlimited charters. We do this for the forest firefighters all the time. But, when there is a new demand, like the people at Hawthorne who wanted us to carry in newspapers, the charter authority is of no avail. The present 10-trip-per-month authority is too restrictive for satisfactory service.

If we had the 192-trip authority, we would definitely meet some existing demands for service at Hawthorne, Winnemucca, Reno, Elko, and Las Vegas.

The very limited number of trips, and the narrow definition of charter, has actually denied the supplemental carriers the right to exploit a market after they developed it. We started flying to Las Vegas, for the hotels, many years ago. Today we are prevented from flying enough trips to benefit from the market we developed. In 5 years, the Civil Aeronautics Board has not been able to decide our application for a certificate. The result is that the hotels operate their own airplanes. The Hacienda Hotel now uses six airplanes. Other companies which have no operating authority from the Board claim to be "part 45 operators" and take over the profitable business which we originated. The Board has ordered some of them to cease and desist, but the Board doesn't seem to be able to enforce its orders.

If we are given the authority which we ask for, we will at least be in a position to continue service in new markets which we pioneer.

It is my belief that legislation is the only solution to this problem. The Board and the courts have had it before them for active consideration for 10 years. The time has come for some authoritative action which cannot be upset.

The supplemental industry has proved itself and the Congress should pass the legislation necessary for the continuance and development of the industry.

I urge you, therefore, as a minimum to give us unlimited charter rights, 192 individually ticketed trips per year between the same 2 points, and a certificate of unlimited duration.

Mr. BLATZ. My name is F. Alfred Blatz. I am president of Blatz Airlines, Los Angeles, Calif. I entered the aircraft field in 1942 and in 1947 organized Blatz Airlines, Inc. Since that time, I have operated the company in supplemental air service.

We started our operations in 1947 with offices in Long Beach Airport and also had an office at Los Angeles International Airport. We were flying mostly at that time in to the East, flying individually ticketed service. At that time the Board, well as a matter of fact, very few of us knew that the Civil Aeronautics Board existed. We flew just as many flights as we wanted to fly daily.

I think there were about 10 or 15 carriers on the west coast who were operating on a daily basis. We would fly maybe 15 or 20 flights back and forth. Then about 1940 to 1949, we finally became aware of the Civil Aeronautics Board and they brought in such regulatory restrictions at that time that the ticketed flights that we had been operating could no longer be operated on an economical basis. So we discontinued that.

After that, in about 1950, we were operating between Burbank and Oakland, Burbank and San Diego, and interstate flights on a charter basis and on a common basis from San Francisco and Oakland to Reno, Nev., and from Burbank and Long Beach to Las Vegas, Nev. These latter flights were solely on a round-trip basis.

We now have six airplanes flying. Now, this is 32-seated DC–3 aircraft. We are still flying the small aircraft. We have not gone into the large aircraft because of the fact that the restrictions are so hard to live up to that the Board put into effect on the flights across the North Atlantic, we have not gone into the larger aircraft field, although we are contemplating it in event the charter regulations are, you might say, expanded so that we are able to get this to that type of flight without in any way going against the Board resolution.

I want to urge the committee to report legislation which will do two things: Give us permanent certificates and let us operate up to 192 trips annually between the same two points. We feel there is no excuse for not giving the supplemental carriers the same permanent-type authority which the Congress has legislated for trunklines and local service carriers.

We have been in business for 14 years and it seems unnecessary to force us to operate on short-term authorizations. The Board has found a continuing public need for supplemental service both now and in the future. And certificates of unlimited duration should be issued.

Let me give you an example why 192-trip authority is desirable by giving you the history of our efforts to serve Hawthorne, Nev. Hawthorne is under local service route, but the Board allowed the local service carrier, namely Bonanza Air Lines, to suspend that service. A new club was opened there and the club members wanted air transportation to and from San Francisco and San Jose areas. At the same time the people of Hawthorne asked us if we would operate a service for them; among other things they wanted us to carry newspapers because they were waiting 2 days for newspapers.

We filed an application with the Board on August 23, 1960, asking for an exception to serve Hawthorne. One local service carrier, Pacific Airline, objected——

Senator MONRONEY. Which airlines?

Mr. BLATZ. Pacific Airlines objected and the Board turned down the request. We then went back to the Board, this time asking for an exception to provide a special service for patrons of the club. This was filed on March 28, 1961 and the Board still has not decided on the request.

In another case, where TWA asked to provide the same service for a club at Lake Tahoe, the Board granted the request in 31 days, docket No. 11939.

So we cannot even get an answer. I mention here, 75 days. It has now been 90 days and to date we still have not received the answer.

The time it takes the Board to act on applications for certificate is almost beyond belief.

We wanted to fly to Las Vegas more than 10 times a month. We asked for an exception and it was denied. We then filed an application for a certificate on December 19, 1956, docket No. 8429. We didn't get a hearing until March of 1959, and we are still awaiting for a decision in that case.

One purpose of supplemental carriers is to meet sudden demands as they arise. When these demands can be met by charter service, we can rise to the occasion without difficulty because we have the right to fly unlimited charters. We do this for the forest firefighters all the time, but when there is a new demand, like the people at Hawthorne, I just mentioned, who wanted us to carry in newspapers, the charter authority is of no avail.

The present 10-trip-a-month authority is too restrictive for a satisfactory service. If we had the 192-trip authority, we would definitely meet existing demands for service at Hawthorne, Nev., Winnemucca, Reno, Elko, and Las Vegas. The limited number of trips and very narow definition of the charter has actually denied supplemental carriers the right to exploit the market after they developed it.

We started flying to Las Vegas for hotels many years ago. Today we are prevented from flying enough trips to benefit from the market we developed.

Back to the present time, we are not even flying into Las Vegas. We are waiting for a certificate in this Southwest area, this case has been going for some years now. In 5 years the Civil Aeronautics Board has not been able to decide on our application for a certificate. The result is that the hotels operate their own airplanes. The Hacienda Hotel now uses six airplanes, and I understand—I think five of them are Contellations.

Other companies which have no operating authority, from the Board, claim to be part 45 operators and take over the profitable business which we originated. The Board has ordered some of them to cease and desist, but the Board doesn't seem to be able to enforce its orders.

If we are given the authority which we asked for, we will at least be in a position to continue service in the new market which we pioneered.

It is my belief that legislation is the only solution to this problem. The Board and the courts have had it before them for active consideration for 10 years. The time has come for some authoritative action which cannot be upset. The supplemental industry has proved itself and the Congress should pass the legislation necessary for the continuance and development of the industry.

I urge you, therefore, as a minimum to give us unlimited charter rights, and extension of the definition of the charter, 192 individually ticketed trips per year between the same two points, and a certificate of unlimited duration.

There are one or two other things I would like to mention.

Senator ENGLE. Before you get to the next point, you talk about an unlimited charter. Don't you have that now?

Mr. BLATZ. We have an unlimited charter, Senator, but the definition is so close, like homogeneous charter, it is almost impossible to get a charter together. And we are not allowed to use an agent. We need the right to use an agent to go out and organize a charter, such as share-the-ride basis, which we originally had some years ago. Years ago we could get an agent to go out and organize a group of people, like a group of sailors, or group of soldiers off a base, and call it share in the ride and go ahead and operate as a charter, but now we can't do it under the rules of the Board.

Senator ENGLE. What you are saying is that the limitation isn't on the number. The limitation is on the method. What you want to get rid of is the restrictions that limit the number by getting so much redtape in the way that you can't possibly comply with it all?

Mr. BLATZ. Absolutely right, sir.

Senator MONRONEY. Is this a fair statement of the position that you can't organize or have an agent organize, that, say, a regiment of marines that were wanting to go from Camp Pendleton, maybe, to Las Vegas, on a charter, would have to originate with the marines and they would have to search you out, ask you for a quotation, and do all the arrangements?

Mr. BLATZ. That is right, sir. We would have to send someone from our own company, one of our officials, up there to talk with them and try to work with someone in their organization to develop the charter and get the group to go. We couldn't use an agent.

You see if we could use an agent like we used to years ago, it would be very simple to organize charters on a share-the-ride basis.

The airplane is going to cost $1,500 for the flight, why 20 people, divided into $1,500 and charge each one so much and you go, share-the-ride basis. That is the way we used to do for years.

Senator MONRONEY. On this Hawthorne, you said Bonanza had pulled out and Pacific Airlines protested granting this service. Was Pacific certificated in place of Bonanza?

Mr. BLATZ. No, they have not been.

Senator MONRONEY. They have no service?

Mr. BLATZ. I talked to Pacific and the only reason they did it was to preserve any future rights.

Senator MONRONEY. Sounds rather like a dog in the manger attitude, a city that is ready, willing, and able and wanting, and perhaps maybe paying something out of civic funds to provide air service for growth of a new club or something.

Mr. BLATZ. The State of Nevada, and some of the people there, the officials, are desirous to have us go in, especially the people in that area, and some of the people in the legislature, I understand, did take some action with Bonanza, whereby, I think Bonanza, if I remember correctly, they were fined something like $15,000 for not going in. I think the idea was to lift the fine in the event we would take over the run, Bonanza agreed to pull out, they already pulled out, but they did not want to go back in. I talked to them, they did not care to go back in. We are very much interested in that run.

Senator MONRONEY. And you can't get an exception for that run, even though you are not getting a certificate?

Mr. BLATZ. No. We asked for certification in there if we could get it. We have our application in, but we have not had any action. That should be done almost immediately. In other words, they want that service now.

Senator ENGLE. Before you go to your next point, on which you have made some notes, you asked for the right to give ticketed services between two points, 198 a year?

Mr. BLATZ. 192 a year.

Senator ENGLE. 192 a year. Now, how did you arrive at that figure?

Mr. BLATZ. Sixteen times twelve, sixteen a month. You see, if we had 192, Senator, it would allow us to use those flights during the summer months, or other times, during Christmas, and so forth, when there is real need for the service, and then during the winter months, not very much flying over the mountainous area, fly maybe only 5, 10, 15 a month.

Senator MONRONEY. Speaking about trips to Las Vegas, something like that in the summer.

Mr. BLATZ. Yes, sir.

Senator ENGLE. There are certificated airlines between Los Angeles and Las Vegas, are there not?

Mr. BLATZ. Yes, sir.

Senator ENGLE. How do you get around the argument of the certificated airlines, that that is just taking the bread out of their mouths and depriving them of business which they would otherwise get, and thereby destroying the basis for the certificate which they have been granted by the CAB?

Mr. BLATZ. In the first place, their rates are much higher. I think our rates are about $10 lower.

Senator ENGLE. That makes them all the more angrier.

Mr. BLATZ. In other words, in our application, we are asking, in our appearance before the Board several years ago, in the hearing at Long Beach where all carriers were present, 30 or 40, we told the Board that if we had this authority granted to us, it would be to fly between 6 at night and 6 in the morning, when there is very little service out of Las Vegas, to Burbank and Long Beach. We are not asking for flights into the Los Angeles Airport. We are asking for Burbank to Las Vegas and Long Beach to Las Vegas, that is all, and between the hours of 6 p.m. and 6 a.m.

Further, we had agreed to the Board, we agreed if we were granted authority, we would not take any passengers we developed coastwise, intrastate passengers off of our line and send them on up to Las Vegas. That is one of the things they asked for and we agreed on.

Nevertheless, it has been over 5 years and nothing has happened.

Senator ENGLE. I would like to figure out some way for supplemental airlines to be able to pick up a passenger load, if that is available, but which the regular certificated carriers cannot and do not handle without at the same time creating a situation in which we bust the regular certificated carriers.

Now if you can come up with some kind of a program that will do that, I would be for it. But I just don't believe that this committee is going to sit here and arrange to certificate airlines between fixed points, and then turn around and permit cutthroat competition to knock them out of business. We are not going to do it and if we do it, we might as well box the business of certificating airlines. But, we get into situations where say, my friend the Senator from Florida, people trying to get out of New York to Miami sometimes find they can't get an airline reservation for 2 weeks. Why on earth shouldn't the supplementals be in a position to step in and pick that up?

That is true, too, of trips out of the Los Angeles area to Las Vegas, during that heavy tourist season. The regular certificated airlines can't keep enough equipment on in order to manage those peaks. They have to work those airplanes many hours a day and they only have so many airplanes in reserve and when they have committed their reserve, they are through, they can't haul any more passengers. They have all they can manage.

Then the people sit around and wonder how on earth they are going to get to Las Vegas. Now there is a situation where I would like to see the supplementals have sufficient flexibility so they could just step in and say, "Boys, get aboard, we have an aerial bus waiting for you at Burbank."

Now, the question I raise is why you think 192 trips or any particular number of trips will answer that kind of a problem?

Mr. BLATZ. Well, the thing we are concerned with there is if we had 10 trips, for instance, into Las Vegas, based on the hour we asked for, from 6 p.m. to 6 a.m., on an economic basis, it wouldn't pay. If we had 16, it would pay.

Senator ENGLE. What occurs to me, if you have a specific number of trips that are authorized, you may use those trips at a time detrimental to the certificated airlines that otherwise would get the business. What I am trying to find out a way of doing, is to make it possible for the supplementals to pick up the business that is left over from certificated airlines or business that would not go on certificated airlines because of the price.

Mr. BLATZ. Actually, Senator, when you get right down to what you are speaking about, I see your point and that is well taken, we wouldn't be able to fly a cumulative 192 trips unless there was call for our service at Las Vegas or Burbank or Long Beach. You see the certificated services don't touch those points, Long Beach and Burbank, so therefore, if you would take a certificated service, say in the morning, say 15 people are stranded in Las Vegas and maybe wait all night, I think there is service out of there at something like 6 or 6:30 in the morning, they fly to Los Angeles. These people have already gone out of Burbank, so they have to take a bus or something to pick up cars in Burbank or Long Beach. That is the situation. We are filling in the gap, that is what we are doing there.

Senator ENGLE. Of course, I just don't differentiate between Burbank and any place else. Burbank is just as close, as far as I am concerned, to Los Angeles, as International Airport.

Mr. BLATZ. Except, Mr. Engle, you have a situation there of about an hour or hour and a half drive.

Senator ENGLE. I used to stay downtown at the Biltmore Hotel or the Statler and I had an airplane based at Burbank, and I figured I could make it to Burbank faster than I could make it to International.

Mr. BLATZ. Yes, sir, but I am talking about the distance from Burbank to Long Beach or Burbank to International. You have an hour's ride, and hour to Long Beach and an hour to International from Burbank.

Senator ENGLE. What does that have to do with it?

Mr. BLATZ. In other words, if people depart out of Burbank and go over and are stranded and want to come back, if they are not on our supplemental air service carrier like ours, they are waiting to catch scheduled air carrier, they wait all night, and 6 to 6:30, instead of going into Burbank or Long Beach, they go into International and their cars are based at Long Beach or Burbank; they have to try to get over there by bus. They have a long wait and maybe have to wait for a bus or the bus is not running at that time, and it is 8 or 9 o'clock before they get back, which is even too late to get to work.

Senator ENGLE. I can understand that problem and I wouldn't object to being able to handle it, but basically the question we have to determine is how we keep the supplementals in business, make it possible for them to take over the business that is available to them without destroying the base for the whole program under which we have certificated the trunklines and given them to right to serve.

And if we just turn the supplementals loose and say, carry anybody you can, any time you can, up to 200 trips a year, or 300, you can get yourself into the position where you are breaking your trunklines that have been certificated between point hauls.

Now, we can't let that happen. What I am asking the supplementals to do is to come up with some kind of a practical program that will make it possible for them to get hold of the business that they can properly serve and that business falls in two categories: It falls in the categories of the rush trade, where as I have pointed out, the trunklines just run out of equipment, they are overloaded, and they can't handle it. I have seen it happen between Los Angeles and San Francisco.

And, two, those types of passengers and travelers who will not pay the rates for the regular certificated lines, trunklines, because they don't care too much about their comfort.

You can put them together in your kind of operation, that isn't quite as comfortable and all of that, but it gets them there and that is important to them.

Now, if the people in this business will just come up here and tell us how we can get off the horns of this dilemma, how we can take care of you, without breaking the fundamental basis for the program under which we have certificated trunklines throughout this country, you are sure going to have my help. But I can't believe that you can pick a figure out like 192 trips between fixed points and say it makes any particular sense with reference to the handling of that problem.

Mr. BLATZ. Mr. Engle, in order for supplemental carriers to survive, at least speaking for ourselves, as one carrier, operating up and down the Pacific coast and that contiguous area, it would be almost impossible for us to survive unless we have a certificated number of trips on individually ticketed number of flights.

It is almost impossible. We have to depend on charter. We don't handle any military ourselves. We got out of military because it wasn't a paying proposition. We run nationwide for 5 or 6 years and had to get out as there wasn't any money. We went broke and got into the business in the West and got into that area.

If we don't have individually ticketed flights, we can't exist on charters. We might wait 5 or 6 days and have equipment on the ground. We have to have that in order to supplement it. I know other carriers have to have three things—they have to have MATS market if they can get it, CAMS are very, very tight now, practically no CAM business, they have no MATS business, I understand, CAMS are way down, and they have to have individually ticketed in addition to charter because you might wait a week or two for any kind of a charter.

Now, also in going over to Europe on the North Atlantic flights, it is necessary to have that. I am speaking for the whole industry. As far as we are concerned, we have to have, in other words, 192 individual ticketed flights, we feel, a maximum is what we are asking for, with our charter flights, in order to be able to operate and survive.

Senator MONRONEY. Mr. Blatz, the 192 trips you asked for would not be your maximum. It would be between any two points, wouldn't it?

That means you would fly 192 New York to Miami round trips and 192 New York to Los Angeles or 192 from Los Angeles to Chicago. I mean this is the reason they are protesting against 10 as being too small; it doesn't mean the total amount of ticketed trips, it means round trips between two specific points.

Mr. BLATZ. That is right, sir, and that does not even, you could still fly 10 round trips New York to Jacksonville, could you not, and then 10 round trips from New York to Miami and another 10 round trips from New York to Sarasota.

Mr. BLATZ. That is right, sir.

Senator MONRONEY. So it is not as restrictive as it sounds. In defense of what Senator Engle has said about the scheduled lines, we require them to fly full or empty, 6 or 7 days a week, in dull season and in prosperous season, so we have a duty to be sure we are not taking away the profitable area of traffic that they need to offset the slim traffic that occurs on certain days of the week when they are required to fly.

So there is a situation which requires understanding of the problems of the scheduled lines as well as the unscheduled lines. The problems you have is to furnish what the name implies, and that is supplemental service. If you can carve out of that area, the extra overload service you are seeking to define, then I think we would have a niche carved that these carriers could live with and would really give them better traffic balance than we have at the present time.

Mr. BLATZ. Mr. Chairman, I wasn't speaking of the group you mentioned, I was speaking of our own particular problem of one car-

rier and that is in Western United States of 192 and generally our market is in Nevada.

Senator MONRONEY. I think this brings up something that keeps coming back to me in this study. When we say 192 trips, we are covering every one of the 22 lines on 192 trips anywhere between the same two points.

Now, should we, in this supplemental carrier area, have diverging certificates? Should we make the same shoe fit all of the varied operations of the 22 or leave it to the Civil Aeronautics Board, after grandfathering these in, to consider what specific certificates in a supplemental nature would help you in your short haul, what specific certificate would help these others? You will get away from a lot of the fear of the scheduled airlines, I think, if it is not a carte blanche type of certification that all supplemental carriers have without variation or modification to their specific capacities or to their specific route structures they contemplate flying.

Senator SMATHERS. Mr. Chairman, let me ask you a question.

Does the Board have the authority now to grant to one supplemental carrier, we will say, 16 flights a month and to another one, 10 flights a month?

Senator MONRONEY. I don't think so. They could grant 10 flights a month——

Senator SMATHERS. Are all these supplementals included together?

Senator MONRONEY. All have the same type of certificate and they could grant 16 flights a month, the 6 over the 10, on an exemption, which must come before the Board for that particular time. This is very cumbersome. He has had an application pending for how many months now?

Mr. BLATZ. Five years on one, and 90 days on the other.

Senator SMATHERS. What I understand you are saying, Mr. Blatz, is that you need this in order to survive. It is like a fellow having a minimum number of calories a day. You are just eating one meal a day now in order to get over and above the minimum. Your minimum figure is 16 per month. Otherwise you say you can't live, is that right?

Mr. BLATZ. That is right, we can't make a profit.

Senator MONRONEY. Maybe 16, 24, or 36 flights per month might be advantageous to the service, particularly the peculiar kind of service that Las Vegas demands where it would not be applicable to New York to Miami or New York to Chicago.

Mr. BLATZ. That is true.

Senator MONRONEY. This thing is so inelastic that we do not have a means of tailoring each of these certificates to the desirability of the service that is ready, willing, and waiting as a supplemental nature for individual certificated supplementals.

Mr. BLATZ. Mr. Chairman, there is one thing I might mention there. Of course, at the present time, I know as an operator, we have supreme confidence in the present Board, Civil Aeronautics Board, as to their fairness of purpose in behalf of the scheduled supplemental air carriers. Unfortunately, if there should be a change in the Board at any future time, supposing for instance, you have a Board now, and if you give them authority on the Board bill, strictly on the Board bill, and they would say, "Well, we are going to give you

10 flights or 15 flights," and then later on, there is a change in the personnel of the Board, they come back and say, "Now conditions have changed, and therefore, we are only going to give you 5."

Now, that is what we are afraid of, that is why we are asking for some kind of a floor in there for the number of flights, whether it is 192 cumulative, 16 a month, 10 a month, or 12 a month, whatever it happens to be, we would like to have a floor in there, so we know if there is any change of personnel on the Board later, we are going to at least have a floor whereby we can operate on a profitable basis and come out with a living.

Senator ENGLE. Will you tell me about that airline that flies out of San Diego to Los Angeles and San Francisco. I think they call it the PSA. They have Lockheed-Electras and it is some operation. You can fly from Los Angeles to San Francisco for $12.50 and they load them just like you load a bus. You go out there to the San Francisco airport and there is no monkey business. You just get on it. Because of the nature of my business, I commute a lot between San Francisco and Los Angeles. They have the time going down now to less than, I think, 59 minutes or 63 minutes or something like that.

Now, they operate intrastate. So they are not subject to the CAB, as I understand it, but are they subject to any State regulation?

Mr. BLATZ. They are trying to organize—they had a bill up before the legislature in the last couple of months whereby they tried to form what they call a little CAB. I understand that bill has broken down. It will be the next session or maybe 2 years, but they are not subject to any regulations except they must file under public utilities commission. We have made that filing also, because we fly interstate flights. However, the Board said some of those interstate, because we are a part 42 carrier, we will not be able to make those flights, they are claiming. We have had a court action and the matter was dismissed insofar as we were concerned because the court was, I guess the court after consultation with CAB and other officials determined—the U.S. district attorney—these were intrastate flights and we would be allowed to make those flights.

Senator ENGLE. I have never been on that airline when it wasn't almost full.

Mr. BLATZ. Very fine.

Senator ENGLE. They were just full to the limit every time.

Mr. BLATZ. Very good service.

Senator ENGLE. Because of the kind of service.

Mr. BLATZ. Very fine service, part 45 carriers, as I understand it, operating under part 40 within the State of California, intrastate. We make a lot of those flights also from San Diego to Burbank and on up to Oakland. Those points are not served by the line you mentioned, PSA, but mostly other scheduled lines. We make those flights ourselves.

Senator ENGLE. This is the sort of thing we are talking about, Mr. Chairman, and that is where you have an outfit that goes in there and picks up this business that is really there. I have been in the San Francisco airport on a waiting list, and running from one trunkline to another, trying to get on. In fact, it was insulting what they did. I was disgusted with them. They would schedule you on the plane

they knew they had oversold. They absolutely knew it, three or four of them. I was so sore about it one time, I was going to come back and ask the chairman to investigate. But, I found this PSA outfit that really stepped in there, and there is no fooling around. You just go up there and get your ticket, and I said they issue them like bus tickets and away you go. This is the kind of thing, it seems to me, that the supplementals could contribute to the air traffic of this country and which I would like to see done. But I concur in what the chairman said. He got that point across better than I did, when he broke it down to say that in some instances, 16 trips between two points would be an addition to a service, and in some other cases, it might actually be a diminution of the revenue capabilities of the certificated trunkline that has to fly full or empty, and we have to find some way to squirm around that kind of a problem.

Mr. BLATZ. I realize that there are difficulties, Senator.

I would like to say one thing in connection with this Las Vegas you were discussing we have not touched, and that is our proposed flights up to the Civil Aeronautics Board would encourage us to use what we call a packaged tour.

In other words, we are furnishing in our proposed flight—I think our rate on that was $24.80—we proposed to the CAB, that would also include cocktails, dinner, and shows at Las Vegas and transportation from airport to hotel and return, because we had it set up with various hotels.

It is a different situation. The hotels want that. You see, one of the hotels, Hacienda, has six large airlines flying. They are doing their own. CAB has brought enforcement action against them, but they have not been able to do anything. They have been operating for 3 or 4 years. CAB is attempting to stop them.

What we want to do, as a supplemental scheduled airline, was to do the same thing practically as Hacienda today, and we proposed it back in 1955 to go ahead and operate the same kind of a flight as an airline, what we call a package tour.

And those packaged tours should be encouraged also, I believe, by other supplementals going into Europe.

Senator MONRONEY. This brings up an important point.

You say this one hotel, Hacienda, has been able to run its own airline for 4 years?

Mr. BLATZ. Between 3 and 4 years.

Senator MONRONEY. Under a cease-and-desist order. I think the committee must seriously consider economic penalties, so that those who violate the rules can be hauled before the Board and fined, rather than have their license revoked and go through all the legalistic delaying procedures that can allow a noncertificated or a nonauthorized airline to continue to operate for years. Then when they exhaust their last legal means, they fold up and somebody else moves across the street and starts the same planes and same pilots under a new corporation and maybe a new group of owners.

Senator SMATHERS. We better do that pretty quick, Mr. Chairman. I am chairman of the Subcommittee on Surface Transportation.

Obviously one of the great difficulties of the certificated trucks and railroads, and the airlines are going to have it also, is just this: where alleged private carriers move in and take off all the business. The

real problem with the trucks today, and railroads is the private carriage.

Let me ask you this question, Mr. Blatz. I gather that the reason you needed some floor is strictly a matter that pertains to credit, your credit. Is that right?

Mr. BLATZ. That is right; we cannot obtain the proper financing the way we are now.

We don't have any economic stability.

Senator SMATHERS. If you are to improve your service, if you are to get better equipment, if you are to do the things that even supplementals are supposed to do, you have to have a basis of credit, do you not?

Mr. BLATZ. That is right.

Senator SMATHERS. Can you get a basis of credit if you do not have at least a minimum basis, a minimum floor on which to establish credit in this supplemental?

Mr. BLATZ. No; we had that not long ago through our bank, who financed us on a number of aircraft, and purchasing large aircraft, we were contemplating, we could not do it unless we had something like 2 or 3 or 4 years, at least 5 years if we could get it, OK on that from the Board.

Then, also, we had to show that we could run a certain number of trips between one point and another in the United States. It would have to be on substantial basis before we can get any kind of loan.

Senator SMATHERS. I would not want to argue about the substantial basis or not, I just want to bring up the point as I understood it that you were driving at. I don't think you have said it yet, but you just need a floor under which you can go to a bank and say, at least I have a minimum figure.

Mr. BLATZ. Yes, sir.

Senator SMATHERS. And this being a minimum figure, you can thereby operate this equipment and have some expectation of at least a minimum return which will turn back to you a minimum amount of money and you will get your money back.

Mr. BLATZ. That is exactly it.

Senator SMATHERS. Without it you have some difficulty doing it; is that it?

Mr. BLATZ. That is it.

I could not state it a moment ago myself.

Senator SMATHERS. Isn't that the problem here, Mr. Blatz?

Mr. Blatz, I think the charter service comes in rather clear focus. The other is, what is supplemental and when should supplemental be added to greater utility and greater usefulness?

You are agitating and asking and many of them are, for as many as four trips per week between two points, which could be full schedule around the clock, if necessary, if applied to other high density points, but what I think Senator Engle has wisely said, which would like to be able to supplement the service when the existing scheduled facilities are overcommitted and the long delay or delay of 2 or 3 days can be long. Damages to hotelkeepers of Miami Beach, because people cannot get here, or damages them because they cannot return and are out of money, and it seems to me, we are talking about less than 8 or 10 hub airports, and it would not take very many CAB

men at those airports or stations there to be able to determine when the long waiting lines are there, and to be able to dispatch a wire to the CAB and say, I recommend an exemption for the next week on over the 10 flights between these 2 points.

Wouldn't we then be able to put the grease on the squeaking wheel?

Mr. BLATZ. That would be wonderful if we could get that service.

Senator MONRONEY. In aiding and fulfilling the charge of public convenience and necessity and the test of supplemental service.

Mr. BLATZ. Senator, that would be wonderful, but it is just too much to expect the Civil Aeronautics Board. I don't think they have the personnel to handle that sort of thing, as I understand it.

Furthermore, now the way it is, it takes years and years to get any action out of there, and as a result, you could not expect to get it momentarily.

Senator MONRONEY. I would like to see a test on three airports. You would take care of 90 percent of the agitation—one in New York, one in Miami, and one in Los Angeles.

Senator ENGLE. Will you yield?

If you had to go to the Board and they got a stalling around, we could authorize them to put a man right there and give him the power up to a limited number to certify them right there and then.

In other words, what I want to see happen is when we get the backlog and you cannot get into Miami for 2 weeks, and I have had that happen, somebody ought to be able to get on the ball and say, "OK, throw some more airplanes into this traffic pattern." The same thing is true with Las Vegas. This club there in Las Vegas is not running its own airline because it wants to. It is running its own airline because air service has been inadequate.

Mr. BLATZ. That is right.

Senator ENGLE. And necessity has created it, whereas here you sit, a professional and can do it cheaper and they don't want to be in the airplane business anyway.

It ought to be arranged so that when that situation occurs, somebody can say, you have the power to fly, and move these people.

I would like to see that tried, Mr. Chairman, one way or the other.

Senator MONRONEY. We still have independent offices appropriations before our subcommittee, and we could make provisions for an extra three or four men to determine this. It does not take an FBI agent to find out how many people are being left on the ramp flight after flight, or being told there won't be any reservations for the next 2 weeks. This might put into gear a supplemental service which is truly supplemental and not one that pulls people off of scheduled airlines that only make their customers mad when they cannot take them on. If this service was available, then he may be able to make the public feel a little bit better about aviation as a great means of transportation.

Mr. BLATZ. Which we are primarily interested in, naturally, serving the public, public need, and if there was some legislation enacted along that line, it would be very helpful.

Senator MONRONEY. It would not take any legislation. It would take a little bit of money, and it could be tried out on three airports, because the Board has the right now to grant additional flights when it finds the need is there.

Senator ENGLE. Three areas, New York, Miami, and Los Angeles. So then you include Burbank and International, so the thing is all one ball of wax.

Anybody trying to get back from Las Vegas does not care whether he lands at Burbank or International.

Mr. BLATZ. I may be wrong, but my recollection of that, the law there is that the Civil Aeronautics Board cannot institute such a proceeding.

Is that right?

Senator ENGLE. We will pass a law; that is what we are here for.

Mr. BLATZ. You will have to legislate, Senator; I believe the way it is now, it has to be instituted by a carrier.

Senator ENGLE. Even legislate an appropriations bill if nobody catches it.

Senator SMATHERS. Mr. Blatz, while that is all a very good idea, how do you get equipment to perform supplemental service if needed?

Mr. BLATZ. If we have the airplanes available, naturally, we have a fleet of 170 airplanes in the Independent Airlines Association, and they know exactly where those airplanes are day by day, on a board there, in the office.

If they get a call for equipment, they can certainly furnish it.

Senator MONRONEY. If you pass a green light that you can get supplemental service, you will have plenty of independents ready within a few hours to be there to pick it up, particularly if it is long haul traffic.

They would be willing to take it on very short notice.

Senator SMATHERS. What Mr. Blatz keeps getting away from is what he started out to say. He has to have a minimum floor in order to have equipment, in order to answer the need when the CAB or somebody says there is a need.

Senator ENGLE. We would not take that away from him. We will give him a floor. He has 10 now; he has asked for 16.

Mr. BLATZ. Sixteen as a floor.

Senator Engle, one thing you mentioned, I would very much like to answer so we will be clear.

We were talking about the Hacienda Hotel having six large aircraft. Originally back in 1955, we started and had a case before the Board involving the Show Boat Hotel, and we had that up before the Board, and they authorized them to go ahead and fly trips until they decided whether or not it was charter or common carriage flight.

So after about 10 to 12 months, maybe a year and a half, they decided it was common carriage, and in the meantime, the Hacienda contractors wanted us to fly for them.

We started flying flights, and we put the same thing into the Board. There you had a basis where it was a packaged deal which included dinner, transportation from the hotel to the airport and return, drinks and show, and so forth.

We had that before the Board for about a year, and we were turned down on that.

After that the Hacienda began their own flights, purchased their own airplanes and began their own flights, so you see we had a situation there where we had developed that traffic.

Now we are diverted. They have taken us off of that, and they are flying their own aircraft.

Senator ENGLE. That is what you said in your statement, and I agree 100 percent. And I think that that situation developed because we have not in some way provided the kind of airline service that ought to be provided either through regular certificated tunklines or from supplemental service.

Mr. BLATZ. Yes, sir.

Senator ENGLE. If you were authorized to take it over, do you think Hacienda would want to have a fleet of airplanes?

Mr. BLATZ. What they want——

Senator ENGLE. They would not want a fleet of airplanes if they could contract it out to a professional outfit?

Mr. BLATZ. They would want to get out if they had the airplanes to handle it.

Senator MONRONEY. Any further questions?

Did you have anything further, Mr. Burwell?

Mr. BURWELL. I don't think so.

Senator MONRONEY. You have completed your supplemental statement?

Mr. BLATZ. May I check my notes?

Mr. BURWELL. I had wanted to—maybe while he is looking—to undertake to try to answer Senator Engle's question about the horns of the dilemma because I think he has got his finger right on the problem of trying to help us with trip authority without hurting the big carriers. I think the chairman's arithmetic showed on the present basis, during 1960, the trip authority amounted to approximately four-tenths of 1 percent of the combined revenues of the large carriers.

It is possible that in a question of trying to make the supplmentals flexible enough to be present where there are loads that the big airlines cannot take, it seems to me that has to be something that is economically responsive, that the best fellow to find that is the guy looking for a buck.

There may be unusual strike loads where the Board can take judicial notice of it, but our experience has been that if you apply for something, then they have to have some legalistic proof, have to have an affidavit that x number of people are hanging around, and by the time you go through that the emergency has passed.

Now, it is possible, it seems to me, to think along the lines of having the cake and eating it too, and not hurting the big carriers.

First, it seems to me, that your fears of hurting them on diversion are mainly in the future, since four-tenths of 1 percent is not a big diversion.

Assuming it were all diverted and this is percentage of all the traffic, allowing for new generation and all that kind of thing, now would it be possible to put in with our trip authority, whatever the committee thinks we should have, an overall limitation that the Board may at any time cut it down if the percentage of revenues from our trip authority get larger than a certain percentage related to the big carriers.

For purposes of illustration, take 1 percent. Now it personally doesn't seem to me that 1 percent of their revenues, for instance, poses any terrific threat or really determines the future health or lack of health of the airlines.

Otherwise, I am afraid, I think that we would like to do what you want us to do, namely, be in Florida when people are waiting, and be in California when they are waiting, and take the people, the spillover; but how do you find the spillover unless you have enough authority to be first, as Senator Smathers says, to get the equipment? But to be looking around—and I think that the best people to find where a buck is is the guy that is trying to make it, and that in turn dictates staying away from direct competition with the big airlines, because there isn't a buck there, they will crush you, so that we—to make a buck, or the industry to make a buck, has to smell around through a sort of beagle hound system of where people are waiting, or where there are people that will go at a low rate that won't go with the big people; and I think that what you are trying to achieve in that way, could be better through economic incentive than through an attempt to regulate through the Board. At least the experience we have had thus far is that, that they don't know, the Board doesn't know where the traffic is in the United States.

They know on a historic basic from a lot of cold statistics, but any good ticket agent can tell you where you are more apt to get a load somewhere than the Board.

Senator MONRONEY. What I am saying is that the Board, having agents of its own, and very few of them, in three airports, could be able to settle an awful lot of this, when supplemental carriage is needed. When you put up the balloon and the boys now know there is a buck to be made, they will be ahead of the Board if there is speedy, quick reaction to the traffic needs that exceed your allowable trips between those two points.

Now, you won't even have to tell the independents, as they have been smelling out this business for years. That is the reason why they are smart enough to stay alive. Anybody else would have gone broke, but they have hustled business, and I think what you need, as Mr. Blatz and other witnesses said, is immediate response so we can catch the traffic before the time period is gone and people have used trains or buses or something else to get back to their homes.

It is pretty generally known when peak periods arise. There is a peak after Christmas, a peak at New Year's, and peaks in certain months at different places. It is not an unusual thing, but you need some way where you can have almost a telegraphic response by the CAB to point to where the overload is occurring and to give the supplemental authority to operate where it is needed and in time for it to serve the need.

Do you have any further questions?

Senator ENGLE. No.

Senator MONRONEY. Thank you very much.

Do you have anything further, Mr. Blatz?

Mr. BLATZ. I was just thinking about the tour situation. I don't know, we haven't discussed that much. I don't know if your committee has gone into that, but I know that most of the—we are in a little different position than most of the other members of the Independent Airlines Association, because we are working right in western part of the United States. They require perhaps a little different authority than we would ask for because some of them are flying all over the world, and in order to exist they have to have prob-

ably a heavier amount of ticketing than we would have in the western area.

However, what I would like to touch upon, which hasn't hardly been touched, is the tour situation. That is the large airlines, the foreign airlines, coming out of Europe, they have these tours; they are authorized to put on a packaged tour.

Now, in our association we were considering a packaged tour would make an entirely different situation. It would help us, if we were allowed travel agents, to go ahead and organize these packaged tours, organized on that. I would like to bring that to your attention. That is all I would like to have.

Senator MONRONEY. We have had some testimony on that. I think that would probably expedite European travel.

We stand in recess until Friday morning at 10 o'clock, at which time we will have National Farmers Union, Airline Dispatchers, and ATA. The committee will stand in recess until 10 o'clock tomorrow.

(Whereupon, at 1:05 p.m., the hearing was recessed, to reconvene at 10 a.m., Friday, June 30, 1961.)

SUPPLEMENTAL AIR CARRIERS

FRIDAY, JUNE 30, 1961

U.S. SENATE,
COMMITTEE ON COMMERCE,
SUBCOMMITTEE ON AVIATION,
Washington, D.C.

The committee met, pursuant to adjournment, at 10 a.m., in room 5110, New Senate Office Building, Hon. A. S. Mike Monroney (chairman of the subcommittee) presiding.

Senator MONRONEY. The Subcommittee on Aviation will resume its hearings on the bill S. 1969.

We are honored today to have an old friend of the Senate here in a slightly different role from which he usually occupies on farm economics and things of that kind. We are happy to call Mr. Angus McDonald, assistant director, National Farmers Union.

Will you come forward and testify?

Mr. McDonald, we are glad to have you before us. I see you have a prepared statement. You can submit that or read it—it is short—whichever you wish.

STATEMENT OF ANGUS McDONALD, ASSISTANT DIRECTOR, NATIONAL FARMERS UNION, WASHINGTON, D.C.

Mr. MCDONALD. I want to say at the outset it is always a pleasure to come before your committee and appear with a chairman as an Oklahoman. We have something more in common, I think, than a good many ideas around Capitol Hill that we throw around.

Senator MONRONEY. We have the Flying Farmers of Oklahoma, one of the most active organizations in aviation you can find in the United States. We celebrate about once a month, have flapjacks for breakfast and get a thousand or more people in at these. Sometimes you see a couple or 300 light aircraft on some small airport, some small town. It has been a great thing to bring the farmers together in a sort of universal appreciation of aviation.

Mr. MCDONALD. Yes, sir, Mr. Chairman, I think Oklahoma has pioneered in aircraft as well as in a lot of other things.

The National Farmers Union is an organization of 650,000 members residing mainly in the Mississippi and Missouri River Valleys. Many of our members are first and second generation Americans, having emigrated from the Scandinavian countries and Germany prior to World War I. Many of them are interested in visiting the old country and make periodical trips to Europe and other areas. Frequently they go in groups and have utilized the services of the travel organizations which charter planes, and which provide low-cost transportation.

Officials of the National Farmers Union have many international interests and connections. Our President, James G. Patton, has been president of the International Federation of Agricultural Producers for 2 successive years and is presently a member of the executive committee of that organization. Our State presidents and other officials have also been active in international affairs. Recently, Harvey Solberg, president of the Rocky Mountain Farmers Union, made an extensive study of agricultural conditions in India. Our officials at present are working out plans to assist President Kennedy in his proposed international conference on food.

In addition to these interests and activities, our members have for many years actively participated in student exchange programs. They have worked in the past with other countries and organizations to bring farmers residing in foreign lands into the homes of the American farmers. The National Farmers Union, as far as I know, was the first organization to participate in such a program, having been instrumental in bringing over a group of French agricultural students during President Truman's administration. The National Farmers Union has also been host to many prominent individuals from all over the world, who came to this country to study our institutions.

In recent years, international activities of the Farmers Union in the free world have expanded because of the general feeling that peace was dependent on mutual understanding between different races and nationalities. Consequently the number of our farm men and women visiting other countries and the number of farm people from other lands visiting and working on American family farms has greatly increased.

Much of this international exchange of good will and understanding is dependent on low-cost air transportation. We, therefore, support without reservation the bill before this committee which we are told will greatly facilitate low-cost air transportation and free it from many of the shackles which have burdened transportation in the past. Although we do not pretend to be experts in air transportation, we favor any legislation which will cut through bureaucratic red tape and make it possible for organizations and groups to charter planes, plan trips and carry out all necessary arrangements relating to air transportation.

Finally, the National Farmers Union has made clear its position against monopoly consistently over a period of more than a half century in resolutions and in other ways. We feel strongly that even in regulated industries such as transportation that as much competition as possible, consistent with safety and efficiency should be encouraged and fostered. We have been aware over a period of years that the major air lines by various unfair tactics and activities have attempted to discourage competition. According to certain information presented to this committee, it would appear that the CAB has deliberately discouraged nonscheduled air lines and has penalized those who have attempted to bring air transportation cost within the reach of low-income groups.

We urge the committee to speedily approve S. 1969.

Senator MONRONEY. Thank you very much, Mr. McDonald.

The testimony you give I think is a very important part of the people to people program, and what you are doing to bring farmers of other lands to see our family-size farms, our free, independent farm operators, is a very encouraging part of educating the rest of the world not only to our agricultural techniques, but also to the warm friendship that farmers can extend to fellow farmers no matter what the nation.

I would presume that the thrust of your testimony perhaps is designed partly at the unusually restrictive regulations that attend international charter flights, is that correct?

Mr. McDONALD. Yes, sir.

Senator MONRONEY. Have you had any experience in mind where perhaps it would not be within the realm of homogeneity to mix a planeload chartered with Farmers Union and Farm Bureau Federation members on one charter, even though they are all farmers and en route to study agricultural conditions?

Mr. McDONALD. We are not as unfriendly to the Farm Bureau members as the press sometimes indicates.

Senator MONRONEY. I don't mean unfriendliness, you might be pals. But under what the testimony here has developed, unless they happened to belong to the same organization and belonged to it for 6 months, a group of farmers wishing to charter a plane wouldn't be under the realm or rule of homogeneity; therefore, if you had half a planeload of Farmers Union members and a half a planeload of Farm Bureau members, why they are not homogeneous although they are all farmers.

Mr. McDONALD. We would be in favor and would encourage if possible the mixing of Farm Bureau and Farmers Union members, hoping that some of our philosophy would rub off on them.

Senator MONRONEY. Would you probably take some membership blanks aboard?

Mr. McDONALD. That is correct.

Senator MONRONEY. You might find when you got on the plane over the North Atlantic that you belong to each other's organizations.

Mr. McDONALD. I know from personal observation, the Farm Bureau members when exposed to Farmers Union program and philosophy frequently say, "why, we like your program better than our own," and they come over to us.

Senator MONRONEY. I have seen that happen with vice presidents of organizations.

Mr. McDONALD. Even some county presidents have resigned to work in Oklahoma, Mr. Chairman, as organizers of the Farmers Union, particularly during the Benson era.

Senator MONRONEY. Would it not be helpful to you, for example, if you had a charter of Farmers Union members, we will say, going from the United States to Italy to study Italian farming, to be able to have a return charter while you are over there of Italian farmers that might wish to come over here?

Mr. McDONALD. Yes, sir; we certainly would.

Senator MONRONEY. Under our homogeneous rule, unless you find an organization that they might happen to belong to, they couldn't be just farmers and be homogeneous, if it has over 20,000. Of course, there are more than 20,000 farmers in Italy, so it would be impossible

to consider Italian farmers as homogeneous for a return trip to utilize the empty plane which otherwise would be coming back empty?

Mr. McDONALD. I am not an expert on these matters but I keep hearing these things, such as the example you suggested, and it seems to me very unintelligent if not a stupid way, particularly when we are trying to encourage low-cost travel or at least interchange of people between different countries in the free world.

Senator MONRONEY. Even though the Farmers Union wanted to pay for the return charter and bring say 90 Italian farmers back to this country to see what we are doing on soybean feed, perhaps for cattle or for other techniques that we use that they could well adopt, it would be impossible under the international charter rules, as I interpret the hearings and what we have learned, to bring that plane back with these people in it, even though it was paid for by the Farmers Union?

Mr. McDONALD. Well, we are certainly against the application of any such rule or regulation. We hope this legislation will remedy that situation.

Senator MONRONEY. Certainly you would like to have available and you don't think that the farmers that you are speaking of would ever go to Europe if they had to buy a first-class or even a tourist- or economy-class regular ticket which costs $500, or in that neighborhood, for air transportation alone.

This is traffic that wouldn't go on the regular scheduled airlines at all. It takes a real cutrate charter to make it available.

Mr. McDONALD. The fact is that most farmers have a very low income. Recent figures indicate that only 350,000 farmers in the entire United States made over $3,000 a year net income, which is an amazing figure to me.

Senator MONRONEY. Even with that low income, they are able, if they are given the opportunity for an extremely low-cost charter traffic, to visit the homes of their ancestors or to inspect agriculture abroad and to go on such a tour, if the rate is low.

Mr. McDONALD. If the rate is low, why many of these low-income farmers could afford once every few years to go over to the old country or to some area that they wanted to visit.

Senator MONRONEY. You wouldn't want to see a few farmers that would want to go denied the right to take advantage of this low fare simply because they are not members of your organization.

Mr. McDONALD. No. I fail to see the logic of breaking down in that way.

Senator MONRONEY. But unless they were members for 6 months before departure time they could not be put on a plane. This is the rule.

Mr. McDONALD. It seems to me that is very unfair.

Senator MONRONEY. Actually, many farmers wouldn't know early enough to be able to join the organization 6 months ahead. They have problems at home on the farm; they would otherwise be able to go, but this strict rule of being a member for 6 months of any organization that seeks a charter, don't you think that is carrying things a little bit too far?

Mr. McDONALD. I do, I certainly do, Mr. Chairman, and I would suspect the person organizing the tour in many instances wouldn't

know about all these regulations and might find out about them too late.

Senator MONRONEY. And these tours are usually organized by the farmers themselves?

Mr. MCDONALD. Yes, sir.

Senator MONRONEY. Everybody talks against regimenting the farmer, but we don't have to regiment him in a way so he can't even take a trip to Europe without qualifying with all the rules of bureaucracy that can be put up.

Mr. MCDONALD. It seems to me the testimony that I have read on this matter indicates that bureaucracy has been carried to an absurdity. I see no reason for many of these regulations.

Senator MONRONEY. We appreciate your testimony. You have brought a new light into the problem because certainly this is the type of American tourist we like to have go abroad—one who couldn't otherwise go, and return and bring visiting agricultural people from other countries over here; and both of those would demand the lowest possible cost transportation; even though it is not the deluxe or jet traffic, it would be very acceptable and usable by the people you represent.

Mr. MCDONALD. Yes, sir.

Senator MONRONEY. Thank you very much, Mr. McDonald.

We appreciate your coming before us, as always.

Mr. ANTON. I testified yesterday. During my testimony Senator Smathers asked that we provide IATA resolutions on 45 for the record.

Senator MONRONEY. Now, I believe that this was in Mr. Burwell's testimony.

Mr. BURWELL. Mr. Chairman, the resolution we have here was not. The transatlantic charter policies, and in substance it is the same, but I think Senator Smathers wanted, at least he requested that we put this in.

Senator MONRONEY. Well, we will accept it. If it is differing in any material degree, we will print it in the record, otherwise, it will be made part of the committee's files.

Thank you very much.

Mr. ANTON. Also, Senator Smathers requested that an amendment be prepared, which I have prepared and I have given a copy to Mr. Tipton and I believe he would want to comment on it.

Senator MONRONEY. Would you care to read the amendment at this time so the Chair will have the advantage of that also.

STATEMENT OF JAMES ANTON, ATTORNEY, QUAKER CITY AIRWAYS, PHILADELPHIA; MANTZ AIR SERVICES, BURBANK, CALIF.

Mr. ANTON. On line 3 of page 1, strike out the words "That section * * *" to the end of the paragraph, and insert the following:

That section 101 of the Federal Aviation Act of August 23, 1958, as amended, is amended by redesignating paragraph (13) as (14) and inserting therein a new paragraph to read as follows:

"(13) 'Charter trip' means air transportation performed by an air carrier holding a certificate of public convenience and necessity where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage or the movement of property, on a time, mileage or trip basis, in domestic, overseas, intraterritorial or foreign commerce."

That paragraphs (14) to (31) be redesignated (15) to (32) respectively.

That section 101 of the Federal Aviation Act of August 23, 1958, as amended, is amended by redesignating paragraphs (32) and (33) as (35) and (36), respectively, and inserting therein two new paragraphs to read as follows:

These two paragraphs are exactly the same as are already in S. 1969.

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

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

AMENDMENT NO. 2

On page 5, line 3, insert new section 3, and redesignate sections 3 and 4 as sections 4 and 5, and insert the following:

That section 401(e) of the Federal Aviation Act of August 23, 1958, as amended, is amended by inserting after the words "under regulations prescribed by the Board:" "*Provided*, That such regulations shall not have the effect of circumscribing the definition of charter trip as hereinbefore defined."

AMENDMENT NO. 3

That S. 1969 be amended on page 5, in the new section 4 by inserting on line 14, after the word "transportation," the following: "except as otherwise provided for herein."

Senator MONRONEY. This would have the effect then of making the sole designation of what a charter flight is the leasing or chartering of one or more aircraft for the movement of a block of persons.

Mr. ANTON. That is correct.

Senator MONRONEY. And would strike down the right of the Board to provide restrictions of any kind.

Mr. ANTON. In a sense, yes, sir.

In other words, the Board would have to follow this definition of a charter and it would prevent the Board from issuing restrictive regulations.

Senator MONRONEY. Fine.

Thank you very much for presenting the amendment, sir.

Our next witness is Mr. Robert E. Commerce, president, Air Line Dispatchers Association, Arlington, Va.

We are glad to have you before us, Mr. Commerce. I believe you have a statement which you may read or you may summarize and thereby placed in the record, whichever you wish.

STATEMENT OF ROBERT E. COMMERCE, PRESIDENT, AIR LINE DISPATCHERS ASSOCIATION

Mr. COMMERCE. Thank you, Mr. Chairman. It is very kind of you to give us the opportunity to appear. What is your preference?

Senator MONRONEY. Either way, whichever one you think will better present your testimony and the position of the Air Line Dispatchers.

Mr. COMMERCE. I will read it first, then.

The Air Line Dispatchers Association is an organization which is more than 22 years old, and which represents the federally licensed aircraft dispatchers of the scheduled airlines of the United States. We have contracts with 24 airlines. At the moment we do not represent any supplemental airline dispatchers, but we have done so in the past.

The function of an aircraft dispatcher is to provide for the safe operation of airline flights by overseeing the planning and execution of operations, from the standpoint of safety and economy. The dispatcher shares equal responsibility with the pilot for the origination, continuation, diversion, and termination of flights. Either pilot or dispatcher has authority to cancel if the flight cannot be operated with complete safety. The safety principles and regulations are enunciated in the Civil Air Regulations of the FAA and in the air carriers' own operating rules which are FAA approved.

We shall confine our remarks in this hearing to only those matters affecting the public interest, recognizing there are equally large issues at stake, including the economic survival of the airlines that employ us.

We have noted that the nature of the present legislation under consideration appears to be to establish the service of the supplemental carriers in such a manner as to put them on an operating par with the scheduled airlines. In fact, it seems to us that the unrestricted right to operate 192 flights a year between any two points could result in combinations that would lift the supplementals to a preferred or exalted position with respect to the scheduled airlines, that of providing the service without the restrictions and controls that normally would apply.

We further observe that CAB figures indicate that the percentage gain in all revenue passenger-miles from fiscal 1959 to fiscal 1960 for the supplemental airlines is about 59 percent.

These were in Mr. Boyd's remarks.

We also know that the scheduled lines suffered financial reverses in 1960 and indeed the 35-year-old trunkline with which I personally had been employed was obliged to merge to stave off possible bankruptcy. The CAB has taken the posture that what happens to the scheduled airlines and their employees is in the public interest, and we think that is proper.

We also think that there are other serious matters in the public interest, namely, the fitness of the supplementals to perform the service they seek, and the equity under the safety regulations in behalf of the people who buy the tickets.

We are under the impression that two irregular carriers are continuing to operate under legislative waivers despite the fact that the CAB has questioned their fitness to perform. Let us now assure the committee that we have no interest in providing operational control services for anyone who does not have the financial ability or the willingness to live by the letter of the Government's regulation which are designed to protect the public.

One of our members who attended an accident hearing involving a new defunct irregular deplored the suggestion that one of our qualified people should prevent such tragedies, by saying, "I would not subject

any dispatcher to the daily diet of violations which this carrier apparently engaged in as a regular thing."

Safety regulations requiring ground control are issued in separate parts and are designed to fit the operations of—

1. Scheduled domestic carriers.
2. Scheduled American-flag carriers operating abroad.
3. Certain nonstop transcontinental nonscheduled carrier operations.

No such rules have been applied to supplemental carriers in the United States nor to foreign carriers operating into the United States. A number of foreign carriers have established or leased dispatch service. Two of those that I believe have dispatch organizations are Overseas National and the now defunct Transocean which has—which is apparently going to resume business.

Senator MONRONEY. As I recall, the testimony showed they carried approximately 70 percent of the ticketed supplemental traffic.

Mr. COMMERCE. It was a very big operation; yes, sir.

It should be generally noted that the regulations follow and do not precede the development of an industry. In 1955 the Board perceived a need for additional expansion in the irregular air carrier business and it produced order F 9744 permitting the scheduling of 10 flights a month between 2 points. The move was bitterly opposed by the scheduled carriers, and we will say nothing further about the legislative and regulatory background here because it is well known to you.

One basis of the protest, however, was that while irregular carriers were given this unprecedented latitude in operating scheduled flights, they were not required to observe the same safety regulations that applied to scheduled airlines. Not even the subsequent action of the Board in granting certificates of convenience and necessity to 23 carriers produced any change in the operating regulations. The Board has said that this question of safety is for the Federal Aviation Agency to resolve, not the Board, that it concerns itself only with the fitness of the carrier to conduct the operations it proposes.

Despite the fatal crash of a General Airways DC–3 near Kerrsville, Tex., in 1959, and the crash of an Artic Pacific C–46 at Toledo in 1960, the FAA has not seen fit to act. Both these accidents pointed up the need of operational supervision, such as is exercised by the scheduled airlines.

Our purpose here is not to demean the excellent safety record of many supplemental carriers, because they have a right to be justly proud of their performance. However, the conditions that were present in the aforementioned accidents were of the type that operational supervision would eliminate. We refer to flagrant violation of pilot on-duty time limitations; takeoffs in zero-zero conditions, flight beyond the safe limit of the plane's fuel capacity, planned visual flight in known instrument conditions, to flight in known icing conditions that were unsafe for the type of aircraft, to failure to designate suitable alternates for takeoff and for landing and minimum equipment requirements.

The irregular carriers have been operating in the same environment as the scheduled carriers. Excluding jets, they use the same type aircraft, into the same airports and terminals, using the same navigational facilities, under the same weather and other operating criteria, as the scheduled lines.

We believe that their operations should be subject to safety regulations of the same stringency as those that apply to the scheduled airlines, if they are to compete on as equal a footing as proposed by this legislation.

The impact of this pending legislation is somewhat terrifying to our members, whose job opportunities are presently stifled by the slow rate of growth in the scheduled airlines.

I would like to qualify that by saying the scheduled aspects of the 192 flights.

However, if Congress sees fit to grant such powers to the CAB, we respectfully recommend that Congress should likewise establish a need for reasonable equity in safety regulations by bringing the level of operational control on the supplementals up to that of the scheduled airlines of the United States. Commonsense would so dictate.

Thank you.

Senator MONRONEY. Thank you very much, Mr. Commerce.

Mr. COMMERCE. I would like to offer a summary that—our prime concern is equity under the regulations, Senator, and with full understanding that this may not be the proper forum to discuss regulations. However, we know of the chairman's abiding interest in air safety and particularly his interest in the accident last fall that illuminated some gaps in the regulations and for that reason we brought it up. What we are asking for, we think is reasonable for and we hope you will agree with us for these following reasons: The former counsel for our association told me that 6 years ago, when the question of the expansion of the irregular air carrier operation was being considered, that they had meetings with the Civil Aeronautics Board, which at that time was responsible for the regulation writing, and there were, and there were supplemental carrier people present. The attitude of the people at that time was that they agreed to adopt operational control, if it were required by the CAB or the FAA.

In other words, there was no opposition to it. CAA and the CAB did not act at that time nor has the FAA since that time.

Secondly, we went to the pilots association and asked them to go to their troops and find out whether or not they thought this was a reasonable request and we were informed that the pilots had circulated it and we had the endorsement of the pilot group. They felt that there should be equity under the regulations for both the scheduled and nonscheduled.

Further, evidence is that some of the supplementals have established dispatch organizations and that while we are not in a position to evaluate the efficiency of these dispatch organizations, the indications are that they believe in the concept.

Finally, I would like to call your attention to something that appeared in the most recent issue of part 27 of the Civil Air Regulations in which the FAA broadened the basis of experience as one of the requirements for a dispatcher's license.

And they said in their preliminary statement that the current aeronautical experience requirements preclude the possibility of a person securing an aircraft dispatcher's certificate when serving in other than scheduled air carrier or scheduled military operations.

This revision broadens the basis of experience which may be credited toward qualification for a certificate by recognizing the fact

that some operators other than scheduled air carriers have established well-organized dispatch organizations through which they exercise dispatch control over the operation of their aircraft even though not required to do so by the Civil Air Regulations.

It is hoped that the recognition of this experience will serve to encourage the voluntary establishment of dispatch organizations in aircraft operations other than scheduled air carrier operations.

These are FAA's recommendations.

That concludes my summary.

Senator MONRONEY. At this point, I would like to put in the record a comparison of the operating regulations between the scheduled airlines and the supplementals. It has been prepared for the committee by the FAA and is a very complete record on that, setting it out in rather brief form.

(The comparison referred to follows:)

DIFFERENCES IN THE OPERATING AND MAINTENANCE RULES APPLICABLE TO SCHEDULED AND SUPPLEMENTAL AIR CARRIERS

The operating and maintenance rules are basically similar for both scheduled and supplemental air carriers. Where differences exist they are dictated by the inherent nature of the two types of service rendered. For example, the lack of a requirement that supplemental air carriers maintain a company communications system is dictated by the fact that the routes and facilities to be used are not predetermined as in the case of the scheduled air carriers.

The operating limitations of an aircraft and its maintenance in an airworthy condition are determined by the nature of the aircraft and not by the type of service performed by the carrier. In these respects there would be no difference between scheduled and supplemental air carriers, and the same standards of maintenance would apply to both.

The substantive differences between scheduled and supplemental air carriers found in the rules (pts. 40, 41, and 42 of the Civil Air Regulations) are listed below for easy comparison:

Scheduled	*Supplemental*
Required to have a company communication facility.	No company communication system required.
Required to have a dispatch organization and qualified dispatcher.	No dispatch required.
Station facilities and personnel required at approved airports.	None required.
Pilots are required to be qualified over the routes to be flown.	No route qualifications are required.
Airport qualification required.	No airport qualification required.
Required to have a CAB Certificate of Convenience and Necessity.	Required to have a CAB economic authority by designation or exemption.
FAA operating certificate is valid as long as the C.C.&N. is valid.	Operating certificate has duration of 1 year and requires renewal.
The pilot and dispatcher and pilot and maintenance organizations have joint responsibility.	The pilot has sole responsibility for dispatching and adequacy of maintenance en route.
Approval of operations manual and maintenance manuals not required.	Approval required.
May operate scheduled as well as off-scheduled flights. Not limited as to frequency.	May only operate schedules on a limited frequency during any specified period of time.

PILOT FLIGHT TIME LIMITATIONS

Daily, monthly, and annual flight time limitations for individual pilots serving in one- or two-pilot crews are basically the same for scheduled and supplemental air carriers. The differences that exist are in those rules that permit an increase in the allowable flying time for crews made up of additional pilots

and/or other flight crewmembers. For example, the domestic scheduled air carrier regulations specify only the flight time limitations for individual flight crewmembers, because they envision a flight crew made up of no more than two pilots, or of two pilots and a flight engineer. The international scheduled air carrier regulations, because of the longer flights involved and the scarcity of crew-change bases, provide flight time limitations not only for a two-pilot crew, but for crews composed of two pilots and an additional flight crewmember, and also for crews composed of three or more pilots and an additional flight crewmember. The larger crews are allowed to fly longer flights without intervening rest periods.

The supplemental air carrier regulations for domestic operations specify flight time limitations for one-, two-, three-, and four-pilot crews, because it is not practicable to station relief crews at strategic points in this type of operation. The supplemental air carrier flight time regulations for international operations are the same as for international scheduled air carrier operations.

The significant differences between flight time limitations for domestic scheduled air carriers and supplemental air carriers operating in the United States are as follows:

1. The scheduled air carrier pilot has a limit on the number of hours he may fly in any 7 consecutive days. The supplemental air carrier does not, except as the daily limit would provide.

2. The supplemental air carrier pilot has a limit on the number of hours he may be on duty within any 24-hour period. The scheduled air carrier pilot has no on-duty time limitations. As stated above, both scheduled and supplemental pilots have a limit on the hours they may fly in any 24-hour period.

3. The supplemental air carrier is allowed to schedule flights of 12 hours duration without intervening rest periods by using three-pilot crews, and of 16 hours duration by using four-pilot crews. The scheduled air carrier is required to schedule intervening rest periods for any flight of over 8 hours, because he has no provisions in his regulations for increasing allowable crew flight time by adding more pilots to the crew. Both the scheduled and the supplemental air carriers are allowed to schedule 10-hour nonstop transcontinental flights without intervening rest periods with crews consisting of two pilots and a flight engineer, under certain stipulated conditions.

The above are, as indicated, the basic differences in the regulations. Provisions are made in the regulations for various incidental situations that may exist. For example, the regulations require pilot qualification for IFR flights off airways by supplemental air carriers.

Senator MONRONEY. May I ask you when you speak of the scheduled airlines if that includes the trunklines, international lines, and the so-called feeder lines, local service lines?

Mr. COMMERCE. Yes, sir, U.S.-flag carriers, trunks, and local service.

Senator MONRONEY. Do you have dispatchers at all points?

Mr. COMMERCE. At all points? No, sir. When you say, if you are referring to all stations, they have them at points along the line where the control can be properly exercised. It is conceivable that you could have a control point at one spot. Some carriers believe in the decentralization and have their dispatch offices located in five, six spots. Pan American has them all around the world.

Senator MONRONEY. But it depends somewhat on the geography and the area that they fly. Can one dispatcher say that a local service airline handles the whole system?

Mr. COMMERCE. Yes, sir; depending on the number of flights under his jurisdiction at one time. They key to it, Senator, is communications. If the communications are adequate, and that is one of the most important features, the adequacy of the communications coupled with the proficiency of the individual, they can be adequately controlled from one spot.

Senator MONRONEY. You operate at Washington National?

Mr. COMMERCE. There are two dispatch offices there, yes, sir; Allegheny has one there, and United, formerly Capital, has an office in Washington.

Senator MONRONEY. United, you say?

Mr. COMMERCE. Yes, sir; that is the former Capital Airlines office.

Senator MONRONEY. No other airlines have dispatchers?

Mr. COMMERCE. At Washington National? Not unless there may be some supplementals that have some.

Senator MONRONEY. As far as the scheduled carriers, there are only two, Allegheny and United; is that correct?

Mr. COMMERCE. Yes, sir. It generally follows that if there is one dispatch base, it is invariably at the headquarters office of that company, because it is the nerve center of the airline and from that point, the management can keep a very good eye on what is going on across the carrier's route structure because it is a 24-hour-a-day operation, supervisory operation.

Senator MONRONEY. Do you have weather as well as aircraft under your jurisdiction?

Mr. COMMERCE. Our control is over weather, Senator, that is right. The stop-and-go authority of whether or not it is considered to be safe is a joint responsibility of the pilot and the dispatcher. Either can cancel a flight. The flight in which you exhibited so much interest, that of the nonscheduled flight of Arctic-Pacific at Toledo is one which specifically could have been prevented had there been a dispatch organiza'ion.

Several things involved there, sir, could have been ameliorated by the presence of a dispatcher.

Senator MONRONEY. The two companies which you mentioned in your statement on page 4 includes General Airways, Inc., a supplemental air carrier with special circumstances relating to their certificate. This is spelled out in 703 of the CAB summary exhibit C, authorizations sold on December 17, 1959, at trustee in bankruptcy sale. No application for transfer has been filed. Certificate was for 5 years, to expire on March 30, 1964.

So apparently they are out of busines or would have to be approved by the CAB.

The other was in relationship to Arctic-Pacific, Inc., which was the Toledo flight that took off under adverse conditions. Their temporary certificate for domestic supplemental expired on March 30, 1961. No application for renewal has been filed. The Board Order E–16734 dated April 28, 1961, directs the carrier to show cause why its remaining authorizations should not be terminated.

So action has apparently been taken, one, by bankruptcy and the other by action of the Board.

And this Arctic-Pacific was under investigation as we heard in the safety hearings for various safety violations. These are the two accidents you point to. Otherwise, I think generally the safety record of the supplementals has been fairly good, hasn't it?

Mr. COMMERCE. That is quite right, Senator.

I want to emphasize that. We are not critical of the safety record but the reason I cited these two cases was that the type of accident that occurred was the type of accident that could have been prevented

and our main interest is in accident prevention rather than in curing conditions of past accidents.

The one in General Airways, of course, was one in which he overextended himself. He went into a condition further and further when he could have reversed and got out of there. There was a time for a decision to be made and that type of condition, although I didn't want to, I heard the remark that "We didn't want to dredge back into the past too far for these things." There are many other cases in the past, but in view of the excellent safety record of the supplemental lines, I don't think that this is proper.

Senator MONRONEY. As I understand, the other accident was an accident in flight on which pilot judgment on reversing his course, going into severe turbulence would have been the resultant factor.

Mr. COMMERCE. Yes, sir; there were several factors. The pilot flew far beyond the allowable amount of on-duty time, and this is regulated by the scheduled carriers most stringently. He got into icing conditions. He went far beyond his full range. Now they say I cite these merely as examples of the type of conditions that can exist in the absence or proper operation of control, not to be particularly critical of anyone.

Senator MONRONEY. Thank you very much, Mr. Commerce, for your statement.

Our next witness is the Air Transport Association, Mr. Tipton. He will be accompanied to the witness stand.

Will you identify your aid, Mr. Tipton?

STATEMENT OF STUART G. TIPTON, PRESIDENT OF THE AIR TRANSPORT ASSOCIATION OF AMERICA; ACCOMPANIED BY CLIF STRATTON, ASSISTANT GENERAL COUNSEL, AIR TRANSPORT ASSOCIATION

Mr. TIPTON. Thank you very much, Mr. Chairman.

My name is Stuart G. Tipton. I am president of the Air Transport Association of America, representing most of the scheduled certificated airlines of the United States.

I was just going to introduce Mr. Stratton, Mr. Clif Stratton, Jr., assistant general counsel of the Air Transport Association, who will do part of the testimony.

Senator MONRONEY. We are very glad to have you before us, Mr. Tipton, representing all of the scheduled airline services and because of these hearings we have heard individually from many of the segments of the supplemental air carriers, we hope you will take adequate time to give the testimony for all of the scheduled lines which you represent numbering, I guess, in the thirties or forties.

Mr. TIPTON. The members at the present time of the association number 49.

Senator MONRONEY. This includes all of the U.S.-flag carriers, international, all of the domestic trunks, and most of the local services?

Mr. TIPTON. All of the local service carriers, all of the carriers in Alaska, and Hawaiian Airlines, the carriers in the territories, as well as two of the operating air cargo carriers.

Senator MONRONEY. We are very happy to have you. I hope you will take sufficient time to make the position of your great organization clear.

Mr. TIPTON. Thank you, Mr. Chairman.

My statement is a lengthy one. Much of the material in the statement has been covered in one way or another during the hearing and if it meets your approval, Mr. Chairman, I will submit the complete statement for the record, as it has previously been submitted to the committee, and highlight the testimony in order to not only reduce the time, but also to cover as best I can the issues that seem to be of the most interest and greatest concern of the committee.

(The statement in full of Mr. Tipton follows:)

TESTIMONY OF STUART G. TIPTON, PRESIDENT, AIR TRANSPORT ASSOCIATION OF AMERICA

My name is Stuart G. Tipton. I am president of the Air Transport Association of America, which is composed of substantially all of the certificated, regularly scheduled airlines of the United States. Our membership includes the trunklines and local service airlines operating within the continental United States, airlines operating in and to the new States of Alaska and Hawaii, U.S.-flag international airlines, helicopter airlines, and all-cargo airlines.

My testimony is addressed to various pending bills which embody a wide range of proposals for certification of supplemental air carriers.

PRESENT SCOPE OF SUPPLEMENTAL OPERATING AUTHORITY

The supplemental air carriers, as you know, are presently authorized to operate as follows:

Domestically, "individually sold services" (i.e., individually ticketed passengers and individually waybilled air freight shipments) can be offered on a scheduled basis, with a limit between any given pair of points of 10 round trips per carrier per month. Planeload charter services can be operated without limitation as to frequency.

Internationally, the 10-flight and the unlimited charter grants extend only to air freight services. The Board has, however, followed a liberal policy of permitting international passenger charters by supplemental carriers by specific exemption.

Operations of this scope have been authorized by the Civil Aeronautics Board on the ground they are "additional and supplemental to * * * and not a mere duplication of" the services of the certificated scheduled carriers operating over regular routes.

At the moment, these operations are conducted under temporary authority pursuant to Public Law 86-661 of July 14, 1960, 74 Stat. 527, which expires in April 1962.

This temporary, or "stop-gap" legislation was enacted after the U.S. Court of Appeals, District of Columbia Circuit, in an opinion dated April 7, 1960, held invalid certificates issued by the Civil Aeronautics Board to some 25 supplemental carriers embodying the 10-flight and unlimited charter grants for interstate operations. The court held that the certificates violated the Federal Aviation Act of 1958 in various respects. Most important of these were the Board's attempt, by conditioning a certificate, to limit frequency of schedules; the Board's failure to specify, in each certificate, the points to be served; and the Board's failure to make adequate findings of "fitness" under the statutory terms.

SYNOPSIS OF PENDING BILLS

The pending bills, for the most part, go much further than merely to enable the Board to issue valid certificates for the present scope of supplemental carrier operations. Some of them would substantially expand—or authorize the Board to substantially expand—the scope of such operations.

A quick rundown of the bills follows. I will discuss them in greater detail later.

S. 1969 and H.R. 7318, which are identical, would authorize the Civil Aeronautics Board to issue certificates for "supplemental air transportation." The definition of "supplemental air transportation" in the bill is very broad, and the Board's ultimate power under the bill would be correspondingly broad. Under it, the Board could not only issue certificates covering the presently author-

ized scope of supplemental carrier operations; it could also issue certificates for operations of a far broader—and presently undefined—scope.

We will oppose these bills.

H.R. 7512 would not leave the question of possible enlargement of the scope of supplemental carrier operations for the future; it would do it right now, and on a major scale. For example, the 10-flight grant would be expanded forthwith to 192 flights per year. This would permit each supplemental carrier to conduct a daily scheduled operation for 6 consecutive months over any or all routes. The 25 or so supplementals who would be automatically certificated under H.R. 7512 could thus operate, in the aggregate, as many as a dozen flights a day over every existing route, smothering the presently certificated carriers.

Another unsound feature of H.R. 7512 would give supplemental carriers the unqualified "right of first refusal" on "all charter trips" anywhere in the world. The public would thus be deprived of freedom to choose a scheduled carrier for charter, so long as any supplemental carrier demanded its "right" to operate the charter—a "right" which would apparently exist, under the proposed statute, regardless of price, quality of service, or any other consideration deemed important by the prospective charterer.

We will oppose H.R. 7512.

H.R. 7679 reflects a different approach. It would, by a simple one-sentence amendment to the Federal Aviation Act, clarify the Board's authority to issue certificates, solely for charter operations, without having to go through the laborious—if not impracticable—specification of each point to be served. Such all-charter certificates could merely specify the "area or areas within or between which" charter operations could be conducted. Thus, the certificate might authorize charter service anywhere within the continental United States, or between specified States and Hawaii, and so forth.

We will support H.R. 7679. It would establish a sound as practicable basis for supplemental carrier operating authority. I will discuss the reasons for this conclusion more fully below.

REASONS FOR ATA POSITIONS ON PENDING BILLS

The basic reasons for the Air Transport Association's positions on these pending bills are:

(1) The current financial crisis of the domestic scheduled industry calls for reduction—rather than expansion—of supplemental air carrier operating authority.

(2) Continuation of individually sold authority for the supplementals, under the proposed bills, involves perpetuation of such unsound regulatory practices as:

(*a*) use of the certificate as a device to dictate schedules, equipment and facilities;

(*b*) issuance of certificates permitting individually sold route-type service, without specification of the points to be served; and

(*c*) certification on the basis of "general" fitness, regardless of the limited experience and fitness of the particular applicant.

(3) The "first refusal" provision of H.R. 7512 is unfair to the public and the scheduled airlines.

(4) All-charter authority affords a suitable and practical basis for supplemental carrier operations.

I will now explain in some detail the reasoning underlying each of the above points.

THE CURRENT FINANCIAL CRISIS OF THE DOMESTIC SCHEDULED INDUSTRY CALLS FOR REDUCTION—RATHER THAN EXPANSION—OF SUPPLEMENTAL AIR CARRIER OPERATING AUTHORITY

As a background for its present deliberations, we believe the committee should refresh itself on the history of the supplemental carriers and their operating authority, and also on the critical financial condition of the domestic scheduled airlines. As that history makes clear, the current financial plight of the scheduled carriers is a weighty consideration in determining the permissible scope of supplemental carrier operations.

It has been suggested that the supplemental carriers have long been in operation under color of law and pursuant to a thoughtful and considered plan of regulation by the Board. This simply is not the fact. The "large irregular"

operators came into existence beginning in 1945 without the knowledge, intention or any purposeful action by the Board. As a matter of fact, before the Board even had a chance to formulate a program to bring these operators within the regulatory framework of the act, many of them were engaging in extensive intercity common carrier operations without the least semblance of regulation. There followed a series of regulatory measures together with enforcement proceedings against the more flagrant violators, a program which, however well-intentioned, proved unequal to the problem it was intended to solve. After 5 years of ineffectual attempts to regulate, the Board in 1951 launched the Large Irregular Carrier Investigation. When the investigation was only half finished, the Board suspended the taking of evidence, and in 1955 issued a decision on an incomplete record. It should have been no surprise that the policy of that decision and the attempt to implement it under section 416(b) of the act were held invalid by the courts. There followed more proceedings, another decision in which the policy of the 1955 decision was swallowed whole, and an attempt to issue certificates which were clearly in violation of the plain language and the regulatory plan of the act. In short, the present situation is the product of years of ineffectual regulation followed by two decisions which in their very inception should have been recognized as contrary, not simply to the form of the act, but the basic congressional policies announced in it.

When the Board determined, in 1955, to expand the scope of supplemental carrier operating authority, it did so in the light of its then evaluation of the financial condition of the scheduled industry—an evaluatiton which subsequent events have proved to be wrong.

The 1955 decision recognized that the routes operated by the scheduled airlines—routes over which they have a statutory obligation to provide adequate service—constitute the Nation's "basic air transportation system." The 1955 decision purported to enlarge the scope of operating authority of the supplementals only within what the then Board deemed would be "additional and supplemental to * * * and not a mere duplication of "the certificated route services. And the 1955 decision very pointedly said:

"*It is the fundamental health and prosperity of the certificated carriers* that has permitted us to expand the area of competitive services by those carriers. And it is the same health and prosperity *that permits us to enlarge the area of operations of our supplemental air carriers* without due concern over the impact of this action upon our certificated route system." [Emphasis supplied.]

The Board has never really reexamined the scope of supplemental carrier operating authority since that 1955 decision. At the outset of its 1959 decision, it stated categorically that the 1955 decision "resolved the issues of the need for and proper scope of supplemental air transportation." The 1959 decision then went on to pass on the qualifications of the various applicants, and to award certificates to those found qualified, in reliance on the 1955 decision as establishing the scope of operations to be permitted the supplementals. Likewise, in its presentations to Congress last year in support of supplemental carrier certificate legislation, the Board relied upon—but did not purport to reexamine—the 1955 determination.

It is accordingly significant that the 1955 expansion of supplemental carrier operating authority rested on an optimism as to "the fundamental health and prosperity" of the certificated carriers which would not be justified today. Indeed, at no time since 1955 could the Board have cited the "health and prosperity" of the certificated industry as grounds for expanding the scope of supplemental carrier authority. For, since 1955, there has been steady year-by-year deterioration of the financial results of domestic scheduled airline operations, which reached a new low in 1960.

THE CURRENT FINANCIAL PLIGHT OF THE DOMESTIC SCHEDULED AIRLINES

The current earning picture of the domestic airlines, taken as an industry, is dismal. The local service and helicopter lines have not yet reached the point of being self-supporting, and hence must rely on subsidy. In 1960, the 12 domestic trunklines reported an industry net profit of only $1,188,000, or less than six one-hundredths of 1 percent profit margin on gross operating revenues of almost $2 billion. To give you a measure stick: the domestic trunklines earned as profit 5 cents on every $83 of sales; the typical U.S. corporation earns about 5 cents on every dollar of sales.

Of the 28 domestic passenger carrying lines, 21 either depended on subsidy, or operated at a loss; only 7 operated at a profit. And even for these seven, the 1960 profits were far from satisfactory. The best profit margin that any of them achieved was 3.7 percent of sales. None of them came up to the rate of return on investments which the Civil Aeronautics Board has found necessary for the airlines to achieve their public service role under the Federal Aviation Act.

As you know, the Civil Aeronautics Board recently completed its 4-year general passenger fare investigation. One of the Board's major undertakings in that proceeding was to determine the rate of return on investment needed by the airlines. Return, in the regulatory sense, consists of net profit after taxes, plus interest on long-term debt. The proper level of the return on investment, for a given industry, is determined by the "cost of capital"—i.e., the level of interest and earnings needed to attract lenders and equity investors, in view of the returns investors can expect from industries of comparable risk and economic potential. In the Board's words—and I quote from the decision in the case:

"*Cost of capital.*—In determining the fair and reasonable return, as that term is judicially defined, the Board must reach an end result which provides earnings sufficient to cover all the costs consistent with the furnishing of adequate and efficient air transportation. Among these costs must be included a return to the owners of the enterprise which is not only comparable to the results of similar undertakings, but which will insure the retention and attraction of capital in amounts adequate to foster economic health and deevlopment."

The Board made a thorough analysis. It had before it voluminous testimony of prominent financial experts, including a study prepared by an independent expert specially retained by the Board for the proceeding. The Board concluded that the rate of return on investment needed by the domestic trunklines is 10.5 percent—or, more accurately, 10.25 percent for the so-called Big Four—American, Eastern, United, and TWA—and 11.125 percent for the other eight trunklines.

To illustrate what this means: the investment of the 12 trunklines attributable to domestic operations—i.e., after excluding investment attribtuable to international operations—in 1960 was slightly over $1.6 billion. On this they should have earned, at the rate of return found needed by the Board, $172 million. This would have covered interest payments of $43.8 million, and provided a profit after interest of $128.2 million. Instead, as previously noted, the trunkline profit after interest was only $1,188,000—or an "earnings deficiency," so to speak, of $127 million.

One of the things that is particularly disturbing is that 1960 was merely the worst of 5 successive bad years for airline earnings. Over these 5 years, the trunkline industry's "earnings deficiency"—computed on the same basis as above—has been in successive years $9.5 million, $55.8 million, $47.9 million, $45 million, and $127 million, for a cumulative earnings deficiency, over the 5-year span, of $285.2 million, or a yearly average of $57 million less than the earnings the Board has found the industry needs to stay healthy. Not since 1955 has the trunkline industry as a whole achieved the rate of return prescribed by the Board's standards. The picture for the industry during these 5 years is summarized in the table below.

[Dollars in millions]

Year	Operating revenues	Net profit	Profit margin	Interest on debt	Rate of return	Earnings deficiency
			Percent		*Percent*	
1956	$1,263	$57.7	4.6	$10.0	7.2	$9.5
1957	1,420	27.0	1.9	16.2	4.6	55.8
1958	1,513	44.8	3.0	24.5	6.2	47.9
1959	1,799	61.7	3.4	32.2	7.1	45.0
1960	1,943	1.2	.1	43.8	2.7	127.0
Total	7,938	192.4		126.7		285.2
Average per year	1,588	38.5	2.4	25.3	5.5	57.0

As you can see, the industry's current financial plight is not simply the result of the 1960 recession—although that no doubt aggravated it. The industry has been undergoing depressed earnings for several years—and the end is not yet in sight.

Before leaving this table, however, I would like to point out one or two items of particular significance. As you will note, the operating revenues of the industry have increased steadily, and in 1960 were $680 million above 1956, or 54 percent. This reflects in part growth in traffic. The revenue ton-miles carried by the domestic trunklines increased from 2.4 billion in 1956 to 3.3 billion in 1960, or 38 percent. The growth in revenues also reflects in part fare increases granted by the Board in 1958, 1959, and 1960—the first significant price adjustments for this industry since 1948.

But this growth in service, in traffic carried, in gross revenues, has not been carried through to net profit. Operating expenses have been outstripping revenue growth.

Another noteworthy item in the above table is the very rapid increase in interest charges to be borne by the industry. As you will see, the industry had in 1956 what now seems like a relatively slight interest burden of $10 million. Even though 1956 was a subnormal year, the interest was well covered, and the industry still had a $57.7 million net profit. By 1960, however, the industry's interest burden had quadrupled to $43.8 million—and the industry had virtually nothing left after meeting its interest payments. This very great increase in interest reflects, of course, the debt that the industry has taken on to finance the jet reequipment program. The jet reequipment program is one of the most important current aspects of this industry, involving, as it does, a truly dynamic growth in the public service potential of the airlines. My immediate point is that depressed earnings are today more dangerous in this industry than at any time in the past, because of the debt and interest load. We already have 1 near-bankruptcy among the trunklines, as a result of which we now have 11—instead of 12—trunklines.

And, finally, as noted in the last column, the industry has accrued over these 5 years a very substantial earnings deficiency, having earned some $285.2 million less than what should have been earned at the Board-prescribed level. This means, of course, that the carriers' reserves have been depleted, or have not been kept at the desired levels. It also means that, in some cases, the carriers have taken on more debt than would have been the case had they had earnings to plow back into the business—and this, let me note here, is an industry which historically has always plowed back the bulk of its earnings. As was brought out in the *Passenger Fare* case before the Board, the domestic trunklines paid out as dividends 28 percent of net profits, retaining the rest for growth and expansion. Typical public utilities, in sharp contrast, paid out 78 percent of their profits, and general U.S. corporate experience was a 49-percent payout. And, last but not least, the cumulative earnings deficiencies of the trunklines has meant that many investors have not received dividends on their investment.

Another indicator of the extent of this 5-year airline depression is that, over these 5 years, 5 of the trunklines failed to realize the Board-prescribed rate of return in any 1 of the 5 years, 6 failed to realize it in 5 of the 5 years, and only one realized it in as many as 3 years. In 1956, 6 of the trunklines realized—and 6 failed to realize—the needed rate of return; in 1957, 1 of the 12 did it; in 1958, none of them did it; in 1959, 2 did it; in 1960, the score was again zero. All of this is summarized in the table below, where X indicates that the carrier's rate of return met the Board's standard for that year.

	1956	1957	1958	1959	1960		1956	1957	1958	1959	1960
American	X					National	X				
Braniff						Northeast					
Capital						Northwest					
Continental						TWA					
Delta	X					United	X				
Eastern	X					Western	X	X		X	

The operating results, by individual airlines, for the most recent year—1960—are set forth in the table below:

Financial results of domestic trunkline operations, calendar 1960

[Dollars in millions]

Airline	Operating revenues	Profit (or loss)	Profit margin	Interest on debt	Rate of return	Earnings deficiency
			(*Percent*)		(*Percent*)	
American	$421.6	$12.1	2.9	$9.6	5.9	$15.9
Braniff	75.8	1.1	1.5	1.6	4.4	4.1
Capital	104.2	(10.1)	(—)	2.6	(—)	13.2
Continental	61.0	1.7	2.8	3.0	6.9	2.9
Delta	128.4	3.6	2.8	2.6	7.1	3.6
Eastern	263.8	(3.7)	(—)	5.4	0.7	22.7
National	66.4	(4.5)	(—)	2.2	(—)	10.1
Northeast	37.9	(10.8)	(—)	1.8	(—)	11.8
Northwest	86.2	1.1	1.4	2.2	4.3	5.4
TWA	277.1	(0.3)	(—)	3.2	1.4	18.0
United	355.9	8.5	2.4	8.4	5.1	17.1
Western	64.3	2.3	3.7	1.0	6.7	2.2
Total	1,942.6	1.2	0.06	43.8	2.7	127.0

As you will note, from the third column, labeled "Profit or loss," seven of the trunklines reported profits, five reported losses, in 1960. The amounts involved virtually balanced out, so that the industry net profit was $1.2 million. As shown in the next column, the best profit margin recorded by any of those seven carriers who had profits was 3.7 percent of operating revenues—gross sales, in the language of most businesses. Likewise, none of the carriers realized the rate of return on investment which the Board has found necessary. And, as the last column shows, the earnings deficiency—the amount by which net profit plus interest fell short of the Board's standard—ranged for individual companies from $2.2 million to $22.7 million, aggregating $127 million for the industry for the year 1960.

Against this background, it is clear that reliance could not be placed today on what the Board in 1955 called the health and prosperity of the certificated carriers as an excuse for enlarging the scope of supplemental carrier operating authority.

Indeed, the steady deterioration of the certificated airline financial results since 1955 suggests that, if there is now to be a reexamination of the scope of supplemental operations, that scope should now be curtailed rather than again expanded.

THE ADVERSE IMPACT OF INDIVIDUALLY SOLD SUPPLEMENTAL SERVICES ON THE SCHEDULED AIRLINES

The latest data published by the Board on the financial and operating results of the supplemental air carriers are for the fiscal year ending June 30, 1960.

During that fiscal year, the 25 supplementals to whom the Board issued certificates in its 1959 decision reported individually sold revenues of $11,574,000, mostly from individually ticketed passengers.

In addition to this, individually sold revenues of $9,764,000 were reported by irregular carriers whom the Board did not certificate. The bulk of this—$9,497,000—was reported by the three carriers (Great Lakes, Currey, and Trans Alaskan) making up the Skycoach Combine, whom the Board found unfit for certificates and who have operated under stay pending completion of judicial review proceedings.

About $200,000 of individually sold revenues were reported by carriers whose applications for supplemental certificates are still pending, having been previously deferred for further hearings.

The aggregate revenues of the supplemental carriers—certificated and noncertificated—from individually sold services for fiscal 1960 were thus $21,338,000.

These revenues, had they not been diverted to the supplemental carriers, could have made a significant contribution toward improved earnings by the scheduled carriers. The $11,574,000 of individually sold revenues reported by the certificated supplementals was 9.6 times the domestic trunkline profit of $1,188,000

for calendar 1960. The $21,338,000 of individually sold revenues for all the supplementals was 17.7 times the domestic trunkline profit.

And it is demonstrable that by far the greater part of these revenues would have flowed to the scheduled carriers had the supplementals not conducted individually sold services, particularly the carriage of individually ticketed passengers. This is apparent from the nature of the operations which I will review briefly.

Of the $11,574,000 of individually sold revenues reported by the 23 certificated supplementals in fiscal 1960, a total of $9,549,000—or over 82 percent—was reported by the three carriers Transocean, U.S. Overseas, and Capitol Airways, as follows:

Transocean	$3, 602, 000
U.S. Overseas	5, 133, 000
Capital Airways	814, 000
Total	9, 549, 000

Analysis of the flight reports of these three carriers, as filed with the Civil Aeronautics Board for the year ended June 30, 1960, reveals that the bulk of their individually sold operations were over routings directly competitive with scheduled carrier routes. Transocean's operations were principally between California and Hawaii. U.S. Overseas operated almost entirely in the classic nonsked pattern: New York-Miami, Chicago-Miami, and transcontinental flights between New York, on the one hand, and Los Angeles or San Francisco, on the other, usually via Chicago, with frequent stops at Washington and Detroit. Capital concentrated its individually sold operations in the Chicago-Miami and New York-Miami markets.

The New York-Miami operations of U.S. Overseas and Capital offer a revealing example of how supplemental carrier operating authority can be used to skim the cream of a route. Each of these carriers tended to operate about eight flights a month, in each direction, between New York and Miami. These flights were almost without exception concentrated in the Friday-Saturday-Sunday period—the time of week when traffic is best, in that market, as vacationers start and end their trips.

Thus, the three scheduled airlines certificated to serve that route were left with the lean days of the week, and given less opportunity to recoup on what should have been the best traffic days.

In this connection, it should not be overlooked that all three of the scheduled carriers certificated to serve the New York-Miami route suffered net losses in 1960.

While the most serious diversionary operations of the supplementals were concentrated in fiscal 1960—as in prior years—in the transcontinental and Florida markets, there is beginning to emerge another, and highly disturbing pattern. Within the past year to 18 months, the supplementals have developed a regular pattern of virtually daily service from Chicago to San Antonio and from New York to San Antonio, the latter routing occasionally picking up such intermediate points as Philadelphia, Washington or Pittsburgh. These operations, we understand, are aimed principally at carrying Air Force recruits to Lackland Air Force Base for basic training.

This recruit traffic, it should be pointed out, was originally developed by various of the scheduled airlines. The original development of this traffic reflected a vigorous sales effort by the certificated carriers to convince recruiting officers of the feasibility and advantages of air service for recruit movements. The recruit movements can be readily handled on normal scheduled operations, and have been a significant source of revenue to carriers such as Braniff, with its Chicago-Texas and New York-Texas routes.

The last time we checked—about 8 weeks ago—these Air Force recruit movements were running about 1,400 passengers a month out of the New York area, and about 1,200 passengers a month out of the Chicago area.

The loss of these revenues is bad enough. What is really disturbing is the method of operation, and the portent of future increased diversion—particularly if the individually ticketed authority of the supplementals were to be enlarged.

The way the supplemental conduct this San Antonio operation, as we understand it, is this:

The recruits are individually ticketed. Accordingly, no one supplemental participates more than 10 times a month in either the New York to San Antonio, or the Chicago to San Antonio, operation. But some days one supplemental,

and some days another, operates the flight. The supplementals collectively thus offer a daily service, Monday through Friday. And this is sold through what amounts to a joint sales force on the payroll of the supplemental carrier trade association.

Whatever the argument that this sort of concerted activity to establish a daily schedule under guise of the 10-flight grant falls within the letter of the law, it is nevertheless a clear evasion of what the Board said it was authorizing when it gave the supplementals the 10-flight privilege.

And the more one probes into this operation the more apparent are its deleterious effects on the basic, scheduled, airline system. The recruits—together with other passengers—are collected at central points, such as New York and Chicago, from the surrounding area. Thus, a scheduled airline—or a rail or bus line—may be used as a "feeder" providing the short-haul transportation from, say, Boston or Providence to New York. Whenever the supplementals can assemble a passenger load sufficiently near the capacity of the airplane to be profitable, they take the long haul part of the trip, New York to San Antonio. If it appears that, on a given day, the group will be too small to be profitable, the supplementals do not operate, and it is up to the scheduled airlines to provide the lift. Conversely, any excess on a given day may be reticketed on the scheduled carriers as being cheaper than operation by a supplemental at a less-than-capacity load.

Here we have the complete inversion of the concept the Board enunciated in its supplemental carrier decisions. Here we have, in practical effect, the scheduled airlines supplementing the supplementals—feeding them short-haul traffic, handling their overflow, providing the backup for the days they do not operate.

And the manner in which the supplementals have, through concerted action, invaded this established scheduled airline market holds serious portents for the future. There are persistent rumors that they are planning to set up more such routes, perhaps from west coast points to San Antonio, as well as in other areas.

This San Antonio pattern of operation could well be the embryo of disastrous inroads by the supplementals into scheduled airline markets. In the particular instance, the collective operation has already achieved virtually daily schedules over two routes. The potential, even under the present 10-flight grant, is staggering. The 25 certificated supplementals, in the aggregate, could operate up to 250 flights a month, in each direction—8 flights a day—over any or all domestic routes.

And, if H.R. 7512 were to be enacted, the potential for disruption of the scheduled airline system would be multiplied immeasurably. For H.R. 7512 would authorize each of the supplementals to operate 192 individually ticketed flights a year between each pair of points. This would permit one supplemental to operate a daily schedule for 6 consecutive months. Then a second supplemental could take over the route for the next 6 months. It would be a simple matter for the sales and ground personnel to transfer from one payroll to the other every 6 months. Thus, 2 supplementals could maintain a daily, year-round service; 4 could make it twice a day; 6 could make it three schedules a day; and so on up to 12 flights a day, if all 25 supplementals were to operate in the same market. And this could be repeated over and over, in any or all the markets in the Nation.

What this would amount to would be the virtual abandonment of the regulatory basis of the Federal Aviation Act. For such reasons, we regard H.R. 7512 as extremely dangerous, and, accordingly, we oppose it.

CONTINUATION OF INDIVIDUALLY SOLD AUTHORITY FOR THE SUPPLEMENTALS, UNDER THE PROPOSED BILLS, INVOLVES PERPETUATION OF UNSOUND REGULATORY PRINCIPLES

To this point, I have been critical of individually ticketed and individually waybilled authority for the supplemental air carriers because of the adverse impact on the financial and economic conditions of the scheduled airline industry. I have pointed out that the Board justified its 1955 decision to enlarge the supplementals' authority on the grounds of the "health and prosperity" of the scheduled airlines. I have pointed out that this justification is inapplicable today—and, indeed, could not well have been advanced at any time since 1955. I have pointed out how the individually sold operations of the supplementals under the 10-flight grant, have been damaging to the scheduled airlines, and how their

continued possession of this authority threatens even more serious damage in the future.

At this point, I would like to turn to another, and separate, ground of objection to continuation of the supplementals' individually sold authority; namely, that it is unsound in principle for the Board to have the power to do such things as—

(*a*) use the certificate as a device to dictate schedules, equipment, and facilities;

(*b*) issue certificates for individually sold, route-type service, without specifying points to be served;

(*c*) certificate on the basis of "general" fitness, regardless of the limited experience and fitness of the particular applicant.

Before taking up these points, I would like to review briefly the background of the Federal Aviation Act of 1958 and its predecessor, the Civil Aeronautics Act of 1938.

As this committee will recall, the Civil Aeronautics Act of 1938 was adopted to deal with a situation which one of the congressional committees recommending the legislation described as "chaotic." Of the $120 million invested in the industry to that date, half had been lost. The excesses of unregulated competition and lack of security of route jeopardized ability to attract private investors and build the kind of air transport systems the public interest demanded. As the late Senator McCarran eloquently put it, the legislative studies by this committee and other committees "revealed that if we were to expect air transportation to develop into a sturdy form of transportation rather than a perilous adventure, the economic stability of this industry had to be assured."

Progress toward this goal of a sturdy, economically stable, air transport industry is far from complete. For the investor in an airline, the adventure has not ceased to be perilous. The low earnings and fiscal turbulence of the last 5 years make clear that an airline certificate is not a sinecure. They also make clear that, at the present time, proposals for change in basic elements of the act should be scrutinized with particular care, and adopted only if careful deliberation indicates they will strengthen—and not weaken—the underlying congressional plan for regulation of air transportation.

The keystone of this regulatory plan, as has often been said, is the certificate of public convenience and necessity.

The Congress has carefully defined the terms and content of such certificate, and the conditions upon which it can be issued, so as to insure that it not only will give the holder a measure of security of route, but also will assure that his operations will serve the public interest. At the same time, the act seeks to make sure that certificate holders will fuction as private enterprise—companies dedicated to public service, subject to Government regulation in the public interest, but nevertheless private enterprise.

Thus, the certificate prescribes the point to be served, and the service to be rendered. The certificate issues only after the applicant has proved that the particular service authorized by the certificate will serve the public convenience and necessity, and has also proved that he is fit, willing, and able to perform that service properly and lawfully. Once the certificate issues, the holder is obligated to provide safe and adequate service, at just and reasonable rates, under honest, economical, and efficient management. The certificate may not, however, be used as a device whereby a Government bureau circumscribes and controls the holder's right to provide the number of trips, and the equipment and facilities, which his service to the public requires between the points and in the type of service covered by his certificate.

These elements of the certificate and the certification process are important and embody sound regulatory concepts. The pending bills—S. 1969, H.R. 7318, and H.R. 7512—would detract from the soundness of the regulatory plan in significant respects.

IT WOULD BE UNSOUND TO USE THE CERTIFICATE TO DICTATE SCHEDULES, EQUIPMENT, AND FACILITIES

Take, first, the matter of a certificate limitation upon the right to add to or change schedules, equipment, accommodations, or facilities.

As I noted a moment ago, while the act seeks to enlist private enterprise in the public service, under appropriate regulation by a Federal agency, it does not contemplate that such private enterprises will become mere creatures of the Federal agency. Thus, while section 401(e) of the act directs that the certificate

shall specify the points to be served, and the service to be rendered, by the certificate holder, it also specifically states:

"No term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules, equipment, accommodations, and facilities for performing the authorized transportation and service as the development of the business and the demands of the public shall require."

This is a very important provision to insure that this industry is regulated as private enterprise serving the public interest. It says that once the Board finds a given carrier fit to provide a given service—passenger, mail, cargo, helicopter, or whatever—between specified points, it shall not then seek to manage such details of his business as telling him what schedules he can operate, and when, or—to take another example—whether he can use new or only second-hand equipment.

This inhibition against Government dictation of schedules and equipment is, we submit, the soundest of regulatory concepts. If the public needs a carrier's service, and the Board certificates the carrier for that service, the carrier should be free to compete as vigorously as he can, to build up his business as much as he can, to operate as often as he can, and to use whatever equipment he can. This is, we submit, the course most consistent with a free, competitive economy harnessed to public service. If the very certificate that authorizes an airline to provide a particular service were also to limit the quantum of service to be provided, then we would have the most vicious sort of planned economy. The certificate holder would be told to compete, but not too much; to serve, but not too much; and to make his business as successful as he could, but not any more successful than preordained by the regulatory plan.

We believe—and I would like to make this very clear—that it is sound for the Board to regulate by determining what service the public needs, by what carriers, and where. The Board should, we believe, be in a position to certificate two or six or nine or other number of carriers to compete between a given pair of points in passenger, mail, and freight, or to certificate only a single such carrier between a pair of points, as it determines the public need; to determine that over certain routes one or more all-cargo carriers are needed; to authorize helicopter service, or pickup mail service, or escorted tour service, in certain areas—but not in others—in accordance with the public need. Such regulation of the service to be rendered, and where it is to be rendered, is sound within the concept of the act. It harnesses the carrier to needed public service—and gives full scope to his initiative and ingenuity and resources to provide that public service the best he can.

It is not, on the other hand, sound to attempt to regulate by authorizing a carrier to provide a service, but only a little bit of it. Such an approach is uneconomic. It circumscribes the carrier's opportunity to apply his initiative and enterprise; it deprives him of the fruits of his endeavor; and it inhibits him as a competitive force.

The provision of section 401(e) of the act which forecloses the Board from conditioning a certificate so as to limit the number of schedules was carefully drawn by the Congress to serve just such purposes as I have outlined. A proposal that the regulatory agency be empowered to limit schedules was considered at some length—and then killed—by a congressional committee. I will not, at this time, review the legislative history at length. A single quotation should be sufficient. Commissioner Joseph B. Eastman apparently struck the proposal its deathblow when he testified:

"While the bill gives the Commission authority to fix standards of service, the air carriers propose that the Commission be given specific jurisdiction, upon complaint of other air carriers, to limit the number of schedules flown. This is an unusual limitation upon competition, and they should prove their case at public hearings before you propose it." (Hearings on S. 2 and S. 1760 before a subcommittee of the Senate Committee on Interstate Commerce, 75th Cong., 1st sess. 338 (1937).)

The Board, nevertheless, would now like to have this power. It has, indeed, already—and despite the clear language of section 401(e) of the act—sought to exercise such power. Early in 1959, it purported to certificate some 25 carriers, the former "large irregulars," for a so-called supplemental service. One feature of these certificates was to have been a limitation that the holder could not operate more than 10 individually ticketed flights in each direction between any given pair of points in any calendar month. Such a limitation clearly violates both the letter of the act, and the purpose of the congressional mandate.

It was, not surprisingly, stricken down by the U.S. Court of Appeals, District of Columbia Circuit. The purported certificates were set aside as unlawful, and the matter remanded to the Board for further, lawful, proceedings.

The court thus, in effect, told the Board it had undertaken to regulate in an unlawful and unsound manner, and admonished it to pursue, on remand, a sound regulatory approach.

We believe the Congress should likewise direct the Board to develop a proper regulatory approach, within the congressional mandate. We believe the Congress should reject proposals to the contrary.

Under S. 1969 and H.R. 7318, the Board would be given a potentially far-reaching blank check to condition certificates so as to control and limit schedules, equipment, facilities, and accommodations. The Board would be empowered to issue certificates for "supplemental air transportation," which would contain "such limitations as to frequency of service, size or type of equipment, or otherwise, as will assure that the service so authorized remains supplemental * * *." Moreover, section 401(e) of the act would be amended so as to authorize, in a certificate for "supplemental air transportation," limitations "to assure" that the services are "limited to supplemental air transportation."

These amendments are, in any view, loosely drawn. There is no understandable definition of "supplemental air transportation," which apparently could mean whatever the Board chose to regard it as meaning, at any given time, so long as the Board inserted in the certificate a limitation on schedules or equipment "other otherwise" and said that this would "assure that the service so authorized remains supplemental." The Board has previously said, in an order issued in 1955, that the term "supplemental" is "relative" and "not susceptible of rigid definition." And, in an article published the following year, one Board member went even further and characterized the local service carriers as offering "a valuable supplemental service." By the same token, the service of the all-cargo and helicopter carriers could perhaps be deemed "supplemental." And, for that matter, I suppose it could be argued that the services of any carrier newly certificated between points already being served are "supplemental" and, therefore, subject to limitation to keep them "supplemental." S. 1969 and H.R. 7318 do not tie the limitation the Board could impose to 10 flights a month or any other number: it could, for all that appears in these bills, be 2 flights a day, or 5 or 10 or 50, or some number to be prescribed in a periodic directive as to the current definition of "supplemental."

But I am not here to carp at the looseness of the draftsmanship of these bills. We have, as I have tried to indicate, a basic objection to any proposal that would enable the Board to attempt to regulate by controlling such matters as the schedules and equipment of a carrier. We think this is unsound. We think the Board, has, for many years, been on an unsound regulatory tangent by attempting to deal with the so-called irregulars or supplementals on the basis of limitation of schedules. It is, we believe, high time that the Board pursue a regulatory approach to this group of carriers based on the regulatory principles embodied in the act.

H.R. 7512 would compound the error by writing a numerical limitation on schedules into the act. It avoids the pitfall of giving the Board an undefined blank check to limit schedules by certificate conditions. But, having accepted the unsound principle of schedule limitation in a certificate, it proceeds to set the limitation at so high a figure—192 flights a year—as to make the limitation meaningless for the purpose it is ostensibly intended to serve.

IT WOULD BE UNSOUND TO PERMIT ISSUANCE OF CERTIFICATES, FOR INDIVIDUALLY SOLD ROUTE-TYPE SERVICE, WITHOUT SPECIFICATION OF POINTS TO BE SERVED

The first sentence of section 401(e) of the act provides that:

"Each certificate issued under this section shall specify the terminal points and intermediate points, if any, between which the air carrier is authorized to engage in air transportation and the service to be rendered * * *."

The requirement that the certificate designate the points to be served—as well as the service to be rendered—is, we believe, important to the sound implementation of the congressional regulatory plan. A carrier could scarcely be expected—much less required—to provide adequate service, absent a designation of points. The purpose of requiring the Board to find a need for service would be neglected if the carrier could then fly anywhere. There could be neither security of route, nor regulatory control of competition, if carriers were free to pick and choose, start up and abandon, routes at will.

As the legislative history of the act will show, the Congress had such concepts in mind when it deliberately adopted the specifications-of-points requirement in section 401(e).

One of the reasons the Board's purported certificates for "supplemental" air service were held unlawful is that the Board ignored the plain language of this requirement, and sought to issue certificates which did not specify points, but authorized the holders to fly anywhere in individually ticketed services (subject to the 10-flight limitation). This departure from the act the court quite properly struck down.

Here, again, S. 1969 and H.R. 7318 propose that the Congress change the act so as to override the court decision. The suggestion is that a certificate for "supplemental air transportation"—whatever that means—"shall designate the terminal and intermediate points only insofar as the Board shall deem practicable and may designate only the geographical area or areas within which service may be rendered."

This we regard, for reasons previously indicated, as unsound for individually ticketed services. An individually ticketed service, by its very nature, should be responsive to the needs of the public for service between particular points. If there is a need for such route service, the Board should so find when it issues the certificate. If it cannot so find, as to any given pair of points, the certificate should not issue.

It is to be recognized, however, that for a charter service, specification of points may not be important. The Congress so recognized when it provided, in the last sentence of section 401(e) of the act, that a certificate holder may make charter trips "without regard to the points named in its certificate, under regulations prescribed by the Board." In so doing, the Congress recognized that ability to conduct charter trips, without being trammeled by the particular combination of points set forth in the route certificate, was an essential adjunct to the route service. Where the customer's requirement it for a planeload service, it frequently embraces a combination of points not wholly on the carrier's routes—and perhaps not covered by any combination of certificated routes. Moreover, since the demand for planeload service between any given pair of points is likely to be sporadic, it does not always readily lend itself to advance specification of points in the certificate.

It would, accordingly, do no great violence to the regulatory scheme if the Board were to issue certificates solely for charter trips which, in lieu of specifying "points" to be served, designated the area or areas within or between which the charters were to operate. The recent court litigation, as we understand it, did not particularly focus upon the propriety of an "area" certificate for all-charter operations. On the other hand, there could well be a question, at this juncture, whether an all-charter certificate might not have to specify points, pursuant to the first sentence of section 401(e) of the act, even though the last sentence of that section might make such specification appear superfluous. If this is deemed a problem, a simple clarifying amendment should suffice to make crystal clear the Board's authority to issue all-charter certificates on an "area" basis. This could be modeled on the second sentence of section 401(e) of the act, and would read as follows:

"A certificate issued under this section to engage solely in charter trips in air transportation shall designate the terminal and intermediate points only insofar as the Board shall deem practicable, and otherwise shall designate the area or areas within or between which such charter trips may be flown."

We would have no objection to such amendment.

IT WOULD BE UNSOUND TO PERMIT CERTIFICATION ON THE BASIS OF "GENERAL" FITNESS, REGARDLESS OF THE LIMITED EXPERIENCE AND FITNESS OF THE PARTICULAR APPLICANT

Section 401(d) of the Federal Aviation Act imposes the basic requirement that the Board shall not issue a certificate unless it "find that the applicant is fit, willing, and able to perform such transportation properly, and to conform to the rules, regulations, and requirements of the Board hereunder."

S. 1969 and H.R. 7318 would modify this established "fitness" standard, in the case of applicants for supplemental certificates, by adding the qualification that the Board "give consideration to the conditions peculiar to supplemental air transportation, including the nature of the public need found to exist and the extent of the obligation imposed on an air carrier engaging in such air transportation to provide the service authorized by the certificate."

This qualifying language was originally suggested by the Board last year, for the following stated reason: "The present stringent requirement of fitness should be reduced so that only general findings of fitness need be made for supplemental service."

In our view, the Congress should not countenance the proposed tampering with the "fitness" test for certification. It is one of the act's most important protections to the public interest.

The "fitness" standard is not, of course, a standard peculiar to the Federal Aviation Act. The Congress incorporated exactly the same language in the Motor Carrier Act of 1935—and for exactly the same purpose, to screen out the unfit and irresponsible, and thus protect the public. Likewise, the same language appears in most State public utility laws, many of which predate the Federal legislation.

The urgency of retaining and applying in air transportation the fitness standard—the "stringent" fitness standard, if you want to use the Board's adjective—can be readily documented. The long and sorry history of the abuse and mistreatment of the public by miscellaneous nonsked and irregular carriers is a case in point. It can be directly related to the Board's failure to apply the fitness standard to these carriers.

This committee is, of course, familiar with the broad outlines of this sordid story. I would nevertheless like to review some aspects of it briefly, so as to put in perspective the importance of the fitness standard. And, before doing this, I would like to emphasize our belief that the bulk of the 25 carriers to whom the Board purported to issue supplemental certificates are blameless of the sort of misconduct which blackened the name "nonsked" and are no doubt fit for future operations under appropriate regulatory authority. But—and this I would also like to emphasize—we do not believe the Board has yet done the job it should have done, under the statute and in the public interest, in screening out the unfit.

The nonscheduled or large irregular carriers, it will be recalled, originally got into business some 15 years ago under a broad, blanket exemption which required none of them to show either fitness, or a need for his services. By 1947, the Board found that operations by some of this group had "* * * resulted in numerous complaints to the Board concerning tariff and operating practices, including but not limited to failure of such carriers to perform the services agreed upon, great variations in the fares and rates charged by the same carrier for comparable service, failure to make refunds to passengers and shippers for transportation not performed, misrepresentation of equipment, facilities, and services, and use of inadequate and makeshift equipment and facilities." (Regulations No. 388, May 5, 1947, 12 F.R. 3076.)

These abuses of the public were, it will be noted, the typical sort of thing likely to occur where a carrier goes into business without adequate financial resources, a proper organizational basis, and a plan for operations prepared by competent personnel—the classic tests of fitness, applied by the Board in normal certificate cases.

But, unfortunately, the Board did not at that time undertake a program to apply a fitness standard to these carriers. It merely required the "large irregulars" to obtain a letter of registration—which issued upon a simple one-page application, without any requirement as to need or fitness. At one time, there were 109 of these letters of registration outstanding; the 25 carriers to whom the Board purported to issue supplemental certificates are the survivors.

By 1949, it became apparent the "letter of registration" program had not solved the problem. The Board found that "* * * the widespread abuses noted by the Board in its findings attached to the revision of section 292.1 in May of 1947 have not only continued, but in many respects have become greater and more flagrant." (Regulations No. ER–142, April 13, 1949.)

At this point, the Board announced a program for a carrier-by-carrier review of the qualifications of each of the large irregulars, looking toward either cancellation of the carriers' letters of registration, or issuance of a specific individual exemption. This program was not, however, carried through. Instead, in 1951, the Board instituted the *Large Irregular Carrier Investigation*, docket No. 5132. The specific fitness of each of the irregulars and the need for his particular services, were among the stated issues in this proceeding.

And, if ever a record showed the importance of painstaking application of the fitness standards, this one did. Voluminous evidence was adduced by, among others, local governments and better business bureaus, who—as the Board

found in 1955—were "interested primarily in assuring protection against malpractices of which many irregular carriers and their ticket representatives or owners have been guilty." Based on this record, the Board and its examiners in their 1955 decisions cataloged—but in greater detail—essentially the same abuses the Board had found in 1947.

Thus, it was found in 1955 that—

"The record is replete with evidence that there has been widespread violation of law and regulation and failure to fulfill the duties to the public which a common carrier should assume. These matters have taken the form of * * * stranding of passengers, failure or refusal to make refunds on tickets where the prospective passenger was not carried. Many operations have been started on the basis of complicated financial manipulations whereby there was no money invested in the business. In some cases, the transportation tax collected from the travelers for the Federal Government was used as working capital."

And the examiners declared that while they "do not find that all of the irregular carriers have engaged in these wrongdoings, so many have done so that the matter cannot be shrugged aside as one of isolated individual defections."

This record, running back so many years and featuring findings made, in almost the same words, in 1947, and again in 1949, and again in 1955, is convincing evidence of the importance of regulation based on specific findings of each carrier's fitness. On each occasion, the Board was referring to the sort of abuse of the public which most likely reflects attempted operation by a carrier lacking the financial resources and organizational responsibility that meet the fitness standard.

Against this background, we believe that the Congress should reject the Board's present proposal that "only general findings of fitness need be made for supplemental service." For entirely too long, the public has had to suffer the consequences of operations by carriers who never met the fitness standard which the Congress adopted in 1938.

As the Board has advised the Congress, the purpose of this proposal for "general" findings of fitness is to enable the Board to rely upon the same sort of findings of fitness that it made in its 1959 decision granting "supplemental" certificates. These are the findings which the court struck down as not in compliance with the act. And even a brief analysis of these findings will indicate doubt that the Board has yet attempted an adequate screening of these carriers for fitness, having in mind the important protection to the public involved. Thus, one of the applicants who was found "fit" had a net worth of barely $19,000, including a fleet consisting of a wrecked DC–3 purchased for $75, and another of the applicants had a negative net worth of over $188,000. The first had not operated at all for six years, and the second only sporadically since 1954; nevertheless, each was given certificate authority to operate nationwide passenger or cargo services. This sort of approach is virtually an open invitation to more of the "stranding of passengers, failure or refusal to make refunds" which has been all too frequent in the past.

Under the Board's "general" findings of fitness, carriers which had formerly operated only charter flights, or flew exclusively for the military, were authorized to engage in individually-ticketed passenger service; carriers which had flown only overseas were authorized to operate domestically; carriers which had carried only freight were authorized to transport passengers; carriers which had operated mainly in or from Alaska or from southern California, were authorized to conduct all of the above types of operation throughout the United States. This sort of scatter-shot approach to fitness the court recognized as contrary to the congressional mandate. As the court said:

"In many instances, the prior operations of individual applicants had been small or specialized, and in many instances the financial resources, adequate for the types of operations theretofore conducted by the carriers, were inadequate for operations of the scope authorized by the certificates."

But the inadequacy of this generalized approach to fitness becomes even more apparent when one considers cases where the Board apparently would have certificated the applicant as "fit," had not the vagaries of fate caused it to reopen the proceeding for additional evidence.

Thus, the Board's 1959 decision found one applicant "fit" on the basis that, while its corporate balance sheet showed inadequate finances, its principal stockholder was a man of means who could make good any losses. This, in itself, is a curious finding for a regulatory agency, since it seems to say that a wealthy man can rely on his personal wealth to establish financial "fitness" of

an incorporated carrier—but still keep himself in a position to draw at will the corporate veil against the carrier's creditors. In any event, it transpired that the principal stockholder had died shortly before the Board's decision. The Board discovered this fact before the certificate had been physically delivered to the carrier, and withheld issuance of the certificate pending further proceedings to determine what provision, if any, had been made to replace the prior stockholder. The significant point may well be that, had death here occurred some few weeks later, when the certificate was firmly in the hands of the corporate applicant, there would have been no way for the Board to recall its action.

In another instance, the Board's examiners found an applicant financially "fit," but the Board deferred final decision because of a reported change in management. On September 25, 1959, the Board entered an order, consented to by the carrier, which suspended its operating authority on the ground that it had become bankrupt and ceased operations, and because of its "failure to make refunds of tickets purchased from it," failure "to perform flights due to its financial inability to provide the necessary flight equipment and personnel" and "to give proper and adequate notice * * * to persons holding tickets and reservations," which activities "caused great financial and personal hardships involving the subjection of many passengers to inconvenience and serious physical discomfort."

And so, in September 1959, we find a Board order, directed to a carrier which was apparently regarded as financially fit under the "general" fitness standards the Congress is now asked to approve, which echoes the same things the Board found wrong in its public statements in 1947, in 1949, and in 1955.

In our view, there is no reason why the Congress should now amend the act so as to validate relaxation of the fitness standard.

THE "FIRST REFUSAL" PROPOSAL IN H.R. 7512 IS UNFAIR TO THE PUBLIC AND THE SCHEDULED AIRLINES

H.R. 7512 proposes that, by law, "supplemental air carriers shall have the *right* of first refusal in the operation of *all* charter trips in interstate, overseas, and foreign air transportation." (Emphasis supplied.)

This would mean that a member of the public would be denied the right to choose to charter from a scheduled airline so long as any supplemental exercised its "right."

The public would be deprived of this freedom of choice even if the supplemental's price were higher.

It would be deprived of this freedom of choice even if the supplemental's equipment were inferior.

It would be deprived of this freedom of choice even if the supplemental had left stranded its last three loads of passengers.

It would be deprived of this freedom of choice whatever the potential charterer's reason for not wanting to charter from the supplemental which demanded its "right."

But this is not all. The supplemental's "right," under the sweeping language of H.R. 7512, would extend so far that a scheduled airline could not even operate a charter over its own certificated route so long as any supplemental asserted its "right," at any price and under any conditions.

A case can be made for a policy, a regulation, or a law that assures a carrier of equal opportunity, or even preferential opportunity, to provide charter and contract services over the routes for which it holds certificates of public convenience and necessity. The certificate holder is obligated by law to provide adequate service over the route. It is only equitable to give him equal, or greater, rights to operate charter and contract services over that route than accrue to a carrier who has no obligation to serve the route.

No case can, however, be made for giving carriers—such as the supplementals—who have no obligation to provide any service whatsoever, a statutory right to oust certificated carriers from charter service over their own routes.

ALL-CHARTER AUTHORITY AFFORDS A SUITABLE AND PRACTICAL BASIS FOR SUPPLEMENTAL CARRIER OPERATIONS

Certificates solely for charter operations would be consistent with the regulatory approach of the act, and would rest on sound principles. Such certificates would embody regulation based on what service is to be provided, where, and

by whom, instead of trying to permit certain carriers to engage in a little scheduled air transportation, but not very much. And it is clear that contract and charter services have provided a fertile and growing field for the certificated supplemental carriers—a field which, indeed, constitutes the bulk of their operations.

The latest revenue data for the supplementals, published by the Board, are for the year ended June 30, 1960. These data are based on the supplementals' official financial reports to the Board. Comparison of the fiscal 1960 data with those for prior fiscal years shows that, since the Board by its 1955 decision enlarged the scope of supplemental charter operations, the supplementals have expanded rapidly in the charter field. The rate of increase, for the 25 certificated supplementals, is indicated in the table below:

Year ended June 30—	Contract and charter revenues	Percent increase	
		Over prior year	Over fiscal 1956
	(*Thousands*)		
1956	$21,910		
1957	24.036	9.7	9.7
1958	27,788	15.6	26.8
1959	39,696	42.9	81.2
1960	47,111	18.7	115.0

During this same 4-year period, while the charter and contract revenues of the 25 certificated supplementals more than doubled, the operating revenues of the domestic trunklines increased by only about 12 percent per year. It is thus abundantly clear that the charter field which the Board opened to the supplementals in 1955 gave them a very real opportunity for business growth.

These same revenue data, as reported by the supplementals and published by the Board, also reveal that charter and contract services have generated the bulk of the revenues of most of the 25 certificated supplementals. Individually ticketed passengers and individually waybilled freight services are of lesser importance. Thus, for the 2-year period ended June 30, 1960, Transocean and U.S. Overseas—only two of the certificated supplementals—accounted for almost 85 percent of the individually sold revenues of the entire group of 25 carriers. For the remaining 23 carriers, charter and contract accounted for 94 percent of total transport revenues, and individually sold services accounted for only 6 percent.

The eagerness with which some supplemental carrier spokesmen seek access to noncharter markets should not be permitted to obscure the facts as to their growth and success in charter markets.

It should be noted that the Board's two hearing examiners, in their initial decision which led to the Board's 1955 decision, originally found that the authority granted these carriers should be basically only to conduct charter operations, and should not include authority to conduct individually ticketed services of a route-type nature. Two members of the Board advocated the all-charter approach, but were outvoted by the three members who felt that a limited individually ticketed authority should also be granted. Thus, of the seven men who devoted their talents and expertness to deciding the scope of the authorization, four rejected the notion that the 10-flight-grant for individually ticketed flights would serve the public interest and accord with the sound regulatory concepts of the act, while only three favored a limitation-of-schedules approach.

Available data—such as those cited above—would seem to indicate that the four were right, and the three were wrong. This is particularly so since the three based their decision on the notion that the "health and prosperity" of the certificated carriers "permitted" expansion of supplemental carrier operations. Whatever may have seemed to be the "health and prosperity" of the scheduled airlines in 1955, in no year since could any such basis have been asserted for expanding supplemental operations.

The Board has not, in any public pronouncements since 1955, reaffirmed its 1955 decision on the basis of reevaluation in the light of developments since 1955. It has, at each stage, merely said this was decided then, and so should be done. Indeed, the current Board is in the paradoxical position of asking the Congress to amend the act so it can certificate the supplementals for the scope of opera-

tions deemed sound in 1955—or for an undefined greater scope of operations—while at the same time it asks the Congress for an appropriation to hire outside consultants to make a "study" and tell it what the proper role of the supplementals should be. The Board has requested a $50,000 appropriation for this purpose. Part of the justification for this request, in the Board's testimony before the Subcommittee on Independent Offices, House Committee on Appropriations, on March 27 of this year, was "We have to have some detailed thinking based on studies of what should be the role of the supplemental air carriers in the future. * * * I do not think any of us can give you any answer today on what we think it should be."

The situation is accordingly this: The "health and prosperity" basis of the 1955 decision is exploded. The Board has not reexamined that decision. The Board appears uncertain that its prior decision was right.

Under all the circumstances, we submit that this is no time for the Congress to enlarge the operating authority of the supplemental air carriers. Nor is it a time for the Congress to empower the Board to enlarge the supplementals' operating authority, in an undefined manner, at an indefinite future time, under a scheme which involves basically unsound regulatory principles. The most that the Congress should do, at this time, would be to amend the act so as to make clear that the Board could issue certificates for all-charter operations.

Such congressional action would not foreclose the Board from completing its studies—either through outside consultants or through its own staff—and then proceeding as an up-to-date evaluation of the problem might indicate. Meanwhile, the supplementals would be enabled to conduct all-charter operations, on a sensible and practical basis, consistent with the regulatory precepts of the act.

For such reasons, we support H.R. 7679. We oppose H.R. 7512, H.R. 7318, and S. 1969.

Senator MONRONEY. You may proceed, if you wish, to summarize your statement. It will be included in full and then what comments you make will immediately follow.

Mr. TIPTON. Thank you very much, Mr. Chairman.

Proceeding in that way, it appears in the course of the discussion before the committee that there have arisen two major issues on the basis pretty much of the Board's request for additional authority.

The Board has requested two things, actually: They have asked the committee to validate the certificates issued some time ago to 25 supplemental carriers, which certificates were held invalid by the court of appeals for a variety of reasons that I will touch on in the course of my statement. That is one request, to validate action already taken.

The second general request is to give the Board broad new power to issue supplemental certificates and to eliminate from the statute, one of the basic policies which the Congress introduced into the statute at the outset and reaffirmed in the Federal Aviation Act of 1958.

That principle is that the Board shall not have the power in issuing a certificate to restrict schedules, equipment or accommodations of certificated carriers.

We oppose both of those actions in the form in which they are presented.

As far as the validation of the certificates, that problem is concerned, we recommend not the full authority given by the Board which the court struck down, but authority to operate charter service within the scope of the certificates.

Second, we oppose the Board's recommendations for striking out the basic principle that I referred to and suggest instead that they be given clear authority to issue certificates authorizing the operation of charter service.

Now to turn to our reasons for making those recommendations: in presenting those reasons, I think we need to look at the present condition of the scheduled air transport industry at the present time. One reason it is particularly important to review the present financial condition of the industry is that the Board in issuing its original decision, of which they now seek the committee's endorsement and validation, in that they were pressed to pass upon the question of the impact of the proposed new supplemental carriers upon the then financial condition of the scheduled air transport industry, it was vigorously argued before the Board that the scheduled system would be damaged by the broad authority proposed.

The Board nevertheless proceeded to issue the broad authority which the committee is asked to validate, but in doing so, the Board recognized that an important issue had been raised by the representatives of the scheduled airlines system and they had this to say in support of the decision they made.

> It is the fundamental health and prosperity of the certificated carriers that has permitted us to expand the area of competitive services by those carriers and it is the same health and prosperity that permits us to enlarge the area of operations of our supplemental air carriers without undue concern over the impact of this action upon our certificated route system.

That was said in 1955, and at the time the Board made that statement, the scheduled airline system was in a relative way of speaking prosperous and thus the Board in reviewing that evidence may well have had some justification for reaching the conclusion that they could go further.

That conclusion by the Board has never been reexamined in all of the various proceedings and conclusions the Board has reached since. That one they have not reexamined. The scope of the supplemental carriers' authority has remained roughly the same. However, the financial condition of the scheduled airline system has markedly changed since that conclusion was reached.

I would like to take a moment to describe it.

A very brief description is that the earnings picture of the domestic airlines taken as an industry is dismal. The local service and helicopter airlines have not yet reached the point of being self-supporting and must rely on subsidy.

In 1960, the 12 domestic trunklines reported an industry net profit of only $1,188,000 or less than one one-hundredths of 1 percent profit margin on gross operating revenues of almost $2 billion.

To provide some measure or measuring stick against which this profit can be noted, domestic trunklines earned a profit of 5 cents on every $83 of sales.

A typical U.S. corporation earns about 5 cents on every dollar of sales.

In considering this year's dismal results, you have to consider what the Board has done in the recent past in analyzing the economics of air transportation and making determinations as to what a scheduled airline should earn.

For a period of about 4½ years, the Board conducted a proceeding called the general passenger fare investigation; one of the major objectives of that investigation was to determine what rate of return, what profit an airline ought to make in order to achieve, in order to

be able to achieve the objectives set forth in the statute of maintaining and operating an airline and developing an airline in the public interest.

That proceeding was one of the most elaborate ever conducted by the Board. The Board had before it very voluminous testimony by financial experts, including a study by an independent expert retained by the Board.

The Board came out with a conclusion, after all of this consideration, that in order for an airline to achieve the growth, the development, and the maintenance of good public service that is required in this dynamic industry, it ought to make on an industry basis 10.55 percent on its investment.

Now, let us see exactly what that means.

The investment of the 12 trunklines, and I will use them as an example here, the 12 trunklines had an investment in 1960 of slightly over 1.6 billion. On this 1.6 billion they should have earned on the rate of return found needed by the Board, $172 million. This would have covered interest payments of 43.8 million and provided a profit after interest of $128.2 million.

Instead, as previously noted, the trunkline profit after interest was only a $1,188,000—or an earnings deficiency, so to speak, of $127 million.

Senator MONRONEY. Let's see if I understand these figures.

The net earnings of 1 million-plus included the payment of interest, of course?

Mr. TIPTON. Yes, sir; the interest had been paid.

Senator MONRONEY. The interest had been paid, so I don't think you can count the interest both ways.

Mr. TIPTON. I was not counting the interest both ways.

Senator MONRONEY. This was profit after interest?

Mr. TIPTON. Yes, sir. On our investment, of 1.6 billion, we should have been able to earn our interest and in addition, $128 million.

Senator MONRONEY. That was the correction I thought needed to be made.

Mr. TIPTON. Yes, sir; it was stated very carefully in my testimony to be sure that we do not cover the interest twice, but actually what we did, instead of making our interest plus $128 million, we did earn our interest and $1 million more. So that we were short in effect, as far as looking at it from the Board's standard is concerned, we were short $127 million.

Senator MONRONEY. That is bad enough at best, but I just did not want to make it any worse.

Mr. TIPTON. Yes, sir; it is bad enough at best. And that is 1960. What makes this situation more disturbing is the fact that 1960 was just the worst of 5 successive bad years of airline earnings.

Computing the earnings deficiency on the same basis, and considering it in successive years, it aggregates over this 5-year period a deficiency of $285 million.

I have this set forth on a table on page 11 of my statement.

This shows that we have failed to earn what the Board felt was necessary in this 5-year period by an amount of over one-quarter of a billion dollars.

Now, looking at that table, there are other things of significance, financial and economic significance, that I want to point out also.

It will be noted from the table that we have had a great growth of traffic during the period, the 5-year period covered by the table. Revenue ton-miles carried increased from 2.4 billion in 1956 to 3.3 billion in 1960 or a 38-percent growth.

Consequently, it makes it quite clear that this failure of earnings does not result from failure of traffic development.

The difficulty here has been an inability to carry forward with the earnings increases in business.

Excuse me, Senator Smathers, I was just referring to a table in my statement which appears on page 11, and the general discussion of the economics of the industry with which you are very familiar, I know.

Another thing that is of concern here is the very rapid increase in interest charges which have to be borne by the industry.

As you will note, in 1956, we had a relatively small—it looked large then, but it now appears to be a relatively small $10 million bill for interest.

In 1960, the interest burden quadrupled to 43.8 million. The important thing, the reason for that increase in interest is quite obvious, that we have bought hundreds of millions of dollars worth of the finest transport equipment that can be had and in the course of that, have increased our indebtedness considerably.

The interest charges, of course, are of a great consequence because they are charges that must be met or the carrier is faced with bankruptcy.

It is not a charge that you can pass during a temporary period of financial stringency, it is a charge that you must pay.

Consequently, the heavy load of interest the airlines are carrying is of great economic and financial consequences.

Then a third point to consider in looking at that table is the fact that we have been short over this 5-year period some $285 million. That had had a compounded result, of course.

In the first place, we did not make the earnings, but in the second place in this period of high investment on the part of the industry, we were required to borrow more rather than to use these funds to plow back into the business, thus increasing our debt load, thus increasing our burden of interest. With this kind of a financial picture and one that our first 4 months of this year does not look a bit better, it seems to us that great concern must be had for the imposition of considerable additional competition or potential competition upon the industry.

Our first 4 months, our losses as an industry, and this is not an earning deficiency, the kind I have been talking about, this is a loss, of $16 million.

This year is quite clearly not going to be a good one and it will add another set of dismal figures to the 5-year figures contained in the chart.

So that when the Board originally reached this decision in 1955 to give this broad authority to supplemental carriers, a large number of them, and relied in giving this authority on the prosperity, the noted prosperity of the industry, it is perfectly plain that the extent of that authority must now be reexamined.

Sometimes it is said, without any regard to financial condition of the industry, it is perfectly appropriate to expand and enlarge the scope of the authority of the supplemental carriers because they really don't have any adverse impact on the scheduled carriers anyway.

Let's look at that a moment.

The last data that I had before presenting this statement with respect to the operations of the supplemental carriers was for the fiscal year ended June 30, 1960.

I have some more and will comment on that before very long, but I will use these figures here for the purpose of illustration and to eliminate confusion.

During that fiscal year, the 25 supplementals to whom the Board issued certificates in 1960 reported individually sold revenues of $11½ million. Those are the ones that got certificates.

In addition, certain of those that did not get certificates but were permitted to continue to operate, had individually sold and the bulk of this was passengers, of $9.5 million.

The aggregate, thus, during that fiscal year was $21,338,000. This was just 17.7 times the domestic trunkline profit. Most of this traffic moved in individually ticketed service went over the routes of the scheduled carriers, which routes had ample capacity—I could say excessively ample capacity—to move the traffic.

Now, I have been asked: Why is it appropriate to compare this gross $21 million with the net profit of the carriers of the scheduled airlines?

The reason it is appropriate is that in view of the fact that the scheduled carriers must operate these services that they are operating, in view of the fact that they are operating at steadily descending load factors, a very high percentage of this $21 million would have gone directly through to net profit, so in considering the scope of supplemental carrier operations, that economic fact of life must be taken into account.

The New York-Miami operations of certain of the supplemental carriers are deserving of particular attention, it seems to us, because a review of their flight reports indicate a very high percentage of their operation being concentrated on the weekends, a time of the week when traffic is best in that operation.

Thus, the supplemental carriers operate on the weekend when traffic is best and leave to the scheduled carriers on that route the operation during the weekdays when traffic is least.

Applying the economic problems and facts that I have related, as you will note from the chart on our table on page 15, which sets forth the financial results of individual carrier operations, the three New York-Miami scheduled carriers that are required and do maintain this service, lost $19 million during 1960.

Another major consideration that has to be taken into account in considering this broad grant of individually ticketed authority to supplemental carriers is the possibility of aggregating those 10 trips a month into major daily operations in the event that 3 carriers cooperate in some fashion to run a daily service or, in the case of more than 3, that can be multiplied endlessly up to the total number, as I believe certificated at the moment, of 25. That is 250 trips a month between any pair of points chosen. The points chosen will obviously

be the points between which major traffic flows are present. So that we can expect the aggregation of these permitted trips between those points.

An interesting illustration of this type of operation is now available for consideration arising out of the movement of recruit traffic, Air Force recruit traffic, from New York to Lackland Air Force Base, near San Antonio, and from Chicago to that same base.

That has been quite a substantial flow of traffic for a long time. Actually, it is about 1,400 passengers a month out of the New York area and about 1,200 passengers a month out of the Chicago area. The reason this is a good illustration, one reason, is that I can remember during a period when we were trying to convince the Defense Department that they could move their traffic by air a great deal of work was done by the scheduled airlines in developing this recruit traffic and they were moving it over the scheduled system on an individually ticketed basis.

Now and during the past several months, the supplemental carriers have arranged, through cooperation, to maintain approximately a daily service over that route so as to move this recruit traffic. The traffic is sold by the supplemental carriers, military traffic organization, and is organized something in this fashion. The recruits move to a central point, Chicago or New York, one of the New York airports, the short haul going to either rails or buses or scheduled airlines.

Then the long haul from Chicago or New York to San Antonio is moved by the combination of supplemental carriers.

If on occasion there is too much recruit traffic for the supplemental carriers to deal with in their own equipment, they provide the transportation on scheduled carriers.

If the traffic is too small, then they can use the scheduled carriers to back them up again, so it is not only a good illustration of how these number of individually ticketed services a month can be aggregated but it also is a rather strange inversion of the concept that the Board enunciated in its supplemental carrier decisions.

Here we have in practical effect the scheduled airlines supplementing the supplementals, feeding them short-haul traffic, handling their overflow, providing the backup for the days they do not operate.

So that I give that as an illustration of the technique of operations which has prevailed in the supplemental business on many occasions over the years, and which is an obvious opportunity to continue.

I have noted a bill pending in the House, which I do not believe is before this committee, in which it is recommended that the supplemental carriers be permitted to operate 192 individually ticketed flights a year, between each pair of points. There they do not need to aggregate in the way I have just described.

This would permit one supplemental to operate a daily schedule for 6 consecutive months, and then a second supplemental to take over the route for the next 6 months, so that it would be a relatively simple matter to organize a daily service over a particular pair of points or a number of pairs of points since these 192 annual individually ticketed flights a year would be applicable with respect to any pair of points chosen by the carrier concerned.

Senator SMATHERS. Mr. Chairman, is it permissible to ask a question?

Senator MONRONEY. Perfectly all right with the chairman. I did not know whether the witness wished to read his statement before questions.

Senator SMATHERS. Mr. Tipton, I am curious about the testimony you have given with respect to the losses. Back on page 11, you talk about your net profit operating revenues and so on, and you say in 1956, $57.7 million and so on, in 1959, $61.7 million, and gross profit blank, and profit margin is down to 0.1, and so on, and then over on page 12, you indicate that, of course, this resulted in some measure because of movement into jets.

I would like to ask you this question: Has there been any less number of people traveling in 1960 than did in 1959?

Were any less numbers of people traveling on the major trunklines?

Mr. TIPTON. No. I believe in 1960 we had a modest increase in numbers over the previous year, numbers of people, and a modest increase.

Senator SMATHERS. Is it safe or is it fair to say that this drop in 1 year of net profits of 60 percent, that that resulted almost exclusively from the movement from piston aircraft into jet-engine aircraft?

Mr. TIPTON. I would not say it was exclusive of that, that played a great part in it, no doubt about it. We have the debt that created increased interest expense of some $11 million over those years and we put into service a considerably greater capacity in transition from piston to jet which reduced the load factors industrywide in that year.

We were affected to a certain extent, and we never know quite how much, by the general recession that has been going on. I suppose you could list a dozen or more individual elements that moved into this picture that resulted in this rather dismal situation.

Senator SMATHERS. Right.

Now we are all worried by it, as you are, and I think have reason to be, but trying to really ascertain what are the reasons for this enormous drop in net profits, would you say that first, it would have been, of course—it had to be the movement into the jet aircraft, because there was no less number of passengers who traveled?

Mr. TIPTON. I would say that I believe I would agree that the major economic factor in this picture is the transition to jets, with all the impact that that brings with it, the additional training, revision or maintenance, additional interest.

Another major factor is the rapid transition of traffic from first class to coach, which does reduce your yield, coach fares being 75 percent, very roughly, of first-class fares.

Senator SMATHERS. Now, the major trunklines do have the right to go to the CAB and ask for permission. In fact, I guess in some instances they don't have to ask for the right to run as many tourist flights; they are not required to run all these first-class flights, are they?

Mr. Tipton, in other words, they can do that which they believe, with respect to tourist and first class, will attract the most people.

Mr. TIPTON. That is right. They are not—that is one of the major arguments here, as a matter of fact, that the Board in their bill, is seeking to get the power to regulate accommodations that a carrier provides for this traffic, if they call him a supplemental.

If they call him a supplemental carrier, then they get the right and give him a supplemental certificate, then they get the right to regulate his accommodations and we are vigorously opposing that as vigorously as we know how to, because we don't think the Government ought to be in a position to do that.

Senator SMATHERS. You don't believe the Government ought to be in a position to tell you what type of traffic you will carry, whether first class or tourist?

Mr. TIPTON. No, or what kind of equipment we should operate, subject to safety regulations, obviously, or how much of it.

Senator MONRONEY. Or the frequency of schedule?

Mr. TIPTON. Or the frequency of schedules.

Senator MONRONEY. You would not want that to apply to the supplementals. You are not coming in and saying, It is fine for the scheduled lines to have absolutely unlimited control over the number of flights, and things of that kind, but you would not want another certificate for supplemental to be applied to the holding of the court that the CAB could not regulate their number of flights?

Mr. TIPTON. That is a major reason here for providing authority, not this halfway authority to be both a charter operator and a regularly scheduled airline at the same time.

We are suggesting that rather than create a class of carriers whose schedules are restricted and inevitably creating confusion and enforcement difficulties, inevitably, that the certificates for supplementals provide for charter service and not restrict the carriers on how many charters they can operate.

Let them develop that business to get as big a charter business as they can get within the area in which they are supposed to work.

Senator SMATHERS. Mr. Tipton, back to this question of the number of passengers. Is it your anticipation that there will be less and less number of airline passengers or more and more?

Mr. TIPTON. As of right now, as I recall the first 4 months, the number is down. But I do not regard that as a permanent situation. I think maybe if I thought that was a permanent situation, I would look for other work. I would have no doubt that the number of passengers will increase and that is the objective of the industry I represent.

Senator SMATHERS. Now to shift to another question, Mr. Chairman, if I can be indulged on a personal observation here a moment.

Mr. Tipton, properly representing his people, says that he does not want the CAB to have the right to have anything to do with the scheduling. My own personal experience as a regular traveler of regularly certificated trunklines is that they don't schedule these flights at a time that is designed apparently to collect the most passengers.

Moreover, it seems to me, the scheduling is being done on the basis of when is the time to run in order to compete with our other carrier, who may be running, for example, from Washington to Miami, or to wait late enough to get the mail, with the result that when you go from Washington to Miami, you will find that there are three airlines which leave within the space of about 55 minutes, and they sit out on the end of the runway, going to the same place, burn up gasoline, day after day, and when they come back, they all come back about the same time.

As a matter of fact, when you sit up front in the cabin and talk with these fellows, you can hear National, Eastern, Northeastern, whatever you are riding, talking back and forth.

I wrote a letter many years ago to CAB and some of you people, and said why doesn't somebody run a flight at 2 o'clock instead of everybody going at 4:30, and the only thing I got back was a howl that we are not going to let anybody tell us how to run our airlines.

Mr. TIPTON. You didn't get that from me.

Senator SMATHERS. I didn't get it from you but I got it from some of the others. As far as I am concerned, I think a more intelligent schedule can be made with respect to serving the public more conveniently, and I think you will get more passengers if everybody doesn't try to run at the same time up and down. That is just one Senator getting off a little steam, and this has nothing to do with Mr. Tipton, I know, but I would like to see somebody get in charge of the scheduling.

Senator MONRONEY. More and more this committee seems to be listening to the railroads instead of the airlines as they come before our committee. I mean, the chart on page 11, to which you refer, on the operating revenue, shows that between 1957 and 1956 there was an increase of $157 million in operating revenue; between 1958 and 1957, the increase was $93 million; between 1959 and 1958, the increase was $286 million, a very good year; and 1960, it was $154 million.

So they had a normal increase, although their losses, earning deficiency, inclined materially. This does not indicate a lack of traffic, but an oversupply of receipts in bringing in jets and retiring piston aircraft, and in some cases, overscheduling between certain de luxe points, all for the vanity of the airline president or something, or for the reason of competitive position.

In Dallas, Tex., the only way you can get out of Oklahoma City and get in before nightfall, to Washington, is to go to Dallas between 9 and 9:45. You have two jets competing between Dallas and New York, nonstop, leaving within 15 minutes of one another; and you have two Electras, Braniff and American, competing, within a 45-minute period, when either the two jets could land at Friendship, and service Washington, and go on to New York. But because of the vanity of the nonstop operation—it would make it maybe 15 or 20 minutes delay—we have four pieces of the most expensive equipment in the airline industry crowding the airspace in that 45-minute period.

I haven't been fortunate enough to fly the jet because I come to Washington and am denied that service—because of unwillingness to land at Friendship, I presume—but the Electras are practically two-thirds empty on every flight that I make.

And so you just wonder sometimes whether we are not forgetting the economics of the airline in an effort to achieve a high degree of vanity, to be "fustest with the plushest" in the business.

Senator SMATHERS. Why is that?

Mr. TIPTON. May I comment on this?

Senator SMATHERS. I have been asking this question for years and have not gotten a satisfactory answer yet. Here is the same illustration, and you could get the same illustration I assume hundreds of times.

Mr. TIPTON. Let me deal with this briefly and then I have a request to make.

The bunching of schedules isn't any more fun for airlines than it is for the traveling public. The difficulty with scheduling is that whether we like it or not, the bulk of the public wants to ride at a particular time. Now we have a number of cases in which you know, every hour on the hour, Chicago, every 2 hours on the hour, to New York—you ought to watch how that goes down when you get them off the favorite periods of people to travel.

You are right, we sit out at the end of that runway at Washington National, this is partly an airport problem, but it is also partly a scheduling problem, for say 30 minutes. That is a very, very costly 30 minutes. We hit the traffic pattern in New York or here, creating an air traffic problem as well, which causes delays.

I just spent 2 days with the operations conference of the Air Transport Association—that is all the vice presidents of operations. It was estimated there that air traffic delays are costing us millions of dollars a year, and they undoubtedly are.

Now, I feel sure that our schedule bunching is not a result of airline desire to bunch schedules; it is murderous. It is a reflection of the desire of the public to move at those times.

Senator SMATHERS. I wrote to some of my friends in the CAB and said I would like to see a testing of the public opinion on this particular matter, and it was about as big a secret as I guess the H-bomb used to be. I would have had to be a Russian spy to find out. Nobody had it.

It appeared to me, very frankly, that it does cost all this money, it does have a danger factor. It would seem to me that we do need some master plan, so to speak. Obviously, I would agree that most everybody wants to leave after work, when they are going from Washington, New York, or even probably from here to Miami. But that doesn't mean that there should not be any plane that leaves during the day to go to Miami.

It would occur to me, if somebody had the authority to say, all right, Eastern, you are going to get it for awhile, we will let you run this line at 5 o'clock to Miami, but we are going to make some of you others take alternate 3-hour spots. There ought to be something done.

I agree that probably most everybody would like to go at those hours, but not everybody, and I think that the saving that could be accomplished in gasoline, with respect to navigational problems, all that kind of business, would in the long run, save money. You would make a lot more money than you are making now, all of you would, if somebody would do it. But it is just, as I am afraid the Chairman says, there is a lot of vanity involved in it. There is an idea that we are going to run at this particular time, and I think this airmail contract has something to do with it.

Senator MONRONEY. It does, and unless they go out with about 45 minutes of each other, the airmail is not split; if they go beyond that 45 minutes departure time, then the first plane out gets the full mail. So the Government is contributing in a way to cutting this first out-service, to bunching these for dividing airmail, although it seems rather insignificant now compared with cost of operating jet passenger planes two-thirds empty.

Mr. TIPTON. I would like to make a request of the committee because I have heard many comments similar to the ones that are made here on scheduling. I would oppose pretty vigorously any idea of the Government having power to regulate the scheduling of airplanes. I think that goes too deeply into the management of the business. But, I would like to come before this committee at a period when the committee had time, to present a study we have just recently completed, on airline scheduling, not only the traffic phases of it, but also the maintenance and operational phases of scheduling, which will permit the committee, I believe, either through examination of our direct presentation, or by addressing questions and asking us to furnish additional information, to get to the bottom of the problem that you are discussing.

This is no vanity business. All of us are a little vain, but not that vain, to have one of our airplanes sitting on the end of the runway for 30 minutes at a time. I don't think anybody is that vain, so I don't think it is that.

I would like very much to do that, Mr. Chairman, at a time convenient to the committee.

Senator MONRONEY. I think that would be quite proper, but I think it is still rather significant, when the mighty ATA, representing probably the finest and most competent fleet of airlines ever put together and aircraft and air experience, comes before this committee and says that two-tenths of 1 percent of the ticketed traffic that goes on the supplementals is the evil that is putting the airlines in trouble, and to assume that four multimillion-dollar aircraft leaving within 45 minutes of each other between two points of destination, is not more competitive and more destructive of the earning structure.

Now this thing goes on. The Senator knows about this joint departure time. It came up in the safety hearings. We had testimony from the head of the FAA Air Traffic Control that there were hours between 5 and 7 when the airway traffic system was saturated to its complete safety limits and only by delaying flights for an hour or two on the ground, could it be made safe enough to handle the volume of traffic that was being scheduled out of there.

The airlines at that time protested vigorously against any interference with scheduling, even on the basis of safety.

Now when we raise the scheduling, which we admit we have no control over, as one of the reasons for their bad earnings showing, they point to the supplemental carriers as being responsible and if they had all that traffic, they would have 100 percent addition to their revenues of the total $21 million, which they assume would flow, which I doubt, to the scheduled carriers.

Senator ENGLE. Will the Senator yield?

Senator MONRONEY. Yes, sir.

Senator ENGLE. I have an article here that appeared in the news by Richard Starnes. It says "Airlines Go Overboard." And he talks about 22,000 miles through the air and all the frills the airlines are putting on.

He says:

> En route from Paris recently, in a first-class compartment not half filled, I was assailed with an endless stream of goodies from the moment we left Orly until we touched down at Idlewild. I'm a reasonably good knife-and-fork man, but no one could have eaten his way through this Lucullan orgy.

Even while trying to do so, however, I reflected on the basically unsound economics involved. I have no notion what such a meal cost the airline, but I know roughly what it would come to in a good caravansary at sea level, and I judge the tab is a deal higher at 30,000 feet.

Mr. Chairman, I would like to put this whole article in the record and it makes me wonder why it is that the supplementals come in here and talk about their low cost fares, $80 or something, transcontinental; I think the cost going across for the trunklines is $165. My view is that the people are interested in getting someplace and as Mr. Starnes says:

I am not in favor of bucket seats and box lunches—

by the way I have had that, too—

but I see no long-term benefit to air travelers if the airlines go broke buying caviar and fillet steaks.

Now, while we talk about scheduling, it just seems to me that the airlines aren't getting on the main point. I don't know how much all these frills they put on are costing them and how much is reflected in the earnings. I can tell you as one air traveler, I am not particularly interested in all those frills. I am a lot more interested in going cheaper.

Senator SMATHERS. And safer.

Senator ENGLE. Their safety record is good and I am not complaining about anything they do in the interest of safety. It seems to me we don't have to be fed whiskey all the way across the country or wine or champagne or fancy meals. He mentions here where they are going to offer seven courses and a choice of those. Now, how on earth can the airlines do that kind of business? They are running restaurants upstairs, that is what they are doing, and complaining about going broke all the time and what the air traveler wants is to get comfortably and safely from the place where he is to the place he wants to go.

For my part, I can do without whiskey for 4½ hours between Friendship Airport and Los Angeles International if they will just cut the fare a little. That is what is breaking my back.

Mr. TIPTON. May I comment on that? Very good discussion of a major problem. Let's take the transatlantic, the article was about the transatlantic. We have 17 carriers who cross the Atlantic. The United States has supervisory control over three of them. One of them is a cargo carrier, and he doesn't serve meals, so we will take two of them.

Two of them are our members. They are faced with the stiffest competition in the world today to get passengers.

Now, they, either rightly or wrongly, and I suspect rightly, in their first-class service, regard the establishment of a luxury flight with fine meals and wines and the like as an area of competition, and it is.

If you are going to get passengers away from Air France, in the first-class area, you have to put on a good show. If you are going to take them away from KLM, BOAC, or any of those carriers, that is required.

Now, to meet the problem that the Senator has raised, a considerably more austere service is offered, a tourist service or economy service they call it now, where a very high percentage of passengers are now

moving where all of this doesn't go and it is at a greatly reduced price.

If you are competing in the first-class market, you do encounter that.

If the reporter had wanted to be austere, he could have gotten to be austere all right, and it wouldn't have cost him much, but moving into the back end of the airplane.

Now, let's take it from a domestic standpoint.

The same situation exists here. If we only had one airline in the United States, the scheduling problem would be vastly simplified. We would not be serving these fancy meals, you would not get any wine or liquor on board, I would guess, at least you wouldn't get it given to you. When you introduce competition into a system, then the people compete with each other.

Senator SMATHERS. You approve of that?

Senator MONRONEY. Will the Senator yield?

Mr. TIPTON. I approve of competition.

Senator SMATHERS. Do you approve of it with respect to the supplementals?

Mr. TIPTON. You are making the point here that we have so much competition in this business now, that we are giving away too much food and too much liquor, and the proposal in this bill is that we add some more.

Senator MONRONEY. I think what the Senator is complaining about the front end of the same plane competing with the back end. You have a 6-hour flight and have a $500 price tag sitting in the front end and have a seven-course meal and free gin, and at the back end, you have a 50-cent price on the gin, and you have an open-faced sandwich that rivals anything you can get in the Senate restaurant.

You have a $250 premium when you sit behind that little leatherette door and it is awfully hard, unless the guy is on an expense account, to say that little wider seat is worth that extra $250 for a 6-hour jet flight.

So your competition is within the same plane as well as with the others and to beef up the $250 extra cost for a 6-hour flight, they try to make up for it by showing some difference.

And rather than being austere, I would say, economy class is darn luxurious, and if you don't believe so, try flying first-class to my city on some of the stuff that they send out there with the television meals you get. So long as there is not a competitive situation, you just can't tell the difference between coach and first class.

Mr. TIPTON. The sandwich thing is a good illustration of the problem I am talking about. Everybody thought it was silly. The carriers on the North Atlantic tried to agree on what kind of meals they were going to serve to economy class passengers. Well, they had a terrible time doing it, because in competition, one fellow served a sandwich, a normal sandwich. The next fellow decided he was going to give a bigger sandwich and by the time, I believe it was SAS that caused the fuss, they provided a sandwich that was about a three-course meal.

Now, if you have competition, and obviously people want it, want competition, I think maybe we slipped a little on the North Atlantic, I think maybe we have a little more competition there than we intended to have, but if you want competition, the things like that are going to happen.

Look at our automobile industry. The automobiles have more stuff on them that people don't want than you can shake a stick at as a result of competition among automobile manufacturers.

Senator ENGLE. Yes, sir, and people are starting to buy the compacts, too, and it took them quite a while to wake up to the fact that the American people were sick and tired of these showboats and wanted transportation.

Now, what I am suggesting is that the airlines compete pricewise on the ticket and not be competing with about who can give the biggest sandwich or put out the most whisky.

It seems to me that if the airlines were saying, "Now our trip from Friendship to Los Angeles is $10 cheaper," that is where you will start the competition into this thing.

Mr. TIPTON. It won't be long though. If one carrier offers $10 reduction on their scheduled service, New York-Los Angeles, they will all be down $10 very quickly. You can't have a price differential in that area. They will come down. Maybe they are not justified in coming down, but they come down.

Senator SMATHERS. Maybe they could make more money by carrying more people that way.

Yesterday in testimony here I heard a fellow say that over the Atlantic, charter service, the certificated people had 200 charter flights and supplemental had 200 and the foreign carriers had 200, but suddenly they have jumped up to roughly 1,200 now. How do they do that? Well, they do it, the man was explaining, because they advertise a little bit, but primarily I guess because they are cutting the price, which demonstrates what the Senator from California says that is really what the people want. They would like to go and save a little money.

Mr. TIPTON. That is what the economy class——

Senator SMATHERS. The economy class is still not very economy minded. You talk about economy class, and I think this, that if you people, if you wanted to compete, if you wanted to get rid of supplementals the way you people would do it, is just keep lowering your rates where just anybody could ride and you wouldn't have any more supplementals. The reason there are supplementals and the reason they can stay alive is because there is a space below your minimum price at which a lot of people would like to ride.

A lot more people and they can't ride because they can't meet that higher fare.

(The article referred to follows:)

[From the Washington Daily News, June 26, 1961]

AIRLINES GO OVERBOARD

(By Richard Starnes)

NEW YORK, June 22.—In the past 10 weeks or so these old bones have been hauled approximately 22,000 miles through the air aboard a variety of flying machines operated by six different carriers.

Almost all this distance has been covered by jets. The voyages have been uniformly comfortable and free of incident. Schedules were met and ground facilities were, at last, worthy of the fine aircraft they serve. And yet any practicing airplane buff (a vice to which I cheerfully admit) is bound to be disquieted by some of the things that are happening to the business of air travel.

My objections have nothing to do with safety or comfort or schedule-keeping,

all of which are largely beyond reproach. Today's modern aircraft are a delight to ride in and are probably safer than JFK's rocking chair.

But what does concern me is the airlines' frenetic race to add more and more useless frills and costly luxuries to their service. TWA, for example, has just announced its premium transatlantic service will offer passengers the choice of seven entrees and will, moreover, go through an elaborate ritual of introducing its customers to the cabin staff. This is costly nonsense.

In its infancy, commercial flying probably had to wheedle passengers aboard with basically useless extras. Since those days we've gotten used to every wild promotional excess. From flowers for mum to knitted booties for one's tired feet. And airborne food and drink now manfully try to rival the elaborate and expensive fare one would find in the good restaurants of New York and Paris. More and more often it succeeds, although I can't imagine how.

En route from Paris recently (in a first-class compartment not half filled), I was assailed with an endless stream of goodies from the moment we left Orly until we touched down at Idlewild. I'm a reasonably good knife-and-fork man, but no one could have eaten his way through this Lucullan orgy.

Even while trying to do so, however, I reflected on the basically unsound economics involved. I have no notion what such a meal cost the airline, but I know roughly what it would come to in a good caravansary at sea level, and I judge the tab is a deal higher at 30,000 feet.

Airlines, both domestic and overseas, operate with the narrowest profit margin of any major industry I know. They are likely to continue to do so until they make the transition from carriers of relatively small numbers of people in Babylonian luxury to mass carriers which offer only swift, dependable and cheap service to the exclusion of airborne banquets and silly promotion gimmicks.

I'm not in favor of bucket seats and box lunches, but I can see no long-term benefit to the air traveler if the airlines go broke buying caviar and fillet steaks.

Senator ENGLE. Will the Senator yield?

Right along that line, yesterday I was talking about this little airline out in California, interstate, PSA, they call it. They fly Electras. It is a big comfortable airplane. The seats are comfortable and they go like you know what.

They fly between San Francisco and Los Angeles for $12.50, I think that is right, and either that or $12.90—it is under $13—and they are full all the time.

Because people want to travel from Los Angeles to San Francisco—they want to do it cheap, they want to do it fast and they want to do it safely and comfortably. This airplane is big, seats are big, you talk about these coach affairs, my feeling has been that the major airlines have tried to run coach fares like cattle cars and they did not make people comfortable.

The PSA has put on a big airplane with these fine big seats, it is just as good as anything that is operating as far as comfort is concerned. And it costs you $12.50.

Now who is going to take a bus to Los Angeles when you can ride that way or go on a train or who is going to pay $25 to go on the regular fare lines? This is the kind of thing I am talking about and I think it is what the transportation people want.

Now it is precisely the point made by the Senator from Florida and that is that the competition ought not to be who can give the biggest sandwich but who can give the best price on comfortable, fast, and safe transportation.

Senator SMATHERS. Mr. Tipton, we have lectured you pretty well.

Mr. TIPTON. This is a discussion which I enjoy, too. In attempting to work out prices or fares that will be most attractive, that expands your business, and I think the scheduled carriers have done reasonably well in moving up from 16 million tickets in 1949 to 55 million in 1959.

I think that is a good record. It shows that the scheduled carriers are not unimaginative and lacking in desire to grow because that is a very vast increase in that 10-year period.

The difficulty with trying to analyze a price situation like this with respect to a carrier, the kind that Senator Engle mentioned, that devotes himself entirely to this very heavily traveled Los Angeles-San Francisco flight with a carrier, for example like Western, that competes with them on that service, who is bound to serve all over the western part of the United States and serve it regularly and go into points that do not pay very well, and operate schedules that do not pay very well, it is hard to compare those things.

I think that if you devote yourself to one heavy volume segment and are not required to bother with anything else, your pricing problem is a lot simpler than the fellow who has to come out at the end of the year, and at less than break-even, on the basis of a lot of different kinds of markets that he has got to serve and meet a lot of different kinds of traffic areas.

Now there is not much question but that the reason for this increase from 16 million tickets to 55 million tickets in this 10-year period is because the airlines, unlike most other businesses, did not follow the price spiral up, notwithstanding the fact that their people got lots more money, more compensation, their spare parts, their airplanes, everything else, costs considerably more, the airline fare stayed virtually the same for many years.

I think that supports the Senator's position, I think it also supports the position that the airlines have been very conscious of the necessity of not overpricing their business.

That explains the absolute necessity of the economy fares on the North Atlantic and the necessity of tourist fares within the United States, in an effort to tap a market that for good reason or not, wants a very fancy service, and a market that does not want a very fancy service.

I think that the choices given the public are good ones.

Shall I proceed, Mr. Chairman?

Senator ENGLE. Incidentally, Mr. Chairman, I hope that Mr. Tipton did not regard anything I had to say in the nature of a lecture because it was not intended in that sense.

I will say that probably in the Senate of the United States, we have the highest per capita utilization of air transportation of any group that you can mention in the country and we speak from great personal experience and a good deal of frustration on this subject and I would not want you to think that I don't have the highest respect for your position in this case and for the kind of job you are doing.

Mr. TIPTON. Thank you, sir, and I did not regard any of the comments by the members as lectures.

I thought the questions raised were perfectly appropriate questions to raise and I was delighted for an opportunity to at least make a pass at answering them.

Senator MONRONEY. Along that line, I would just like to say that I agree with what the Senator has said, even with respect to some degree of special services that some of the airlines are courteous to maintain. Sometimes it is 15 minutes before plane departure time before you know whether you are going to be accommodated in the tourist

class reservation that you have been seeking for 2 or 3 days, or told there is plenty of room first-class.

But in going to distant points, this makes a difference of about 20 or 25 percent, which impinges severely on senatorial salaries because most of that money comes out of the Senator's own pocket.

So I think all degrees of air travelers seek, if they can find it readily available and adequate seating capacity, to use the more economic service when it is available.

Mr. TIPTON. There is no doubt that the amount of tourist capacity is going up rapidly, as you say, Senators and Members of the Congress generally are our greatest patrons.

As you have noticed that bulkhead on the jets between first class and coaches go forward, you can see the impact of the increase in tourist capacity, and that will increase.

We have more airplanes to come during the coming year. As a matter of fact, the fact that we have lots more airplanes to come is one of the effects of this, one of the things that affects our economic conditions and is one of the things that has given us concern.

Now in discussing the impact of this 10-trip-a-month individually ticketed authority on the economics of the industry, I do recall one statement by you, Mr. Chairman, that I had taken the position that this $21 million had a major impact on the economy of the industry and actually my statement here is that our economic condition for a variety of causes is tough and that the granting in utilization of the individually ticketed authority just makes the economic problem, which we will have with us for quite awhile now, considerably more difficult.

But leaving that aside for the moment, and to discuss the proposal of the Board in principle as contrasted in practical terms of immediate dollars and cents, we have had some discussion of that already, the proposal that under the legislation the Board has proposed, that the Board by identifying a particular certificate as a supplemental certificate, with no more definition than that of supplemental, by identifying it as a supplemental certificate, the Board acquires a power that they do not have now and in our opinion should not have of regulating schedules, equipment, or accommodations.

Now that provision that is in the statute at the present time did not just happen to get in there; it was one that was pretty carefully argued out in 1938 as to whether the new regulatory agency was to have this power. And after a great deal of consideration of the proposal, it was stricken by the committees concerned at the request of—primarily at the request of Commissioner Eastman of the Interstate Commerce Commission.

He said, "This is an unusual limitation upon competition," and thought that the committee should regard the proposal with great attention and for that reason it was stricken.

I would like to attempt to persuade the committee that it should not be given to the Board.

I think that it is not only bad in principle as an invasion of the management of an airline, but it is, in the case of schedules, a regulation against human nature, as a matter of fact, because what the Board would say in the case of the supplementals is, as they have said and would under this new law legally say, "You can operate 10 trips a month."

And then the carrier would operate 10 trips a month and he would be successful at it, but he would not be able to go forward—he would not be able to expand his business. It is better, and yet, as experience has shown under the irregular carriage and supplemental carriage over the past 10 years or more now, his tendency to increase his schedules is so strong that the limitation is virtually unenforcible.

The Board has had enforcement proceedings—I believe they are completing one now—which has gone on for 7 years, trying to enforce that kind of a limitation. It tends to demonstrate that the limitation itself is unsound.

If the Board is going to provide for unlimited scheduled basis over a route, then they ought to authorize a certificate for unlimited scheduled basis over the route.

If they find on examination that there is room for additional competition over that route, then they should grant the certificate. If they find they cannot, that competition is already possibly too heavy there, then they should not grant the certificate. But they should not try to get in the middle between the two.

Senator MONRONEY. What you are saying there, Mr. Tipton, is that no time during the year, under no set of circumstances, should there be any supplemental—and I repeat the word "supplemental" and give you Webster's Dictionary for it—air service available where such service is filled by scheduled air carriers.

Is that your position on this bill?

Mr. TIPTON. Yes, sir; that is my position. Let me go a little further in my answer, though. I do not believe that it is wise and sound regulation to provide a wide opportunity to operate the 10 trips a month; for example——

Senator MONRONEY. We are not talking about the 10 trips a month. We can talk about one trip a month. What I am talking about is there any place in the air spectrum for anything that could be supplemental service in large part to the regularly scheduled airlines?

I think this gets it right down to the nub of what the decision the committee first must make: Is there any place for any supplemental—and we will narrow it down a little more to ticketed supplementals, to certain periods of time and under certain route conditions—where in the interest of the traveling public, under convenience and necessity, additional supplemental service could be available?

Mr. TIPTON. As I understand your question, you are throwing the whole field open, so to speak, for inquiry——

Senator MONRONEY. We are starting from a starting point.

Mr. TIPTON. You are starting from scratch on this.

Senator MONRONEY. Let's say there is no supplemental service. We say the traffic of America must move by air only on the scheduled airlines for 365 days out of the year, including in years, Christmas, world series, and so on, in agriculturals, and things of that kind.

Is it the position of ATA that there should be no such thing as any supplemental ticketed service?

Or are we talking about the degree?

Mr. TIPTON. I think we are talking about the degree of supplemental service and the regulation of supplemental service.

Senator MONRONEY. Then we can move then, I am not trying to put words in your mouth, that there could be a place in the spectrum for some supplemental service.

The degree we will move to category 2 then?

Mr. TIPTON. We can conceive of situations in the system, in the air transport system, where space would get so tight that the carriers who have the responsibility for the route, would not be able to catch up with the demand in time because they have a special problem of procuring enough equipment, crews, everything else, to run schedules constantly.

So that conceivably, there could come a time where that would, the public would be presented with that situation.

Now it is a little hard to conceive at the present time, with our load factors running at about 53 to 56 percent; I don't think it is a present situation.

However, you could conceive that the Civil Aeronautics Board would have the problem of dealing with this inadequacy of capacity. I think in those circumstances, and I take it this committee must consider things on a long-range, rather than on a present basis—the committee could examine the possibility of exemptions in the case of the supplementals to operate over such a route.

I do not believe that the supplementals should have wide open authority to move in on a route, whether or not there was need for them or not. But if there is a real demand and inadequacy of capacity, then I think the committee might well examine the possibility of having those situations passed on and they could be passed on promptly, the facts are always there, to issue exemptions for a specific number of trips over that route until the particular problem was dealt with.

Senator MONRONEY. You say if this should come. We are all experienced enough and you are too—it has come many times in the past. You testified a year ago or so on a bill, that would have made it a severe penalty for the head porter, the transportation porter, to scalp airline tickets.

This is a condition of the past, it will probably be a condition of the future, that there will be some need for some kind of supplemental service at certain times.

This is a degree now to be left as a second category.

Mr. TIPTON. I think the important thing here is that the presentation of this supplemental capacity should be no more completely in the hands of a supplemental carrier than it should be completely in the hands of a scheduled carrier, that is, a scheduled carrier cannot operate any place he wants to if he sees that somebody else's route is getting a little bit clogged up. He cannot move over there and serve a while.

Senator MONRONEY. He can lease his planes to another scheduled carrier and his crews.

Mr. TIPTON. It is often done and of course that is available to anybody.

And as a matter of fact, another way of dealing with the same problem is if the recommendation that we make to the committee, that charter certificates be authorized so that you had men, operators who devoted themselves to building up the business of charter, that is an available opportunity of meeting these peaks also in that they can charter their equipment to a scheduled airline as well as they can charter it to anybody else.

The important thing here, I think, in authorizing a charter certificate of either unlimited or long duration depending upon what the Board wants to do in a particular case, is that it gives the supplementals who get these certificates a recognized solid place in the charter business so that they can finance themselves and develop their business.

I think the recommendation we are making to the committee is a sound one from the standpoint of the supplementals because I am not here arguing their case, but there is no doubt that the uncertainty that has gone on all these years has done them and their efforts to develop their charter business damage and if they have a charter certificate, it would improve their position both financially and personnelwise just as the original grant of certificates under the Civil Aeronautics Board have quickly improved the financial condition of the now scheduled carriers.

Senator MONRONEY. But in this regard, charter service is generally seasonable, it is generally unpredictable to a degree as to when the extra supplemental charter service might be needed. Do you think it would be economically possible for these lines to maintain multimotors, four-motor equipment, with no security whatsoever of any earning base, to hold their pilots or their mechanics together, while they are waiting for another charter?

Mr. TIPTON. I think that the record of many of them has demonstrated that they can conduct an economical service and devote themserves entirely to charter. Most of the supplementals who are authorized to conduct a charter service devote their entire attention to that. There are statistics, I believe, in the record on the extent to which many of the supplementals have utilized the authority that they now have to conduct an individually ticketed operation, and many of them have used it, little or none, and yet have maintained a charter service.

Senator MONRONEY. The statistics show, I think, that more than 70 percent of the individually ticketed service came from two of the supplemental carriers, one of which is now bankrupt.

Mr. TIPTON. That is right.

Senator MONRONEY. And yet we are talking about a figure, and I repeat this figure, because I think it is very pertinent here, of two-tenths of 1 percent of the total ticketed service of the Nation. In 1956, it was two-tenths; in 1957 it was three-tenths; in 1958 it was four-tenths; and in 1959, it was six-tenths, and now is back to four-tenths.

This is the chart made from the Civil Aeronautics Board figures. If there is a financial crisis in the schedules airlines, it may be found in those planes departing within 45 minutes of each other by two airlines between Dallas and New York City, and unfair competition may exist more within your own trunklines than within the four-tenths of 1 percent of the ticketed traffic that these lines carried, after all these years.

There has been no substantial change in it. There should be no great panic by the scheduled airlines, such as we heard repeatedly when this supplemental carriage was first discussed before this committee, way back in 1952. Many of the gross violations, which you mentioned, with the well-advertised all-American airlines, and things

of that kind, has generally been at long last routed out by the Civil Aeronautics Board through various enforcement procedures.

There are still a few operating under appeals. They are in the Courts and you can't deny people the right of appeal. But we think we finally have the answer to that in economic penalties, which would take the profit out of illegal flights that violate the Board's economic regulations.

Mr. TIPTON. To go back to our original question, I turn to another table that I prepared in the testimony on page 43, which illustrates how this charter market has grown from about 22 million in 1956, this is the supplemental charter market, to a little bit over 47 million in 1960.

Senator MONRONEY. That includes military charters, as well?

Mr. TIPTON. Yes; it includes military charters and that is an important part of the charter business. It does appear, in view of the limited use of individually ticketed authority, and the fact that the charter market has increased so substantially, that this is an economical type of operation.

Senator MONRONEY. To add to the figures of the Civil Aeronautics Board at this point, 79 percent of the supplemental carriers have been in charter military; 17 percent in civilian charter, and 13 percent of their total revenue has been in the field of individually ticketed.

Mr. TIPTON. The military has provided a large share of the charter market.

Senator MONRONEY. Generally, this has not been sought by your airlines, except overseas?

The recent awards favor very strongly the trunk carriers in the passenger service overseas.

Mr. TIPTON. That is right, in passenger service.

As far as domestic operation is concerned, we do a substantial amount of charter business in the movement of troops all around the country.

Senator MONRONEY. What is the degree of magnitude of the earnings of charter service?

Mr. TIPTON. Scheduled carriers, charter revenues?

Senator MONRONEY. Domestic and overseas?

Mr. TIPTON. Scheduled carriers charter revenue—it was about $10 million.

Senator MONRONEY. That is domestic and overseas?

Mr. TIPTON. That is domestic.

Senator MONRONEY. That would relate to somewhat less than $2 billion gross?

Mr. TIPTON. Yes, sir.

Senator MONRONEY. So it is a very insignificant part, and unless it is for prestige reasons or other special reasons, generally speaking, domestically the scheduled airlines are not interested in charter?

Mr. TIPTON. It varies airline by airline, naturally, the extent to which they get in to the charter business. Many of the charters are charters of long standing with a particular airline. And many others, who now have a little bit more equipment than they have had in the past, are doing a little bit more than they have in the past.

The heart of the position we are taking here is that we are requesting the committee not to continue to go down the line of individually

ticketed business with the supplementals because of all the difficulties that it has created in the past and the great potential difficulties by addition of 10 trips a month on top of 10 trips a month by other carriers, the great difficulties that will be caused in the future.

Instead, to provide a solid, permanent authorization to conduct a charter business, which the figures indicate, is a good and developing business.

Senator MONRONEY. Could you yield there?

Mr. TIPTON. Yes, sir.

Senator MONRONEY. Your position, I think, in your earlier statement—I didn't choose to interrupt you at that point—was that all of the $21 million that was earned by all of the supplementals would have gone to the scheduled lines and would have been completely plus business and could have been handled without any additional expense.

Do you seriously believe that to be true—that price didn't have something to do with that and that if it had not been for the ticketed business, at say an $80 fare from New York to Los Angeles, that every bit of those dollars would have gone automatically on to the airlines and it would have been handled without any additional cost and would have represented a complete $21 million in profit?

Mr. TIPTON. I think that I wouldn't support the entire statement that you made, because it is too absolute, because there are modest costs attributable to any additional passengers. A very high portion of additional business would go to net, simply because the capacity is there and it is being operated anyway.

Now what that proportion would be, I can't identify a figure on it and I don't know if we could even make a study that would identify the figure, but I do think a principle has to be recognized, in view of the fact that these planes are moving and must move and that they are moving on the average at very low load factors, the additional business acquired here would largely go through to net.

Senator MONRONEY. That is one. Now we are increasing the net. Now about the numbers, did these people come off the buslines or off of the rail lines, or out of the private cars? Were they people who, in the absence of this supplemental ticketing authority, would have gone down and bought themselves a tourist ticket, we will say, on the scheduled airlines?

Mr. TIPTON. There, again, we don't know where they came from and in order for us, in new experimental services, to find out where people come from, we have to make a questionnaire out and try to make appraisal that way. It is my judgment that, and it is a judgment and I must confess that I can't document it at the present time, probably never could, that a very high percentage of these passengers would have moved on the tourist services available to them in the markets where they were moving.

In other words, I am saying that I doubt very much if any appreciable percentage of those people were attracted to air transportation simply because supplemental carriage was available. There is a rate differential in the transcontinental operations of about $20 in the transcontinental business, but very modest differential, if any, in the New York and Chicago-Miami business to attract those passengers.

So it is my judgment that the bulk of them would have traveled on available scheduled service, of which there is a great deal.

Senator MONRONEY. I think it is a little high, but there is no way of ascertaining it, although the testimony has been rather strong that the checks of the supplementals show that many of these people are flying for the first time. They insist, and I think with some degree of cogency, that the advertising of New York to Los Angeles for $80, or Miami to New York, or New York to Miami, for $39, or something, has an impact of winning away the bus traffic passengers or the private drivers and these people never have felt they could quite afford the rate, although I think it is quite reasonable for the services rendered, of scheduled airlines.

I am not one that is contemplating, and I don't recall ever having a flight on supplemental airlines, but I do feel that there is a promotional advantage that the scheduled airlines are overlooking.

In other words, having listened to this stuff from 1952, I can't quite understand the complete degree of cat fights-dog antagonisms that seem to exist, no matter what the statistical reference of the impact may show.

Mr. TIPTON. I think that the situation on where this traffic came from and where it would have gone is pretty much a matter of judgment on both sides. I don't think anybody can prove one way or another. Of course, the airlines haul lots of first riders and I have no doubt that anybody that is moving people will carry lots of first riders.

Senator MONRONEY. We were discussing in the hearings yesterday, if you could define a niche where supplemental is genuinely supplemental; where it would perhaps supplement a reasonable base of assured operation between charter to keep the economics alive. On an experimental basis, the Civil Aeronautics Board might be authorized by appropriation to place a Civil Aeronautics Board man in the New York area, in the Miami area, and in the Los Angeles area. Fundamentally, this is what we are talking about in the supplemental carriage. I believe you will admit that probably covers about 90 percent of the spectrum. The Board might be advised when there is a backlog that cannot be adequately met by the regular carriers, that people are being unduly delayed in transportation by air, at these points, during a certain period of time, and then it would arrange for a shotgun exception or additional number of flights to remove this backlog by supplemental.

Now, would that be obnoxious to the Air Transport Association?

Mr. TIPTON. Well, I don't know about the machinery of having a fellow standing there all the time.

Senator MONRONEY. I don't think he would have to stand there all the time. I think he could make a few calls on a telephone to certain carriers and find out how long the waiting period is before he could be given a reservation.

Mr. TIPTON. It seems to me that there is nothing inappropriate about the Civil Aeronautics Board in being interested in whether or not you're giving adequate service over your route, that is a statutory power they have, and they have been utilizing it very vigorously. And what machinery they use to do that, I don't have any opinion at the moment. I think one important thing has to be taken into account in making a judgment as to whether a carrier should be paralleled by supplemental carrier, is whether or not you really have an excess of

traffic over the route or whether you have an excess of traffic for the fanciest schedule that is being offered.

Now, I don't have much doubt but as we were talking about before, where there are heavy demands at a particular time of day or of a week, where it is not possible for passengers to pick exactly the schedule you want, I don't believe that regulations should be laid down to say that the scheduled carrier on the route must therefore be paralleled by another carrier for a temporary period because he has to operate during those days when the public doesn't want to go with him.

Senator MONRONEY. We understand that, this is the reason why we want to be sure that most of the benefits that flow will be supplemental rather than competitive because we fully realize and the record is replete with various members of the committee stating that the requirements that you must serve the thin as well as the good routes, fly the bad days as well as the good traffic days, require a degree of protection for the scheduled airlines.

What I am trying to get at its cutting the Gordian knot to where an application today for extra service between we will say New York or Miami, around Christmas and New Year's, doesn't get decided on the Fourth of July, which is the present procedure. Maybe the next Fourth of July we can use some more supplemental flights between these 5 days, because people are backed up waiting to get out of Miami or waiting to get out of New York, and to apply the grease to the squeaking wheel. You apparently have never been willing, and I want to know if it is not true, to contract with supplementals, even during strike periods?

Mr. TIPTON. There have been certain contracts of that kind on occasion. I think, I would guess that if the supplementals were more permanently established with a certificate and engaging in the charter business in that fashion, that you would find that happening far more frequently than it does now.

Senator MONRONEY. Of course, the supplementals when we first began talking about this, in 1952, were called the nonschedules; they were wildcat operators.

The sores came out where people who had taken the flight were stranded at Phoenix, because the man didn't have money enough to pay for this gasoline, but that is generally behind us. I think these boys have earned by lifting themselves up by their own bootstraps, some place in the aviation sun. They have hung on. The inefficient, the dishonest, the careless, have been weeded out generally, in the competitive system and the requirements of meeting modern standards. It is for that reason that one who has watched this field for a long time, feels that even though they are small, and even though they may be in an infinitesimal way competitive, up to maybe four one-hundredths of 1 percent of the total ticketed traffic, it is time they attained some degree of respectability to participate some in a useful service for which you get your license. The only reason you have it on a scheduled line, and for which they get their license as supplemental, is public convenience and necessity. At certain critical times, which we all recognize occur, it would be more uneconomic to move equipment from Los Angeles to New York to pick up additional service on the Miami run, than to not have this authorization for additional schedules. In other words, we need to move Government machinery to fill the supplemental need on an additional basis.

Mr. TIPTON. Just on that same point, Senator, I would like to point out the progress. I guess you can call it progress, of the scheduled airline industry in this area. There was a time when I could not and have said to this committee, that the supplemental carriers are entitled to and should get charter certificates which are demonstrably very valuable right. We are saying that now.

Senator MONRONEY. Would you go so far as to say that the blood test of homogeneity could be somewhat eased to make it a little easier for these men to enter this field?

Mr. TIPTON. May I reserve that question, Senator? I am going to ask Clif Stratton in a moment to discuss that question—I think we are bound to spell out in a little bit more detail what we are talking about in the charter field.

Senator MONRONEY. I don't want you to talk off the top of your head. I think this is a very important issue, with a minor degree of ticketed service.

Mr. TIPTON. If I could just make one further point, and then I would like to turn that question over to Clif Stratton.

The further point I want to make is one that I suspect may be one on which there is little disagreement between ourselves and the supplementals and that is the Board's recommendation that there be a different and less strict standard of fitness for supplemental carriers than there is for scheduled carriers.

Now, before discussing that, I want to make it real clear that I am not talking about safety problems. The safety record of the supplemental carriers has been good. As far as the safety regulations are concerned, we once had quite an argument with the supplementals about the level of safety regulation imposed upon them. I thought that argument was over quite a while ago because it was my understanding that the Government had gone as far as the type of supplemental operation would permit in imposing similar safety standards.

Now, they have not imposed on them the requirement for having their own communications system nor have they imposed upon them the requirement that they have a dispatch system, but it is difficult to see how carriers that are really supplemental and thus are not flying a route constantly can have either one of those things. So, that let us exclude from the debate either the safety record or safety regulation and talk about the question as to whether as a matter of congressional policy, there should be two standards of fitness as between, when you certificate a scheduled carrier or a supplemental carrier? We don't think there should be and we would hope that the committee would reject the Board's recommendation that there be a more generalized and less strict standard of fitness.

Just a few words on that, because the Board seems to prove my point by their past discussion of the operations of supplemental carriers.

A long time ago, in 1947, the Board made the point, and I am now reading a quote that appears on page 35 of my statement, they said that some of the then, I believe, called irregular carriers, some of their operations had resulted in numerous complaints to the Board concerning tariff and operating practices including but not limited to failure of such carriers to perform the services agreed upon, great variations in the fares and rates charged by the same carrier for com-

parable service, failure to make refunds to passengers and shippers for transportation not performed, misrepresentation of equipment, facilities and services and use of inadequate and makeshift equipment and facilities.

Now, that the Board was concerned about in 1947.

In that process, they really didn't do very much about it, however, and then in 1949, at another public expression of the Board's views, they said that—

> The widespread abuses noted by the Board in its findings attached to the revision of 292.1 in May of 1947 have not only continued but in many respects, have become greater and more flagrant.

Then in 1955—

> the record is replete with evidence that there has been widespread violation of law and regulation and failure to fulfill the duties to the public which a common carrier should assume. These matters have taken the form of stranding of passengers, failure or refusal to make refunds on tickets where the respective passenger was not carried. Many operations have been started on the basis complicated financial manipulations whereby there was no money invested in the business. In some cases the transportation tax collected from the travelers for the Federal Government was used as working capital.

Now, on the basis of that record, there appears to be no justification for not appraising the fitness of any carrier that is going to carry the public in the same way. You are either fit or you are not.

Senator MONRONEY. This was 1955.

Mr. TIPTON. That was 1955.

Senator MONRONEY. Did that antedate the formal supplemental certificate?

Mr. TIPTON. Yes, sir, that was the decision in which the Board determined the general scope of operating authority of the supplemental carriers. Then they later came along, I think it was in 1958 or 1959, and issued the certificates later held valid.

In that decision, the Board did not apply the provisions of the present statute on fitness as strictly as the court found necessary so that was one of the grounds on which the Board's decision was reversed. They found the procedure they adopted in appraising fitness as well as their findings was not found to be right.

I don't think, as I said, that this is any matter of controversy between the supplemental carriers and ourselves. I think that the current standards of fitness which are spelled out in the Board's decisions in applying it to scheduled carriers are well set forth and understandable and that any carrier that proposes to engage in a common carrier business should be able to pass them and I would have no doubt that the bulk of the supplemental carriers certificated here can pass them. The only reason I hedge that statement is that I don't know the operations of all of the supplementals in detail.

Now, that concludes our comment and I think that I would like now, if I may, to have Clif Stratton make a statement on the character of charters.

Before I do that, I would like to have in the record at the end of my statement, Mr. Chairman, a supplemental memorandum, a short one, which analyzes the figures that the Board has recently come forward with dealing with the operations of the supplementals. When we wrote our statement, we didn't have those figures. We have exam-

ined them to determine whether the more recent figures produced by the Board will change our conclusions and we find that they do not change our conclusions, consequently I would just like to have this memorandum——

Senator MONRONEY. This doesn't materially change it, merely makes it more specific, is that right? There is nothing in the general statement you have given that the addendum changes. If it does, I wish you would spotlight that.

Mr. TIPTON. There is one point in the memorandum that I am submitting, that Mr. Stratton has called to my attention, that deals with another issue that has come up here, and I will present that, if I may.

The reference has been made both by Chairman Boyd and by Mr. Burwell to the losses shown by supplemental carriers in their financial reports to the Board.

On that we would like to comment as follows: Because it is only fair to point out that the supplemental carriers reported profits and losses are difficult to evaluate and reported figures sometimes unreliable.

I have attached to my statement, as exhibit A, the findings on this point made by the Civil Aeronautics Board in the larger regular carrier investigation.

One of the basic reasons why, as the Board there pointed out, reported losses of irregular carriers may be suspect is that it is not uncommon for a supplemental carrier to be simply an operating company.

Affiliated companies which are technically separate entities, may own the aircraft and lease them to the supplemental or perform ground services at a contract fee or perform sales and ticketing services for commission.

Only the supplemental carrier reports to the Board, just the carrier. The other entities keep their profit-and-loss statements to themselves.

They may accordingly be, and I quote from the Board—

> improper allocation of revenue and expense between the parts of the project with the carrier showing a loss but the venture as a whole being profitable.

These findings that I have set forth in exhibit A were adopted by the Board in 1955 and I know no reason why the same kind of a caveat should not be presented and considered at the present time.

Senator MONRONEY. Before you leave that, in page 2 of your addendum, you agree that the total ticketed revenue from the supplemental carriers was $21,333,000?

Mr. TIPTON. That is for fiscal 1960, from individually sold services, that is right.

Senator MONRONEY. That takes out the Great Lakes group, which now has lost its last plea——

Mr. TIPTON. That includes the Great Lakes.

That is right, if you take out Great Lakes, you reduce that figure, you reduce it to $11,574,000.

Senator MONRONEY. $11,574,000?

Mr. TIPTON. That is right.

Senator MONRONEY. And you stated, I think in the latter part of your statement, that only 5 cents out of every $83 of airline sales was a profit. If we were considering on the basis of that, there would be

something in the neighborhood of about $12,500 additional profit for the scheduled airlines.

Mr. TIPTON. That gets back to the question we were discussing a moment ago, the extent to which added revenue and that sort of thing goes through to net and we believe that a very substantial part of it would.

Senator MONRONEY. Assuming that all of it went through to net, this would still be in relationship of $11 million to $2 million wouldn't it?

Mr. TIPTON. If it all went through to net——

Senator MONRONEY. I have serious question that it would all be net. I think that is quite debatable.

Mr. TIPTON. I don't think it would all go through to net; I can't identify the part.

Senator MONRONEY. Your transportation expense would be the same. You would have landing fees and all of this sort of thing, of course, which might add to the traffic and make some impact, but it would be less than 1 percent.

Mr. TIPTON. If the entire $11 million went through to net, it would have increased our profit by 10 times.

Senator MONRONEY. That would be because your profit was so low.

Mr. TIPTON. That is exactly right, when you get down to making only a million dollars, where you are just covering your interest, you get awfully interested in another $11 million.

Senator MONRONEY. I think you better look inside the fraternity for some of this competition on competing schedules where they are going out from Dallas in the same 30-minute period.

Mr. TIPTON. The industry is unquestionably heavily competitive and I suppose there are ways of reducing it. The carriers cannot do it; that is one thing, the carriers cannot do it. They cannot either agree on prices or not when to run schedules or what kind of meals to serve or anything else.

Senator MONRONEY. We do not want to get involved in that, but at least there should be some way where there is not a violation of antitrust laws where you can get together and say this is going to be arrived at or there is going to be a red figure. Because of this drive to capture the golden cup on who is going to go out of Dallas with the most passengers and because Nieman Marcus customers have to be given the red rug service, we are going to have to be concerned with this even if it is from the standpoint of just offering legislation that will enable you to get some rationale on your schedules.

Mr. TIPTON. I hope that our request for a thorough presentation on this scheduling——

Senator MONRONEY. We would like to hear it, because I think when you look at this profit figure, you are going to find a lot of the bodies buried in the scheduling instead of in the competing of other forms of transportation or other types of air carriage.

Mr. TIPTON. I think if there were less competition in the industry, we would make more money, but it is there. But I would like to present this whole business, because I know I have dealt with it inadequately here.

Senator MONRONEY. I think it is a very important phase, not only a phase that involves economics but in some places, involves a very severe air safety problem.

(The documents referred to follow:)

EXHIBIT C

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

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

[In thousands]

ARCTIC-PACIFIC, INC. [1]

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

GENERAL AIRWAYS, INC. [1]

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

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

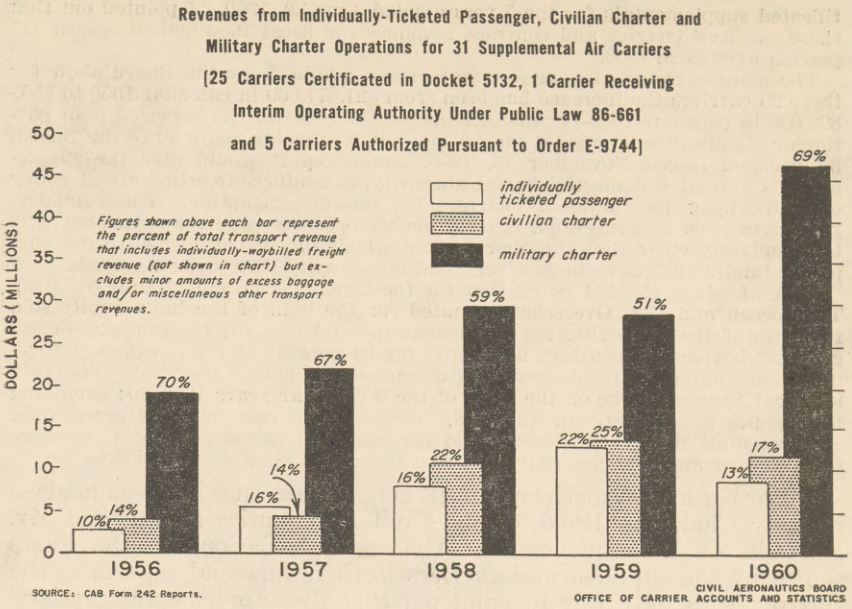
[2] Does not include minor amounts for excess baggage and/or miscellaneous other transportation.

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

[4] No reports received for periods after June 30, 1959.

[5] Less than 0.5 percent.

Source: CAB form 242 reports.



ADDENDUM TO TESTIMONY OF STUART G. TIPTON, PRESIDENT, AIR TRANSPORT ASSOCIATION OF AMERICA

My written testimony was filed with the committee June 20, 1961, pursuant to the chairman's request for such advance filing.

At various points in the written testimony, I refer to data for the supplemental air carriers for the fiscal year ended June 30, 1960, for the 2 fiscal years 1959–60, or for the 5 fiscal years 1956–60. I use such fiscal year data because, at the time the testimony was prepared and filed, the latest supplemental air carrier data published by the Civil Aeronautics Board was for the fiscal year ended June 30, 1960.

Since that time, the Board has released tabulations of certain data for the 5 calendar years 1956–60. See exhibits A through C to statement of Alan S. Boyd relative to S. 1969, dated June 26, 1961.

Analysis of these more recent calendar-year data suggests no reason for material change in my previously prepared testimony. Indeed, these more current figures confirm the observations I had previously prepared.

For example, at page 16 of the prepared statement, I noted that the 25 supplementals to whom the Board issued certificates in its 1959 decision had reported, for the fiscal year ended June 30, 1960, individually sold revenues of $11,574,000.

Based on the more current data now available, these same 25 supplementals averaged $11,289,000 per annum of individually sold revenues for the 2 calendar years 1959 and 1960—a period of some significance since it approximates the first 2 years of operations following issuance, on January 28, 1959, of the Board's decision to certificate these supplementals.

I also noted, at pages 16–17 of my prepared statement, that individually sold revenues of $9,764,000 were reported in fiscal 1960 by irregular carriers—such as the Great Lakes group—which the Board did not certificate as supplementals. Accordingly, total reported revenues for the supplemental carriers for fiscal 1960 from individually sold services were $21,338,000. The calendar-year data now available do not cover the Great Lakes group, so the $21,338,000 figure remains the best available as a measure of aggregate individually sold operations for all of these carriers—certificated and noncertificated—for a recent year.

To give another example: at page 43 of the prepared statement, I tabulated—again on a fiscal-year basis—the contract and charter revenues of these 25 cer-

tificated supplementals for the 5 years ended June 30, 1960. I pointed out that these carriers' charter and contract revenues for fiscal 1960 had increased 115 percent over fiscal 1956.

The more current calendar-year data made available by the Board show for these 25 carriers the increase has been from $21,677,000 in calendar 1956 to $55,822,000 in calendar 1960—or an increase of 157 percent. This period is of particular significance because it marks the first 5 calendar years since the Board, by decision issued November 15, 1955, announced it would give the supplementals unlimited domestic charter authority, and adhere to a liberalized policy of authorizing international charters by specific exemption. The calendar-year data thus confirm—and, indeed, underscore—my previous statement: "It is abundantly clear that the charter field which the Board opened to the supplementals in 1955 gave them a very real opportunity for business growth."

Also, at pages 43–44, I noted that for the 2-year period ended June 30, 1960, Transocean and U.S. Overseas accounted for the bulk of the individually sold revenues of the 25 certificated supplementals, and that for the other 23 of the group, "charter and contract accounted for 94 percent of total transport revenues, and individually sold revenues accounted for only 6 percent." Virtually identical figures emerge on the basis of the 5 calendar years 1956–60; excluding the results for Transocean and U.S. Overseas, the remaining 23 certificated supplementals over the 5-year period generated 93 percent of their revenues from charter and contract, only 7 percent from individually sold services.

One other matter merits comment here. Reference has been made—both by Chairman Boyd, of the Civil Aeronautics Board, and Mr. Burwell, of the Independent Airlines Association—to the losses shown by the supplemental carriers in their financial reports to the Board. It is only fair to point out that the supplemental carriers' reported profits and losses are difficult to evaluate, and the reported figures sometimes unreliable. Attached as exhibit A are findings on this very point adopted by the Board in the *Large Irregular Air Carrier Investigation*, 22 CAB 838, 906 (1955). One of the basic reasons why, as the Board there pointed out, reported losses of irregular carriers may be suspect is that it is not uncommon for a supplemental carrier to be simply an operating company. Affiliated companies—which are technically separate entities—may own the aircraft and lease them to the supplemental, or perform ground services at a contract fee, or perform sales and ticketing services for a commission. Only the supplemental carrier reports to the Board; the other entities keep their profit-and-loss statements to themselves. There may accordingly be "improper allocation of revenue and expense between the parts of the project * * * with the carrier showing a loss but the venture as a whole being profitable."

The findings were adopted by the Board in 1955. So far as I am aware, there have been no developments with respect to supplemental carrier reports to the Board which would make these findings inapplicable today.

EXHIBIT A.—EXCERPT FROM LARGE IRREGULAR AIR CARRIER INVESTIGATION
22 CAB 838, 906 (1955)

"The foregoing balance sheet and profit-and-loss figures and the appendixes summarizing them are based on the reports filed by the irregular carriers with the Board and are used as the best information available. However, the weight to be accorded the reported financial results of the irregular carriers is affected by a lack of dependability of many records, the widespread use of the cash rather than the accrual method of accounting, and the fact that related companies or activities may have had an inappropriate allocation of expenses and revenues between each other, resulting in overly large losses to one and gains to the other.

There has been a lack of uniformity in accounting methods and a rather widespread failure to maintain accurate and reliable records. For example, there has been variation in treating commissions to ticket agents, who were paid rates of as much as 35 to 50 percent. Some carriers included commissions in their expense figures, whereas others showed their revenues exclusive of commissions, with no indication in either revenue or expense data of the amounts of commissions involved. Many of the carriers have used some variations of the so-called 'cash' method of determining their profit or loss for a particular period (a showing of expenses covered by actual payments and revenue actually received) rather than the accrual method (a showing of income earned and expenses incurred during the period, regardless of the moneys actually received or paid). In appraising the economic results of an operation during a particular period, the cash method tends to be unreliable, in that expenses or revenues assignable to operations during one period may be included in the reported financial results of another period.

"Reported profits and losses are subject to a question arising in connection with the numerous instances which have been brought to light of very close relationships between the exempted carriers and such entities as their ticket agencies, the companies owning the aircraft they use, and their maintenance companies. While recurrent reports of losses to a carrier over a considerable period may represent a situation where continuing increments of capital have been fed into the business or previously contributed capital depleted, there are good grounds for wonder here whether there may in some instances be situations in which the reports of loss constitute only a partial accounting of an overall business venture, with another part of the venture having at least a corresponding profit. For example, although ticket agencies have received large commissions, up to 35 and even 50 percent, it cannot be determined from evidence herein whether they obtained profits or losses. But the continued existence of an operation is some indication, although not by any means conclusive, that it is part of an economically successful venture. Some of the reported losses of irregular carriers may be suspect because of the possibility of improper allocation of revenue and expense between the parts of the project (as between air carrier and ticket agency and aircraft rental company, for example), with the carrier showing a loss but the venture as a whole being profitable."

EXHIBIT D

SUPPLEMENTAL AIR CARRIERS

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

General Information

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

For 14 of these 18 carriers, the 12-month period ended April 30, 1961, has been used. This is the latest 12-month period for which the dat are available. That period was not suitable for four carriers, however, by reason of the fact that the carriers had either discontinued all flight operations during all or most of the period or had discontinued individually ticketed passenger and individually waybilled operations. For each of these four carriers, the period used herein is the most recent 12-month period in which there was reported a substantial volume of noncharter operations in terms of the individual carrier's level of such operations during the years back to the beginning of 1956. The four carriers and the period used for each are as follows:

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

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

The 13 carriers which did not have as many as 5 of the indicated flights in any month are as follows:

Carriers certificated in docket 5132:
- Coastal Air Lines,
- Conner Air Lines, Inc.
- Johnson Flying Service, Inc.
- Overseas National Airways.
- Quaker City Airways, Inc.
- Sourdough Air Transport.
- World Airways, Inc.

Carriers authorized pursuant to order E–9744:
- Air Cargo Express, Inc.
- Airline Transport Carriers, Inc., doing business as California-Hawaiian Airlines.
- Argonaut Airways Corp.
- Miami Airline, Inc.

Other:
- Vance Roberts.[1]
- General Airways, Inc.[2]

---

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

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

EXHIBIT D

SUPPLEMENTAL AIR CARRIERS

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

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

[All flights are exclusive passenger unless otherwise noted]

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

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

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

[All flights are exclusive passenger unless otherwise noted]

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

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

Blatz Airlines, Inc.,[1] *12 months ended Apr. 20, 1961*

[All flights are exclusive passenger unless otherwise noted]

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

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

KANSAS STATE UNIVERSITY LIBRARY MANHATTAN, KANSAS DEPARTMENT

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

[All flights are exclusive passenger unless otherwise noted]

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

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

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

[All flights are exclusive passenger unless otherwise noted]

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

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

Source: CAB form 242 reports.

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

[All flights are exclusive passenger unless otherwise noted]

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

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

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

[All flights are exclusive passenger unless otherwise noted]

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

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

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

[All flights are exclusive passenger unless otherwise noted]

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

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

Source: CAB form 242 reports.

Saturn Airways, Inc.,[1] 12 months ended Apr. 30, 1960

[All flights are exclusive passenger unless otherwise noted]

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

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

Source: CAB form 242 reports.

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

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

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

[1] Certificated in docket 5132.

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

Source: CAB form 242 reports.

72185—61——17

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

[All flights are exclusive passenger unless otherwise noted]

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

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

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

[All flights are exclusive passenger unless otherwise noted]

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

[1] Certificated in docket 5132.

Source: CAB form 242 reports.

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

[All flights are exclusive passenger unless otherwise noted]

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

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

Source: CAB form 242 reports.

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

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

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

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

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

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

[1] Certificated in docket 5132.

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

Source: CAB form 242 reports.

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

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

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

[1] Certificated in docket 5132.

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

Source: CAB form 242 reports.

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

[All flights are exclusive passenger unless otherwise noted]

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

[1] Authorized pursuant to order E-9744.

Source: CAB form 242 reports.

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

[All flights are exclusive passenger unless otherwise noted]

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

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

Source: CAB form 242 reports.

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

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

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

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

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

Source: CAB form 242 reports.

EXHIBIT E

SUPPLEMENTAL AIR CARRIERS

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

A. Companies that are presently not operating

(1) Certified in docket 5132:

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

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

Vance Roberts.

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

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

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

None.

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

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

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

During the 5¼ years from January 1, 1956, through March 31, 1961, 10 of the captioned group of carriers reported no operations for at least 2 consecutive calendar quarters. The quarterly periods since January 1, 1956, in which these carriers reported no operations are indicated by the word "None" in the tabulation.

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

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

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

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

EXPLANATION

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

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

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

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

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

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

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

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

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

MEMORANDUM OF SUPPLEMENTAL AIR CARRIER CONFERENCE, WASHINGTON, D.C., IN SUPPORT OF S. 1969 AND H.R. 7318 AND EXPANDING AMENDMENTS

If supplemental airlines are to continue to fill a marked need in the air transportation structure of the Nation, their authority should be sufficiently flexible to "supplement" the fluctuating requirements of the public and the military.

With an authority granting 16 round trips per month between any two points in the United States (present authority provides 10), a clear and precise definition as to what constitutes a "charter" as applied to group flying, and an opportunity to participate in military air transportation while also maintaining an effective ready reserve civil airlift, the supplemental airlines can continue to meet the demands for low fare air travel for the public and also respond to the national defense requirements.

Supplemental airlines have never received Federal subsidy, and they do not now seek subsidy. They have pioneered for themselves a place in the air transport system and now seek permanent certificates which will preserve their industry and allow them to remain flexible enough to explore the international and domestic charter markets and answer promptly the national military needs with upgraded equipment and alert and experienced personnel.

A recent policy announcement by the Military Air Transport Service (MATS) urged the small airlines to upgrade equipment if they expect to qualify for future contracts. Unless the Congress provides legislation which will put a floor below this willing, determined, and able industry, it will be impossible to modernize aircraft for quick convertible military personnel and cargo carriage.

Critics of the supplemental airlines have claimed that the supplemental's aircoach ticketed business (presently 10 trips per month between any two U.S. cities) skims the cream from the profit area. In fact, however, all the ticketed business within the supplemental industry represents less than one-half of 1 percent of the entire domestic air transportation industry's income.

The person typical of utilizing supplemental air travel is hunting a bargain price, and rarely has ever flown with a major airline. He may be expected to carry a thermos bottle under one arm and a homemade cold lunch into the cabin of the plane. Before deciding to take an air trip, this person has used all-night bus travel or train-coach facilities to reach his destination. He is motivated by the desire to travel quickly and most reasonably in order to have more money to budget toward his vacation or visit with relatives and friends. Supplemental carriers do not cater to the expense account traveler. The fact of the matter is that supplementals have introduced a large segment of the population to flying and thus have built a larger potential for the air travel market.

The limited ticketed trip authority alone is not enough for these airlines to survive and prosper, but it is an important link in the flexible structure of the industry which keeps aircraft in the air between military flights and charter trips. The economic stability of the supplemental air carrier industry has been entirely dependent upon the full use of the diversified authority covering charters, low fare ticketed passengers and military contracts.

For 15 years, the supplemental airlines have battled against the constant uncertainties of protracted hearings before the Civil Aeronautics Board and innumerable court appeals. Such conditions offer little encouragement to lending institutions considering loans to carriers who are attempting to stay in stride with equipment modernizations.

With the establishment of a U.S. Travel Bureau under the Department of Commerce to encourage people of other countries to visit America, supplementals have much to offer. It is generally known that the bargain traveler in Europe travels with a group as a means of trimming expenses to the bare minimum. Should the supplemental air carriers be encouraged by Congress and the CAB in this international market, the objectives of the new travel bureau will be greatly enhanced by foreign charters to American ports of entry.

The supplemental air carriers are proud of their record with the armed services and the general traveling public. (See attached folder.) Few people deny that these airlines established aircoach travel as early as the late 1940's. In this respect, it is worth noting that the major airlines themselves have profited—and the American public has been the beneficiary—from this innovation by the small airlines; for in their effort to meet the competition, the fixed-route carriers introduced for the first time their own coach flights, and thereby tapped a large and previously undeveloped market for air travel.

It has become virtually axiomatic to regard the 4,700,000 small business firms as the backbone of the American free enterprise system. The Congress has frequently acknowledged this by implementing the Federal responsibility toward maintaining a healthy economic climate for small business. With respect to the vitally important air travel industry, the Congress is here offered the opportunity of extending its concern for the creative potential of the individual entrepreneur. By establishing the safeguards that are herein recommended, Congress will provide a legitimate framework within which initiative, enterprise and the pioneering spirit in aviation might continue to prosper.

The Supplemental Airlines of the United States—Nation's Only Ready-Reserve Civilian Airlift

THE FLEET

The fleet consists of 164 aircraft, of which 101 are oversea capable, and 63 suitable for support of limited and guerrilla warfare. This fleet can provide at any given time lift for 9,885 personnel and 1,073 tons of equipment.

MOBILIZATION

Aircraft control center in Washington headquarters of Independent Airlines Association keeps round-the-clock check on location of aircraft; can alert entire fleet on moment's notice through 24-hour communications network linking center with military and air carrier operating bases and association offices throughout world.

Bulk of equipment is in continuous military contract work, domestic and overseas, and is already equipped for military movements.

To answer call anywhere in world, supplemental airlines will not have to disengage from route-type commitments, waste time converting equipment, but merely step up what they are doing daily now.

EXPERIENCED PILOTS

Approximately 1,200 pilots proficient in military work fly supplemental airlines' fleet. Civilian and MAT's charters take them to virtually every part of the world; give them more experience in out-of-the-way places than any other pilots. Supplemental airlines crisscross globe daily; Tokyo today, Frankfurt next, and then Africa, etc.

Since 1951, supplemental airline industry under effective working partnership with military has flown over 50,000 commercial air movements involving over 2,500,000 military personnel. In addition to military experience gained, supplemental airlines have saved taxpayers millions of dollars by keeping these personnel on the job not on the way.

PAST SERVICE

In the 1948 Berlin airlift and the 1950 Korean airlift supplemental airlines stepped into the military airlift gap transporting the bulk of the tonnage assigned to commercial air carriers.

This won them recognition as an important weapon in the Nation's arsenal.

OFFICIAL RECOGNITION OF SUPPLEMENTAL AIRLINES VALUE TO NATIONAL DEFENSE

"These carriers offer a flexible airlift capacity that can be brought into military use far more rapidly than the certificated (route-type) carriers whose equipment is obligated by commitments and schedules to service regularly appointed routes * * * they are willing to fly anywhere in service to the military * * * they are an essential element of the Nation's reserve airlift. * * *"—Select Committee on Small Business, U.S. Senate.

"The continued existence of their fleet is of real value in terms of national defense * * * they are a reserve airlift capable of being called into action with a minimum of notice. * * *"—Civil Aeronautics Board.

"The Defense Department recognized as a matter of the greatest urgency the necessity for maintaining a strong, modern and economically sound (supplemental air carrier industry) to meet requirements of national defense during peacetime and national emergencies. * * *"—Maj. Gen. R. C. Harmon, Judge Advocate General, U.S. Air Force.

HISTORY

Today's supplemental airline industry had its start shortly after World War II when a group of Air Force veterans returned home to establish the first aircoach service, using their own capital and with no Government subsidy.

In 1951, Congress, through the Senate Small Business Committee found that these carriers were performing useful and important services to the public and to the national defense. It asked the CAB to study the industry and determine how best to preserve it.

In 1959, the CAB after the longest regulatory investigation in history, granted certificates of public convenience and necessity to 25 supplemental air carriers. These carriers are authorized to operate (1) unlimited charter flights in the domestic field; (2) 10 route-type scheduled individually ticketed round trips per month between any two points in United States and (3) charter trips in the foreign and international field subject to individual exemptions by the CAB.

In April 1960, the U.S. Court of Appeals ruled that the CAB does not have the authority to grant such certificates. Following this decision the Congress passed a stopgap bill permitting CAB to grant such certificates for 20 months until Congress could decide on permanent operating authority.

If supplemental industry is driven out of business by failure to obtain operating authority broad enough to survive, national defense will be impaired by loss of Nation's only ready-reserve civilian airlift; development of a low-cost air service in the public interest will be halted, and the only competitive yardstick available to measure claims of public service and national utility of big trunk airlines will be eliminated.

Mr. STRATTON. It seems to me that a convenient place to start on looking at what has been called the homogenity or charter definition problem is to recognize that there are basically two different ways of charging the passengers for a flight. You can charge so much for the use of the plane and then divide it up among whatever number of passengers you have that particular day, or you can charge so much a passenger regardless of how many passengers you have that particular day.

Now, to illustrate that, if you have a flight from which the carrier needs to realize $10,000 with a 100-passenger plane on the days that 100 passengers show up, on the charter basis, he would be charging $100 a passenger. On the day in the winter when only 10 passengers show up, the price to the passenger would $1,000 by the time you divide the $10,000 among the 10 passengers.

Now your certificated scheduled carriers are dedicated to the proposition that they charge the same amount for a passenger regardless of whether it is a day they are flying with a light load or whether they are flying with a hundred percent load factor. This is, we believe, the only way you can really expect to have the air transportation system you want. Otherwise, there is a great element of unfairness to the passengers. This means that the scheduled route carrier has to set his normal fare for individually ticketed traffic at a level which over the year averages out the good days and the bad days and, for that matter, averages out his good routes and his bad routes, so that overall he comes out at the end of the year, hopefully, with some kind of a profit.

This, basically, is what leads to your fair structure being what it is. It is also why in the case of the North Atlantic the fare that is charged day in and day out, on the 10-passenger days in the winter as well as on the heavier days in the summer, is higher than the average you get if you take a plane completely full and then divide it by the number of passengers. The comparison that has been made, in other words, between the IATA fares and the price you arrive at under the charter are comparing to some extent two different things.

Now, if your scheduled airlines are going to assume, as they are required to under the act, the obligation to provide this service day in and day out at the fares in their tariffs, which remain the same through the full year, there has to be some protection in there against another operator coming in under the guise of charter and simply running a full passenger load any day he is able to get a full passenger load.

Senator MONRONEY. I think the committee is in full agreement on that.

Mr. STRATTON. That is right. Maybe I have oversimplified——

Senator MONRONEY. I am glad you did, because this is one of the things we must always be wary of.

Mr. STRATTON. This, I think, is what brings you right to the question of definition of charter.

One of the witnesses yesterday said, as far as he was concerned, a charter was simply any group of passengers that wanted to charter a plane. I would say that is a completely inadequate definition. Within the bounds of that definition, for example, a group of passengers chartering the plane could be 90 passengers who arrived at Idlewild,

holding their tickets, and suddenly said, "We are a group. Let's cash in our tickets, charter a plane, and save money." This is one way that sort of definition completely breaks down your ticketed fare structure.

Another thing that would happen, under as broad a definition as that, could be a ticket agent or any kind of a middleman who could put a group together, then charter the plane whenever he can get the full load, and again you are actually breaking down your structure, because he is peddling the tickets to the general public, but then they are going out under the guise of charter.

Senator MONRONEY. Well, you wouldn't want the committee to believe that as a result of a long sales period that when you collect 100 people who are willing to go between 2 points, between 3 or 4 points, on a certain day and return on a certain day, that is exactly the same as myself and my wife desiring to travel on the day that we wish to go and come home 2 weeks later, if we could afford it.

The man who is able to charter the plane is searching for a different service and I grant you the quickie effort of a phony charter to be a ticket-selling proposition to absorb these people who come out on the same day to Idlewild is obviously a violation of the intent of charter.

But when you put together 100 people that are willing to go together, stay together, live together, depart and come back to the same place, Orly or Italy or someplace, you have an entirely different kind of an operation from what you offer, and therefore I should pay more for that individual service, that will go when I want to go and come back when I want to come back, and be with the people that I would rather not be with, or be with the regular passengers.

Mr. STRATTON. You have run in one additional element that maybe goes into your definition of charter. You expect of it to be going and coming the same. There can also be such a thing as a one-way charter, where they do not come back together, and if you want to write the round trip definition into the charter, that should obviously be part of your definition because the situation becomes somewhat different. If you don't put the round trip in, you leave it a one-way charter.

Senator MONRONEY. The definition of charter is what we are talking about, and definition of charter can be a one-way charter, but the regulations that you apply to the use then of charter is a different thing.

Mr. STRATTON. That is right. And I think——

Senator MONRONEY. You have to include that which would be, I think, normally competitive and a substitution for your normal ticketed operations.

Mr. STRATTON. Whether you call it in the definition of charter or the regulations governing charter, you have to get, I believe, to the question of who makes up the charter group and how that group is put together.

To revert to what I was saying about a ticket agent, under a wide-open definition, just any group that shows up to charter an airplane, any group that shows up and approximates an airplane load, the ticket agent can be advertising in the paper every day. He gets 90 passengers, 50 passengers, or whatever is the load for the particular airplane.

Now he is doing this not under the tariff rules that govern how much you charge a passenger; he can be doing this on whatever he can get from the particular people. He then makes a contract with an airline to carry them.

This is actually individually ticketed service under the guise of charter. It is one of the problems in the field.

Senator MONRONEY. I don't quite agree, because I think you have to supply the people who are willing to go and come according to the terms of the charter.

Mr. STRATTON. This is if you have written round trip into it again.

Senator MONRONEY. Even going one way, leaving at the same hour and the same day. You have a choice of 10 schedules going out on a certificated airline. You can go down and get on a plane in the morning or the afternoon or evening, but you would have to leave at a time certain with a group certain to go on a certain route. By definition, it occupies a very great distinction from your normal ticketed traffic.

Mr. STRATTON. What we are trying to get at, you see, is preservation of a distinction so that it does not open the door to simply the selling of individual tickets to members of the general public——

Senator MONRONEY. This committee is with you on that. We recognize the value of protecting that, but I still think you can arrive at so many restrictions, the homogenity, or whatever it is called, all these things, that they are merely a device in which you can cut charter down to a mere trickle for people that it actually was designed to serve.

Mr. STRATTON. Quite conceivably you could be so restrictive as to do that. You can also be so loose as to completely upset the ticketed route structure that you are trying to preserve and this is where the problem has come in, through the years, and the Board's attempts to define charter I would kind of like to review.

For example, one of the problems that arose was during the year 1950. The Board had a very loose definition in the lines of what we were just talking about, permitting ticket agents or other intermediaries to form the groups from general public and to charter the airplanes. The Board abandoned that policy in 1951 as a result of their experience with the 1950 results, which wound up in the latter part of that year, particularly, with a great many passengers being stranded in Europe, and with a great many delays in college boys and other people getting home, part of which was because their contract was with an intermediary, the man that put the group together. He allegedly had a contract with the carrier, but the charter group was having a little difficulty trying to find out who was responsible. They had no direct contract with the carrier. This led, as I say, to the Board's abandoning that approach in the North Atlantic after its rather unsatisfatcory experience in 1950.

Now there was a period after that when the Board did just what you were referring to, of being too restrictive, at least, by our present standards. They had a definition of charter for a while which would permit charters by noncertificated air carriers only if charter was essential to the success of the trip and as they said in 1955, when they abandoned that policy, that had resulted in charters for practical pur-

poses being available only for such things as refugee movements or ships crews to any frequency. They said that was too restrictive.

This brought them to the more liberal policy they have followed since 1955, and there have been, of course, difficulties in the definition. It has been reviewed almost every year. And I would like, before taking that up, to speak briefly about the Board's basic definition of charter, which is in part 207.

This applies to the certificated carriers, although it has been incorporated in virtually the same language in the certificates issued to the supplementals and has also been incorporated in highly similar language in the Board's off-route charter regulations applying to foreign carriers.

The definition in part 207 starts off by saying:

> A charter trip means air transportation where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage on a time-mileage or trip basis.

Then it goes on with some additional clauses, one of which is that the charter is engaged by a person no part of whose business is the formation of groups of transportation or the solicitation or sale of transportation services for the transportation of a group.

Now, that is to take care of this problem of the intermediary, the indirect air carrier who is not under the Board's control with respect to tariffs and so forth, and that gave rise to the problems in 1950.

Another provision of part 207, and I am not reading the whole thing, there are four or five clauses in here directed to taking care of particular problems:

> Within the meaning of this regulation, a charter trip shall not be deemed to include transportation services offered by an air carrier to individual members of the public [of the general public, that is the phrase here] or perform under arrangement with a person who provides or offers to provide transportation to the general public.

Now, this is to take care of the advertising to the general public and putting together what amounts to simply a straight individually ticketed air transportation.

This has been satisfactory, actually, domestically. It has given rise to no great problem.

Now, in the North Atlantic field, because of the very great economic temptations to try to get together some form of a group that results in a lower fare and for other factors that are peculiar to the North Atlantic, there has been a good deal of difficulty in trying to define when the solicitation is being made from the general public. There is no great objection to the idea that you start with a segment of the public which is composed of a club, an organization, or whatever that might be. The trouble is when does that organization become so big that it has become really the general public?

For example, if the organization was to be all members of the Catholic Church in Paris, or all Methodists in New York, the part of the public from which you could solicit would be practically up to solicitation from the general public. This has led, for example, to he present rule that the basic group from which you solicit must not be more than 20,000 people.

Senator MONRONEY. And they have a whole lot of other gimmicks. I ran into one where social workers were recruited from leading col-

leges of the country and were seeking charter service to go to England and work in the social agencies of England. They have a very good international exchange of people.

These were students. They ran into one of these nice little roadblocks that the IATA regulations have, that the kids did not know that they were going to be passing their work, whether they would have to go to summer school to make up things, so they could not belong 6 months before the time of departure.

Consequently, you run into this complicated, idiotic interpretation. They had to be individually ticketed, although they were a group certainly within the meaning of what any definite organization is. They were going to live together, work together, do social work together, and were carefully recruited by the leading colleges to engage in this. Yet because they could not commit themselves 6 months ahead, since most of them were selected only 3 months ahead, they go over by individual ticketed fare, which is a great deal higher, and then it is Okay to charter them coming back, the same group.

They were no more homogeneous on their return than they were on their departure, I hope, and this bit of idiocy that we get into on the interpretation that I think is making Congress rather impatience with what appears to be not an effort to encourage the legitimate charter but to prohibit by all possible redtape the proper use of it.

Mr. STRATTON. Don't misunderstand me, Senator, as I said a moment ago, IATA has a difficult problem trying to write a definition that gives an adequate scope of charter without permitting it simply to be turned into a thing that can be used to break your ticketed route and fare structure.

The Board has been at this for some time, and I am not holding a brief for any particular thing that is now in the regulation. But this regulation, the transatlantic charter policy has been amended, I believe, almost every year since it was first promulgated in 1955. It has been a constant revision process in the light of experience to attempt to deal with problems that have been discovered as they arise, both in the sense of closing loopholes, if necessary, and in the sense of eliminating restrictions that turn out to be unnecessary or for one reason or another impractical or unworkable.

The Board now has instituted a transatlantic passenger charter investigation, one of the things as I understand it, as I believe Chairman Boyd said, is a fresh look at those rules.

Now, part of my point there is that because of the complexity of the problems that are involved, this is an area in which I believe there has to be a certain amount of flexibility for the administrative agency to promulgate regulations and to change them from time to time. You have a great deal of risk, if you attempt to adopt one definition to last forever, covering all of the various phases of the problem, that you discover you just did it wrong.

Senator MONRONEY. 207 has worked well, you say, in the domestic side?

Mr. STRATTON. 207 has worked well.

Senator MONRONEY. Why would not it work well on international?

Mr. STRATTON. Basically that is the international rule. The problem that they ran into, as I understand it, when they got to trans-

atlantic charters, was largely in this area of what is solicitation from the general public? This has not been an acute problem domestically. It might be sometime.

We still might have to try to pin that down better in the domestic area, but thus far the problem has been largely within this particular North Atlantic market where they have made various attempts to spell out what is meant by solicitation from the general public in such a way as to keep the charter operation within bounds.

Senator MONRONEY. This example I am giving you that I had personal experience with, there was no solicitation from the general public whatsoever, and yet it lacked the necessary qualifications under the IATA regulations to be acceptable. Even the scheduled carrier, as I understand it, could not have accepted them without violating and catching a fine that would have caught up with them.

Mr. STRATTON. Not being familiar with the details of it, this is certainly—it illustrates the problem I am getting to for the need of some flexibility.

Assuming that this group is in fact not the general public, within the intention of what you wanted to do, your problem becomes: All right, now how do we rewrite the rule that we wrote last year so that we don't cut off this sort of thing again?

Conversely, when you have—when you find yourself with something that turns out to be a group of the general public, it becomes how do you write a rule next year to make sure that doesn't happen next year either.

Senator MONRONEY. We had testimony this morning from the Farmers Union which is engaging in a very good person-to-person visitation program using charter services to get farmers to go abroad. They are very good missionaries of good will and yet under all of the rules I know that apply, you can have farmers from Oklahoma County, wishing to go, but if half of them belong to the Farmers Union and the other half to the Farm Bureau Federation, you could not have the flight approved.

Mr. STRATTON. That could well be, I presume, under present rules. There might be other ways of setting the thing up.

Again, this sort of thing, as you find it a problem within your definitions, is the sort of reason for preserving some flexibility, I believe, in the Board to modify the rules from time to time in the light of experience.

You see, had you adopted in 1950 the Board's then policy, which was too loose, you would be in one sort of trouble today. Had you adopted in 1952 the Board's then policy with the very tight definitions, you would be in another sort of trouble today.

Senator MONRONEY. The testimony shows that they have what looks like a legitimate, honest, sincere effort to comply with the charter provisions of the transatlantic. Everything is going fine and 3 or 4 days before the flight is supposed to take off, some carrier that didn't want to furnish the charter service in the first place files a complaint, and the whole flight may be jeopardized or called off and the people inconvenienced while the records are searched to see if some persons without the proper CAB passport privileges of having met all the tests of being a homogeneous group are aboard.

This, again, shows to the committee, I think, that it is more designed to frustrate than it is to encourage these legitimate charter efforts.

Mr. STRATTON. I may be getting into an area that someone from the Board could answer better than I could, but I would not believe that the regulation is designed to frustrate.

I would point out, however, in this connection again, that this is one of the things where the Board has contemplation certainly for change, in that they are proposing to issue seasonal exemptions to cover charters on a sort of a basis where the carrier is responsible to report back at the end of this season, rather than an advance policing.

This would change——

Senator MONRONEY. Would you be in favor of such a change?

Mr. STRATTON. I don't know. I think my question may be a little academic at the moment, sir, because the Board has up and done it, so it is in effect.

They issued the first one of those about—well, on June 20, as a matter of fact, to Saturn Airways for the balance of the year. They pointed out their regulations were clear and well understood by the industry and they believed the time had come without undue disruption of the air transportation system, they could abandon the prepolicing. Now, they are doing it on an individual carrier basis, but this is the sort of adjustment that as they make it from time to time takes care of particular problems that are developed, or I believe will in the course of time.

Senator MONRONEY. Did you have a chance to go over the proposed amendments suggested by Mr. Burwell of the Supplemental Carriers Association?

Mr. STRATTON. Well, this was handed to me just when we arrived this morning, so I have had——

Senator MONRONEY. You have not had a chance to examine it?

Mr. STRATTON. I have had a chance to examine it and I would like to comment with the caveat this is a rather quick comment.

Senator MONRONEY. We would like to have your testimony now and if you would like to supplement it with a more detailed analysis, we would be glad to hold the record open.

Mr. STRATTON. From this set of amendments which Mr. Anton read into the record this morning, the first item he puts in is a new subsection 13 which defines "charter trip." That is in the exact words of the beginning of part 207:

> Charter trip means air transportation performed by an air carrier holding a certificate of public convenience and necessity where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage or for the movements of the property on a time, mileage, or trip basis.

That comes right out of part 207. But he puts a period then, whereas part 207 goes on to specify, for example, one clause I read earlier:

> By a person, no part of whose business is the formation of groups for transportation or the solicitation or sale of transportation services.

He omits that. He omits again another example I read:

> Within the meaning of this regulation a charter trip shall not be deemed to include transportation services offered by an air carrier to individual members of the general public.

Both of those are left out. Now, when I get to his amendment on page 2 to 401 (e), I am completely lost. He says:

Provided, That such regulation—

These are regulations directed to charter—

shall not have the effect of circumscribing the definition of charter trip as hereinbefore defined.

Now, does this mean that this act in effect repeals all of part 207 except that first sentence, meaning that the Board cannot seek to regulate, to prevent the formation of these groups from the general public, the 90 passengers on the steps of Idlewild cashing in their tickets to suddenly charter an airplane, the use of intermediaries and indirect air carriers and ticket agents?

If it means that the Board cannot adopt those regulations in the future, this is an entirely different concept of charter than the one to which the Air Transport Association has been addressing itself thus far. I think our position ultimately on giving them charter authority would be very different.

On the other hand, if this does not mean that, but means that the Board can still adopt by regulation the remaining part of 207, then I think that we are in exactly the same situation as we are today, where we are going to have Board regulations, and this particular amendment has not changed the situation. It would be superfluous.

This is my initial reaction based on looking at it very quickly.

Senator MONRONEY. Did you have any comments?

Mr. TIPTON. One further comment in answer to your question about the exemptions for a seasonwide or season-long charter.

The question was raised as to whether we were for it, and I would like to answer that in somewhat broader terms. I think that that method of dealing with the charter business is wrong. The charter the Board should have, as we have recommended authority, if they lack it now, to issue certificates authorizing a carrier to conduct a charter service.

In the hotly competitive North Atlantic or in any other place, for that matter, the Board should determine who gets a charter certificate and how many and give them a certificate and give them the responsibility for building up the business.

I would suggest if the Board would pass on the public need for a charter authorization in the way we have recommended, it would not only solve many financial problems for those engaged in the charter business, but would also go pretty far in solving the difficulty of what is a charter. Consequently, I would hope that the committee would agree to the amendment that we have recommended and that the Board would then proceed to determine how many charter operators are needed in the North Atlantic. I suspect strongly that we don't need 25.

Senator MONRONEY. We don't have 25 that have oversea capabilities.

Mr. TIPTON. As far as the present situation is concerned, by getting an exemption under the statute, it means that anybody that does have or can convince the Board that they have overseas capability, can operate charters, and I just don't believe that is a good way of regulating the air transport business.

I don't think you need, in other words, so many numbers as you need good and stout ones.

Thank you, Mr. Chairman. We have gone on too long.

Senator MONRONEY. We appreciate you attention and your very helpful testimony on this, and I am quite impressed with the need of maybe having a session with the committee on scheduling as one of the possible ways of examining financial difficulties which the airlines find themselves drifting into. Not that we propose to take it over, but merely be an agent maybe to get somebody to look seriously at some of these duplicating schedules and its effect on revenues.

Mr. TIPTON. One thing I am sure we can convince you, Senator, is that you don't want to take it over.

Thank you very much and we will work with your staff in the preparation of that presentation.

Senator MONRONEY. The committee will stand in adjournment.

The record will be held open for any amplifying statements until a week from today.

Thank you very much.

(Whereupon, at 1:20 p.m., the hearing was adjourned.)

(The following material was received for the record:)

THERE IS NO PRESENT NEED FOR A DEFINITION OF "CHARTER" IN THE FEDERAL AVIATION ACT

Spokesmen for the supplemental air carriers have submitted to the Aviation Subcommittee, Senate Interstate and Foreign Commerce Committee, a proposal to incorporate in the Federal Aviation Act the following definition of "charter trip":

" 'Charter trip' means air transportation performed by an air carrier holding a certificate of public convenience and necessity where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage or the movement of property, on a time, mileage, or trip basis, in domestic, overseas, intraterritorial, or foreign commerce."

As an integral part of the proposal, section 401(e) of the act would be amended to provide that any Civil Aeronautics Board regulations with respect to charter operations "shall not have the effect of circumscribing the definition of charter trip as hereinbefore defined."

The proposed redefinition of "charter trip" is dangerous. It would invite conduct under guise of "charter" which would undermine the tariff posting, certification and other regulatory controls embodied in the Federal Aviation Act.

The proposed definition ignores such basic elements as who "engages the entire capacity of an aircraft," and how he uses that capacity after making the engagement. To illustrate:

Example 1: a ticket agent engages "the entire capacity of an aircraft" to be flown from A to B. He then peddles boarding passes, the price varying according to what he can persuade the customer to pay.

Example 2: J. Doe places an advertisement in the newspaper: "Have engaged airplane, A to B, Friday. Big discounts from published fares if you see me quick."

Example 3: Ninety ticketed passengers are at Idlewild, awaiting departure of their Los Angeles flight, when one of them announces "We can engage with another airline for the entire capacity of an aircraft. Just cash in your tickets here, and you'll save X dollars each."

Each of the foregoing examples meets, literally, the definition of "charter trip" proposed by the supplementals.

Each of them involves, in fact, the sale of individually ticketed air transportation.

In each of these examples, there would be none of the tariff controls envisaged by the act—the price to a given passenger would appear on no publicly posted tariff, but could vary quixotically; there could be undue discrimination, preference, and prejudice, so that passengers seated side by side might pay different

fares; statutory restrictions on free and reduced-rate transportation would be inapplicable; and so forth.

Likewise, the certification controls envisaged by the act would be broken down—the certificate holder, obligated to provide adequate scheduled individually ticketed service, would never know how many of his passengers, even after having made reservations and bought tickets, might disappear pursuant to arrangements to engage an aircraft. Moreover, spurious charters involving wholesale diversion in planeload lots could, on the one hand, leave the certificated route carriers obligated to operate on the slack days and over the thin routes, while, on the other hand, depriving him of the revenue support from normal loads on good days and over better routes.

Particularly serious is the breakdown of the regulatory process that can follow from giving ticket agents and other promoters free rein to engage the entire capacity of an aircraft to carry individuals solicited from the general public. Thus, one of the early problems the Board encountered in its attempts to bring the more unruly of the nonskeds into line was the contention that carriage of passengers at a fare different from that in the carrier's posted tariff was not a violation of the act because the carrier had chartered the airplane to its ticket agent—who did not have to file a tariff for Board approval (Standard Air Lines, 10 CAB 486, 501 (1949)). In 1950, the Board stood by while groups of tourists to Europe were put together by intermediary organizations acting as independent contractors between the operators of the aircraft and the general public—the contract being, of course, one to engage the entire capacity of an aircraft. The results were appalling. The Board, early in 1951, firmly renounced that policy, for such reasons as that—

"A number of passengers were left stranded in Europe and others were subjected to unreasonable delays in obtaining return space when they did not deal directly with the carriers operating the aircraft." ("CAB Policy Statement on Transatlantic Charter Services," Mar. 16, 1951, mimeograph pp. 4–5.)

Comparison with Board's definition in part 207

The danger that the definition of "charter trip" proposed by the supplementals would lead to just the sort of abuses outlined above is heightened by the fact it is a bobtailed version of the CAB's long-established definition of "charter." The Board has been careful, in defining "charter," not only to recognize the "use of the entire capacity" concept, but also to incorporate in the definition language directed to the questions who makes the agreement, and how the capacity is to be utilized. This is essential to prevent abuses such as outlined in the foregoing discussion.

The Board's basic definition of "charter" was codified in 1951 in part 207 of the Board's Economic Regulations, applicable to certificated route carriers. This definition reads:

"(a) 'Charter trip' means air transportation performed by an air carrier holding a certificate of public convenience and necessity where the entire capacity of one or more aircraft has been engaged for the movement of persons and their baggage or for the movement of property, on a time, mileage or trip basis—

"(1) by a person for his own use;

"(2) by a person (no part of whose business is the formation of groups for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons as agent or representative of such group;

"(3) by two or more persons acting jointly for the transportation of such group of persons, or their property;

"(4) by an airfreight forwarder holding a currently effective letter of registration issued under part 296 or part 297 of the economic regulations for the carriage of property in air transportation.

"Within the meaning of this regulation, a charter trip shall not be deemed to include transportation services offered by an air carrier to individual members of the general public or performed by an air carrier under an arrangement with a person (other than an airfreight forwarder defined in subsection (4) above) who provides or offers to provide transportation to the general public or transportation services engaged by persons paying for such services an amount aggregating in excess of the transporting carrier's duly published charter rate or fare."

The part 207 definition provides, in the words of the Board's own summary:

"Section 207.1, in substance, prohibits the offering by a direct air carrier of charter services to individual members of the public, and the performance by a direct air carrier of charter services for an indirect air carrier, promoter or charter groups, a ticket or travel agent, or for persons paying for such charter services an amount aggregating in excess of the direct carrier's duly published charter rate" (Order No. E–9221, May 20, 1955 (mimeograph, p. 2).).

It will be noted that the supplementals' proposal would define "charter trip" in the very language of the first 50 words of the part 207 definition—the part that covers engagement "of the entire capacity of an aircraft."

By putting a period at this point, and ignoring the remaining provisions of the part 207 definition, the supplementals' proposal apparently forbids the Board by regulation to proscribe the various abuses involving sale by ticket agents or others of individual tickets for space on flights operated under "engagements" for use of "the entire capacity of an aircraft."

The definition of "charter" in part 207 has, we believe, proved workable and clear insofar as passenger charters are concerned.[1] It has been applicable to the certificated route carriers, for both domestic and international operations, for over 10 years without amendment. It has been useful in preventing the carriers from invading one another's routes under guise of charter, as well as in protecting the public against tariff violations and other consequences of intermediaries forming spurious charters.

Essentially the same language has been incorporated in the operating authorizations for the supplemental air carriers. (See app. A, attached hereto.) In thus adopting, for the supplementals, the basic definition of "charter" that had long been inapplicable to the certificated carriers, the Board sought to make very clear that this would authorize such—

> "Charter business * * * as lodges, clubs, and other groups traveling to a convention, student and alumni groups going to a particular game, etc.
>
> "Charter arrangements of this character have always been considered to be valid charters and we see no reason for adopting a different definition where such arrangements are made with irregular air carriers" (22 CAB 838, 864 (1955)).

The supplementals themselves have professed no basic disagreement with the part 207 definition, at least in the domestic arena. Thus, Mr. Burwell, near the outset of his testimony before the Aviation Subcommittee, stated—as we understood him—that the part 207 definition was satisfactory since, among other things, it foreclosed ticket agents organizing fictitious "charters." It accordingly came as something of a surprise when the supplementals proposed that the act be amended in a way which would appear to, in effect, repeal the portion of part 207 which foreclose the ticket agency abuses—and, indeed, apparently foreclose the Board from hereafter regulating to prevent such abuses.

THE SPECIAL PROBLEM OF TRANSATLANTIC CHARTERS

While the basic definition of "charter" in part 207 has proved satisfactory in most areas—particularly for domestic purposes—the Board has deemed it necessary to develop additional safeguards to prevent abuses under the guise of charter in the transatlantic (United States-Europe) markets.

One of the basic problems in the transatlantic charter field has been establishment of more detailed guidelines to prevent formation of groups by solicitation of the general public. These guidelines—sometimes referred to as the "homogeneity" rules—seek to define the size of the club or organization from which the charter group can be formed, the length of time membership should be held, and so forth. As the Board describes the thrust of these rules in part 295 of the Economic Regulations (Order ER–326, Apr. 28, 1961, p. 4):

"With regard to the prohibition against charterers obtaining participants for a charter group by soliciting the general public, the rule prevents the forming of a group by (1) general advertising or (2) by unlimited soliciting of charter participants from an organization easy to join, and of uncertain or large and scattered membership. The rule thus provides the general framework within which to judge the charter worthiness of the cases on their own facts. For example, in accordance with the provisions of section 295.30 as amended, prospective charter participants solicited without limit from organizations or other entities

[1] Due to extremely limited experience with charters by freight forwarders, we express no view as to the adequacy of pt. 207 in this respect.

with a total membership of more than 20,000 (except colleges or universities located in one local area) would be considered as solicited from the general public which would preclude their charter trip. However, if the solicitation of charter participants should be limited to a group of selected delegates who are members of a large association with scattered membership, the size of the association would not appear to bar the charter." [2]

One of the provisions of part 295 seeks to cope with the problem of the organization whose members join solely to participate in a charter flight. To deal with this potential source of spurious charters, section 295.2(j) reads:

"(j) 'Bona fide members' means those members of a charter organization who have not joined the organization merely to participate in the charter as the result of a solicitation directed to the general public. Presumptively persons are bona fide members of a charter organization unless they are members at the time the organization first gives notice to its members of firm charter plans and unless they have actually been members for a minimum period of 6 months prior to the starting flight date. This presumption will not be applicable in the case of charters composed of (1) students and educational staff of a single school, and immediate families thereof, (2) employees of a single Government agency, industrial plant, or mercantile establishment, and immediate families thereof, or (3) participants in a formal academic study course abroad. In the case of all other charters, rebuttal to this presumption may be offered for the Board's consideration by request for waiver."

As will be noted, the various provisions of part 295, insofar as they bear on the definition of "charter" for transatlantic operations, represent principally more detailed statements of matters—such as the prohibition against solicitation from the general public—which are covered only generally in part 207 and in the definition of "charter" in the supplemental carrier certificates. There are various obvious reasons why the transatlantic charter market has called for these more detailed regulatory responses. On the economic side, the length and price of the trip and the heavy concentration of travel in the brief tourist season creates a particular incentive for the carrier who can operate full planeloads in the season without taking on the costs of operating with light loads at other times. Such a carrier can, of course, offer a pro rata price that is substantially less than what has to be charged per passenger by a carrier obligated to operate the year around.

Moreover, international aviation relationships create particularly delicate and complicated problems. There are already 18 airlines, under various flags, operating across the North Atlantic. A major current problem is how to persuade some of the foreign-flag lines to operate within the capacity clauses of the bilateral agreements—and this is only one potentially explosive problem in this overly competitive area. Manifestly, if the Board (or the Congress) were to adopt a definition of "charter" which permitted widespread spurious charters indistinguishable from regularly ticketed operations, there would be repercussions abroad. At the very least, foreign-flag carriers would expect to operate to and from this country under the same loose definitions of "charter" originated here; how much further the foreign-flag carriers, or their governments, might go in demanding routes or other concessions is, at present, a matter of speculation.

The Board has been on sound ground in seeking to establish and maintain standards of charterworthiness, applicable in the North Atlantic, which safeguard against spurious charters. The area is one in which sound regulatory control must be asserted.

* * * * * * *

A noteworthy aspect of the Board's transatlantic charter policy is that it has not been static, but has changed from time to time in the light of the problems of the day.

Thus, in 1950, the Board followed an extremely liberal policy, under which various noncarrier entities formed groups and chartered aircraft. The Board, in a statement released March 16, 1951, announced termination of that policy in light of unsatisfactory experience because, among other things, "A number of passengers were left stranded in Europe and others were subjected to un-

[2] Thus, if the organization is participating in a scientific convention abroad, the individuals selected to read papers at the convention may be organized into a charter group. Or if an international organization is to hold a meeting, delegates elected by various chapters might properly be organized into a charter group.

reasonable delays in obtaining return passage when they did not deal directly with the carriers operating the aircraft."

Thereafter, for a period ending in 1955, the Board followed a policy of approving noncertificated charters only where charter was essential to the success of the movement. This had the effect of permitting only such movements as refugee charters and ships' crews charters with any frequency (Order No. E–9221; May 20, 1955 (mimeograph, p. 3), "1955 Transatlantic Charter Policy").

By 1955, however, the Board was of the view that a more liberal policy could be followed, provided that appropriate safeguards were preserved against "the potentiality of adverse effects upon the scheduled services of the regularly authorized transatlantic carriers. To minimize this possible danger, we are retaining the definition of charter contained in part 207, and are adding thereto new provisions relating to the activities of promoters, indirect air carriers, and ticket agents. We are also including other substantial safeguards for the protection of the public and the regular air carriers" (Order No. E–9221, supra, p. 3).

Since that time, the Board has followed a liberal policy of issuing specific exemptions for noncertificated carriers to conduct transatlantic charters. The governing conditions—and particularly the tests of charterworthiness—have been refined and restated from time to time, so as to keep abreast of current conditions and problems. The most recent such restatement is part 295 of the Board's Economic Regulations, "Transatlantic Charter Trips," issued as ER–326, effective April 28, 1961.

Currently, the Board has instituted the "Transatlantic Charter Investigation," Docket No. 11908, to consider applications for authority to operate transatlantic charters and to review the regulations pertaining to such charters. As an interim measure, during the pendency of this investigation, the Board has indicated that it plans to issue seasonal exemptions for transatlantic charters. The first of these was issued to Saturn Airways by Order No. E–16967, June 20, 1961; others have been issued to Capitol Airways and Imperial Airlines (Orders Nos. E–17049, E–17050, June 29, 1961).

The foregoing summary reviews in only the most general outline the Board's transatlantic charter policy during the past dozen years. It points up, however, a highly important consideration. The policy has been—and quite properly so—responsive to the Board's views of changing needs and changing conditions. This has entailed frequent modification of the definitions, terms, and conditions applicable to transatlantic charters involving noncertificated carriers. Manifestly, these needs and conditions will continue to change. The field is, accordingly, one calling for skilled and intelligent regulatory action, the precise detail of which may vary from time to time. The existing Federal Aviation Act provides an adequate framework for such regulation of "charter." As the Board has observed, "Congress must be taken to have used 'charter trips' with the intention of signifying its usual and ordinary connotation, which is merely a flight involving a contract for the entire capacity of the aircraft * * *" ("Charter Flight Tariff Investigation," 15 CAB 921, 923 (1952)).

The basic guideline being this clear, an appropriate function of the Board is to prescribe regulations, as needed from time to time, to prevent abuses through ticket agents, solicitation of the general public, or other devices for conducting individually ticketed operations under the guise of "charter." There is a substantial danger that an attempt by the Congress to spell out, in full detail, the limits of "charter" would import an unnecessary rigidity into the field, thus hampering ability of the Board to deal with changing circumstances, as well as entailing extremely detailed legislation.

For such reasons, our view is that there is no present need for the Congress to undertake a detailed definition of "charter" in the Federal Aviation Act.

APPENDIX A—EXCERPT FROM CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR SUPPLEMENTAL AIR SERVICE ISSUED PURSUANT TO CAB ORDER NO. E–13436, JANUARY 28, 1959

(2) As used in this certificate, the term "planeload charter air transportation" means air transportation where the entire capacity of one or more aircraft has been engaged on a time, mileage, or trip basis—

(i) by a person for his own use, or

(ii) by a person (no part of whose business is the formation of groups or the consolidation of shipments for transportation or the solicitation or sale of transportation services) for the transportation of a group of persons and/or their property, as agent or representative of such group, or

(iii) by two or more persons acting jointly for the transportation of themselves and/or their property or of a group of persons and/or their property, or

(iv) by an indirect air carrier authorized, under any applicable part of the Economic Regulations of the Board, to charter aircraft from a direct air carrier,

and where such air transportation does not include services (*a*) offered by or on behalf of the holder hereof for the carriage of individual members of the general public who are formed into or joined with any group with the direct or indirect assistance or participation of the holder hereof, or (*b*) performed unde an arrangement with a person (other than an indirect air carrier authorized as hereinabove set forth) who provides or offers to provide transportation to the general public, or (*c*) engaged by persons paying for such services an amount aggregating in excess of the holder's duly published charter rate or fare.

CHAMBER OF COMMERCE OF THE UNITED STATES,
Washington, D.C., June 23, 1961.

Hon. A. S. MIKE MONRONEY,
Chairman, Subcommittee on Aviation,
Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Chamber of Commerce of the United States supports the substance of S. 1969 which would provide for the continuance of a classification for certificated supplemental air carriers.

It is obvious that legislation of a more permanent nature is needed for the continued regulation of supplemental air carriers.

Without proper certification, the supplemental air carriers would be able to operate in helter-skelter fashion, as the market dictates, in direct competition with the scheduled air carriers which are committed to the restrictions of their certificates. This inequity to the scheduled air carriers could engender destructive gray area operations in the air carrier industry. Experience has shown that regulated for-hire transportation often is adversely affected by unregulated for-hire competitive transportation. It is a known fact, for instance, that serious problems have developed in the regulated motor common carrier system as the result of gray-area operations in the motor carrier industry.

Further justification for the need to regulate the supplemental air carriers is the substantially large, and increasing, total operating revenues derived from this kind of operation. During a 12-month period ending June 30, 1960, those supplemental air carriers reporting to the CAB had total operating revenues of almost $81 million. During the previous 12 months, these carriers had total operating revenues of almost $71 million. Thus, in 1 year their total operating revenues increased by $10 million. If the supplementals were left to grow in a law-of-the-jungle atmosphere with this economic potential, the results most assuredly would prove destructive in future years to the regulated scheduled air carriers.

I would appreciate it if you will give these views consideration and make this letter a part of the record of the hearings on S. 1969.

Cordially yours,

CLARENCE R. MILES,
Manager, Legislative Department.

My name is Robert C. Goodman. I am president of Saturn Airways, Inc., Post Office Box 48–182, Airport Branch, Miami, Fla.

Saturn is a supplemental air carrier which has been operating under various orders of the Civil Aeronautics Board since January 1948. Saturn holds a temporary certificate of public convenience and necessity from the Board. As this committee is well aware, the Board's authority to issue these certificates has been the subject of extensive litigation. This certificate, however, grants rights only for domestic operations; any operations that we conduct in foreign com-

merce must be by Board exemption from the Federal Aviation Act of 1958. My hope is that this Congress will enact legislation which will bring an end to the uncertainty under which we operate and enable us to operate under permanent certification.

With the authority which we have had up to the present, Saturn has engaged in three principal types of operations: firstly, in the movement of recruits for the Department of Defense; secondly, in domestic charter flights for private groups; and, thirdly, in an operation into which we have just entered this year, the transatlantic charter market. We have offices located in Miami, Fla.; New York, N.Y.; and London, England, with a total of 48 employees, 33 of whom are operating personnel. In short, we are a small airline operating in an extremely limited area of the overall air transportation market.

My principal problem, simply put, is to stay in business in the face of the doubtful state of the operating authority under which Saturn must operate in the present state of the law. I need to modernize my fleet of aircraft, and to do this I need capital. If I am to attract capital, whether by way of investment or loan, I must be able to give some assurance that I will be in business long enough to show a fair return on investment or to repay whatever loans may be made to Saturn.

In the course of the years in which it has operated as a supplemental carrier, Saturn has progressively increased the number of aircraft in its service; has enjoyed a steady increase in the value of its assets; has had a perfect safety record; has never been the subject of enforcement proceedings by the Board. As matters now stand, however, I find it impossible to attract capital into my company. Obviously, no businessman will be interested either in becoming a part of or of extending credit to an airline which may shortly lose its operating authority. Thus, for reasons having no relation either to the soundness of the operation of my airline or its business prospects, Saturn finds itself in an extremely perilous position.

Until 1960 Saturn operated twin-engine, nonpressurized, transport category C–46 aircraft with passenger configuration. These aircraft are now obsolete. Within the last few years the public, as well as the military, have come to demand four-engine pressurized equipment. Partially to satisfy this demand, Saturn purchased two DC–6B aircraft. Now, there is an increasing demand by the public and the military for jet aircraft. The purchase of these aircraft, which in time will be essential to my survival, will require long-term financing, an impossibility for a carrier whose existence could end in March of 1962. Yet without such a modernization program, and the necessary financing, Saturn cannot hope to be an effective and integral part of this Nation's air transportation system.

It is my hope that this Congress will enact legislation which will provide Saturn with the permanent authority it needs to stay in business. I am not asking for subsidy. I am not asking for anything which the Board has not found to be in the public interest. I am simply asking for legislation which will give Saturn the opportunity to satisfy a demand which is recognized by the Board, the military, and the public.

CIVIL AERONAUTICS BOARD,
Washington, D.C., June 5, 1961.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of May 26, 1961, asking for a report on S. 1969, a bill to amend the Federal Aviation Act of 1958, as amended, to provide for a class of supplemental air carriers, and for other purposes. S. 1969 was drafted by the Board and introduced at its request as a part of the Board's current legislative program.

The purpose and need for the legislation are set forth in the enclosed statement which the Board prepared to accompany the draft legislation. The Board is prepared to appear and present testimony in further justification for the enactment of the proposed legislation, and urges that the bill be set down for hearing at an early date. The Board wholeheartedly endorses S. 1969 and recommends its enactment.

Sincerely yours,

ALAN S. BOYD, *Chairman.*

STATEMENT OF PURPOSE AND NEED FOR PROPOSED LEGISLATION

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

The Board, on January 28, 1959, in the "Large Irregular Air Carrier Investigation," Docket 5132, issued temporary certificates of public convenience and necessity for supplemental air service to a number of air carriers found by the Board to be fit to receive them. Under these certificates, supplemental air carriers were authorized to conduct without reference to any specified terminal or intermediate points not more than 10 flights carrying individually ticketed passengers or individually waybilled property in the same direction between any single pair of points in any calendar month, and to render unlimited planeload charter services. This authorization was limited to interstate air transportation. It was the latest step in the development of this industry which was originally known as large irregular air carriers.

A number of air carriers certificated to render route-type service petitioned the U.S. Court of Appeals for the District of Columbia Circuit for review of the Board's order and opinion of January 28, 1959. On April 7, 1960, the court rendered its decision in *United Air Lines et al.* v. *Civil Aeronautics Board* (278 F. 2d 446), in which it found that the Board's action in certificating supplemental air carrier operations was legally deficient in three respects:

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

2. The certificates issued by the Board contain a limitation of 10 flights per month in the same direction between the same two points. In the opinion of the court, this limitation was in violation of section 401(e) of the act which provides: "No term, condition, or limitation of a certificate shall restrict the right of an air carrier to add to or change schedules * * * ."

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

As a stopgap measure to avoid immediate cessation of the supplemental air carrier industry, the Congress enacted Public Law 86–661, approved July 14, 1960. Under this legislation the Board is given temporary authority to permit supplemental air carriers to conduct operations for 20 months. However, legislation of a more permanent nature is needed if there is to be any assurance that the supplemental air carrier industry is to continue in existence.

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

The Board recommends changes in the law as follows:

1. The law should be made clear that a carrier may request, and be authorized to perform, limited services supplemental to those furnished by the regular air carriers, and the Board should be expressly authorized to issue certificates of public convenience and necessity for supplemental service containing limitations on the type and extent of service authorized.

2. The Board should be authorized to grant a blanket authorization without having to designate specific points.

3. The present stringent requirement of fitness should be reduced so that only general findings of fitness need be made for supplemental service.

4. Statutory operating rights should be granted to the existing holders of supplemental air carrier certificates in the nature of a "grandfather" provision, thus assuring the continuity of operations presently being conducted by the supplemental air carriers.

The draft bill attached has been prepared to carry out these recommendations.

THE SECRETARY OF COMMERCE,
Washington, D.C., June 29, 1961.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of May 26, 1961, requesting the views of the Department on S. 1969, a bill to amend the Federal Aviation Act of 1958, as amended, to provide for a class of supplemental air carriers, and for other purposes.

S. 1969 would amend the Federal Aviation Act so as to provide for certification of a class of direct air carriers distinctive from the class of air carriers historically certificated under sections 401(d) (1) and (2) of the act, the new class to be known as supplemental air carriers; that such carriers may request, and be authorized to perform, limited services supplemental to those furnished by the regular air carriers; that the Civil Aeronautics Board be expressly authorized to issue certificates of public convenience and necessity for supplemental service containing limitations on the type and extent of service authorized; that the Board be authorized to grant blanket authorizations without having to designate specific points.

The act would also be amended to reduce the present standards of fitness required for certification as an air carrier so that only general findings of fitness need be made for supplemental service. S. 1969 would also provide for grant of statutory operating rights to the existing holders of supplemental air carrier certificates, in the nature of "grandfather" rights.

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

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

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

This Deparment is of the opinion that the continued existence of the supplemental air carrier fleet is of real value in terms of national defense. At the present time eight supplemental air carriers have executed Civil Reserve Air Fleet (CRAF) standby contracts which provide for the furnishing of air transportation on an international scale to the Department of Defense in the event of war or national emergency.

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

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

that supplemental airlines should be eligible to operate their planes in peacetime in commercial air services.

Accordingly, the Department supports the proposed legislation.

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

Sincerely yours,

EDWARD GUDEMAN,
Under Secretary of Commerce.

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

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request of May 26, 1961, for the views of this Agency with respect to S. 1969, a bill to amend the Federal Aviation Act of 1958, as amended, to provide for a class of supplemental air carriers, and for other purposes.

This bill, introduced at the request of the Civil Aeronautics Board, would provide permanent certification procedures for the supplemental air carrier industry. Under existing law (Public Law 85–661) the Civil Aeronautics Board has temporary authority, which will expire in March 1961, to permit supplemental air carriers to conduct operations. It is the view of the Civil Aeronautics Board that supplemental air carriers have performed a valuable service in meeting the needs of national defense and that their future ability to serve the needs of the miiltary depends upon their present and continued ability to operate their aircraft in commercial activities.

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

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

Sincerely,

N. E. HALABY, *Administrator.*

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, June 9, 1961.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Further reference is made to your letter of May 26, 1961, acknowledged on May 31, requesting the comments of the General Accounting Office concerning S. 1969, 87th Congress, 1st session, entitled "a bill to amend the Federal Aviation Act of 1958, as amended, to provide for a class of supplemental air carriers, and for other purposes."

We have no special information or knowledge as to the need for or desirability of the proposed legislation and, therefore, we make no recommendation with respect to its enactment.

Sincerely yours,

JOSEPH CAMPBELL,
Comptroller General of the United States.

○