

Y4
. In 8/4

1019

9114
In 8/4
91-52

91-52 CIVIL AERONAUTICS BOARD AIR MAIL
RATE AUTHORITY

GOVERNMENT

Storage

RECEIVED

JUL 2 1970

THE LIBRARY
KANSAS STATE UNIVERSITY

HEARINGS
BEFORE THE
SUBCOMMITTEE ON
TRANSPORTATION AND AERONAUTICS
OF THE
COMMITTEE ON
INTERSTATE AND FOREIGN COMMERCE
HOUSE OF REPRESENTATIVES

NINETY-FIRST CONGRESS

SECOND SESSION

ON

H.R. 16879

A BILL TO AMEND THE FEDERAL AVIATION ACT OF 1958
TO PROVIDE FOR THE ESTABLISHMENT OF MAIL RATES
BY THE FILING OF TARIFFS, AND FOR OTHER PURPOSES

APRIL 14 AND 15, 1970

Serial No. 91-52

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



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1970

44-779

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION



RECEIVED
JUL 8 1940
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

HARLEY O. STAGGERS, West Virginia, *Chairman*

SAMUEL N. FRIEDEL, Maryland
TORBERT H. MACDONALD, Massachusetts
JOHN JARMAN, Oklahoma
JOHN E. MOSS, California
JOHN D. DINGELL, Michigan
PAUL G. ROGERS, Florida
LIONEL VAN DEERLIN, California
J. J. PICKLE, Texas
FRED B. ROONEY, Pennsylvania
JOHN M. MURPHY, New York
DAVID E. SATTERFIELD III, Virginia
BROCK ADAMS, Washington
RICHARD L. OTTINGER, New York
RAY BLANTON, Tennessee
W. S. (BILL) STUCKEY, Jr., Georgia
PETER N. KYROS, Maine
BOB ECKHARDT, Texas
ROBERT O. TIERNAN, Rhode Island
RICHARDSON PREYER, North Carolina

WILLIAM L. SPRINGER, Illinois
SAMUEL L. DEVINE, Ohio
ANCHER NELSEN, Minnesota
HASTINGS KEITH, Massachusetts
GLENN CUNNINGHAM, Nebraska
JAMES T. BROYHILL, North Carolina
JAMES HARVEY, Michigan
ALBERT W. WATSON, South Carolina
TIM LEE CARTER, Kentucky
G. ROBERT WATKINS, Pennsylvania
DONALD G. BROTZMAN, Colorado
CLARENCE J. BROWN, Ohio
DAN KUYKENDALL, Tennessee
JOE SKUBITZ, Kansas
FLETCHER THOMPSON, Georgia
JAMES F. HASTINGS, New York

W. E. WILLIAMSON, *Clerk*
KENNETH J. PAINTER, *Assistant Clerk*
Professional Staff

JAMES M. MENDER, Jr.
WILLIAM J. DIXON

ROBERT F. GUTHRIE
KURT BORCHARDT

SUBCOMMITTEE ON TRANSPORTATION AND AERONAUTICS

SAMUEL N. FRIEDEL, Maryland, *Chairman*

JOHN D. DINGELL, Michigan
J. J. PICKLE, Texas
BROCK ADAMS, Washington

SAMUEL L. DEVINE, Ohio
GLENN CUNNINGHAM, Nebraska
ALBERT W. WATSON, South Carolina
DAN KUYKENDALL, Tennessee

(II)

CONTENTS

	Page
Hearings held on—	
April 14, 1970.....	1
April 15, 1970.....	43
Text of H.R. 16879.....	1
Report of—	
Bureau of the Budget.....	6
Justice Department.....	6
Transportation Department.....	7
Statement of—	
Browne, Hon. Secor D., Chairman, Civil Aeronautics Board.....	8, 60
Driscoll, Edward J., president, National Air Carrier Association.....	60
Gilliland, Whitney, Vice Chairman, Civil Aeronautics Board.....	8, 9
Godbout, Gerald J., director, Cargo Service, Air Transport Association.....	25
Healy, Joseph, assistant general counsel, Air Transport Association.....	25
Jones, Joseph F., Director, Traffic Management Division, Bureau of Operations, Post Office Department.....	43
Littell, Richard, Associate General Counsel, Civil Aeronautics Board.....	8
Meagher, Thomas F., Jr., Assistant General Counsel, Transportation, Post Office Department.....	43
Nelson, David A., General Counsel, Post Office Department.....	43
Reiter, Jack, assistant to the president, World Airways, Inc.....	60
Roth, Irving, Director, Bureau of Economics, Civil Aeronautics Board.....	8
Tipton, Stuart G., president, Air Transport Association.....	25
Additional material supplied for the record by—	
Air Transport Association, Comparison—postal rates paid to airlines with air freight rates paid by shippers.....	40
Civil Aeronautics Board, letter dated April 23, 1970, to Chairman Friedel from Chairman Browne, re conferences between Post Office Department and the CAB to attempt to adopt mutually satisfactory legislation.....	68
National Air Carrier Association:	
Letter dated April 22, 1970, to Chairman Friedel re proposed amendment to section 1653(a) of H.R. 4 as reported (House Report 91-988) (House Post Office and Civil Service Committee), to conform with H.R. 16879.....	64
Statement of Edward J. Driscoll, president, National Air Carriers Association, before the Post Office and Civil Service Committee, House of Representatives, regarding postal reform legislation, June 20, 1969.....	62

RECEIVED

(11)

CIVIL AERONAUTICS BOARD AIR MAIL RATE AUTHORITY

TUESDAY, APRIL 14, 1970

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

The subcommittee met, at 10 a.m., pursuant to notice in room 2318, Rayburn House Office Building, the Honorable Samuel N. Friedel (chairman) presiding.

Mr. FRIEDEL. The subcommittee will be in order. Last week I introduced H.R. 16879 in order to bring the powers and duties of the Civil Aeronautics Board to monitor airmail rates to the attention of this subcommittee.

Following hearings on H.R. 4 on Post Office reorganization, the Committee on Post Office and Civil Service reported a bill with a provision authorizing the postal authorities to contract with certified air carriers for the carriage of airmail. This would substantially alter the role of the Civil Aeronautics Board.

I believe that if the CAB's functions are to be changed in such a material respect, this committee should make a determination as to what, if any, change is warranted.

The text of H.R. 16879, and the agency reports thereon shall be placed in the record at this point.

(The text of H.R. 16879 and agency reports thereon follow:)

[H.R. 16879, 91st Cong., 2d Sess., introduced by Mr. Friedel on April 9, 1970]

A BILL To amend the Federal Aviation Act of 1958 to provide for the establishment of mail rates by the filing of tariffs, 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 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371) is amended by striking out subsections (l) and (m), and redesignating subsection (n) as subsection (l).

SEC. 2. (a) Section 403(a) of such Act is amended to read as follows:

"TARIFFS OF AIR CARRIERS

"Filing of Tariffs Required

"(a) (1) Every air carrier and every foreign air carrier shall file with the Board, and print, and keep open to public inspection, tariffs showing all rates, fares, and charges for air transportation (except the transportation of mail) between points served by it, and between points served by it and points served by any other air carrier or foreign air carrier when through service and through rates shall have been established, and all such tariffs shall show to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such air transportation.

(1)

"(2) Every air carrier shall also file with the Board, and print, and keep open to public inspection special tariffs stating all rates for the transportation of mail between all points served by it between which it has been authorized to carry mail, and between points served by it and points served by any other air carrier when through mail service and through mail rates shall have been established. All special tariffs shall show, to the extent required by regulations of the Board, all classifications, rules, regulations, practices, and services in connection with such transportation of mail. Nothing shall be contained in such tariffs which is inconsistent with any rules and regulations issued by the Postmaster General under section 405 (a) of this Act.

"(3) Tariffs shall be filed, posted, and published in such form and manner, and shall contain such information, as the Board shall by regulation prescribe; and the Board is empowered to reject any tariff so filed which is not consistent with this section and its regulations. Any tariff so rejected shall be void. The rates, fares, and charges shown in any tariff shall be stated in terms of lawful money of the United States, but such tariffs (other than special tariffs under subsection (2) of this section) may also state rates, fares, and charges in terms of currencies other than lawful money of the United States, and may, in the case of foreign air transportation, contain such information as may be required under the laws of any country in or to which an air carrier or foreign air carrier is authorized to operate."

(b) Section 403 (c) of such Act is amended to read as follows:

"INITIAL SPECIAL TARIFF AND NOTICE OF TARIFF CHANGE

"(c) (1) No initial special tariff stating a rate or rates applicable to mail shall take effect, nor shall any change be made in any rate applicable to mail, or any classification, rule, regulation, or practice affecting such rate, or the value of service thereunder, specified in any effective special mail tariff, except after sixty days' notice of the tariff or the proposed change.

"(2) No change shall be made in any other rate, fare, or charge, or any classification, rule, regulation, or practice affecting such other rate, or charge, or the value of the service thereunder, specified in an effective tariff of any air carrier or foreign air carrier, except after thirty days' notice of the proposed change.

"(3) A notice of an initial special tariff or of a proposed change in a special or other tariff shall be filed, posted, and published in accordance with subsection (a) of this section. Any notice of a proposed change shall plainly state the change proposed to be made and the time such change will take effect. The Board may, in the public interest, by regulation or otherwise, allow such change upon notice less than that herein specified, or modify the requirements of this section with respect to filing and posting of tariffs, either in particular instances or by general order applicable to special or peculiar circumstances or conditions."

SEC. 3. Section 404 (a) of such Act is amended to read as follows:

"CARRIER'S DUTY TO PROVIDE SERVICE, RATES, AND DIVISIONS

"SEC. 404. (a) It shall be the duty of every air carrier to provide and furnish interstate and overseas air transportation, and the transportation of mail by aircraft, as authorized by its certificate, upon reasonable request therefor and to provide reasonable through service in such air transportation in connection with other air carriers; to provide safe and adequate service, equipment, and facilities in connection with such transportation; to establish, observe, and enforce just and reasonable individual and joint rates, fares, and charges, and just and reasonable classifications, rules, regulations, and practices relating to such air transportation; and, in case of such joint rates, fares, and charges, to establish just, reasonable, and equitable divisions thereof as between air carriers participating therein which shall not unduly prefer or prejudice any of such participating air carriers."

SEC. 4. Section 405 of such Act is amended—

(1) by amending subsection (b) to read as follows:

"Mail Schedules

"(b) Each air carrier shall, from time to time, file with the Board and the Postmaster General a statement showing the points between which such air carrier is authorized to engage in air transportation, and all schedules, and all changes therein, of aircraft regularly operated by the carrier between such

points, setting forth in respect of each such schedule the points served thereby and the time of arrival and departure at each such point. No change shall be made in any such schedules used for the carriage of mail except upon ten days' notice to the Postmaster General.”;

(2) by striking out subsection (c) and inserting in lieu thereof the following:

“Weighing of Mail

“(c) The Postmaster General may weigh the mail transported by aircraft and make such computations for statistical and administrative purposes as may be required in the interest of the mail service. The Postmaster General is authorized to employ such clerical and other assistance as may be required in connection with proceedings under this Act. If the Board shall determine that it is necessary or advisable, in order to carry out the provisions of this Act, to have additional and more frequent weighing of the mails, the Postmaster General, upon request of the Board, shall provide therefor in like manner, but such weighing need not be for continuous periods of more than thirty days.”;

(3) by striking out subsection (d), by redesignating subsections (e) and (f) as subsections (d) and (e), respectively, and by inserting the following immediately after subsection (e) (as redesignated by this subparagraph):

“Payments to Foreign Air Carriers

“(f) In any case where air transportation is performed between the United States and any foreign country, both by aircraft owned or operated by one or more air carriers holding a certificate under this title, and by aircraft owned or operated by one or more foreign air carriers, the Postmaster General shall not pay to or for the account of any such foreign air carrier a rate of compensation for transporting mail by aircraft between the United States and such foreign country, which, in his opinion, will result (over such reasonable period as the Postmaster General may determine, taking account of exchange fluctuations and other factors) in such foreign air carrier receiving a higher rate of compensation for transporting such mail than such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the United States, or receiving a higher rate of compensation for transporting such mail than a rate determined by the Postmaster General to be comparable to the rate such foreign country pays to air carriers for transporting its mail by aircraft between such foreign country and the intermediate country on the route of such air carrier between such foreign country and the United States.”; and

(4) by redesignating subsection (g) through (j) as subsections (h) through (k), respectively, and by inserting the following immediately after subsection (f) (as redesignated by subparagraph (3) of this section):

“Payment

“(g) The Postmaster General shall make payment to the air carriers for the transportation of mail by aircraft out of appropriations available to him for that purpose in accordance with the rates of compensation established pursuant to this Act.”

SEC. 5. Section 406 of such Act is amended to read as follows:

“SUBSIDY COMPENSATION

“Authority To Fix Subsidy Rates

“(a) The Board is empowered and directed, on its own initiative or upon petition of an air carrier holding a certificate authorizing the transportation of mail by aircraft, to determine, from time to time, after notice and hearing, the need of such an air carrier for subsidy compensation which together with all other revenue of the air carrier will be sufficient to enable such air carrier under honest, economical, and efficient management, to maintain and continue the development of air transportation to the extent and of the character and quality required for the commerce of the United States, the Postal Service, and the national defense. In determining the need for such subsidy compensation, the Board is empowered to fix appropriate rates for the payment of such subsidy, and may fix different rates for different air carriers or classes of air carriers, and different classes of service. Payments for subsidy compensation shall be made by

the Board out of appropriations available to it for his purpose. In applying the provisions of this subsection, the Board shall take into consideration any standards and criteria prescribed by the Secretary of Transportation for determining the character and quality of transportation required for the commerce of the United States and the national defense.

"Treatment of Proceeds of Disposition of Certain Property

"(b) In determining the need of an air carrier for subsidy compensation, and such carrier's 'other revenue' for the purpose of this section, the Board shall not take into account—

(1) gains derived from the sale or other disposition of flight equipment if (A) the carrier notifies the Board in writing that it has invested or intends to reinvest the gains (less applicable expenses and taxes) derived from such sale or other disposition in flight equipment, and (B) submits evidence in the manner prescribed by the Board that an amount equal to such gains (less applicable expenses and taxes) has been expended for purchase of flight equipment or has been deposited in a special reequipment fund, or

(2) losses sustained from the sale or other disposition of flight equipment. Any amounts so deposited in a reequipment fund as above provided shall be used solely for investment in flight equipment either through payments on account of the purchase price or construction of flight equipment or in retirement of debt contracted for the purchase or construction of flight equipment, and unless so reinvested within such reasonable time as the Board may prescribe, the carrier shall not have the benefit of this paragraph. Amounts so deposited in the reequipment fund shall not be included as part of the carrier's used and useful investment for purposes of section 406 until expended as provided above: *Provided*, That the flight equipment in which said gains may be invested shall not include equipment delivered to the carrier prior to April 6, 1956: *Provided further*, That the provisions of this subsection shall be effective as to all capital gains or losses realized on and after April 6, 1956, with respect to the sale or other disposition of flight equipment whether or not the Board shall have entered a final order taking account thereof in determining all other revenue of the air carrier."

SEC. 6. Section 1002 of such Act is amended—

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively, and by inserting immediately after subsection (b) the following:

"Mail Rate Investigations

"(c) (1) Any complaint by an interested person against a mail rate shall contain a statement of the rate which the complaint believes to be lawful. The Postmaster General shall include in any complaint filed by him, and shall introduce as part of the record in all proceedings under this section, a comprehensive statement of the service to be required of the carrier and such other information in his possession as may be deemed by the Board to be material.

"(2) Whenever the Board undertakes an investigation, either upon its own initiative or upon complaint of the Postmaster General or other interested person, of mail rates which are then in effect, the rate or rates under investigation shall remain in effect as final rates pending the conclusion of such investigation but not for a longer period than one hundred and eighty days after the order of investigation. After the expiration of such one hundred and eighty day period, the rates under investigation shall remain in effect as temporary rates only and the Board shall determine the lawful rate to apply from and after the date on which such one hundred and eighty day period expires.

"(3) In any case in which the Board suspends an air carrier's proposed change in a mail rate pursuant to subsection (h) of this section and the investigation of such proposed change is not completed within the suspension period, the existing rate shall continue in effect after the expiration of the suspension period as a temporary rate only and the Board shall determine the lawful rate to apply from and after the date on which the suspension period expires."

(2) by amending subsection (e) (as redesignated by subparagraph (2) of this section) to read as follows:

"Power To Prescribe Rates and Practices of Air Carriers

"(e) Whenever, after notice and hearing, upon complaint, or upon its own initiative, the Board shall be of the opinion that any individual or joint rate, fare, or charge demanded, charged, collected, or received by any air carrier for

interstate or overseas air transportation, or for the transportation of mail by aircraft, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation, or practice thereafter to be made effective: *Provided*, That as to rates, fares, and charges for overseas air transportation, the Board shall determine and prescribe only a just and reasonable maximum or minimum, or maximum and minimum rate, fare, or charge.”;

(3) by amending subsection (f) (as redesignated by subparagraph (2) of this section) to read as follows:

“Rule of Ratemaking

“(f) In exercising and performing its powers and duties with respect to the determination of rates for the carriage of persons, property, or mail, the Board shall take into consideration, among other factors—

- (1) the effect of such rates upon the movement of traffic;
 - (2) the need in the public interest of adequate and efficient transportation of persons, property, and mail by air carriers at the lowest cost consistent with the furnishing of such service;
 - (3) such standards respecting the character and quality of service to be rendered by air carriers as may be prescribed by or pursuant to law;
 - (4) the inherent advantages of transportation by aircraft; and
 - (5) the need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.”; and
- (4) by amending subsection (h) (as redesignated by subparagraph (2) of this section) to read as follows:

“Suspension of Rates

“(h) Whenever any air carrier shall file with the Board a special or other tariff stating a new individual or joint (between air carriers) rate, fare, or charge for interstate or overseas air transportation or the transportation of mail by aircraft, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the Board is empowered, upon complaint or upon its own initiative, at once, and, if it so orders, without answer or other formal pleading by the air carrier, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such classification, rule, regulation, or practice; and pending such hearing and the decision thereon, the Board, by filing with such special or other tariff, and delivering to the air carrier affected thereby, a statement in writing of its reasons for such suspension, may suspend the operation of such tariff and defer the use of such rate, fare, or charge, or such classification, rule, regulation, or practice, for a period of ninety days, and, if the proceeding has not been concluded and a final order made within such period, the Board may, from time to time, extend the period of suspension, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when such tariff would otherwise go into effect; and, after hearing, whether completed before or after the rate, fare, charge, classification, rule regulation, or practice goes into effect, the Board may make such order with reference thereto as would be proper in a proceeding instituted after such rate, fare, charge, classification, rule, regulation, or practice had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed rate, fare, charge classification, rule, regulation, or practice shall go into effect at the end of such period except as provided in subsection (c) (3) of this section: *Provided*, That this subsection shall not apply to any initial tariff filed by any air carrier, except that in the case of any initial tariff stating a rate or rates applicable to United States mail (other than initial tariff merely restating a mail rate previously established by the Board under this Act) the Board may suspend such initial tariff indefinitely and establish in lieu thereof without hearing a rate which in its judgment will be the fair and reasonable temporary rate or rates to be paid pending the completion of the investigation into the lawfulness of the rate or rates proposed in the suspended tariff. The Board shall give preference to in-

vestigations of initial tariffs stating mail rates which have been suspended in accordance with the foregoing, and at the conclusion of such investigation the Board shall determine and prescribe the lawful rate to apply from and after the date on which services under the temporary rate or rates established by it were begun."

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., April 29, 1970.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Bureau of the Budget on H.R. 16879, to amend the Federal Aviation Act of 1958 to provide for the establishment of mail rates by the filing of tariffs, and for other purposes.

For the reasons expressed in the Post Office Department's testimony of April 15, 1970, the Bureau of the Budget does not support the enactment of H.R. 16879.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., June 4, 1970.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 16879, a bill "To amend the Federal Aviation Act of 1958 to provide for the establishment of mail rates by the filing of tariffs, and for other purposes."

Under present law the Civil Aeronautics Board is required by Section 406 of the Federal Aviation Act (49 U.S.C. 1376) to fix fair and reasonable mail rates. The existing statutory scheme requires that the Board determine after notice and hearing that every mail rate is fair and reasonable. In addition, the present provisions of the Act concerning the transportation of mail by air carrier contain many technical details regarding the payment for and processing of such mail.

H.R. 16879 is designed to change the present pattern by instituting a tariff filing system. Section 403 of the Act would be amended so that air carriers would be required to file their mail rates, or any changes therein, with the Board in the form of a tariff. Unless the filed tariff is objected to by the Postmaster General, or investigated by the Board, the filed tariff would take effect automatically 60 days after filing. Thus the present requirement of affirmative Board action approving or disapproving mail rates prior to their taking effect would be eliminated by H.R. 16879.

The proposed amendment would also change Section 1002 of the Act (49 U.S.C. 1482) to permit the Board to suspend the proposed new mail rate for 180 days pending an investigation. The Postmaster General or an interested person could object to a rate and petition the Board to investigate the rate, or the Board could so act on its own initiative. During any investigation of a new or existing rate, the effective rate would be maintained on a temporary basis until the Board completes its investigation and makes its determination. Thus there would be no hiatus in the rate schedule during any investigation.

There appear to be no adverse antitrust implications in H.R. 16879. Whether this legislation should be enacted involves questions as to which the Department of Justice defers to those agencies more directly concerned with the subject matter of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's Program.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

DEPARTMENT OF TRANSPORTATION,
OFFICE OF THE SECRETARY,
Washington, D.C., May 18, 1970.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of the Department of Transportation on H.R. 16879, a bill "to amend the Federal Aviation Act of 1958 to provide for the establishment of mail rates by the filing of tariffs, and for other purposes."

In essence, the provisions of this bill are intended to modernize and to simplify the various provisions of Federal Aviation Act which vest authority in the Civil Aeronautics Board to regulate the rates paid to regulated air carriers by the Post Office Department for the transportation of mail. In large part, the provisions of this bill are designed to meet objections by the Post Office that the present provision of the Act dealing with compensation to the air carriers for the transportation of mail are too cumbersome and time consuming and, in many instances, are obsolete under present transportation conditions. H.R. 16879 would abolish the present statutory procedures under which the Board itself is required to determine, after notice and hearing, that each and every mail rate is fair and reasonable. In place of these procedures, this bill proposes to treat mail rates and tariffs containing such rates in accordance with the same general statutory scheme followed in the regulation of private shippers' air cargo rates.

As you are aware, the entire subject of regulating compensation for mail transportation by all modes has been considered in depth in the course of Congressional consideration of the several bills dealing with reform of the Post Office Department and the postal system. The provisions of the recently reported bill, H.R. 4, on this subject, among other things, make major changes (Subchapter III, sec. 1651 and 1653) in the existing law dealing with the transportation of mail by air carriers. Specifically, sec. 1653—

(a) Permits the Postal Authority (created by H.R. 4 in lieu of the present Post Office Department) to contract for the transportation of mail with any certified air carrier, whether or not authorized by the CAB to transport mail, between any points or within or between any geographical area the air carrier is authorized to serve. The rates specified in such contracts may be no *higher* than those filed with the CAB under section 406 of the Federal Aviation Act.

(b) Permits the Postal Authority to contract for additional air mail transportation between points as to which the CAB has not authorized any air carrier to engage in the transportation of mail, such contracts to be cancelled if the Board subsequently authorizes such service.

(c) Permits the Authority to enter into contracts with any air carrier or carriers where the service offered by *certificated* carriers is inadequate. Such contracts must be filed with the CAB on 90 days notice, may be disallowed by the Board, and must be cancelled if the Board authorizes additional service.

It is our understanding that in the recent hearings on H.R. 16879 before the Subcommittee on Transportation and Aeronautics that the Post Office Department has expressed support for the approach taken in the postal reform legislation, rather than that expressed in H.R. 16879, in the belief that the provisions of the former will provide the postal service with the means to procure the requirements for air transportation of mail by both certificated and supplemental air carriers in a flexible and economical manner which would not be possible under either existing law or the provisions of H.R. 16879. The certificated air carriers and the Board have expressed support for H.R. 16879 and opposition to the provisions of H.R. 4, particularly as to those provisions authorizing the Postal Authority to negotiate contracts for mail transportation with individual air carriers.

It appears that the Board and the certificated air carriers are concerned that the contract authority provisions will lead to destructive competitive practices within the air carrier industry, possibly resulting in both uneconomic rates and harm to the industry's financial well being and to a resumption of the collusive contract bidding practices by the air carriers which Congress found to be contrary and detrimental to the public interest in the 1930's. Moreover, it is stated that the compensation paid under such contracts would be insufficient to cover the costs of the service involved, thus casting a burden on the carriers' passenger and other cargo traffic.

We do not share the concerns expressed by the Board or the certificated air carrier that the provisions of the reported postal reform legislation will result in the

dire consequences discussed above. Nor do we agree with the view that the provisions of existing law or the revisions thereof proposed in H.R. 16879 in this area are suitable for the special needs of the postal service to obtain needed transportation service on a flexible and economic basis whether by air or other mode. This is essential if the overall objective of an efficient and economical postal service is to be achieved. Insofar as any possible adverse effects on the air carriers are concerned, we believe the detailed statement submitted to the Subcommittee by the witness for the Post Office Department, with which we generally agree, adequately addresses these issues. Specifically—

(a) The contracts authorized under H.R. 4 between the air carriers and the Postal Authority are purely voluntary;

(b) Insofar as the incentive exists to establish voluntarily a level of compensation for mail transportation at a low level, thus casting a burden on other cargo or passenger traffic, it appears that the Board's jurisdiction over the rates on this other traffic is sufficient to prevent any real problems in this area. This would include a resumption of the anticompetitive practices in this area in the early 1930's which, in part, prompted the enactment of the Civil Aeronautics Act of 1938.

(c) With the exception of contracts authorized under section 1653(c) of H.R. 4 to overcome service deficiencies, which are subject to review and veto by the Board, the postal reform legislation neither extends nor diminishes the operating authority of the carriers or the Board's jurisdiction.

(d) The postal reform legislation will, aside from any benefits that accrue to the efficient operation of the postal system, provide a limited but important application of transportation pricing in a competitive market setting.

Aside from the above points, the Post Office Department has noted* that H.R. 16879 is subjected to a number of other serious objections which serve to cast further doubt upon merits of H.R. 16879.

We therefore do not favor enactment of this bill.

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 for the consideration of the Committee.

Sincerely,

JAMES A. WASHINGTON, JR.
General Counsel.

Mr. FRIEDEL. Our first witness this morning will be Hon. Secor D. Browne, Chairman, Civil Aeronautics Board.

I understand he is accompanied by his vice chairman, Hon. Whitney Gillilland.

Mr. BROWNE. Yes, and by Mr. Littell and Mr. Roth.

Mr. FRIEDEL. You may proceed.

**STATEMENTS OF HON. SECOR D. BROWNE, CHAIRMAN, AND
WHITNEY GILLILLAND, VICE CHAIRMAN, CIVIL AERONAUTICS
BOARD; ACCOMPANIED BY IRVING ROTH, DIRECTOR, BUREAU
OF ECONOMICS, AND RICHARD LITTELL, ASSOCIATE GENERAL
COUNSEL**

Mr. BROWNE. Thank you, sir. Mr. Chairman, I am not only accompanied by Mr. Gillilland but by Mr. Littell and Mr. Roth of the staff.

Mr. Chairman, I want to thank the committee for giving the Board this opportunity to present its views on H.R. 16879 I have joined my colleague, Mr. Gillilland, here today in order to emphasize the Board's strong belief that it must retain the authority to prevent uneconomic mail rates. The Board is pleased to note that H.R. 16879 preserves this authority for the Board and will thus enable the Board to prevent a

* Statement of Thomas F. Meagher, Assistant General Counsel, Transportation, Post Office Department, pp. 6-8.

repetition of the postal rate wars which undermined the aviation industry's economic stability in the 1930's. In addition, as Mr. Gilliland will explain, the Board believes that H.R. 16879 contains features which will be an improvement over the present, regulatory system.

Now I would like to give the floor to Mr. Gilliland. He has testified before the Congress on other proposals to change the Board's mail rate powers.

And as I believe you may know, Mr. Chairman, Mr. Gilliland has had 11 years service on the Board. I think it is important that I yield to him in this matter.

Mr. FRIEDEL. Mr. Gilliland.

STATEMENT OF WHITNEY GILLILLAND

Mr. GILLILLAND. Mr. Chairman, members of the committee, as Chairman Browne indicated, the Board supports the proposal, contained in H.R. 16879, to amend the Act by creating a tariff-filing mechanism for the establishment of mail rates. The bill is the latest—and in our judgment the best—proposal to change the Board's authority to fix air carrier rates for transporting mail by air.

The Board is now required by Federal Aviation Act, section 406 to fix the fair and reasonable mail rates. The Congress enacted this regulatory system in 1938 because of what it considered to be chaotic conditions attributed to the Post Office's practice of awarding air mail contracts to the lowest responsible bidders. This committee was the architect of the statute. The hearings and reports portrayed vividly the extent to which cutthroat competition for Post Office contracts in the 1930's seriously threatened the industry's economic survival. It is enough to say here that the Congress established the Board as the rate-fixing agency in order to end those practices.

Although the present statutory system has achieved this objective, the Postmaster General and others have expressed the view that the required procedures are too cumbersome and slow to meet the Post Office's needs. The Board has pointed out elsewhere that the critics share several misapprehensions concerning the system (see the House Post Office Committee's hearings on Post Office Reorganization, part III pages, 1286-1289). Nevertheless, the Board is not committed to perpetuating the existing statute unchanged. The present regulatory regime does have some drawbacks which as we see it H.R. 16879 will cure.

Essentially, H.R. 16879 proposes to abolish the present statutory procedures under which the Board itself is required to determine, after notice and opportunity for hearing, that each and every mail rate is fair and reasonable. In its place the bill proposes to allow the Post Office to have its mail rates established through a tariff-filing system patterned after the statutory formula used for regulating private shippers' cargo rates. In most respects, the bill thus proposes to place the Post Office Department on a par with private shippers. This approach is consistent with the efforts to reorganize the Post Office along the lines of private enterprise.

H.R. 16879 will give the Post Office all the benefits private shippers receive, with added safeguards. In brief, H.R. 16879 requires air carriers to file their mail rates (or changes in mail rates) with the Board

in the form of tariffs. If the postal authorities do not object to the rates and the Board does not order the tariffs investigated, the new tariffs automatically go into effect 60 days after they are filed. In such cases, the Board will not be called upon (as under present law) to make an affirmative finding, after notice and opportunity for hearing, that the rates are fair and reasonable. The tariff system will thus enable the Post Office and the carriers to put new rates into effect promptly and to establish special rates tailored to meet unique needs.

On the other hand, if the Postmaster General objects to a new carrier-proposed rate and the Board decides to investigate the Board can suspend the proposed new rate for 80 days. Thereafter, the carrier will continue to supply transportation under the existing rate on a temporary basis; and the Board will ultimately determine the rate to be paid for all transportation performed after the suspension period ends. Similarly, if the Postmaster General complains against an existing rate and the Board decides to investigate, the carrier will continue to fly the mail at the existing rate on a temporary basis; but the Board will ultimately fix the rate to be paid for all transportation performed following the 180-day period. In litigated cases, the Board is given full powers, after notice and hearing, to prescribe just, reasonable, and nondiscriminatory mail rates.

Although these are the highlights of H.R. 16879, the bill makes many other technical changes in the act and eliminates obsolete statutory provisions. I have with me a detailed analysis which, if the committee desires, I will be pleased to supply for the record.

Mr. FRIEDEL. How long is it?

Mr. GILLILLAND. Well, it is quite short. I think about six pages.

Mr. FRIEDEL. We will keep it in our files rather than putting it in the record.

Mr. GILLILLAND. All right.

(The document may be found in the files of the committee.)

Mr. GILLILLAND. In the Board's opinion, H.R. 16879's tariff-filing proposal is much preferable to other bills which propose to eliminate or restrict the Board's power to prevent uneconomic mail rates. One such bill, H.R. 4, proposes to authorize the postal authorities to contract with any certified air carrier to transport mail at rates different from those fixed by the Board. The Board believes that such a proposal can lead to a resumption of the contract bidding regime which the Congress found to be contrary to the public interest.

The reasons why this is so are obvious. Most of the major air markets in this country have competitive service by two or more carriers certified to transport mail. Yet, under a contract bidding regime, the postal authorities will be free to contract with one of the carriers at a rate lower than the one fixed by the Board, and give all or most of the mail to that carrier. Under such a system, air carriers can be expected to engage in competitive bidding for postal contracts. Each carrier will be under pressure to price its mail service at less than full costs in order to underbid its competitors. Understandably, the postal authorities will have incentives to minimize their own costs by accepting the lowest bidder. Inevitably, this contract bidding system must encourage uneconomic mail rates.

A contract bidding system threatens not merely the private economic interests of air carriers, but, more importantly, the interests of the ship-

ping and traveling public as well. If the carriers do not recoup their full costs for postal service from the postal contracts, they will be forced to try to shift part of their mail costs to other classes of service. As regulated utilities, certificated air carriers are legally entitled to charge rates covering their full costs, including a fair return on their investment. Under either the present regulatory system or H.R. 16879, the Board will have jurisdiction over the rates for all classes of traffic and will be able to insure that passengers, freight, and mail all pay their fair share of the carriers' costs—and no more than their fair share. Under the proposed contract bidding system, however, the Board will in effect lose authority to insure that the mail rates cover all costs attributable to the mail service. If the contract bidding system is adopted, it will thus pose a real risk that passenger and freight services will be asked to shoulder more than their fair share of the airlines' costs and, in effect, subsidize the mail service.

As the Board sees it, H.R. 16879's tariff-filing proposal will give the Post Office Department the contract bidding system's claimed advantages of speed and flexibility—but it will eliminate the risk of unregulated and uneconomic mail rates. For this reason, if the Congress wishes to change existing legislation, the Board favors a tariff-filing system, like that proposed in H.R. 16879, over any contract bidding regime.

Although the Board thus opposes the contract bidding proposals in bills such as H.R. 4, I am sure you will understand that the Board does not oppose H.R. 4's basic postal reform provisions. On the contrary, the Board endorses H.R. 4's objectives of modernizing the Postal Establishment and of improving the postal service. The Board's position is that H.R. 4's contract bidding provisions are entirely unnecessary to accomplish the desired postal reorganization.

The Bureau of the Budget has advised that while there is no objection to the presentation of this testimony, enactment of the transportation of mail provisions of H.R. 4 would be in accord with the program of the President.

Thank you.

Mr. FRIEDEL. I want to thank you, Mr. Gilliland, for a very fine statement.

Mr. Reporter, can you repeat back the last statement that the witness made?

Mr. GILLILLAND. On the Bureau of the Budget position?

Mr. FRIEDEL. Yes.

Mr. GILLILLAND. The Bureau of the Budget has advised us that while there is no objection to the presentation of this testimony, enactment of the transportation of mail provisions of H.R. 4 would be in accord with the program of the President.

Mr. FRIEDEL. I have a question or two to ask but I would like the record to note that Mr. Dulski, the chairman of the Post Office and Civil Service Committee, has said on page 86, "contracts would be negotiated with scheduled certificated carriers without any reference at all to rates and other conditions prescribed by the Civil Aeronautics Board. This cuts squarely across the jurisdiction of the Committee on Interstate and Foreign Commerce and the Civil Aeronautics Board. It could seriously impair the national air transportation policy."

And that is practically what you just said.

Mr. GILLILLAND. That is true.

Mr. FRIEDEL. Mr. Dulski, the chairman of the committee, of course, was outvoted on H.R. 4.

You have indicated that the present procedures are somewhat cumbersome, that H.R. 16879 might well be an improvement. How much of a workload on the Board in terms of personnel and man-hours does the present system require?

Mr. GILLILLAND. Well, I believe I will ask Mr. Roth to answer that first question. This is done in his shop.

Mr. ROTH. Mr. Chairman, I would guess off the top of my head that we have the equivalent in the Bureau of Economics of about five full-time professional people working on mail rates. I may be off by a few in either direction. In addition, of course, when we get into a hearing, there is the time of hearing examiner, the time of General Counsel's office and the Board.

Mr. FRIEDEL. Are these five men full time. Do they put in a full day's work?

Mr. ROTH. Yes. That would be my best estimate, about five full-time professional employees in the Bureau of Economics.

Mr. FRIEDEL. Now, the other question, if the post offices should have the authority to award contracts or to negotiate contracts or use the contract bid system, would it follow that other large Government shippers such as the Department of Defense could reasonably be expected to have the same authority?

Mr. GILLILLAND. I think that we could expect that question would be raised, and that it might be a little hard to deal with if large shippers made the same approach. I don't know whether they could reasonably expect it to be granted but I think we could reasonably expect that the effort would be made to achieve that same sort of privilege.

Mr. FRIEDEL. One other thing. I understand in H.R. 4 they would allow the Postmaster General to enter into contracts in peak time like around Christmas time or mail to Vietnam with the supplemental carriers. Do you have any objection?

Mr. GILLILLAND. Well, I think it would complicate the regulatory regime if this occurred.

Mr. FRIEDEL. In what way?

Mr. GILLILLAND. Well, we undertake to keep a balance in the revenues and costs of the certificated carriers. That is the carriers who are charged by law with the duty of carrying mail. I think if that authority were widened it would be something of a distorting factor.

Mr. Littell has called my attention to the fact that the present statute does contemplate it in what amounts to emergency situations.

Mr. FRIEDEL. It does.

Mr. GILLILLAND. Yes. Section 417.

Mr. FRIEDEL. In emergency situations then they could use supplemental carriers?

Mr. GILLILLAND. Yes.

Mr. FRIEDEL. So you would have no objection to that part of H.R. 4?

Mr. GILLILLAND. Well, the present statute as I say—I have some hesitation about saying the authority should be expanded. I think the balance of the regulator regime is too delicate to think about expanding it without considerable care.

Mr. FRIEDEL. Thank you.

Mr. Adams.

Mr. ADAMS. Thank you, Mr. Chairman. I am a little troubled on page 2 of your statement by the actual system that you propose to use where the Post Office will be in the same situation as private shippers. Do you presently run your tariffs with mail as a specialized category or do you run it in a general weight category that other competitive groups, either departments of Government or private shippers, also enjoy?

Mr. GILLILLAND. Well, we don't regulate the mail rates by tariffs. The Postmaster General or the carrier files an application with us to establish a rate and the Board has to carry the issue through on both sides in what amounts to an adversary proceeding. We sometimes do this under show cause order. The statute speaks in terms of notice and hearing. This is a kind of a cumbersome procedure. It takes quite a good deal of time.

Mr. ADAMS. On your other rates with carriers, they establish them I assume on a tariff basis.

Mr. GILLILLAND. This is true.

Mr. ADAMS. In other words, weight or size of components to be carried.

Mr. GILLILLAND. This is true.

Mr. ADAMS. Is it your suggestion that you would do it by weight and size so as to be comparable to other shippers? Is this a tariff that would go across the board or would this be a specialized mail tariff?

Mr. GILLILLAND. It would be a specialized mail tariff. The carrier would file a tariff. This statute requires that the carrier file tariffs covering mail services in all of the routes that it serves. That is part of its certificate, the requirement that it carry mail, and it would file tariffs covering these routes. These tariffs, if no objection were filed, and if the Board didn't itself raise an objection to it, which we sometimes do with regular commercial tariffs, then they would go into effect after a 60-day period.

Mr. ADAMS. What I am getting at, the thrust of my question is that no one else, either private shipper or other governmental agency, would have a truly competitive interest or be in a comparable situation because mail would remain out in a specialized category.

Mr. GILLILLAND. Oh, yes.

Mr. ADAMS. So that really when you say they would be on a par with private shippers, what you mean is that the Board in its judgment would be establishing a fair rate for the service of carrying mail that would be comparable to other fair rates, but there wouldn't be any cross-feed between private shippers or other governmental agencies because I assume nobody else ships mail, do they, except the Post Office Department?

Mr. GILLILLAND. Well, not strictly speaking as mail; no.

Mr. ADAMS. Do you have any other area—the chairman asked the question—like the Department of Defense or someone else that might come in and want a comparable service?

Mr. GILLILLAND. Well, perhaps I misunderstood the chairman's questions. I think perhaps I did. I thought he was speaking about the contract authority that is contemplated in H.R. 4 rather than this bill.

Mr. ADAMS. Let's back up, then, so that we get it straight between us

because I probably have confused you by starting out with the bill H.R. 16879.

Mr. GILLILLAND. This is true.

Mr. ADAMS. And let's work our way back to H.R. 4. Staying right now with H.R. 16879.

Mr. FRIEDEL. Would you yield just for one question?

Mr. ADAMS. Yes.

Mr. FRIEDEL. Are there uniform tariffs on all mail contracts or are some higher or lower according to their routes?

Mr. GILLILLAND. This varies a bit with the particular class of mail involved. Ordinarily there is a mileage rate and there is a station rate and this station rate varies somewhat.

I believe there are three station classes under the nonpriority mail rate order. We have the same three classes on the priority mail, don't we?

Mr. ROTH. Yes, sir.

Mr. GILLILLAND. And these station costs vary. I think there are three classes of them. The line haul rate is uniform as to the class of mail but it makes a difference in what market is served, depending, I guess, on estimates of costs as to different sized markets. But it is uniform within those limitations.

Mr. ADAMS. Staying for a moment with H.R. 16879—

Mr. GILLILLAND. All right.

Mr. ADAMS (continuing). Then I will go back to H.R. 4—H.R. 16879, then, would contemplate a specialized tariff for mail that would not be available to anyone else, and I am assuming that no one else ships mail in significant quantities through the United States.

Is that correct?

Mr. GILLILLAND. Well, the military mail—we fix those rates for the transportation of mail for the military.

Mr. ADAMS. Then is this by contract with the Department of Defense? I mean does the Department of Defense make a contract with the carrier to carry military mail as opposed to the Post Office Department making a contract to carry other types of mail?

Mr. GILLILLAND. You respond to that, will you, Mr. Roth? I am not sure I understand Mr. Adams' question.

Mr. ROTH. Mr. Adams, there is one example of a category of mail that is actually moving part of the way under the air freight tariffs and not as mail. I believe it is confined to fourth class mail or air parcel post, where there is an arrangement under which various air carriers from Midwest points such as Chicago to certain west coast cities will actually carry as air freight packages which at their air carrier destination point are dropped into the post office system with the appropriate postage on it. Those packages move as air freight to the west coast and then they become air parcel post, whatever the case may be, for delivery to the destination. And one of the points of inflexibility that has been alleged as an objection to the present Federal Aviation Act, section 406, is that here is an example where there is a certain flexibility in the air freight tariff that is lacking in the mail rate scheme of things where the rate has to be fixed by order of the Civil Aeronautics Board.

Now, under an air mail tariff scheme such as embraced in the bill that the Board supports, there would be complete flexibility for the Post Office to persuade an air carrier to file a reasonable rate for those par-

ticular shipments as mail all the way, and not have this artificial distinction where the very same package is first called air freight and then is dropped in with appropriate postage to the military later on. Another analogy—

Mr. GILLILLAND. Might I interrupt right there, though, Mr. Roth. That doesn't move as mail until it reaches the west coast point, does it.

Mr. ROTH. That is absolutely correct.

Mr. GILLILLAND. It is destined to become mail but the originator ships it as air cargo—

Mr. ROTH. Yes, sir.

Mr. GILLILLAND (continuing). To the west coast point and it becomes mail there by getting into the post office boxes in Los Angeles or San Francisco or some place like that. It isn't mail until it gets through its air cargo stage. Excuse me.

Mr. ADAMS. Now, turning for a minute to H.R. 4, under that, as I understand it, there would be authorized an overall contract authority that would place mail in the same type of category as other goods moving by air. Is that correct? In other words, the authority of the postmaster would be to make whatever contract he could which would put him in a position of either getting specialized treatment, or would put pressure on you from other bodies that have to use air tariffs to meet the competitive aspect that the Post Office Department would have. Is that correct?

Mr. GILLILLAND. Well, I don't know whether the conclusion is correct. It would give the Postmaster General the authority to contract directly with an air carrier to ship quantities of mail at contract rates. That would not be fixed by the Board.

Mr. ADAMS. All right. Now, you fix rates for the Department of Defense and for all other Government agencies that ship by air freight at the present time?

Mr. GILLILLAND. We fix the rates for the carriers through which the cargo or whatever it is will move.

Mr. ADAMS. So then you would have the situation that the chairman refers to here, that if H.R. 4 is left as it is and that becomes the rule, you would have a specialized set of rates not subject to regulation by anyone between the—

Mr. GILLILLAND. This is true.

Mr. ADAMS (continuing). Between the Post Office Department and the carriers.

Mr. GILLILLAND. This is true.

Mr. ADAMS. And that then led to your conclusion that other departments would then have a basis for coming in and saying we want to contract directly with carriers. I am thinking in particular of the Department of Defense.

Mr. GILLILLAND. At rates other than those fixed by the Board. These people, for example, that Mr. Roth spoke about that might now make a shipment of packages by air cargo to Los Angeles and there cause it to be placed in the mail for delivery in Los Angeles, nevertheless the air cargo rate is fixed by us. It is fixed by a tariff that the carriers file with the Board. Either we have fixed it after a proceeding or we have permitted it to go into effect, it appearing to be a lawful tariff to our economic bureau. So we have control of that rate.

The method that I understand the Postmaster General advocates and is included in H.R. 4 would permit the Postmaster General to go in

and contract with the carrier to carry mail at whatever price was agreed upon with the carrier.

Mr. ADAMS. I just have one last question.

Mr. GILLILLAND. So it wouldn't be in anybody's control really except in straight out contracts.

Mr. ADAMS. Probably to the chairman, can you tell us what percentage of the income of the air carriers is the carriage of mail? What degree in effect is it at subsidization? I don't like to use that word because they do provide services for it but I know it is terribly important to them that they have a mail contract as well as passengers. What percentage, what factors?

Mr. GILLILLAND. What percentage of total revenues of the air carriers? I don't think it is a great sum any more, maybe on the order of 3 percent, something like that.

Mr. ADAMS. Is it heavier, as the chairman asked, on some routes than others?

Mr. GILLILLAND. Very much so.

Mr. ADAMS. And are those used to maintain certain passenger routes by in effect a subsidy, or if not that, at least a carriage—

Mr. GILLILLAND. I think there are some routes where the volume of mail is great enough or this element is great enough so it would make a difference as to whether or not the service was provided at all.

Mr. ADAMS. I will reserve any further questions. Thank you, Mr. Chairman.

Mr. FRIEDEL, Mr. Devine.

Mr. DEVINE. Thank you, Mr. Chairman.

Let's talk about supplementals, Mr. Gilliland. Is the transportation of mail which I have always thought of as requiring regular service on a day-to-day basis, is this compatible with the services for which supplemental air carriers are certificated?

Mr. GILLILLAND. No.

Mr. DEVINE. It is not.

Mr. GILLILLAND. Not as a generalization it isn't.

Mr. DEVINE. Getting to the revenue question, I think probably Mr. Tipton will address us in this direction, I have heard unofficially that first-class mail, air mail, that probably 95 to 96 percent of the mail is carried by air mail whether it carries an air mail stamp or not. Is that reasonably accurate?

Mr. GILLILLAND. Letter mail? First-class mail? I think this is true.

Mr. DEVINE. About that percentage figure, about that high?

Mr. GILLILLAND. What do you say on that?

Mr. ROTH. You would have to define what universe you are talking about. I would assume that the majority of first-class mail is so short haul, for example, it would be local mail, but of a distance such as over 200 miles, a fairly substantial proportion goes by air. I have no idea whether it is anywhere nearly as much as 95 percent, and it is also my understanding that in the last month or two, there have been some revisions in mail distribution practices by the Post Office Department. Accordingly I doubt that even above 200 miles hauls as much as 95 percent is now going by air.

Mr. DEVINE. But you would agree that a large percentage is handled that way.

Mr. ROTH. Oh, yes.

Mr. DEVINE. Notwithstanding the fact that it carries merely first-class postage rather than air mail.

Mr. ROTH. Yes, sir.

Mr. GILLILLAND. Going back to your previous question about the percentages of income, I find a letter that was written by the Board to the chairman of the Committee on Post Office on their question that indicates that in the Pacific, the mail revenues amount to about 21.9 percent.

Mr. DEVINE. 21.9.

Mr. GILLILLAND. Yes. The 3 percent figure was used as an across-the-board average.

Mr. DEVINE. Well, I will defer to Mr. Cunningham because he is one of the ranking members on Post Office and Civil Service and has been exposed to this H.R. 4. But before going to that, in the very last portion of your formal remarks, you quoted the Bureau of the Budget in which they lean in the direction of H.R. 4. Do they exclude consideration under H.R. 16879? Did they make any comments at all what the problem would be in connection with this legislation if adopted?

Mr. GILLILLAND. This is the only information I have. We are required to submit, as you know, our proposed testimony and this was their answer, that they had no objection to the testimony. Their position remained with H.R. 4.

Mr. DEVINE. I will yield to the gentleman from Nebraska.

Mr. FRIEDEL. Mr. Cunningham.

Mr. CUNNINGHAM. Thank you, Mr. Chairman. I have the fortune or misfortune of serving on both Post Office and Civil Service and the Committee on Interstate and Foreign Commerce. We have for the last year been working on a bill to reform the Post Office Department, take it out of politics, because it is on the verge of a complete breakdown and crack up. This is due to many reasons.

The Post Office Department doesn't have any substantial say-so as to the management of the postal system. For example, it does not receive any of the revenues that it generates in the way of stamps or any other income. These revenues go into the General Treasury of the United States and then part is appropriated to the Post Office Department by the Congress.

It has no authority to fix postal rates. It has no authority to fix postal salaries or working conditions. It has no authority to do many things that must be done if we are going to save our postal system from a complete breakdown.

For this past year we have been working on this bill, H.R. 4, which we finally passed about 2 weeks ago.

The idea is to give the Post Office Department—first of all, to take it out of politics, remove the Postmaster General from the Cabinet—to give the Post Office Department the complete authority to manage itself without so many fingers in the pie as we have at the present time.

The witnesses before us today indicate to me that they, in my opinion at least, don't have much of a case but are simply jealous of losing some of their present authority. Under H.R. 4 which has been very carefully worked out over these past 12 months, we feel that the top operating officer of the postal system, and the various people that are provided for in the legislation will be perfectly willing, able and capable of setting rates without interference from any other agency of the Government. This is the only way we are going to have a good postal system.

Give complete management of the Post Office Department to postal officials under what we now call H.R. 4, a bill to create a postal authority.

I would think that the CAB would have so much work to do that it would be perfectly happy to be relieved of this rather minor obligation. We have for many years tried to get decent air service into Omaha, Nebr., which I represent, and it has dragged on and on and on and on. We still have no conclusion. I would think that it would be in the best interests of the CAB to be rid of these types of things that are before us this morning and get on with the major problems of the air industry. Certainly I would be hopeful that this committee would consider seriously the views of the Bureau of the Budget and the administration in the support that they are asking for H.R. 4, and in opposition to the position that is being taken by the people who are here today testifying from the Civil Aeronautics Board.

You can't have it both ways. You are going to either have a good postal system or you are not, and the only way you are going to have a good postal system is to give the postal management complete authority to run its operation. That is the way we want it and that is what is provided in H.R. 4, and that is what we hope to accomplish. If the witnesses have any response to that observation of mine, I would be delighted to comment if I feel I am able to do so.

Mr. GILLILLAND. Well, I think maybe I would like to comment a little about that.

H.R. 4 doesn't purport to take away from the CAB all of its rate-making authority as to postal rates by a great deal. As a matter of fact, it seems on its face to leave most of that authority.

What it does do is to permit the Postmaster General to contract away the rates that presently affect air transportation. When we fix a rate for the transportation of a category of mail, as we recently have done with nonpriority mail, that is first class and other classes of mail that moves on a space available basis, we fix this rate for the whole United States, not just certain markets.

Now, some of these movements of mail are profitable for the carriers. I presume, for example, that it would be profitable to carry mail from Chicago to San Francisco or Chicago to Los Angeles, of large volume, places where the Postmaster General now would like to contract. But there are many places where it isn't profitable, quite the contrary, where the volume of mail is very small and the compensation to the carrier might only be a dollar or two for shipment. In contrast, the rate that the carrier would receive for the shipment of freight would be several times that on a minimum basis. The effect, though, of a mail rate that the Board undertakes to establish that is across-the-board, is that the mail revenues from the stronger markets tend to offset the losses in the weaker markets.

I frankly don't know what will happen to the system if the Post Office Department contracts away, on the basis of competitive bidding, the revenues that the carriers receive in the stronger markets and they no longer offset the losses in the smaller markets, which are most of them.

I would think it would be better for the Postmaster General to do the whole thing than to just have authority to contract out the possibility of returns for the carriers in the overall business. Wherever this

matter is regulated, whether it be in the Post Office Department or whether it be at the CAB, it should be regulated in one place.

Now, taking it a little farther than that, the concept of the Civil Aeronautics Act which is embodied in its declaration of purpose in section 101 speaks of an airline system adequate to the needs of the foreign and domestic commerce of the United States, of the postal service, and of the national defense. It has three elements. There isn't any doubt at the time that the act was adopted in 1938 that the proportion of revenues derived from the postal service were much greater than they are now, but ever since that time, the Board has undertaken to have a balanced regime that would serve all three elements and would serve them in reasonable proportion, that the percentage of revenues that were obtainable for one or the other would be in proportion to benefits and on a cost basis. They are all measured and considered together, and as was developed by Mr. Adams' question, in some markets the significance of the mail transportation is much greater than it is in others.

The service and the carriage are built around this scheme under the regulations of the Board. You eliminate one and it immediately causes a distortion as to the others.

It would mean I am sure that travelers on the air lines would pay higher fares and that shippers of cargo would pay more for their cargo unless the matter is regulated in one place where it can be seen to it that the U.S. Government pays its reasonable share for the services it obtains in the postal service.

We have had this same thing happen with reference to shipments and transportation of personnel for the Department of Defense where some years ago the transportation of personnel and goods on our certificated carriers was arranged for by the Department on a competitive bidding basis and it became completely demoralized. Some of the carriers were—as a matter of fact, I think about all of the carriers at one time, 1959–60, were carrying that traffic at a below cost basis. One of them at least went bankrupt.

Now, it is not just a matter of justice to the carriers. It is a matter of what happens to the other services the carriers perform. They have to get the revenue some place. Other revenues must go up in order to keep them viable.

Now, I think that is the kind of thing that we can anticipate, although maybe not in such a degree, unless the regulation of the three elements defined in section 101 of the statute is kept in one place. That is the way it needs to be done.

Mr. CUNNINGHAM. Mr. Chairman, I am familiar with all of the intricacies of this because it has been going on for a year. All I want to say again is that the Post Office Department should have complete authority to fix rates without interference from any other agency.

I was very instrumental 9 or 10 years ago when permission was given to airlift on a space available basis on a very limited basis. Before I came to the Congress, the Committee allowed the Post Office Department a limited authority to experiment with that. The Post Office Department, however, went hog wild and I was successful in getting legislation passed through the House to stop the Post Office Department from sending surface mail by air on a space available basis. However, it was not acted upon by the Senate but the Post Office Department got the message. As a result of all of this, we have one

independent agency of the Government looking after the airlines. We have another agency of the Government, for example, the ICC, supposedly looking after the welfare of the railroads. When the Post Office Department and the independent agencies such as the CAB permitted the tremendous expansion of the airlift of surface mail, you didn't put one little airline out of business.

You put the whole railroad industry out of business or at least into bankruptcy. Many are bankrupt. This all came about because so much of the surface mail was going on a space available basis on airlines. As a result, thousands and thousands of RPO cars were discontinued. On these trains that carried RPO cars, the great majority of them were feeder lines. They were just able to make a little bit of profit because they carried the RPO car on them.

When they took the RPO car off, they lost money, asked for a discontinuance of that line, and it was granted. So today, because of this tremendous airlift of surface mail, the discontinuance of the RPO cars by the Post Office Department, and in conjunction with the ICC's willingness to allow discontinuances, many of our railroads are bankrupt and/or losing money.

So here we have one independent agency looking after one form of transportation, we have another independent agency supposedly looking at the interest of another form of transportation, and they are in conflict with each other. I want to say again that we must get all of these agencies' hands out of the pie, including the ICC, which still has its finger in it so far as fixing rates are concerned in various classes of mail within the Post Office Department.

Mr. FRIEDEL. Okay.

Mr. CUNNINGHAM. I would like to say one thing further, Mr. Chairman.

Mr. FRIEDEL. All right. But we have one more witness.

Mr. CUNNINGHAM. This is beside this subject, but I and many members of this committee have received a telegram from United Air Lines. "I would be honored to have you and Mrs. Cunningham as our guests at the opening of the Hawaiian highways newest nonstop segment between Baltimore and Honolulu. The opportunity"——

Mr. FRIEDEL. Friendship Airport.

Mr. CUNNINGHAM. Friendship. "The opportunity to pioneer and develop a new trade and pleasure route of such dimensions is one of the rare opportunities that have come to an air carrier. United Air Lines wants you to be among the first to share this experience with us. The preinaugural flight will depart Baltimore," so and so, "and return so and so." "May we have your response by April 16 and I would appreciate having you advise" Miss So and So. This was signed by the President of United.

I certainly am not going to take that flight. I don't happen to like to take junkets to begin with. I don't know under what section of law it is that airlines are allowed to offer Members of Congress or anybody else free transportation.

Mr. GILLILLAND. This——

Mr. CUNNINGHAM. I would just like to get a good flight from here to Omaha. I don't care for Hawaii.

Mr. FRIEDEL. Friendship's United flights don't stop in Omaha. I am very happy that United is going nonstop from Friendship to Hawaii.

Mr. GILLILLAND. This has to occur before the regular service is begun. It is a custom that existed in this country since before the Civil Aeronautics Board.

Mr. CUNNINGHAM. Do you think it is right?

Mr. GILLILLAND. Yes, I do. I think it is right because——

Mr. CUNNINGHAM. But one takes that trip under some obligation.

Mr. GILLILLAND. I don't know why any obligation arises.

Mr. CUNNINGHAM. If you get a good free round trip to Hawaii, you don't think there is some obligation? I am going to decline.

Mr. GILLILLAND. I think it is of considerable importance that people who are charged with duties in government in transportation matters be familiar with the way these things are done and with the markets that are served, and I think the benefits to Members of Congress who have an opportunity to participate are considerable. The Board itself is ordinarily invited. I don't know whether this is true in this case but it is customarily invited to send a representative, an observer, to take part in pre-inaugural flights of that kind.

Mr. CUNNINGHAM. Do you have any idea when we are going to get some relief in our Omaha case to bring in competition because United has it all by itself from Chicago to Omaha.

Mr. FRIEDEL. Suppose there was a nonstop flight from Friendship to Omaha, Nebr. Would you go on that?

Mr. CUNNINGHAM. They did such a flight for a while but they had it at midnight and you left Omaha at 10:28 in the evening and got in at 2:00 or 3:00 in the morning. They discontinued it because they say they didn't have enough passengers. Of course, they wouldn't have enough passengers at that hour of the night.

Mr. FRIEDEL. I agree, especially when it is in a——

Mr. CUNNINGHAM. I just came into Friendship three times in the last 3 weeks. I love your airport. However, I went by Braniff from Omaha to St. Louis and by TWA from St. Louis to Friendship.

Mr. FRIEDEL. Good. Thank you very much, Mr. Pickle.

Mr. PICKLE. Thank you, Mr. Chairman.

Chairman Browne, I am sorry that I wasn't here to hear your testimony and the testimony of Judge Gilliland. I believe this is the first time you have appeared before a subcommittee that I haven't been present and I looked forward to the occasion of visiting with you.

I am glad you are here and also good to see our pleasant and able member of the CAB, Judge Gilliland.

I don't want to repeat any of the questions but I would like to have an explanation from you or Judge Gilliland as you either might choose to reply with respect to exactly what this bill provides.

Now, under the present system as I understand it, the air mail routes are established by petition on a nationwide basis by CAB. And I assume, then, that other rates such as passenger or freight are established by tariffs.

Now, this bill would provide for the establishment of rates by a tariff rather than petition. Is that correct?

Mr. GILLILLAND. This is true.

Mr. PICKLE. Now, if it is by tariff, how do you not allow different rates to be given to different airlines? What is the difference under the proposed measure as contrary to the present system by petition?

Mr. GILLILLAND. Largely procedural. Under this measure the system would be very similar to that under which present passenger and cargo rates are fixed. The carrier would file a tariff, be required to, over every segment it is authorized to serve, justified in the same manner that a tariff, perhaps a little more elaboration, as a tariff now is justified for commercial services. If it wasn't objected to, it would take effect. We have our own duty of scrutiny and we exercise it to determine whether we think it is a lawful rate, and if neither we raised objections, nor the Post Office Department, nor someone else, the rate would take effect. It moves very rapidly.

Under the present system, we have to have a formal proceeding of some sort and fix the rate ourselves in every case. It is much more time consuming.

Mr. PICKLE. Under the petition system, when a rate is established, is it a uniform rate? Is it the same rate throughout the United States?

Mr. GILLILLAND. This is the way it is customarily done but it doesn't have to be done that way.

Mr. PICKLE. In other words, a carrier handling the mail from Chicago to Los Angeles per piece or per pound, however you determine, would have the same rate as a carrier flying from Austin, Tex., to Oklahoma City.

Mr. GILLILLAND. Yes.

Mr. KUYKENDALL. Would the gentleman yield for a question here in line with his question?

Mr. PICKLE. Yes, I will yield.

Mr. KUYKENDALL. Would you, sir, take a hypothetical situation like Austin, Tex., to Oklahoma City and tell us in layman's terms what the difference is between the present procedure and what you are proposing for a new route on Austin, Tex., to Oklahoma City in layman's terms for the record.

Mr. GILLILLAND. Yes. I think I will ask you to do that, Mr. Roth.

Mr. ROTH. Under the present procedure, the board, after notice and opportunity for hearing, prescribes a mail rate to be paid by the Postmaster General to any and all of the carriers in a broad geographic region. In that geographic region for a given class of mail, such as priority air mail, there will be an identical rate for any of the air carriers that perform the service and it is a rate that is not designed to be just and reasonable for each individual shipment but rather is designed to be just and reasonable in the aggregate of all of the shipments embraced in that rate area.

Under the tariff scheme of the bill in front of the committee which the Board supports, an air carrier would, as a result of discussions with the Post Office Department or on its own initiative, file a tariff with the Board 60 days in advance of a proposed new rate, changed rate, for mail between Austin, Tex., and Oklahoma City. So that will be a custom tailored rate to fit that particular market and may be quite different, either higher or lower, than the average system rate that purports to be just and reasonable for the United States as a whole. And if the Board finds no objection to it, that rate in 60 days will become the lawful rate.

Mr. FRIEDEL. The time is set by petition? Now how does the present law work?

Mr. ROTH. At the present time, either an air carrier may petition the Board to enter a mail rate order after notice and opportunity for hear-

ing, or the Postmaster General may petition the Board or the Board on its own initiative can reopen an existing rate wherever it has reason to believe that the existing rate is no longer just and reasonable, and the Board can then prescribe a new rate effective from whatever date it determines to be reasonable once the rate is reopened.

Mr. FRIEDEL. Would there be any time the petitioner would have to be heard in open hearings? Is that it, or do the rates just automatically go into effect under the present system after 60 days if the Board agreed with it?

Mr. ROTH. I construe that one of the chief advantages of the tariff bill in front of you would be the advantage of time. Where the parties are unable to reach a unanimous agreement among two dozen domestic airlines, the Post Office Department and the Civil Aeronautics Board, the case cannot be settled without a hearing, and it goes to hearing and the last important hearing the Board just completed on the nonpriority mail rates was decided by the Board on April 2, 1970, that case lasted almost 3 years.

Under a tariff scheme, the tariff will be filed 60 days in advance and the typical rate to which there will be no objection or decision by the Board not to suspend the particular tariff proposal will become effective in 60 days, even if there is a complaint.

Mr. FRIEDEL. Does that answer your line of questions?

Mr. KUYKENDALL. Yes. The time belongs to Mr. Pickle.

Mr. PICKLE. In the case of shipments of mail under the proposed system, could you have a different rate per pound between Austin and Oklahoma City than the rate from Austin to Shreveport, La.? In other words, it would not have to be uniform within the region. You might have one rate between two fixed points and other rates for another area and you leave that to the discretion of the Postmaster General.

Now, how many regions do you have in the United States.

Mr. ROTH. The Board for many years has treated the 48 States as one ratemaking area and all of the trunks and local—

Mr. PICKLE. Why do you use the term region, then?

Mr. ROTH. We have a separate rate to overseas points and to foreign points.

Mr. GILLILLAND. Alaska.

Mr. ROTH. Separate rate from time to time to Alaska. And wherever the characteristics and the cost patterns are different, the Board is likely to have a completely different rate.

Mr. PICKLE. Now, under the proposed system—just this one question, Mr. Chairman, and I am asking your indulgence because I participated in the—

Mr. KUYKENDALL. I will yield some time.

Mr. PICKLE. Under the proposed bill H.R. 16879, assuming that tariffs are filed and the Postmaster General—the CAB is given the authority to move faster, will the type of carriers be different? Under the proposed bill will only certified carriers carry the mail or will supplemental carriers be eligible to carry the mail?

Mr. ROTH. Certified carriers. It isn't changed in that regard.

Mr. PICKLE. It doesn't change that?

Mr. ROTH. No.

Mr. PICKLE. Thank you.

Mr. FRIEDEL. Mr. Kuykendall.

Mr. KUYKENDALL. Did the gentleman from Texas need to use any of my time for another question?

Mr. PICKLE. No.

Mr. KUYKENDALL. I won't use the 5 minutes, Mr. Chairman. Am I to understand that in the United States the way the present system works that generally speaking, I am not going to get outside, on a pound-mail basis for the same class of mail, the rate is roughly the same nationally. Is this correct?

Mr. GILLILLAND. It is correct.

Mr. ROTH. It is 100 percent correct, rather than approximately the same for any given shipment of mail between two cities.

Mr. KUYKENDALL. The pound-mail rate to carry 1 pound of a given class of mail for 1 mile anywhere in the United States is the same, is that correct?

Mr. ROTH. Sir; there are two elements in the rates. Between the cities, separate from the loading charge, the rate is identical but then there is a terminal charge that varies by the size of the station at which the mail originates.

Mr. KUYKENDALL. We are not talking about that. I believe that is all I have, Mr. Chairman.

Mr. FRIEDEL. All right. I want to thank you gentlemen. You have been very, very kind and I note that Mr. Roth, Director of the Bureau of Economics, is to retire after more than 30 years of service and this will probably be the last time that he will appear before this committee. Mr. Roth, would you like to say something? We do have one more witness but we will be glad to hear from you.

Mr. KUYKENDALL. He doesn't look old enough to retire.

Mr. ROTH. Sir; I am old enough to retire. I have over 35 years service. I am leaving the Government on voluntary retirement with extremely mixed feelings. I have a great many friends in the Board, in the Congress and the industry and one of the things that I assure the committee I will miss most upon my retirement from Government service is the opportunity and the challenge and the satisfaction in appearing before the various congressional committees and this one in particular.

I will certainly miss that.

Mr. FRIEDEL. I want to thank you. You have been very cooperative in the many, many hearings we have had before this committee and I want to thank you and wish you luck in your new endeavors.

Mr. ROTH. Thank you very much.

Mr. FRIEDEL. Thank you very much.

Now, our next witness—

Mr. PICKLE. Mr. Chairman, I wonder if we could go off the record as you change the witnesses.

(Off the record.)

Mr. FRIEDEL. Our next witness is Mr. Stuart G. Tipton, President of the Air Transport Association.

STATEMENT OF STUART G. TIPTON, PRESIDENT, AIR TRANSPORT ASSOCIATION; ACCOMPANIED BY GERALD J. GODBOUT, DIRECTOR, CARGO SERVICE, AND JOSEPH HEALY, ASSISTANT GENERAL COUNSEL

Mr. TIPTON. Mr. Chairman, members of the committee, my name is Stuart G. Tipton. I am president of the Air Transport Association, which represents virtually all of the U.S. scheduled air carriers. I greatly appreciate the opportunity to appear before this committee and discuss a matter which is so critical to the continued development of air transportation in this country.

Let me begin by bringing into focus the key issue, as I see it, which is before this committee. That is whether or not those provisions of the Federal Aviation Act of 1958 governing the air transportation of mail are meeting the needs of the Post Office Department and thereby adequately serving the public interest, necessity and convenience, or whether a change is needed. I believe the needs are being met and no change is needed.

By any standard of measure, the air transportation of mail is one of the most efficient and economic elements in the total postal service operation, one of the few bright spots in an otherwise bleak postal operation. Postal reform may be required on the ground; it is certainly not needed in the air. The scheduled airlines have continually met the needs of the Post Office Department, and kept pace with the ever-expanding requirements for mail transportation services.

There is, however, a contention by the Post Office Department that some of the procedures which govern the Civil Aeronautics Board's regulatory supervision over the transportation of mail by air are inadequate for the Post Office Department's requirement. The dissatisfaction with the existing regulatory provisions surfaced when the Postmaster General, within the framework of a postal reform bill, sought authority to circumvent the mail transportation provisions of the Federal Aviation Act. The legislation sought by the Postmaster General would authorize the Post Office Department to contract, without approval by the Civil Aeronautics Board, with any certificated carrier in such manner and under such terms and conditions as it deems appropriate, including the payment of rates or compensation lower than those prescribed by the Board. The net effect of this and other sections of the proposed legislation would be to give the Post Office Department carte blanche authority to bypass the existing provisions of the Federal Aviation Act governing the transportation of mail by air, and divest the Civil Aeronautics Board of that specific authority the Congress, acting under the guidance of this committee, originally vested in the Civil Aeronautics Board.

The Postmaster General, in support of his request to the House Post Office and Civil Service Committee, specifically alleged that the Federal Aviation Act of 1958 did not permit a rapid response to changing postal requirements for air transportation, that the Post Office Department needed improved scheduling authority, that the contracting authority sought would be used on a limited basis and would result in increased service, and that the major reason for seeking contracting authority is to avoid the Civil Aeronautics Board's extended ratemaking processes.

The Civil Aeronautics Board, on the other hand, argued, as they have here, before the House and Senate Post Office Committees that the Post Office Department proposal regarding the transportation of mail by air proposed a radical departure from present law; that the present regulatory framework for mail transportation is not too rigid to provide the postal authorities with the necessary flexibility; and that such legislation would have an undesirable and adverse effect on the air transportation system as a whole. I will have more to say regarding this aspect in a moment. The Board also made it quite clear that it was ready to work with the Post Office Department in solving any specific problems which the postal authorities have encountered in securing adequate mail service by air. Let me add that the scheduled airlines also have indicated a willingness to sit down and work out any problem, but the Post Office Department has not sought this approach; rather it has chosen to propose drastic legislative action.

This, in essence, is the problem before this committee. If the Federal Aviation Act does not provide the Post Office Department with the necessary flexibility, if the public interest is not being adequately served, if the ratemaking process is, indeed, too time consuming, then the solution is not to circumvent the existing procedures; it does not lie in taking away the Civil Aeronautics Board's authority via legislation before the House Post Office and Civil Service Committee, and it certainly is not to be accomplished by going outside the present regulatory system. The solution lies in making such changes in the existing regulatory system as the committee finds necessary to meet the needs of the Post Office Department and the public interest.

Another possible solution lies within the framework of the present bill before this committee. This would represent a possible alternate solution. Before I discuss the merits of this bill, let me outline to you the position of the scheduled airlines. Where do we stand in relation to the Post Office and Civil Aeronautics Board controversy over the operational aspects of the present airmail transportation system? Our position is in strong opposition to that of the Post Office Department. The ultimate effect of the Postmaster General's legislation could be disastrous, in some cases, to many carriers, and to the air transportation system as we presently know it.

The committee's action, in considering this matter, comes at a most propitious time. The legislation proposed by the Postmaster General immediately threatens the governing legislation established by this committee over 32 years ago. The legislation under which the scheduled airlines presently operate has contributed immeasurably to the development of the finest air transportation system in the world. Under the guidelines established by your committee, our air transportation system has served the public interest, convenience, and necessity in an outstanding manner, in peace and in war.

Whatever the case may be for postal reform in general, no case has been made for the need of reforming the regulatory system governing the airmail transportation system. No case has been made to justify giving the Postmaster General the unlimited contracting and rate-making authority he requests. Let me briefly outline some of the actual results of the present system for the transportation of mail by air and review the regulatory environment under which favorable results have been achieved.

There has been an explosive growth in scheduled airline service over the last decade—a constantly increasing number of daily scheduled flights and nonstop services all developed by the Civil Aeronautics Board under the mandate developed by your committee. This system has provided the Post Office Department with a comprehensive, nationwide network of regular and dependable transportation capability. As a consequence of these service improvements, the amount of mail carried by the scheduled airlines has increased sevenfold during the past 10 years—reaching $1\frac{1}{4}$ billion ton-miles in 1968.

All of this has been accomplished without any increase in unit costs to the Post Office Department. Quite the contrary, in fact, the average ton-mile cost to the Post Office has declined 48 percent since 1958—from 42 cents per ton-mile to 22 cents per ton-mile. The cost of virtually everything else the Government buys has, of course, increased substantially during this same period.

Equally important is the fact that air postal services produce a very substantial surplus of revenues over costs for the Post Office Department itself. In the case of airmail, out of each 10-cent stamp sold, the Post Office Department retains 9.4 cents, and the airlines receive but six-tenths of 1 cent. In the case of the first-class mail which primarily moves by air, the Post Office retains 5.85 cents of the cost of the 6-cent stamp, the airlines receiving only fifteen-one hundredths of 1 cent. In recognition of these efficiencies and economics, the Post Office Department shifted almost all nonlocal first-class mail to air transportation during the past 2 years.

The carriage of mail has been important to the airlines as well—producing \$276 million in annual revenues during a period when the profits for the industry as a whole had declined to a meager \$75 million, or a profit margin of less than 1 percent—vs. the 10.5-percent rate of return established as reasonable by the CAB.

Moreover, the CAB service mail rate proceedings also have produced benefits to the Post Office. In 1969, for example, the Board established reduced service mail rates applicable to trans-Atlantic and trans-Pacific priority mail and worldwide military ordinary mail. These reductions amounted retroactively to about \$14.3 million in fiscal 1968, and about \$31.6 million in fiscal 1969. Moreover, the nonpriority mail rate case decided by the Board only 2 weeks ago will result in refunds to the Postmaster General from the carriers in excess of \$10 million.

There is no doubt that the statutory standards and guidelines established by the Congress and administered by the Civil Aeronautics Board have operated in the public interest as well as in the interest of the Post Office Department. There is reason to doubt that the public interest would be as well served if the Postmaster General were given contract authority. Congress has not vested the Post Office Department with the responsibility for a sound air transportation system. The Postmaster General is primarily interested in the operation of the Post Office Department, not in the developing of a sound and economically healthy air transportation system.

Let us take a closer look then at the regulatory regime under which this favorable postal transportation picture has been achieved.

The Civil Aeronautics Board has been charged by Congress since 1938 with the responsibility of encouraging and developing a sound

and healthy air transportation system in this country—one which, in the words of the statute, is “properly adapted to the present and future needs of the foreign and domestic commerce of the United States, of the Postal Service, and of the national defense.” Under the regime created by its organic statute, the Federal Aviation Act of 1958 (and its predecessor, the Civil Aeronautics Act of 1938), the Board was granted a comprehensive array of economic regulatory powers which cover literally every facet of the airline business, including the transportation of mail by air. Although not everyone would agree with each and every action the Board has taken thereunder over the years, certainly most would agree, as I have indicated, that this regulatory regime has served the public interest exceedingly well.

This statutory scheme also contains detailed provisions which enable the Postmaster General to obtain all needed air transport services within a regulatory framework. It further directs and empowers the Board to fix fair and reasonable rates of compensation for such services. Although nothing engineered by the mind of man ever can be said to be perfect, the system has worked very satisfactorily in the postal area as well.

Unlike the case of other users of air transportation, governmental or private, the Federal Aviation Act gives the Postmaster General himself a considerable degree of direct authority over the air transportation services provided to him. He may promulgate such rules, regulations and orders “as may be necessary for the safe and expeditious carriage of mail by aircraft” and may levy fines on the carriers for failure to comply with these regulations. He may require the carriers to transport the mail he tenders and to provide necessary and adequate facilities for such transportation. The carriers are required to file all schedule changes with the Postmaster General who may, subject to subsequent CAB review, issue an order for the establishment of additional schedules or disapprove or modify proposed schedule changes. The carriers also are required to submit evidence of their performance of mail service when and in such form as the Postmaster General may require. All of these special powers of the Postmaster General are unique and not held by any other governmental or private user of air transportation.

The Civil Aeronautics Board has established a good record of cooperation with the Postmaster General in his efforts to obtain the additional air services needed for the carriage of mail to obtain them promptly. For example, the services of the almost 3,500 air taxi operators have been made available for the carriage of mail through the exercise of the Board's exemption powers. Since 1967, the Civil Aeronautics Board's economic regulations have given the Post Office Department the opportunity to use air taxi operators to carry mail even in markets competitive with certificated routes carriers. Such authorizations are granted pursuant to special expedited Board procedures. By the end of fiscal 1969, air taxis were carrying mail on approximately 150 routes, including routes to and from some of the largest cities in the country. The Board also has used its exemption powers to enable other carriers to engage in the air transportation of mail, including wholly intrastate airlines which are not otherwise under the Civil Aeronautics Board's regulatory jurisdiction. A review of the Board's orders will show that many of these special authorizations were granted

on an extremely expedited basis, including some emergency orders issued simply on the basis of a telephone request from the Postmaster General. There is also a special provision in the statute whereby the Board can authorize supplemental air carriers to provide mail service when a certificated route carrier's capacity is temporarily insufficient.

Notwithstanding the wide range of the provisions of the Federal Aviation Act relating to the carriage of mail by air, and the Board's responsiveness thereto, the Postmaster General now seeks in the name of postal reform to obtain authority to contract for the carriage of mail by air wholly outside of this proven regulatory framework—at such rates and under such conditions as he alone may deem appropriate.

One provision would allow the postal authorities themselves to determine that service by Board-certificated carriers in any given market is not adequate for their purposes and thereupon contract with any carrier (subject to possible Board disapproval) for the carriage of mail in such manner and under such terms as they may deem fit.

Another provision would authorize the postal authorities to contract with any certificated carrier, which includes the supplemental carriers, to transport mail at rates different from those fixed by the Board.

This supplemental carrier provision again is contrary to the law developed by your committee regarding the role of supplemental carriers, which was clearly defined by Congress (49 U.S.C. 1301 (33)). This law made it quite clear that the intended role of the supplemental carriers is to engage in charter trips in air transportation "other than the transportation of mail by aircraft" to "supplement" the scheduled service of the regular airlines. This fundamental public policy determination of the Interstate and Foreign Commerce Committee, which passed the Congress in 1962, should not now be changed by action of the House Post Office and Civil Service Committee.

Under the proposed legislation in H.R. 4, if the Postmaster General was given the right to contract with the supplementals for the transportation of mail, he would be in a position to duplicate air transportation between prime mail centers, while off-route cities would suffer. This would lead to a complete disruption of the carefully considered pattern of air transport services established by the Civil Aeronautics Board. It certainly could lead to increased demands for subsidy by the Board.

I make particular reference to this point, since it clearly points out the danger of having a committee other than yours legislate in the air transportation field. This committee can readily see what the effect such legislation would have on the present air transportation system of this country. Even though mail has become a relatively smaller portion of the total revenue of air carriers, we have seen that it continues to play a very significant part in the carriers' ability to perform services and provide schedules for the convenience of the public in many areas of the country.

If the Postmaster General is to be put in a position to establish routes or favor one carrier over another solely for the convenience of the Post Office Department, what will be the effect on the carefully considered and developed pattern of air transportation services authorized by the Civil Aeronautics Board? Are we to return to the

chaotic situation which existed before 1938? Is this Postmaster General to be allowed to establish a duplicating system of air transportation? Should the Civil Aeronautics Board's overall responsibilities for developing a sound balanced system of air transportation—routes, services, and rates—to be divided with the Postmaster General? If so, will it be further divided with other Government agencies? No doubt, other agencies of the Government would like to be free to deal with the air carriers without regard to the balancing views of the Civil Aeronautics Board. No doubt, private shippers would like that, too.

Moreover, if the provisions of the Federal Aviation Act are to be circumscribed and the administrative authority of the Civil Aeronautics Board nullified as far as transportation of mail is concerned, the result as far as the scheduled airlines are concerned would be an almost totally nonregulated system for the procurement of mail transportation services. Such a system would prove disastrous to the scheduled airlines and adverse to the public interest. Not only would the system encourage uneconomic mail rates, but it would force the carriers to shift part of their mail costs to other classes of traffic. Under the Board's present comprehensive jurisdiction over all rates, it is able to assure that passengers, freight and mail all pay their fair share of the carrier costs, and no more than their fair share. This is consistent with the Board's congressional mandate of fostering sound economic conditions for the airline industry. In view of the financial problems besetting the majority of scheduled airlines, the airlines more than ever need a stabilization of economic conditions. Operating under the jurisdiction of the Post Office Department with regard to the carriage of mail would inevitably lead to a cutrate competitive system and a further deterioration of economic status. Under a contract bidding system the Civil Aeronautics Board would lose its authority to insure that mail rates cover all costs properly attributable to mail service. Thus, there is a real risk that passenger and freight services would be asked to shoulder more than their fair share of airline costs, and, in effect, to subsidize mail services.

The Postmaster General has proposed that he be exempted from the balancing hand of the Civil Aeronautics Board, although no one else may bargain with air carriers without Board approval. We submit that no sound case has been made for abandoning the sound principle of "no exemptions" established by this committee and by the Congress when air transportation was brought under regulation in 1938. No sound case has been made for the extra special treatment of the Post Office Department.

Now we come to the question posed by H.R. 16879. Should rates for the transportation of mail by air be established by the filing of tariffs for transporting mail by air just as rates for freight and express are established?

The bill before this committee provides a plan whereby the transportation of mail by air would be handled pursuant to tariffs filed by the carriers—as is the case with respect to all other commodities moved for governmental and private shippers—rather than under the present system of special statutory and regulatory provisions applicable only to mail transportation.

The philosophy of this bill and the mail-tariff concept apparently is to treat the Postmaster General, for regulatory purposes, exactly the same as any other governmental or private shipper. However, we note, contrary to this objective, that the bill continues the Postmaster General's rulemaking regulatory type controls and the power to levy fines. Certainly this would be inconsistent with the philosophy of treating the Post Office the same as any other shipper, as would, for example, the proposed continuation of free transportation privileges for postal officials.

The carriers have not had time really to analyze in depth this specific legislation. The present law is working well. To change the present procedure involves many complex questions.

We are studying this bill. We do not believe that a change is needed at this time, but we are willing surely to explore the matter with the committee after we have had a chance to understand what is being alleged to be wrong with the present law, and how it is alleged that this proposal will remedy these defects.

In any case, I submit there is no need or justification for abandonment of the proven regulatory system. There is no need for the Postmaster General to seek additional flexibility outside of the regulatory system established by the Federal Aviation Act of 1958 such as the postal reform legislation proposes. The present act presently provides the Post Office Department with flexibility. If there is a demonstrated need for additional authority or flexibility, then the problem should be resolved within the framework of the Federal Aviation Act, and not via legislation adopted under the guise of postal reform, which would have the net effect of stripping the Civil Aeronautics Board of jurisdiction, or emasculating the airmail transportation provisions of the Federal Aviation Act, and eventually leading to the erosion of an air transportation system which has served the Post Office Department and the public extremely well.

I hope, gentlemen, you will take whatever steps are necessary to preserve the jurisdiction of the Civil Aeronautics Board, and the country's stake in a sound and dependable air transportation system. I thank you for giving me the opportunity to voice the deep concern we feel about this.

That concludes my statement, Mr. Chairman.

Mr. FRIEDEL. I want to thank you, Mr. Tipton, for going into great detail. From the figure that you mentioned in your statement, the cost of airmail to the Government is evidently very economical, and that they retain a great part of it.

Mr. TIPTON. They do indeed.

Mr. FRIEDEL. In other words, you are not opposed to the postal reform but you are opposed to bypassing the CAB's existing procedures to procure rates.

Mr. TIPTON. No, we surely are not opposed to the postal reform proposals, and it has been a great disappointment, as a matter of fact, to have to comment critically at all on that bill, but it did contain, does contain these mail transportation provisions which have required us to speak sharply against them. It would make the postal reform bill a better bill if these airmail transportation provisions were out of it.

Mr. FRIEDEL. All right. One other thing you touched on concerned the supplementals. You mentioned that the Postmaster General has the right or the CAB has the right under the present law to enter into contracts with the supplemental carriers. Is that correct?

Mr. TIPTON. They have the power and this is included in the 1962 bill dealing with supplementals, to give mail to the supplementals when a determination is made by the Board that adequate service is not available for a temporary period. That is section 417 of the act.

Mr. FRIEDEL. And under H.R. 4?

Mr. TIPTON. It is by contract. That is right. Under H.R. 4 the Postmaster General would have a wide open power whenever he cared to, to enter into contracts.

Mr. FRIEDEL. I understand it is not only in emergencies or peak periods?

Mr. TIPTON. Under H.R. 4 there is no limitation on his power to contract with supplementals.

Mr. FRIEDEL. No?

Mr. TIPTON. None.

Mr. FRIEDEL. All right. Mr. Pickle?

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. Tipton, under the proposed bill, H.R. 16879, I take it that the various carriers may file tariffs to establish the rate but that the determination for that rate under the proposed new system would be left to the CAB. Is that correct?

Mr. TIPTON. The process works like this, the same as a freight rate, for example. A carrier would determine what rate he wanted to haul mail at. He would file it in a tariff. If the CAB did not—if the CAB did not regard the rate as proper, they would suspend it. If no objection was made to the rate, it would automatically go into effect.

Mr. PICKLE. And the Postmaster General would not have the right to make the decision whether this was a fair rate or a reasonable rate?

Mr. TIPTON. He would not. The Civil Aeronautics Board would make that determination. Under that the Post Office Department position would be exactly the same as Sears, Roebuck or any private shipper.

Mr. PICKLE. Well, now, throughout the testimony as I understood it today, it has been said that the Postmaster General would have the ability to negotiate on these rates and try to get different rates. Now, how could he negotiate if he has no voice in making the decision on what the rates would be?

Mr. TIPTON. The process would go like this, I suspect. There would be discussions between a carrier or carriers and the Post Office Department in which the Department would say, for example, we have 10,000 pounds of mail going from New York to Chicago every night. We will move it at a rate of x if you want to file such a rate.

The carrier might well file such a rate, in which event other carriers and the Board would have an opportunity to protest it. If they protested it, then the Board would ultimately make a determination as to whether it was fair and reasonable. There is an area for negotiation between the Post Office Department and the carrier. Actually there is an area for negotiation under the present law, as a matter of fact, in which the carrier has discussions with the Post Office Department and sees an opportunity to move mail over a particular route or in a

particular way. He then, instead of filing a tariff as he would be under the new proposal, he petitions the Civil Aeronautics Board to establish a rate covering that particular arrangement. That is how the rates for nonpriority mail were determined actually.

Mr. PICKLE. Well, in effect the Postmaster General would not be able to actually negotiate these contracts. These contracts would be submitted by a carrier to the CAB, and the Postmaster General's only connection then would be through his rulemaking, regulatory type controls and the power to levy fines. That is his only involvement directly and specifically in negotiations.

Mr. TIPTON. The right he has if a rate is filed by carrier would be to protest and say it is too high or it is inappropriate for some reason. The essence of the difference we are talking about here is just this. Under present law and under the proposal, under H.R. 16879, in both cases there is a neutral sitting between the carrier on the one hand and the Post Office Department on the other. He is a neutral to decide the rate issues that appear between them.

Under H.R. 4, the contract provisions, there is no neutral. The Post Office Department enters into a contract. There is no neutral between the shipper and the carrier there. And that is what makes that contract provision unique in transportation, because in all regulated transportation, that is the essence of regulated transportation. There is a neutral sitting between the shipper and the carrier, and that is the essence of the matter.

Mr. PICKLE. Mr. Tipton, you stated in your testimony that last year the revenue gained by the carriers through hauling the mail was \$275 million.

Mr. TIPTON. \$276 million.

Mr. PICKLE. \$276 million. Now, what percent does that represent of either the volume of your services or the profit of the carriers?

Mr. TIPTON. In the year referred to, it was—the net profit for the industry was \$75 million.

Mr. PICKLE. What percent is that?

Mr. TIPTON. Thus the amount of mail income we got was some three times, maybe four times the amount of profit we had. However, to answer the other part of your question, the amount of mail revenue that we got was 3 percent, approximately, of our total revenue. And I think that illustrates a point very well and that is that while mail is a relatively small percentage of our total revenue, it plays a great part as far as the profits of the carriers are concerned.

Mr. PICKLE. I think you used the example with reference to an air-mail letter that the airlines actually would receive six-tenths of 1 percent, in first-class mail, fifteen-one hundredths of 1 percent, and yet overall you say that the volume or the profit represents approximately 3 percent of your overall industry operation.

Mr. TIPTON. Three percent of total revenue.

Mr. PICKLE. Now, if that is 3 percent, how is that disastrous, as you have said in your testimony, to either—

Mr. TIPTON. This year that I referred to, 1968, the mail revenue is \$276 million, and our net profit after taxes was about \$75 million. So that if we hadn't had that revenue or if it had been cut in half, that would have slipped us back into a loss position. So that the leverage is great. In terms of profit it is of extreme importance.

Mr. PICKLE. Have you had examples within the last year or two where the certificated carriers have not been able to furnish service and therefore have released to you control of that route and said to CAB, "You may employ the services of a supplemental carrier"?

Mr. TIPTON. No; that has not happened because we have not had a period of inadequate service.

Mr. PICKLE. So your service has been so good that even though that is covered by law, they have not fallen back on it.

Mr. TIPTON. That is right.

Mr. PICKLE. Have you fallen back on the air taxi operators?

Mr. TIPTON. Yes. In a number of instances the Post Office Department has used contracts with air taxi operators largely, I believe, as a method of moving mail at off times. I mean it is a scheduling problem rather than a capacity problem. We have got plenty of capacity to move all the mail the Post Office Department has, but on some occasions we do not have a scheduled movement at the time the mail is available for movement. So they contract with these small airports to move it.

Mr. PICKLE. Thank you, Mr. Chairman. That is all the questions I have.

Mr. FRIEDEL. Mr. Cunningham?

Mr. CUNNINGHAM. Mr. Tipton, which version of H.R. 4 have you been referring to in your statement?

Mr. TIPTON. The version that was last reported by the committee. I believe the report has now been issued.

Mr. CUNNINGHAM. It has. You say on page 4, "Our air transportation system has served the public interest, convenience, and necessity in an outstanding manner, in peace and in war."

That is not true between here and Omaha, I can tell you that.

Now, you make some editorial judgment here on the Postmaster General quite frequently. You say, "Whatever the case may be for postal reform, no case has been made for the needs of reforming the regulatory system governing airmail transportation."

Well, I beg to differ with you. A case was made in our committee and we did pass out the bill.

Mr. TIPTON. I am expressing our opinion, of course, and I think no case has been made because the airmail ratemaking system, the method of authorizing transportation of mail, has worked well. It has worked well both in terms of getting mail hauled and in terms of the price at which it is hauled. It provides the Post Office Department with tremendous flexibility in its movements of the mail and it provides good prices.

Let me give you an example of why we think these prices are good. At the present time—and I just jotted these down—we move—the average mail shipment is 25 pounds. Overall it is a small shipment business. We move 25 pounds of freight for 200 miles. It costs the shipper the minimum, \$10. We move mail, 25 pounds, 200 miles; the Post Office Department pays \$3. So that in the movement of mail, yes, there is a great flexibility in the size of shipments that he can present. It is really the heart of the mail movement system because he is not held down by these minimums. He gets a good rate for movement. So that—

Mr. CUNNINGHAM. You bring up a point there, too. Do you have any figures over the last 12 years where we have experimented and used the space available basis for the movement of surface mail where it has been taken out to the air terminal and no space was available and had to be returned back to the railroad station for movement? Do you know how many times that has been done?

Mr. TIPTON. I have no figures on that, but that is——

Mr. CUNNINGHAM. I did not think you would have because it seems to me that you are just giving a great big boost here to the CAB, and, of course, you and they work very closely in hand, and I presume that you are looking after your own interests as they are looking after theirs. The two of you, of course, forget all of the other problems involved and are only interested in what is the best for your business without considering the other agencies of Government in my view.

You say, "The Postmaster General is primarily interested in the operation of the Post Office Department, not in the developing of a sound and economically healthy air transportation system."

Now, how do you know that? That is an insult to the Postmaster General.

Mr. TIPTON. Well, I should have put in that sentence that that is what he should be interested in, in the sound operation of the Post Office Department. That is his responsibility. That is what he should be interested in.

Mr. CUNNINGHAM. But you say he is not interested in the development of a sound, economically healthy air transportation system.

Mr. TIPTON. His responsibility——

Mr. CUNNINGHAM. That is an insult to the Postmaster General.

Mr. TIPTON. If it can be regarded as an insult, I would like to state right now it was not so intended. The point here is that he is in charge of and is responsible for the operation of the Post Office Department. He is not responsible for the development of a sound air transport system. That this committee and the Congress gave to the Civil Aeronautics Board. I think that that is clear.

Mr. CUNNINGHAM. In any event, you must have a very good thing going for you here or you would not be so emphatic in your editorial opinion as to the position you have taken. You must be making a lot of money out of this.

Mr. TIPTON. I doubt very much we are, and the reason I say that is because the mail rates we get are determined by the Civil Aeronautics Board who sits between the carriers and the Post Office Department and after careful studies determines what the rate shall be based upon a determination of the profits that the carriers are permitted to make.

Now, as I said, the carriers are not making the profits that they are permitted to make, but that is the basis on which these rates are fixed. I would say that our record of price reductions for airmail has been a spectacular one in view of the fact that the Government pays vastly greater amounts for everything they buy. In the case of the purchase of airmail transportation, they pay greatly less.

Now, let us take, for example, the space available mail. That is half price mail. I mean, we get half of the cost of regular mail and that was the arrangement that was made to us, that if you will transport this first-class mail on a space available basis, we want a much better price and they got it. As it has turned out for them, it is a very rare case

in which mail is left on the dock, even though it is space available, particularly in view of the great capacity that is in the air transport system now. I do not think that it is quite clear that the airlines are not getting rich transporting mail, and I think that a good price and good service is being made available to the Post Office Department.

Mr. CUNNINGHAM. Why are you fighting so hard for it then?

Mr. TIPTON. The reason is this. If the Post Office Department can have the right to contract in an unlimited way for the movement of mail, here is what will happen. At the present time the entire mail transportation rates are based on averages. As I have just pointed out, we get less than we should for a small shipment on short distances. You can profitably move high volumes over long distances for less than that. Consequently, with this contract provision in there, the Post Office Department will be in a position to create for high volume long haul mail a totally new system in which event the airlines will be left with an airmail system which consists of nothing but losing traffic.

Now, that is one reason for being rather vigorous here.

Another reason is that if the Post Office Department has the power to contract with air carriers without any neutral, without any regulation, then why should the General Services Administration not have that same power? Why should the Defense Department not have that same power?

Mr. CUNNINGHAM. Maybe they should.

Mr. TIPTON. Or any State government?

Mr. CUNNINGHAM. Maybe they should.

Mr. TIPTON. I think they should not because that inevitably leads to the elimination or surely the great distortion of the whole regulatory system. You knock one brick out of the regulatory system and the other bricks tend to fall. I believe that this has that result.

Mr. CUNNINGHAM. Mr. Chairman, are you planning to have the Post Office Department up here?

Mr. FRIEDEL. Yes. Tomorrow.

Mr. Adams?

Mr. ADAMS. Thank you, Mr. Chairman.

Mr. FRIEDEL. We requested them to be here today, and they could not make it.

Mr. ADAMS. It is my understanding, Mr. Tipton, that there is one rate throughout the entire continent of the United States. Is that correct, on a pound-mile basis?

Mr. TIPTON. There is one rate formula throughout.

Mr. ADAMS. One rate formula, correct, on a pound-mile basis. It might vary with the size of the shipment, and so on, but it is the same all over.

Is it not also true that the Postmaster General can determine what airline he wants to put it on or what route he wants to transport his mail through?

Mr. TIPTON. He has the full right to route his mail the way he cares to.

Mr. ADAMS. In other words, if he wants to send mail, well, we will say, for example, overseas, he can go through Los Angeles, San Francisco, Seattle, if he wants to go over the Pacific, or he can go New York, Washington, D.C. In other words, he can go any route that he wants.

Mr. TIPTON. That is his prerogative.

Mr. ADAMS. So what he does is buy transportation throughout the Nation; is that correct?

Mr. TIPTON. Yes.

Mr. ADAMS. And in the continental United States he buys it at one rate. I assume overseas he buys at one rate on comparable routes. Is that correct? For example, if you go out from, say, New York to London, or you go Boston to London, each one of these is in a rate structure that is formed by the CAB as to how much can be charged. Is that correct?

Mr. TIPTON. That is right. The rate is stated in terms of so many cents a ton-mile.

Mr. ADAMS. So many cents a ton-mile.

Now, you covered part of what I wanted to ask with Mr. Cunningham in your last question, and that is I am trying to get some idea of the distortion that will occur in the regulatory system if you go contracting—to a straight contracting authority. What you are doing in effect, is it not, is you are authorizing one national shipper to have an exemption from regulation?

Mr. TIPTON. That is right.

Mr. ADAMS. Now, we have done this with agriculture and we have done this with certain things on railroads and on water carriers and it gets to be quite a problem; does it not?

Mr. TIPTON. It certainly does.

Mr. ADAMS. Now, do you have any exempt categories in air transportation such as exist in the other modes of transportation?

Mr. TIPTON. We do not.

Mr. ADAMS. There you do not have any, do you?

Mr. TIPTON. No.

Mr. ADAMS. There is—

Mr. TIPTON. This committee in 1938 met that problem and in my opinion solved it right.

Mr. ADAMS. In other words, there is no commodity and there is no shipper that is exempt from regulation under the airline, in the regulated airline business?

Mr. TIPTON. That is right.

Mr. ADAMS. Now, what troubles me about this proposal for exemption is in the other areas we are having one devil of a time with those exemptions, and I have some doubts about creating it. Can you expand a little bit on what you gave Mr. Cunningham on the distortion that will occur in the regulatory system by the granting of this special exemption in this category? I do not know enough about where mail moves to know it, but my guess is that like the exemptions we provided in other modes of transportation, there are certain places where it is very good and he will be able to contract a good rate. Is that correct?

Mr. TIPTON. That is right.

Mr. ADAMS. Where is this basically, New York-Chicago?

Mr. TIPTON. These are the high volume routes and over relatively long distances. New York-Chicago, New York-Miami, Chicago-west coast. Those are examples of high volume routes where thousands of pounds of mail move and move regularly. Then you have—

Mr. ADAMS. All right. Now, what I am trying to get at is in terms of the public interest, and Mr. Cunningham has mentioned Omaha, and I can think of a thousand other small cities here, would the air-

lines have the right to say, for example, "Well, we didn't get the contract between New York and Chicago, therefore we won't carry into Omaha, or we won't carry to these other areas because it is a sure loser for us"?

Mr. TIPTON. They would not have that right. That is one of the difficulties, is that they would still be bound to move the mail all over the country on short hauls and small cities. They would still be required to do that, but they would not have the right to protect these routes over which they could carry high volumes.

Mr. ADAMS. Suppose we were to amend that other bill to say that the airlines can charge whatever the freight would bear into those small cities. Then you would get what? High rates going into the small towns and low rates between the big ones?

Mr. TIPTON. Yes; and the disparity would be great.

Mr. ADAMS. That is what I wanted to know, how much the disparity would be, and if you cannot supply it today, I would like it supplied to the committee because when some of the people from the smaller cities start to talk about this, I want to give them some idea of what their mail service is going to be as compared to between the major points.

Mr. TIPTON. I will present these figures in a little bit more detail, but I can illustrate the point with a few examples. I have already used one.

In moving 200 miles from a small city, you have a 25-pound package of mail. You can illustrate the point by comparing the present mail rate structure to the freight structure.

Mr. ADAMS. That is what I want to know.

Mr. TIPTON. Now, if you were moving a piece of freight from a small city, 25 pounds, going 200 miles, you would pay for that \$10. That is the minimum.

Mr. FRIEDEL. Minimum rate.

Mr. TIPTON. By the same token, on these high volume routes, and you were moving large volumes over relatively long distances, the ton-mile cost of that would go way down under the freight rate structure, down to 17, 18 cents a ton-mile, for example.

Mr. FRIEDEL. Mr. Tipton, just a minute there. I do not think you are pursuing it. You said the—minimum charge of the \$10. Shipping that same 25 pounds of mail, what would it cost?

Mr. TIPTON. \$3. It is a different kind of structure and one that is very favorable to the whole mail movement system because most of the mail is gathered in this way in small pieces, put into big pieces, and then moved out.

Mr. ADAMS. Well, the figures that I would like to have you supply to the committee, and I know you cannot supply them off the top of your head, are the examples in difference in cost between taking a high volume—you can use freight costs as an example if that is valid; I want to be sure it is valid—between New York and Chicago, Chicago and San Francisco, or Chicago and Los Angeles; and the cost of moving mail from Chicago to Omaha or Chicago to Des Moines or New York to Des Moines. I want to get some idea both in terms of—

Mr. TIPTON. I will be glad to make that.

Mr. ADAMS (continuing). Your cost analysis, because if what you are telling me is true—and I will ask the other witnesses and I will

ask the Postmaster General, too—you would get a complete change in the manner in which mail was carried within the United States. Very good, cheap, expedited service between major centers and very spotty service between the others.

Mr. TIPTON. And highly expensive.

Mr. ADAMS. And highly expensive.

Now, I will ask the Postmaster—

Mr. FRIEDEL. I hope he is going to appear tomorrow.

Mr. ADAMS (continuing). Whether or not the Postmaster General under H.R. 4 would have the continuing authority to require them to carry mail to the smaller towns at a particular price. I just do not know that.

Mr. FRIEDEL. The Postmaster General may be here tomorrow and then you can ask that.

Mr. TIPTON. I will furnish the data before tomorrow.

(The following table was received for the record :)

COMPARISON—POSTAL RATES PAID TO AIRLINES WITH AIR FREIGHT RATES PAID BY SHIPPERS

Origin-destination	Post Office Department ¹			Air freight, general commodity rates ²					
	Mileage	Airmail per pound	Space available mail per pound	Minimum charge ³	Under 100 pounds per pound	Rates per pound—Minimum weight			
						100	1,000	2,000	3,000
Chicago-Des Moines	299	\$0.0593	\$9.0392	\$10.00	\$0.12	\$0.0795	\$0.0795	\$0.0760	\$0.0720
New York-Buffalo	391	.0595	.0393	10.00	.12	.0795	.9795	.0760	.0720
Chicago-Omaha	417	.0734	.0481	10.00	.13	.0880	.0815	.0760	.0720
New York-Chicago	739	.1121	.0724	10.00	.16	.1165	.1980	.1030	.0990
New York-Des Moines	1,936	.1477	.0949	10.00	.19	.1520	.1410	.1340	.1290
Chicago-Los Angeles	1,743	.2326	.1483	14.00	.28	.2129	.2919	.1940	.1875
Chicago-San Francisco	1,846	.2449	.1561	16.00	.32	.2290	.2139	.2020	.1949
New York-Los Angeles	2,473	.3202	.2035	29.50	.41	.2835	.2670	.2565	.2485
Chicago-Des Moines								\$0.0695	\$0.0685
New York-Buffalo								.9695	.9685
Chicago-Omaha								.0695	.0685
New York-Chicago								.0965	.0955
New York-Des Moines								.1255	.1240
Chicago-Los Angeles								.1820	.1795
Chicago-San Francisco								.1885	.1860
New York-Los Angeles								.2430	.2405

¹ Rates paid to air carriers by Post Office Department (based on terminal charge and line-haul rate).

² Specific commodity rates at lower rates per pound are available for various commodities and various destinations. Weight breaks on a few commodities are published for 20,000-pound and 40,000-pound shipments. Special directional rates West to East and South to North at lower rates are also available.

³ Note that a 10-pound shipment, for example, would cost \$1.40, \$1.60, or \$2.05 per pound respectively.

Mr. FRIEDEL. There is another point I think Mr. Gilliland brought out very well. He said, "Most of the major air markets in this country have competitive service of two or more carriers certificated on the same routes."

If they can enter a private contract with one, they might underbid the other one and cause havoc that way.

Mr. ADAMS. I understand the Post Office Department now has a division that works on trying to allocate mail where you have got two or three or more carriers between the same points so that everyone gets something. Is that correct?

Mr. TIPTON. I think that is the case; yes. That is the case. Not required by law, but they do it.

Mr. ADAMS. They do it to some degree. I see now.

Mr. TIPTON. The rate is the same no matter who they use.

Mr. ADAMS. That is right, but if you get into a contract situation, then each carrier would have to bid one against the other between two points, and the rate then is driven to whatever point the lowest one will bid.

Mr. TIPTON. Exactly.

Mr. ADAMS. Thank you, Mr. Chairman.

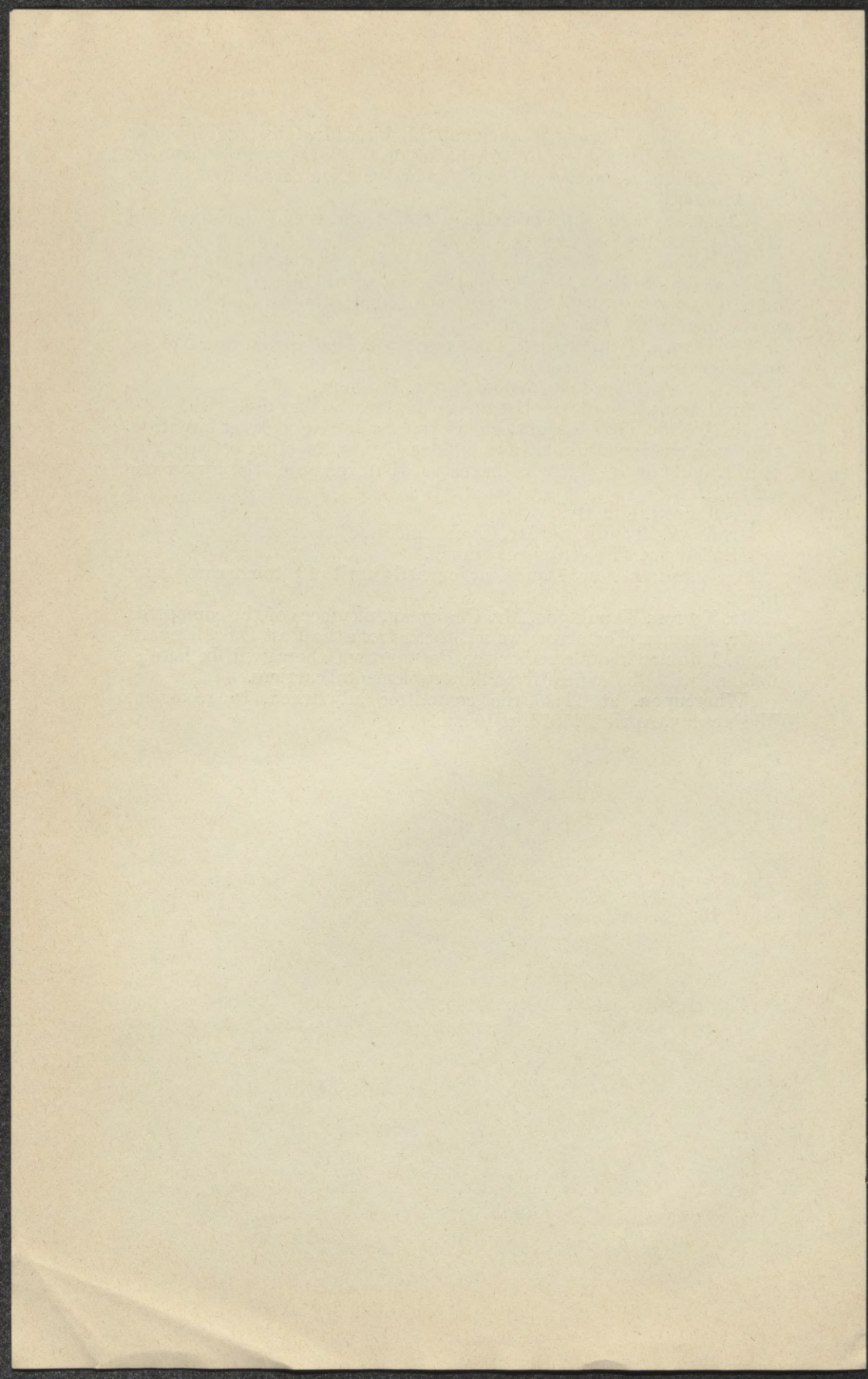
Mr. FRIEDEL. Thank you very much.

The meeting now stands adjourned until 10 tomorrow, same room.

Mr. TIPTON. Thank you, Mr. Chairman, members of the committee.

Mr. FRIEDEL. Tomorrow we will hear from the Post Office Department. I do not know whether the Postmaster General will be here or not, and we will also hear from the supplemental carriers.

(Whereupon, at 12:25 the committee adjourned, to reconvene Wednesday, April 15, 1970, at 10 a.m.)



CIVIL AERONAUTICS BOARD AIR MAIL RATE AUTHORITY

WEDNESDAY, APRIL 15, 1970

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

The subcommittee met, at 10 a.m., pursuant to notice, in room 2318, Rayburn House Office Building, the Honorable Samuel N. Friedel (chairman) presiding.

Mr. FRIEDEL. H.R. 16879 was designed to eliminate any confusion that might arise with regard to the jurisdiction over mail rates by air carriers. As I understand it, this authority has always been with the CAB. A possible problem has arisen from the provision in the postal reform legislation, H.R. 4, which would allow the Postmaster General to enter into contracts with air carriers without regard to the rates established by the CAB.

In addition the postal reform legislation would, without regard to CAB certification, allow the supplemental carriers to carry mail under contract with the Postmaster General. Thus, we see that this legislation, H.R. 4, substantially cuts into the jurisdiction of this committee and the CAB.

I am especially interested to hear from our Post Office Department witnesses today, when they testify just why they feel they need this new setup. And why the existing arrangement is not meeting their needs.

Our first witness will be the Honorable Thomas F. Meagher, Jr., Assistant General Counsel, Transportation, Post Office Department.

Mr. Meagher, you may proceed.

STATEMENT OF THOMAS F. MEAGHER, JR., ASSISTANT GENERAL COUNSEL, TRANSPORTATION, POST OFFICE DEPARTMENT; ACCOMPANIED BY DAVID A. NELSON, GENERAL COUNSEL, AND JOSEPH F. JONES, DIRECTOR, TRAFFIC MANAGEMENT DIVISION, BUREAU OF OPERATIONS

Mr. MEAGHER. Mr. Chairman, I am accompanied by Mr. David A. Nelson, General Counsel, on my left, and Mr. Joseph F. Jones, Director of the Traffic Management Division, Bureau of Operations on my right.

I have a prepared statement which I would like to read into the record.

Mr. FRIEDEL. You may proceed.

Mr. MEAGHER. Mr. Chairman and subcommittee members, the Department appreciates the opportunity to express its views on H.R. 16879, which would establish new procedures for fixing service, that is, nonsubsidy, mail rates. My name is Thomas F. Meagher, Jr. I have been the Assistant General Counsel, Transportation, since 1966, and have been devoting substantially all of my time to the legal aspects of mail transportation since 1960.

H.R. 16879 is similar to a proposal presented to us for consideration by senior staff officials of the Civil Aeronautics Board last fall, as an alternative to the air transportation contract provisions of the President's postal reform bill, which Board spokesmen have opposed. For this reason, H.R. 16879 can best be evaluated in terms of whether it would contribute significantly to postal reform. Presently, under relevant provisions of the Federal Aviation Act of 1958 (which I will refer to hereafter simply as "The act"), the Civil Aeronautics Board alone is empowered to determine which air carriers may transport mail and what service mail rates the Postmaster General shall pay. There are two severely limited exceptions to this general statement.

Air star route contracts, covering service on routes over which the Board has not authorized certificated air transportation, may be advertised for after permission to do so has been granted by the Board. This authority is set forth in 39 U.S. Code No. 6303. Emergency mail service contracts, which are not subject to the Board's jurisdiction, may be made for limited periods, pursuant to subsection 405(h) of the act.

Under section 406 of the act, the Board prescribes uniform mail rates on a wide geographic basis, for example, for transatlantic service, for domestic service, or for transpacific service. For domestic and States-Alaska service the rates fixed by the Board are designed to cover average cost for the segment of the industry involved. This is accomplished by fixing varying terminal charges and a constant line-haul charge.

For instance, for the transportation of airmail in domestic service, terminal charges range from \$46.80 per ton for mail loaded at large cities, to \$187.20 per ton for mail loaded at small cities. A constant line-haul charge of 24 cents per ton-mile is also applicable. These charges, for fiscal 1969 provided an average airmail rate of 31.50 cents per mail ton-mile for domestic operations of all carriers, and an airmail rate of 29.08 cents per mail ton-mile for domestic operations of trunk air carriers. Trunks are the large nonsubsidized scheduled certificated carriers. These same charges produced an average rate of 63.30 cents per mail ton-mile for the local service, or subsidized, air carriers, in fiscal 1969. The interplay of these charges produces a rate of 30.33 cents per ton-mile for airmail transported between New York and Chicago, and a rate of 39.55 cents per ton-mile for airmail transported from New York to Buffalo. While the rates in each market will vary, every carrier in a given market will receive the same compensation per ton-mile.

The airmail rates I have just discussed were fixed by the Board at the conclusion of a proceeding which was commenced by the Board on July 21, 1965, and finally decided on August 30, 1967. In a recent case involving the fixing of rates for the nonpriority movement of mail other than airmail, the proceeding was initiated by petition of

the Postmaster General, on April 6, 1967, and concluded by the Board on April 3, 1970, just a few days short of 3 years. These two fully contested hearings involved complex issues of fact and the Board is burdened with many other duties besides the fixing of service mail rates. Yet, from January 1968, when parcel airlift service, authorized by Public Law 90-206 began, until April 3, 1970, the Postal Service had no means for determining the transportation costs of this service. A Postal Service operating under a duty to recover its costs would experience great difficulty during such protracted periods of unknown expense, in complying with that statutory mandate.

Another problem constantly experienced by the Postal Service is the nonresponsiveness of certificated air carrier schedules in domestic operations. Since mail revenues constitute less than 5 percent of the total transport revenues of domestic carriers, it is not surprising that schedules for all-cargo aircraft are geared to the needs of freight shippers, while the schedules for passenger aircraft are fixed in response to the needs of others. It is true that mail and freight peak in the late evening hours after the bulk of passenger flights have departed. But, all-cargo schedules are limited in number, and serve relatively few markets, in contrast to passenger schedules. For efficient air transportation of mail, the Postal Service must have some means for obtaining air transportation schedules which are responsive to postal needs.

H.R. 16879, in general, simply transfers the service mail rate function from section 406 of the act to section 1002, which presently details the Board's jurisdiction over commercial tariffs, that is, rates and conditions of carriage applicable to freight and passengers.

The Board's Procedural Regulations, in rule 303, preclude the Postmaster General or an air carrier from establishing a service mail rate for a given market without opening up the carrier's rate for all markets subject to the pre-existing mail rate. We assume that rule 303 would be amended if this bill is enacted, since the obvious effect of this bill would be to permit carriers to establish rates which would vary by market, in the same manner as they now establish tariffs on a market-by-market basis.

We cannot perceive how a change from the present method of fixing mail rates to market mail rates would significantly improve the transportation of a mail by air. While flexibility not now available may be provided by this bill, it does not contain any provision which would simplify mail rate proceedings and eliminate protracted and arduous proceedings, unless, of course, it is assumed that all tariffs filed would be satisfactory to the Postal Service.

Both the President's reform bill and the most recent version of H.R. 4 contain authority to contract for air transportation which would permit the Postal Service and authorized air carriers to arrange for the air transportation of mail at mutually agreed rates, a practice which has been applicable to mail transported by railroads for over 50 years. Since contract negotiations could be concluded in a brief period, and service would not begin before then, the Postal Service would know its transportation costs at the inception of the service and would be able to take timely steps to recover such costs from postal patrons, instead of having to wait 2 years or more to learn what these costs would be.

We see nothing in H.R. 16879 which would provide any assistance to the Postal Service with respect to its schedule problems. It is limited solely to mail rate procedures. Both the President's reform bill, and the latest version of H.R. 4, however, do provide a solution to the schedule problem by authorizing the Postal Service to procure needed schedules by contract, subject to approval or disapproval action by the Board, within the 90 days preceding the effective date of the contract.

In summary then, in the light of the demonstrated need of the Postal Service for reform of existing laws, H.R. 16879 is not designed to make a significant contribution. Reform aside, H.R. 16879 is subject to serious criticisms. The bill would amend section 406 by limiting the provisions of that section to subsidy mail rates. Both subsidy mail rates and service mail rates are paid from the same source, the public treasury. Yet, under H.R. 16879, one of the tests the Board would apply to a tariff would be "the need of each air carrier for revenue sufficient to enable such carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service." This is basically the test for determining the amount of mail subsidy a carrier should receive, and we see no reason why it ought to be applied again to the determination of service mail pay. This test is not currently applied to service mail pay fixed under section 406. Since October 1953, the Postmaster General has been required only to pay fair and reasonable compensation for the service performed, without regard for the "need" provisions of section 406.

Applications of the "need" rule of ratemaking to mail simply authorizes the Board, after concluding what mail rates would cover costs and a profit incentive, to include in the mail rate costs incurred by other traffics which are not required to pay adequate revenues to the air carrier. We see no reason why this new element of ratemaking should apply to service mail rates.

During testimony by Board representatives in opposition to air transportation provisions of postal reform legislation, it was made clear that such opposition was based on the Board's reluctance to rely on the head of the Postal Service to exercise sound discretion in administering such provisions. H.R. 16879, however, would compel the Postal Service to rely solely on the sound exercise of discretion by the Board, in mail rate proceedings. Let me explain this point.

Section 406 of the act requires the Board to give notice and conduct a hearing, before fixing service mail rates, unless the Postmaster General and the air carriers involved expressly waive that right. Section 1002, as amended by H.R. 16879, would vest a decision whether or not to hold a hearing on service mail rates solely within the Board's discretion. Nothing in the bill itself indicates why the Postmaster General should be divested of a statutory right he has possessed, with respect to mail rates, since the enactment of the Civil Aeronautics Act of 1938. The subcommittee should be aware that in the proposal tendered by the Board's staff last fall, section 1002 would have required a hearing if the complaint was filed by the Postmaster General, but would have left the question of a hearing to the Board's discretion if the complaint against a mail rate was filed by any other person.

Section 1002, in its present form, does not require a complainant to specify what he thinks the proper rate to be included in the tariff should be. In the case of any complaint against a mail tariff, the Post-

master General, or any other complainant, would be required, under H.R. 16879, to specify the rate the complainant believes to be lawful. While such a requirement is currently applicable to proceedings under section 406, the bill itself does not disclose why this discriminatory provision should be applied to mail tariff complaints, but not to complaints against commercial tariffs.

Another provision authorizing the Board to treat mail tariffs in a manner unlike its treatment of commercial tariffs is section 1002(h) which would empower the Board, without hearing, to suspend a proposed mail tariff and fix a temporary mail rate which would be subject to retroactive adjustment in accordance with the final decision of the Board.

In short, the provisions of the bill and the criticisms expressed, warrant a conclusion that enactment of the bill would merely authorize market rates, but that little else about mail procedures would change. It is hardly necessary for Congress to pass legislation to enable the Postmaster General or the air carriers to seek market rates. A simple change in Procedural Rule 303 by the Board is all that is necessary, and can be accomplished more simply.

Since mail tariffs are to be treated somewhat differently than commercial tariffs, under the provisions of H.R. 16879, the Department is opposed to the repeal of subsection 401(1) of the act which spells out each air carrier's obligations with respect to mail transportation, and repeal of subsection 405(b) which deals with the filing, changing, and designating of mail schedules and the Department's authority to require the operation of specific schedules. Admittedly, the Department has never expressly exercised this authority, but its ability to do so has assisted the Department, to some degree, in obtaining or retaining schedules of value to the Postal Service.

For these reasons, the Department is opposed to passage of this bill. It offers no significant benefits or efficiencies not presently available under existing law, and would not advance the cause of postal reform with respect to the transportation of mail by aircraft.

Further the fragmenting of a uniform rate into myriad market tariffs would present the Postal Service with a substantial administrative burden. The 700 airstops to and from which mail is regularly dispatched by air involve about 50,000 markets, for each of which an individual tariff could be filed. If airmail and nonpriority mail are subject to separate tariffs, the number of market tariffs would be increased proportionately. Sound traffic management, under these conditions, would truly be burdensome and difficult, with no offsetting advantages being apparent.

I would like to comment briefly on statements made to the subcommittee earlier in this hearing. A witness for the Civil Aeronautics Board testified that the air transportation provisions of the pending reform legislation would cause a recurrence of the pre-1938 situation of cutthroat bids, which would cause passengers and freight shippers to absorb losses incurred from mail contract operations.

First, prior to 1938, an award of a mail contract automatically carried with it a right to the route involved. No such rights are involved under reform legislation. Second, as to contracts with certificated carriers not based on schedule deficiencies, such contracts would be limited to the operating rights of the carriers involved. Finally, since the

Board exercises adequate control of passenger fares and freight tariffs, it is fully capable of precluding air carriers from transferring mail contract losses to other forms of traffic. As for contracts designed to solve schedule deficiencies, these are subject to veto by the Board, so the Board is perfectly capable of preventing below-cost contracts of this category from becoming effective.

A witness for the Air Transport Association also testified earlier in these hearings, making the point that the Postal Service, over the 1-year period from 1958 to 1968, obtained a substantial reduction in the cost of transporting mail, citing a 1968 figure of 22 cents per ton-mile for all mail transported by air. Such benefits were not easily won by the Department. At least two exhausting and protracted hearings were necessary. But, what is significant is that the ton-mile cost cited, 22 cents, must be judged in the light of the scheduled certificated industry's total operating expense, after exclusion of certain passenger and sales expenses, of 15.10 cents per available ton-mile.

We cannot agree with his assertion that reform legislation would nullify the authority of the Board. Since contracts are voluntary, no carrier need provide contract service unless it desires to. The ATA position yesterday appears to reiterate the air carriers' views expressed in postal reform hearings that no changes whatsoever should be made in the present statutory system applicable to mail transportation. While the witness asserts that its members are not earning a 10.5-percent return on investment from the carriage of mail, we are not aware that the Board has fixed 10.5 percent as a proper rate of return for mail transportation. In fact, the Board, itself, in fixing subsidy mail pay, uses a much lower rate of return, although 10.5 percent is the return presently applicable to passenger traffic.

The modest provisions of the reform legislation relating to air transportation express the best judgment of experienced postal officials as to the least amount of new authority required to solve existing problems—problems for which H.R. 16879 offers no solutions.

Mr. FRIEDEL. Thank you, Mr. Meagher. Could you give me a specific example of how contracting will provide more efficient and expeditious delivery of mail than is now available under the present procedures?

Mr. MEAGHER. I can give you a recent specific example, Mr. Chairman.

On the 18th of March this year, a small air taxi operator, who was providing service out of Bowling Green, Ky., pursuant to a contract with Eastern Airlines, wrote to Eastern Airlines, that he was going to terminate that service which he was obligated to perform under the contract, on the 31st of March.

On the 31st of March, the air taxi operator terminated his service. This ended an order of the Board suspending Eastern from providing service at Bowling Green.

On the 30th of March, Eastern applied to the Board for a permanent suspension at Bowling Green but did not resume its scheduled obligated service on the first of April. We attempted to obtain the services of an operator and were advised correctly by the Board's staff that in order to have the services of this other taxi operator available into and out of Bowling Green we would have to file an expedited notice of intent, which requires 5 days.

So, legally for 5 days we had no air service for mail in and out of Bowling Green.

In another instance, 2 years ago, we had a situation which involved Sacramento, Los Angeles, and San Diego. In that situation we had about 6,000 pounds of mail a night to be moved in each direction for which we simply could not get schedules which would provide acceptable deliveries. A large volume of this mail emanated from State offices in Sacramento or was addressed for delivery to those offices. We were unable to obtain the schedules which we desired from the certificated carriers in the market.

The volume of mail involved required large aircraft not normally operated by small air taxi operators, so we sought the service of an intrastate airline, one not subject to the Board's jurisdiction.

After a lengthy delay, Air West, which was a merger of three other carriers, one of whom had declined to provide the schedules for us, offered to provide the service. They provided the service for approximately 1 year and notified us that it simply wasn't economic. Thereupon we were forced to go back on a crash basis and try to talk the unregulated intrastate carrier into offering us the schedules again.

In an atmosphere of great urgency we did obtain authority from the Board for Pacific Southwest Airlines, the unregulated intrastate carrier, to provide schedules for mail in the markets.

You understand, I know, that the carriage of mail itself is interstate air transportation, even though the carriage may be wholly within points in a single State.

I can go on and on, because we have plenty of examples, but I don't think it would be helpful.

Mr. FRIEDEL. Under the present law you have the right to use air taxi service for mail?

Mr. MEAGHER. Under the Board's regulations we have the right to obtain air taxi transportation.

Mr. FRIEDEL. And you do?

Mr. MEAGHER. Under the conditions spelled out in the regulations.

Mr. FRIEDEL. And you do use it in many instances?

Mr. MEAGHER. We do that.

Mr. FRIEDEL. And so this bill wouldn't prevent you from having the same type of operations; would it?

Mr. MEAGHER. No; this bill wouldn't have any particular impact on the taxi service except ratewise. This bill has no impact on anything to do with air transportation of mail except the process by which rates are fixed. It doesn't provide any benefits as far as transporting mail is concerned.

Mr. FRIEDEL. You told me of the instance where the scheduled carrier canceled after he said he was losing money. Did you get a cheaper rate from the taxi service?

Mr. MEAGHER. No; we are paying the same rates to the taxi operator operating out of Bowling Green. We are paying him the two multi-element domestic rates.

You see, Mr. Chairman, we have two types of taxi service: one type is the dedicated service, which operates between 11:00 and 2:00 or 3:00 in the morning, and we purchase the entire capacity of this small aircraft and we pay a rate which is based on a plane-mile.

Now, we have other taxi operators such as this one in Bowling Green, who is operating regular schedules for commercial traffic. As a matter of principle we will pay them if they are willing to provide the service

on those schedules, not schedules fixed for us, the same rates we would normally pay a certificated carrier.

Mr. FRIEDEL. I yield to Mr. Adams.

Mr. ADAMS. Mr. Meagher, I notice on page 1 that you have referred to the fact that the Civil Aeronautics Board alone is empowered to determine which air carriers may transport mail and what service mail rates the Postmaster General shall pay.

Now, it is my understanding that your Department can put it on any carrier that you want; isn't that correct?

Mr. MEAGHER. Well, we can tender mail to a carrier who has a certificate of public convenience and necessity issued by the Board, authorizing the carriage of mail, or a carrier who has been exempted from that certificate requirement.

Mr. ADAMS. In other words, what you really do is you buy air transportation and pay for it on a ton-mile basis; isn't that correct?

Mr. MEAGHER. Generally.

Mr. ADAMS. And under H.R. 4, which is, as I understand, the counterpoint for this legislation, you would be granted an exemption that no other shipper in the United States has for the purchase of air transport services; isn't that correct?

Mr. MEAGHER. I am not sure that is entirely correct, but it is generally correct, sufficiently for our discussion here.

Mr. ADAMS. In other words, right now, and this confuses me about your statement—on page 9 you say that you don't want to see this bill passed which we have before us, H.R. 16879, because it would fragment the tariffs and you would have separate tariffs throughout the United States.

I assume, then, that you are opposed to H.R. 4, which would allow you to put in a series of contracts and would fragment the rates throughout the United States, depending on what your Department decided, rather than upon what the CAB decided.

Mr. MEAGHER. We are not opposed to the air contracting provisions of H.R. 4, although we prefer the provisions of H.R. 11750 in this respect. I understand there is an essential difference here. If we have the contracting authority we would negotiate contracts where there were reasons sufficient to have a contractual service.

As H.R. 16879 is written, the initiative lies with the carriers in filing tariffs.

In other words, United Airlines could come in the day after the bill was passed and file a separate tariff for each pair of points between which it moves mail.

Mr. ADAMS. You are better off with the present situation where you have a uniform tariff everywhere in the Continental United States, so that you pay on a ton-mile basis and you know you can go to any carrier and say, "Here is the mail," and they can't charge you any more to go anyplace than they do to carry your mail any other place?

Mr. MEAGHER. We have not suggested any changes in the regulatory ratemaking provisions of the Civil Aeronautics Act.

Mr. ADAMS. Except that you want to tilt it around and have your Department decide on exceptions for contracting in particular market areas.

Would you take the other side of that shoe and say in those areas where it is a great deal more expensive to deliver, where your deliveries

are very small and very erratic, that they could charge you a much higher rate than they are charging at the present time, to offset the fact that you are going to be requiring them to give you a lower rate in the prime markets?

Mr. MEAGHER. Well, under tariff provision this is exactly what could happen. In other words, if we got the benefits of the large volumes of mail which are moved, let's say, by United Airlines between New York and Chicago, or New York and west coast points, I would expect United would come in with a pretty stiff tariff for Chicago and Salt Lake City where there isn't the volume of mail. They would try to maintain a balance so the total overall revenues would remain unchanged.

Mr. ADAMS. Then you could go to the other carriers that go trans-continental and say, "We will contract with you for a lower price," and undercut United tariffs, no matter what they put in?

Mr. MEAGHER. Well, this bill we are discussing doesn't provide any contracting authority.

Mr. ADAMS. But we are talking about the whole problem here of the problem between two agencies, the Post Office Department and the CAB, which regulates airlines.

We have got a very complex system of regulation which is total and complete for the airlines as opposed to the land or marine uses. We don't have any exceptions, nobody gets a special deal, no contract deals, no exempt commodities, and so on. The Government tries to give, throughout the country, a fixed pattern so nobody is discriminated against.

Now, the proposal in H.R. 4, which is the counterpart of H.R. 16879, is that you make a special deal any place you can get it, with any carrier. And I want to know whether that is what you are in favor of?

Mr. MEAGHER. What we are in favor of is an air carrier rate system and contracting system which is substantially identical to that applied to the railroads for over 50 years.

In other words, the Interstate Commerce Commission fixes the rates we have to pay railroads for compulsory service pursuant to a standard plan of operation called a "comprehensive service plan."

What we are trying to do is conform in our reform legislation the situation for air carriers to the existing situation for rail carriers, and which the reform legislation would also apply to other surface common carriers so that all common carriers would be on the same footing.

Mr. ADAMS. All common carriers would be on the same footing, but in those other areas we have been trying to clean up the exemptions, the loopholes, the different types of problems of who gets what kind of a deal with the land and the water carriers for years. You want to carry this principle over and start the same kind of thing with the air industry, and many of us don't see how you can take the regulatory scheme, which we presently have, and the proposal in H.R. 4 and say, "All right, we will let the Postmaster make a deal between New York and Chicago with United," and then if they want to charge a higher rate, which would be their cost for carrying a few letters into Bowling Green or wherever else you suggest, then you would have to try to make a separate deal with another air carrier for doing that, and throughout the whole country we would have the very thing you crit-

icize on page 9, which is: fragmented rates throughout the entire country; 700 air stops, 500,000 markets, and then we will have the Department of Defense in wanting the same type of operation with regard to both the carriage of personnel and carriage of goods.

I am asking you if that is what you want? You have told me you are against the airlines filing tariffs. I understand that. I am asking you if you are for the fragmentation of H.R. 4, and the final question is going to be: why don't we leave it where it is?

Mr. MEAGHER. We are for the fragmentation provided in H.R. 4 and H.R. 11750, because we will select the markets in which there will be a fragmentation.

Mr. ADAMS. That is what I thought.

Mr. MEAGHER. In other words, we don't necessarily have to have 48,000 or 50,000 contracts.

Now, in addition, something that I think hasn't been given the proper attention, is this: just as in the case of railroads, we have a standard service requirement which is applicable to all air carriers. Now, we also have specialty requirements which are not required of all air carriers.

For instance, in our comprehensive plan for railroads we don't require every railroad to stand ready, willing and able to provide trailer-on-flatcar service. In those markets where we find it economic for the trailer to move from the originating post office to the destination post office intact, we negotiate under our contract authority with rail carriers to get a rate for the movement of trailers on flatcars, which obviously furnishes the railroad adequate income because they voluntarily enter into the contract.

Since this service is so disparate as compared to our standard service, it is not feasible to have it covered by ICC rates.

Mr. ADAMS. But I might say, and I don't mean to keep interrupting you, the Post Office Department's record in dealing with the railroads on postal matters is incredibly bad to a point to where, as you know, we have discontinuances going on throughout the entire country because you pulled your RPO cars off of passenger cars, and we are trying to desperately unscramble what has been left with that at the present time.

So, I am not much persuaded by what has happened on the railroads and I don't want to see, for example, our having to discontinue, maybe a series of airline stops and go into an entire new regulatory scheme in order to accommodate your purchase of air transport services. Because, as I get it, you are just the purchaser; is that right?

Mr. MEAGHER. Well, first, I would like to say, Congressman Adams, that in many, many cases the passenger has vanished from the train before the mail.

In many other cases it was at the request of the railroads we terminated RPO service. Thirdly, RPO service has never been procured by contract.

Mr. ADAMS. How do you do it?

Mr. MEAGHER. The RPO service is part of our comprehensive plan and we pay for it at rates fixed by the Interstate Commerce Commission.

Mr. ADAMS. If you say we are not going to send in any more, then no more goes.

Mr. MEAGHER. There is no more RPO service when a train can't maintain its published schedules or when the railroads want to discontinue the train and ask us to make other arrangements.

Mr. ADAMS. I don't want to take time from the other members. My last question is: shouldn't we leave it like it is and let you buy at the same rate in every market on a ton-mile basis? If you want your authority, which you are worried about in here, the authority that you refer to in the section where you say that you should be able to keep the statutory rates you have to keep mail on certain routes, or require them to do it—this is on pages 7 and 8—none of us would have too much objection to that.

In other words, we wouldn't adopt the provision of H.R. 16879 but let you still do the things you are empowered to do now.

Mr. MEAGHER. You understand there are many instances where a carrier may be able to obtain a valuable shipment of freight which would return a greater amount of money than for the carriage of mail and, we don't want mail being callously left behind. There has to be an obligation on the part of the carrier.

The problem that I don't think I have managed to register here is that we don't have any opportunity for rapid reaction. This is one of the key potentials of contracting authority. When we come up with a problem there is a certain irreducible time that has to elapse before we can obtain collective action, and that is only one of the problems we have.

The second problem is: in fact, Congressman Adams, we are paying a good deal more than the uniform rate for the movement of mail into and out of small communities. We are even paying a good deal more than the industry rate in some significant markets, the reason being that we cannot get the schedules we want and the service we want from the carriers who are authorized to operate in those markets. So, we have to go to the small, relatively unregulated taxi operator, and since the operator's only revenue from that flight is mail, we have to pay for the operation of the entire service.

Mr. ADAMS. That is your contracting right.

Mr. MEAGHER. It is not a contract, because we don't have the right to contract right now. We have to go through regulatory proceedings before the Board in order to—

Mr. ADAMS. I am talking about the air taxis.

Mr. MEAGHER. The air taxis; yes, sir.

Mr. ADAMS. Thank you.

Mr. FRIEDEL. Mr. Devine.

Mr. DEVINE. I yield to Mr. Kuykendall.

Mr. KUYKENDALL. Mr. Counsellor, how long before this bill was introduced did you get information it was going to be introduced?

Mr. MEAGHER. I had my first glance at this bill Monday afternoon.

Mr. KUYKENDALL. Have you had a conference with the CAB before you made this appearance?

Mr. MEAGHER. We have had meetings with the CAB about this subject matter but not about this bill.

Mr. KUYKENDALL. Don't you think it would have been a lot cheaper for the two of you to have had a conference than for this whole committee to have a conference?

I am a little sick and tired of refereeing fights in this committee, and it seems that is all we do. It is bad enough to referee a labor-management fight, but with two reputable Government agencies failing to discuss a bill that you say you haven't discussed, when we go into executive session the first thing I am going to do is to move that you and the CAB sit down and talk about your business.

Second, I was a businessman with a southernwide sales organization for about 17 years before I went into politics. There were many instances in the Southland—let me give a Memphis-Birmingham example, Memphis-New Orleans example, Memphis-Little Rock example—where we specifically told our salesmen, "Don't use airmail because the RPO and the highway post office service is much better."

So, lo and behold, what do you do but discontinue the service that the wide mail users considered so good that they told their own salesmen not to use airmail and you go to air.

Now, are you, in talking about negotiating between air lines and supplemental carriers, let's say, let me make something clear. I am one of the cosponsors of the reform legislation in the Post Office.

But, you mentioned the term "rapid reaction." I wish I could find one example of rapid reaction in the Post Office Department and I would applaud you, but I haven't seen any examples.

Do you look at the cost of reestablishing the railroad post office? Do you look at the possibility of using, instead of a feeder airline, which can get delayed by weather hour after hour after hour in west Tennessee, let's say—do you look at those things before you go out and buy a mail route on a space-available basis?

Mr. JONES. Very briefly, sir; yes, we do.

Mr. KUYKENDALL. Well, let me ask you this: when was the last time you sat down with a group of wide-mailers in a region of the United States and asked them how they liked what you are doing now compared to how they reacted to what you were doing 10 years ago; have you done that?

Mr. JONES. That is done through our regional offices.

Mr. KUYKENDALL. Are you sure it is?

Mr. JONES. It is generally done.

Mr. KUYKENDALL. Then you must be ignoring everything that they tell you, because I would defy you to get me 10 regional users of mail, say, working out of the center of Memphis, Tenn., and find me more than two of the 10 that are not totally disgusted with this service and will not say it was better 10 years ago.

So, if you are calling them in for conferences, then you are turning around and ignoring them, because this, we know to be true, that we used to get a quick overnight from Memphis to Birmingham by the RPO. We can't even think of such service like that today with airmail. That is just an example.

Mr. JONES. We do, Congressman, endeavor to work in each service change with representatives of business involved, large mailers in the areas. In fact, we have continuing relations with representatives of mail organizations through mail-user councils at all of the major post offices and major postal centers, and we confer on a regular basis with business mail groups, known as the "Mailers' Technical Advisory Committee," and other groups, to try and analyze their problems, to meet with them and to discuss and approve service.

Mr. KUYKENDALL. Do you maintain right today that your service is as good or better than it was, say, 8 years ago or 10 years ago, in the handling of mail throughout our country?

Mr. JONES. We have problems, Congressman, and we couldn't give you a blanket answer on that. I would say overall, "yes, the service is better," considering the fact we are handling maybe twice as much mail as we did 10 years ago.

I think, if I recall the figures, the overall volume has gone from approximately 63 billion pieces in 1963, to better than 82 billion pieces this year.

Mr. KUYKENDALL. How can you possibly justify, in the face of your own figures, abandoning the biggest hauler of freight in the United States? How can you possibly justify that when you, yourself, say that the volume has doubled?

Mr. JONES. You are referring to the railroads?

Mr. KUYKENDALL. I sure am.

Mr. JONES. We use the railroads extensively.

Mr. KUYKENDALL. Your RPO's are practically nonexistent.

Mr. JONES. In many cases the RPO's have been withdrawn and this is the result more of action on the part of the railroads than the post office.

As Mr. Meagher indicated previously, I think this should be understood, that the railroads were faced with the situation where the passengers left the trains. The railroads, in many cases, reduced the schedules or reduced the caliber and standard of service performed to the extent where operation of a railway post office unit became valueless in effecting a regular and effective delivery of the mail.

Mr. KUYKENDALL. You blame each other on this. They blame you and you blame them.

Mr. JONES. I think as a matter of record it can be clearly established that the passengers left the trains, before the mail did, in most cases.

In other cases, the rapid development of the Interstate Highway System afforded us an opportunity to move rapidly between cities and effect a stable delivery of mail and covering distance and using air carriers we do find we do have a dependable mode of transportation.

The on-time performance of our air system is good. There are occasions when weather interrupts the movement of any and all modes of transportation. For example, yesterday, the movement of all ground transportation of sections of Iowa and the Dakotas was totally suspended because of a severe snowstorm, and this is a condition that is inherent to any mode of transport, that weather can cause reduction and cancellation of schedules.

We do feel, facing the problems of urban growth and all the service given to the public today is as good and in many cases, far better than we had 10 years ago.

Mr. KUYKENDALL. You mean when you consider your circumstances?

Mr. JONES. And the absolute service given to the mail users.

Mr. KUYKENDALL. I don't see how you can smile at me and say that. I can't possibly get an airmail special delivery up here from Memphis in less than 2 days.

I will tell you what I will do: I will have five of them mailed from my office and bring you the postmarks. You know very well 10 years ago they would have been up here the next day.

Mr. JONES. In one instance this might point up the desirability of some of the contract authority with air carriers noted in the Postal Reform bill.

In looking at schedules currently being offered by air carriers serving Memphis, and some of those territories, there is a severe reduction in the frequency of service and the value of mail services at night.

Mr. KUYKENDALL. I can go back and forth to Memphis early in the morning, at noon, late in the afternoon, at midnight, each way every day.

Mr. JONES. Not now, sir.

Mr. KUYKENDALL. Yes, sir; I sure can, because I do it about every week.

Mr. JONES. Well, our primary schedules to be effective next week, show a very severe gap in nighttime service into the Tennessee territory.

Mr. KUYKENDALL. Let me make this one last statement. Usually, after listening to 3 hours of testimony on both sides of the issue, I will buy a little something that has been said, Mr. Chairman.

The only testimony that I have heard that puts me against this bill has been put out by the people that are for it, and the only testimony that has put me for the bill has been put out by the people against it.

So, I really mean it; I think this is an issue that should be discussed at length between the CAB and the Post Office Department, two agencies of our Government, before they waste any more of this committee's time.

Thank you, Mr. Chairman.

Mr. FRIEDEL. Mr. Pickle.

Mr. PICKLE. I have no questions.

Mr. FRIEDEL. Mr. Meagher, on page 2 of Mr. Whitney Gillilland's statement—I don't know if you have it or not.

Mr. MEAGHER. Mr. who?

Mr. FRIEDEL. Mr. Gillilland of the CAB who testified yesterday. In the last paragraph he said:

H.R. 16879 would give the post office all the benefits of private shippers received, with added safeguards. In brief, H.R. 16879 requires air carriers to file their mail rate or changes in the mail rate with the Board in the form of tariffs.

If the postal authorities do not object to the rates, and the Board does not, the tariff investigated—the new tariffs automatically go into effect 60 days after they are filed. In such cases the Board will not be called upon as under the present law to make an affirmative finding, after notice and opportunity of hearings that the rates are fair and reasonable the tariff system will thus enable the post office and the carriers to put their new rates into effect.

On the other hand, if the Postmaster General objects to the carrier's proposed rate and the Board decides to investigate, the Board can suspend the proposed new rate for 180 days thereafter the carrier will continue to supply transportation under the existing rate on a temporary basis.

Now, under this new bill, the new bill here, wouldn't that be much better than the old system where rate cases could go on for 2 and 3 years, and here there is a limitation of 180 days?

Mr. MEAGHER. It would be better, Mr. Chairman, if we are prepared to make assumptions that I am not prepared to make.

I think the witness here was thinking in terms of a tariff for one particular market, a city pair, New York and Chicago. But, United Airlines or American Airlines or TWA have hundreds of markets. Now,

where would we be, for instance, if on the same day TWA, United and American, and let's add Eastern, all file tariffs covering their entire systems, a separate tariff for each pair of points, except that we would have a common level where there was competition one among the other. It would take just as long to dispose of that proceeding as it takes us to dispose of a rate case right now.

Mr. FRIEDEL. As I understand it now, the airlines that you just mentioned, or any other airline all have the same rates between the same points. One can't undercut the other under the present law?

Mr. MEAGHER. That is right.

Mr. FRIEDEL. Under the new proposed bill we don't want to be in a position of trying to judge who is right or wrong. There is no question about it, I agree with Congressman Kuykendall that this ought to be ironed out between the agencies and it is overstepping the jurisdiction of this committee which is limited to CAB. Isn't there some way you can get together without having this committee have to hold hearings and try to be an arbitrator. We don't want to do it—I think both agencies ought to get together and try to iron the whole thing out. I am hoping you can do that.

You can see a lot of things happening, if you go out and try to get contracts. It might really mess up the whole situation, and there should be some way, because we have seen it happen over and over again with the airlines, with the railroads, with the truckers. If we make exceptions here it could really mess things up.

I would like to see this step taken between the agencies first, so there could be no overlapping and they would work closer together.

Mr. MEAGHER. You know, the Department of Defense does contract with certificated carriers for air transportation, so the Post Office Department is not the only agency looking for contract authority.

Now, it is true that the air contract rates are based upon minimum rates established by the Board in an informal proceeding which does not involve an adversary hearing, but, in fact, these minimum rates are maximum rates. And the Department of Defense has the leverage by owning its own fleet to get pretty much what it thinks it ought to have in the way of minimum rates.

Now, the reason why we have always taken the position that this sort of thing would not be helpful to the post office is because we don't have any leverage; we don't have a fleet of airplanes.

Mr. FRIEDEL. I understand that. But, it was testified yesterday that a 25-pound package going to a certain point would have a minimum charge of \$10 but the post office would only pay \$3; is that correct?

Mr. MEAGHER. Well, it is correct, that there are no minimum charges applicable to mail at the present time. That is correct.

It is also correct that we don't have any 40,000-pound rates or containerized rates.

I do know you know that some containers, if the shipper has more than 7 pounds per cubic foot he gets a reduction of 33 percent for exceeding 7 pounds and of \$1 a hundred pounds for containerized.

That, of course, tends to offset the sting of a minimum rate, if you are a large volume shipper, and we ship out of 700 air stops and I am not aware of anybody else that does.

Mr. FRIEDEL. There is no question that the post office is the biggest shipper in the world.

Mr. PICKLE. Thank you, Mr. Chairman.

Is it your testimony that the present air mail system schedule is deficient or inadequate?

Mr. MEAGHER. Well, it is not sufficient in the sense that it is responsive totally to the needs of the post office; no.

Mr. PICKLE. Well, have you had objections registered by your agency to the CAB—have you protested this?

Mr. MEAGHER. We have some pending.

Mr. PICKLE. To whom and when?

Mr. MEAGHER. Well, we are trying to participate in at least two suspension applications right now. We are petitioning to intervene in the third one. We recognize, of course, that, contrary to the attitude of the air carriers in rate cases, mail is not a significant traffic, and we recognize the Board has to abide by the fact that it simply may not be economical in some markets to require a carrier to operate schedules for mail.

We have also signified our inability to obtain adequate air service by something like 200 to 250 filings of notices of intent to use air taxi service in markets where certificated carriers operate, and we have indicated what the justification is that we believe will suffice. In every instance the Board has obviously agreed with our justifications because they have authorized the operation of air taxi mail service in markets served by the certificated scheduled air carrier.

Mr. PICKLE. Is the purpose of your recommendation of H.R. 4 to get at this great deficiency you say apparently exists in the scheduling, or is it for the purposes of improving your profit picture?

Mr. MEAGHER. Both H.R. 4 and H.R. 11750 have three subdivisions for air contracts. Subdivision A would permit us to secure a special type of service, like large-volume movements or containerized shipments, or where there would be, obviously, economics for the carrier, we could take advantage of the operations.

Subparagraph B-type contracts are merely a streamlining of the present air star route law.

Subdivision C-type contracts are designed to cure the scheduling problem where we find, and so indicate to the Board, that we have got a serious schedule deficiency and we would be able to contract with any air carrier in that market to operate the schedule that we need. This could be a taxi operator, if there is not much mail involved, and the markets and cities are not too far apart, we would have to submit that contract to the Board no later than 90 days before the operation was to begin and the Board can either approve it or disapprove it. That is what the reform contract provisions are designed to permit us to do.

Mr. PICKLE. I am surprised that there is this testimony that the present schedule is inadequate and deficient and not sufficient to meet the needs of our mail service today.

If there is this widespread criticism, I haven't heard about it much before. Now, what you want to do is to be able to establish these rates for the post office to handle these matters. Does that mean that you have had difficulty with the CAB in the establishment of their rate-making process?

Mr. MEAGHER. Well, I wouldn't say we have had difficulties, Congressman. I would say that we don't necessarily agree with the results of a case because obviously it doesn't match our position.

In other words, one does not always get what one petitions for, but we have not asked the Board to force carriers to operate schedules, nor have we exercised our statutory authority to do so.

We are forced to recognize that it is not economical to operate a DC-9 or a 727 for 2,000 pounds of mail between 11:00 at night and 3:00 in the morning, in most cases.

Mr. PICKLE. Mr. Chairman, in connection with the two questions I have presented, I would like our committee to address itself to CAB and see if they have protests, and have objection about either scheduling or the rate-making processes that they have.

I see the chairman is here.

Mr. FRIEDEL. I would just like to see the two agencies get together and see if they can't come up with something without taking the jurisdiction away from the CAB. See if you can't come up with a solution rather than seeking legislation.

Mr. PICKLE. When this H.R. 4 was prepared and submitted to Congress, were you informed that it had a provision in there that would take from this committee the jurisdiction that it has traditionally held in the area between us and the CAB and the ICC?

Mr. MEAGHER. I don't know that there is any provision in it which would remove any jurisdiction from this committee, because there is no substantive change in the Federal Aviation Act.

We are engrafting onto our other postal authority, authority to secure some air transportation by contract. The only substantive change in the Federal Aviation Act contained in the postal reform bill is a restricting of the free transportation presently available to postal officials traveling on business relating to the transportation of mail by aircraft.

Mr. PICKLE. I have been shown the testimony on the postal reform bill in which the chairman of the House Post Office and Civil Service Committee made this statement, and I quote to you:

"This cuts squarely across the jurisdiction of the Committee on Interstate and Foreign Commerce, and the Civil Aeronautics Board. It could seriously impair national air transportation policy."

As the chairman of the committee said, it squarely cuts across the jurisdiction of the committee. Do you tell me it doesn't cut across our jurisdiction any?

Mr. MEAGHER. What I am saying, I don't set myself up as an expert on committee jurisdiction. I say we have not, in the postal reform legislation proposed any amendment in title 49 except the limitation of the existing provision on free air transportation.

Mr. PICKLE. Well, are you an attorney?

Mr. MEAGHER. Yes, sir.

Mr. PICKLE. I would think that you would know, you would have a limited knowledge at least, on jurisdictional matters of committees.

If you had known this cut across our committee jurisdiction, would you have wanted it put in that bill?

Mr. MEAGHER. I think if this provision of the postal reform would be subject to the committee's jurisdiction, this committee's jurisdiction, it would have been routed to the proper committee.

Mr. FRIEDEL. Mr. Tipton made a statement yesterday, and I would like to get your reaction to it. Yesterday he said in the case of airmail, out of each 10-cent stamp sold, the Post Office retains 9.4 cents and the airlines only receive .6 of 1 cent.

And in the case of first-class mail, the Post Office retains 4.85 and the airlines only get .51 of 1 cent.

Now, to me I don't think it is out of line, I don't know, but are these figures correct or not?

Mr. MEAGHER. I don't know, but I am going to assume they are correct, because they are not informative. In other words, there is no indication as to what the air transportation proportion of total mail costs are for these classes of mail, compared to the expenses generated by the other actions which relate to the pickup, processing, handling, transporting, and delivery of mail.

Mr. FRIEDEL. As I understand there are a lot more costs to it. You have to bring it to the terminal in trucks, and then take it back. The point is that the airlines are receiving .6 of 1 cent on a 10-cent airmail and only .15 of 1 cent on first-class mail. I don't know how you can get much lower than that.

Mr. MEAGHER. Well, I think there is room for a little more shrinkage.

Mr. PICKLE. Mr. Chairman, in order that we might have some comment in the record—I see the chairman of the CAB is in the audience, and I wondered if it would be all right if I would ask him: is there any controversy existing now between the CAB and the Post Office Department, either as to your scheduling of air mail or of the rate-making processes of cases that have been submitted to you? Is there enough controversy that we would say there had been objections and letters of protest from their department to you that they haven't been properly taken care of or the public interest hasn't been taken care of?

FURTHER STATEMENT OF HON. SECOR D. BROWNE, CHAIRMAN, CIVIL AERONAUTICS BOARD

Mr. BROWNE. Mr. Pickle, I am not aware of any such controversy. There are the normal problems of two agencies working together. I am not aware that this has risen to a level that you would call a controversy.

Mr. PICKLE. Thank you, Mr. Chairman.

Mr. FRIEDEL. I want to thank Mr. Meagher and I would like to make another statement. I hope that you meet with the CAB and the Post Office Department to see if you can't iron this out, rather than trying to do it by legislation. Keep us advised as to what you are doing so we will know.

Our next witness will be Mr. Edward J. Driscoll, president of the National Air Carrier Association, and I understand he is accompanied by Mr. John Reiter, assistant to the president, World Airways, Inc.

You may proceed.

STATEMENT OF EDWARD J. DRISCOLL, PRESIDENT, NATIONAL AIR CARRIER ASSOCIATION; ACCOMPANIED BY JACK REITER, ASSISTANT TO THE PRESIDENT, WORLD AIRWAYS, INC.

Mr. DRISCOLL. My name is Edward J. Driscoll. I am president of the National Air Carrier Association, which represents 10 of the 12 U.S. supplemental air carriers. These carriers hold certificates of public convenience and the necessity issued by the Civil Aeronautics Board, authorizing them to provide charter services in air transportation.

As I understand it, the principal purpose of this hearing is to consider H.R. 16879, which would establish a new method for fixing and regulating rates for the carriage of mail by air. I regret to say that I am not prepared this morning to discuss the subject of ratemaking in any detail. I obtained a copy of the bill only late yesterday, and I have simply not had time to analyze it thoroughly. I hope that the committee will hold the record open for a reasonable period of time so that we can submit a supplemental statement in writing if, upon further study, we find we have additional comments or suggestions to offer.

There is, however, one important matter which I would like to discuss briefly today. I understand that previous witnesses have already touched upon the question of the carriage of mail by the supplemental carriers. Under present law, the supplementals are generally precluded from carrying mail by section 101(33) of the Federal Aviation Act of 1958 (49 U.S.C. 1301(33)) which excludes the transportation of mail from the definition of "supplemental air transportation." During the hearings before the Post Office and Civil Service Committee on comprehensive postal reform, I urged that the Postmaster General should be given the authority to use supplemental carriers, as well as other classes of air carriers, when he finds it desirable or advantageous to do so. A copy of my testimony before that committee is attached to my prepared statement. The bill as reported by that committee (H.R. 4) does permit the carriage of mail by the supplementals, and I understand that the Postmaster General has endorsed this provision.

Let me emphasize that H.R. 4 does not direct or require the use of supplemental carriers; it merely allows the postal authorities to use those carriers when, in their discretion, they wish to do so. The purpose is simply to lift the archaic and senseless legal prohibition against the carriage of mail by this single class of certificated carriers. Under present law, all other shippers—General Motors, Ford, the Department of Defense, are free to use the supplemental carriers, but the Post Office Department is not, except in very limited, emergency situations. These restrictions, which inhibit the freedom and impede the efficiency of the postal system, should be eliminated.

As presently drafted, H.R. 16879 seems to preserve the prohibition against the carriage of mail by the supplementals. For example, it provides for the filing of mail tariffs only by carriers "authorized to carry mail" (403(a)(2)), and states that "every air carrier" shall be under a duty to transport mail "as authorized by its certificate" (sec. 404(a)). Since the supplemental air carriers are authorized only to perform "supplemental air transportation," which is defined by the statute to exclude the carriage of mail, these provisions would effectively preclude the postal authorities from using supplemental carriers.

I realize that the proponents of H.R. 16879 were not focusing on this question, but were principally concerned with establishing a new ratemaking procedure. I urge this committee, however, not to overlook this important problem. I am confident that, once you have considered the matter, you will agree with the conclusion reached by the Committee on Post Office and Civil Service, that the Postmaster General should have authority to use any certificated air carrier, including a supplemental air carrier, for the transportation of the mail.

I have kept my statement very brief because I realize that this committee is pressed for time. I would be pleased, however, to answer any questions you may have.

Mr. Chairman, I would like to comment on one other aspect before the questions.

H.R. 4's provisions on the contract of mail did authorize the Postmaster General to contract without regard to the rates established by the Civil Aeronautics Board. I would submit, however, that H.R. 4, based upon the tariff provisions that are under consideration by this committee, could easily be amended, I think, to accommodate what has been proposed here in H.R. 16879.

That is where it says: "He may provide in any such contract for payment of rates and compensation," and then it goes on to say, "which are higher or lower." Strike that language thereafter and put "in accordance with tariffs lawfully on file with the Civil Aeronautics Board," because that is precisely what the Department of Defense does in contracting with the air carriers on the movement of cargo and passengers, domestically. Military Traffic Management Service asks for proposals from the carriers, but all the proposals submitted must be in accordance with tariffs that are lawfully on file with the Civil Aeronautics Board, which does preclude a destructive rate system that the committee has indicated it is concerned about.

(The attachment to Mr. Driscoll's prepared statement follows:)

STATEMENT OF EDWARD J. DRISCOLL, PRESIDENT, NATIONAL AIR CARRIER ASSOCIATION, BEFORE THE POST OFFICE AND CIVIL SERVICE COMMITTEE, HOUSE OF REPRESENTATIVES, REGARDING POSTAL REFORM LEGISLATION, JUNE 20, 1969

My name is Edward J. Driscoll. I am President of the National Air Carrier Association, a trade association comprised of the eleven major American supplemental air carriers. As most of the members of this Committee probably know, the supplemental carriers are the charter specialists in the field of air transportation and each of them holds a certificate of public convenience and necessity issued by the Civil Aeronautics Board.

I am grateful for this opportunity to appear before this Committee. My purpose in coming here is not to comment generally on the subject of postal reform, but to suggest a specific amendment which I believe will help to promote the objectives of the pending legislation.

A number of the bills under consideration include a provision authorizing the postal service to contract with certified air carriers for the transportation of mail. Such a provision is found, for example, in Section 303 of H.R. 4, and in Section 1653 of H.R. 11750. As presently drafted, however, these sections would not permit the postal authorities to contract with the supplemental air carriers, since they authorize contracts only with carriers specifically authorized by the Civil Aeronautics Board to engage in the transportation of mail. We believe these sections should be broadened to permit the postal service, in its sole discretion, to contract with any certified air carrier, including a supplemental air carrier, for the carriage of mail.

I want to make it very clear that this proposal would not *require* the postal authorities to use supplemental air carriers. It would simply *permit* them to do so, if they find it to be in the public interest—for example, if significant cost savings or improved efficiency could be achieved. For the convenience of the Committee, I have attached to my statement the texts of amendments to H.R. 4 and H.R. 11750 which would accomplish this objective. Similar language could, of course, also be incorporated into the other bills under consideration.

At the present time, the supplementals are precluded from carrying mail by Section 101(33) of the Federal Aviation Act of 1958, as amended (49 U.S.C. § 1301(33)), which excludes the transportation of mail from the definition of "supplemental air transportation." This provision, like so many others dealing with the transportation of mail, is entirely outdated. In the words of Section 101(a)(3) of H.R. 4, the restriction on the carriage of mail by supplemental air

carriers is one of the "existing limitations imposed by various laws" which are "so rigid as to frequently prevent the most expeditious and economic movement of the mail," and which should therefore be revised to give the postal authorities "greater flexibility" and to "facilitate more rapid and less expensive delivery of the mail, permit more economic utilization of the Nation's transport resources, and encourage more rapid and imaginative development of new transportation facilities."

The supplemental air carriers are today an important and integral part of the transportation industry. Taken as a group, they are the equivalent of the third largest freight carrier and the seventh largest passenger airline in the world. In 1968, they logged nearly 900 million passenger miles, and nearly 500 million cargo ton miles. They use the most modern equipment, adhere to the highest standards of safety, and operate both efficiently and profitably.

The United States Government has used the supplemental carriers extensively for many years to transport military personnel and supplies both in this country and abroad. Each of these carriers holds a certificate of public convenience and necessity from the Civil Aeronautics Board authorizing military charter service anywhere in the world. At the present time, military charters account for approximately half of the supplementals' business; the other half consists of civil charters, both passenger and cargo. Only two weeks ago, Secretary of Transportation Volpe praised the supplemental carriers for the major contribution they have made in reducing the cost to the public of air transportation.

There is absolutely no reason why the postal authorities should not be permitted to contract with the supplementals for the carriage of mail. The provision of the Federal Aviation Act which now precludes the supplementals from carrying mail was enacted in 1962, apparently to assure that the supplementals would not receive the subsidy payments which the law authorizes for certain air carriers in connection with the transportation of mail. There is, however, an entirely independent provision of the Act (Section 406(b)) which precludes payment of subsidy to supplementals, and we are not suggesting that this provision be changed.

H.R. 11750 does authorize the use of supplemental carriers to transport mail in certain very limited circumstances: when the mail must be carried over a route where no carrier has been certificated by the CAB to transport mail, or where the service offered by a certificated carrier is inadequate. (Section 1653 (b), (c)). These provisions, although they represent a step in the right direction, are unnecessarily restrictive. For example, they would preclude the postal service from using supplemental carriers in cases where their rates are substantially lower. We believe that the postal authorities should be given broad discretion to use any air carrier which offers the most efficient, reliable, and economic service, so long as that carrier has been granted authority to serve the points involved. There is no need to place any limitation on the postal service other than the obligation to exercise sound business judgment in the public interest.

The postal service is a vast and complex organization. The public servants who are charged with the responsibility of running it should be given maximum flexibility, and not be hamstrung by a lot of restrictive rules and regulations. Congress cannot determine in advance just what the transportation needs of the postal service will be in the years to come. If the postal authorities find that those needs can in certain cases best be met by the supplemental carriers, then they should be free to use those carriers.

I do not know how extensively the postal authorities would use the supplementals if they were given the authority to do so. I do know, however, that many supplementals operate very frequent and regular charter flights over certain routes, and that they could easily carry mail on those flights. It seems quite likely that occasions will arise when a supplemental airline is able to provide the least expensive and most expeditious means of transporting the mail. Surely, the law should not prevent the postal authorities from using that carrier under such circumstances.

The whole purpose of the legislation now pending before you is to modernize the postal laws, to give the postal service greater freedom and flexibility, and to eliminate outmoded legal restrictions which interfere with the efficient delivery of the mail. The amendment which we are proposing is fully consistent with that purpose. I therefore urge this Committee and the Congress to grant to the postal authorities the freedom to use supplemental air carriers, along with other carriers or modes of transportation, for the carriage of mail.

PROPOSED AMENDMENT TO H.R. 4

(To indicate the changes from the original text, added language is italic and deleted language is enclosed in black brackets.)

SEC. 303. Chapter 97 of title 39, United States Code, is amended by inserting immediately after section 6301, the following new section:

"§ 6301a. Contracting for transportation of mail by air

"Notwithstanding any other provision of law and, whenever he shall find it in the public interest, the Postmaster General may, without advertising for bids, contract for the transportation of mail by aircraft with any certified air carrier between any of the points [between] *or within or between the geographical area or areas for which such air carrier is authorized by the Civil Aeronautics Board to engage in [the transportation of mail] air transportation and such carrier is hereby authorized to transport such mail.* He may provide in any such contract for the payment of rates of compensation which are higher or lower than those prescribed pursuant to section 1376 of title 49 for the transportation of mail between the points to be served under the contract."

PROPOSED AMENDMENT TO H.R. 11750

(To indicate the changes from the original text, added language is italic and deleted language is enclosed in black brackets.)

§ 1653. Contracts for the transportation of mail by air

"[(a)] The Postal Service may contract with any certificated air carrier in such manner and under such terms and conditions as it deems appropriate for the transportation of mail by aircraft between any of the points [between] *or within or between the geographical area or areas for which such carrier is authorized by the Civil Aeronautics Board to engage in air transportation, and such carrier is hereby authorized to engage in transportation of mail pursuant to any such contract [.]* The Postal Service may provide in any such contract for the payment of rates or compensation which are higher or lower than those prescribed pursuant to section 1376 of title 49 for the transportation of mail between the points to be served under the contract."

(The remainder of § 1653 is deleted.)

Mr. FRIEDEL. Mr. Driscoll, in your statement you indicate that you didn't have time to prepare a fuller statement. I understand, and we will keep our records open for 5 days for your supplemental statement.

Mr. DRISCOLL. Thank you.

Mr. FRIEDEL. If you want to submit an amendment you propose, have it included in your supplemental statement.

Mr. DRISCOLL. Yes, sir.

Mr. FRIEDEL. If the committee takes any action on this bill it will be considered along with it.

(The following letter was received for the record:)

NATIONAL AIR CARRIER ASSOCIATION, INC.,
Washington, D.C. April 22, 1970.

Mr. SAMUEL N. FRIEDEL,
Chairman, Subcommittee on Transportation and Aeronautics, Committee on Interstate and Foreign Commerce, Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN FRIEDEL: When I appeared before your Committee on April 15, 1970, in the hearings on H.R. 16879, I emphasized the importance of giving the postal service the authority to use any certificated air carrier, including a supplemental air carrier, for the transportation of mail. I pointed out that H.R. 4, as reported by the Committee on Post Office and Civil Service, did provide such authority, and I urged your Committee not to adopt any legislation which would limit or restrict the postal authorities in this regard.

As I stated in my testimony, it is possible to retain for the postal service the flexibility which H.R. 4 would give it with respect to the selection of air carriers to transport mail and still provide that the rates for the carriage of mail would be established by tariffs filed with the Civil Aeronautics Board, as contemplated by H.R. 16879, rather than negotiated between the postal service and the carriers, as contemplated by H.R. 4. This could be done by a simple amendment to H.R. 4,

which would provide that the rates or compensation to be paid to the carriers would be established by tariffs rather than by agreement.

In accordance with the suggestion which you made at the hearing, I am enclosing herewith a draft of a proposed amendment to Section 1653(a) of H.R. 4 which would accomplish this purpose. I should point out that Section 1653(a) of H.R. 4 is in all material respects identical with Section 853 of H.R. 17070, the new Postal Reorganization and Salary Adjustment Act which was reported by the Committee on Post Office and Civil Service on April 20, 1970. Thus, the same amendment would be applicable to that bill as well.

If H.R. 4 or H.R. 17070 were to be amended in the manner which I propose, your Committee could then adopt appropriate legislation providing for the establishment of mail rates by tariffs. This would create a system for the transportation of mail very much like that which now exists for the domestic carriage of Department of Defense passengers and cargo under the Military Traffic Management and Terminal System (MTMTS), which in my view is working very satisfactorily.

I would appreciate it if this letter, and the enclosed draft, would be made a part of the hearing record as a supplement to my statement. If I can be of any further assistance, please do not hesitate to call on me.

Very truly yours,

EDWARD J. DRISCOLL,
President.

PROPOSED AMENDMENT OF SECTION 1653(a) OF H.R. 4, AS REPORTED, TO CONFORM
WITH H.R. 16879

(Language to be deleted is shown enclosed in black brackets and new language is shown in italic.)

"(a) The Authority may contract with any certificated air carrier, without advertising for bids, in such manner and under such terms and conditions as it deems appropriate, for the transportation of mail by aircraft between any of the points between which, or within or between the geographical area or areas for which, such air carrier is authorized by the Civil Aeronautics Board to engage in air transportation and such carrier is hereby authorized to transport such mail. The Authority [may] *shall* provide in any such contract for the payment of rates or compensation [which are not higher than those prescribed pursuant to section 1076 of title 49] *prescribed by tariffs currently in effect and on file with the Civil Aeronautics Board* for the transportation of mail between the points to be served under the contract and, in the event the transportation under such contract is to be on a space available basis, it [may] *shall* provide for the payment of rates or compensation [which are not higher than those] contained in *prescribed by* tariffs currently in effect and on file with the Civil Aeronautics Board for air transportation of property, other than transportation of mail, on a space available basis.

Mr. FRIEDEL. Now, let me ask you this one question: do you carry any mail now; I mean, the supplemental carriers? Do they haul any mail?

Mr. DRISCOLL. Yes, sir; on a very limited basis, and that is under the emergency provisions in the Act when service of the scheduled carriers is insufficient, we do.

Recently, because of, I believe a dock strike on the Pacific coast, mail to Guam and other places piled up and the post office contacted us and we provided contract service between the west coast and Guam for transportation of mail.

This is in the last 3 months.

Mr. FRIEDEL. Under the present law they can do that?

Mr. DRISCOLL. Under an emergency situation when the Postmaster General declares it to be an emergency.

Mr. FRIEDEL. Under H.R. 4 what would it do?

Mr. DRISCOLL. H.R. 4 would permit him to use it in his best judgment whenever it would facilitate the movement of mail or improve

the efficiency of the postal service. It would give him the flexibility that the Secretary of Defense has, that any other shipper has, to utilize the services of the supplemental carriers.

Mr. FRIEDEL. You said in your statement on page 2:

Let me emphasize that H.R. 4 does not direct or require the use of supplemental carriers; it merely allows the postal authorities to use those carriers when, in their discretion they wish to do so.

What do you mean by that phrase "in their discretion?"

Mr. DRISCOLL. There was no requirement that the Postmaster General use the supplemental as opposed to the scheduled carrier, but if, in order to improve the efficiency, or, if we had a service that we wanted to use, he would have the discretion to use it. He does not have that today, sir; unless he declares that an emergency situation exists.

Mr. FRIEDEL. How do these air taxis—

Mr. DRISCOLL. The air taxi is done under an exemption authority. The Civil Aeronautics Board grants an exemption to those carriers to transport the mail. We are the only class of certificated air carriers that I know of which is not authorized by the Board to transport and the Board could not authorize us because of the prohibition in the current act.

Mr. FRIEDEL. In the current situation, if you had this amendment would they have the right, the air taxis—the supplemental carriers, too, wouldn't that do it?

Mr. DRISCOLL. If I understand your question, sir, it is: if the Board were given authority to exempt us the same as they can the air taxi, would this do it? I think it would. But, presently they do not have that authority.

Mr. FRIEDEL. Mr. Pickle?

Mr. PICKLE. Thank you, Mr. Chairman.

I was just trying to find out if the language of the present CAB regulation, or the regulation pertaining to both your operation and the CAB, specifically said that you can't use a supplemental carrier for mail purposes except in an emergency situation; is that the language?

Mr. DRISCOLL. Yes, sir; it gets into the definition of supplemental air transportation under the Act, which defines supplemental air transportation with an exception "for the transportation of mail." That is in Public Law 85-528, I believe it is.

Mr. PICKLE. You used the word that they could not use supplemental service except as an emergency. Is the interpretation based on the definition of the regulation or legislation creating the supplemental carrier operation?

Mr. DRISCOLL. Yes; I believe this is what the Postmaster follows.

Mr. PICKLE. When they created this supplemental carrier, by the nature of the very word "supplemental service," you are to be performing services that would be in addition to or an exception to or beyond that which is regularly scheduled services or both?

Mr. DRISCOLL. Contract services.

Mr. PICKLE. You are to be used when other services aren't available?

I have pointed out here, section 417 under the Federal Aviation Act. It says:

The authority of the Board to issue, if the Board finds, upon investigation conducted on its own initiative, or upon request of an air carrier, the capacity for air transportation being offered by the holder of a certificate of public necessity in between a particular point in the United States is, or will be temporary—

ily insufficient to meet the requirement of the public, or postal office . . . both of which are not regularly served by air carrier and any supplemental air carrier can provide the additional air service

I don't see anywhere in that the word "only in case of emergency."

Mr. DRISCOLL. If I might give you the citation, under section 405 (h) of the Federal Aviation Act, it has been labeled "emergency mail service." And this is the authority that the postmaster has used in contracting with us whenever there has been a fire, flood, strike or what.

That reads:

In the event of an emergency caused by flood, fire, or other calamitous visitations, the Postmaster General is authorized to contact, without advertising for transportation by aircraft of any or all classes of mail to or from localities affected by such calamity, where available facilities of the person authorized to transport the mail to or from such localities are not adequate to meet the requirement of the postal service during such emergency.

That is the authority he has used when we have been used to transport the mail.

Mr. PICKLE. Would it not follow, actually, what you are saying, when you quote 405(h), that the Postmaster is authorized to use the mail service in certain instances and, secondly, though you can also use the CAB, so you can use your services in two instances?

Mr. DRISCOLL. Only under section 417, sir, which, again is limited and has a duration limitation in it, and it does not cover what we are suggesting. We are suggesting that within the postal reform if the intent of that is to give the Postmaster General the necessary authority to improve the postal service, then if he finds that our service would be beneficial in improving the efficiency, then he would be authorized to use it.

Mr. PICKLE. Is it your testimony that the airmail service is inadequate and deficient and must be or should be corrected by using supplemental carriers?

Mr. DRISCOLL. We have not said that, sir. We have said that the Postmaster General should be the individual to determine whether the postal service is or is not efficient, and that if, in his judgment, he needs an additional service to improve that deficiency, he should not be precluded from using that service, if that is the way that it can be improved.

Mr. PICKLE. Suppose that language or that approach was taken by giving that authority to the CAB? Would that be satisfactory to you?

Mr. DRISCOLL. To authorize the CAB, if it determines that our services could be beneficial to the Postmaster? That they would authorize it?

Mr. PICKLE. Yes.

Mr. DRISCOLL. I think that is one way of doing it. Again, it is a question, I think, as far as the Postmaster is concerned, as to whether he should be the individual to determine whether he needs service to promote his efficiency, the same as the Department of Defense can determine it and working with the CAB it gets the service that they require, whether it be supplemental, scheduled or any other class of carrier.

Mr. FRIEDEL. Mr. Devine?

Mr. DEVINE. No questions.

Mr. FRIEDEL. I want to thank you, Mr. Driscoll and Mr. Reiter.

Mr. DRISCOLL. Thank you, sir.

Mr. FRIEDEL. The meeting now stands adjourned.

(The following letter was received for the record:)

CIVIL AERONAUTICS BOARD,
Washington, D.C., April 23, 1970.

HON. SAMUEL N. FRIEDEL,
Chairman, Subcommittee on Transportation and Aeronautics, Committee on
Interstate and Foreign Commerce, House of Representatives, Washington,
D.C.

DEAR MR. CHAIRMAN: At the end of the April 14-15 hearings on H.R. 16879, your Committee asked the Post Office Department and the Board to confer and to attempt to adopt mutually satisfactory legislation governing the establishment of rates for the air transportation of mail. In response to that request, the agency staffs met on April 17 and 20 and are still exploring possible legislative recommendations on this subject. I will advise you if the staff discussions produce an agreed solution which the Board can endorse. Meanwhile, I am enclosing a memorandum reviewing the past meetings between the two agencies, as you requested.

As you know, the Administration's revised postal reorganization bill (H.R. 17070) was introduced on April 16. It contains provisions, substantially identical to H.R. 4's, empowering the postal authorities to contract with air carriers at rates different from those fixed by the Board. Beginning April 22, the House Committee on Post Office and Civil Service plans to hold hearings on H.R. 17070.

The Board will appreciate having this letter and memorandum made part of the record of the Committee's hearing on H.R. 16879.

Sincerely yours,

SECOR D. BROWNE, *Chairman.*

MEMORANDUM REVIEWING MEETINGS BETWEEN THE POST OFFICE DEPARTMENT
AND CIVIL AERONAUTICS BOARD STAFFS CONCERNING POSSIBLE REVISIONS OF
THE BOARD'S AUTHORITY TO SET MAIL RATES

This memorandum summarizes the history of meetings between the POD and CAB staffs concerning possible revisions of the Board's authority to set mail rates.

In May 1968, the Postmaster General submitted draft legislation to the Bureau of the Budget which (like H.R. 4) would have vested him with authority to contract with air carriers at mail rates other than those established by the Board. In opposing the draft legislation, the Board advised the Bureau of the Budget of the Board's willingness to discuss with the Post Office Department any specific problems which the Post Office had encountered in obtaining adequate mail service from air carriers. Again, in April 1969, when the Postmaster General next submitted similar legislation to the Bureau of the Budget, the Board reaffirmed both its opposition to the legislation and its willingness to sit down with the Post Office Department to discuss the problem. However, the agency staffs did not meet to discuss their differences until after October 1969, when the Senate Post Office and Civil Service Committee held hearings on H.R. 4, containing provisions similar to those incorporated in the Postmaster General's legislation. During the hearings on H.R. 4, Chairman McGee asked the Board and the Post Office Department to confer and to attempt to develop mutually satisfactory legislation governing the establishment of rates for the air transportation of mail.

Thereafter, the Board and Department staffs met several times to explore possible solutions. One of these was a tariff-filing proposal similar in many respects to provisions contained in H.R. 16879. The Board's staff was awaiting the position of the Department at the time that the bill was introduced by the Chairman of the Subcommittee on Transportation and Aeronautics of the House Committee on Interstate and Foreign Commerce. The Board was, therefore, disappointed to have the Department representative express opposition to H.R. 16879 at hearings before the Subcommittee on Transportation and Aeronautics on April 15, 1970.

Since the April 14-15, 1970 hearings before the Subcommittee on Transportation and Aeronautics, Post Office Department staff and the Board's staff have met on April 17 and 20.

(Whereupon, at 11:35 o'clock a.m., the committee adjourned.)