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ANTI-HIJACKING ACT OF 1971

GOVERNMENT

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HEARING

BEFORE THE

SUBCOMMITTEE ON AVIATION

OF THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETY-SECOND CONGRESS

SECOND SESSION

S. 2280

AMEND SECTIONS 101 AND 902 OF THE FEDERAL AVIATION ACT OF 1958, AS AMENDED, TO IMPLEMENT THE CONVENTION FOR THE SUPPRESSION OF UNLAWFUL SEIZURE OF AIRCRAFT, AND FOR OTHER PURPOSES

S. 2299

TO AMEND THE FEDERAL AVIATION ACT OF 1958 TO PROVIDE PROPER PENALTIES IN THE EVENT OF AIRCRAFT PIRACY, AND FOR OTHER PURPOSES

S. 3815

TO AMEND THE FEDERAL AVIATION ACT OF 1958 IN ORDER TO REQUIRE THE SCREENING BY WEAPONS-DETECTING DEVICES OF ALL PASSENGERS IN REGULARLY SCHEDULED AIR TRANSPORTATION

S. 3871

TO AMEND THE FEDERAL AVIATION ACT OF 1958 IN ORDER TO PROVIDE A MORE EFFECTIVE PROGRAM TO PREVENT AIRCRAFT HIJACKING, AND FOR OTHER PURPOSES

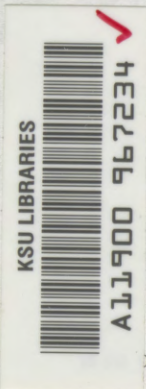
MARCH 6, JUNE 29, AND AUGUST 15, 1972

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ANTI-HIJACKING ACT OF 1971

MONDAY, MARCH 6, 1972

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

The subcommittee met at 10:05 a.m., in room 1202, New Senate Office Building, Hon. Howard W. Cannon, (chairman of the subcommittee) presiding.

Present: Senators Cannon and Pearson.

OPENING STATEMENT BY SENATOR CANNON

Senator CANNON. The subcommittee will come to order.

Today's hearing is on two bills dealing with the aircraft hijacking problem—S. 2280 introduced at the request of the administration and S. 2299 introduced by Senator Pearson.

S. 2280 would implement, for the United States, the Convention for the Suppression of Unlawful Seizure of Aircraft, otherwise known as the Hague Convention.

The United States was an active participant in the development of the Antihijacking Convention. A diplomatic conference on air law under the auspices of the International Civil Aviation Organization (ICAO) prepared it, and 77 nations participated in the Conference which culminated in the signing of the Antihijacking Convention at The Hague, Netherlands on December 16, 1970.

The Convention insures that contracting states will subject hijackers to severe punishment regardless of where the actual hijacking takes place. The implementing legislation before the subcommittee this morning would amend sections 101 and 902 of the Federal Aviation Act to bring the laws of the United States into line with the provisions of the Antihijacking Convention, which the Senate ratified and the United States signed last year.

S. 2299, which is also before us this morning, would change, in certain instances, the criminal penalties for hijacking specified in section 902 of the Federal Aviation Act. Under terms of this bill, if a hijacker surrendered himself during the course of a hijacking, then the maximum penalty for the hijacking offense would be not more than 5 years.

(The bill and agency comments follow:)

Staff member assigned to these hearings: Robert E. Ginther.

92D CONGRESS
1ST SESSION

S. 2280

IN THE SENATE OF THE UNITED STATES

JULY 14, 1971

Mr. MAGNUSON (by request) introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended, to implement the Convention for the Suppression of Unlawful Seizure of Aircraft, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Anti-Hijacking Act of
4 1971".

5 SEC. 2. Section 101 (32) of the Federal Aviation Act of
6 1958, as amended (49 U.S.C. 1301 (32)), is amended to
7 read as follows:

8 “(32) The term ‘special aircraft jurisdiction of the
9 United States’ includes—

1 “(a) civil aircraft of the United States;

2 “(b) aircraft of the national defense forces of the
3 United States;

4 “(c) any other aircraft within the United States;

5 “(d) any other aircraft outside the United States—

6 “(i) that has its next scheduled destination or
7 last point of departure in the United States, if that
8 aircraft next actually lands in the United States; or

9 “(ii) having ‘an offense’, as defined in the
10 Convention for the Suppression of Unlawful Seizure
11 of Aircraft, committed aboard, if that aircraft lands
12 in the United States with the alleged offender still
13 aboard; and

14 “(e) other aircraft leased without crew to a lessee
15 who has his principal place of business in the United
16 States, or if none, who has his permanent residence in
17 the United States;

18 while that aircraft is in flight, which is from the moment
19 when all the external doors are closed following embarka-
20 tion until the moment when one such door is opened for
21 disembarkation, or in the case of a forced landing, until the
22 competent authorities take over the responsibility for the
23 aircraft and for the persons and property aboard.”

24 SEC. 3. Section 902 of the Federal Aviation Act of

1 1958, as amended (49 U.S.C. 1472), is amended as fol-
2 lows:

3 (a) By striking out the words "violence and" in sub-
4 section (i) (2) thereof, and by inserting the words "vio-
5 lence, or by any other form of intimidation, and" in place
6 thereof;

7 (b) By redesignating subsections (n) and (o) thereof
8 as "(o)" and "(p)", respectively, and by adding the fol-
9 lowing new subsection:

10 "Aircraft Piracy Outside Special Aircraft Jurisdiction of the
11 United States

12 "(n) (1) Whoever aboard an aircraft in flight outside
13 the special aircraft jurisdiction of the United States commits
14 'an offense', as defined in the Convention for the Suppression
15 of Unlawful Seizure of Aircraft, and is afterward found in
16 the United States shall be punished—

17 "(A) by death if the verdict of the jury shall so
18 recommend, or, in the case of a plea of guilty, or a plea of
19 not guilty where the defendant has waived a trial by
20 jury, if the court in its discretion shall so order; or

21 "(B) by imprisonment for any term of years or for
22 life, if the death penalty is not imposed.

23 "(2) A person commits 'an offense', as defined in the
24 Convention for the Suppression of Unlawful Seizure of Air-
25 craft when, while aboard an aircraft in flight, he—

1 “(A) unlawfully, by force or threat thereof, or by
2 any other form of intimidation, seizes, or exercises con-
3 trol of, that aircraft, or attempts to perform any such
4 act; or

5 “(B) is an accomplice of a person who performs or
6 attempts to perform any such act.”;

7 (c) By amending redesignated subsection (o) thereof
8 by striking out the reference “(m)”, and by inserting the
9 reference “(n)” in place thereof; and

10 (d) By amending that portion of the table of contents
11 contained in the first section of the Federal Aviation Act of
12 1958 which appears under the heading “Sec. 902. Criminal Pen-
13 alties.” by striking out the following items:

 “(n) Investigations by Federal Bureau of Investigation.
 “(o) Interference with aircraft accident investigation.”;

14 and by inserting the following items in place thereof:

 “(n) Aircraft Piracy Outside Special Aircraft Jurisdiction
 of the United States.
 “(o) Investigations by Federal Bureau of Investigation.
 “(p) Interference with aircraft accident investigation.”.

15 SEC. 4. The amendments contained in this Act shall
16 become effective one day after fulfillment of the following
17 conditions:

18 (a) the entry into force for the United States of
19 the Convention for the Suppression of Unlawful Seizure
20 of Aircraft signed at The Hague, Netherlands, Decem-
21 ber 16, 1970; and

1 (b) the publication in the Federal Register by or on
2 behalf of the Secretary of State of a notice referring to
3 this Act and stating that the Convention has entered,
4 or will enter, into force for the United States on a date
5 specified in that notice.

92^D CONGRESS
1ST SESSION

S. 2299

IN THE SENATE OF THE UNITED STATES

JULY 16, 1971

Mr. PEARSON introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To amend the Federal Aviation Act of 1958 to provide proper penalties in the event of aircraft piracy, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 902 of the Federal Aviation Act of 1958, as
4 amended (49 U.S.C. 1472), is further amended as follows:
5 (1) Subsection (i) is amended by inserting immedi-
6 ately before "by death" in subparagraph (1) (A), and im-
7 mediately before "by imprisonment" in subparagraph (1)
8 (B), "except as provided for in paragraph (3)" and by
9 inserting the following new paragraph:
10 “(3) Notwithstanding the penalties outlined in para-

1 graph (1) of this subsection, in the event any person who
2 commits or is in the process of committing aircraft piracy
3 shall, upon being advised by a crewmember of the aircraft of
4 the penalties contained in paragraph (1) surrender himself
5 and whatever weapons he may have to the crewmember
6 thus allowing the aircraft to land at either its original desti-
7 nation or a point under control of the United States of
8 America, he shall not be subject to the penalties contained in
9 paragraph (1) but in lieu thereof shall be imprisoned for
10 not more than five years."

11 (2) Subsection (j) is amended by striking "Whoever"
12 and inserting in lieu thereof, "Except as provided for in
13 paragraph (3) of subsection (i) of this section, whoever";
14 and

15 (3) Subsections (h) and (l) are amended by striking
16 "\$1,000" and "one year" whenever appropriate and insert-
17 ing in lieu thereof "\$5,000" and "five years".

92^D CONGRESS
2^D SESSION

S. 3815

IN THE SENATE OF THE UNITED STATES

JULY 20, 1972

Mr. SCHWEIKER introduced the following bill; which was read twice and referred to the Committee on Commerce

A BILL

To amend the Federal Aviation Act of 1958 in order to require the screening by weapons-detecting devices of all passengers in regularly scheduled air transportation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 307 of the Federal Aviation Act of 1958 (49
4 U.S.C. 1348) is amended by inserting at the end thereof a
5 new subsection as follows:

6 “SCREENING OF PASSENGERS IN AIR TRANSPORTATION

7 “(g) (1) The Administrator shall, as soon as prac-
8 ticable, prescribe regulations requiring that all passengers in
9 regularly scheduled air transportation, and their carry-on bag-
10 gage, be screened by magnetometers or other more effective

1 weapon-detecting devices before boarding the aircraft for
2 such transportation.

3 “(2) The Administrator shall acquire and furnish air-
4 ports with devices necessary for the purpose of paragraph
5 (1) of this subsection.

6 “(3) There are authorized to be appropriated such
7 amounts as are necessary for the purpose of paragraph (2)
8 of this subsection.”

9 SEC. 2. The table of contents of the Federal Aviation
10 Act of 1958 is amended by inserting at the end of the mat-
11 ter relating to section 307 the following:

“(g) Screening of passengers in air transportation.”

IN THE SENATE OF THE UNITED STATES

Mr. BOGGS (for himself and Mr. JAVITS) introduced the following bill; which was read twice and referred to the Committee on Commerce

To amend the Federal Aviation Act of 1958 in order to provide a more effective program to prevent aircraft hijacking, and for other purposes.

9 “SEC. 613. (a) In order to prevent aircraft piracy the
10 Attorney General of the United States shall, not later than
11 sixty days after the date of enactment of this section, pre-

1 scribe regulations requiring that all passengers in regularly
2 scheduled air transportation, and their carry-on baggage, be
3 screened by weapons detecting devices before boarding the
4 aircraft for such transportation.

5 "FURNISHING OF EQUIPMENT AND OPERATORS

6 "(b) (1) The Attorney General shall furnish airports
7 (A) with devices necessary for the purpose of subsection
8 (a), and (B) with United States marshals and deputy
9 marshals employed by the Attorney General to operate such
10 devices.

11 "(2) In any case where an airport has acquired one or
12 more devices which are adequate for the purpose of this
13 section. The Attorney General shall reimburse such airport
14 for the amount expended for such devices.

15 "TRANSFER OF AUTHORITY

16 "(c) Such authority under the provisions of this Act as
17 is determined by the Director of the Office of Management
18 and Budget to be necessary for the purpose of this section is
19 transferred to the Attorney General.

20 "CONSULTATION

21 "(d) The Attorney General shall consult with the Secre-
22 tary and the Administrator in carrying out the provisions of
23 this section.

24 "AUTHORIZATION

25 "(e) There is authorized to be appropriated \$20,-
26 000,000 for the fiscal year ending June 30, 1973, and

1 \$17,000,000 for the fiscal year ending June 30, 1974, and
2 for the succeeding fiscal year, and thereafter such amounts
3 as are necessary, for carrying out the provisions of this
4 section.”.

5 (b) The table of contents of the Federal Aviation Act
6 of 1958 is amended by inserting at the end of the material
7 relating to title VI the following:

“Sec. 613. Weapons detection program under Attorney General.

“(a) Authority.

“(b) Furnishing of equipment and operators.

“(c) Transfer of authority.

“(d) Consultation.

“(e) Authorization.”.

8 (c) The Attorney General of the United States shall
9 establish within the Department of Justice an Office of Avia-
10 tion Security through which he shall administer the provi-
11 sions of section 613 of the Federal Aviation Act of 1958.

12 SEC. 2. (a) Section 901 of the Federal Aviation Act of
13 1958 (49 U.S.C. 1471) is amended by adding at the end
14 thereof the following new subsection:

15 “THREATS OR FALSE INFORMATION

16 “(c) Whoever imparts or conveys or causes to be
17 imparted or conveyed any threat, or false information,
18 knowing the information to be false, concerning an attempt
19 or alleged attempt being made or to be made, to do any
20 act which would be a crime prohibited by subsection (i),
21 (j), (k), or (l) of section 902 of this title, shall be subject
22 to a civil penalty of not more than \$1,000 which shall be

1 recoverable in a civil action brought in the name of the
2 United States.”.

3 (b) That portion of the table of contents contained in
4 the first section of the Federal Aviation Act of 1958 which
5 appears under the heading

“Sec. 901. Civil penalties.

6 is amended by adding at the end thereof the following:

“Threats or false information.”.

7 SEC. 3. Section 902 (l) of the Federal Aviation Act of
8 1958 (49 U.S.C. 1472l) is amended by striking out “\$1.-
9 000” and “one year” and inserting in lieu thereof “\$5,000”
10 and “five years”, respectively.

11 SEC. 4. (a) Section 902 (m) of the Federal Aviation
12 Act of 1958 (49 U.S.C. 1472 (m)) is amended to read as
13 follows:

14 “FALSE INFORMATION AND THREATS

15 “(m) Whoever willfully and maliciously, or with reck-
16 less disregard for the safety of human life, imparts or con-
17 veys or causes to be imparted or conveyed a threat, or false
18 information, knowing the information to be false, concerning
19 an attempt or alleged attempt being made or to be made, to
20 do any act which would be a crime prohibited by subsection
21 (i), (j), (k), or (l) of this section, shall be fined not more
22 than \$5,000 or imprisoned not more than five years, or
23 both.”.

1 (b) That portion of the table of contents contained in
2 the first section of the Federal Aviation Act of 1958 which
3 appears under the heading

"Sec. 902. Criminal penalties."

4 is amended by striking out—

"(m) False information."

5 and inserting in lieu thereof—

"(m) False information and threats."

6 SEC. 5. The second sentence of section 903 (b) (1) of
7 the Federal Aviation Act of 1958 (49 U.S.C. 1473 (b)
8 (1)) is amended by striking out "Such" and inserting in
9 lieu thereof "Except with respect to civil penalties under
10 section 901 (c) of this title, such".

11 SEC. 6. Subsections (a) and (b) of section 35 of title
12 18, United States Code, are each amended by striking out
13 "false information" and inserting in lieu thereof "a threat, or
14 false information".

15 SEC. 7. Section 1395 of title 28, United States Code, is
16 amended by adding at the end thereof the following new
17 subsection:

18 "(f) A proceeding to recover a penalty under section
19 35 of title 18, United States Code, or under section 901 (c)
20 of the Federal Aviation Act of 1958, may be brought in the
21 judicial district where the defendant resides or the district
22 where the false information or threat was imparted or con-

1 veyed or attempted to be imparted or conveyed. In any such
2 proceeding, process against any defendant may be served in
3 the district where the defendant is found with the same force
4 and effect as if the process had been served within the district
5 in which such proceeding is brought.”.

6 SEC. 8. The President is authorized to terminate the
7 rights of air carriers of the United States to land in any
8 country and the rights of air carriers of such country to land
9 in the United States if such country refuses to extradite to
10 the United States any person accused by the United States
11 of committing or attempting to commit aircraft piracy, as
12 defined in section 902 (i) of the Federal Aviation Act of
13 1958.

14 SEC. 9. The Administrator of the Federal Aviation
15 Administration shall terminate the program of placing Fed-
16 eral employees aboard aircraft to protect against aircraft
17 piracy.

DEPARTMENT OF STATE,
Washington, D.C., July 23, 1971.

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate.

DEAR MR. CHAIRMAN: Thank you for the opportunity provided by your letter of July 16, 1971, to report on S. 2280, a bill "To amend sections 101 and 902 of the Federal Aviation Act of 1958 as amended, to implement the Convention for the Suppression of Unlawful Seizure of Aircraft, and for other purposes." S. 2280 is identical in all substantive respects to the bill submitted for the same purpose by the Department of Transportation for the Administration.

The Department of State strongly urges the prompt enactment of legislation with the terms of S. 2280 in order that the United States may be able through such implementing legislation to carry out the Convention for the Suppression of Unlawful Seizure of Aircraft as soon as the Senate gives its advice and consent to ratification.

The Office of Management and Budget has advised the Department that there is no objection to the submission of this report and that enactment of S. 2280 would be in accord with the program of the President.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., December 20, 1971.

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

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 2280, a bill "To amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended, to implement the Convention for the Suppression of Unlawful Seizure of Aircraft, and for other purposes."

The bill fulfills the obligations of the United States under the recent Hague Convention for the Suppression of Unlawful Seizure of Aircraft by amending the Federal Aviation Act of 1958, as amended. The definition of "special aircraft jurisdiction of the United States" in section 101(32) is amended to extend United States jurisdiction over "any other aircraft outside the United States" under circumstances where an offense, as defined by the Convention, is committed aboard and the aircraft lands in the United States with the alleged offender. In addition, the definitions of "in flight" in section 101(32) and "aircraft piracy" in section 902(i) are redefined to conform to the Convention. A new subsection (n) is inserted in section 902 of the Act to establish Federal jurisdiction over the offense of aircraft piracy in those instances where the offense is committed outside the special aircraft jurisdiction of the United States and the offender is afterwards found in the United States. The penalty for this offense includes death. The remaining amendments redesignate existing subsections as necessary, provide the Federal Bureau of Investigation with the responsibility of investigating offenses under the new subsection (n) and specify conditions that must be met before the bill becomes effective.

The Senate, on September 8, unanimously agreed to a resolution of ratification of the Hague Convention. This bill would carry out the obligations of the United States under the Convention, and would insure that hijackers, regardless of where the offense is committed, will be subject to severe penalties if they are later found in the United States.

The redefinitions of jurisdiction as discussed above are necessary to conform existing law with the provisions of the Convention, and are constitutionally sound under the Treaty Power (Article II, Section 2) and the Law of Nations Power (Article I, Section 8, Clause 10).

It should be noted, however, that a misinterpretation of subsection (n) (1) is likely because of a drafting oversight. This potential problem has been recognized by both the head agency (Department of Transportation) and this Department. That section extends jurisdiction of the United States to an individual who commits an offense, as defined in the treaty, outside the special aircraft jurisdiction of the U.S. but is later found in this country. Subsection (n) (2) then states that a person commits an offense if, while aboard an aircraft in

flight, he "(a) unlawfully, by force or threat thereof, or by any other form of intimidation, seizes, or exercises control of that aircraft, or attempts to perform any such act; or (b) is an accomplice of a person who performs or attempts to perform any such act."

As written, subsection (n)(2) would appear to apply to an individual who hijacks a domestic flight within a foreign country even if the hijacked plane lands within that country. Thus, if the hijacker of such a foreign domestic flight were later to be apprehended in the U.S. he presumably would be within this country's jurisdiction.

The Treaty itself, however, only applies "if the place of take-off or the place of actual landing of the aircraft . . . is situated outside the territory of the State of registration of that aircraft." (Article 3, Section 3) This section, therefore, would exclude such foreign domestic flights where the places of take-off and landing were both within that country. The implementing legislation, on the other hand, would seem to include this situation.

The legislation should obviate this apparent conflict by making explicit the fact that subsection (n)(1) only applies in circumstances prescribed in Article 3, Section 3 of the Treaty.

The Department of Justice recommends enactment of this legislation.

The Office of Management and Budget has advised it has no objection to the submission of this report and that enactment of S. 2280 is in accordance with the program of the President.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

CIVIL AERONAUTICS BOARD,
Washington, D.C., January 20, 1972.

Hon. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the Board's views on S. 2280, a bill "To amend sections 101 and 902 of the Federal Aviation Act of 1958, as amended, to implement the Convention for the Suppression of Unlawful Seizure of Aircraft, and for other purposes."

The bill is one which was prepared by representatives of the Interagency Group on International Aviation (which includes the Board) and transmitted to the Congress by the Department of Transportation. As its title indicates, the bill is designed to provide the legislation necessary for the United States to implement the Convention for the Unlawful Seizure of Aircraft (the Anti-Hijacking Convention) to which the United States is a party, and which came into effect on October 14, 1971.

The Convention requires each Contracting State to establish jurisdiction to punish hijacking ("the offense"), and any other act of violence against passengers or crew committed in connection with the offense, when (1) the offense is committed on board an aircraft registered in that State, (2) the aircraft on board which the offense is committed lands in that State with the hijacker on board, and (3) the aircraft on board which the offense is committed is leased without crew to a lessee whose principal place of business, or permanent residence, is in that State. In addition, each Contracting State is required, regardless of where the offense is committed, to establish jurisdiction to prosecute any hijacker found within its borders whom it does not extradite.

At the present time, the criminal provisions of section 902 of the Federal Aviation Act relating to air piracy, interference with flight crew members and certain other acts are applicable to offenses committed on board U.S. aircraft and aircraft of the national defense forces of the United States. In the case of foreign aircraft, however, such provisions are limited, pursuant to section 101(32) of the Act ("special aircraft jurisdiction of the United States"), to crimes on board when such aircraft are in the territorial airspace of the United States, or when the aircraft next lands in the United States as the result of schedules or as the result of being forced to do so after having last departed therefrom. Thus, implementing legislation is required to meet the obligations imposed by the Convention both because of the existing limited criminal jurisdiction over offenses committed on board foreign aircraft and the requirement that hijacking be prosecuted wherever committed.

The bill expands the present criminal jurisdiction of the United States over foreign aircraft by amending the Act so as to make such jurisdiction applicable

to foreign aircraft landing in the United States with an alleged hijacker on board, without regard to the next scheduled destination or last point of departure of the aircraft. In addition, such jurisdiction is extended to foreign aircraft leased without crew, where the lessee has his principal place of business or permanent residence in the United States. Furthermore, Federal jurisdiction is established over the offense of hijacking, regardless of where the offense is committed, if the alleged offender is found in the United States.

In the Board's view, S. 2280, amends sections 101 and 902 of the Act so as to bring the laws of the United States into line with the key provisions of the Convention. The Board urges, therefore, enactment of the bill.

The Office of Management and Budget advises that there is no objection to the submission of this report, and that enactment of S. 2280 would be in accord with the program of the President.

Sincerely,

WHITNEY GILLILLAND,
Acting Chairman.

DEPARTMENT OF STATE,
Washington, D.C., March 3, 1972.

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

DEAR MR. CHAIRMAN: Your letter of August 26 requests the comments of the Department on S. 2299, a bill "to amend the Federal Aviation Act of 1958 to provide proper penalties in the event of air piracy and for other purposes."

As it now stands, Section 901(i) of the Federal Aviation Act makes aircraft piracy punishable either by death or by imprisonment for not less than 20 years. S. 2299 would modify these penalties when the hijacker "upon being advised by a crew member of the aircraft of (those) penalties . . . surrender(s) himself and whatever weapons he may have to the crew member thus allowing the aircraft to land at either its original destination or a point under control of the United States of America." He shall then not be subject to the above penalties but instead "shall be imprisoned for not more than five years."

Our first concern in a hijacking is the risk posed to human life. So long as the hijacker is in control of the aircraft, the danger to the passengers and crew remains unabated. The substantial reduction in liability to imprisonment provided for in this bill could operate as an incentive for the hijacker to surrender and thus bring to an end what may be a considerable risk to many lives and valuable property. This objective, the Department strongly endorses.

While the Department endorses the objectives of this legislation, it defers to the Department of Justice as to the feasibility and, therefore, the desirability of the specific provisions therein.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

DAVID M. ABSHIRE,
Assistant Secretary for Congressional Relations.

CIVIL AERONAUTICS BOARD,
Washington, D.C., March 6, 1972.

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

DEAR MR. CHAIRMAN: This is in reply to your request for the Board's views on S. 2299, a bill "To amend the Federal Aviation Act of 1958 to provide proper penalties in the event of aircraft piracy, and for other purposes."

Under section 902(i) of the Federal Aviation Act (49 U.S.C. 1472(i)), a person committing aircraft piracy is subject to a minimum sentence of twenty years and a possible death penalty. Pursuant to section 902(j), a person interfering with flight crew members or flight attendants in the performance of their duties

is subject to a fine of not more than \$10,000 or imprisonment for not more than twenty years, or both. If a deadly weapon is used in commission of the offense, the offender may be imprisoned for any term of years or for life. S. 2299 would amend sections 902(i) and (j) to provide that a person committing aircraft piracy or interfering with crew members who surrenders himself and any weapons in his possession to a crew member shall be subject to imprisonment for not more than five years rather than to the penalties provided in such sections.

Under section 902(h) of the Act, persons causing explosives to be transported aboard aircraft without proper markings are subject to a fine of not more than \$1,000 or imprisonment for not more than one year, or both. Section 902(1) imposes identical penalties with respect to persons carrying concealed weapons aboard aircraft. Both of these sections would be amended by the bill so as to increase the fine to not more than \$5,000 and the term of imprisonment to not more than five years. According to its sponsor, the bill is designed to improve law enforcement and safety programs.

The Board is in accord with the objectives of the bill. However, in view of the fact that the Department of Justice is vested with responsibility for the enforcement of sections 902(h), (i), (j), and (l), the Board defers to the views of such Department as to the desirability of S. 2299.

The Office of Management and Budget advises that there is no objection to the submission of this report.

Sincerely,

WHITNEY GILLILLAND,
Acting Chairman.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 9, 1972.

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

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 2299, a bill "To amend the Federal Aviation Act of 1958 to provide proper penalties in the event of aircraft piracy, and for other purposes."

The bill would amend subsections 902(i), (j), (h) and (l) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1472(i), (j), (h), and (l) which now provide criminal sanctions for the offenses of aircraft piracy, interference with flight crew members or flight attendants, transporting explosives and other dangerous articles aboard an aircraft, and carrying weapons aboard aircraft.

The bill would amend subsection 902(i), "Aircraft Piracy," by adding a new subparagraph (3) which would provide: "Notwithstanding the penalties outlined in paragraph (1) of this subsection in the event any person who commits or is in the process of committing aircraft piracy shall, upon being advised by a crew member of the aircraft of the penalties contained in paragraph (1) [death or imprisonment for not less than twenty years] surrender himself and whatever weapons he may have to the crew member thus allowing the aircraft to land at either its original destination or a point under control of the United States of America, he shall not be subject to the penalties contained in paragraph (1) but in lieu thereof shall be imprisoned for not more than five years."

The bill would also amend subsection 902(j) of the Federal Aviation Act of 1958, as amended, by providing for the same maximum penalty of five years imprisonment whenever the person interfering with flight crew members or flight attendants surrenders himself and any weapons under the circumstances described above.

Further, the bill would amend subsections 902(h) and (l) of the Federal Aviation Act of 1958, as amended, pertaining respectively to transportation of explosives and other dangerous articles, and carrying weapons aboard aircraft to increase the penalty of "\$1,000" and "one year" as found in those subsections by substituting therefor "\$5,000" and "five years."

The apparent primary purpose of the bill is to offer an inducement to the hijacker to abandon his plan by providing for a lesser penalty than the 20 year minimum found in § 902(i) of the Act. The Department is of the opinion, however, that the problems created by such a reduction would more than outweigh any possible benefits.

We doubt whether a penalty reduction for subsection (i) offenses would have the effect of inducing a hijacker to abandon his plan. Rather, such a reduction could have the undesirable result of providing the hijacker with an easy way out in the event that he comes to realize that his scheme will be frustrated. The hijacker could consciously permit himself to be talked out of his illegal endeavor in order to avoid the harsher penalties once it appears that the hijacking will fail. This would enable him to have it both ways: he could be successful in carrying out the piracy or he could let himself be talked out of it when failure became evident, thereby subjecting himself to only a 5 year maximum sentence. Such a penalty structure in fact could actually encourage hijacking attempts.

Moreover, the conduct which the subsection is designed to deter might well have occurred by the time of surrender. The plane could be rerouted, crew members could be injured and the passengers could be in a severe state of fright. It would be anomalous to impose only a 5 years maximum sentence under such circumstances just because the hijacker surrenders and permits the plane to land in the United States.

The bill would also provide for a 5 year maximum penalty for violations of subsection (j) (interference with flight crew members) when the perpetrator surrenders while in the commission of the illegal act. We likewise oppose this provision for the reasons mentioned above and, in addition, because the subsection already provides for a great range of penalties, making a further inducement unnecessary. (Presently, whoever violates subsection (j) shall be fined not more than \$10,000 or imprisoned not more than 20 years or both. If a deadly or dangerous weapon is used the penalty is imprisonment for any term of years or for life.)

We also believe that the bill would place an untenable burden on the crew. They would be encouraged to try to talk the hijacker into surrender during a situation which might be exceedingly dangerous. While such an attempt to dissuade the hijacker might be successful under the circumstances discussed above, i.e., when it is to his benefit it might also increase the danger to both crew and passengers if he happens to have a violent personality and has no intention of surrendering.

As to the portion of the bill which would substitute a more severe penalty for violations of subsections 902(h) and (l) of the Act, the Department considers the present penalty of a \$1,000 fine or one years imprisonment, or both, sufficient for an unaggravated offense. With respect to carrying, or attempting to carry, dangerous or deadly weapons aboard an aircraft with a willful disregard for human life, it is believed that the penalty should be more severe. In this regard, the Department has proposed legislation—S. 2567—which would, *inter alia*, amend § 902(l) to cover this situation and to provide for a stiffer penalty.

For the reasons set forth above, the Justice Department is opposed to the enactment of this legislation.

The Office of Management and 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,
Acting Attorney General.

NATIONAL TRANSPORTATION SAFETY BOARD,
DEPARTMENT OF TRANSPORTATION,
Washington, D.C., August 7, 1972.

Hon. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Thank you very much for your letter of August 1, 1972, requesting comments from the National Transportation Safety Board on S. 3815, a bill "To amend the Federal Aviation Act of 1958 in order to require the screening by weapons-detecting devices of all passengers in regularly scheduled air transportation."

The Safety Board believes that the Federal Aviation Administration has adequate authority to require the above screening devices without new legislation. In addition, since the manner in which these devices are financed does not fall within our authority, we will defer to the Federal Aviation Administration and the Office of the Secretary of Transportation for comments on S. 3815.

Sincerely,

Adm. LOUIS M. THAYER,
Acting Chairman.

OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., September 7, 1972.

Hon. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice on S. 3871, a bill "To amend the Federal Aviation Act of 1958 and establish a weapons detection program under the Attorney General to prevent aircraft piracy."

At present the authority to prescribe regulations for the safety and security of air carrier operations is lodged in the Secretary of Transportation who operates through the Federal Aviation Administration. S. 3871 would excise from that authority and vest in the Attorney General so much of that authority as relates to the screening by weapons detecting devices of all passengers and their carry-on baggage before boarding regularly scheduled air transportation. The bill would require the Attorney General to furnish such devices and United States marshals and deputies to operate them. The bill provides for an Office of Aviation Security in the Department of Justice to carry out the program.

In sections 2-7 of the bill are amendments for dealing with threats and carrying of weapons on air carriers. These sections essentially parallel S. 2567, a bill introduced at our request and aimed at meeting certain technical deficiencies in existing law. S. 2567 is presently pending before the Judiciary Committee. Section 8 of the bill would authorize termination of landing rights in the United States of any country refusing to extradite a person accused of air piracy. The last section requires termination of the program of placing Federal employees aboard aircraft to protect against air piracy.

Subsequent to the introduction of S. 2567, conferences between representatives of the Department of Justice and the Judiciary Committee resulted in a number of agreed changes to that bill as reflected in our letter to Chairman Eastland of May 11, 1972. Accordingly, we recommend enactment of that refined version of S. 2567 rather than adoption of sections 2-7 of S. 3871.

So far as section 1 of S. 3871 is concerned, we see serious objection to the transfer of a part of the regulatory authority over air carrier security from the Department of Transportation to the Department of Justice. Though perhaps the most significant, the passenger boarding gate is far from the only avenue to perpetration of air piracy. Every sound principle of operations management calls for dealing with the regulatory authority of air carrier security as a unitary problem with responsibility for all facets thereof fixed in a single Federal agency to the greatest degree possible. The Administration is currently examining the roles and missions of the agencies involved in the program, and we urge the Committee not to approve legislation in this area pending completion of that examination.

Another objectionable feature of the bill is the provision for the use of marshals to operate screening devices. While the Federal responsibility for handling actual air piracy is well recognized and we believe well handled, it seems inappropriate to us to employ a massive force of trained federal law enforcement personnel at such a task. In our view the matter of pre-boarding security and handling of those selected in screening for further checks does not differ in any respect from the general problem of preserving law and order in air terminals. This is a responsibility of local law enforcement agencies working in conjunction with the concerned airlines and airports. We do have deputy marshals stationed at 33 major airports as a stop gap measure to back up carrier screening activities. Ultimately, as the program for ground security matures, we trust that local agencies will not only accept but seek the responsibilities now handled by marshals.

As the termination of landing rights involves the question of foreign relations, we defer to the views of the Department of State on section 8 of the bill. We should note however that termination for refusal to extradite would conflict with the option in the Tokyo and Hague Conventions to extradite or prosecute.

Section 9 of the bill would appear to preclude placing Federal employees on a flight carrying passengers of special interest or as to which we have intelligence indicating a piracy may be attempted. Our understanding is that, as ground security measures have progressed, the interim on-board program is being cut back to the point where federal employees will board flights only in specific "on request" instances. In our view section 9 imposes an unwonted inflexibility on the program.

The Department of Justice recommends against enactment of this legislation. The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

RALPH E. ERICKSON,
Deputy Attorney General.

Senator CANNON. Our first witness this morning will be the Honorable James Pearson, U.S. Senator from Kansas, who wished to make a statement in support of his bill.

**STATEMENT OF HON. JAMES B. PEARSON,
U.S. SENATOR FROM KANSAS**

Senator PEARSON. Mr. Chairman, I am pleased you have called these hearings to consider legislation which would implement the Anti-hijacking Convention. The Senate consented to the resolution of ratification of the Convention on September 8, 1971 by a rollcall vote of 53-to-0. Under the terms of the treaty, the United States is obligated to conform its domestic law in several significant respects.

The United States and all other countries who are signatories to the treaty are required to adopt severe criminal sanctions for the crime of international hijacking.

It is wholly appropriate that this committee proceed promptly with the legislation proposed by the administration to implement the Convention, for the deterrent to aircraft piracy must be as broadly based and as effective as possible.

Nevertheless, Mr. Chairman, it is significant to note that Cuba is the principal sanctuary of aircraft hijackers. The record will show that, out of a total of 220 successful hijackings of United States and foreign aircraft through July 1971, about 61 percent have gone to Cuba. The Cuban regime, I regret to say, is not a member of the signatory states to the Antihijacking Convention. The strong provisions regarding extradition and criminal sanctions contained in that treaty, therefore, do not act as an effective deterrent to hijackers whose destination is Cuba.

Therefore, I believe it wholly appropriate for this committee to consider seriously legislation to aid aircraft crew members and law enforcement officers in dealing with hijackers who would consider Cuba as their destination.

I have offered a bill—S. 2299—which would offer an inducement to any hijacker who, through persuasion by the crew or by law enforcement authorities, decides to abandon his dangerous escapade. The would be hijacker who experiences inflight change of heart, or is convinced by law enforcement officials that his plan is hopeless, would be subject to lesser penalties than the hijacker who carries his plan to its ultimate conclusion.

Now, I carry no brief for any hijacker—whether he experiences a change of heart or not. The crime is one of the most serious and should

be subject to the most severe penalties. But my deep concern for innocent passengers and crew members prompts me to offer S. 2299 for the consideration and study of this committee.

If the committee in its wisdom determines that differential penalties are appropriate to deal with all aspects of the profoundly complicated hijacking problem, then I believe we should proceed to review carefully the criminal sanctions appropriate for a hijacker who surrenders his person and his weapons and returns peaceably to face the consequences of his action.

The differential penalties proposed in my legislation apparently do not contradict any obligations under the treaty, and, therefore, I consider them appropriate subjects for the consideration of the committee.

Senator CANNON. The next witness will be Gen. Benjamin O. Davis, Jr., Assistant Secretary of Transportation for Safety and Consumer Affairs, followed by John W. Barnum, General Counsel of the DOT, and J. J. O'Donnell, president of the Air Line Pilots Association.

General Davis, you may proceed.

STATEMENT OF HON. BENJAMIN O. DAVIS, JR., ASSISTANT SECRETARY OF TRANSPORTATION FOR SAFETY AND CONSUMER AFFAIRS, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY JOHN W. BARNUM, GENERAL COUNSEL

General DAVIS. Thank you, Mr. Chairman.

I appreciate this opportunity to appear before you today to discuss S. 2280 and S. 2299, two bills amending in different respects provisions of the Federal Aviation Act applicable to aircraft piracy and certain other crimes aboard aircraft.

Aircraft hijacking is a dangerous and aggravating problem which has been with us since the early 1960's. We have taken a number of positive steps in an attempt to suppress it, but it is not a problem which is easily solved. Among the factors which contribute to the difficulty in stopping it are its international scope, the widely divergent motives of hijackers, and the critical aviation safety problem that is involved. As often as it is perpetrated, the crime of hijacking has the awful potential of causing a major air disaster.

It has been apparent for some time that in addition to taking security measures to thwart hijackers, it is important that action be taken to provide for their prosecution when they divert aircraft from one country to another. This led to the drafting in 1970 at The Hague of the Convention for the Suppression of Unlawful Seizure of Aircraft, which has now been signed by 81 countries, of which 24 have completed the ratification process.

The aim of the countries that participated in drafting the Convention was to insure that all hijackers, wherever found, would be subject to severe punishment. The Senate gave its advice and consent to the ratification of the Convention early last September, and on September 14 the United States deposited its instrument of ratification.

Mr. Chairman, John Barnum, the General Counsel of the Department, will provide in his statement more detail on the background and scope of the Convention and discuss the particulars of S. 2280,

the implementing legislation submitted by the Department on which we urge the committee to act favorably. Before he does that, however, I would like first to make a number of remarks about our current anti-hijacking program and then briefly discuss S. 2299.

We developed some time ago a basic system for screening passengers and their hand luggage before they board air carrier aircraft, and a number of airlines put it in use at many locations on a voluntary basis. To the extent it has been used, the system has been highly effective.

In January of this year, however, hijackings again reached almost epidemic proportions, and, as a result, the FAA issued early in February an emergency regulation requiring most U.S. air carriers to adopt and put into use a screening system acceptable to the FAA Administrator.

We believe that use of these screening systems on a wider scale should be of considerable value in thwarting would be hijackers. In fact, we believe that nine of the 13 hijackings which occurred during the past 6 months could have been prevented if there had been adequate preboarding passenger screening.

The FAA emergency regulation has made it necessary to have more law enforcement officers available to assist the airlines. Therefore, we are presently taking steps to effect a switch in emphasis from air guards to ground security. We still believe, however, that the use of sky marshals serves as a valuable deterrent to would be hijackers. We will continue to use these marshals on flights which we consider to be especially vulnerable to hijacking.

It is quite clear, however, that the primary place for achieving security is on the ground before the aircraft is boarded.

I would like to add a point about followup procedures when a hijacking does occur. We are learning new ways of dealing with a hijacking once it does occur, and recent law enforcement efforts following a hijacking have been very successful. Eight of the last 13 hijackings ended with the capture or death of the hijacker. The FAA, the FBI, and the U.S. Air Force have demonstrated a high degree of expertise in marshaling their resources to advise the crews of hijacked aircraft, to trail the aircraft, and to apprehend the hijacker.

Now I would like to turn to S. 2299. That bill contains a number of amendments to the piracy and other criminal provisions of title IX of the Federal Aviation Act. The principal amendment would provide a penalty of only 5 years in prison for hijacking in a case where a person in the process of hijacking an aircraft surrenders himself and his weapons to the crew, thus allowing the aircraft to land at a point under U.S. control.

Apparently the intent of the bill is to arm the pilot of a hijacked aircraft with a forceful argument as to why the hijacker should return control of the seized aircraft to the crew. At first blush it would appear that such could be the logical result where a hijacker has second thoughts about his crime and realizes that he can escape the full penalty of what may have been a spur-of-the-moment act by surrendering himself and his weapons. I cannot categorically state that such an "out" for both the hijacker and his victims would not be desirable under certain circumstances. I am very fearful, however, that S. 2299 might have an adverse effect. Based on the experience we have gained in this area, it appears that by reducing the existing penalty, S. 2299 might well encourage more hijackings.

I believe that the present statute with its penalty of death or imprisonment for not less than 20 years serves as a deterrent. Even desperate men would think twice before performing an act with such a penalty attached. The same desperate men, however, might decide to give it a try if they knew that they could escape the full penalty for their deed if they were to surrender at a point in time when it became apparent they could not succeed. Accordingly, Mr. Chairman, we do not recommend enactment of this provision.

S. 2299 also would increase substantially the penalties for carrying a concealed weapon aboard an air carrier aircraft. The Department of Justice has also recommended an increase in these penalties in a bill introduced in the Senate as S. 2567. The Department of Justice proposal, however, leaves intact the existing penalties under section 902 (1) of the Federal Aviation Act in cases where the crime is not committed willfully and with reckless disregard for the safety of human life. We believe the Department of Justice proposal properly identifies the situations where more stringent penalties are appropriate, and we recommend that their version be adopted.

Mr. Chairman, that concludes my prepared testimony. Now, with your permission, I would like to have Mr. John Barnum, our General Counsel, continue with a discussion of S. 2280.

Senator CANNON. Thanks very much, General.

Do you have the hijacking figures for February? How many hijackings were attempted in February?

General DAVIS. None, sir.

Senator CANNON. None in February? So in January we had six attempts, with five being unsuccessful?

General DAVIS. That is correct, sir. And in the case of the sixth one, a man and his wife and baby got to Cuba.

Senator CANNON. Now, of the people who are signatories to the convention, of course, Cuba is not, so that this wouldn't particularly help with reference to Cuba.

What about Italy? Is Italy a signatory now?

General DAVIS. They have signed, sir, but they have not yet submitted their instrument of ratification.

Senator CANNON. All right. What about Syria?

General DAVIS. I will check that.

Senator CANNON. I am just picking out some of the places where hijackings terminated other than Cuba to see which ones would and would not be covered.

Mr. BARNUM. They have not signed, sir.

Senator CANNON. Syria has not signed. You say Italy has but not completed. How about Lebanon?

Mr. BARNUM. Lebanon has not signed.

Senator CANNON. Egypt?

Mr. BARNUM. The United Arab Republic has not signed.

Senator CANNON. Jordan?

General DAVIS. They have.

Mr. BARNUM. Jordan has signed and ratified.

Senator CANNON. So really we are talking about four places then where hijackings have occurred, Cuba, Syria, Lebanon, and Egypt, and five if we include Italy that is not completed at the present time. Is that right?

General DAVIS. That is correct, Mr. Chairman.

May I add a statement, however, Mr. Chairman?

Senator CANNON. Yes, sir.

General DAVIS. I believe, Mr. Chairman, that in spite of the fact that these countries have not signed, and that Italy hasn't ratified the Convention—and such action is very important for it would tend to strengthen on a worldwide basis our antihijacking position, the fact that the Convention has been signed by so many countries and the fact that it does constitute part of the fabric of international law and is a strong expression of attitude pertaining to hijacking will enable many countries that do not have antihijacking statutes, particularly countries that have not yet been touched by hijacking, to initiate action to enact such statutes.

So I think the beneficial effects of the Convention, while not complete certainly, are very great indeed from the standpoint of a world posture on hijacking.

Senator CANNON. Now, what about the Eastern European, Soviet bloc nations? Have any of them signed?

Mr. BARNUM. Many. Yes, sir.

Senator CANNON. Which ones?

Mr. BARNUM. Bulgaria has signed and ratified. The U.S.S.R. has signed and ratified. Czechoslovakia has signed. East Germany has signed and ratified. Hungary has signed and ratified.

Senator CANNON. Red China?

Mr. BARNUM. Negative.

Senator CANNON. Yugoslavia?

Mr. BARNUM. Has signed. Ukranian S.S.R. has signed. Poland has signed. Romania has signed.

Senator CANNON. And those that have signed I presume are in the ratification-completion process now?

Mr. BARNUM. I don't know the status of that.

I might mention, sir, since you mentioned some of the Arab countries, in addition to Jordan which has signed, Kuwait has signed and Iraq has signed and ratified.

Senator CANNON. All right, Mr. Barnum. Do you want to proceed with your statement?

Mr. BARNUM. Thank you, Mr. Chairman and members of the committee.

I also appreciate this opportunity to appear before you today to discuss S. 2280. This is the bill submitted by the DOT designed to implement for the United States the Convention for the Suppression of Unlawful Seizure of Aircraft (sometimes referred to as the Hijacking or Hague Convention).

The Hijacking Convention was signed by the United States and 49 other countries at The Hague on December 16, 1970. The Convention was designed to strengthen substantially the Tokyo Convention which applies to the commission of crimes aboard aircraft. The Tokyo Convention provides that in the case of aircraft in flight in international air transportation the law of the state of the flag of the aircraft applies to events occurring aboard that aircraft. That convention gives certain powers and responsibilities to the commander of an aircraft with respect to crimes committed aboard his aircraft. In the case of a hijacked aircraft, contracting states are obliged to restore control

of the aircraft to its lawful commander, to permit the passengers and crew to continue their journey as soon as practical, and to return the aircraft and its cargo to the lawful possessors.

However, the Tokyo Convention does not oblige any state to establish jurisdiction over hijacking or to extradite or submit to prosecution hijackers in its custody. It is this gap in the international legal system which the Convention for the Suppression of Unlawful Seizure of Aircraft closes.

This convention, the Hijacking Convention, obligates its parties to establish jurisdiction over hijackers and agree to extradite or submit to prosecution offenders in its custody.

Current law already enables the United States to implement in many respects the Hijacking Convention. In 1961, Congress added to title IX of the Federal Aviation Act a number of provisions dealing with the commission of crimes aboard aircraft. These included provisions proscribing aircraft piracy, interference with the performance of the duties of a flight crew member, and a number of crimes of violence such as murder and manslaughter.

In 1970, following the ratification of the Tokyo Convention, a number of amendments were made to those provisions to fulfill our responsibility to implement that Convention.

Previous to the enactment of these amendments, most of the criminal provisions in title IX applied to acts committed aboard aircraft in flight "in air commerce." The 1970 amendments extended and clarified Federal jurisdiction over these crimes by establishing the "special aircraft jurisdiction of the United States" to include while in flight:

- (1) All civil aircraft of the United States;
- (2) All aircraft of the U.S. national defense forces; and
- (3) All other aircraft (a) within the United States, or (b) outside the United States if the aircraft has its next scheduled destination or last point of departure in the United States, provided that the plane next actually lands in the United States.

In order to implement effectively the Hijacking Convention, additional amendments to these provisions are required, and this is the purpose of S. 2280.

First, the definition of the special aircraft jurisdiction of the United States is amended to include:

- (1) Any aircraft outside the United States aboard which the offense of air piracy is committed, if the aircraft lands in the United States with the offender still aboard; and
- (2) Any aircraft, no matter what its registration, leased without crew to an operator who has his principal place of business in the United States or who is a permanent resident of the United States.

Secondly, in order to satisfy article 4, paragraph 2 of the Convention, the bill includes a special provision establishing jurisdiction over the offense of hijacking when it occurs anywhere outside the special aircraft jurisdiction of the United States but the alleged offender is later found in the United States. This is the so-called universal jurisdiction provision which makes hijackers outlaws wherever they are found.

We are proposing that there be established a separate substantive offense to cover this situation, carrying its own penalty provision. The proposed penalty for this offense would be death or imprisonment for

any term of years, or for life, whereas under our existing law—and under our proposed law as it relates to the extension of our special aircraft jurisdiction—the offense of aircraft piracy is punishable by death or by imprisonment for not less than 20 years, or for life. Thus, the maximum penalty is the same for both provisions; only the minimum penalty is different. It should be noted, however, that the existing domestic law on air piracy provides for lesser included offenses such as interference with flight crew members, which is punishable by imprisonment “for any term of years,” the same minimum penalty we recommend for the “international” offense. Consequently, the penalty structure for a “domestic” offender is in practice no different from that which would be applied by the proposed legislation to implement the universal jurisdiction provision of the Convention, since in some domestic cases the offender may be prosecuted for a lesser included offense rather than air piracy because of lack of evidence, extenuating circumstances, or other reasons.

Before closing, I should mention that we have prepared an amendment which would preclude the interpretation that the provision in the bill establishing the offense of hijacking outside the special aircraft jurisdiction of the United States applies to a hijacker of a purely domestic flight within a foreign country. The amendment conforms the provision to article 3, section 3 of the Convention which states that the Convention applies only if the place of takeoff or the place of actual landing of the aircraft is situated outside the territory of the state of registration of the aircraft. The amendment also incorporates into the new universal jurisdiction provision the definition of the term “in flight” as it is used in the Convention. The amendatory language we propose is attached to my statement. In addition, there is a change of a clerical nature which should be made to the bill. Section 4 contains effective date provisions which would have been appropriate had the bill been enacted before the Convention was ratified. Now, however, those provisions no longer are necessary, and we recommend that they be deleted.

Mr. Chairman, the United States was an active participant in the development of the Hijacking Convention and was one of its original signatories. Last September the Senate gave its consent to ratification of the Convention. The United States was the 10th state to so act, thereby enabling the Convention to enter into force. The next official step needed to fulfill our obligations with respect to the Convention is the enactment of legislation properly adjusting our domestic law to its provisions. In order to insure such action, we urge that the committee act favorably on S. 2280.

Mr. Chairman, this concludes my prepared testimony. Now General Davis and I will be happy to answer any further questions you or the committee may have.

(The attachment follows:)

AMENDMENTS TO S. 2280

1. Insert between lines 6 and 7 on page 4 the following:

“(3) This subsection shall only be applicable if the place of take-off or the place of actual landing of the aircraft on board which the offense as defined in paragraph 2 of this subsection is committed is situated outside the territory of the state of registration of that aircraft.

"(4) For purposes of this subsection an aircraft is considered to be in flight from the moment when all the external doors are closed following embarkation until the moment when one such door is opened for disembarkation, or in the case of a forced landing, until the competent authorities take over responsibility for the aircraft and for the persons and property aboard."

2. Delete section 4 (line 15 of page 4 through line 5 of page 5).

Senator CANNON. What effect would the Hague Convention have on the recent hijacking of a Lufthansa jet by Arab commandoes to Aden and the subsequent extortion?

Mr. BARNUM. The universal jurisdiction provision, sir, would permit us to prosecute or extradite the hijackers if they came into this country or into any other signatory country.

Senator CANNON. Well, but apply it to that situation there, the hijacking of the Lufthansa jet by the Arabs and going to Aden and then the extortion.

Mr. BARNUM. The universal jurisdiction provision would cover anything that happened on that flight. It was a flight of a German plane that landed in a country other than the place in which it originated, and therefore the people who perpetrated the hijacking could be prosecuted under this Convention by any nation signatory to the Convention.

Senator CANNON. I see.

Mr. BARNUM. They could be, would have to be, submitted to prosecution or extradited.

Senator CANNON. Is Aden a signatory?

Mr. BARNUM. Negative.

Senator CANNON. Now, under the terms of the Hague Convention does the United States have a right to extradite from foreign nations hijackers accused of hijacking U.S. aircraft or aircraft under the special aircraft jurisdiction of the United States?

Mr. BARNUM. Only if we have an extradition treaty with the country involved.

Senator CANNON. In other words, it's not covered in this convention alone—that right of extradition?

Mr. BARNUM. That's correct.

Senator CANNON. Now, are the penalties for aircraft piracy the same in each of the nations which have become signatories to the Hague Convention?

Mr. BARNUM. I do not believe they are. The Hague Convention merely requires in article 2 that each country establish sever penalties for hijacking.

Senator CANNON. Are the U.S. laws more stringent than most of the other signatories' laws?

Mr. BARNUM. I'm not familiar with the laws of the other countries. I don't really know the answer to that, Senator. I will be glad to ascertain from the Department of State what the laws are in other nations.

Senator CANNON. Will you find that out and supply that for the record?

Mr. BARNUM. I certainly will.

(The following information was subsequently received for the record:)

The Department of State does not have a comprehensive list of the laws of foreign governments penalizing hijacking. We do have information from some governments, which is summarized below.

Country	Offense	Penalty
Argentina.....	Seizure of aircraft.....	3 to 15 years.
Australia.....	do.....	20 years.
Brazil.....	Endangering aircraft.....	2 to 5 years.
	If crash results.....	4 to 12 years.
Denmark.....	Disturbing security of operation of public transportation.....	6 years with possible $\frac{1}{2}$ increase for aggravating circumstances.
France.....	Diversion of aircraft.....	5 to 10 years.
	If injury results.....	10 to 20 years.
	If death results.....	Life.
Iran.....	Seizure of aircraft.....	3 to 15 years.
	If threat carried out with firearms or explosives.....	Life.
Italy.....	Appropriation of an airplane.....	3 to 12 years.
	If violence toward crew.....	10 to 20 years, reduced penalty by $\frac{1}{2}$ if by persons other crew.
Japan.....	Seizure of aircraft.....	Minimum 7 years.
	If death results.....	Death or life sentence.
Lesotho.....	Seizure of aircraft by force.....	Minimum 15 years.
Mexico.....	Diversion of aircraft.....	5 to 20 years.
Norway.....	Forcing another to do something by threat.....	Up to 3 years.
	Depriving another of liberty.....	Up to 5 years.

Senator CANNON. Senator Pearson.

Senator PEARSON. Mr. Chairman, first, I assume my statement was incorporated in the record.

Senator CANNON. Yes.

Senator PEARSON. I was required to be on the Senate floor.

May I ask, Mr. Barnum, taking into account some information supplied me by staff that indicates in July of 1971, of the 85 successful hijackings of U.S.-registered aircraft, 75, or about 88 percent, were hijacked to Cuba, and of course the Convention and all legislation we pass implementing the same are very vital and quite important, but as important as it is, I am concerned that it would mislead some people to think that we are really doing something of great significance in reducing the incidence and the dangers of hijacking.

Now, do you know—perhaps General Davis may have some information—whether or not the State Department now is continuing any sort of unilateral conversations with the Cuban Government to seek some determination, if we can find some resolution, of the problem which besets us?

It is my understanding that the point of controversy now is that the Cuban officials indicate that any such unilateral agreement would have to be in conformity with an existing statute that would cover Cuban nationals in boats, and so forth, seeking to enter into this country.

Can you tell me whether or not the State Department is continuing its effort or whether the DOT is or whether, General Davis, your responsibilities let us continue to talk to the Cubans on this question?

Mr. BARNUM. Senator Pearson, if I may—and General Davis can perhaps supplement this—we have, of course, through the Swiss Embassy in Cuba urged the Cuban Government to become a party to the Hague Convention. The Cuban Government has repeated, however, on numerous occasions that it does not intend to enter into any multi-lateral arrangements on hijacking. We have, nevertheless, attempted to follow this up on a bilateral basis. In the fall of 1969 the Cuban

Government adopted a decree in which it expressed its willingness to enter into bilateral arrangements with other governments for the reciprocal return of hijackers. Deeply concerned about the hijacking problem which threatens the safety and lives of all air passengers, the United States followed this matter up on various occasions with the Cuban Government through the Swiss Embassy in Havana, which represents our interest there, but to date we do not have any conclusive results.

Senator PEARSON. Am I correct in stating that the point of controversy we do not seem to be able to overcome is the Cuban Government's insistence that any bilateral arrangement must be consistent with one of their statutory provisions which would require this country to return all Cuban nationals that might seek asylum in the United States?

Mr. BARNUM. I don't believe that is entirely correct, Senator Pearson.

Senator PEARSON. What would be the correct analysis of the difficulties involved?

Mr. BARNUM. May I ask the Department of State to supply to the committee the correct answer to your question?

Senator PEARSON. Of course, that might be the proper thing to do anyway.

(The following information was subsequently received for the record:)

The United States has endeavored since 1968 to work out with the Government of Cuba an arrangement for the return of hijackers on a reciprocal basis. Cuba has rejected multilateral agreements for the return of hijackers, but on September 16, 1969, it promulgated law 1226 which appeared to contemplate bilateral agreements for the return of hijackers. The United States promptly followed up this matter with a proposal for a bilateral understanding and we submitted a draft memorandum of understanding to the Government of Cuba through the Swiss Embassy in Havana on July 11, 1970. Although the Government of Cuba has from time to time indicated in general terms that it is prepared to conclude a bilateral agreement with the United States on the basis of its law 1226 of September 16, 1969, the Cuban Government has never made any specific response to the proposed terms of an agreement submitted in writing by the United States in July 1970. Despite repeated inquiries, we have had no substantive response from the Cuban Government since September 29, 1970 when it merely reiterated the general position that Cuba is prepared to conclude an agreement based on its law.

The Cuban law 1226 encompasses the hijacking of ships as well as aircraft and certain crimes relating to ships and aircraft, and to illegal entry or departure from Cuba. In that law, Cuba reserves the right to deal with Cuban nationals and to grant political asylum to others. The U.S. proposal was based on this Cuban position. It applies to the hijacking of both ships and aircraft, and makes the same reservations with respect to American nationals and the right to grant political asylum. Obviously, the United States Government could not agree to return refugees to Cuba simply because they left that country without the consent of Cuban authorities.

The Government of Cuba has neither accepted nor rejected the U.S. proposal, nor has it made a specific substantive comment on it. We have and shall continue to explore the possibility of reaching an agreement with Cuba, but in the circumstances we cannot be certain that Cuba is interested in pursuing the matter.

Senator PEARSON. But I just want to express the hope that we can continue to have talks either on a bilateral basis through the Swiss Embassy or perhaps private talks. I know some private parties who want to follow through in this particular regard.

General Davis, let me say that I concur that the switch in emphasis from apprehension to prevention and greater emphasis on ground control seems to me the proper course. And I guess we have been making substantial advances in the various mechanisms that we have to control and to prevent potential hijackers.

I was very much interested in your comments about S. 2299 that was introduced, of course, seeking to give crews, as you indicated, another means or another method of seeking to prevent tragedies after a hijacking has occurred. Your position that it might encourage rather than deter hijacking is an interesting one for me, and if that really is the case we will not pursue this kind of legislation any more.

But is it your feeling that one who would seek to engage in a hijacking operation would become such a student of not only the procedures of the crew and the procedures of the airline and air traffic control and ground police policies that they also in their study and preparation for this kind of crime would know that there was a statute that once they got into it and all didn't go well they might get out with a lesser penalty?

General DAVIS. Senator, to give you a direct answer, I don't think so. We discussed the penalty provision in S. 2299 at great length with the people who work with this problem day in and day out and who try to analyze the attitudes of potential hijackers as well as people who have hijacked airplanes, and the conclusion that we came to is expressed in my statement. But I'd be the first one to say to you, sir, that the intangibles really dominate this question, and I don't think that anybody really knows. To be direct, I don't think that most hijackers have been students of statutes to the degree that the penalties would enter into their consideration.

However, I do believe, sir, that we must maintain a very hard line with respect to punishment of hijackers, and I think that I would tend to view with alarm and disagreement any proposal that represented a weakening of an important deterrent. And we do feel that even though we want to attack hijacking before the hijacker gets aboard the aircraft, we also want to maintain throughout the system a very strong defense in all aspects of it, including the deterrent value of heavy penalties.

Mr. BARNUM. May I supplement that answer, Mr. Chairman?

Senator PEARSON. Yes, please.

Mr. BARNUM. I think it only takes one man to have read it, if the Senate passed a bill lowering to 5 years the penalty for an abortive hijacking, to say, "Here's my chance to go for all the marbles, and if I don't get out I'll go for 5 years," to recommend that this committee not adopt that bill.

And I point out another thing to you, Senator.

Senator PEARSON. Let me interrupt you to say, of course, what we are speculating upon is generally mentally disturbed people, and for us to sit and try to analyze what some person is going to do under great pressure starting out with deficiencies of reason is a speculation of the wildest sort.

But what the purpose was—and I'm sure you understand what the purpose of the bill was—was to accommodate this concept and thought that you do not pin a guy into a corner to such an extent that there is no way out except the use of firearms or explosives or violence.

I think that has something to recommend itself.

Mr. BARNUM. I would like to make a second point, however, let's assume the man has not read it in the newspaper and is deranged and here he is on the plane being cajoled by the crew and the stewardesses and specifically being told about this 5-year penalty in the case he gives up.

As I believe the Department of Justice has pointed out in their letter to the committee, one of their concerns and one of our concerns is that this very negotiating procedure itself further endangers the crew and the passengers, that the burden on the crew to try to talk the hijacker into surrendering on the basis that "if you do this you will get off with a lesser penalty" adds further confusion on the aircraft at a time when all of the crew should be more concerned with getting that plane down safely.

Senator PEARSON. I am grateful you raised the point. I think this is precisely the place and precisely the manner in which we really ought to look at this thing from every direction, and I think these are helpful objections frankly.

Thank you, Mr. Chairman.

Senator CANNON. Thank you, Senator.

Thank you very much, Mr. Barnum and General Davis.

The next witness is Capt. J. J. O'Donnell, president of the Air Line Pilots Association.

Good morning.

STATEMENT OF CAPT. J. J. O'DONNELL, PRESIDENT, AIR LINE PILOTS ASSOCIATION; ACCOMPANIED BY CAPT. AL BONNER, FIRST VICE PRESIDENT; AND JACK BAVIS, EXECUTIVE ADMINISTRATOR

Captain O'DONNELL. Good morning, Mr. Chairman.

I am John O'Donnell, president of the Air Line Pilots Association. With me this morning I have Capt. Al Bonner, who is the first vice president of the Air Line Pilots Association, and Mr. Jack Bavis who is the executive administrator of the Air Line Pilots Association and also our flight security coordinator.

I am pleased to be invited to participate in this hearing today on two bills that are of great importance to the 46,000 airline pilots and flight attendants I represent. Our position in the matter of air piracy is very simple. We want the incidence of this crime against safe air passage reduced to zero.

We are in favor of any and all measures that will prevent the crime of hijacking from occurring in the first place. When it does occur, we favor any and all measures that will terminate the act promptly and with complete safety for passengers and crew.

Senator Magnuson's bill, S. 2280, officially implements the Convention for the Suppression of Unlawful Seizure of Aircraft, which has already been ratified by this country. We were certainly in favor of ratification of that treaty and so testified before the Senate Foreign Relations Committee. We are presently engaged in a program in concert with airline pilot associations of other nations to encourage a more rapid ratification by all signatories. Our purpose in this initia-

tive is to arrive more quickly at that point in time when a hijacker will have no safe haven, no place to go where he can escape punishment for his crime.

There is concern among our membership, however, that some officials of the State and Transportation Departments believe the hijacking problem is solved now that the United States has ratified the treaty and the Federal Aviation Act of 1958 will be properly amended through Senator Magnuson's antihijacking act. We all know the menace still exists and, if anything, is more monstrous than ever as ransoms paid have now reached the \$5 million mark.

I am certain that this committee shares our concern and will keep a wary eye out for apathy on the part of Government officials in this regard. Therefore, we fully concur with the provisions of S. 2280 with the hope that the contents of the legislation will be fully and continually publicized and thus truly act as a deterrent.

In regard to Senator Pearson's bill, S. 2299, we have had enough experience with hijacking to realize that, once a hijacking has begun, it is mostly up to the crew members to help bring it to a safe conclusion as quickly as possible. Under the present law, however, a hijacker has no inducement to quit his undertaking once he has made his move. He has nothing to gain by giving up before he has achieved his mission. Therefore, we concur that the law should provide for some inducement to a hijacker to surrender and give command of the aircraft back to the captain.

We also concur with the provisions of the bill that increase the penalty from \$1,000 and 1 year's imprisonment to \$5,000 and 5 years' imprisonment. This helps to take the crime out of the "slap on the wrist" category and gives more of a measure of deterrence to the would be hijacker. As everyone knows, we need all the deterrence we can get.

Mr. Chairman, it is the firm conviction of airline crews that the best way to stop hijacking is to prevent the crime from happening in the first place. Prevention is always better than apprehension—especially if apprehension is attempted by a shootout at 30,000 feet. We are glad to see that the FAA is now paying more attention to ground security measures.

We are also gratified that clarification is being made affirming who has jurisdiction for airport security, who will search baggage, and how bomb scares and hijacking attempts will be handled at each air carrier airport. We are cooperating in this effort.

To conclude, Mr. Chairman, the two bills under consideration today should be passed. They must not be considered in any sense the final answer to the hijacking problem. We are confident that no member of this committee believes they are.

Thank you for the opportunity to appear on this vital subject. We want you and the American public to know that we stand ready to assist in any way possible to prevent the dastardly crime of airliner hijacking that still occurs with frightening frequency.

Thank you very much.

Senator CANNON. Thank you, Captain O'Donnell.

I don't know whether you arrived in time to hear General Davis and Mr. Barnum oppose Senator Pearson's bill for the reasons set forth. The Department of Justice has also opposed that particular bill.

We of course are interested in anything that will help solve this problem and note that you support Senator Pearson's bill. Frankly, I felt that the argument made by the Transportation Department was quite persuasive. I even believe that Senator Pearson thought perhaps it was.

If you didn't have an opportunity to hear their testimony, I would appreciate it if you would review it and then you might want to supplement the record with some response to the points that they have raised.

Captain O'DONNELL. We will do that, Senator.¹ Thank you very much.

We just heard the end of the testimony given by the gentleman who was with General Davis. I would like Mr. Bavis, who is our coordinator for air security, to give you the reasons why we feel the captain should have the authority to attempt to negotiate some sort of a situation with the hijacker.

Senator PEARSON. Before you do that, let me ask you a question if I may, Mr. Chairman.

You have a case history of every hijacking and a detailed analysis of the actions of the crew. On how many occasions have crew members been able to enter into some arrangement with a hijacker to, very frankly, talk him out of it? How often has the crew in their persuasions, either the hostess or the captain or someone else, been able to effectively negotiate with a hijacker in the cases that you know about?

I think that is pertinent if we are going to talk about S. 2299 as being a viable instrument.

I don't ask for the exact statistics, but let us have some background.

Captain O'DONNELL. In our judgment, on analysis of the hijackings after they occur—except perhaps those where we cannot prove what happened in flight—but in every instance either the rear end crew, the stewardesses and stewards, or the flight deck crew, have negotiated to get that airplane back on the ground and at some point in time to get that hijacker off the airplane.

The failures were those out in the desert where they finally left the airplane and another failure recently where the German Government paid \$5 million but the crew at least got the airplane on the ground.

In our judgment when you have a demented person on board that airplane who is bent on self-destruction we feel that the ability of the crew to negotiate and have an additional negotiating tool is meaningful.

We do not have statistics on how many. In the Boston air shuttle incident where they killed the copilot and wounded the captain, negotiations failed in that instance. They were unsuccessful in getting that hijacker to allow them to land the airplane.

But in every other instance in our discussion there have been discussions between the crew and the hijacker that have prevented in many, many instances the complete destruction of that airplane and the passengers.

And there is no way of knowing how many of those situations were the result of direct negotiations between the crew and the hijacker.

Senator CANNON. All right, Mr. Bavis.

¹ See p. 47.

Mr. BAVIS. Senator Cannon, one of the items that we feel is necessary in this security package to prevent air hijackings has to do with inflight security.

The Air Line Pilots Association has asked for a bulkhead, as Captain O'Donnell has referred to, better communications between the flight deck and the passenger compartment. We have asked for limited use of sky marshals. We have asked for crews to be trained in psychological patterns of the hijacker. We have asked for standardization of signals, code, et cetera.

We have asked for defensive weapons to be put on board the airplane as a last-resort measure for the crew in case of a potential catastrophe taking place.

We have been unable to obtain most of these things; whether it is because of money or because of argument between the Government and the various industry members, we are not sure. But we don't have these things now.

We feel that we have to have them to combat this crime effectively.

However, Senator Pearson's bill gives us one thing that we are looking for, and that is some type of weapon, albeit a psychological weapon, but one which the crew members can utilize to best advantage while they are arguing with a man who has a gun or bomb or some type of device aboard that airplane and is threatening the lives of the crew and everybody on board that airplane plus whoever that airplane might hit if it were to crash.

I have had some experience dealing with criminals, and I know you can negotiate with them at least in some respects when you start to talk about what his possible punishment can be.

Senator CANNON. I don't think the issue here is whether you can or can't negotiate with them. The issue is whether this is going to encourage more hijackings because of the fact that a hijacker may know that if he starts one and it's obvious that he is not going to be successful, then he has the opportunity to negotiate and get off with 5 years instead of getting a much stiffer penalty.

This is what I think is the central issue. Because certainly it's going to be well publicized if Congress passes any such act, and the hijacker who is thinking about it may have in the back of his mind, "Here is something that is worth my attempting, and if it looks like I am not going to be successful, then I can negotiate and get off with 5 years."

I would agree with you that certainly if a hijacker is on the airplane and is committing a hijacking, if you give them the negotiating tools beforehand you may be magnifying the problem rather than reducing it.

Captain O'DONNELL. In our judgment, Senator, nobody who is bent on hijacking an airplane contemplates lack of success. He intends very clearly to succeed in his mission or wouldn't climb on board that airplane with a gun in the first place.

But once he does start this act, we feel that this bill, if it became law, would give us an additional tool in the cockpit, and that's what we are looking for.

As the FAA and the DOT and General Davis himself have said, There is no single answer to hijacking. But this bill is another small tool in the overall effort to prevent hijackings. And if they do occur

and we have a situation where a man is aboard an airplane with a bomb or gun, perhaps the knowledge in the crew's mind that they can negotiate an arrangement with the gentleman or that the crew could perhaps show the laws to a hijacker might help conclude a hijacking with no one being hurt. If it stopped one hijacking, one man bent on destroying the airplane, I think the law is worth it. I think the law is a meaningful tool.

Senator CANNON. Senator Pearson.

Senator PEARSON. What is the present penalty? Twenty years to death?

Captain O'DONNELL. That's what the books call for, sir, but nobody is getting 20 years.

Senator PEARSON. That's what I want to ask you. What have been some of the sentences that have been ordered by the courts in hijacking cases?

I say that with the knowledge that you and many others are very much concerned about the sentences courts have been handing down, feeling like they are very lenient, and the lenient sentences in and of themselves have had perhaps the effect of the very thing that the administration developed this morning.

Captain O'DONNELL. Just recently, Senator, in a case in Florida, they dismissed the hijacking charge and filed charges against him for interference with the flight crew in flight.

There has been no sense to it. Our experience has been to a large degree that hijackers are merely getting their hands slapped like a small child and being set free. Too many of them are being declared as mentally incompetent to stand trial, and even at that point in time some have been set free thereafter.

I know there has been one hijacker who got 10 years and one recently in Baltimore got a substantial sentence. But by and large the great majority of the sentences are like slaps on the wrist, so why not go out and hijack an airplane if you can pick up \$250,000 and the end results and the consequences are going to be 6 months or a year in jail? Why not?

I think the courts are remiss in not standing up to their responsibility and slapping some of these people with the sentences that the law provides.

We will always have hijacking until the courts do stand up to these people.

Senator PEARSON. To the extent any deterrent is effective at all.

Captain O'DONNELL. That's right, Senator.

Senator PEARSON. I don't have anything else.

Senator CANNON. Thank you very much.

Captain O'DONNELL. Thank you very much.

Senator CANNON. The committee will stand in recess subject to the call of the Chair.

(Whereupon, at 10:56 a.m., the hearing was adjourned, subject to the call of the Chair.)

AIR TRANSPORT ASSOCIATION OF AMERICA,
Washington, D.C., March 22, 1972.

Re: Comments by ATA on behalf of the certificated, scheduled airlines concerning S. 22280 and S. 2299.

Hon. HOWARD CANNON,
Chairman, Subcommittee on Aviation, Senate Commerce Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Air Transport Association of America (ATA), on behalf of its members, wishes to offer the following comments concerning S. 2280 and S. 2299.

1. *Comments on S. 2280.*

S. 2280 is designed to implement the Hague Hijacking Convention. We support this legislation with one exception. Under the universal jurisdiction article, which makes hijackers "outlaws" wherever they are found, there is no minimum punishment provided in the implementing legislation. This contrasts sharply with the present hijacking penalties applicable to persons within the aircraft jurisdiction of the U.S., where a minimum of 20 years imprisonment is prescribed.

We believe it would be an unfortunate precedent to have a lesser penalty applicable to a hijacker who is an "outlaw" and happens to be found in the U.S. as opposed to the more stringent minimum penalty applicable to a hijacker who is within the aircraft jurisdiction of the United States. If we wish to impress upon the world community that hijacking is a crime against international civil aviation, we must not differentiate between the penalty structure applicable to other countries' hijackers as compared to that of U.S. hijackers. They must both be subject to the same severe penalties.

The explanation given in the testimony of the U.S. Department of Transportation for making such differentiation of penalties is not persuasive. If in a particular case it would not be appropriate for the U.S. to prosecute as a hijacker an "outlaw" who happened to be found in the U.S., or if in a particular circumstance it would appear that a minimum penalty of 20 years for such "outlaw" would be inappropriate, the U.S. has the option under the Hijacking Convention and domestic law to extradite the alleged offender to another state which has jurisdiction. Therefore, because of the extradition option available to the U.S., there is no need to differentiate between penalties applicable to the domestic offender and the "outlaw" offender. Each should be subject to the same severe minimum and maximum penalties now in effect under domestic law.

2. *Comments on S. 2299.*

Our members are divided concerning their position on S. 2299, which would reduce the criminal penalty applicable to a hijacker who voluntarily surrendered to a crew member. Eight of our carriers are of the view that the present penalty provisions should not be changed because this would lessen the deterrent value of the present law. These carriers fear that the reduction of the penalty might have the effect of encouraging hijacking. They also believe that a person who can be induced to surrender his weapon to the crew will do so without respect to any lessening of penalty. In addition, several carriers felt that it is not the proper role for crew members of aircraft to negotiate prison sentences with the hijacker.

Seven of our members, on the other hand, feel that the crew should be able to hold out some inducement of a lesser prison term to the offender to abort his act. They oppose provisions of S. 2299 as now written (a proposed *maximum* penalty of 5 years) because they believe the inducement is greater than necessary and reduces the penalty provisions of the hijacking law so severely as to jeopardize its deterrent value. However, they would support a provision which changed the *minimum* penalty from 20 years to 5 years where the offender voluntarily surrenders to a crew member. They believe that this type of penalty would not dilute the present law because the maximum penalty would remain life imprisonment or death. Yet, the crew member would have a strong talking point by advising the offender that if he voluntarily surrendered, the *minimum* penalty prescribed by law would be reduced by 75 percent.

We thank you for this opportunity to comment on the above legislation.

Very truly yours,

JEROME F. HUISENTRUIT,
Assistant General Counsel.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., March 27, 1972.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This is in response to your letter of March 7, 1972, requesting a complete list of all criminal actions undertaken under section 902 of the Federal Aviation Act of 1958, (49 U.S.C. § 1472).

Please find attached a summary account of each air piracy committed since 1961, including the ultimate disposition of each case prosecuted by the Federal Government.

You will note that six hijackers have been sentenced to at least a minimum 20-year sentence under 49 U.S.C. § 1472(i), Air Piracy; four have also been incarcerated under § 1472(j), Interference with Flight Crew. Of course, many hijackers have either been found incompetent to stand trial or insane at the time of their offense. Further, a goodly number are fugitives from justice residing in foreign lands.

We hope we have been of assistance in this matter.

Sincerely,

RICHARD G. KLEINDIENST,
Acting Attorney General.

Date	Flight plan	Participants	Process filed	Current status	Disposition
5-1-61	EAL, Marathon-Key West	Artillio Ramirez Ortiz	Indicted July 28, 1961, S.D. Fla. 18 U.S.C. 1201, 2312, 113	Fugitive	
7-24-61	NAL, 202 Miami to Tampa	Wilfredo Roman Oquendo	Indicted Aug. 23, 1961, S.D. Fla. 18 U.S.C. 1201, 2312, 113	Convicted	20 years.
7-31-61	PAC, Chicago to San Francisco	Bruce Burt	State of California	Sentenced Oct. 31, 1961	Do.
8-3-61	CAL 54, Los Angeles to Houston	Leon Bearden	Convicted W.D. Tex., 18 U.S.C. 1951	Committed	Minority.
3-9-61	PAA 501, Mexico City to Guatemala	Cody Bearden	Found to be delinquent, 18 U.S.C. 5032	Convicted and sentenced	8 years 9 months.
1-6-62	Charter, Sioux City to Dallas	Albert Cardon	Convicted W.D. Okla., 49 U.S.C. 1472(i)	Sentenced	13 years reduced to 5.
4-13-62	Charter, Miami	Robert Hims	Convicted S.D. Fla., 18 U.S.C. 1201, 48 U.S.C. 1472(i)	Sentenced Nov. 12, 1964	20 years.
		David Healy	do	do	Do.
2-18-64		Enrique Hernandez	Indicted Feb. 17, 1969, M.D. Fla. 49 U.S.C. 1472(i)	Fugitive	
3-31-65	Hawaii, Inter Island	Reinaldo Rodriguez	do	do	
10-11-65	Alona 338, Inter Island	Harry Fingerstrom	Indicted, Hawaii, 49 U.S.C. 1472(j)	Convicted	Indefinite YCA.
		Lawrence D. Heister	Court martial	do	4 years, dishonorable discharge.
10-26-65	NAL 209, Miami to Key West	Richard M. Boyd	do	do	Do.
11-17-65	NAL 30, New Orleans to Melbourne, Fla.	Louis M. Perez	Indicted Nov. 30, 1965, E.D. La. Mar. 2, 1966 pled guilty 49 U.S.C. 1472(k)	Acquitted	
		Thomas H. Robinson	do	Adjudged juvenile delinquent	Custody, paroled June 8, 1967, remanded to custody Sept. 24, 1969.
11-20-67	Charter, Hollywood, Fla.	Gabor L. Babler	Indicted May 7, 1969, S.D. Fla. 49 U.S.C. 1472(i) 18 U.S.C. 1201	Fugitive	
2-9-68	Pan Am, DaNang to Hong Kong	William L. Clark	Court martial	Convicted piracy	Charge dismissed on appeal.
2-17-68	Charter, Marathon to Miami	Thomas J. Boynton	Indicted June 13, 1969, S.D. Fla. 49 U.S.C. 1472(i) 18 U.S.C. 1201	Pled guilty 18 U.S.C. 1201, May 12, 1970.	20 years.
2-21-68	Delta 843, Tampa to West Palm Beach	Lawrence M. Rhodes	Indicted June 12, 1968, S.D. Fla. 49 U.S.C. 1472(i) 18 U.S.C. 1201	In custody mental examination	Charges dismissed Jan. 4, 1971, extradited to West Virginia.
3-12-68	NAL, Tampa to Miami	Gilberto G. Gonzalez	Indicted Oct. 14, 1969, M.D. Fla. 49 U.S.C. 1472(i) 18 U.S.C. 1201, 371	Fugitive	
6-29-68	Southeast 101, Marathon-Key West	Raymond D. Martin	do	do	
7-1-68	Northwest, 714 Chicago-Miami	Jesus Armen-Teros	No process	do	
		Mario V. Fonseca	Indicted July 10, 1968, S.D. Fla. 49 U.S.C. 1472(i) 18 U.S.C. 1201	do	
7-4-68	TWA 329, Albuquerque to Las Vegas	John H. Morris	Convicted Nov. 18 U.S.C. 1751	Pled guilty June 25, 1969	5 years consecutive sentence to previous
7-12-68	Charter, Key West to Miami	Leonard Bendicks	Indicted Oct. 9, 1968, S.D. Fla. 49 U.S.C. 1472(i), 18 U.S.C. 1201	In custody pending appeal	Pled to 1201 sentenced 10 years dismissed on 1472(i).
7-12-68	Delta 977, Baltimore to Houston	Oran D. Richards	Complaint filed July 13, 1968, S.D. Fla. 49 U.S.C. 1472(i)	Dismissed Sept. 3, 1969	Committed to State mental institution, Jan. 10, 1970, released.
7-17-68	NAL 1064, Houston to Miami	Rogelio Leyva	Indicted Aug. 28, 1969, E.D. La. 49 U.S.C. 1472(i)	Fugitive	
8-4-68	Charter, Naples, Fla.	Willis Jessie	Indicted Jan. 8, 1969, S.D. Fla. 49 U.S.C. 1472(i), 18 U.S.C. 1201	Pled guilty 18 U.S.C. 1201, June 26, 1969.	10 years.
8-22-68	Charter, Nassau to Georgetown	Unknown	No process	Fugitive	
9-20-68	EAL 950, San Juan to Miami	Jose Garcia	Complaint filed June 19, 1969, Puerto Rico, 49 U.S.C. 1472(i) indicted Sept. 18, 1970	do	
10-23-68	Charter, Key West	William Truitt	Indicted Feb. 6, 1969, S.D. Fla. 49 U.S.C. 1472(i)	Convicted Aug. 13, 1969	20 years.
11-2-68	EAL 224, Mobile to Chicago	Roger Pastreich	Juvenile proceeding 18 U.S.C. 5032	Found delinquent	Probation.
11-4-68	NAL 186, Houston to New Orleans	Raymond Johnson	Indicted June 13, 1969, E.D. La. 49 U.S.C. 1472(i)	Fugitive	

Footnotes at end of table.

Date	Flight plan	Participants	Process filed	Current status	Disposition
11-23-68	EAL 73, Louisville to Miami	Ricardo Viera	Complaint filed Aug. 27, 1969, W.D. Ky. 49 U.S.C. 1472(i) Indictment to be sought before grand jury presently (Oct. 21, 1970) sitting in Louisville.	do.	
		Teresa Demendoza	do.	do.	
		Moises Rodriguez	do.	do.	
		Aramis Garcia	do.	do.	
		Miguel Valasquez	do.	do.	
		Alberto Quintero	do.	do.	
		(Jose Cruz I)	Indicted Dec. 20, 1968, S.D.N.Y., 49 U.S.C. 1472(X)(L), 18 U.S.C. 1201.	do.	
11-24-68	PAA 281, New York to Puerto Rico	Louis Soltern	do.	do.	
		Miguel Castro	do.	do.	
		Woman and child	Not indicted.	do.	
11-30-68	EAL 532, Miami to Dallas	Miguel Sanchez	Indicted Apr. 9, 1969, S.D. Fla. 49 U.S.C. 1472(X), 18 U.S.C. Fugitive 1201.	do.	
12- 3-68	NAL 1439, Tampa to Miami	Unknown subject	No process.	do.	
12-11-68	TWA 496, Nashville to Miami	James Patterson	Indicted Oct. 13, 1969, N.D. Ga., 49 U.S.C. 1472(i)	do.	
		Gwendolyn Patterson	do.	do.	
12-19-68	EAL, Philadelphia to Miami	Thomas Washington	Indicted S.D. Fla., 49 U.S.C. 1472(i) (L), 18 U.S.C. 1201	Pled guilty 49 U.S.C. 1472(i), 2 years, Mar. 24, 1970.	
		Child	No process.	do.	
1- 2-69	EAL 401, New York to Miami	Tyrone Austin	Indicted Mar. 25, 1969, E.D.N.Y., 49 U.S.C. 1472(X)(L)	Fugitive, killed in NYC bank robbery, Apr. 21, 1971.	
1- 9-69	EAL 831, Miami to Houston	Linda Austin	do.	do.	
1-11-69	VAL 459, Jacksonville to Miami	Ronald Bohle	Indicted Dec. 15, 1969, N.D. Ind., 49 U.S.C. 1472(i), 18 U.S.C. 1201	Convicted May 1, 1970.	Received, retrial pending.
1-13-69	Delta 297, Jacksonville to Miami	Robert Helmev	Indicted Apr. 30, 1969, S.D. Fla., 49 U.S.C. 1472(i), 18 U.S.C. 1201	Acquitted S.D. Ga. Nov. 20, 1969.	
1-19-69	EAL 9, New York to Miami	Kenneth McPeck	Indicted S.D. Fla., 49 U.S.C. 1472(i) (L)	Pled guilty 49 U.S.C. 1472(i), June 9, 1969	15 years, July 31, 1969.
1-24-69	NAL 424, Key West to Miami	Aristofarex Payano	Indicted May 16, 1970, S.D.N.Y., 49 U.S.C. 1472(i), and (i) and 18 U.S.C. 1201	do.	
1-28-69	NAL 64, New Orleans to Miami	Unknown subject	No process.	do.	
1-28-69	NAL 121, Atlanta to Miami	Byron Booth	Indicted Feb. 28, 1970, C.D. Calif., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	do.	
1-31-69	NAL 44, San Francisco to Miami	Clinton Smith	do.	do.	
		3 unknown subjects	No process.	do.	
		Unknown subject	do.	do.	
		Wilfredo Garcia	Complaint filed Feb. 27, 1969, N.J., 49 U.S.C. 1472(i), 18 U.S.C. 1201	do.	
2- 3-69	EAL 7, Newark to Miami	Joaquin Estrada	Indicted Apr. 2, 1969	do.	
		Marina Hernandez	No process.	do.	
		Tamsin Fitzgerald	Indicted Feb. 7, 1969, S.D. Fla., 49 U.S.C. 1472(i)	Pled guilty 49 U.S.C. 1472(i), Mar. 28, 1969	Indeterminate YCA.
2-10-69	EAL 950, San Juan to Miami	Michael Preparo	do.	Pled guilty Mar. 21, 1969	do.
		Pedro DeQuesada	Complaint filed June 18, 1969, P.R., 49 U.S.C. 1472(i)	Fugitive.	

Footnotes at end of table.

2-11-69	BWI 400, Nassau to Miami.	James Pinckney	Indicted June 18, 1969, S.D. Fla., 49 U.S.C. 1472(i) (1).	Acquitted Nov. 14, 1969.	Life, July 7, 1970.
2-25-69	EAL 955, St. Louis to San Juan.	Lorenzo Ervin	Indicted Mar. 5, 1969, N.D. Ga., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	Convicted June 6, 1970.	
3-5-69	NAL 97, New York to Miami.	Anthony Bryant	Indicted Mar. 25, 1969, E.D.N.Y., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	Fugitive.	
3-17-69	Delta 518, Atlanta to Augusta.	Robert Sandlin	Indicted July 14, 1969, S.D. Ga., 49 U.S.C. 1472(i).	In custody mental evaluation.	Found incompetent to stand trial, dismissed Jan. 7, 1972 committed State mental institution.
3-19-69	Delta 918 Dallas to Charleston.	Douglas Dickey	Indicted Mar. 25, 1969, E.D. La., 49 U.S.C. 1472(i), 18 U.S.C. 111.	In custody mental examination.	Found incompetent to stand trial May 11, 1971 committed State mental institution.
3-25-69	Delta 821, Dallas to San Diego.	Luis Frese	Indicted July 11, 1969, N.D. Tex., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	Fugitive.	
4-13-69	Pan Am 460, San Juan to Miami.	Hiram Sanchez	Indicted July 16, 1969, P.R., 49 U.S.C. 1472(i).		
		Manuel Agüero	do		
		Jose Claro	do		
		Esmeraldo Castanedo	do		
		Jean Charette	Indicted Aug. 5, 1969 S.D. Fla., 49 U.S.C. 1472(i), 18 U.S.C. 1201.		
5-5-69	NAL 91, New York to Miami.	Allain Allard	do		
		Crecencio Zamora	Indicted Feb. 18, 1970, S.D. Fla., 49 U.S.C. 1472(i), 18 U.S.C. 1201.		
5-26-69	NE 6, Miami to New York.	Marino Bolivar Samon	do		
		Roberto Gracial	do		
5-30-69	Texas Inter 669, Little Rock to New Orleans.	Terrence Neimeyer	Indicted July 7, 1969, E.D. La., 49 U.S.C. 1472(i).	In custody mental examination.	Charges dismissed committed State mental hospital Jan. 29, 1971.
6-17-69	TWA 154, Oakland to New York.	William Brent	Indicted June 24, 1969, Nevada, 49 U.S.C. 1472(i) (1).	Fugitive.	
		Medrand Esquivel	Indicted Aug. 25, 1969, E.D. N.C., 49 U.S.C. 1472(i) (1).		
6-22-69	EAL 7, Newark to Miami.	Leonor Esquivel	No process.		
		Alina Esquivel	do		
6-25-69	UAL 14, Louisiana to New York.	John Marques	Indicted Jan. 14, 1970, C.D. Calif., 49 U.S.C. 1472(i) (1).	Pled nolo 49 U.S.C. 1472(i), May 6, 1970.	On Oct. 15, 1970 sentenced to 15 years.
6-28-69	EAL 173, Baltimore to Miami.	Raymond Anthony	Indicted Aug. 5, 1969, Md., 49 U.S.C. 1472(i) (1).		50 years, Sept. 14, 1970.
7-26-69	Cont 156, El Paso to Midland.	J. C. Crawford	Indicted Dec. 16, 1969, W.D. Tex., 49 U.S.C. 1472(i).		
7-31-69	TWA 79, St. Louis to Los Angeles.	Lester Perry	Indicted Aug. 4, 1969, Kansas, 49 U.S.C. 1472(i) (1), 18 U.S.C. 1201, 113.		
8-5-69	EAL 379, Syracuse to Tampa.	John McCreery	Complaint filed Aug. 6, 1969, M.D. Fla., 49 U.S.C. 1472(i).	Dismissed Jan. 12, 1970.	Committed to State mental institution.
8-14-69	NE 43, Boston to Miami.	Domingo Diaz	Indicted Dec. 10, 1969, Mass., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	Fugitive.	
8-29-69	TWA 840, New York to Rome.	Julio Perez	Complaint filed Jan. 16, 1970, D.C., 49 U.S.C. 1472(i).		
		Leila Khaled	D.C. does not indict fugitives for this offense.		
8-29-69	TWA 840, New York to Rome.	Salim Essawi	Complaint filed Jan. 16, 1970, D.C., 49 U.S.C. 1472(i) D.C. does not indict fugitives for this offense.		
8-29-69	NAL 183, Miami to New Orleans.	Jorge Delgado	Indicted Nov. 6, 1969, M.D. Fla., 49 U.S.C. 1472(i), 18 U.S.C. 1201.		

Footnotes at end of table.

Date	Flight plan	Participants	Process filed	Current status	Disposition
9-7-69	EAL 925, New York to San Juan.	Unknown subject.	No process.		
9-10-69	EAL 929, New York to San Juan.	Jose Medina	Indicted Sept. 18, 1969, P.R., 49 U.S.C. 1472(i).	do	Dismissed Sept. 25, 1970 due to insanity.
9-24-69	NAL, Newark to Miami.	Alfred Hernandez	Indicted Nov. 19, 1969, M.D. Fla., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	do	
10-9-69	NAL 42, Los Angeles to Miami.	Francisco Perry	Indicted June 15, 1970, W.D. Tex., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	do	
10-21-69	Pan Am 551, Mexico City to Miami.	Henry L. Shorr	Indicted Mar. 4, 1970, E.D. Mich., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	do	Committed suicide Sept. 28, 1970.
10-31-69	TWA 85, Los Angeles to Rome.	Rafael Minichiello	Indicted Nov. 1, 1969, E.D.N.Y., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	Italian custody	Convicted by Italian authorities Nov. 12, 1970 for kidnapping. Sentenced to 7½ yrs. Released by Italian authorities.
12-2-69	TWA 54, San Francisco to Philadelphia.	Benny Hamilton	Indictment filed Dec. 18, 1969, Neb., 49 U.S.C. 1472(i)(X)(L).	Fugitive	
12-26-69	UAL 929, New York to Chicago.	Unknown subject, aka N. Martinez.	Complaint filed Dec. 29, 1969, E.D. N.Y., 49 U.S.C. 1472(i)(X).	do	
1-6-70	Delta 274, Orlando to Atlanta.	Anton Funjeck	Complaint filed Jan. 6, 1970, S.D. Fla., 49 U.S.C. 1472(i)(X).	Pled guilty 49 U.S.C. 1472(i) attempt July 7, 1970.	25 years. July 31, 1970.
1-8-70	TWA 802, Baltimore to Rome.	Christian Below	Complaint filed Jan. 16, 1970, D.C., 49 U.S.C. 1472(i) D.C. does not indict fugitives for this offense.	French citizen in France non-extraditable fugitive.	9 months sentenced Lebanon-released.
2-16-70	EAL 1, Newark to Miami.	Daniel Abad	Indicted July 1, 1970, N.J., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	Fugitive	
3-11-70	UAL 361, Cleveland to West Palm Beach.	Clemmie Stubbs	Indicted May 12, 1970, N.D. Ohio, 49 U.S.C. 1472(i).	do	
3-17-70	EAL 1320, New York to Boston.	John Divivo	Complaint filed Mar. 18, 1970, Mass., 49 U.S.C. 1472(i), 18 U.S.C. 1111.	Massachusetts custody to be tried for murder.	Committed suicide, Oct. 31, 1970.
4-6-70	TWA 90, San Francisco to Paris.	Lynn Little	Complaint filed Apr. 7, 1970, W.D. Pa., 49 U.S.C. 1472(i).	Dismissed, committed to mental hospital.	
4-22-70	Charter, Gastonia, N.C.	Ira Meeks.	Indicted Sept. 22, 1970, W.D.N.C., 49 U.S.C. 1472(i)(X)(L).	Fugitive	
5-25-70	AA206, Chicago to New York.	Dianne Meeks	Indicted Aug. 13, 1970, E.D.N.Y., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	do	
5-25-70	Delta, Atlanta to San Juan.	Nelson Molina	Indicted May 29, 1970, Macon, Ga., 49 U.S.C. 1472(i), 18 U.S.C. 1201.	do	
6-4-70	Phoenix to Dulles.	Graciella Quesada	No process.		
		Child.	Indicted June 5, 1970, E.D. Va., 49 U.S.C. 1472(i)(X).	Mental custody, Virginia.	Found not guilty by reason of insanity by State, committed to Virginia State hospital.
		Arthur Barkley			
6-22-70	Pan Am 119, Beirut to Rome.	Hexthi H. Xyafari	Indicted Sept. 19, 1970, N.D. Calif., 49 U.S.C. 1472(i).	Egyptian custody	
7-10-70	NAL, New Orleans to Tampa.	Unknown subject, aka Bob Serra.	No process.		
8-10-70	Pan Am, New York to San Juan.	Rodolfo Rios	Indicted Aug. 27, 1970, E.D.N.Y., 49 U.S.C. 1472(i)(X).	Fugitive	

8-19-70	Tran Car, Newark to San Juan.....	Unknown subject, aka Jose Arrue Martinez, Jesus Ramos-Cobas.	Indicted 49 U.S.C. 1472(X)(L).....	do.....	
8-20-70	Delta, Chicago to Savannah.....	Gregory Graves.....	Complaint filed Sept. 3, 1970, 49 U.S.C. 1472(X) to be indicted in November 1970.	do.....	
8-24-70	TWA, Las Vegas to Philadelphia.....	Robert J. Labadie.....	Indicted Sept. 10, 1970, N.D. Ind., 49 U.S.C. 1472(X), 18 U.S.C. 1201.	In custody.....	Committed to Michigan mental institution Feb. 28, 1972.
9-6-70	TWA, Frankfurt to New York.....	Unknown subjects.....	No process.....	Fugitives.....	
9-6-70	P.A.A., Amsterdam to New York.....	do.....	do.....	do.....	
9-15-70	TWA, New York to San Francisco.....	Donald Irwin.....	Federal indictment under 49 U.S.C. 1472(X) dismissed, C.D. Calif.; defendant competent to stand trial, insane at time of offense.	In California State custody.....	Pled guilty to California State kidnaping charge sentenced to 12½ years imprisonment Nov. 22, 1971.
9-20-70	Allegheny, Pittsburgh to Boston.....	Richard D. Witt.....	Indicted Oct. 8, 1970, E.D. Pa., 49 U.S.C. 1472(X) and (J).....	Fugitive.....	
9-22-70	EAL, Boston to San Juan.....	David W. Donovan.....	Complaint filed Sept. 23, 1970, Puerto Rico, 49 U.S.C. 1472(X).	In custody.....	
10-30-70	NAL 43, Miami to San Francisco.....	Felipe Larzolo.....	Indicted Dec. 16, 1970, C.D. Calif., 1472(X).....	Fugitive.....	
11-1-70	NAL, San Diego to Los Angeles.....	Unknown subject.....	do.....	do.....	
11-13-70	EAL 257, Raleigh to Dallas.....	Unknown, aka G. Jones.....	Indicted, E.D. North Carolina.....	do.....	
12-19-70	CAL 144, Wichita to Tulsa.....	Carlos Dennis.....	Charged 1472(X).....	Convicted.....	Tulsa will indict, 5 years at Springfield. Dismissed Feb. 23, 1971, insanity.
12-21-70	Prinair, Ponce to San Juan.....	Victor Lopez.....	Charged 1472(X) and (J).....	Dismissed.....	
1-3-71	NAL, Los Angeles to Miami.....	Arthur Wilson.....	Indicted, charged 1472(X) and 18 U.S.C. 371 S.D. Calif.....	Fugitive.....	
1-22-71	Northwest, Minnesota to Washington, D.C.....	Lolita Graves.....	do.....	do.....	
2-4-71	Delta to Chicago to Nashville.....	Gerald Grant.....	Charged 1472(X) and (J) E.D. Wise.....	do.....	
2-25-71	NAL, San Francisco to Seattle.....	A. Abdalah.....	Charged 1472(X) N.D. Ill.....	Convicted.....	
3-8-71	NAL, Mobile to New Orleans.....	Chapin Scott Patterson.....	Charged 1472(X)(L).....	In custody.....	June 11, 1971 Oregon, guilty on (J) sentenced 10 years imprisonment, YCA. Nov. 3, 1971, sentenced indefinite term under YCA.
3-31-71	EAL, JFK to San Juan.....	Thomas Marston.....	Charged 1472(X) Mobile, Ala.....	do.....	
4-5-71	Amer Taxi, Key West to Miami.....	Diego Ramirez.....	Charged 1472(X) S.D. N.Y.....	Fugitive.....	
4-21-71	EAL, Newark to Miami.....	Carlos Fernandez.....	Charged 1472(X) S.D. Fla.....	do.....	
4-29-71	Miami to New York.....	Frank Anile.....	Charged 1472(X)(J) E.D. N.C.....	In custody.....	Pled (J) 3 years, probation Acquitted, lack of mental responsibility at time of offense will be retried.
5-29-71	Caracas to Miami.....	James Bennett.....	Charged 1472(X).....	Acquitted.....	
6-4-71	Charleston to Washington, D.C.....	Ivan Landetta.....	Charged 1472(X)(X)(L).....	Fugitive.....	Convicted 1472(X), 1201, Nov. 29, 1971, sentenced to 20 years. Will be tried on State murder charge.
6-11-71	Chicago to New York.....	Elmo Riggs.....	Indicted June 17, 1971 1472(X)(X)(k), N.D. Illinois.....	In Illinois State custody.....	Incarcerated in Argentina.
7-2-71	Braniff, Acapulco to San Antonio.....	Gregory White.....	Charged 1472(X), W.D. Texas.....	Sentenced in Argentina.....	
7-23-71	TWA, New York to Chicago.....	Robert Lee Jackson, Lucrécia Sanchez Archibald.....	do.....	Dead.....	Killed by FBI agent while hi- jack in process.

Footnotes at end of table.

Date	Flight plan	Participants	Process filed	Current status	Disposition
7-24-71	NAL 183, Miami to Jacksonville	Unknown subject, aka Santiago Valdez	Complaint and warrant, August 3, 1971, 1472(X)	Fugitive	
9-3-71	EAL, Chicago to Miami	Juan Miguel Borges Guerra	Indicted 1472(X)	Convicted	Pled guilty March 3, 1972, 1472(X) sentenced to 20 years March 16, 1972. Judge dismissed (X) charge.
9-24-71	AA No. 124, Detroit, Mich., to New York	Barbara Pliskow, Helen Jackson	Indicted, 49 U.S.C. 1472(X) and Conspiracy, E.D. Mich.	Indicted	
10-4-71	Big Brother, charter, Nashville to Atlanta	{ Robert Giffe	Dead	Dead	Suicide; also killed ex-wife and copilot.
10-9-71	EA 953, Detroit to Miami	{ Bob Wallace	49 U.S.C. 1472(X)	Indicted	Out on bond in Nashville.
10-18-71	WC 15, Anchorage to Bethel	{ Richard F. Dixon	Complaint filed October 12, 1971, E.D. Mich. 1472(X)	Fugitive	Awaiting result of psychiatric report.
10-25-71	AA No. 98, New York to San Juan	{ Angel Lugo Casado	Complaint filed October 28, 1971, E.D.N.Y.	Fugitive	In Cuba.
11-24-71	NA No. 305, Portland to Seattle	{ Unidentified, aka Dan Cooper	Extorted \$200,000	do	
11-27-71	TWA being serviced at Albuquerque Airport	{ Michael Robert Finney	Complaint filed in Albuquerque Nov. 27, 1971, 1472(X)	All in Cuba	Harry Vines charged with concealing fugitives.
12-24-71	NW Orient 734, Minneapolis to Miami	{ Ralph Lawrence Goodwin, Charles Hill	Indictment filed, N.D. Ill. Dec. 28, 1971, 49 U.S.C. 1472(X); extorted \$300,000	In custody, Chicago	
12-26-71	AA 47, Chicago to San Francisco	{ Everett Leary Holt	Charged Dec. 26, 1971, 49 U.S.C. 1472(X), extorted \$250,000	In custody, Salt Lake City	Found competent to stand trial.
1-6-72	PSA 902, San Francisco to Los Angeles	{ Donald Lewis Coleman	Complaint, Jan. 11, 1972, C.D. California	Fugitive	Cuba.
1-12-72	BN 38, Houston to Dallas	{ Allan Gordon Sims	do	do	do.
1-20-72	Air West, Phoenix to Reno	{ Ida Patrice Robinson, nee McCray	Indicted Dallas Jan. 13, 1972, 1472(X), extorted \$1,000,000	In custody, Denver	Competent to stand trial, trial set for Apr. 10, 1972.
1-26-72	Mohawk 402, Albany to Westchester	{ Billie Eugene Hurst, Jr.	Indicted 1472(X) and kidnapping, Colorado; \$50,000 extortion.	Killed on Jan. 27, 1972, Poughkeepsie, N.Y. Airport while attempting to enter car with stewardess.	Dead.
1-26-72	Berkeley, Calif., heliport	{ Don Shane	Killed by FBI extorted \$200,000	In custody	Shot and wounded by FBI agent posing as crew member Jan. 29, 1972.
1-29-72	TWA, Los Angeles to JFK	{ Marilyn LaVerne St. George, aka Heindrick Von George	Charged, complaint 1472(X) N.D. California	do	Cuba.
3-7-72	Grumman Goose Charter, Miami to Bimini	{ Patrick Henry McAlroy	Indicted Feb. 8, 1972, E.D.N.Y. 1472(X) and 1201, extorted \$388,600	Fugitive	
3-7-72	NAL No. 67	{ Garrett Brock Trapnell	Charged 1472(X)	In custody, Tampa, Fla	
3-7-72		{ James William Brenton and unknown subject. Edwin M. McKee			

¹ On Dec. 20, 1968, Alejandro Figueroa was indicted for conspiring with the other 3 individuals to hijack a plane to Cuba. On May 12, 1969, Figueroa, who never left New York, was found not guilty by the U.S. District Court for the Southern District of New York.

² Salim Essawi is believed to be dead (see footnote 2).

(The following information was referred to on p. 36.)

AIR LINE PILOTS ASSOCIATION,
Washington, D.C., June 27, 1972.

Hon. HOWARD W. CANNON,
*Chairman, Subcommittee on Aviation,
Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: On 6 March you requested comments from the Air Line Pilots Association regarding the testimony of the Honorable Benjamin O. Davis, Assistant Secretary for Safety and Consumer Affairs of the Department of Transportation, before your Subcommittee on Aviation. General Davis' appearance concerned (1) S. 2299, legislation introduced by Senator James Pearson to amend the air piracy and other criminal provisions of Title IX of the Federal Aviation Act, and (2) S. 2280, introduced by Senator Warren G. Magnuson, concerning implementation of the Convention for the Suppression of Unlawful Seizure of Aircraft.

S. 2299 would provide a reduced penalty of five years in prison for a hijacker who, during the process of the hijacking, surrendered his weapons and himself to the crew, thus allowing the airplane to land at a point under U.S. control.

In testimony at the March hearing, the Air Line Pilots Association supported this provision, because under present law a hijacker has no reason to stop his criminal act once he has started it. He has nothing to gain by giving up before he has completed his mission. It is ALPA's view that the law should provide an inducement for the hijacker to return command of the aircraft to its captain.

General Davis, however, testified that the present penalties (a minimum of 20 years imprisonment to the death sentence) serve as deterrents to would-be hijackers. He said hijackings might increase if potential hijackers realized they could escape the full penalty for their acts if they surrendered when they realized their mission could not succeed.

General Davis may be correct that the present penalties serve as a deterrent. It is a fact, however, that not even the minimum penalties are being imposed by the courts. In case after case, government prosecutors are trying hijackers on lesser charges, and the courts are imposing sentences that are mere slaps on the wrist. ALPA believes that when the government brings aerial pirates to trial on the more serious charges and when the courts impose the harshest penalties, only then will those penalties serve as a deterrent to future aerial criminals.

ALPA still believes, however, that the lower penalties provided for in S. 2299 may well serve as an inducement for a hijacker to surrender to the captain. The Association continues to support passage of S. 2299 with its reduced penalties, but until the maximum penalties are imposed upon convicted hijackers, the would-be hijacker is under no threat that serves as a deterrent to his plans.

Reduced penalties will not eliminate the hijacking problem, but just one occasion for successfully using the provisions of S. 2299 will certainly justify its enactment. It may well save lives and should definitely serve as a deterrent to the successful completion of a hijacking.

Thank you for the opportunity of presenting ALPA's views on this matter.

Sincerely,

J. J. O'DONNELL, *President.*

ANTI-HIJACKING ACT OF 1971

THURSDAY, JUNE 29, 1972

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

The committee met at 9:30 a.m. in room 3110, New Senate Office Building, the Hon. Howard W. Cannon presiding.

Present: Senators Cannon, Moss, and Pearson.

OPENING STATEMENT BY SENATOR CANNON

Senator CANNON. The hearings will come to order. Today's hearing is on Committee Print No. 2, of S. 2280, which was ordered favorably reported last week by the Commerce Committee.

In addition, we will hear testimony on an amendment, to committee print, offered by the committee.

S. 2280, as such, was heard earlier in the year by the committee and has been reported from the Subcommittee on Aviation with several amendments. Therefore we will not hear testimony on portions of the bill already heard.

Senators Magnuson, Long, and Pearson, further amended S. 2280 by providing for U.S.-imposed sanctions on nations which offer sanctuary to hijackers. The bill as reported, provides the President authority to suspend air service by U.S. and foreign carriers between the United States and any nation which the President determines is acting inconsistently with the provisions of the Hague Antihijacking Treaty.

In addition, the President is authorized to suspend foreign air carrier operating permits providing operating authority between the United States and any foreign nation which maintains air service between itself and a foreign nation which the President has determined is encouraging hijacking.

Senator Pearson's amendment would provide the President additional authority to impose restrictions or suspend the operations of foreign carriers whose governments do not administer safety and security requirements that are equal to or above the minimum standards pursuant to the Convention on International Civil Aviation.

Or, prior to the date when such standards are adopted and entered into force, pursuant to such Convention, the specifications and practices set out in Appendix A to Resolution A-17-10 to the 17th Assembly of the International Civil Aviation Organization would be used to determine whether foreign governments were meeting their security obligations.

While the committee has favorably acted on all of these provisions, the committee felt that a hearing should be conducted in which interested Government agencies and others could express their view of the committee amendments. Therefore, this hearing is being held prior to the committee filing a report in the Senate in order that other Members of the Senate will have a printed record of the views of others when this matter is before the Senate for consideration.

In preparing for these hearings, I took the opportunity yesterday, to review the written statement of Gen. Benjamin Davis, Assistant Secretary of Transportation who will testify this morning. I am shocked and dismayed with the tone and tenor of the Department's statement.

While I have the highest personal regard for General Davis, I find the Department's statement completely self-serving, accusatory of others in failing to meet the hijacking problem and an attempt to focus attention away from the fact that the Government is not exercising any substantial authority to deter air piracy.

Recently President Nixon issued a statement in which he said the United States and his administration would no longer tolerate hijacking, and would take all necessary steps to end this dangerous situation. The President's words are hollow—the administration is not taking the leadership and initiative and instead, is trying to focus the blame for hijacking on others.

Recently two airlines have been fined under new and completely useless FAA regulations which, in effect, turn the police power of the United States over to the Nation's airlines, who are expected to become—by the administration's regulations—a new U.S. law enforcement agency.

This is nonsense. The airlines are not, and cannot be a police or investigatory force—their business is selling the public transportation. And yet the administration, refusing to spend even a minimum amount of funds, continues to blame the airlines for hijackings which have recently occurred.

Hijacking is a Federal crime punishable under Federal law. It is time for this administration to quit kidding the public about its stern antihijacking measures and begin to accept the responsibility for law enforcement which it has tried to shove off on the airlines, and on the Nation's airport operators.

Recently, in hearings before this committee, I urged the administration to request funds for metal detecting devices, so that each airport gate in the country would be covered. The administration refused. It refused to request a nominal \$3.5 million to pay for magnetometers to safeguard these gates despite the fact that the current budget contains hundreds of millions of dollars in requests for other safety equipment for civil aviation.

Fortunately, the Senate Appropriations Committee, over the administration's objections, approved the required funds so the program could move forward.

More than 2 years ago, Congress approved over \$30 million in funds to begin the sky marshal program. The program has been a dismal failure. The place to stop hijackers is before they get on an airplane and to impress on them that U.S. authorities stand ready to search any person who activates the metal detecting devices.

Where are the sky marshals now? I understand the program is being quietly phased out. And yet these marshals, and more should be stationed at airport gates throughout the United States, ready to search suspicious passengers and make arrests. Their presence should be well known to the public and the potential hijacker should know that if he attempts to take a gun or other weapon aboard an aircraft, he will not succeed.

The hijacking last week of an American Airliner is a good example of the failure of this administration to come to grips with the hijacking problem. The hijacker—obviously well versed in what characteristics are contained in the so-called FAA passenger screening profile, presented himself in such a manner as to avoid meeting any of the specific screening criteria.

However, five other people scheduled for that flight, did meet certain criteria and were ordered through the magnetometer before boarding. None of them was the hijacker. The hijacker—carrying a submachine gun in an attaché case—was not even put through the magnetometer, and boarded the plane easily and without challenge. The result of that failure of law enforcement is well known.

What kind of a system is this? Is this what the President means when he says, we will not tolerate hijacking. In my view, every single passenger boarding every flight should be required to be screened by the magnetometer and any passenger who activates the device should be searched by U.S. marshals.

This would stop hijacking. The FAA should throw away its Mickey Mouse, passenger-screening profile—any thoughtful person would not be hard pressed to guess what the authorities are looking for. Let us get the airline passenger agents out of the Perry Mason business and quit making them scapegoats for Government failure to meet the hijacking threat.

This would cost money—it would mean additional manpower—additional passenger-screening devices, and a budget increase. That is where the administration draws the line. The President says, let the airlines play detective and let the airport operators construct fortresses to keep potential hijackers and saboteurs out, because the Government cannot spend any additional money to meet the law enforcement problem. I believe Congress believes otherwise.

In my opinion, General Davis statement is a summary of the failure of the Government in enforcing the laws of the United States, and is an accusation that everybody is at fault but the administration. I, for one, am upset by this continuous press agency. The public should know that until the Government takes decisive action and is willing to spend some money, the danger of hijacking will continue.

Our first witness this morning, is the Honorable Benjamin Davis, the Assistant Secretary of Transportation.

Before you start, General Davis, I will see if Senator Pearson has a statement.

Senator PEARSON. I have a statement. I am just going to put it in the record and have it all incorporated, and we will proceed with General Davis.

(The statement follows:)

STATEMENT BY HON. JAMES B. PEARSON, U.S. SENATOR FROM KANSAS

Mr. Chairman, the government of the United States can no longer tolerate the reign of terror of the aircraft hijackers and political extremists who threaten the

lives of airline passengers the world over. Our government has an obligation to protect American passengers and crews from this latest menace to travel at home and abroad.

To date, international organizations have failed to create effective measures to stop air piracy. Last week's United Nations Security Council Resolution is but the latest example of the failure of multi-lateral efforts to reach agreements on effective measures to stop air criminals. While we cannot abandon our efforts to secure effective international agreements, I believe that the time has come for the United States to act decisively on this matter.

The proposal I have introduced and which is before the Committee today will do what the international organizations have failed to do. It will provide sanctions against any airline which does not meet the standards established by the International Civil Aviation Organization to prevent hijackers, extortionists, and political extremists from boarding aircraft with dangerous weapons and devices.

This proposal simply demands that foreign carriers live up to the standards to which they agreed in Resolution A 17-10 at the 1970 meeting of ICAO. While agreeing to these measures in principle, all too often individual carriers and governments have not met them in practice. Should this proposal be adopted, any air carrier wishing to serve the United States would be required to meet these standards. This amendment will end the interminable passing of responsibility from government to airline to airport operator. This proposal will fix responsibility and enforce the provisions of these internationally accepted standards.

At this point, I must commend our own government's efforts to secure international agreements. We have been active in the UN, ICAO and other organizations and the lack of concrete progress is not a result of too little effort on our part. Rather, it lies in the complex international politics of the issue and the economics of airline operation.

But the fact is that lives of American citizens are endangered by lax airport security at home and abroad. We must enforce diligently our domestic air safety regulations. With acceptance of this proposal, our government will have a legitimate means of encouraging foreign carriers to meet their obligations to protect the lives of passengers and crews.

We can wait no longer for international action. To wait is to jeopardize the lives of more American citizens. I urge acceptance of the measure before us today.

Mr. Chairman, I request that a copy of Resolution A 17-10, along with a copy of Appendices A and B to that Resolution, be included in the hearing record immediately following my statement.

PEARSON AMENDMENT TO S. 2280

Sec. 5(a) Not later than 30 days after the date of enactment of this Act the Secretary of State shall notify each country with which the United States has a bilateral air transport agreement or, in the absence of such agreement, each country whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to section 402 of the Federal Aviation Act of 1958, of the provisions of subsection (b) of this section.

(b) In any case where the President, after consultation with the competent aeronautical authorities of a foreign country with which the United States has a bilateral air transport agreement and in accordance with the provisions of that agreement or, in the absence of such agreement, of a country whose airline or airlines hold a foreign air carrier permit or permits issued pursuant to such section 402, finds that such country does not effectively maintain and administer safety and security standards and requirements that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation or, prior to a date when such standards are adopted and enter into force pursuant to such Convention, the specifications and practices set out in Appendix A to Resolution A17-10 of the 17th Assembly of the International Civil Aviation Organization, he shall notify that country of such finding and the steps considered necessary to bring the safety standards and requirements of that country to standards at least equal to the minimum standards of such Convention. In the event of failure of that country to take such steps, the President may withhold, revoke, or impose conditions on the operating permission of the airline or airlines of that country.

A17-10: IMPLEMENTATION BY STATES OF SECURITY SPECIFICATIONS AND PRACTICES ADOPTED BY THIS ASSEMBLY AND FURTHER WORK BY ICAO RELATED TO SUCH SPECIFICATIONS AND PRACTICES

Whereas acts of unlawful interference against civil aviation operations and facilities have produced a situation where the safety of international civil aviation operations is in jeopardy;

Whereas a clear need exists for security to be applied to all phases and processes associated with the international carriage of persons, baggage, cargo and mail;

Whereas the threat can take many forms and the appropriate counter-measures must accord with the nature of the threat, having regard to local circumstances and arrangements;

Whereas the application of certain stringent security measures may at times have a retarding effect on the facilitation of international air transport which must be accepted when the situation so demands; and

Whereas the responsibility for ensuring that measures are applied by government agencies, airport authorities and aircraft operators rests with the Contracting States; the Assembly:

(1) *Resolves* That the Member States of the Organization, in accordance with their national laws, take action to introduce and maintain in being the Specifications and Practices set out in Appendix A* to this Resolution and, when greater security is necessary, such of the additional Specifications and Practices set forth in Appendix B*, together with any other measures deemed advisable by the responsible authority as may be appropriate to the threat and to the conditions prevailing at the time;

(2) *Directs* The Secretary General to develop, with the utmost speed, a Manual of Security designed to assist Contracting States in implementing the Specifications and Practices set out in the Appendices to this Resolution and thereafter to keep the Manual under constant review, so that it may be updated and amended at appropriate intervals; and

(3) *Requests* The Council, with the assistance of the other constituent bodies of the Organization, to develop and incorporate, as appropriate, the material in the Appendices to this Resolution as Standards, Recommended Practices and Procedures in existing or new Annexes or other regulatory documents or guidance material of the Organization.

APPENDIX A TO RESOLUTION A17-10, MINIMUM SPECIFICATIONS AND PRACTICES FOR NORMAL APPLICATION

SECURITY MEASURES FOR THE PROTECTION OF AIRCRAFT ON THE GROUND AND IN THE PROCESSING OF PASSENGERS, CREW, MAIL, AND FREIGHT

Protection of Aircraft on the Ground and of Ground Installations and Facilities

1. All airports should be provided with physical barriers, such as fencing, adequate to separate the movement area from areas open to public access and to protect other facilities or zones on the airport vital to the safe operation of aircraft or which might require special attention; such barriers will require periodic surveillance.

2. Arrangements should be made to prevent unauthorized access to airports through service systems such as sewers, ducts, tunnels, etc.

3. Limited areas should be defined for movement of passengers and vehicles on the air-side.

4. There should be physical barriers which prevent access by unauthorized persons to baggage conveyors and to handling and make-up areas for baggage, cargo and mail.

5. Arrangements should be made for the guarding, physically and/or electronically, including illumination, of all parked aircraft on aprons and in and around hangars and adjacent areas.

6. Satisfactory means of identification and control should be introduced for all persons and vehicles seeking access to and permitted on the air-side.

7. The responsible authorities should interrogate and, if warranted, search any person found at a place on the airport or related aeronautical facility to which he was not authorized access.

*See attachments.

8. Arrangements should be made for the availability of an adequate security force with high mobility and equipped with radio communication and other required facilities to help protect the aircraft in the event of attack in the airport area.

9. Effective surveillance should be maintained over any persons in the vicinity of or having access to aircraft.

10. Consideration should be given to obtaining or installing minimum quantities of the technical devices required under conditions covered by Appendix B.

Processing and Protection of Passengers, Crew and Baggage

11. The unauthorized carriage of weapons by individuals on board aircraft should be prohibited.

12. The carriage of weapons on board aircraft by law enforcement officers and other authorized persons will be governed by the laws of the States involved. The carriage of weapons belonging to other persons should be allowed only when the weapons have been inspected by the carrier to determine that they are not loaded, if applicable, and then only if stowed in a place inaccessible to passengers. Wherever possible, such weapons should be stowed in the baggage or cargo holds.

13. Precautions should be taken to ensure that normally only baggage of passengers actually travelling on the flight (and previously cleared unaccompanied baggage) is loaded on the aircraft.

14. There should be adequate supervision of passengers and baggage moving between aircraft and terminal buildings.

15. States, in accordance with their national law, should make or encourage arrangements which will make available law enforcement officials with authority to assist in cases of suspected unlawful activity and should arrange for governmental support of any refusal to carry a passenger and in the questioning of suspect passengers.

16. Notices should be posted at conspicuous places in terminal buildings warning persons of such matters as penalties for the illegal carriage of weapons on board aircraft and that they are liable to search.

17. Automatic vending machines for passenger flight insurance should be banned from airport premises and from city passenger air terminals.

Processing of Unaccompanied Baggage and Cargo

18. Unaccompanied baggage and cargo should be subjected to selective inspection/screening.

19. Air carriers should introduce security measures to protect unaccompanied baggage and cargo after it has been received by the carrier.

Processing of Air Mail and Air Parcel Post

20. Air mail and air parcel post should be subjected to selective inspection/screening.

21. States should, by enactment of national legislation or otherwise, provide for authority to examine air mail and air parcel post.

22. Procedures should be adopted which would prevent the loading aboard aircraft of air mail and air parcel post which had not been received through normal postal channels.

23. Air carriers should, in collaboration with the postal authorities, introduce security measures to protect air mail and air parcel post after it has been received by the carrier.

SECURITY MEASURES IN THE VICINITY OF AIRPORTS

Surveillance over Airport Perimeter and Surrounding Areas

24. There should be surveillance of the surroundings of airports so as to guard against ground-based attacks from outside the airport against aircraft and aviation installations and facilities. The surveillance may be carried out in the form of patrols of the airport perimeter by suitably equipped guards, from observation posts, through the use of closed-circuit TV, etc. Special attention should be paid to areas providing easy cover for saboteurs, such as wooded areas, parking lots, etc., and to areas under the usual approach and take-off paths of aircraft.

Co-ordination with Local Enforcement Authorities, Fire Departments, etc.

25. Local (i.e. non-airport) enforcement authorities, fire departments, etc., should fully co-ordinate with local airport authorities the planning and the handling of problems that might arise in the vicinity of airports (i.e. not within the airport perimeter itself) and be able to provide an immediate response when alerted.

MEASURES TO BE TAKEN ON THE GROUND AND IN THE CASE OF AN UNLAWFUL SEIZURE OR EXPLOSION ON BOARD AIRCRAFT DURING FLIGHT¹

26. Develop standard procedures for advising all parties concerned.
27. Develop special procedures, as necessary, to expedite the handling by air traffic service authorities of an unlawfully seized aircraft or, in the case of an explosion, its landing at the nearest available suitable airport.
28. In the event of an emergency:
 - (i) Immediately alert the following:
 - (a) appropriate search and rescue units;
 - (b) air traffic service units likely to be involved in the further conduct of the flight; and
 - (c) airport of intended destination and other appropriate airports.
 - (ii) Respond to all requests from the pilot-in-command.
 - (iii) Transmit useful information to the aircraft concerned at the request of the pilot-in-command if radio communications so permit or, alternatively in the event of no communication with the aircraft continue to transmit information pertinent to the safe conduct of the flight.
 - (iv) Take all possible action to expedite the conduct of the flight, including approach and take-off phases, as appropriate.

MEASURES TO BE TAKEN ON THE GROUND IN THE CASE OF BOMB THREATS OR ALARMS

29. Develop an organizational plan for responding to bomb threats and alarms which clearly places responsibility for action and defines the role of each participant. The plan should be fully co-ordinated with all parties concerned, including
 - airport management;
 - security authorities;
 - rescue and fire-fighting service;
 - airlines;
 - pilot-in-command;
 - air traffic services (which should, if appropriate, transmit any useful information to other air traffic service units);
 - cargo-forwarding agents;
 - postal service;
 - medical service;
 - customs and immigration authorities.
30. Develop procedures for responding to bomb threats and alarms. These procedures should define in detail the exact actions to be taken by particular parties.
31. Provide any necessary facilities, such as a remote aircraft parking position and bomb disposal area.
32. Ensure that personnel assigned to handle bombs are suitably trained.

GENERAL SECURITY MEASURES ABOARD AIRCRAFT IN FLIGHT

33. The door between the passenger and flight crew compartments should be capable of being locked from the flight crew compartment.
34. Consideration should be given by Contracting States to having installed in aircraft a closed-circuit TV system to enable the flight crew to keep watch on the passenger compartment(s).
35. Consideration should be given by Contracting States to installing in aircraft a discreet alarm system under the control of the cabin attendants to enable them unobtrusively to alert the flight crew of a problem in the passenger compartment(s).

MEASURES TO BE TAKEN IN THE AIR IN THE CASE OF UNLAWFUL ACTS, OR THREATS THEREOF, ON BOARD AIRCRAFT

36. States should review the regulatory provisions with respect to aircraft smoke dispersal methods to check the adequacy of their effectiveness in rapidly removing smoke from the flight deck following the activation of a sabotage device.

¹ Certain measures to be taken are described in Annex 11, Chapter 5, and in the Procedures for Air Navigation Services—Rules of the Air and Air Traffic Services.

APPENDIX B TO RESOLUTION A17-10. ADDITIONAL SPECIFICATIONS AND PRACTICES FOR APPLICATION IN WHATEVER COMBINATION IS DEEMED APPROPRIATE BY THE RESPONSIBLE AUTHORITY (E.G., SECURITY COMMITTEE) WHEN GREATER SECURITY IS THOUGHT NECESSARY

SECURITY MEASURES FOR THE PROTECTION OF AIRCRAFT ON THE GROUND AND IN THE PROCESSING OF PASSENGERS, CREW, BAGGAGE, MAIL AND FREIGHT

Protection of Aircraft on the Ground and of Ground Installations and Facilities

1. Advance notification should be given to airport authorities of the arrival of aircraft which may be liable to attack. There should be maximum segregation and special guarding of such aircraft during stopovers.
2. Consideration should be given at airports to the lighting of physical barriers such as fences and to the installation of warning devices to indicate when a fence has been scaled. In addition, consideration should be given to clearing areas on both sides of such fences so as to increase the difficulty of scaling them and facilitate the task of patrols.
3. All access points to air-side should be guarded.
4. Maintenance and overhaul facilities, operational installations and facilities, fuel storage installations, fuel and service vehicles, baggage, cargo and mail handling and storage areas should be among those guarded.
5. Security patrols should be carried out on the air-side, covering such areas as the airport perimeter, taxiways and runways, control towers, etc.
6. Regular monitoring should be exercised by, for example, such means as closed-circuit television over terminals and apron areas as well as air freight facilities (whether on or off airports).
7. A reserve security unit, adequately equipped and motorized, should be available.
8. Aircraft should be searched for sabotage devices and/or weapons before landing at the point of origination.

Processing and Protection of Passengers, Crew and Baggage

9. Screening procedures and detecting devices should be utilized to detect the presence of weapons on a passenger's person or in his hand baggage. When special detection equipment is not available, suspected passengers and their hand baggage should be searched.
10. All passengers should be required personally to identify themselves by production of an identity document at the gate position and at any time deemed appropriate by the security officers, so as to establish the identity of the passenger and to verify that the name on the ticket corresponds with that on the identity document. Crew members should also be required to identify themselves.
11. Passengers and crew should be required personally to identify their baggage before it is loaded on the aircraft; any unidentified baggage should be removed and checked. Crews should also check the contents of their baggage to ensure that no explosives have been planted in them.
12. When a specific threat exists, consideration should be given to suspending the check-in of baggage at any point other than the airport check-in counter, for temporary periods.
13. At all airports, as a further measure to ensure: i) that all passengers in transit on the same flight who leave the aircraft reboard it; ii) that originating and transfer passengers board the aircraft; and iii) that passengers terminating their journey at that stop do not reboard the aircraft, there should be a very careful count of all passengers on board the aircraft. This count should also be checked against a pre-boarding count.
14. Special precautions should be taken to control transfer and transit passengers and baggage, which should include surveillance of transit areas (arrival/departure halls). Unless special circumstances exist, all passengers should be required to leave the aircraft, all hand baggage and personal effects removed, and the aircraft interior searched. If special circumstances require that some transit passengers remain on board during the search of the aircraft, they should be required to identify their hand baggage and personal effects. The baggage of any missing passenger should be removed before the flight proceeds.
15. There should be control/inspection of all items such as flight document bags, catering supplies, duty-free purchases, etc., placed on board aircraft.
16. There should be adequate supervision of catering supplies in order to prevent poisoning, etc.

17. Special procedures should be instituted to prevent tampering with passenger baggage between the point of check-in and loading on the aircraft.

18. There should be close surveillance of passengers and baggage moving between aircraft and terminal building and also of the movement of interline baggage. Security escort should be provided where necessary, especially for groups of passengers requiring special attention.

19. Special measures should be taken to prevent unlawful interference with passengers and to deal with such situation if it has occurred.

Processing of Unaccompanied Baggage and Cargo

20. In order to detect the presence of explosives in unaccompanied baggage and cargo, some or all of the following procedures should be adopted, having regard to the protection of persons and property, the availability of equipment, trained personnel, etc.:

- (i) holding the unaccompanied baggage and cargo in a suitable area for a 24-48 hour period in case it contains a time-controlled detonator device;
- (ii) the use of decompression chambers capable of exploding bombs activated by changes in barometric pressure;
- (iii) the use of dogs, explosive "sniffers," or electro-chemical devices;
- (iv) the use of equipment capable of "seeing" certain articles, e.g. magnetometers, X-rays, fluoroscope and neutron devices;
- (v) physical search.

Processing of Air Mail and Air Parcel Post

21. Strict security measures should be adopted, when circumstances so warrant, in connection with air mail and air parcel post, similar to those adopted for unaccompanied baggage and cargo. In particular, in order to detect the presence of explosives, some or all of the procedures outlined in paragraph 20 above should be adopted.

Measures To Be Taken on the Ground in case of Bomb Threats or Alarms

- 22. Endeavour to identify the author of any threat or alarm made by telephone.
- 23. Implement the procedures for responding to bomb threats and alarms.
- 24. Inspect passengers' baggage, cargo, etc., as they are received at the airport and keep under surveillance until the threat is over.
- 25. Disembark boarded passengers as rapidly as possible with their hand-baggage and inspect before entering the terminal building.
- 26. Remove aircraft together with any loaded baggage and cargo to a remote position.
- 27. Search aircraft thoroughly and any baggage, cargo, etc., not yet loaded.
- 28. Keep all unauthorized persons at least 100 metres away from aircraft or stored cargo, etc.

GENERAL SECURITY MEASURES ABOARD AIRCRAFT IN FLIGHT

29. Security officers, adequately trained in their duties, should, whenever necessary, be carried aboard aircraft. Any security officers so carried should be under the jurisdiction of the pilot-in-command.

MEASURES TO BE TAKEN WHEN AN UNLAWFULLY SEIZED AIRCRAFT IS AT REST AT AN AIRPORT

30. When an aircraft which has been unlawfully seized is at rest at an airport, the competent authorities of the Contracting State in which the airport is situated should not take any action to terminate the unlawful seizure of the aircraft without taking into account, particularly, any wishes that the pilot-in-command may have been able to express and, if feasible, those of appropriate officials of the State whose airline is operating the aircraft, full weight having been given to all relevant circumstances and to the views of the airline. The safety of the passengers and crew should be the overriding consideration of those involved in reaching any decision.

**STATEMENT OF BENJAMIN O. DAVIS, JR., ASSISTANT SECRETARY
FOR TRANSPORTATION FOR SAFETY AND CONSUMER AFFAIRS,
DEPARTMENT OF TRANSPORTATION**

General DAVIS. Good morning, Mr. Chairman.

Senator CANNON. You may proceed.

General DAVIS. All right, sir.

Mr. Chairman, Senator Pearson, I appreciate this opportunity to appear before you today to discuss the provisions of S. 2280 ordered reported by the committee last week respecting the implementation of the Convention for the Suppression of Unlawful Seizure of Aircraft—the Hague Convention—and authorizing the President to suspend air service to countries acting in a manner inconsistent with the Hague Convention. I wish also to discuss Senator Pearson's amendment to S. 2280 authorizing the President to withhold, revoke, or impose conditions on the operating permission of a foreign air carrier where he finds that the air safety and security standards of the air carrier's country do not meet certain internationally recognized minimum standards.

On March 6, 1972, I appeared as a witness before the Aviation Subcommittee of your committee. At that time I said that "aircraft hijacking is a dangerous and aggravating problem which has been with us since the early 1960's." I didn't realize when I made that statement just how aggravating and frustrating hijacking was going to be in the following months. Since that time we have had 13 more incidents of hijacking in the United States, 11 involving scheduled air carriers and two involving chartered general aviation aircraft. The total number of U.S. hijackings for 1972 thus far is 20, all but three involving the airlines. Eleven of the air carrier hijackings were for extortion.

To add to the frustration of the sheer numbers of hijackings is the fact that we believe that five of the hijackers should have been prevented from boarding the aircraft. They got aboard because of a lack of screening or because of the ineffective screening by the airline involved. This occurred in spite of the fact that Federal regulations have required screening since early February. Two airlines have had fines levied against them for violating the security regulations; action may be taken against others. We do intend to enforce the regulations.

Some of the other instances of hijacking since the first of the year would probably never have occurred had there been adequate airport security. We have attempted to plug that hole by issuing on March 18, Federal security regulations covering airports. The 531 air carrier airports in the Nation were required in March to take immediate action to prevent or deter persons and vehicles from gaining unauthorized access to airport operational areas, and to develop strict overall airport security programs.

Special instructions have been issued to FAA security personnel for surveillance of U.S. air carriers and air carrier airports to assure full compliance with these aviation security regulations. The FAA is also developing security regulations for foreign air carriers operating within the United States to assure that passengers aboard those aircraft are afforded the same level of security required for U.S. air carriers.

Another frustration this year has been the unwillingness among airline management and flight crews to fight back against hijackers.

The most glaring bad example was the case of the aircraft which was taken to Algeria—a completely unnecessary trip since the hijacker could have been captured without endangering human life. The crew in that case simply lived up to the terms of the company operating manual which said to accede to all demands of a hijacker. We are in the process of getting that changed.

Secretary Volpe met with the chief executives of 11 major airlines on May 22 and I held a followup meeting with representatives of the airlines, airport managers and pilots on June 7. We stressed then, and we continue to stress, that:

- (1) The Federal security regulations must be fully applied;
- (2) The payment of ransom or extortion money must be resisted to the fullest extent possible, consistent with the safety of human life;
- (3) Hijacked aircraft must be gotten on the ground and kept there and crews and airline managements must cooperate with the FBI.

We have some other things in the mill which we believe will help us in the future to fight back against hijackers. We are working with flight crews to educate them as to the role of the FBI. The airlines, pilots, and FAA are looking into the question of arming crews, including the possible use of nonlethal weapons. The FAA is currently undertaking action to eliminate all but essential carry-on baggage, a prime source of weapons carried aboard aircraft by hijackers. FAA also has regulatory action pending which would call for armoring the bulkhead between the cockpit and the passenger cabin, and another action underway relating to the locking of the rear stairways on certain aircraft so they cannot be opened during flight.

Despite the fact that we have taken action on several fronts in an attempt to bring under control the problem of aircraft piracy, as I said, the skyjacking threat continues. We recognize that we must intensify our efforts to thwart these criminal acts, and are receptive to the adoption of any reasonable means to help combat the problem. The committee bill, by providing for the suspension of air services under certain circumstances, adopts an approach not totally unlike the joint action concept we have been urging before the International Civil Aviation Organization (ICAO). There are some aspects of this bill, however, which are troublesome to the Department.

The need to eliminate the "safe havens" around the world for hijackers has been apparent from the time of the earliest hijackings to Cuba. The main effort of the administration in this regard has been to establish a system of international law dealing with crimes in and to international air transportation which would represent for all nations an accepted norm for dealing with the hijacking problem. We have attacked this through what we believe to be the best approach—multilateral action. We reached an important milestone when the Convention for the Suppression of Unlawful Seizure of Aircraft was signed by the United States and 49 other countries at The Hague in December 1970. This Convention, as you know, obligates contracting states to establish jurisdiction over hijacking and to extradite or submit to prosecution hijackers in their custody. Last September, the Senate gave its consent to ratification of the Convention and the Convention entered into force. Right now, 34 states have become parties to the Convention and, with respect to the United States, the last formal step now necessary to fulfill our obligations under the

Convention is to enact legislation properly adjusting our law to its provisions. This, of course, would be accomplished by the enactment of sections 1 through 3 of S. 2280, and we appreciate the action of the committee in moving ahead in this area.

For some time it has been our view that the next essential step is to proceed, again on a multilateral basis, with the establishment of another international convention dealing with the issue of taking joint action against states which refuse to extradite or prosecute hijackers. We have been urging this approach because we believe that exerting pressure through joint action directly upon an offending country can provide positive results with respect to the elimination of safe havens. Also, this approach avoids one of the drawbacks of the secondary boycott provision in S. 2280; namely, the possibility of damaging our friends and allies to a greater extent than the offending country. Joint action is also essential in a case where the United States does not provide air service to an offending country and on an especially broad basis in the case where an offending country can look to the continued provision of air service to its territory by countries that do not provide service to the United States.

Thus we still adhere to the position that this further multilateral action is necessary. Just recently we have succeeded in our efforts to get underway a renewed effort under the aegis of ICAO to draft a joint action convention. Progress in this direction has been slow in the past, but we believe it is advisable to vigorously pursue this course. To the extent that this committee's bill might be regarded as a practical method of implementing such a joint action concept, I would caution that in some important respects it may be missing the mark. We agree that a primary boycott provision implemented in concert with other nations would be consistent with the concept we have in mind with respect to the drafting of a convention. It is essential, however, that under any statute, the President have full discretion as to whether to take action, and it should be understood that whatever actions he takes must be in concert with other nations. For the reasons I stated above, however, we are opposed at this time to the adoption of any provision providing for secondary boycotts.

To complete this discussion of providing greater security, I would like to say a word about the constructive approach contained in Senator Pearson's amendment. While we would like to reserve the opportunity to focus more closely on the details of this amendment, we endorse the central theme it contains of providing for compliance with international standards for the security of air passengers. We would recommend, however, that any authority of the type contained in the amendment be exercised by the Secretary of Transportation with the concurrence of the Secretary of State.

In conclusion, Mr. Chairman, we continue to look to cooperative efforts on the part of all the parties involved, the Government, the airport operators, the airlines, and the air carrier crews to follow a tough policy in dealing with the hijacking problem. We frequently discuss the problem with representatives of these groups. In fact, as a result of one of our most recent meetings, we now are participating in the development of a number of new or intensified approaches to combating the hijacker. You have our complete assurance that we will continue to move ahead as fast as we can on all fronts as we regard this problem a matter of the highest priority.

Mr. Chairman, that concludes my prepared testimony.

Now I will be happy to answer any questions the committee may have.

Senator CANNON. Thank you, General.

I think I have already raised in my opening statement, the questions that I have with respect to your statement, and I would just simply say in summary that I think that we are making a very serious mistake to try to put the law enforcement problem on the airlines involved, or on the pilot or the crews of the airlines. They are not the law enforcement people. And the sooner we recognize that, the better off we are going to be toward meeting this problem, in my judgment.

Senator Pearson?

Senator PEARSON. General, you indicated there were some troublesome, to use your words, aspects of the two amendments that had been submitted.

I wonder if you would review them in sort of outline form. I recall the secondary boycott aspect of the Magnuson amendment that you find somewhat troublesome.

Would you, in outline form, repeat those aspects of this amendment?

General DAVIS. I would be glad to, Senator Pearson.

There is a problem, sir, in taking secondary boycott in the case of a country, for example, that does not operate in the United States. If air service is provided to that country by other nations, we may find ourselves taking action against a third country which happens to be a friend of ours and that the action will hurt the friendly nation and in no way be operative against the violator nation.

Senator CANNON. Would the Senator yield?

Senator PEARSON. Sure.

Senator CANNON. How many countries are there in that category, and which ones are they?

General DAVIS. Algeria is one of them, sir.

I would say that we have very great interests in the Middle East going beyond air commerce that would bear upon a decision to penalize another nation operating into a nation of that type.

Senator CANNON. Is that the only one that you think would be involved in that sort of situation?

General DAVIS. It could happen with respect to Cuba, sir, with which we do not have diplomatic relations, however.

Senator CANNON. So Cuba and Algeria would be the two principally that would be involved in that situation?

General DAVIS. They have been in the past, and they might be in the future.

Senator CANNON. All right.

Senator PEARSON. Do you recommend that the authority be placed in the Secretary of Transportation, who acts concurrently with the Secretary of State, who acts concurrently with the President of the United States?

General DAVIS. Yes. The authority contained in your amendment.

I must say, Senator, we haven't had an opportunity yet, to become thoroughly familiar with all of the consequences that might derive from the implementation of the—

Senator PEARSON. I appreciate that.

As a matter of fact, that is a manifestation of the sense of urgency and the great frustration that you mention in your statement. This Congress, and some members of the Senate now are at the point where they are willing, on an emergency crash basis, to put some legislation through.

We are having hearings on a bill that has already been approved by the Aviation Subcommittee, and the full committee, is that right?

Senator Cannon.

Senator PEARSON. And I would hope that action such as that would be some indication of what a sense of urgency we feel about this thing.

The chairman made reference in, I thought, pretty biting terms of the feeling that the administration and the FAA are really not doing all that they could do.

We feel that way about the airlines. I hold the airlines, to a degree, more responsible, perhaps, than the chairman would here this morning.

But, just to give you another idea of how far we are grasping out to try to find some sort of thing to pick up, this legislation now being thought of and being drafted to provide for damages against an air carrier, for every passenger on a liquidated damages basis, for any airlines that does not adhere to every one of the safety and security requirements as proposed and as instituted by the FAA.

General DAVIS. Yes, sir.

Senator PEARSON. That is a pretty severe sort of thing to do.

Well, I thank you for your comments.

I will study your statement a little further. I wish you would give some more thought to these amendments, because if I am any judge of the temper and the tone of the Senate, we have got to put something like this out.

General DAVIS. Thank you, Senator Pearson.

Senator CANNON. Senator Moss?

Senator MOSS. Thank you, Mr. Chairman.

General Davis, you referred to the convention that was ratified last September and said that there were some 34 States that have now ratified that.

Can you give me an idea of what States they are that have now ratified?

General DAVIS. Yes, sir. I believe I have a listing of them.

Senator MOSS. Are they generally the Western European states?

General DAVIS. Not in toto, sir.

The report I have lists Brazil, Bulgaria, Costa Rica, Ecuador, Finland, Gabon, the German Democratic Republic, Hungary, Iran, Israel, Japan, Jordan, Mongolia, Niger, Norway, Paraguay, Sweden, Switzerland, the Soviet Union, the United Kingdom, and the United States.

Senator MOSS. Is it your feeling that the convention can have real impact on the problem that we have that my colleagues just talked about as being so urgent?

General DAVIS. I believe, sir, that such action within the international community has a very strong potential for helping us solve the problem, because it is an expression of nations of the world of their view that air piracy should be outlawed.

Obviously we don't have all the nations signatory to this convention, so consequently there will always be weaknesses in the approach. But the fact that the nations that I have enumerated are not always politically aligned with the United States should indicate, I believe, the nonpolitical nature of the problem, that it is a problem of air commerce rather than one on which the nations divide themselves along political lines.

Senator MOSS. Do you read the return of the money by Algeria as an indication that there is a willingness to cooperate in trying to control this sort of thing by Algeria and possibly other nations like that?

General DAVIS. I believe, Senator, that Algeria does not want to be a safe haven for hijackers, and I believe that in their own self-interest, they would take the action that they have taken.

Senator MOSS. Well, thank you very much.

I appreciate it.

Thank you, Mr. Chairman.

Senator CANNON. Thank you very much, General.

The next witness is Mr. Secor D. Browne, Chairman of the Civil Aeronautics Board.

**STATEMENT OF HON. SECOR D. BROWNE, CHAIRMAN, CIVIL
AERONAUTICS BOARD, WASHINGTON, D.C.**

Mr. BROWNE. Good morning, Mr. Chairman. The Civil Aeronautics Board supports this legislation as it supports all strong, appropriate, and effective steps to end this very serious menace to air commerce.

I personally would point out, as I am sure the Chairman, Senator Pearson, and Senator Moss are already aware, that this is merely one more tool to use in the overall effort to suppress hijackings and other crimes against air commerce. We need a total tool kit if we are to deal with the problem.

The Board has some comments to make on the legislation. I would, with your permission, like to read the prepared statement.

Senator PEARSON. Mr. Chairman, let me just interrupt you for a moment to emphasize what you have said. I don't think that what we propose here today is a terribly significant thing. It is just one more effort to try to do something about the problem. I think we greatly mislead people if once again we ratified a convention, adopted an amendment or implemented a treaty, and then represented to the public that we have made a great significant step. We haven't. But it is just one more step.

Senator CANNON. That is absolutely correct. As you say, one more tool. Many people throughout the country thought when we increased the penalty some time ago that that was going to solve the problem and obviously we hoped it would act as some sort of deterrent. But we are going to have to consider the whole package and not lay it on to the failure of an airline to enforce a hijacker profile that a clerk has got to look at and try to sell a ticket at the same time.

Mr. BROWNE. Thank you, sir.

Mr. Chairman, the hijacking of commercial aviation aircraft poses a dangerous threat to world aviation, a threat that simply cannot be understated. The governments of the world must take action which is

strong, appropriate, and effective. The intent of the amendments to S. 2280 that are before the committee today is to authorize forceful action to reduce this threat. The Board is deeply interested in all possible steps that might eradicate the menace of hijacking. We appreciate this opportunity to present the Board's views on the proposed legislation.

As reported out of committee, S. 2280 would add a new section 1113 to the Federal Aviation Act. The new section would empower the President to impose sanctions against any nation that violates the Hague Anti-Hijacking Convention. The thrust of the new section is to eliminate safe havens for hijackers. As things stand now, virtually every hijacker of any persuasion believes—with some reason—that he can find some place in the world where he can escape punishment. And so long as these safe havens exist for hijackers, there will be an open season on aircraft and airline passengers. Thus, aside from stopping hijackers at the departure gate, the single most important action that the world community can take against hijacking is to deny an air pirate the safety of a haven. We believe the world community should arm itself to do just that. We have supported the efforts which our Government has been making in this direction. It is encouraging that the International Civil Aviation Organization has renewed work as a priority matter of drafting a new international agreement. The agreement would provide the basis on which States could plan joint action to enforce the Hague Anti-Hijacking Convention.

Basically, we think that cutting off air service will be truly effective only if it is virtually universal. If the nations were to agree to cut off air service to a safe haven country, the new section 1113 would provide clear authority to the President to join in the multilateral effort.

New section 1113 also would empower the President to act against the safe haven unilaterally. Moreover, it would authorize him to suspend the right of foreign nations to provide air service to the United States unless they also suspended air service to the safe haven.

This authority would be discretionary, rather than mandatory. Presumably the President would not use it unless he thought it would be effective.

The first problem with unilateral action by the United States is that safe haven countries tend to be the ones that don't have any air service with the United States. And countries that have the largest stake in air service to the United States are precisely those that are likely to extradite or prosecute hijackers.

The second problem is that, in our judgment, no country, even the United States, has sufficient leverage in aviation all by itself to bring about the isolation of any one country.

For example, take almost any country in North Africa of the Middle East. There is ample air service between those countries and other countries which do not provide air service to the United States. For all practical purposes, those other countries are beyond the reach of any boycott imposed by the United States.

In other words, even if the President were to act as authorized, and countries providing air service to the United States were to suspend air service to a safe haven country, that country would still have air service.

In fact, anyone in the United States could get to the safe haven country, simply by an appropriate combination of routings. I have attached to this statement a list of all the international air services provided to countries in North Africa and the Middle East by airlines which do not serve the United States as well as those that do.

Also, it is not certain that countries linked to the United States in international air service would necessarily join in the boycott. If the air services from those countries were suspended retaliation against U.S. flag carriers would surely follow. Moreover, air services provided by flag airlines of other countries could also be cut off.

For instance, take a hijacking situation in which Great Britain for some reason opts not to end air service between it and the safe haven. Not only could the foreign air carrier permits of BOAC and a half dozen or so British charter services be suspended, the United States-United Kingdom authority of the national flag airlines of Australia, India, Ireland, Israel, Japan and Pakistan could also be suspended. Again, retaliation against U.S. carriers could follow.

Action of that sort simply could not be taken without doing incalculable harm to the United States and to its principal partners in aviation—in terms of international relations, commerce, and injury to the traveling public and air carriers. Further, hijacking is an international problem whose ultimate solution depends on international cooperation at the highest level. A secondary boycott could jeopardize such cooperation since it would undoubtedly be viewed as a U.S. attempt to bludgeon other countries into line.

The possibility for mischief exists. Unfriendly countries might deliberately act as safe havens in hopes of stimulating a U.S. boycott and producing ill will between the United States and its principal aviation partners. It should be noted the bill would provide for boycotts by the United States even where the hijacking took place outside of the United States and did not involve any U.S. airline, and threatened no U.S. citizen.

To sum up, while the authority to impose secondary boycotts is discretionary, it is hard for us to see any practical use for it.

Senator Pearson has proposed an amendment to S. 2280, which would authorize the President to suspend air services to and from a country which failed to live up to the airport security procedures recommended by the International Civil Aviation Organization.

Airport security is a responsibility of the Department of Transportation, and we understand that that Department will recommend some modifications of this amendment. Improvement of airport security around the world is essential to the war against hijacking. If the amendment as modified by the Department will contribute to to this goal, we would support it.

Mr. Chairman, there are answers to the hijacking threat.

One is to improve security procedures in this country, particularly at airports.

Another is to make it clear that all hijackings, whatever the motives of those who perpetrate them, are common crimes, and must be dealt with as such. It is now well past the time when everyone should have learned that to praise the motives of a particular hijacker today means rueing the action of another hijacker tomorrow.

A third, and perhaps the most important, is to work for a multi-lateral convention that would require all signatories to consider joint action to enforce the Hague Anti-Hijacking Convention. Suspension of air service to countries that are either unable or unwilling to punish or extradite hijackers may be the deterrent needed. But that approach can only be effective if imposed on a virtually worldwide basis.

The process of getting nations to agree even to consider joint action has been exasperatingly difficult. Unfortunately there don't seem to be any shortcuts that could let us avoid multination agreement on the subject. Nevertheless, while we are improving our domestic defenses against hijacking, we must make every effort to bring the countries of the world into full agreement on the need to act jointly against the universal hijacking menace.

Thank you.

(Appendix follows:)

Italic indicates carrier conducts air service to the United States.

Algeria:

Alitalia
Aeroflot
 AVIACO
 Bulgarian Airlines
Swissair
 Interflug
Air France
 Egyptair
 Saudi Arabian Airlines
Czechoslovak Airlines
 Libyan Airlines
 Air Algerie
 Tunis Air
 Royal Air Maroc

Arab Republic of Egypt:

Alitalia
 BOAC
Pakistan International
Aeroflot
 Syrian Arab Airlines
 Kuwait Airways
 KLM
Lufthansa
 Malev
 Bulgarian Airlines
Swissair
 Iraqi Airways
 Interflug
Air France
 Egyptair
 Saudi Arabian Airlines
Olympic
Czechoslovak Airlines
 MEA
 Alyemda
 Royal Jordanian
 Sabena
 SAS
Japan Air Lines
 JAT
 Libyan Airlines
Air India

Tarom
 Sudan Airways
 Cyprus Airways
 Polish Airlines
 Ethiopian Airlines
 Air Algerie
 Yemen Arab Airlines
 Tunis Air
 TWA

Bahrein:

BOAC
Pakistan International
 Kuwait Airways
Lufthansa
 Iraqi Airways
 Saudi Arabian Airlines
 Qantas
 MEA
 Gulf Aviation
Air India
 Malaysia/Singapore Airlines
 Iberia

Iraq:

BOAC
Pakistan International
Aeroflot
 Syrian Arab Airlines
 Kuwait Airways
 KLM
Lufthansa
 Bulgarian Airlines
Swissair
 Iraqi Airways
 Interflug
Air France
 Egyptair
 Saudi Arabian Airlines
Czechoslovak Airlines
 MEA
 TWA

Jordan:

Aeroflot
Kuwait Airways
KLM
Egyptair
Saudi Arabian Airlines
Royal Jordanian Airlines
TMA*

Kuwait:

BOAC
Pakistan International
Syrian Arab Airlines
Kuwait Airways
KLM
Lufthansa
Iraqi Airways
Egyptair
Saudi Arabian Airlines
Czechoslovak Airlines
MEA
Gulf Aviation
Alyemda
Royal Jordanian Airlines
TMA
Air India
Iran Airlines
Yemen Arab Airlines

Lebanon:

Alitalia
BOAC
Pakistan International
Aeroflot
Kuwait Airways
KLM
Lufthansa
Malev
Bulgarian Airlines
Swissair
Iraqi Airways
Interflug
Air France
Egyptair
Ariana Afghan
Saudi Arabian Airlines
Czechoslovak Airlines
MEA
Gulf Aviation
THY
Alyemda
Sabena
SAS
Japan Air Lines
JAT
Libyan Airlines
VIASA
Air India
Taron
Sudan Airways
Austrian Airlines
Nigeria Airways
Cyprus Airways
Polish Airlines
Pan American

Libya:

Alitalia
Aeroflot
Syrian Arab Airlines
KLM
Lufthansa
Bulgarian Airlines
Swissair
Egyptair
Saudi Arabian Airlines
Czechoslovak Airlines
MEA
JAT
Libyan Airlines
Sudan Airways
Air Algerie
Tunis Air
Royal Air Maroc
British Caledonia
Malta Airlines
UTA

Morocco:

Alitalia
Aeroflot
KLM
Lufthansa
Bulgarian Airlines
Swissair
Air France
Saudi Arabia Airlines
Czechoslovak Airlines
Air Mali
Sabena
Libyan Airlines
Nigeria Airways
Air Afrique
Iberia
Air Algerie
Air Mauritania
Tunis Air
Royal Air Maroc
British Caledonia
Pan American

Oman:

Pakistan International
Gulf Aviation
TMA

Qatar:

BOAC
Pakistan International
Syrian Arab Airlines
Kuwait Airways
Egyptair
Saudi Arabian Airlines
MEA
Gulf Aviation
Royal Jordanian Airlines
TMA
Iran Airlines
Tunis Air

Saudi Arabia:

BOAC
Pakistan International
Syrian Arab Airlines
Kuwait Airways
KLM
Lufthansa
Iraqi Airways
Air France
Saudi Arabian Airlines
MEA
Gulf Aviation
Royal Jordanian Airlines
TMA
Iran Airlines

South Yemen:

Pakistan International
Aeroflot
Kuwait Airways
Egyptair
East African Airways
MEA
Alyemda
Air India
Sudan Airways
Air Djibouti
Ethiopian Airlines
Yemen Arab Airlines
Somali Airlines

Sudan:

Alitalia
BOAC
Aeroflot
Lufthansa
Swissair
Interflug
Egyptair
Saudi Arabian Airlines
MEA
Libyan Airlines
Sudan Airways
Ethiopian Airlines

Syria:

Alitalia
BOAC
Pakistan International
Aeroflot
Syrian Arab Airlines
Kuwait Airways
KLM
Lufthansa
Malev
Bulgarian Airlines
Swissair
Iraqi Airways
Interflug
Air France
Egyptair
Ariana Afghan
Saudi Arabian Airlines
Czechoslovak Airlines
Pan American

Tunisia:

Alitalia
Aeroflot
KLM
Bulgarian Airlines
Swissair
Air France
Saudi Arabian Airlines
Czechoslovak Airlines
Sabena
SAS
JAT
Libyan Airlines
Air Algerie
Tunis Air
Royal Air Maroc
British Caledonia

Yemen:

Saudi Arabian Airlines
Alyemda
Air Djibouti
Ethiopian Airlines
Yemen Arab Airlines

Mr. BROWNE. Thank you, Mr. Chairman. I would be delighted to try to answer your questions. I would like to ask that Mr. Charles Butler come forward along with Mr. R. Tenney Johnson, our general counsel. Mr. Butler, I believe, can contribute a great deal because not only is he head of our Bureau of International Affairs, but he was formerly the U.S. Delegate to the ICAO General Assembly in Montreal with the personal rank of Minister. Mr. Butler fought this battle all the time he represented us at ICAO.

Senator CANNON. You properly pointed out that the authority given the President is discretionary and, of course, we would certainly have to assume that he would exercise good judgment in the use of that authority. I would like to ask you whether or not you think that the passage of this legislation giving the President that discretionary authority might assist in getting appropriate multination agreement worked out.

Mr. BROWNE. I believe it would. I think our reservation over it was the earlier expressed concern that this alone isn't going to do it. I personally favor giving the President this tool but simply caution all of us against it being the sole answer.

Senator CANNON. Where do we stand now with respect to further agreements? Perhaps you would address yourself to that.

Mr. BROWNE. Mr. Butler can do that better than I can.

Mr. BUTLER. Mr. Chairman, to put matters in perspective, there are four agreements that are discussed as far as airline security is concerned. The first is the Tokyo Convention that was adopted in 1963, and finally came into effect in late 1969. The second is the Hague Convention which deals with hijackers and hijacking incidents. This calls for the prosecution or extradition of hijackers. The third is the Montreal Convention that was negotiated last September. The Montreal Convention is designed to deal with armed attack and sabotage situations, which were not covered either by Tokyo or by the Hague Conventions. These are the first three.

Senator PEARSON. May I interrupt you. The Japanese, Tokyo, Hague Conventions, they were government to government.

Mr. BUTLER. That is correct.

Senator PEARSON. And Montreal was really the carriers themselves?

Mr. BUTLER. No, sir. The Montreal Convention is an intergovernmental convention designed to do for the saboteur and for the armed attacker what the Hague Convention did for the hijacker. But it is an intergovernmental convention. It is not in effect yet. It has only had three ratifications so far that goes into effect. I believe the United States will be presenting—

Senator CANNON. Has that been sent to Congress for ratification?

Mr. BUTLER. I believe it is on the way up, Senator. Since the Board is not involved in it, I am not sure of the exact status, but I think the Department of State may have some comments on that.

The fourth convention that we are discussing here is what has been termed the joint action convention. This is a convention designed to permit states to get together when there has been an offending state, one acting as a safe haven, a case where the hijacker has arrived in a country, he has not been prosecuted, he has not been extradited. In this situation, the contracting states under this proposed convention would be able to join together and try to as universally as possible close down air service to the offending state. This is one of the courses of action that would be available under this joint action convention. There is a meeting coming in Washington, the United States is hosting it, on September 4, to continue the work that was begun in October 1970, in ICAO, on this joint action convention.

Senator CANNON. Now, Cuba, of course, was one of the first examples of non cooperative countries. What is the situation with respect to Cuba now and these four agreements?

Mr. BUTLER. I don't believe Cuba is a signatory to any of the agreements.

Senator CANNON. Any of the four?

Mr. BUTLER. I don't believe so. The obligation of the Hague convention as far as hijackers are concerned, obviously flows to contracting states. The situation that would exist if the joint action con-

vention were negotiated and became effective could change that. It would depend upon the criteria, the type of hijacker. The original proposal in ICAO would deal solely with the hijacker who did it for international blackmail purposes. This was as a result of the hijackings to the Jordanian desert in September of 1970. It is designed to deal solely with the most aggravated type of hijacker.

Now, whether or not this will be broadened to include other hijackers, no matter the reason they do it, depends on the negotiations that will take place in the legal subcommittee of ICAO in September, and finally, in the diplomatic conference that will ultimately take place to try to negotiate this multilateral convention.

There are many different views of how this convention should be developed, how broad the scope should be. Obviously one of the principal objectives is to make it as universally acceptable as possible, so it is going to be a very difficult negotiation.

Senator CANNON. Do you have the information with respect to the results of the Cuban hijackings up to the present time?

Mr. BUTLER. You mean in terms of numbers?

Senator CANNON. In terms of what has actually happened in each instance, what has happened to the hijacker in each instance?

Mr. BROWNE. We do not, sir; but I believe the DOT does have the information as to the numbers of hijackings, and the fate of the hijackers.

Senator CANNON. Is General Davis still here?

I am going to request either FAA or DOT to supply for the record the results with respect to the hijackers in the case of the hijackings to Cuba, so that we might have that as part of this record, as to what has happened in each of these individual cases. I think that might be very helpful.

Could you please advise me that we already have that in connection with earlier hearings that we held, so I will just simply ask that it be reviewed to see if it is brought completely up to date, and if it is not up to date, we will have it brought up to date.

Senator PEARSON. Mr. Chairman, it was in recognition of some, perhaps not all, of the troubles you recited in the action-reaction process of the President having that right to invoke sanctions that we designed this on a discretionary basis. In response to the suggestion, with the Secretary of Transportation and the Secretary of State concurring, I can't imagine the President not consulting with any of his official family on the advisability of doing this.

Let me ask General Counsel if this proposal would be in violation of any bilateral or multilateral agreements we now have with other nations regarding air rights.

Mr. JOHNSON. We have studied that in the time available, Senator Pearson, and we find nothing in the Chicago convention that would preclude this country from proposing that requirement.

However, it is true that taking this action, particularly on a secondary boycott basis, would be inconsistent with the bilateral agreements that we have.

However, if this were an act of Congress, clearly it would supersede those bilateral agreements, since they are administrative, executive agreements, rather than fundamental laws.

Senator PEARSON. Do you have any legal problem in making the Civil Aviation International Standards, the ICAO security standards, which perhaps are not yet agreed upon?

Mr. JOHNSON. As I understand it, the airport security regulations were largely suggested by this country, and they are in the form of recommendations to the States.

However, in the form of your legislation, they are set out as standards. There is nothing to preclude the Congress from setting those out as standards. They are good. I must point out that we in this country haven't lived up to all of those standards ourselves. It would be helpful for us to live up to them before we try to impress them upon others.

Senator PEARSON. Where have we failed to live up to them?

Mr. JOHNSON. Well, this is an area outside the Board's responsibility, of course, but, for example, one standard relates to fences around airports. We don't have fences around airports in many places in this country yet.

Senator PEARSON. I think that is all I have. I thank you.

Senator CANNON. Senator Moss?

Senator MOSS. No questions. Thank you.

Senator CANNON. Anything further, Mr. Chairman?

Mr. BROWNE. No, sir. Thank you for the opportunity to appear.

Senator CANNON. Thank you very much. We just have reported out a bill now to change the formula which would help airports in compliance with the security arrangements that are recommended.

Thank you very much.

Mr. BROWNE. Thank you, sir.

Senator CANNON. The next witness is Mr. Bertram Rein, Deputy Assistant Secretary for Transportation and Telecommunications, Department of State.

STATEMENT OF BERTRAM W. REIN, DEPUTY ASSISTANT SECRETARY FOR TRANSPORTATION AND TELECOMMUNICATIONS, DEPARTMENT OF STATE; ACCOMPANIED BY DAVID ORTMAN, AVIATION PROGRAMS AND POLICY DIVISION, OFFICE OF AVIATION

Mr. REIN. Thank you, Mr. Chairman.

Mr. Chairman, I am accompanied this morning by Mr. David Ortman, of our Office of Aviation.

Mr. Chairman, we are pleased to have this opportunity to comment on the amendments to S. 2280, which Senators Magnuson and Pearson have proposed.

These amendments, dealing with the enforcement of international obligations to deal effectively with hijackers and to take necessary security measures to protect the traveling public, touch on matters that have been of continuing concern to the Department of State.

Only last week, the Council of the International Civil Aviation Organization (ICAO) endorsed a U.S. resolution dealing with both these problems. That resolution called for maximum compliance with the physical security standards previously proposed by the United States.

It also directed ICAO's legal committee urgently to resume work on the drafting of an international convention directed toward the enforcement, by joint international action, of certain obligations contained in the Hague Convention. This enforcement work will commence in Washington on September 4.

We believe that this important step, coupled with the recent unanimous Security Council denunciation of interference with civil aviation, demonstrates that the international community is fed up with sky piracy and is prepared to hold every state accountable for playing its proper role in protecting the traveling public.

The peculiarly international nature of aircraft hijacking is highlighted by the basic provisions of S. 2280 which would extend our domestic jurisdiction to deal with all hijackers regardless of where the crime was committed, or whether U.S. citizens or property were involved.

This universal jurisdiction provision demonstrates clearly that unlawful interferences with civil aviation are threats to a vital system which must be protected by all its members acting in concert and without regard to political concerns.

No nation can be permitted to avoid its obligations, nor can any single nation hope to secure its objectives outside the framework of international cooperation that has always characterized civil aviation.

The proposed section 1113 to be added to the Federal Aviation Act, by S. 2280, as S. 2280 is presently drafted, would depart from this international framework. It would impose upon the President the duty to utilize possible denial of access by foreign air carriers to the United States as a unilateral means of enforcing international adherence to the standards of the Hague Convention.

We wholeheartedly support the proposition that a state which fails to discharge its responsibilities to civil aviation should face the possibility of exclusion from the benefits of the aviation system. However, we do not consider it appropriate or fair for the United States to bear the entire burden of adjudicating this problem and enforcing the remedy.

Indeed, were the United States to signal its willingness to "police" Hague obligations unilaterally, many states, now favorably disposed toward playing their role in the enforcement process, might contendedly sit back, waiting for us to do it all.

Senator CANNON. Of course, you must keep in mind, this is not a mandatory provision.

Mr. REIN. We recognize that, Mr. Chairman. We have attempted to take it into account. While it is not mandatory, it imposes upon the President the duty of review each case in which an allegation has been made of noncompliance.

We think it would signal other countries that we are prepared and strongly prepared, to take unilateral action. In our view, this might retard our efforts to promote joint international action.

I think, in that regard, the statement of the Chairman of the CAB is important to keep in mind.

Senator CANNON. I think that one of the purposes of the legislation, is to get a signal across to somebody that we are very concerned and that they better recognize that some action might be taken.

Mr. REIN. Senator, I understand that. A little bit later on in our statement, we deal with this problem because we do support some legislative action.

Moreover, as a practical matter, the application of S. 2280, as a unilateral measure, might do substantial harm to U.S. interests, without necessarily influencing those states whose conduct might pose a threat to our carriers and passengers.

Some of our most difficult problems have arisen in states which have no direct air connections with the United States. These would not be affected by the primary boycott provisions of 1113(a)(i).

Senator PEARSON. Let me interrupt you and go back to the point that you developed, that legislation of this nature might retard your efforts at multilateral agreements to deal with this.

Now, tell me, how close and how significant such multilateral negotiations, or agreements, may be? Let me understand what a danger, or what the relative danger is. I just read the U.N. resolution of June 20, 1972, which really is about as ineffectual, I suppose, as you could put down on paper.

But, tell me about the negotiations and the agreements and how close we are, and how much danger that legislation such as this, might impose upon your efforts?

Mr. REIN. Well, I guess that is a multipart question.

Senator PEARSON. Sure it is. You just pick them out and answer them any way you want to.

Mr. REIN. That is what I was attempting to do. With respect to Security Council resolution, the United States has not considered that the Security Council would be the most effective forum for preparing international, joint action against hijacking.

We do think it important however, when all the major powers agree and declare that there is no justification for these acts. Many hijackers have sought to justify their conduct on political grounds.

We think it is important that the major powers stand up and say, "We do not accept this as political conduct." I think this creates a signal which is influential with many revolutionary states and revolutionary organizations. This is a safeguard against hijacking. It is in that form, a deterrent, but not action. I agree with you.

We have always looked at the International Civil Aviation Organization as a forum for obtaining action. It has been a sponsoring organization for the conferences that have been developed.

We are proposing, and Mr. Butler has described our efforts toward, a new convention which would have enforcement machinery. To develop the machinery, a meeting of a Special Committee of ICAO will convene on September 4 in Washington. The committee's work will be reported directly to the Council, and it should be considered in November.

If the report is satisfactory, the Council could call for a diplomatic conference early next year, depending on facilities and depending on the amount of preparation it takes to engage in it.

There are real possibilities of moving forward if we can continue to keep the pressure up for some multilateral action. We recommend an amendment to S. 1113(a) which would lodge certain powers in the President which would indicate our willingness to join in this, but would exclude the possibility that we would do this unilaterally.

Senator PEARSON. Well, let me interrupt you.

The unilateral authority does not include multilateral action.

Mr. REIN. We understand that, and we endorse that. We simply do not wish to give out a signal that we are prepared to do it unilaterally, because we might get to the point where other states will say, "If they intend to do this, they ought to do it unilaterally." Small states whose vital air routes might be threatened, which cannot afford to be engaging in this, will seek to be exempt from this, and agree that the major states should take it back to the Security Council. And we know that forum is not terribly effective for action.

So, we want to keep the pressure on multilaterally. We want to say, we must all act. The United States is not able or prepared to do this job alone. Everybody has an equal interest in civil aviation, and everybody must join with us.

I think that is our position, and that is why we have sought to modify this legislation to confine the cases.

Senator PEARSON. I think that has been responsive to my questions, and I hesitate to make the point for fear of being argumentative, but it was General Davis, here, who cited the facts, 20 hijackings this year, 13 since last March, when he was before the committee.

That is what gives impetus and push behind some of this legislation. It makes us a little intolerant of slow, international agreements.

Why do you not go ahead with your statement?

Mr. REIN. I was going to say, 20 hijackings, but not all of those have been international. In fact, our primary problem in hijacking this year has been hijackings carried out entirely in the United States since the hijacker has exited the aircraft in our own territory. You cannot deal with that type case by action with respect to international safe havens.

With the considerations in mind that we have discussed, the Department recommends that section 1113(a) be revised to state:

The President, in accordance with the Resolution on Joint Action, passed by the Council of the International Civil Aviation Organization, on October 1, 1970, or in accordance with any subsequent international agreement governing international joint action to enforce the obligations of the Convention for the suppression of unlawful seizure of aircraft, may, without notice or hearing, and for as long as he determines necessary to assure the security of aircraft against unlawful seizure, suspend.

And then on into the language of section (a), as it now reads.

With this, or similar modification, the Department could support proposed section 1113(a)(1). We could not, however, support section 1113(a)(2), because this section might cause us to suspend the air carriers of a friendly state that had decided not to join a boycott because of different relations with, or interpretations of the conduct of the target state.

At a time when we are attempting to persuade major aviation states to join with us in the preparation of an enforcement convention, we consider it unwise to threaten them with service suspensions designed to guarantee its implementation. Moreover, we are seriously concerned with the losses to our air carriers and the inconvenience to our traveling public which application of 1113(a)(2) might cause, and probably without any real effect on the target state in those cases where the U.S. position differed from that of our major aviation partners.

The amendments proposed by Senator Pearson deal with the problem of insuring compliance by foreign air carriers with internationally accepted physical security standards. Foreign air carriers serving the United States carry large numbers of our citizens. On several occasions, U.S. citizens have been placed in jeopardy by hijacking or terrorism on foreign aircraft. Accordingly, we are anxious to insure that international standards are respected by foreign air carriers. Because these amendments deal directly with the safety of operations, the political problems they raise are less sensitive.

As we understand it, proposed section 5 would permit the President to act against the operating authority of foreign air carriers, when, after appropriate consultations, these carriers failed to afford necessary security safeguards to the traveling public. We would not, of course, consider that this legislation requires the Executive to undertake a worldwide survey of foreign security procedures, but we would be prepared to act in cases, where we find the safety of American passengers at issue. The procedures outlined in proposed section 5 are parallel to those governing safety under our most recent bilateral agreements. The interim international standards of ICAO Resolution A17-10 which would govern until more definitive standards are approved by ICAO, were proposed by the United States at the 17th Extraordinary Assembly of ICAO in June 1970, and have been drawn together in an ICAO security manual.

Work on definitive standards is progressing in ICAO's technical bodies and should be completed within 12 to 18 months.

In view of the close relationship between air security and air safety and the leading role played by the Department of Transportation, with respect to air safety, we would consider it more appropriate that the Secretary of Transportation, rather than the President, himself, should have the authority to act under section 5. Such action should be with the concurrence of the Secretary of State, however, so that foreign policy efforts will be fully considered.

One further suggestion we would make is, that a finding that a country does not effectively maintain and administer safety and security standards and requirements must involve transportation to or from the United States. This would be clear, if the words, "in air transportation," were added after the word "requirements," when it is first used, in section 5(b).

With the changes indicated, we support proposed section 5 as a useful tool to safeguard American passengers on international flights. However, we understand that the Department of Transportation has technical comments on the implementation of the legislation and in these respects we defer to that Department.

Senator CANNON. Thank you.

Senator MOSS?

Senator MOSS. Your final conclusion, then, is that you do support the legislation that is here, the amendments that are here?

Mr. REIN. We support the amendments proposed by Senator Pearson, and with the amendment we have suggested, subject to the technical changes we have proposed, in that, and with the amendment that we have suggested to Senator Magnuson's proposal, we would support section (a)(1) of that—the primary boycott provisions.

We do not support any secondary boycott provision, such as that which is contained in 113(a)(2) of the committee print.

Senator Moss. Well, you were saying earlier, that you were opposed to any unilateral action at all, by the United States, fearing that it would be used as an excuse for other countries not to assume their share of policing international hijackers.

Does that conform with the agreement of this action here?

Mr. REIN. We would distinguish to some degree between boycotts and safety or security standards which are of equal interest to all states. We would assume that every state concerned with its own passengers and own aircraft, would make efforts to create a good physical security situation.

I might say that there is risk of inadequate standards because these impose costs and inconvenience and thus a foreign government might seek an economic advantage of some kind by not imposing on its carriers or airport facilities, requirements in respect to certain kinds of procedures. This has been a problem in safety all along. FAA and State have had long experience with that problem.

We have considered it necessary in transportation to or from the United States, having reached agreement on the standards to be employed, to hold out the possibility that we would directly suspend the operations of a carrier which did not conform to those safety standards in order to protect our public directly.

This would not involve sensitive questions of political judgment, which might be involved in a decision whether or not to boycott another state. We distinguish those issues, and for that reason, in the area of safety and security we are prepared to act by ourselves pursuant to international standards, as Senator Pearson's amendment would empower us to do.

Senator Moss. What factors were involved in getting the return of the money from Algeria that was recently announced they are sending back? We have no diplomatic relationship with Alergia, now. Is that correct?

Mr. REIN. No formal diplomatic relations. As in many cases, in which that situation exists, we do have representation in Algeria. We have American diplomatic personnel in Algeria who are in contact with their authorities.

Senator Moss. Then the action by the Algerian Government was purely voluntary. It was not based on any requirement of international law or any agreement with our country, is that correct?

Mr. REIN. It was, of course, a voluntary act on the part of the Algerian Government, as was their action in turning the plane around and expediting the movement of the crew.

We consider that there is a fundamental principle, universally recognized in international law, that a state which receives a hijacked aircraft is responsible for dispatching or facilitating the movement of the aircraft and crew and is responsible for taking effective action against hijackers.

These responsibilities are formalized in the various conventions, but it has been the opinion of our legal advisers that because they run parallel to piracy on the seas, there are obligations which are generally recognized and exist independent of any formal convention.

But in this case it was Algeria's own decision, and the money has been returned and it is in the custody of Western Air Lines.

Senator MOSS. Thank you.

Thank you, Mr. Chairman.

Senator PEARSON. I do not think I have anything further. I think you were well prepared, and we certainly appreciate your testimony.

Senator CANNON. Thank you very much. We appreciate your appearance here today.

Mr. REIN. Thank you.

(ICAO Resolution referred to follows:)

RESOLUTION OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION

The Council:

Deploing the continuing frequency of acts of unlawful interference which cause serious safety problems, endanger lives and undermine confidence in international air transport;

Mindful of the solemn declaration of the 17th Session of the Assembly condemning all acts of violence which may be directed against aircraft, crews and passengers engaged in, and against civil aviation personnel, civil airports and other facilities used by, international civil air transport;

Recalling the resolutions of the ICAO Assembly, the United Nations General Assembly and the Security Council relating to unlawful interference with international civil aviation;

Calls upon Contracting States to implement to the fullest extent possible the security measures contained in Resolution A17-10, which are amplified in the ICAO Security Manual, and to report, as soon as possible and not later than 31 October 1972, on measures they have taken to implement them, for review and analysis by the Council within 30 days of that date, and decides that all communications in this field with Contracting States should be treated as being of a strictly confidential character;

Directs the Legal Committee to convene immediately a special Subcommittee to work on the preparation of an international convention to establish appropriate multilateral procedures within the ICAO framework for determining whether there is a need for joint action in cases envisaged in the first resolution adopted by the Council on 1 October 1970 and for deciding on the nature of joint action if it is to be taken;

Urges Contracting States to cooperate in the development of practical and effective security provisions which may form the basis for the adoption of ICAO Standards and Recommended Practices at the earliest possible date, so that the uniform application of such Standards and Recommended Practices will enhance the safety of civil aviation;

Urges States to become parties as soon as possible to the Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft; The Hague Convention for the Suppression of Unlawful Seizure of Aircraft; and the Montreal Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation;

Urges States, in the interim, prior to their becoming parties to the above mentioned Conventions, to observe to the maximum extent possible under their national laws the provisions of those Conventions.

Senator CANNON. The next witness is Mr. Stuart Tipton, president of Air Transport Association.

STATEMENT OF STUART G. TIPTON, PRESIDENT, AIR TRANSPORT ASSOCIATION; ACCOMPANIED BY JEROME HUISENTRUIT, ASSISTANT COUNSEL; AND GABRIEL PHILLIPS, VICE PRESIDENT IN CHARGE OF INTERNATIONAL AFFAIRS

Mr. TIPTON. Mr. Chairman, Members of the committee, at the outset I would like to introduce myself, Stuart G. Tipton, president of the Air Transport Association.

On my right, Mr. Jerome Huisentrut, assistant counsel of the Air Transport Association.

On my left, Mr. Gabriel Phillips, vice president of the association in charge of international affairs.

I am here representing all of the scheduled airlines of the United States to offer views on the amendment to S. 2280, adopted by the committee.

This amendment provides for the suspension of air services in cases contravening the Convention for the Suppression of Unlawful Seizure of Aircraft, otherwise known as the Hague Convention.

The original version of S. 2280 was designed to implement that convention. We generally support the implementing legislation and have so advised the committee by letter of March 22, 1972.

The amendment contained in section 4 of the bill calls for further steps aimed at eliminating sanctuaries for aerial piracy, an objective we seek and support with all of the vigor at our command. The association's board of directors has adopted resolutions which underline that support. These resolutions are attached as an appendix to my testimony.

Of course, the most rational and effective way to deal with the sanctuary problem is by means of an international treaty under which all affected nations are obligated to take joint action against nations which harbor hijackers.

Yet this committee is well aware that the development of international legal machinery is a time-consuming and laborious process. Earlier attempts to draft a joint action convention were suspended. As a result of favorable action on a United States-Canadian proposal to resume work on such a convention, and in light of increasing world pressure to do something about the problem of sanctuaries, the International Civil Aviation Organization (ICAO) will begin again very shortly to draft such a convention. The United States should press forward vigorously to complete this work.

In the meantime, however, we do not believe that the United States should stand by and do nothing. This committee obviously reached the same conclusion and put forward section 4 of S. 2280.

Fortunately, international standards of conduct in this area have already been established. I refer to the Tokyo, Hague and Montreal Conventions, summaries of which are attached as well as lists of States which have ratified each of them.

The Hague Convention, which was signed by 77 nations and has already been ratified by 32 of them, requires that in a case where a signatory nation obtains jurisdiction over one who has unlawfully seized an aircraft, that signatory nation must either extradite such person to the country with primary jurisdiction over the criminal offense or must prosecute such person itself. Nations which fail to do so act become sanctuaries or safe havens and thereby encourage additional acts of air piracy.

Section 4 would require the President to make a determination that in a given case a foreign nation had failed either to extradite or prosecute. He then could do either or both of two things.

The first of these would be to suspend, without notice or hearing, the right of any U.S.- or foreign-flag air carrier to ticket, waybill or

carry air traffic between the United States and such sanctuary country or to provide commercial air services between the United States and that country.

I would like to pause at that point and explain the provision of the bill as I see it, a little bit more extensively than it says here.

The previous witnesses have indicated that this only applies, this prohibition of service, only applies if there is a U.S. service to that country. Actually the bill applies to U.S. traffic moving between the United States and the sanctuary country whether it is moved by an American-flag carrier or a foreign-flag carrier.

What it does is not only shut off air service, that is, the actual operation of airplanes between the United States and, let us say, Algeria, but it shuts off the movement of U.S. traffic.

Senator PEARSON. I think you are right. The words in the bill are the right of any air carrier and foreign-air carrier.

Mr. TIPTON. To provide foreign air transportation, which is defined in the Civil Aeronautics Act as the movement of traffic.

So that in practical terms, the significance of that difference may be quite extensive. You are shutting off the movement of people and cargo, whether they go by American-flag carriers, or by foreign-flag carriers, or by connections or by whatever.

Senator CANNON. In other words, you are saying that is suspending any traffic between us and that country, no matter whether they are going to go on a foreign carrier or how?

Mr. TIPTON. Yes. And it does not make a difference—well, it makes a difference, but it is not conclusive that we actually do not have our own airline operating to that country, because it operates both with respect to the movement of traffic and the movement of the airlines.

I interject this only because it seemed to me that that phase of the legislation was at this point not being recognized, and I emphasize it further in the following sentence, where, even where there is no direct air service between the United States and such country, carriage of traffic on through tickets or through airway bills could be interdicted.

Under the October 1, 1970, resolution of the ICAO Council, contracting States may join together to take measures such as the suspension of air services to and from any State which fails to extradite or prosecute hijackers.

Section 4 of the bill, in authorizing the first of these measures enables the U.S. Government to participate in such joint action measures. We support this provision and hope it will be promptly enacted by the Congress.

Senator PEARSON. Let me interrupt you. Do you have a copy of my amendment?

Mr. TIPTON. Yes, I do have. I do not have in my prepared statement a comment on that.

Senator PEARSON. There is a difference between the so-called Magnuson amendment and the so-called Pearson amendment as it relates to domestic and foreign carriers'?

Mr. TIPTON. I believe that is the case. Words of art, foreign air transportation, or foreign commerce, I do not believe are used in your amendment, and it is the use of those words of art that causes this to apply to the movement of traffic as contrasted to the movement of aircraft.

Senator PEARSON. There is a distinction between those two.

Mr. TIPTON. There is a distinction.

Second measure available to the President is to take action in a case where a third country continues to maintain air service between itself and that foreign nation. Here, the President could suspend the right of the carrier of that country and all other foreign carriers to ticket, waybill and carry air traffic or to operate commercial air services between the United States and such third country.

We are concerned, however, about this second type of action that the President is authorized to take—the secondary boycott of airlines and governments which continue to serve the sanctuary nation after the boycott of that nation has been established.

Our concern here is that we cannot at this point really anticipate the political and diplomatic problems which might result from such an action. Let us look at a few examples of the operation of the secondary boycott provision.

Cuba has long been a sanctuary for U.S. criminals. Today, Cuba has direct air services with Chile, Czechoslovakia, Mexico, Morocco, the Soviet Union, and Spain.

If in a given case, Cuba were to refuse to return or prosecute a hijacker, the operation of the second provision would require the suspension of all service to Cuba. If, for example, Mexico were to continue to allow Cubana to fly between Havana and Mexico City or if Spain were to continue to allow Iberia and Cubana to fly between Havana and Madrid, the bill would contemplate suspension of services by Mexican carriers and even third country carriers such as Air France between the United States and Mexico.

The same would be true of Spanish carrier services between the United States and Spain. If we cut off their service to the United States they, of course, would promptly respond by cutting off U.S. air service to their countries, thus provoking a major dispute between the United States and a number of countries which might well be contrary to the broad interests of the United States.

Senator CANNON. Of course, when you say that, you are assuming the President is going to act contrary to the broad interest of the United States, and I find that hard to believe.

Mr. TIPTON. Of course, the secondary boycott provision is discretionary with the President. I am always concerned about a discretionary provision even though it is within the discretion of the President or another official. I think the Congress in putting that discretion in the President, is making it possible for him to create a very substantial series of disputes and controversies in the entire air transportation world, because it is a rolling boycott. Its effect would carry throughout the world in a series of ways.

I think that the provision is of doubtful soundness, and I bring this to your attention for that reason, and in my final paragraph, I point out the application of this same type of rolling boycott in the Algerian situation.

Algeria has air service with 20 countries. And it would be terribly difficult to anticipate what was going to happen if we once start down this secondary boycott lane, because if you once start down this secondary boycott lane, you had better play the hand out.

Otherwise, and I hate to use this word credibility, but you do damage your credibility.

I think that the process which is laid down in part I, the primary boycott, supported by vigorous diplomatic effort on the part of the United States, would do the work.

I agree with the Chairman of the CAB, that these are just tools, and we endorse the primary boycott tool. We do not endorse the secondary boycott tool.

Senator CANNON. The primary boycott does not get to the countries that we really have the problem with, and we have always got an outside chance that it might achieve a desired result.

Mr. TIPTON. Well, in terms of the United States calling for a boycott unilaterally, on a sanctuary nation, other nations, many of them, are bound by the same standard of conduct laid down in Hague, and the United States diplomatically—and on the basis of bilateral discussions, or multilateral discussions—ought to be able to provide a pretty successful boycott of the sanctuary country without going beyond that, to lay down an official secondary, or as I call it, a rolling boycott involving everybody else in the world, and in the case of Algeria it is 20, and in the case of Cuba, which is very poorly served, it is six.

I raise that question for the committee's consideration. I would, and our airlines would worry about it.

Now, may I extend my statement for just a moment to comment on the amendment put forward by Senator Pearson?

I have trouble with that. Our industry has not examined it, so I am not here making an official statement on behalf of the industry, but I thought it might be useful to comment on the basis of our own study, my study, and the staff's study of the amendment. Here is the problem.

Senator PEARSON. It is terribly difficult to draft. That is one reason why you saw it just a short time ago, as a matter of fact.

Mr. TIPTON. Under the Chicago Convention, there are 14 annexes that deal with safety. There is the annex dealing with air worthiness, airline operations, air traffic control. Fourteen of them covering various phases.

Now, the theory of the Chicago Convention is about this: That the Council and the various committees in establishing these annexes are laying down international standards for the nations to seek compliance with.

Now, if a nation does not want to comply, or cannot comply with a particular annex, then the nation is bound to inform the Council that it does not propose to comply with this one.

The United States in the past has said that it does not propose to follow the annex in certain particular cases. Up to this point it has not been considered wise to make these annexes unilaterally enforceable.

Senator PEARSON. Let me just interrupt you and make sure we are talking about the same thing.

The standard and the reference that I have in my amendment was appendix A to resolution A 17-10, minimum specifications and practices for normal application and so forth.

Now, is that what you are making reference to, also?

Mr. TIPTON. Let me pick out the language that I am talking about.

The language that is worrying me finds that a country, with which we have a bilateral agreement, does not effectively maintain and administer safety and security standards and requirements that are equal to or above the minimum standards which are established pursuant to the Convention on Civil Aviation.

Now, that language includes not only matters dealing with airport fencing, but it includes all the safety annexes that are presently effective, as I say, covering airworthiness.

And I did not know whether that was the intention of the amendment or whether the amendment was to be limited tightly to standards set up to deal with what we have come to call security, such as airport fencing, magnetometers, screening passengers, and the like.

Senator PEARSON. Well, as the author of the amendment, I do not know, either. What we are really trying to do—and I am not trying to be funny about this thing—what I am really trying to do is to find definite, prescribed, established standards which are acceptable by all, and the closest thing we found was the appendix A, to repeat, appendix A, Resolution A 17-10, which deals with protection of aircraft on the ground, ground installations, which deal with processing, unaccompanied baggage and cargo, mail and security measures in the vicinity of airports, et cetera. Is there something better we can make reference to?

Mr. TIPTON. I think that if I may, I will offer any help we can give to define the policy of the amendment more closely, and I gather that the policy of the amendment does not contemplate a unilateral enforcement of all the 14 annexes dealing with safety regulations, but contemplates unilateral treatment of only those dealing with security.

If I am right there, let us try to submit to the committee—

Senator CANNON. That was my interpretation of reading it, as to what the intent was, but I see that there is a question here now, here where it says, "find that such country does not effectively maintain and administer safety and security standards and requirements that are equal to or above the minimum standards which are established pursuant to the Convention on International Civil Aviation."

Well, what you are saying is that the Chicago Convention and its 14 annexes all relate to safety, even though they are not related to safety from the standpoint of the hijacking problem; is that it?

Mr. TIPTON. That is right. That is the point exactly.

Senator PEARSON. Well, we will have to put that out of something and refine it, still meeting the legal requirements of making reference to an existing and precise authority.

Mr. TIPTON. We will study the draft of legislation and submit for the committee's consideration a more closely defined, hopefully more closely defined—

Senator CANNON. Let me ask Senator Pearson: Was it your intention to have the amendment apply solely to the safety and security standards that relate to the problem of hijacking?

Senator PEARSON. It was our intention to make it in reference and within the framework of air piracy and to refer only to those safety requirements that relate to that and to refer to security regulations, or security regulations relating to that.

It is pretty hard to find a standard without incorporating a lot of stuff.

Mr. TIPTON. I think it is, because those standards for establishment of security in airports are not very well defined internationally as yet.

Let us try to submit an amendment that will solve the problem that we have raised.

That concludes our statement, Mr. Chairman.

(The statement follows:)

AIRLINES CALL FOR "VIGOROUS" GOVERNMENTAL ACTION ON AIR PIRACY AND SET UP SPECIAL INDUSTRY COMMITTEE

WASHINGTON, D.C., June 26.—The United States air transport industry called today for "vigorous action" by governments to eliminate sanctuaries for aerial piracy and other criminal acts against civil aviation.

The Board of Directors of the Air Transport Association of America endorsed two resolutions aimed at ending hijacking threats in the United States and throughout the world. The resolutions are:

(1) *Endorsement of International Civil Aviation Organization (ICAO) efforts to develop sanctions.* The scheduled airlines of the United States through the Air Transport Association will vigorously support the resolution of the ICAO Council to initiate work on an international convention for bringing joint action against states which do not extradite or prosecute persons who commit criminal acts of aerial piracy or other unlawful acts against the safety of civil aviation. Pending development and implementation of that Convention, we urge the United States Government to join with other affected nations to take appropriate action under the October 1, 1970 Resolution of the ICAO Council and to seek appropriate implementing legislation.

(2) *A call upon the United States Government to exert all appropriate efforts to eliminate safe havens.* The scheduled airlines of the United States through the Air Transport Association urge the United States Government to exert all appropriate efforts to eliminate sanctuaries around the world for those who commit acts of aerial piracy and other unlawful acts against the safety of civil aviation: first, by making it known that the United States itself will not be such a sanctuary; secondly, by joining with other affected nations to bring the full weight of political pressure to bear against nations which become such sanctuaries in a given case.

The Board of Directors of the airline group named a special committee to pursue these resolutions and to review existing airline programs for reducing the menace of hijacking and other aerial crimes. Chairman of the committee is Edward E. Carlson, President and Chief Executive Officer, United Air Lines. The members are F.C. Wiser, President, Trans World Airlines; George A. Spater, Chairman and Chief Executive Officer, American Airlines; William T. Seawell, Chairman of the Board and Chief Executive Officer, Pan American World Airways and Floyd D. Hall, Chairman of the Board and Chief Executive Officer of Eastern Air Lines. In addition to his other duties Mr. Hall is currently president of the International Air Transport Association.

"Safety is the primary and overriding consideration of all elements of aviation—airline management, pilots, flight personnel and, in fact, all employees," Stuart G. Tipton, ATA president said. "This historic concern includes the safety problems posed by aerial crimes. This committee will review all of the current airline security programs—from the training of personnel in the use of the air criminal personality profile through to participation in international forums—and will consider new approaches and techniques for consideration by the industry and by the governments of the United States and other countries."

SUMMARIES OF TREATIES RELATING TO CRIMES AGAINST INTERNATIONAL CIVIL AVIATION

1. *The Tokyo Convention of September 1963* (Convention on Offenses and Certain Other Acts Committed on Board Aircraft.)

Ratified by U.S. in September 1969, and became effective December 1969.

Although this Convention contains general provisions relating to any crimes committed aboard aircraft, the principal effect of this treaty is to establish the inviolability of a hijacked civil aircraft and its contents regardless of where that aircraft may be forced to land. It provides that in the event of a hijacking the

state of landing must permit the aircraft, passengers, crew, and cargo to proceed on their journey as soon as practicable.

2. *The Hague Convention of December 1970* (Convention for the Suppression of Unlawful Seizure of Aircraft; also called the "Hijacking Convention.")

The U.S. ratified this Convention in September 1971, and the Convention became effective in October 1971. The U.S. has implementing legislation (S. 2280) pending relating primarily to the various jurisdiction provisions of this Convention.

The principal provision of this Convention is to obligate every contracting state in which a hijacker is found either to extradite the alleged offender or to prosecute him. This is true even if the state in which the hijacker is found had no connection whatsoever with the hijacking; in other words, universal jurisdiction is established over the offense and the hijacker may be prosecuted wherever he is found. Every state is obligated to make the offense of hijacking punishable by severe penalties. The treaty facilitates extradition by automatically incorporating the offense of hijacking in all extradition treaties, permits states to consider this Convention as an extradition treaty between them, and provides that states which do not require extradition treaties shall recognize the offense as an extraditable offense between themselves. The Convention goes beyond the inviolability provisions of Tokyo by requiring the contracting states to take affirmative action to facilitate the continuation of the journey of the passengers and crew.

3. *The Montreal Convention of September 1971* (Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation; also known as the "Other Acts" or "Sabotage" Convention.)

Although the United States signed this Convention in Montreal, we have not yet ratified it. The Convention is not in effect as an international treaty because of an insufficient number of ratifications by states.

Basically, this Convention applies the principles established in the Hague Convention to all other crimes committed aboard aircraft or against the safety of international civil aviation. Thus, this Convention applies to acts of violence against a person aboard an aircraft, damage or destruction of aircraft, placing devices or substances on an aircraft which may damage or destroy it, damage or destruction to air navigation facilities and communication of false information which may endanger the safety of an aircraft in flight. In addition to the Hague-type duties and obligations contained in this Convention, all states are required to take all practicable measures to prevent the commission of these offenses.

STATES WHICH HAVE RATIFIED OR ACCEDED TO THE TOKYO CONVENTION OF
SEPTEMBER 1963

Convention on Offenses and Certain Other Acts Committed Onboard Aircraft

	<i>Date</i>
Barbados.....	Apr. 4, 1972
Belgium.....	Aug. 6, 1970
Brazil.....	Jan. 14, 1970
Burundi.....	July 4, 1971
Canada.....	Nov. 7, 1969
Chad.....	June 30, 1970
China, Republic of.....	Feb. 28, 1966
Cyprus.....	
Denmark.....	Jan. 17, 1967
Dominican Republic.....	Dec. 3, 1970
Ecuador.....	Dec. 3, 1969
Fiji.....	Jan. 18, 1972
Finland.....	Apr. 2, 1971
France.....	Sept. 11, 1970
Gabon.....	Jan. 14, 1970
Federal Republic of Germany.....	Dec. 16, 1969
Greece.....	May 31, 1971
Guatemala.....	Nov. 17, 1970
Hungary.....	Dec. 3, 1970
Iceland.....	Mar. 16, 1970
Israel.....	Sept. 19, 1969
Italy.....	Oct. 18, 1968
Ivory Coast.....	June 3, 1970
Japan.....	May 26, 1970
Kenya.....	Jun 22, 1970
Republic of Korea.....	Feb. 19, 1971
Lesotho.....	Apr. 18, 1972
Malagasy, Republic of.....	Dec. 2, 1969
Mali.....	May 31, 1971
Mexico.....	Mar. 18, 1969
Netherlands.....	Nov. 14, 1969
Niger.....	June 27, 1969
Nigeria.....	Apr. 7, 1970
Norway.....	Jan. 17, 1967
Panama.....	Nov. 16, 1970
Paraguay.....	Aug. 9, 1971
Philippines.....	Nov. 26, 1965
Poland.....	Mar. 19, 1971
Portugal.....	Nov. 15, 1964
Rwanda.....	May 17, 1971
Saudi Arabia.....	Nov. 21, 1969
Senegal.....	Mar. 9, 1972
Sierra Leone.....	Nov. 9, 1970
Singapore.....	Mar. 1, 1971
South Africa.....	
Spain.....	Oct. 1, 1969
Sweden.....	Jan. 17, 1967
Switzerland.....	Dec. 21, 1970
Thailand.....	Mar. 6, 1972
Togo.....	July 26, 1971
Trinidad, Tobago.....	Feb. 9, 1972
United Kingdom.....	Nov. 29, 1968
United States.....	Sept. 5, 1969
Upper Volta.....	June 6, 1969
Yugoslavia.....	Feb. 12, 1971

Source: U.S. Department of State.

STATES WHICH HAVE RATIFIED OR ACCEDED TO THE HAGUE CONVENTION OF
DECEMBER 1970

*Convention for the Suppression of Unlawful Seizure of Aircraft; Also Called the
Hijacking Convention*

	<i>Date</i>
Brazil.....	Jan. 14, 1972
Bulgaria.....	May 19, 1971
Byelorussian, USSR.....	Dec. 30, 1971
Canada.....	June 20, 1972
Chile.....	Feb. 2, 1972
Costa Rica.....	July 9, 1971
Czechoslovakia.....	Apr. 6, 1972
Dahomey.....	Mar. 13, 1972
Ecuador.....	June 14, 1971
Finland.....	Dec. 15, 1971
Gabon.....	July 14, 1971
German Democratic Republic.....	June 3, 1971
Hungary.....	Aug. 13, 1971
Iran.....	Jan. 25, 1972
Iraq.....	Dec. 3, 1971
Israel.....	Aug. 16, 1971
Japan.....	Apr. 19, 1971
Jordan.....	Nov. 16, 1971
Mali.....	Aug. 17, 1971
Mongolia.....	Oct. 8, 1971
Niger.....	Oct. 15, 1971
Norway.....	Aug. 23, 1971
Panama.....	Mar. 10, 1972
Paraguay.....	Feb. 4, 1972
Poland.....	Mar. 21, 1972
Sweden.....	July 7, 1971
Switzerland.....	Sept. 14, 1971
Uganda.....	Mar. 27, 1972
Ukrainian, SSR.....	Feb. 21, 1972
U.S.S.R.....	Sept. 24, 1971
United Kingdom.....	Dec. 22, 1971
United States.....	Sept. 14, 1971

Source: U.S. Department of State.

STATES WHICH HAVE RATIFIED OR ACCEDED TO THE MONTREAL CONVENTION
OF SEPTEMBER 1971

*Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation;
also known as the Other Acts or Sabotage Convention*

	<i>Date</i>
Canada.....	June 20, 1972
Dominican Republic.....	May 31, 1972
Mali.....	
South Africa.....	May 30, 1972
Trinidad, Tobago.....	Feb. 9, 1972

Source: U.S. Department of State.

Senator CANNON. Thank you, very much, Mr. Tipton. We appreciate you being here.

Mr. TIPTON. Thank you.

Senator CANNON. Next witness, Mr. J. J. O'Donnell, president, Air Line Pilots Association.

STATEMENT OF J. J. O'DONNELL, PRESIDENT, AIR LINE PILOTS ASSOCIATION; ACCOMPANIED BY JACK BAVIS

Mr. O'DONNELL. Thank you very much, Mr. Chairman. I have with me here today Mr. Jack Bavis, who is an airline pilot, also an administrative assistant to the president of ALPA, and he is director of flight security for the Air Line Pilots Association.

I am John J. O'Donnell, president of the Air Line Pilots Association. In this capacity, I am privileged to represent 46,000 professional pilots and cabin attendants of U.S. airlines.

I am especially pleased to appear before this committee today. Its dedicated and distinguished members have taken an important, positive action that will help rid the skies of threats and assaults from persons bent on hijacking, extortion, bombing or any other unlawful act connected with the operation of airline aircraft.

The proposed changes to Senate bill S. 2280 are designed to put power into the U.S. implementation legislation of the Hague Convention which covers the Suppression of Unlawful Seizure of Aircraft. When passed by Congress the changes will require the President to withdraw U.S. landing rights to airlines of nations offering sanctuary to air criminals. It will also provide penalties for airlines that insist upon serving nations guilty of extending the welcome mat to criminals.

We heartily endorse the provision that a minimum sentence of 20 years to death be imposed upon all offshore offenders found in this country. This is the long standing position of our association.

Our flight crews have been long suffering, awaiting adequate and strong agreements to close the doors of sanctuaries. Their frustration has increased as world governments failed in building strong anti-hijacking laws and agreements. Delays and footdragging have left them no alternative but to mount their own offensive against these crimes.

On June 6, as part of ALPA's plan to boycott offending nations, I wrote to President Richard M. Nixon, requesting the assistance of his office in the task of eliminating sanctuaries for hijackers. This request was part of a four-point program designed to win a major victory in the overall battle for air security. These steps are as follows:

1. The elimination of every sanctuary that may exist in the world for skyjackers/extortionists;
2. The prompt return of hijacked passengers, crew and aircraft;
3. The return of extortion moneys;
4. The return of hijackers to this country and imposition of sentences of a minimum of 20-years imprisonment to death.

I closed by asking the President to use the power of his office to deny airline landing rights in the United States to those airlines of nations that continue to shield air pirates and to those air carriers that may continue to serve the sanctuaries.

This is why the Air Line Pilots Association, in cooperation with International Federation of Air Line Pilots Associations (IFALPA) launched a program to gain world attention, to press the United Nations and its agencies for accelerated action. The happenings of those 12 days in June are now history. We exercised our rights as

citizens to stand up for what we know and think is right for the public safety of the world. Excellent results were gained. But, as you must recognize, this is only the beginning. We must not relax our vigilance. The risk is too great. We cannot ignore our prime responsibility—that is protecting the safety of the passengers entrusted to us.

Mr. Chairman, again I say, we must not stop here. We must press forward to accelerate passage of this legislation, acceptance of the ICAO resolution, and the application of stronger, more effective measures needed to eliminate the sanctuaries. We also need to direct our efforts to the problem of total security at air terminals around the world.

It was just 1 year ago, on June 7, when I had the privilege of appearing before the Senate Foreign Relations Committee. My testimony included the following statement:

Airline crews want more diligence and attention paid to security measures on the ground. We want airport security plans that will affirm who has jurisdiction, who will search baggage and who will determine how bomb scares and hijacking attempts will be handled. In short, we want deterrence through prevention—before the crime, not after.

Since last June, there have been 71 hijackings around the world—35 in the United States. The crime has escalated to new and more dangerous dimensions. Extortion is now the thing. Great sums of money are being paid in ransom and the lives of passengers and crews are being threatened in new and more terrible ways.

Innocent passengers in Israel's Lod Airport were assaulted by terrorists who carried weapons aboard an airliner in their luggage. Twenty-seven persons, including 16 U.S. citizens, were killed in this dastardly, politically connected act by men trained for murder.

One airline has paid \$5 million in ransom for the return of a 747 jet. Another \$4.5 million has been demanded by hijackers of U.S. airliners. Some of this money has been recovered but more than \$1 million is still missing.

Last Friday's hijacking at St. Louis is just another indication that all is not secure, even at the largest air terminals. The criminal entered the airliner with a machine gun in an attache case. Certainly, the surveillance system the airport boasts of failed. It seems obvious that the Department of Transportation's requirements upon airlines to exercise maximum inspection of passengers and carry-on baggage failed. The fact that the suspected hijacker is now in custody and the loot was recovered, does not in anyway diminish the threat that still exists at the Nation's airports. We must accelerate our efforts to close these open doors to criminals.

This incident serves to highlight again, the basic security needs as the pilots see them:

1. First and foremost is the elimination of sanctuaries. This is the aim of your committee also.

2. Of equal importance is total security on the ground, at the airport—the required screening of all passengers on all flights.

3. Assurance that all materials placed upon the aircraft are safe. This includes a reliable method or system for detecting weapons, explosives, or other hazardous items in baggage and cargo compartments.

4. Carry on or hand luggage must be examined to insure that weapons are not hidden in innocent-looking packages. I understand this can be done rapidly and simply through the use of low pulse X-ray.

5. Development and procurement of adequate onboard defense systems and structures.

Again, let me thank you for this opportunity to endorse the amendment to S.2280. Let me also assure you and the public that the professional airline pilots and cabin attendants will persist in their fight until all airports and airways of the world offer safe passage—and are free of the air piracy threat.

Although this concludes my prepared statement, Mr. Chairman, I would want to add that the Air Line Pilots Association fully endorses the amendment offered by Senator Pearson, permitting the President to withhold or revoke landing rights of foreign carriers if their Governments do not effectively maintain and administer safety and security standards pursuant to the convention on international civil aviation. We feel that if enacted and enforced, airport security must be tightened to such an extent that, for example, a foreign plane could not take off from an airport with an automatic weapon and ammunition in a passenger's luggage for use upon landing at an other country or another airport to indiscriminately murder passengers and personnel. We hope Congress will include this provision and request speedy passage of this legislation.

Thank you very much. We will answer any questions, sir.

Senator CANNON. Thank you, Captain O'Donnell. I would like to read from part of the DOT's testimony, and get your comments on part of it.

This is part of the statement.

Frustration this year has been the unwillingness of airline management and flight crews to fight back against hijackers. The most glaring bad example was the case of the aircraft which was taken to Algeria, a completely unnecessary trip, since the hijacker could have been captured without endangering human life. The crew in that case simply lived up to the terms of the cooperating manual which said to acquiesce to all demands of a hijacker. Do you have any comments to make on that?

Mr. O'DONNELL. Yes, I do, sir. First, the company flight operations manual, when approved by the Federal Aviation Administration, became federal regulations under which pilots must comply. The manual that General Davis was referring to had a clear provision in there that the crew members must not in any way interfere with the efforts of the hijacker and to take him to the destinations he wants to go to.

If the crew member interfered with the hijacker, he is in violation of the Federal regulations, number one. Number two, they state—

Senator CANNON. That is a regulation that is established through the Department of Transportation?

Mr. O'DONNELL. That is absolutely correct, sir, because the flight operations manual, once approved by the Department of Transportation, the FAA, is a federal regulation. Everything put in the operations manual becomes rules which we are bound to comply with.

The second most dangerous part of it, the Department of Transportation tells us that we must resist, we can no longer sit back there and idly allow a hijacker to take us from point A, to Cuba, or some other foreign country. My question to General Davis and Secretary Volpe is, what are we to resist with, the flight operations manual, or the clip board that we have to keep our paper work on. We, the airline pilots, have been asking for several years for the right to have our crews armed, armed with defense weapons. The FAA and the Department of Transportation says you have this right because that right is given to the airlines. It is up to the airlines to allow you to be armed.

We go to the airlines and they say, well, we don't want you to get in a shootout at 30,000 feet. But I ask the public and the Congress to ask that of the crew members on an Eastern Air Lines flight from New York to Boston where the hijacker was bent on destroying that plane load of passengers. He asked the crew to fly due east. He killed the copilot, wounded the captain in both arms, and yet we don't have the right to defend ourselves with some sort of defensive weapons that are available today.

Senator CANNON. Part of that statement said, since the hijacker could have been captured without endangering human life. Who would performed the capture in that instance, do you know? Do you have any idea?

Mr. O'DONNELL. I can't say, sir.

Senator CANNON. Also, the statement was made that there are other things in the mill now, including the question of arming crews, the possible use of nonlethal weapons, and the supposed fire proof, bullet proofing, of the cockpit. Is that going to be a problem?

Mr. O'DONNELL. Yes, sir; as mentioned earlier in testimony, and also from you, Mr. Chairman, that every one of these devices are a tool. We feel that when FAA started out with the sky marshal program, the airline pilots immediately objected to it. We said those gentlemen belong on the ground. They have since been put on the ground, and their effectiveness on the ground is self evident. We say we don't want the hijacker to get on board the aircraft, but there is going to be a percentage that get by the screening process. Once we get them by the screening process, we need tools onboard to effectively get that airplane back on the ground in one piece so that we can at least have the opportunity to get the passengers off there. If we get the passengers off, the crews are not completely comfortable but, at least, they are a little more relieved.

Then, the next problem is to get the flight attendants off the airplane. This can only be done if we have the time to do it, the tools to do it. We also need on board the nonlethal defensive weapons that have been available for some time. We feel there are many instances where these devices could be used to overcome and overpower a hijacker. We cannot say what these devices are, because if it got out, they would no longer be useful to us. But they have them available.

But the problem is the Federal Government doesn't want to purchase them and the airlines don't want to purchase them because they cost money. I do have an additional statement to make. One of the things that upsets me and most pilots is this: It is very easy for the airlines to say they don't want secondary boycotts. They can live with the exposure because of an insurance program.

Pan American collected \$23 million out of the airplane they lost in the desert. There is a limitation under ICAO setting the amount of life insurance airlines have to pay, or the liability to a passenger who is killed on board an airline aircraft. They have life insurance through the company-provided plans for the crews. So, their real exposure is cushioned by aircraft and life insurance premiums. We can't accept this.

To sit back and say, well, we don't have to spend these large sums of monies for security and fencing around the airports, and we don't have to really monitor the people on board the airplane in dodging the issue. Senator, I traveled last Saturday and Sunday. I was appalled at the lack of security by every airport I visited. I got on an aircraft in Washington, D.C. I walked out on the ramp intentionally. There was no security at Washington National Airport which is run by the FAA.

I was a passenger in civilian clothes. I intentionally went through that system to see if I would be stopped. It is a joke. It really is a joke. And somebody better do something about it.

Senator CANNON. I had some comments on that a little earlier today; to impose the law enforcement duties by the administration on the airlines, or on the people, or the man who is selling a ticket, because he happens to read the profile wrong, or doesn't happen to catch it.

Now, I am told that there is only one magnetometer at St. Louis, and in this instance, the other day, they ran five people through that one magnetometer, which didn't happen to be at the airline in question because they met the profile, and yet the man who got on with the machine gun didn't meet the profile at all. It seems to me that your statement that you need these sky marshals on the ground and more security devices there is certainly well-taken. We in the Congress have tried to meet that now, for example, from the fencing standpoint. We have increased—we have reported our bill out.

We have increased the portion of the Government's contribution to help the airports that say they can't afford that sort of thing. Over the administration objection, also the Appropriations Committee has added in three and a half million dollars to take care of the magnetometers, so that magnetometers at least can be furnished to the airport, in an attempt to screen these people out.

Mr. O'DONNELL. There are other devices. Low pulse X-ray scanning devices are available today that can be used to serve every piece of hand baggage that goes on an airplane. There are also devices to check every piece of luggage that goes into the belly of the airplane. How many do they have? None. I think it is criminal they are not buying them because it is only a matter of time.

The way the actions are going on in the Middle East, it is going to come right back to this country, and it is coming right now if you follow the Algerian situation; the same type of action is going to be taken by the demented people in this country.

As I recall, Senator, the last time I testified before your committee, during an informal discussion following my statement, I outlined the trend in hijacking from acceptable short haul flights to more dangerous situations. I said the hijacking trend was going to change. It has. Hijackers no longer accept a joy ride trip to Cuba. Then, we were concerned about the man who was going to destroy a plane and its passengers.

The following day, a TWA airplane blew up in Las Vegas, Nevada. Senator CANNON. I heard about that.

Mr. O'DONNELL. I am sure you did. And I also heard about it. My concern is today. The hijacking trends are going to change again because the criminals are unique people; they are mentally disturbed and cunning. They come up with their own schemes and innovations. All we can do at the moment is continually put band-aids on the cancer.

If we don't correct the problems that exist today, we are going to be extremely vulnerable to terror tomorrow. I am concerned, sir—the airlines work with us in many instances, but where air piracy is concerned I think somebody has got to start pushing them to do more. I hope the Congress of the United States pushes the airlines to make our airports totally secure in this country.

Senator CANNON. Senator Pearson.

Senator PEARSON. Captain, I want to explore with you—we have a vote—and I really want to explore with you what the pilots were doing. In this business, the government looks at airlines, and the airlines look at pilots and the pilots look back to the government. I think you have covered it pretty well. But for the record, and submit it for the record because we have got to go now, give us a statement as to policies and procedures above and beyond the manuals that FAA and the companies have adopted, what the pilots themselves should do to create a greater security.

I think that would be an important addition to the record and I would ask you to just submit that a little later on.

Mr. O'DONNELL. All right.

Senator PEARSON. We are going to have to get up and go.

Senator CANNON. Thank you very much.

Mr. O'DONNELL. Senator, in the judgment of the airline pilots, if they do away with the secondary boycott, the whole legislation is worthless. Thank you very much.

Senator CANNON. Thank you very much. The committee will stand in recess subject to the call of the Chair. That concludes the hearings on this particular subject.

Mr. O'DONNELL. Thank you.

(Whereupon, at 11:30 a.m., the hearing was adjourned, subject to the call of the Chair.)

ANTI-HIJACKING ACT OF 1971

TUESDAY, AUGUST 15, 1972

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

The subcommittee met at 10:05 a.m. in room 5110, New Senate Office Building, Hon. Howard W. Cannon, chairman of the subcommittee, presiding.

Present: Senators Cannon, Magnuson, Cotton, Pearson, Cook, and Baker.

OPENING STATEMENT BY SENATOR CANNON

Senator CANNON. The committee will come to order.

Today's hearings are a continuation of the subcommittee's oversight of the Government's antihijacking program. In addition, we will hear testimony on two bills which have been recently introduced dealing with the current problem.

S. 3815, introduced by Senator Schweiker, specifically provides that the Government require that all airline passengers and their carryon baggage be screened by metal detecting devices prior to boarding aircraft. This bill's requirements reflect my view, expressed before in this subcommittee, regarding what needs to be done to better protect the air transportation system from the threat of hijacking and violence.

In addition, we are hearing testimony on S. 3871, introduced by Senator Boggs and Senator Javits, which is similar to the Schweiker bill in that it requires mandatory passenger screening. However, the Boggs-Javits bill goes much further in that it would transfer the Government's antihijacking program out of the Department of Transportation and into the Department of Justice.

The introduction of this legislation and the introduction of other bills in the House indicates the growing sense of dissatisfaction in the Congress with the antihijacking program being conducted by the Department of Transportation. There is a widespread feeling, which I share and which I expressed in a statement on June 29, that the U.S. Government is not willing to take the steps required to safeguard the air transportation system from the increasing threat from air piracy and violence.

The hijacking of a Delta airliner on a flight between Detroit and Miami on July 31, 1972, is just another indication of the failure of the Department of Transportation and this administration to adequately meet the challenge of aircraft piracy and extortion. In that hijacking,

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the alleged hijackers were identified by airline personnel as having characteristics which made them suspicious.

However, the suspects were not required to be screened by metal detecting devices, nor was there any requirement that they be searched by local or Federal law enforcement personnel prior to boarding. On the contrary, Government regulations at the time required only that the suspicious passenger provide personal identification matching the name on the airline ticket.

It seems clear to me that had these passengers and their hand luggage been screened by metal detecting devices and had these passengers been searched prior to boarding the aircraft, and subsequently arrested, the Delta hijacking to Algeria would not have occurred.

At the present time, the U.S. marshal program is being phased out: at the present time, the Government has yet to purchase and install metal detecting devices for use at airline airports to screen passengers; and at the present time, hijacking continues to threaten the safety and lives of millions of Americans.

The Government's complacent attitude toward hijacking and toward the legislation before us today is exemplified by the Department of Justice. A week ago, the Department of Justice was contacted by the staff of this committee and was requested to testify, specifically on Senator Boggs' bill.

However, the Department of Justice told our staff that it could not arrive at a position on this legislation in only a week's time and that, furthermore, a convention of the American Bar Association this week would make it impossible for any officials of the Department to be present here today to testify.

This lack of interest in congressional concern over hijacking clearly indicates the Government's failure to sense the urgency of the present situation.

While the problem continues to intensify, the administration seeks to cut back the program by providing U.S. marshals at major airports and tells local government officials that they must be responsible for enforcing Federal law. At a time when air piracy is of increasing concern to American citizens who use air transportation, the Government continues to haggle with the airlines over a few million dollars which must be spent to acquire and install metal detecting devices.

It is for these reasons that I have scheduled hearings today on the two bills before us on the general question of the administration of the antihijacking program.

Recently, this committee reported legislation which is pending on the Senate calendar and which will be acted upon shortly, giving the President and the Secretary new authority to impose international sanctions against nations which continue to provide sanctuary and safe haven for hijackers.

Recently, a similar bill was introduced by the distinguished chairman of the House Interstate and Foreign Commerce Committee, Representative Harley Staggers.

I as one Member of the Congress am tired of the footdragging, the petty bickering, the glowing press statements of the Department of Transportation, and the Government's failure to take decisive action. I believe the public should know of the failings and of the lack of strong action that characterize the antihijacking program today.

At this point I will insert a statement by Senator Frank Moss.

STATEMENT OF HON. FRANK E. MOSS, U.S. SENATOR FROM UTAH

Mr. Chairman, I am pleased to testify before this subcommittee today as co-sponsor of S. 3871, introduced by the distinguished Senator from Delaware. Formulating antihijacking legislation which will curb the escalating acts of air piracy is a matter of gravest concern to all of us and one which carries with it a sense of greatest urgency.

I testify today because I am outraged that after three years and \$30 million we have not yet implemented methods that choke off air pirates from their avenues to extortion, blackmail, and murder. After five deaths this year, scores of hijackings over the years, and the most recent successful extortion plot by five hijackers who received one million dollars and political asylum in Algeria, no thinking American views hijackers as folk heroes. They are not some sort of glorified Robin Hoods or harmless stage coach robbers whose threat is as unreal as the late night movie in which they appear. These are criminals of the most dreadful sort. Their ilk demands strong preventive measures. Passiveness in dealing with pirates, murderers, extortionists, and saboteurs can no longer be tolerated.

Mr. Chairman, hijacking became a major concern in January, 1969, as acts of aggression against airlines escalated rapidly. Since that time motivation patterns of hijackers have undergone readily identifiable changes. Prior to January 1969 most hijackings were of a personal, political nature. Terrorism was not normally an ingredient. Now armed activity marks most hijacking attempts. Some skyjackers claim to seek "political asylum". Others are motivated by the lure of easy extortion which promises to produce hundreds of thousands of dollars. There are even those whose purpose is deliberately to endanger and to hold hostage hundreds of innocent persons for political purposes. Still others—are mentally deranged persons whose motivation is seldom clear.

According to *Aviation Week and Space Technology*, from January 1, 1969 to June 19, 1972, there were 253 world wide attempts at hijacking and extortion. Of these, 160 succeeded and 93 failed. To date 35 attempts were recorded, compared with 52 in all of 1971. Of this year's attempts, 17 have succeeded and 18 have failed. We were all shocked by the hijacking of a Delta airlines jet recently with 101 passengers on board. Only after airline officials produced the demanded one million dollars were the hostage passengers set free. The five pirates then flew to Algeria where they were granted "political asylum". The wave of extortion-skyjackings of this nature is increasing. Can we allow such acts to be the model of the future?

Clearly the spate of aerial piracy continues because governments and airlines have not exploited modern control equipment that is available. The sky marshal system has been largely ineffective. In 1971 only one plane hijacked had sky marshals on it. The ground-based metal detectors, have, on the other hand, provided encouraging results. Airline passengers screening has resulted in 1,162 arrests and the seizure of 44,442 potentially lethal weapon. It is discouraging, to note that these systems are not universally utilized. Airlines, claiming inconvenience to passengers, have restricted their use. When polled, passenger do not cite inconvenience as a matter of great concern. Invariably, they support stronger security measures. Could it be that the cost factor has prohibited their use? I am disappointed that an industry which purports to offer the world's safest form of transportation has accepted mediocrity.

We simply cannot wait any longer for the airlines to take responsible action. If we are to avoid a disaster in the skies the Federal government must move decisively. We cannot afford buck-passing and mediocrity. The price is too great—the threat too real.

S. 3871 before us today would strengthen penalties against air pirates. It would transfer responsibility for dealing with air pirates to a new Office of Aviation Security within the Department of Justice. Here the expertise of the FBI can be used to its fullest extent. This is a move long advocated by the Air Lines Pilots Association. Furthermore, this bill would replace the sky marshal system for the more effective walk-through electronic deflection system. The Federal government would install and man these systems with U.S. marshals. Finally, this legislation would empower the President of the United States to suspend air commerce between the U.S. and foreign countries which refuse to extradite persons accused of air piracy. With a united front on the part of other Western countries, strong pressures can be brought to bear against those who harbor outlaws.

Surely others of my colleagues will comment further on the specifics of this legislation. I am sure that there are ways we could improve this bill, but it is a much needed positive step in the right direction. I commend the Subcommittee and its Chairman for holding these hearings. America responds in general indignation to the spread of attacks against civil aircraft passengers, and crews. We of the Senate should respond in turn with legislation that will be effective in curbing this growing menace.

Chairman CANNON. Our first witness this morning is the Honorable J. Caleb Boggs, senior Senator from Delaware. He will be followed by the Honorable Richard S. Schweiker, the junior Senator from Pennsylvania. Following them will be the Secretary of Transportation, the Honorable John A. Volpe, who will be followed by various industry witnesses.

Senator Boggs, we are happy to have you here this morning.

STATEMENT OF HON. J. CALEB BOGGS, U.S. SENATOR FROM DELAWARE

Senator Boggs. Thank you, Mr. Chairman.

Mr. Chairman, Senator Pearson, I am grateful for this opportunity to appear before the subcommittee today to testify on behalf of legislation I have introduced to prevent skyjackings—S. 3871. I want to congratulate the distinguished chairman for his interest in this problem and for calling these hearings. I know we share a deep concern that effective action be taken as soon as possible to eliminate this danger.

Mr. Chairman, the skyjacking problem, it seems to me, is growing worse. The skyjacking of a Delta airliner from Miami to Algeria less than 2 weeks ago was the 31st hijacking this year, as you have just mentioned, one more than occurred all of last year. What is most disturbing of all is the increasing number of injuries and deaths associated with skyjackings—five deaths so far this year.

The suffering, the disruption of business, and the inconvenience which skyjackings have caused can never be measured with precision, but surely it must figure in the millions of dollars. We face the inevitability of still greater losses in the future if steps are not taken quickly to check this menace.

Mr. Chairman, the Federal Aviation Administration, which currently administers Federal antihijacking programs, has worked long and hard to find a solution to this problem. Only recently, the FAA issued new regulations requiring the search or screening of anyone fitting a "security profile" and providing weapon detectors at more terminal gates.

There are no easy answers, as we know, and I would not claim to have all the answers myself. I salute the efforts of the dedicated Administrator of the FAA and his staff in struggling with this frustrating challenge, and I would not want my proposal to be interpreted as a criticism of the FAA's work in this area.

On the contrary, the experience of the FAA over the past several years has been instructive. It has shown us that conservative measures such as visual profiles applied by airlines personnel, baggage searches by Customs officials, and sky marshals do not prevent hijackings. This is not due to any shortcomings on the part of the FAA.

Rather, it reflects the need for a stronger commitment from Congress to combat this problem, as well as the fact that efforts at hijacking prevention are better suited to the resources of another Federal agency.

Nowhere is this more plainly evident than in the dependence of the FAA on the Federal Bureau of Investigation for assistance every time a hijacking incident takes place. The legislation that I have introduced with the cosponsorship of Senator Javits, Senator Moss, Senator Percy, Senator Roth, and Senator Sparkman, would treat skyjacking as a problem of law enforcement.

Accordingly, section 1 of my bill would place responsibility for the prevention of skyjacking with the Federal agency having the greatest expertise in law enforcement—the Department of Justice. Moreover, because of the critical nature of this problem, I am recommending the creation of a special Office of Aviation Security within the Justice Department to bring the Department's resources to bear on solving it.

While a transfer of responsibility for Federal antihijacking programs to the Justice Department would be a step in the right direction, it will not, in itself, stop skyjackings. What is called for is rigid enforcement of laws against carrying firearms aboard airplanes. It is clear to me that the best insurance against hijacking is to keep deadly weapons off planes. We have the technology to do this; we lack only the commitment to apply it on a large scale.

I firmly believe we can keep passengers from boarding planes with firearms, by employing the most sophisticated weapons detection equipment available in conjunction with trained Federal law enforcement personnel to screen every airline passenger boarding a regularly scheduled flight.

Therefore, I am proposing that every one of the 531 commercial airports in the country be equipped with weapons detection devices of the walk-through magnetometer type. Where they have been used, these devices have proven highly effective in detecting concealed weapons, without great inconvenience to passengers.

While no antihijacking device can claim to be 100 percent effective, I am convinced that magnetometers offer the best insurance against this threat. For maximum protection, which is what we are after, every airline passenger must be required to pass through the weapons detectors. A partial screening will only present a challenge to the potential hijacker and encourage him to try to slip through.

The question then becomes who should pay for the purchase, installation, and operation of this equipment. Mr. Chairman, it is my belief that the critical nature of this problem, the safety of millions of air passengers a year, calls for a strong Federal commitment. The urgency of the problem requires that this equipment be operative at the earliest possible date so that greater air tragedies than have occurred so far will be averted.

Since this equipment would be under the control of the Department of Justice and manned by U.S. marshals, it seems unreasonable to me to expect the airports or the airlines to pay for it. S. 3871, therefore, provides for the Federal Government to bear the entire cost of purchasing, installing, and operating antihijacking detection equipment.

So as not to penalize those who have gone ahead and bought such equipment, the bill also makes provisions for reimbursement for detectors that have already been installed if they meet the requirements of the Attorney General.

I might add that while my bill provides for reimbursement only to airports for equipment already acquired, it was my intention to provide such reimbursement to airlines as well, and I would hope that the subcommittee would consider making this addition.

In consulting with manufacturers of magnetometers, I have been impressed with the sophistication and relative low cost of the equipment that can be produced. It is my understanding that walk-through magnetometers that are highly sensitive only to bulky steel objects such as handguns can be purchased for roughly \$1,000 apiece. This seems to me a good investment, considering the cost of a single hijacking incident, quite apart from inconvenience, injury, and death, is estimated to be in the thousands of dollars. On this basis, the more than 150 skyjackings that have occurred since 1968 have cost millions of dollars.

A one-time outlay of \$3 million for procurement of magnetometers would permit the purchase of approximately 3,000 detectors to be stationed at the Nation's 531 airports. Obviously, one detector would be sufficient at most airports, while larger airports would require more. The remaining \$17 million of the first-year authorization would be used to fund the Office of Aviation Security at Justice and to enlarge the ranks of the U.S. marshals.

I am pleased to note that the Department of Transportation appropriation bill passed by the Senate and now in conference would earmark \$3½ million for the FAA to purchase magnetometers. I applaud this action and hope that this figure will be approved by the conferees.

Senator CANNON. Incidentally, I may say that figure has been approved now by the Congress.

Senator Boggs. Thank you, Mr. Chairman. I am glad to hear that.

The operation of magnetometers at every commercial airport, regardless of the purchasing agency, will strengthen present antihijacking efforts.

Some cost saving would be achieved by terminating the sky marshal program which a thorough screening of passengers on the ground would make unnecessary. This program, I am sure, was well-intended and appeared to offer a deterrent to skyjackings at the time it was initiated. However, the obvious difficulty of placing sky marshals on flights where they might be useful and the potential for a mid-air gun battle are serious drawbacks to this program. The fact that sky marshals have been hijacked along with the passengers they were charged to protect is evidence enough of the futility of such a program.

The rest of my bill, Mr. Chairman, contains a number of additional provisions which I believe will strengthen our hand in dealing with skyjacking. Most of these, the Chairman is probably familiar with, so I will mention them only briefly.

Section 2 of S. 3871 would make a threat to hijack an airplane a Federal offense with a civil penalty up to \$1,000. Mr. Chairman, the threat to hijack an airplane is a very serious matter, not unlike shouting "fire" in a crowded theater. It may cause delay, monetary loss and even injury whether or not it is a serious threat.

I, therefore, believe some means of recovering these losses should be provided without having to prove criminal intent.

Section 4 of this bill would provide criminal penalties for threats to hijack an airplane of up to 5 years in prison and \$5,000 fine. At present,

there is no penalty for making such a threat, an omission that I strongly believe should be corrected.

Section 3 of my bill would raise the maximum penalty for carrying an unauthorized weapon aboard an airplane from 1 year in prison and \$1,000 fine to 5 years in prison and \$5,000 fine.

Section 7 would make it easier for the Federal Government to prosecute persons supplying false information regarding hijackings or threatening to hijack an airplane by allowing it to bring suit in the judicial district where the offense occurred as well as in the district where the defendant resides.

Section 8 would authorize the President to suspend air commerce with countries which refuse to extradite persons accused of air piracy by the United States. The Commerce Committee, I am happy to note, has just acted on a similar proposal, and I certainly give it my wholehearted support.

Mr. Chairman, I can readily understand the reluctance of the airlines to testify in support of this bill. After all, they must continue to operate with the FAA whether this legislation is enacted or not.

I also appreciate the hesitation of the Justice Department to comment on this measure.

However, it seems to me Congress bears the ultimate responsibility for solving this problem, and we must not hesitate to take steps to eliminate this danger once and for all and to do the very best we can.

I thank you, Mr. Chairman and members of the committee, for this opportunity to appear.

Senator CANNON. Thank you, Senator Boggs, for a very fine statement.

Have you received any comment from the Justice Department on your proposal?

Senator Boggs. I personally contacted the Justice Department and expressed the hope they would be able to testify. And I was advised, as you stated in your opening statement, that they had not had time to study my proposal in depth due to the short time.

Senator CANNON. Senator Pearson?

Senator PEARSON. It seems to me, Senator Boggs, that your proposal really rests on two key new principles.

First is the Federal assumption of financial aid.

And the second transfer to the Justice Department.

I, like the Chairman and you, regret that the Justice Department did not feel they were capable of testifying at this time. I find that hard to understand. I regret it very much.

Let me ask you just one question.

Senator CANNON. Would the Senator yield? I would say San Francisco is a little nicer place to be in this time of year than Washington, D.C.

Senator PEARSON. I am sure it is, Mr. Chairman.

You make some reference to detection equipment available, but did you in your research and careful analysis of what you thought ought to be a part of the answer here if we have the money today and could spend it tomorrow, is the equipment available to be placed?

Senator Boggs. I understand it is, Senator Pearson.

Senator PEARSON. We can buy \$3.5 million worth of electronic equipment?

Senator BOGGS. I would not go so far as to say it would all be available tomorrow, but I understand that it is production-line equipment.

I am sure it would be a matter of a few days or maybe a month or longer, but I would say substantially immediately available is the impression I have from my inquiries, sir.

Senator PEARSON. Thank you, Senator, for your statement and for this genuine concern about a very great problem that faces this country.

Senator BOGGS. Thank you very much.

Senator CANNON. I think that \$3.5 million is the estimate as to what would be required to cover all of the air-carrier airports.

Senator BOGGS. That is correct, yes, sir. And that, as you pointed out, has been carried in the appropriate bill.

Senator CANNON. Of course, the difference between what is planned now and your proposal is that these would be then turned over to the Justice Department for them to carry out their duties of law enforcement whereas it is now as I understand it the Department of Transportation would turn these over to the airlines and still try to impose on the airlines the duty of law enforcement which is not their business.

Senator BOGGS. Yes, sir; that is the situation.

Senator PEARSON. Just one other thing that occurred to me in the reimbursement provision, Senator. Do you remember or do you know how much the airlines, the airports, or airport authorities have already invested?

Senator BOGGS. No, I do not have that information. I understand that sort of thing is secret information because they do not want to indicate where all the screening equipment is.

Senator PEARSON. Much of all this business really ought to be executive.

Senator BOGGS. But my point is it should be located at every airport, some place at every airport.

Senator CANNON. Thank you very much, Senator, for your statement.

Senator BOGGS. Thank you.

Senator CANNON. Our next witness was to be Senator Schweiker. I understand he is detained in another committee meeting at the moment, so we will now hear from Hon. John Volpe, Secretary of Transportation.

STATEMENT OF HON. JOHN A. VOLPE, SECRETARY OF TRANSPORTATION, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY JOHN SHAFFER, ADMINISTRATOR, FEDERAL AVIATION ADMINISTRATION; JOHN W. BARNUM, OFFICE OF GENERAL COUNSEL; AND BENJAMIN O. DAVIS, JR., ASSISTANT SECRETARY FOR SAFETY AND CONSUMER AFFAIRS

Secretary VOLPE. Mr. Chairman, members of the committee, may I first present my colleagues.

On my left, the Federal Aviation Administration Administrator, Jack Shaffer. On my right, my General Counsel, John Barnum. On his right, General Davis, our Assistant Secretary for Safety and Consumer Affairs.

Mr. Chairman and members of the committee, I am pleased to have the opportunity to appear before you to discuss S. 3815 and S. 3871, proposals addressed to the aircraft hijacking problem.

I want to first of all commend Senator Boggs and Senator Schweiker and others on their deep concern about this matter. I am sure our objectives are the same. I think it is merely a question of how we best achieve the results which we are all after. And I am sure that is exactly what this committee is after.

At the outset, let me acknowledge and support the concern which has prompted the introduction of these proposals. The threats facing civil aviation security from the increased acts of air piracy definitely require the most forceful response and action by all parties involved: The Federal Government, the airlines, the airport operators, and the local communities.

The successes we have achieved in terminating and aborting hijackings have resulted from effective actions on the part of the airlines, their flightcrews, the Federal Aviation Administration, and Federal and local law enforcement personnel. But all concerned must increase their will and determination to resolve this critical attack on U.S. civil air transportation.

Let us, if I may, put this problem into some perspective. In 1972, there have been 28 hijacking attempts, of which eight have been successful. The reduction in the rate of successful hijackings to a 29-percent figure is down from a high of 82 percent in the peak year of 1969. In 1970, this rate dropped to 67 percent, and in 1971 to 44 percent.

In absolute numbers, the 28 hijackings in 1972 are small when compared to the more than 3,300,000 scheduled air carrier flights which have occurred during this period. However, we must concede that these statistics provide cold comfort. All involved must be dedicated to a complete elimination of this threat. Even one hijacking attempt is one too many.

In commenting upon some of the specific proposals contained in S. 3815 and S. 3871, I think it might be helpful for me to summarize the current civil aviation security program, report on its effectiveness, and identify some of the security measures recently, or soon to be, instituted.

I think it advisable to mention some of the steps which have been taken within the Department of Transportation. In the late 1960's, the FAA undertook the development of procedures designed to detect potential hijackers. These procedures were field-tested with two air carriers and with law enforcement support provided by the U.S. marshal's service.

The wisdom of this action was highlighted in September 1970 when the Palestinian guerrillas hijacked and destroyed the aircraft of three nations.

Following this threat to the lives of air passengers, after meeting with Senate and House leadership, the President immediately dispatched armed Federal law enforcement officers to fly on American-flag carriers' international routes and some domestic flights.

At the same time, the President assigned primary responsibility for civil aviation security to the Secretary of Transportation with instructions to coordinate and consult as necessary with other Cabinet officers and executive agency heads.

To provide for this coordination and assure concerted executive branch actions, I sponsored the establishment of an Interagency Committee on Civil Aviation Security. We were fortunate enough to secure the services of Gen. Benjamin Davis to chair this committee and lead the attack on aircraft hijackings. General Davis is now my Assistant for Safety and Consumer Affairs. He continues to chair this Interagency Committee and directs the overall Federal civil aviation program.

The committee meets on a regular basis and includes top officials of all interested executive branch agencies, including the Departments of Defense, Justice, State, and Treasury. I have personally met on two or three occasions with the top officials of these various agencies.

From these efforts, there evolved the rapid expansion of ground security and the in-flight assignment of 1,500 sky marshals by November 1971.

The sky marshal program was always recognized as a short-range in-flight deterrent to the threat posed by politically oriented hijackers. It was and still is our basic intent to meet the threat of hijacking on the ground.

After 1 year of voluntary cooperation with the air carriers, it was determined that their performance was not entirely consistent, and in September 1971, the FAA Administrator issued notices of proposed rulemaking affecting air carriers as well as airports regularly served by air carriers.

The regulatory action with regard to airline passenger screening was finalized on February 6, 1972. In March, at the direction of the President, the FAA issued regulations requiring additional security measures by the airlines and airport operators. The regulations require that airlines maintain approved security programs to screen passengers, baggage, and cargo, and to safeguard their aircraft; and that airport operators have approved programs to prevent or deter access by unauthorized persons and vehicles to airport operational areas.

The air carriers took immediate actions to implement the program with the resources available, at the same time submitting comprehensive security programs to the FAA for approval. The preboard screening of passengers is an extensive operation encompassing all flights departing from more than 500 airports and handling approximately 500,000 passengers daily.

A profile is applied against all passengers on domestic flights with the exception of the activities of the Eastern Airlines shuttle, Southwest Airlines, and Pacific-Southwest Airlines.

In the April-May-June 1972 period, the profile identified 349,913 "selectees," or persons who met the profile. Of this number, 348,099 were subsequently cleared to board. The airlines denied boarding to 1,583 passengers during this 3-month period alone. Additionally, 514 individuals were arrested, including 26 for the carriage of concealed weapons.

Another direct benefit for many flights was that during this 3-month period, 329 guns, 2,306 knives, and 951 assorted weapons and dangerous articles were turned over to airlines personnel for safekeeping during the flight.

This activity indicates a conscientious effort to frustrate the introduction of potential hijack weapons aboard aircraft and is the result

of combined activity of airlines personnel, Federal and local law enforcement officers.

Detection devices are being purchased to cover all shuttle-type flights which will eliminate a requirement for 100-percent physical body searches since the profile does not apply to these flights.

FAA has initiated orders for hand-held units in sufficient quantities to equip every air-carrier airport. First deliveries are expected this month.

The hand-held devices will serve as a backup at the high activity airports and will provide the least objectionable method of searching women and children who may accompany a selectee. In addition, it will provide an almost immediate capability to have detection devices to screen selectees at the lower activity airports which is not now available.

Negotiations with manufacturers are underway so they can tool up and go into production and deliver walk-through devices which will be supplied to every high density airport in the country. I might add there are several hundred of these detector devices now in place.

The purchase of hand-held units and walk-through devices will cost \$3.5 million, and air carriers at every air-carrier airport in the United States will have detection capability.

It is anticipated as technology advances in detection equipment that all passengers could be screened by active detectors. This unquestionably will increase the identification of potential hijackers. This is most important should the "profile" be seriously compromised.

The Department is diligently at work in fulfilling its responsibility for civil aviation security. In establishing this Department, the Congress gave it a mandate "to provide general leadership in the identification and solution of transportation problems." I am frank to admit that air hijackings present one of the most pressing and severe problems facing this Department. Its complete solution no doubt does not rest solely with this Department.

We must draw upon the airlines and their crews, airport operators, law enforcement personnel of the Departments of Treasury and Justice, and local enforcement officials in a cooperative and coordinated effort. I remain convinced that this Department is properly vested with the primary responsibility in this area, and that this responsibility and related authority should not be reassigned as proposed in S. 3871.

The hijacking threat to lives and property is just as severe as the threat of the defective jet engine, the faulty instrument landing system, or ineffective air traffic control procedures. True, each hijacking is a violation of law and must be treated as such. However, our principal objective must be to prevent these attacks on aviation security and safety.

In saying this, I do not minimize the role of law enforcement as an integral part of the Government's overall civil aviation security program. Each violation of the law must be immediately investigated and prosecuted fully and firmly, just as each engine malfunction and aircraft accident must be immediately investigated and deficiencies corrected. Always, however, our primary objective must be to prevent the hijacking, the malfunction, and the accident in the first instance.

Until recent months, the hijacking problem in the form of a person who commandeered a plane to be flown to Cuba appeared to be something we could deal with by enlisting the cooperation of the airlines. We called for voluntary action on the part of airlines and airport operators, and allocated and assigned Federal law enforcement resources in a manner that would permit their absorption into other programs as the hijack problem diminished.

As I have indicated, we had a force of 1,500 Federal law enforcement officers from the Treasury Department's Bureau of Customs and the Department of Justice. The Federal Aviation Administration has had a force of 200 in the field in order to coordinate, organize, and implement procedures.

Total costs were and still are borne by the Department of Transportation's Federal Aviation Administration. This total Federal law enforcement support was scheduled to phase down by approximately one-half during the current fiscal year.

As a result of the recent rash of extortionist hijackings, however, we are now reevaluating the decision to phase down Federal law enforcement support. Clearly, we cannot treat this more dangerous activity as a passing phenomenon, and I can assure you that the Administration will take whatever steps are necessary to cope with the problem.

In that connection, closer coordination of the activities of the Department of Transportation and the law enforcement agencies under the lead of a single agency should improve our effectiveness in combating this menace. The Administration is convinced, however, that, although law enforcement is an important ingredient in the total mission, the Administration cannot support the provision of S. 3871 which would give the lead role to the Department of Justice.

Although the Treasury Department customs security officers originally functioned as "sky marshals" to provide in-flight security, our ultimate objective has always been to strengthen ground security in order to keep hijackers off the aircraft, as I said earlier, in the first place.

Today, almost all "sky marshals" are assigned to ground duties, backing up airline preboard passenger screening procedures. However, some still perform in-flight security duties on "special situation" flights.

Efforts to achieve adequate ground security on a voluntary basis proved to be unsuccessful. Accordingly, as I indicated earlier, we have mandated the security measures to be followed by airlines and airport operators. These measures are preventive in nature and are properly the responsibilities of the private sector—the airlines and the airport operators—not the Federal Government. The responsibilities required of the airlines and airports are not at all inconsistent with those traditionally fulfilled by other elements of the private sector.

For example, there are about 4,000 bank robberies each year, each one threatening the lives of bank employees, customers, and innocent bystanders. Preventive and deterrent measures in the form of vaults, alarms, guards, cameras, and the like have been traditional and accepted responsibilities of the banking institutions themselves. Neither Federal nor local governments screen bank customers or stand guard at banks and tellers' windows.

This concept is not foreign to the transportation industry, either. The railroad police who protect the rights-of-way, the property, the passengers, and the activities of our Nation's railroads constitute the largest and oldest private police organization in this Nation. They are railroad employees who operate under local police authorities.

The guard force that patrols areas of our largest seaport, the Port of New York, to protect the property and activities of private maritime interests, are not Federal or local government personnel. They are employees of an element of the private sector which recognizes and fulfills its security responsibilities.

However, law enforcement has a definite and important complementary role to play. In civil aviation security, as in the case of a bank robbery or a theft from interstate shipment, law enforcement, Federal and local, must respond to actual and potential violations of law.

Therefore, we feel that the screening and inspection of air passengers, baggage, and cargo, as well as safeguarding of aircraft, is an airline responsibility. Similarly, the protection and control of airport operating areas is a responsibility of the airport operators. Law enforcement support must be available, however, to respond promptly and properly to any actual or potential violation of law detected as a result of these preventive security measures.

At the present time, the Federal law enforcement personnel assigned to the civil aviation security program are performing this support function at many of the Nation's largest air-carrier airports. We believe, however, that local authorities should eventually assume this ground support responsibility at virtually all of the approximately 500 air-carrier airports throughout the Nation.

Airline and airport operations should receive the same kind of law enforcement support provided by communities, cities, and States to shopping centers, downtown business districts, sport centers, and other commercial and private activities which make up our society. Because civil aviation activities are usually some distance from city centers and often operate on real estate involving split jurisdictions, this has often not been the case. We are working hard to overcome these handicaps.

Considerable progress has been made in this direction with local law enforcement support arrangements now covering a substantial number of our airports. However, the necessary law enforcement support is not yet in place at all air-carrier airports. Many of these do not have even a full-time manager, so efforts to assure this support are more complex and difficult.

I have stated some of our major concerns and problems, and I should add now that in spite of the problems, we believe we have made considerable progress. But much remains to be done.

I know that you, Mr. Chairman, have been quite critical of our profile. Of course, we have not revealed the specifics of that profile, but we remain confident that it is a valid and effective technique to prevent hijackings. Proper application of the profile would have prevented the great bulk of all hijackings to date.

The profile should have been applied to 16 of the 1972 air-carrier hijackings. The hijackers in 12, or 75 percent, of those incidents did meet the profile. If it had been properly and fully applied, those hijackers would have been identified and the incidents prevented. Those hijackings could and should have been prevented.

Four of the 1972 air-carrier hijackings involved "shuttle-type" flights. Pursuant to President Nixon's directive of July 7, special screening measures are now in effect for these nonreservation flights. Passengers and carry-on baggage on "shuttle-type" flights are now subject to 100-percent inspection requirements. These measures would have prevented the four 1972 shuttle-flight hijackings.

Under Federal aviation regulations, the airlines are required to apply the profile to their passenger boarding operations. This requirement is both just and reasonable. It requires very little more effort and very little additional time than presently exerted by the airlines to make sure passengers pay their fare.

It is a fact that in 20, or 83 percent, of the 24 air-carrier hijackings this year, the hijackers boarded as legitimate passengers. In the four remaining cases, the hijackers forced their way aboard the aircraft, three via boarding gates and one via the airport ramp. Full and effective implementation of existing Federal aviation security regulations, coupled with adequate law enforcement support, could have prevented these four incidents also.

I must conclude from this that our current program, if properly and fully implemented by all parties involved—the airlines, the airport operators, and law enforcement personnel—would have prevented 20 of the 24 air-carrier hijackings which have occurred so far in 1972.

Granted, Mr. Chairman, this would still not achieve our goal of 100-percent prevention of air-carrier hijackings. But I believe that any program that promises an 83-percent effectiveness potential ought to be used and built upon and not discarded. Those incidents not prevented or deterred by an 83-percent effectiveness rate probably present special threats requiring special actions. When we reduce the problem to manageable proportions, we can effectively react to those unusual or one-time occurrences.

Carry-on baggage was involved in about half of the 1972 air-carrier hijackings. We are intensely pursuing regulatory action to reduce the amount of carry-on baggage and to provide for inspection and sealing of essential carry-on items. I have asked the Federal Aviation Administration to expedite the evaluation of rulemaking action to meet the threat posed by the concealment of weapons in carry-on baggage.

We have proposed regulatory action to eliminate the parachute escape route that apparently attracted 12 of our 16 hijacker/extortionists this year. Most airlines have already taken voluntary action to secure the ventral or tail exits on their aircraft. Final rulemaking acting is being expedited to eliminate this escape route throughout the U.S. air carrier fleet.

We hope to establish security requirements for foreign air carriers operating in the United States. The foreign air carriers have indicated a desire to comply with U.S. air carrier security measures. Such regulatory action would assure that passengers patronizing foreign air carriers are afforded the same security and protection now provided by U.S. air carriers.

Before concluding, Mr. Chairman and Members of the Committee, let me offer some specific comments on S. 3815 and S. 3871.

S. 3815 would require the preboarding screening of all air passengers and their carry-on baggage by detection devices and would provide for

the Federal acquisition of the devices for use by airports in carrying out this screening. We agree, as I said earlier, with the objectives of this legislation.

In fact, our current plans call for the establishment of detection capability for screening of all scheduled air carrier flights. We are currently initiating procurement of detectors as fast as they can be produced.

We do feel the Federal Government should underwrite the costs for the initial acquisition of these necessary items of equipment. We do not feel, however, that they should be provided to the airports. The responsibility for the operation of this equipment and the effective screening of passengers, we believe, is an airline responsibility. The airlines must provide for the safety and security of their passengers.

Although we believe that carry-on items must be inspected, our evaluation of the current state-of-the-art indicates that detection devices would not provide for efficient or effective screening. The bulk of carry-on baggage would alarm today's detection devices, whether the baggage contained weapons, metal or not.

This would result in a generally indiscriminate search requirement and produce a complacent and ineffective security attitude on the part of the many personnel involved, not to mention the resulting delay and inconvenience of all air travelers. We are considering and must develop alternate procedures to treat the carry-on baggage problem.

There are several other provisions to S. 3871 on which I wish to specifically comment.

With respect to section 2 through section 7 of S. 3871, pertaining to "threats" and "false information," we would defer to the Department of Justice, inasmuch as these provisions are quite similar to those contained in their proposal S. 2567, the Aircraft Piracy Amendments of 1971.

Finally, section 8 of S. 3871 would authorize the President to terminate rights of U.S. air carriers to land in any country which refuses to extradite to this country persons accused of committing or attempting to commit aircraft piracy.

In addition, carriers of a country refusing to extradite could be prohibited from landing in the United States. U.S. carriers do not serve any of the States which in the past have aided hijackers.

Therefore, we believe that the boycott of section 8 is ineffective. We believe that the best approach to solving the problem of harboring accused hijackers is multilateral action by the family of nations. Unilateral action on our part, no matter how reasonable it may appear to this Nation, may appear quite arbitrary to other nations and result in retaliatory actions which could intensify the problem.

The United States has taken the initiative to call an international conference, as it has in the past, under the auspices of ICAO to enforce compliance with international law. ICAO machinery would be used to provide multilateral action. We, therefore, believe that section 8 is premature and may harm these negotiations which are scheduled for next month.

Also, this provision, in our opinion, is inconsistent with the Hague Convention which was recently consented to by the Senate of the United States. Under the terms of the convention, a country in which

the accused hijacker is located would be afforded the option of either extraditing or prosecuting the accused.

Since section 8 does not allow for prosecution of the accused, it is inconsistent with the convention, and we must oppose its enactment for that reason.

This concludes my statement, Mr. Chairman. At this time, members of my staff and I will be happy to answer any questions you or members of the committee may have.

Senator CANNON. Thank you very much, Mr. Secretary.

Mr. Secretary, you point out that current regulations still only provide that passengers cannot pass the passenger profile and be singled out for special screening or search. Yet, by your own testimony, at least four hijackings this year have been perpetrated by offenders who have passed the profile check.

In my view, until all passengers are screened, the hijacking attempts will continue. Why does the Department continue to defer action requiring that all passengers be subject to electronic or magnetic scanning?

Secretary VOLPE. We do not object to the screening of all passengers by electronic devices. The Congress of the United States has not as yet approved the budget request of \$3.5 million that passed the House yesterday. As a matter of fact, I believe the Senate will pass it today.

We have not been waiting, however. We are pursuing the job of preparing for the purchase and placing of these detection devices at airports across the country.

Senator MAGNUSON. Mr. Chairman, could I ask—

Senator CANNON. Let me just follow up on that, and I will yield.

If that is it, the conference report is approved, then, will the Department require that all passengers be subjected to electronic scanning?

Secretary VOLPE. The number of electronic devices and the hand-operated equipment purchased by this appropriation will provide a capability at all of our over 500 air carrier airports.

Senator CANNON. I said, are you going to require it? You said that in your statement. It would cover the 500 airports, but are you going to require the screening?

Secretary VOLPE. We shall require the screening when sufficient equipment is available to screen all passengers.

Senator CANNON. I yield.

Senator MAGNUSON. I want to just because I must go back into the executive meeting, but we did give you that \$3.5 million. And that will be approved today or tomorrow. So you have that.

Secretary VOLPE. I understand that, yes.

Senator MAGNUSON. And there was some question in the conference whether it would cover the airports. And you say now that it will, the \$3.5 million is sufficient to cover how many airports did you say?

Secretary VOLPE. Over 500.

Senator MAGNUSON. Five hundred. And also there was some discussion as to vis-a-vis this argument whether the airlines or Federal Government should pay for certain things in this field, that this would be an initial payment of the Federal Government to make a start. Is that what you consider?

Secretary VOLPE. As a matter of fact, the \$3.5 million will allow us to buy sufficient of the walk-through types together with the hand types

to cover the 500-odd airports. It will not allow us to purchase sufficient of the walk-through types for all passengers, but in combination—that is, the hand type together with the walk-through—it will cover the 500 airports.

Senator MAGNUSON. But it is 100 percent Federal grants, the \$3.5 million?

Secretary VOLPE. That is correct, sir.

Senator MAGNUSON. But it does not establish any particular principle as to who should make the payments as we move on, in your opinion, does it, or precedent, let us put it that way?

Secretary VOLPE. I would say it probably established the precedent that the Federal Government would probably, having done this, without a doubt continue to purchase additional walk-through equipment as may be required.

Senator MAGNUSON. That is the point I want to make, to continue to participate within the capabilities of what appropriations you get, to participate with the private airport operators and others in this particular field, is that right?

Secretary VOLPE. Yes, sir.

Senator MAGNUSON. Now, I frankly did not think \$3.5 million was enough, but that is what prevailed in conference. I was going to add to it, hoping in the meantime there might be a more sophisticated approach, and we would have to spend a little more money to make this initial investment. But we will have a supplemental along, and we will see what we can do.

One other thing I was interested in. The Department opposes this part of the bill that air carriers would refuse to land in a country which refuses to extradite. Now, I know that there is the Hague Convention, but it has been wholly insufficient to handle these matters by experience.

I suppose, John, you looked into this matter legally, did you not?

Mr. BARNUM. Yes, sir.

Senator MAGNUSON. You say:

Under the terms of the Convention, a country in which the accused hijacker is located would be afforded the option of either extraditing or prosecuting the accused. Since section 8 does not allow for prosecution of the accused, it is inconsistent with the Convention, and we must oppose its enactment for that reason.

What do you suggest we do to section 8? If we amended it, would that take care of the objection?

Mr. BARNUM. I think that the legislation that the Congress should pass to accommodate the hijacking convention has already been before this committee. I think S. 2280. And it has, I believe, been passed out of the committee with some of these additional provisions such as the one to which you now have reference.

Senator MAGNUSON. Then, you also say, "The United States has taken the initiative to call an international conference under the auspices of ICAO to enforce compliance with international law."

When is that going to happen?

Secretary VOLPE. Next month, sir.

Mr. BARNUM. That is a legal committee drafting a sanctions convention as we call it. It is the fourth leg of the four treaties we envision as covering the field of air piracy. There is not now a convention.

Senator MAGNUSON. Well, I think I know what it is, but when are you going to get this done?

Mr. BARNUM. Well, this is something which the U.S. Government has been attempting to get other countries to go along with for some time. And it was only as a result of the most recent Algerian event, I believe, that ICAO and the other countries concerned with this evidenced any interest in reconsidering a sanctions convention.

Senator MAGNUSON. I merely suggest we better get started on this thing because in the meantime, this will go on.

Now, I had an occasion to talk to some of the international pilots when they met in London, you remember, in September. I was on my way to Sweden to that environmental conference, and I happened to run into a group of them. And they wanted me to stop on my way back for some discussions, but I could not do it.

But I got the feeling that until we do something and get this moving with other countries, they are going to get together and refuse themselves to fly to these countries.

Secretary VOLPE. Senator Magnuson, let me say—

Senator MAGNUSON. That is a pretty drastic remedy, but that is what they are going to do. I got that impression they are going to say, "We will not fly." It is just like a pilots' strike flying into these countries, like I suppose Algeria is the best example. Whether it violates The Hague Convention or not, they do not care. They are getting fed up with it. That is why I think this all ought to be expedited.

The way these international conventions go, they go on for 2 years, 1 year, and in the meantime, we have all this.

And I think Mr. Shaffer might back me up on the fact they are getting pretty restless about the inaction.

Secretary VOLPE. They are that, Mr. Chairman.

I can only say that it was at our instigation—as a matter of fact, I talked with President Nixon about this, and we went up to Montreal and had to fight very hard. I had to make personal calls to Ministers of Transportation, Ministers of Civil Aviation—Jack Shaffer helped a great deal—in order to get them to even consider this kind of a convention or treaty as I prefer to call it. Convention sounds so much like what on your part and my part we have been going through for the last month or so, that I prefer to call them treaties.

The fact is the Tokyo Convention, which dates back to 1963 when it was submitted to the nations, became operative on December of 1969. It has been ratified now by 57 States.

The Hague Convention was prepared in 1970. This one proceeded much faster, as a matter of fact. The amount of attention that we are able to get and are getting from many of the ministers across the world who realize the real threat this poses has helped. This Convention became operative on October 14 of 1971, only a little over a year after it was first submitted.

Senator MAGNUSON. But we are still wasting time. The time element is still important.

Secretary VOLPE. It is very important, Mr. Chairman, I could not agree with you more.

Senator MAGNUSON. I would like to say somebody with the State Department, the Administration, surely this committee, and I know you people want to push it as fast as you can because you are going to

have some trouble if we drag along with this by pilots and people operating airlines worldwide. And they can get together worldwide, you know, just as easily as not.

Secretary VOLPE. They have.

Senator MAGNUSON. And I just hope that will be it.

One more just quick question, Howard, and then I have got to go back in, if I may interrupt the committee.

In making your statement, you say you are making some progress on the part of the tail exits on the airplane, mechanical parts, that make it more difficult to jump. Is that correct?

Secretary VOLPE. Yes; as a matter of fact, practically all of the airlines have agreed to do this voluntarily so they are sealed and cannot be opened from the inside.

Senator MAGNUSON. From the inside?

Secretary VOLPE. But we are putting it into a rule so there are no ifs, and/or buts about it.

Senator MAGNUSON. That would not particularly bother the normal operation of the airplane because when you land, it is usually opened from the outside anyway, is that correct?

Secretary VOLPE. That is correct.

Senator MAGNUSON. If somebody comes along and opens it up.

Secretary VOLPE. That is correct.

Senator MAGNUSON. Thank you, Howard.

Senator CANNON. Mr. Secretary, getting back to this \$3.5 million, does that figure allow for reimbursement to the airlines or the airports that have already purchased the screening devices? There seems to be some confusion on that point.

Secretary VOLPE. We believe it would be unfair to those airlines that saw fit to cooperate with us voluntarily to ask them to absorb that cost while those who did not proceed immediately would be off, let us say, scot-free. So we believe they should be reimbursed. And we probably will need more money for that purpose.

And as Chairman Magnuson just indicated, I think that what we will be doing here is considering, your committee and ours, a supplemental to take care of both that and such other needs as may become apparent as we move further into this total program.

Senator CANNON. Mr. Secretary, you testified that at one point, there are about 1,500 sky marshals assigned to the antihijacking program. I have been told that that number has been drastically reduced and that it is the administration's intent to phase the sky marshal program out entirely. Can you tell the committee how many sky marshals are currently assigned to the program and what the plans are for the future?

Secretary VOLPE. Mr. Chairman, I would be very happy to give you the information as to the number that are now working in Executive session or to you in your office or anywhere you would like. I do not believe it is desirable for us to let the potential hijacker know how many people we have working these projects.

I can say to you that there are still some flying in the aircraft, although not nearly as many as we had originally. The bulk of them are now working on ground security. And as I indicated in my testimony, because we had a pretty doggoned good record in 1971 while we

were preparing our budget figures, we felt we could start to phase them out. It was believed that it would be a temporary measure until such time as local law enforcement officials could take on the job.

However, because of two factors—one, the rash of extortionist-type hijackings, and two, the length of time it takes to properly train persons—it will take a long time. The Federal Aviation Administration and the FBI are training local law enforcement officials now.

And we are at the present time reevaluating our total concept and will be back to the committee with the numbers that we feel are adequate insofar as any phasedown might be contemplated.

Senator CANNON. You will furnish us a statement, then, for Executive session, as to what the current situation is and what you plan?

Secretary VOLPE. Exactly.

Senator CANNON. Your statement says, "We feel that the screening and inspection of air passengers, baggage and cargo, as well as safeguarding of aircraft, is an airline responsibility."

Does that indicate that you believe that airline personnel should bodily search passengers who fail to pass the profile?

Secretary VOLPE. I think that those who fail to pass the profile—and John, you correct me on this—are proper subjects for search because there is a suspicion at that time that a crime might be committed. And at that time, we would utilize the services of Federal or local law enforcement people, correct?

Mr. SHAFFER. That is correct. Our attitude is when there is a reasonable suspicion that this man or this individual would commit the crime, then we are within the law. We can proceed.

Senator CANNON. When you say you are within the law, are you suggesting, then, that the airline personnel are or are you saying this is, then, your responsibility?

Mr. SHAFFER. The airline personnel would, by processing all passengers through the profile, select the individual for further security check.

Senator CANNON. Who is going to do the further security check? That is what I want to know?

Mr. SHAFFER. He referred to local law enforcement or Federal law enforcement officers who are present in some quantity at the larger airports.

Senator COTTON. Excuse me, but you do not have to. Am I not correct that the airline does not have authority to compel you to submit to a search, but if you do not, it then can deny you going on the plane?

Mr. SHAFFER. That is correct.

Senator COTTON. So, it would be voluntary on the passenger's part. Therefore, you do not have to have law enforcement. You simply say, "We are not going to let you board unless you let us search."

Mr. SHAFFER. That is correct. Our approach is to request his consent to search. And if he refuses it, he is refused passage.

Senator CANNON. Are you saying the consent to search would be consent to search by airline employees or still by local law enforcement or by Federal law officers?

The reason I am asking is that because some airline groups have said they will refuse to search passengers because of the liability problem.

Mr. SHAFFER. On that point our attitude is the same as the airlines. We would select individuals—that is, move them out of the line—not board them, and then proceed with the second phase of the check which has already been mentioned in your earlier statement, Mr. Chairman.

Senator CANNON. That is the case now.

Mr. SHAFFER. Yes.

Senator CANNON. Had you even used the profile in that last hijacking, obviously, they would have been searched, and it would have probably prevented that hijacking.

Mr. SHAFFER. I do not know that you can conclude that. We do not really know that. The three individuals who were selected did not carry the weapons aboard. We believe the weapons went aboard with the children. We suspect that the 9-month old had the weapons in the rack in which he was being carried.

And they were not traveling as a group. They were not identified as a family or a commune or what have you. It is, therefore, not at all certain that, even with our procedure, they would have been properly denied boarding with the weapons.

Senator CANNON. Hijacking and crimes against aircraft crews are Federal crimes. Why is it your view, Mr. Secretary, Federal authorities, U.S. marshals, should not be the responsible person for searching passengers and making arrest? Why should local law enforcement agencies be forced to provide the law enforcement assistance to the Federal Government when this is a Federal crime?

Secretary VOLPE. Mr. Lawyer?

Mr. BARNUM. I think, Mr. Chairman, that it is quite proper for local law enforcement officials to investigate the possible crimes being perpetrated by someone who has now created a suspicion they are carrying a weapon. It would be equally proper to have the Federal officials do that. It is a question of allocation of Government resources.

Senator CANNON. Well, is it just simply an allocation of resources, then, that you are saying that the local law enforcement agencies ought to provide the resources for that as distinguished from the Federal Law enforcement agencies?

Secretary VOLPE. I believe, in essence, what we hope to do is to establish a law enforcement capacity at every airport that will enable us to prevent the potential hijacker from getting aboard the plane.

Senator CANNON. But that has to be borne by local government funds if it is going to be carried out by the local agency.

Secretary VOLPE. That is correct, sir.

Senator CANNON. As well as rising the problem of a uniformity of operations for the entire air transportation system which is involved certainly in interstate commerce. And the Federal Government has stepped in and regulates. It handles all the matters relating to it. And it is difficult for me to see why some of the responsibility, particularly the unwanted part, ought to be farmed off to local law enforcement agencies or to the airlines.

Secretary VOLPE. I suppose we could say, Mr. Chairman, that bank robberies are also a Federal crime, but local law enforcement officials carry out many of the functions relating to their arrest and then prosecution might take place in the various courts.

I would ask my lawyer about this, but the fact is we would provide for the uniformity through the training programs which FAA is start-

ing to conduct. I agree with you wholeheartedly that uniformity should be the goal at all airports.

Senator COTTON. Mr. Chairman, I have to attend our committee's executive session now, but before I do, I would like to ask one final question.

There is another aspect to this that I can't resist bringing up. You know that I have been struggling now for years to keep alive a small regional airport in my State. I have had great cooperation from you, Mr. Secretary, and from Mr. Shaffer. I can't say the same for the CAB. But, it is taking every cent that we can squeeze out trying to keep this airport functioning until we get some decent air service. We have about four or more a day, I guess. It would seem to me that out in the country you would have to have an army of officers to cover some of those marginal, remote airports.

Before this hearing took place, I talked with the Governor of my State, and I said, "If we get in a situation where the straw that breaks the camel's back is going to be the expense of security precautions for what few flights we have, would you be willing to have a member of the State police present at all times when flights are landing and leaving and along with local officers?"

And he said, "Yes; we can do that. We can't afford to subsidize an airport but we can do that."

Now, if this is going to be Federal enforcement, and recognizing that there are a lot of small marginal airports around this country, would not the number of personnel require to do the job create a problem?

Secretary VOLPE. Senator Cotton, you are so correct. It would take, approximately, by the best estimates we have been able to make, some 40,000 Federal personnel, if we were to undertake to try to do this job with Federal resources alone. And particularly as you have indicated, at the smaller marginal airports where you only have a few flights a day, it certainly would not seem to be the best utilization of resources and could be handled adequately, I believe, for those airports particularly with local officials.

Senator COTTON. Particularly, if they were State constabulary who are trained more perhaps than local officials might be trained?

Secretary VOLPE. We believe it would be proper for us to spend the time and energy and such money as might be required to help to train these local law enforcement officers, whether they be the State police or the municipal police, in the particulars of hijacking efforts.

Senator COTTON. Thank you.

Senator CANNON. You say, Mr. Secretary, that airline and airport operations should receive the same kind of law enforcement support provided to communities, cities, and States, shopping centers, downtown business districts, sports centers, and other commercial and private activities which make up our society. Now, isn't it a fact that violations of Federal crimes rarely take place in those locations that you described, while on the other hand, any person attempting to board an airplane at an airport carrying a concealed weapon is violating a Federal law and is threatening the national air transportation system?

Now, in that sense, how can you justify requiring local officials to assume law enforcement obligations for U.S. laws?

Secretary VOLPE. Well, I would only say this, Mr. Chairman, that carrying concealed weapons is most often a State offense. There are many reasons why I think local law enforcement officers could handle this, particularly as I say, at some of the smaller airports.

Senator CANNON. Carrying weapons alone is not always a State offense.

Secretary VOLPE. Not in every State.

Senator CANNON. In a lot of States, it isn't an offense to carry a weapon.

Secretary VOLPE. You are correct.

Senator CANNON. If what we are talking about is carrying a concealed weapon on board an airplane, then I would venture to say that no State has legislated in that field because it is a field that has been preempted by the Federal Government.

Secretary VOLPE. I am not certain of that Mr. Chairman.

Senator CANNON. On page 9 of your statement you say, "Passengers who carry on baggage on shuttle-type flights are now subject to 100 percent inspection requirements."

Are you actually providing such inspection of all passengers and hand luggage?

Secretary VOLPE. For the most part, we are not providing inspection, the airlines are.

Senator CANNON. It is actually being provided, on all flights?

Secretary VOLPE. That is correct, on the commuter flights I might add, Mr. Chairman, if I may, that some of the selectees are being further searched, that is the second phase, as Mr. Shaffer indicated, by Federal personnel. But in the initial screening, it is done by the airline personnel.

Senator CANNON. Let me get that clear. The initial screening then on the shuttle flights is done by airline personnel?

Secretary VOLPE. That is correct.

Senator CANNON. If they select a person as a suspicious one, a selectee, as you would call him, then they are further searched by whom?

Secretary VOLPE. A combination, generally speaking, of our U.S. marshals or customs officers and sometimes airline personnel, as well. But it is a supervised operation by our FAA people.

Senator CANNON. Have you actually fixed the responsibility now by regulation or rule as to who has that responsibility?

Secretary VOLPE. Would you like to answer that?

Mr. SHAFFER. The procedure is simply to process them all by the profile, and the carry-on baggage of those that are selected is physically searched.

Senator CANNON. By whom?

Secretary VOLPE. There are two searches. The magnetometer search is performed by airline personnel. If this discloses or indicates the presence of something suspicious, then the actual physical weapon search is done by local law enforcement or Federal marshals. But we can and airline personnel do physically open the luggage and examine it. The luggage search must be distinguished from the body search. The opening and examination of luggage can be and is performed by airline personnel.

Senator CANNON. Opening the luggage is performed by the airline personnel but not the body search?

Mr. SHAFFER. Yes, sir.

Senator CANNON. Well, now, Mr. Secretary, you speak of the threat of carrying on luggage and the possibility of limiting its use aboard aircraft. Isn't it a fact that at the present time, manufacturers have developed and demonstrated scanning devices which can quickly and accurately reveal the contents of hand baggage without the necessity of opening such baggage?

Secretary VOLPE. I would say, Mr. Chairman, that there are a variety of these types of devices. Some have been initiated as much as a year ago or more. But the state of the art has not developed to the point where we would consider any one of them a perfect device, or even call it a really good device to do the job. These devices are at the present time being tested at our transportation system center.

These different types are undergoing refinement, through research, to determine their capability and to develop a device that will detect only those things which you are looking for such as a pistol or bomb or whatever it might be. I think there are several types, as I say, four of them at the present time. Jack could probably tell you what the types are. But none of them, I think, is perfected to the point where we feel that it will isolate and detect every weapon, or even 95 percent of them. We, nevertheless, ought to go with them.

Senator CANNON. You have already said that you are not going to be able to catch a 100 percent of them, so isn't it wise, if we can, to get set up so we can catch even a relatively high percent?

Secretary VOLPE. I certainly couldn't agree with you more, Mr. Chairman.

Mr. SHAFFER. Mr. Chairman, we not only have them at the Transportation Center but we have these devices undergoing tests at many airports, including four different varieties, four different manufacturers' devices. We daily get proposals from additional sources to have us test their device.

The interest in detection devices is encouraging, and the state of the art is progressing at a rapid rate. Now that we have identified this requirement, it is now obvious that everyone who produces equipment, X-ray equipment, is interested in this subject and in offering a device that has a very low level of harmless radiation. It doesn't even blur photographic film.

It is then amplified by electrical circuitry so that you can get greater resolution, in spite of the fact that you have a low energy level in the equipment.

Secretary VOLPE. I might add, Mr. Chairman, also, that the cost of these devices is something in which both you and I are extremely interested. Some of those now on the market are very, very costly. We believe that the price of these will come down considerably the same as electronic surveillance devices, as you have additional manufacturers complete their testing phase and come into competition.

If I remember correctly, some of these devices are now being offered in the vicinity of \$7,000 each?

Mr. SHAFFER. That is correct; yes, sir.

Secretary VOLPE. That would be a lot of money to pay in trying to adequately equip each airport, when in many instances, more than one will be required at each airport around the country.

Senator CANNON. Mr. Secretary, since the Department of Justice is the Nation's law enforcement agency, doesn't it make sense to turn the antihijacking program over to that Agency, because of its expertise in dealing with crime and its expertise in preventing crime of all kinds?

Secretary VOLPE. Mr. Chairman, may I say that I could do without this particular assignment, because there are many, many other things in our Department to do. But—

Senator CANNON. What reasons, other than the general, vague, statutory language contained in the Department of Transportation Act can you give us that would be a convincing argument that the antihijacking program should be continued in the Department of Transportation, rather than turned over to Justice?

Secretary VOLPE. I think, first of all, Mr. Chairman, this is really a safety operation. It is a safety operation for us to keep that hijacker off that plane. That is all tied together with the collection of the ticket, the profile screening, the further search, as may be indicated.

And we have had, I might add, particularly since Mr. Gray, the new FBI director, came aboard, excellent cooperation, advice, and help, and we couldn't do without his expertise. I have met him now, and as a matter of fact, he came to one of my meetings.

But I think when it comes down to the total job of getting this situation licked, placing the overall responsibility in an enforcement agency alone when the rest of the safety aspects are in the hands of our Department would be in appropriate.

All the rules and regulations that we have been talking about this morning are all set forth by the Federal Aviation Administration, not by the Department of Justice.

Senator CANNON. I must say, I don't find your reasons very persuasive.

Senator Pearson?

Senator PEARSON. Mr. Secretary, I think the specifics have been covered by your very excellent statement, and the questions. I haven't been looking for contradictions, lawyer-like, but you announced two general policy positions, one being in relation to international arrangements or treaties that would be detrimental to proceed on on a unilateral basis, and that we should proceed on a multilateral basis, and yet the realities reinforced by your own testimony seem to me to be moving in the other direction.

You recite how very, very difficult it was in Canada—and I commend you for your great efforts—the pilots, public opinion, Congress, all seem to be moving in another direction. Witness the bill that we passed out of this committee some time ago.

Another policy position is the point of responsibility for prevention; whether it be financial or enforcement or implementation on air carriers, airport authorities and local law enforcement, it seems in like manner we are moving away from that.

Air carriers, either because of their competitive position or financial straits, don't seem to be doing all that we require them to do on a voluntary basis. Here we have a conference agreement of three and a half million dollars. I think we are headed away from those policy positions that you have taken that are terribly sound, but the trend seems to be in another direction—you obviously don't feel the same way—in the matter of Agency responsibility.

We are now getting bills transferring this out of your Department to the Department of Justice. They apparently don't want it. They are not here today. But I don't know what I can ask you, after having made that sort of a speech, except that we seem to be moving. I don't think we are ever going to go back to having air carriers provide for detection devices after we have reimbursed them first—and I agree with you, fairness requires that we reimburse those who have gone ahead—and after we have put out five and a half million dollars. I just don't think that is ever going to happen.

Secretary VOLPE. Senator, let me say this——

Senator PEARSON. If you prevail, do we not have to reverse what we are doing here, now, and the attitudes of all the parties concerned?

Secretary VOLPE. Senator Pearson, would you allow me to perhaps expand on your comments and indicate some of my real deep feelings?

Senator PEARSON. Let me interrupt you to say that I am not critical of the recitation of what you have done, and the attitude and sense of urgency of the Department and Mr. Shaffer are very commendable in my eyes and judgment.

Secretary VOLPE. I appreciate that, Senator. Let me say, as I indicated in my testimony, that one hijacking, whether successful or unsuccessful, is one too many.

On the other hand, I think we have to, as we try in all cases, use some rational judgment in determining how far and in which direction we should proceed.

I would suggest, Senator, that as you look at this in total perspective, we have had 3.3 million flights this year.

Now, even if you use the entire figure of 28, not the eight successful ones but the entire figure of 28, that is still a batting average of 999.999. I don't know how far out it goes.

Now, in any league I would say that was pretty good; but not good enough for me, not good enough for you or the Congress or the people of this Nation, because we want it to be a thousand.

I would certainly feel that we have done quite well. I don't say John Volpe has done it at all. All we have done is given a little leadership. We have an excellent body of people in the Federal Aviation Administration, together with General Davis and the interagency committee he has chaired. This hijacking problem is the same as any other problem of society. There are probably fewer bank robberies today than there were 50 years ago, 20 years ago, because as the threat of those robberies and as the techniques of those robbers changed, the response to the techniques used by those robbers were changed accordingly.

What we have done here is try to make a common sense judgment in the application of resources to the degree that we felt was essential and necessary, and to change our methods without waiting in many cases for the potential hijacker to change his methods.

Sometimes we have had to alter our response because a situation like the parachuting extortionist occurred. Who could forecast that possibility?

Now I suppose in his wildest imagination perhaps somebody might have, but nobody did. The fact is that we have responded to it. We have had no more of those, thank God.

I might add that one of the areas I feel very strongly about in which we have not had as much cooperation as we might have is in both the broadcast and printed media. They have made too much of these hijackings to the point where in some cases hijackers—not recently but in previous days, at least—were almost made out to be heroes.

Now they are not heroes, they are criminals. And I dare say that every time we publish the picture of one of those hijackers on the front page of leading newspapers we are putting in the minds of some other person, who perhaps is mentally disturbed, the idea that "Well, maybe I can get on the front page if I carry out one of these hijackings."

So I only say to you, Senator, if you look at the total picture we are pursuing this, we even got it right into the United Nations. In this connection, I have been working very closely with the State Department. I was in contact with the State Department last evening and spent about a half an hour on the telephone with them in an effort to see what I could do about expediting their total progress and to influence those nations that have not come along, where I might have some friendships that we have made in the course of my 31½ years as the Secretary. However, I find that most of the ministers of transport in the other nations I deal with don't last quite as long as the secretaries of transportation do here in the United States. Of course I am only the second one so I don't suppose I should say too much about that. But the fact is that we, I believe, are doing everything we can. I don't say a better job can't be done. I say, however, that with the forces we have at our command, we nevertheless have to get the other governments of the world to cooperate with us. We are doing everything within our power to do this and some of the nations which fought us hardest in the past have now joined us in these treaties and are working with us to extradite these hijackers.

In some cases they want to prosecute them themselves. But I can assure you, Senator, that as far as we are concerned, we are only laying the facts before you as we see them, as we observe them, and certainly would recognize that the committee has a responsibility to fulfill here. We would certainly expect and I know that you will fulfill that responsibility.

Senator PEARSON. Secretary, I don't think the record needs a philosophical discussion. I just want to say that I think you have done very well with the resources, and I think you have exercised good judgment in dealing with what the real problems are. I am just saying that I think the progress you have made in the international field and in the implementation and prevention on the ground today rests upon not referring the responsibility back to the carriers or to the airport operators, but because of unilateral soundings that we have made in this committee and in the Congress and because of the Federal action, that is where I think the pressure came from to make the kind of record that you have recited again.

I won't belabor it.

Let me just ask you this question. It is in reference to what I am generally trying to put my finger on.

Do you know, Mr. Shaffer, of any actions, fundamental, decisive actions, carried forth by the air carriers in the prevention of skyjacking or hijacking which were not first required by Federal regulations?

What is the recital of voluntary action on the airlines' part, over and above what you have required through your regulations and orders?

Mr. SHAFFER. There isn't any question that the initial attitude on the part of the airline management—as a matter of fact, the air carrier crews—was sporadic on a willingness to go along. The type of threat wasn't one that caused great risk to the passengers or the crew or the aircraft.

This was the original Havana-style hijacking. The perpetrators were not known criminals, people who had killed. These were just political dissidents, perhaps, or tourists wanting free passage.

But that attitude has changed, and while—I can't really say whether it is the chicken or the egg, most of the initiative, most of the inspiration, most of the motivation did come through the regulatory route, the rulemaking procedure.

But giving both the crews and the airline managements due credit, their attitude has stiffened, and I believe the interest is mutual. We try to do everything that is practical and reasonable in the rulemaking area. This is not a cozy arrangement. This is simply one that we feel must be done in full consultation with those people involved.

For example, sealing the ventral door seems like a very simple thing. But it involves safety, because that is a possible escape route in the event of a misadventure with the airplane. There are no simple solutions. Of course, there is a difference of opinion as to which way to proceed, in a technical sense, with the closing of that door. We now think that we have arrived at a consensus opinion, and in a rather short period of time.

The change in attitude has resulted from the changing nature of the threat, the increasing seriousness of it, and even though we are working through rulemaking, I believe the crews and the managements and all of the airline employees are willing to not only comply with the regulation but to anticipate them, to do everything that they possibly can to thwart the threat, to abort it, and drive it in a different direction. If we can't stamp it out completely, at least we would like to have it disappear from the aviation scene.

I believe the Federal effort will be one that really dampens the hijacking threat and hopefully causes it to disappear from our society.

Senator CANNON. Mr. Cook? Senator Baker?

Senator COOK. Thank you, Mr. Chairman, I have no questions.

Senator BAKER. No questions, Mr. Chairman.

Senator CANNON. Thank you very much, Mr. Secretary.

Senator SCHWEIKER, we are glad to have you here this morning. Do you have any questions of the Secretary?

Senator SCHWEIKER. Thank you, Mr. Chairman. I just have one question.

Mr. Secretary, \$31½ million, will that provide active devices or passive devices for most of the airports or is there a mix involved there?

Secretary VOLPE. There is a mix involved in that \$31½ million, Senator Schweiker, of walk-through and hand-type devices, which as I indicated earlier to the chairman and other members of the committee, will cover the over-500 airports. It will not cover them all with the walk-through devices.

Senator SCHWEIKER. Do you have a rough estimate of what it would cost to cover the airports with walk-through devices?

Secretary VOLPE. I think it would be in the vicinity of \$8 or \$9 million.

Senator SCHWEIKER. That is all I have.

Senator CANNON. Thank you very much, Mr. Secretary.

Secretary VOLPE. It has been a pleasure to be with you, Mr. Chairman.

Senator CANNON. The next witness is Hon. Richard Schweiker, representative from the State of Pennsylvania.

STATEMENT OF HON. RICHARD S. SCHWEIKER, U.S. SENATOR FROM PENNSYLVANIA

Senator SCHWEIKER. Mr. Chairman, I would like to thank the committee for this opportunity to testify on the problem of aircraft hijacking, a problem which we have not yet solved.

This is clearly a very important hearing, since there is a definite need for prompt action. I commend the committee for its initiative and remain hopeful the Congress will be able to act this year on legislation designed to curtail the incidence of aircraft hijackings. As a matter of public policy the Congress should make it clear that the Nation's airways are secure for the travel of the American public and for the maintenance of commercial air traffic free from the death and destruction which a hijacker can cause.

The committee is aware that I introduced S. 3815, a bill which would mandate the Administrator of the Federal Aviation Administration to publish regulations requiring that every passenger who boards a commercial aircraft be electronically screened prior to his enplaning. I had intended to offer the bill as an amendment to the Airway Development Act and I was pleased to have been joined on that amendment by Senators Boggs, Bible, Dominick, Hughes, Humphrey, Williams, Ribicoff and Eagleton. The amendment was not offered due to the scheduling of these hearings.

Mr. Chairman, despite the efforts of the Federal Aviation Administration and the use temporarily of sky marshals, we continue to witness the hijacking of passenger aircraft. The traveling public as well as the crews of the Nation's commercial aircraft continue to face the risk of being kidnapped and injured or killed, not to mention inconvenienced.

We continue to be amazed at the ease with which hijackers can take control of an aircraft and demand and receive large sums of money. It is strange that hijackers are still able to take control of aircraft after the rules for air carriers ordered by the FAA. This year alone we have witnessed already more hijackings in the United States than in any previous year. To date there have been 156 hijackings in the United States, of which 96 were successful; 30 were incomplete, that is, the hijacker took control of the aircraft but then was overcome; and 30 were unsuccessful, wherein the hijacker failed to gain control of the flight.

In my judgment, the hijacking rules established by the FAA are not nearly strong enough. In addition, there is some serious question as to

whether the airlines are in full compliance with the regulations promulgated by the Federal Government.

Until recently the rules established by the FAA for the air carriers and airports have required them to establish security plans acceptable to the Agency. The Agency in most instances has not prescribed the specific procedure or outline of the required plan. This stems in part from a desire of the Agency to permit the airlines to establish those procedures most compatible with their own operations.

However, the difficulty has been that the airlines feel much of this security is the responsibility of the Federal Government. On the other hand, the Federal Government feels the responsibility in great measure falls upon the airlines.

Thus, a stringent and effective security program as yet has not been established. Of the 73 hijackings involving regularly scheduled aircraft departing from U.S. airports since October 1969 (the date security measures were inaugurated) 42 have occurred after no security measures were employed. 15 hijackings involved the use of a profile, three involved the use of a "spot check," 10 hijackers boarded the aircraft by other than normal means, and only three occurred after the use of both a profile evaluation and an electronic screening device.

The recent \$1 million ransom hijacking of a Delta Airlines DC8 jet to Algeria caused the FAA to declare the hijacking situation an "emergency," and so it is. The announcement by the Agency of emergency procedures for physical search of all passengers who fit a "security profile" of hijacker characteristics is a step in the right direction, but does not go far enough. Congress must require mandatory screening of each and every passenger.

Electronic screening is a simple, reliable method that allows passengers to be electronically searched for weapons without inconvenience while walking through an aircraft boarding gate. This electronic device gives us the ability to eliminate the great majority of all hijackings by screening all passengers on all flights before they board their plane. Mandatory electronic screening will enable us to detect hijackers carrying weapons aboard aircraft whose characteristics do not fit the "security profile" currently in use.

Clearly, the most critical element in any security program is the screening of passengers prior to their embarkation. At present, not every passenger is being screened. The various methods when employed by the airlines have failed to detect far too great a number of hijackers.

As a result, men have boarded aircraft carrying the weapons for a successful hijacking. The majority of all hijackings, worldwide, have been undertaken with weapons detectable by electronic screening devices. A blatant example is the recent Philadelphia hijacking in which the hijacker carried a shotgun aboard the aircraft; I repeat, a shotgun was carried aboard the aircraft in Philadelphia.

The need for a system which can rapidly and reliably detect the presence of concealed weapons on airline passengers is obvious. Research in the area of concealed weapons detection has produced a reliable, cost-effective method by which concealed weapons can be detected without inconvenience to unarmed passengers.

This is a very important finding since application of this new weapon detection technology, together with identification and current profile test procedures, could greatly reduce the number of attempted hijackings. Unfortunately there has been a reluctance to believe that any electronic system could achieve the kind of performance needed.

In evaluating any security system, two considerations are paramount. The probability of detection should be high—90 percent or higher—and the cost of capturing potential hijackers should be low.

In the case of airplane hijackers who appear very infrequently (less than one in one million passengers), it is critically important to organize a screening process which minimizes the requirement to interview suspects. Unless a system is characterized by a low false alarm rate, the cost of eliminating one potential hijacker will be very high. For example, any system which requires interviewing even 20 percent of the passengers to eliminate hijackers may be too costly.

It may be suggested—in view of the cost—that electronic screening is not really necessary to achieve a significant reduction in the number of highjackings. I strongly disagree. Although the security profile currently being used is assumed to be effective, it alone will probably never be adequate simply because it depends too much on individual performance and judgment.

There is evidence that persons assigned the problem of identifying well-defined but very infrequent defects in objects have great difficulty in performing well if the frequency that they encounter defects falls outside the range of 1 to 20 percent. The frequency of appearance of a potential hijacker is well below this range.

The profile test should not be abandoned. But I believe all passengers must also be screened by a weapon detector in order to prevent concealed weapons from being carried onboard commercial flights. By using both the profile and reliable weapon detection techniques, the probability of detection can be increased better than 95 percent with little or no increase in screening costs, since an attendant is required in either case.

It has been established that modern technology, properly applied, can be effectively and economically used to screen airline passengers for concealed weapons without inconvenience to them, and without creating any harmful side effects to them or their possessions. The FAA has been investigating electronic screening devices, both active and passive, high-frequency and low-frequency.

Although technical operating questions remain to be settled, it is clear these devices can significantly reduce the number of hijackings. Electronic screening represents the most efficient and least cumbersome means of improving the security of air travel without the need for elaborate security enforcement programs involving large numbers of Federal, State and local law enforcement officials.

The Secretary of Transportation recently stated:

I firmly believe that the best place to catch an airplane hijacker is on the ground before he has an opportunity to jeopardize the lives of innocent people. The equipment of our airports with these devices will help achieve that goal, and therefore I feel it is proper expenditure of public funds.

My bill, S. 3815, directs the Administrator of the FAA to acquire and furnish the necessary devices for the purpose of electronic screening of passengers.

We must insure that every person who boards an airplane can be assured that none of his fellow passengers is carrying the equipment necessary to hijack that aircraft. The way to do that, obviously, is to get tough. We have to mandate the use of known electronic equipment available for metal detection purposes. Until we do get tough and make it mandatory, we won't solve the airline hijacking problem. If we do get tough, we will stop aircraft hijacking.

Mr. Chairman, just one or two more statistics. The latest technology in electronic screening indicates that the best equipment can probably detect nearly 95 percent of the normal weapons used, in hijacking, with only about a 7-percent alarm rate—I'm sorry, a 7-percent false alarm rate.

There is some more sophisticated equipment available now that can run that rate up to 99 percent rate. This equipment will detect knives as well.

The question becomes how small a knife will it detect? Here again, it relates to how high a false alarm rate one wants. You can detect pocket knives with this sophisticated equipment but at the same time you increase your false alarm rate to the point that it isn't feasible. If you start detecting penknives, there may be diminishing returns.

My point is that we have the technology, we have the know-how. The equipment is not expensive. It runs anywhere from \$2,000 to \$6,000 per unit.

The committee heard the Secretary answer my question by saying that we could get walk-through devices of a sophisticated nature perhaps for \$8 or \$9 million rather than \$31½ million. I think he is a bit high, if he has figured on covering the airports. My bill just covers the scheduled airlines, because that is where all our problem has been. I think the \$8 or \$9 million is high, but it is certainly cheap when you consider we spent \$44 million in 21 months for sky marshalls; I repeat, \$44 million for sky marshalls in 21 months.

All we are talking about here is one-fifth of that money for a screening system which can be 90- to 95-percent effective with a low rate of false alarms.

It also, of course, means that the airlines should have this equipment. We have already mandated \$31½ million for it, so we are not adding that much more to it. That concludes my testimony, Mr. Chairman.

Senator CANNON. Thank you very much.

I may say that if the unit that you are talking about is as high priced as has been indicated, say \$6,000 a unit—some of the testimony was that it is \$7,000—if you have 531 air carrier airports, and some of those have as many as 30 and 40 gates—many of them have more than that, so you can see it would be tremendously expensive. But I think that expense is very much on the low side.

Now, the Secretary did say that with the three and a half million that they have agreed on, they could either get the walk through or the portable hand held type, which he indicated would probably be satisfactory for some of the low-frequency, lesser used airports.

I am concerned about whether or not that figure is even high enough to cover even moderately the problem. But he did say that with this appropriation, if this becomes law, that they intend to require the screening by regulation and by rule rather than to require the screening at all of the airports.

Senator Pearson?

Senator PEARSON. I don't have any further questions.

Senator CANNON. Thank you very much. We appreciate your testimony. It is very helpful to the committee on this very difficult problem.

Senator SCHWEIKER. Keep in mind, Mr. Chairman, my bill doesn't mandate walk-through screening. It does mandate electronic screening of all passengers. They could operate this program immediately. I didn't hear the Secretary say that he was willing to put it into effect immediately. We could begin the program immediately with the equipment we have, because the hand-screen devices are sufficient to detect the obvious weapons. Thus, without any additional funding, according to the way the Secretary answered the question of the 500 airports, we could mandate electronic screening now.

My bill doesn't direct itself exclusively to the walk-through equipment. I was thinking only of ease of operation. However, considering cost, you are quite right. We could start as soon as the three and a half million dollars worth of equipment is purchased.

Senator CANNON. He says they intend to do that by rule.

Senator SCHWEIKER. That is his first statement to that effect. Up until now, that has not been the department's position. As you know, the latest regulations issued this past month in fact did not have that requirement at all.

Senator CANNON. Thank you very much.

Senator SCHWEIKER. Thank you.

Senator CANNON. The next witness is Mr. Paul Ignatius, executive vice president, Air Transport Association.

**STATEMENT OF PAUL R. IGNATIUS, EXECUTIVE VICE PRESIDENT,
AIR TRANSPORT ASSOCIATION OF AMERICA**

Mr. IGNATIUS. Mr. Chairman, I am pleased to have this opportunity to comment on these two bills that are before the committee for consideration this morning, expressing the concern of Members of the Congress over aircraft hijackings and proposing further remedies for dealing with the problem.

I would like very quickly, as useful background, to summarize the nature and extent of aircraft hijackings. I have appended to my statement some chart material for later study by the committee, but I would like to highlight it quickly.

Aircraft hijackings in any significant number are a comparatively recent phenomenon. During the 37-year period from 1930-67, there were only 12 hijacking attempts in the United States, seven of which were carried out successfully.

Beginning in 1968, the number of attempts increased, reaching an annual high of 40 in 1969, 82 percent of which were carried out successfully by the hijacker.

The preponderant number of hijackings in the 1968-71 period were of the Cuban type, and while the success rate, from the hijacker's standpoint, declined from 82 percent in 1968 to 44 percent in 1971, it was still high. This reflected the view of the airlines and I believe also of the Federal Aviation Administration that although hijackings were to be avoided, those of the Cuban type were best handled with passivity.

In 1972, the nature of the problem changed fundamentally; only 18 percent of the attempts were of the Cuban variety, and the number of extortion demands increased considerably. Although safety of passengers continues to be the primary consideration of the airlines and the Government, the tactics of passivity that were appropriate for the Cuban type of hijacking have begun to change to a more assertive role by airlines and the Government.

Finally, the data shows that while the number of hijackings increased in 1972, with more in the first 7 months of the year than in all of 1971, the success rate from the hijacker's standpoint reached the lowest point ever—29 percent—compared to 44 percent in 1971, 67 percent in 1970, and 82 percent both in 1969 and 1968.

Although not included in the charts appended to my statement, it is important to note that of the \$8,712,000 demanded by the extortionist hijacker in U.S. hijackings to date, some \$5,355,200 has been paid. Of this amount, \$3,852,200 has been recovered, \$1 million has been impounded by Algeria and hopefully will be returned, leaving only about \$503,000 associated with two hijackings. One of these involved D. B. Cooper who parachuted from an airplane and neither he nor the money has been found; the other involved a hijacking to Honduras where the hijacker himself was apprehended.

In summary, then, Mr. Chairman, hijackings are a recent occurrence in air transportation; they are no longer predominantly of the Cuban type; they have occurred at a greater rate in 1972 than in prior years but with less success from the hijacker's standpoint, and almost all of the money the hijackers have demanded has ultimately been recovered.

I would like now to change to the status of the antihijacking program without indicating all of the features of it, but to highlight a number of important steps that have been taken by the airlines and the Government in prior years, and particularly in 1972.

First, if the hijacker succeeds in getting aboard the aircraft, he has been able to get out successfully in one of two ways: by parachuting out the rear staircase door or by seeking asylum in a foreign country.

Both avenues of escape must be denied him. The rear staircase door has been rendered inoperative by most of the major carriers, and other airlines intend to do so in the near future.

Under U.S. leadership, an effort is under way in the International Civil Aviation Organization (ICAO) to develop a multilateral convention that would effectively deny safe havens to the hijacker. In this connection, the airlines endorse the provision in S. 3871 that would strengthen the President's hand in dealing with the safe haven problem, but believe that the language in the Magnuson bill, S. 2280, dealing with the primary boycotts, may be more appropriate for the purpose.

While it is important to seal off the hijacker's two escape routes, it is even more important to prevent him from getting aboard the aircraft in the first place. In this convention, the airlines and the FAA have tightened screening procedures substantially in 1972, but more needs to be done. I will comment in greater detail on this at a later point in my statement.

In a recent Senate-House Conference action, \$3.5 million was approved for the purchase of magnetometers and other metal detecting devices. It would appear that these funds, together with the reprogramming authority FAA already has, will be sufficient to make a magnetometer available to every gate of the 531 airports that the scheduled airlines serve. The airlines have already procured 679 magnetometers, have an addition 676 on order, and appreciate the interest of the Congress in taking this additional action.

With this background in mind, Mr. Chairman, I would like now to turn to the two bills before you.

First, Senator Schweiker's bill—S. 3815—would require 100 percent screening of passengers and carry-on baggage as soon as practicable, and would authorize the funds that the FAA Administrator would need to acquire the necessary detection devices.

Senator Boggs' bill would also require 100 percent screening of passengers and carry-on baggage. Responsibility for screening would be assigned to the Department of Justice, which would issue the necessary regulations within 60 days after enactment of the bill. The Attorney General would furnish airports with the necessary screening devices and with U.S. marshals and deputy marshals to operate the devices.

Funds in the amount of \$20 million for fiscal year 1973, \$17 million for each of the fiscal years 1974 and 1975, and such amounts as necessary thereafter would be provided by the bill.

In addition, the bill would expand and strength some of the penalties associated with hijacking threats or attempts and, as noted earlier, would grant new powers to the President for dealing with the problem of a country which refused to extradite a skijacker.

Now, with respect to funding, the Congress has agreed in conference action to provide sufficient funds (\$3.5 million) to meet the magnetometer needs for carrying out FAA's screening plan, it does not appear that any additional funds for metal-detecting devices need be authorized at this time under either S. 3815 or S. 3871. If, at some later point, after further experience has been gained with the devices on hand or to be ordered, it appears that additional funds are needed, they could then be requested, possibly through the supplemental routes mentioned previously.

Thus, the funds provided in S. 3871 could be limited to paying the manpower costs of the U.S. marshals and deputy marshals provided by the bill. Based upon some preliminary calculations we have made, we do not believe that annual amounts of \$20 million or \$17 million are sufficient to provide the needed manpower at the 531 airports involved. A figure of \$30 million per year would be more realistic.

Both bills require 100 percent screening of passengers and carry-on baggage with magnetometers or other metal-detecting devices. The airlines believe that this will be feasible when the magnetometers are available to each gate.

In this connection, "100 percent screening" is interpreted at the present time to mean: first, that all passengers and their carry-on baggage would be required to pass through a magnetometer or other metal-detecting device; and secondly, that those passengers who are selectees under the behavioral profile, together with any other members of their

traveling party, be subjected to a physical search or further magnetometer screening in the event that their magnetometer readings are above the threshold level; in addition their carry-on baggage will be inspected.

It should be noted that the second of the two procedures described above is already in effect and in instances where a magnetometer is not yet available, the screening process is carried out by inspection rather than by a metal-detecting device.

Senator PEARSON. Let me interrupt here to discuss in general terms, and I know the airlines have looked at it very carefully—what is really the common denominator of attitude of air passengers today in relation to these new security procedures that have been invoked.

The reason I ask is people like you and I get on an airplane every week, and I take the opportunity to talk to these air marshals from place to place, airline personnel. What I have found in just general discussion is that the public has cooperated far beyond the expectations, perhaps, of what the airlines thought the cooperation level would be.

Mr. IGNATIUS. That is our experience also.

Senator PEARSON. There is wide general acceptance?

Mr. IGNATIUS. Yes, sir, that is our experience, from letters and personal experience.

The airlines have consistently taken the position that law enforcement is a Government responsibility. The airlines are staffed and organized to provide safe, efficient air transportation, and cannot assume the Government's responsibility for law enforcement.

As a matter of principle, I believe there is no argument that the law enforcement phase of air transport security is a responsibility of government. We believe the overall responsibility is that of the Federal Government since Federal laws and interstate commerce are involved. Further we are addressing the safety and viability of a transportation system which will carry almost 200 million passengers in the coming year. The problem belongs to everyone, and it is serious.

Accordingly, the airlines welcome the emphasis in S. 3871 on the law enforcement aspects of the antihijacking program and are particularly pleased that Federal marshals would be provided on a continuing basis.

The airlines have on a number of occasions expressed their concern to various agencies of the Government on the absolute necessity for uniformed, law enforcement officers to assist in the screening operation and to deal with suspects and would-be hijackers. Since at any time these officers may be confronted by armed criminals who are desperate, irrational, or both, the airlines have been impressed with the need for high quality, motivation, alertness and uniform standards among these officers.

Under present plans, some 1,100 Federal officers now involved in the antihijacking program, are scheduled to be phased out over the period of the next 2 years. We think this is wrong and we are pleased that S. 3871 would continue the availability of Federal officers. I was glad to hear that Secretary Volpe said in his remarks this morning that the Government was reappraising this question.

The bill does more than this, however; it would appear to turn over the entire screening operation to Federal marshals. This has an obvious attractiveness to us as a concept but we are not so sure it would work out in actual practice.

First, the behavioral profile is an important aspect of the screening process and this must be handled by airline personnel and coordinated with the metal-detecting operations.

Second, the screening process must be carried out as part of the boarding of passengers. The airlines must be responsible for timely boarding and would lack the necessary control over it if the screening process were operated by the Government personnel.

Our concept of the Federal role was expressed in a telegram to Secretary Volpe last May as follows:

The Government should provide uniformed armed law enforcement officers for stationing at active gate positions and able to take immediate action to assist in the operation of the magnetometers, to search suspected passengers, and to prevent forced entry into aircraft.

In recent weeks we have noted an increasing problem with respect to individual airline employees and some of the unions which represent them when the duties assigned to employees in the screening procedure border upon the law enforcement function. The situation needs to be clarified and we believe the best way to do it is by providing Federal law enforcement officers in required number to make the necessary physical searches, to apprehend and take suspects into custody, and to assist generally in the screening process.

Turning now to the Assignment of Responsibility to Justice, S. 3871 establishes an Office of Aviation Security within the Justice Department which would furnish metal-detecting devices and the Federal marshals to operate them.

We believe it would be necessary to establish such an office as the administrative headquarters for the marshals. We believe further that it would be possible to make a clearcut delegation of responsibility to the office for the law enforcement functions the marshals are to provide.

We have some reservations, however, Mr. Chairman, about other aspects of this proposal. First, under the bill the new office would furnish the metal-detecting devices. This would appear to conflict with FAA's assignment for specifying and procuring magnetometers, an effort that has been underway for some time.

Moreover, the bill and Senator Boggs' remarks when he introduced the bill seem to suggest that the overall responsibility for the anti-hijacking program is somehow being transferred from FAA to Justice. If so, we think it would lead to a fragmentation of the total effort.

While law enforcement is a fundamental aspect of the program, the overall effort involves many other important considerations. For example, it involves engineering matters, such as separating public from operational areas; communications procedures when a hijacking is in progress, weapons or explosives in stowed baggage as well as in carry-on baggage, et cetera.

These are matters in which the FAA has the needed expertise and for which it must continue, in our opinion, to exercise responsibility.

FAA has no particular claim to expertise in baggage checking and it is not the Government's primary agency for law enforcement. Thus, there is no inherent reason why the stipulated law enforcement responsibilities cannot be assigned to Justice. Indeed, the overall effort may be improved as a result of the change, so long as FAA continues to have primary responsibility for the total antihijacking program and adequate liaison is maintained.

Both bills provide that the appropriate regulatory authority (FAA in S. 3815 and Justice in S. 3871) shall prescribe regulations requiring that all passengers in regularly scheduled air transportation, and their carry-on luggage is screened by magnetometers or other weapons detecting devices before boarding the aircraft for such transportation.

However, no authority is provided for the modification of these regulations as circumstances may warrant. Since we believe that any security program must be flexible in its operation, we urge that the final bill be modified to include a provision to the effect that these regulations will remain in effect until the regulatory authority (presumably the Federal Aviation Administrator) concludes that they are no longer required or should be modified.

With respect to the additional penalties, this provides, the extension and strengthening of penalties provided for in S. 3871 are strongly endorsed by the airlines. We also support the provision in the bill to strengthen the President's hand in dealing with safe haven countries, but as noted earlier, believe the language in the Magnuson bill on primary boycotts is more important. Moreover, the language in S. 3871 is inconsistent with the Hague Convention which requires prosecution or extradition of a hijacker whereas S. 3871 is limited to extradition only.

Now, a couple of concluding observations. The bills before you raise important questions of public policy with respect to assignment of responsibility between the airlines and the Government for preventing hijacking. The travelling public must be assured that all reasonable efforts are being taken by the Government, the airlines and the airport operators to prevent hijackings from being carried out. In appraising these questions, certain fundamentals should be kept in mind:

First, the U.S. airline system is the safest and most efficient in the world and actions to heighten security should be carried out in a manner that enables the airlines to maintain their high standards of operating performance.

Second, the security program should be flexible in nature so as to provide varying degrees of alert depending upon existing conditions.

Third, the antihijacking programs underway should be augmented by further study of comprehensive screening systems designed to automate procedures and to take advantage of available and foreseeable technology. When systems studies of this type are completed, it may be possible to visualize a highly effective screening system that could be operated at lower manpower levels and with fewer boarding delays.

Mr. Chairman, the airlines strongly support the need for uniformed Federal law enforcement officers as a fundamental part of the antihijacking program.

Both S. 3815 and S. 3871 would provide additional security for airline passengers through the use of electronic screening devices. The objective of S. 3815 will largely be met by the appropriations for magnetometers provided in the Department of Transportation appropriation bill.

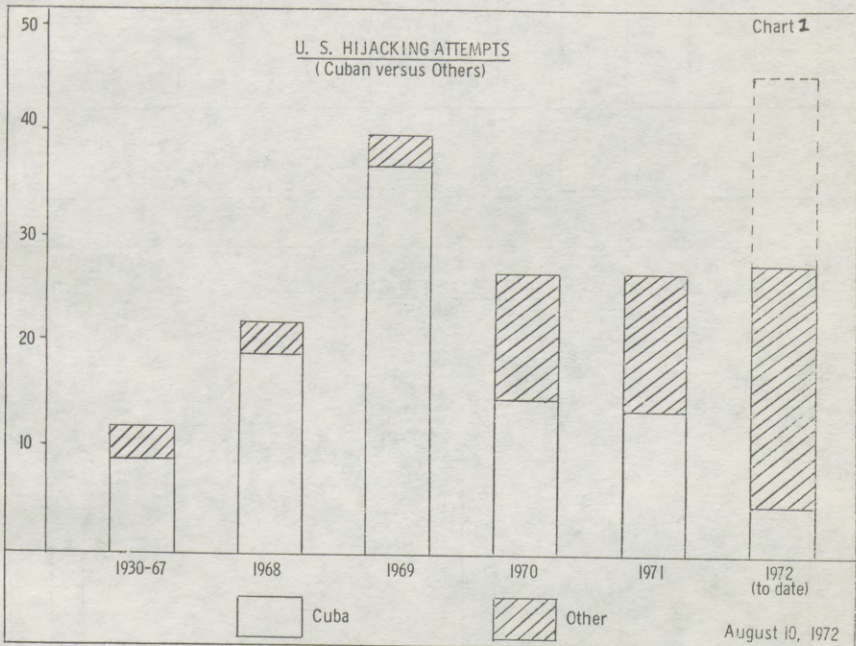
S. 3871 is somewhat more comprehensive in that it also includes provisions for Federal law enforcement assistance to prevent hijackers from boarding airline aircraft.

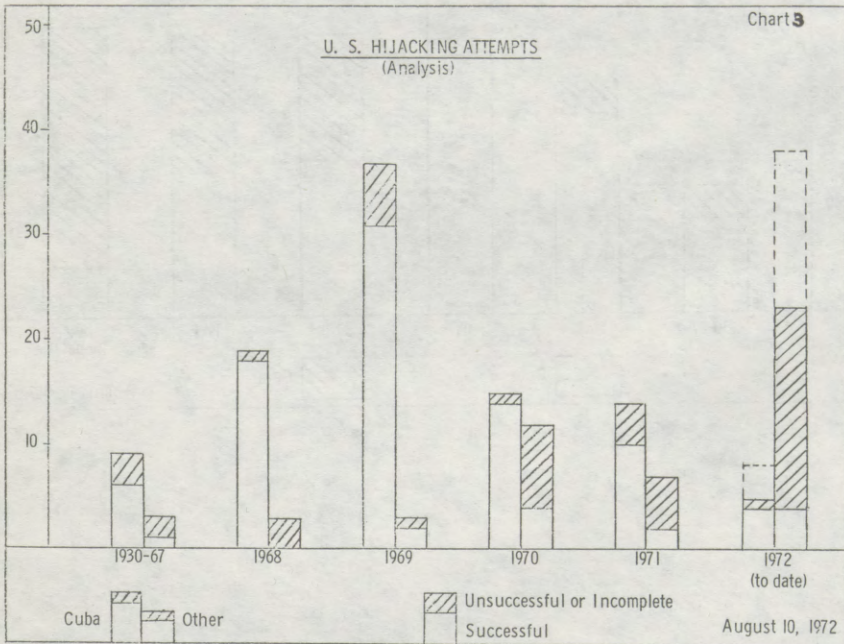
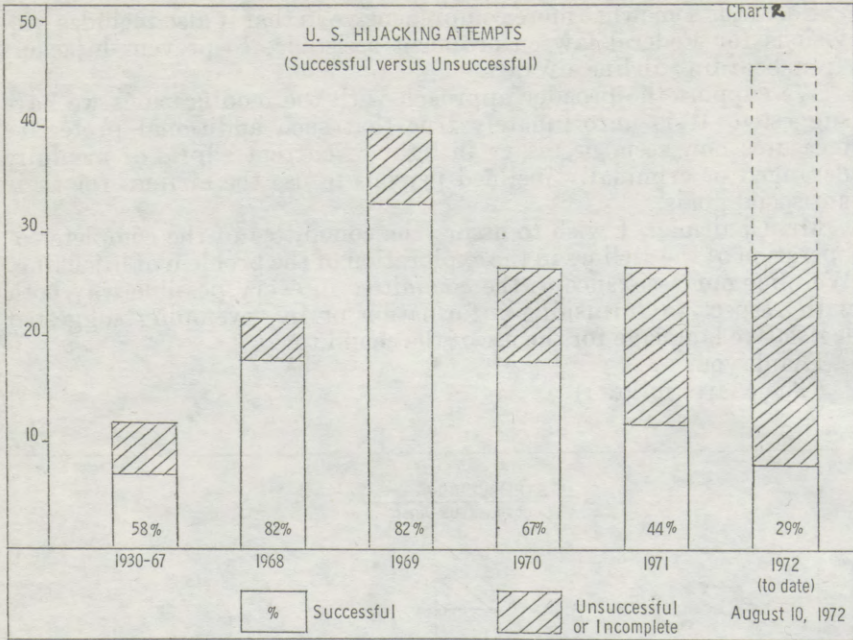
We support the broader approach with the modifications we have suggested. It is unfortunately true that such additional protective measures now seem necessary in light of current efforts of mentally deranged or criminally inclined persons to use the airlines for their antisocial goals.

Mr. Chairman, I wish to assure the committee of the complete co-operation of the airlines in the exploration of the problem of hijacking. We offer our assistance to the committee in every possible way both with respect to furnishing information or in developing suggested legislative language for the use of the committee.

Thank you.

(The charts follow:)





Senator CANNON. Thank you very much, Mr. Ignatius. I appreciate your testimony.

The next witness, Mr. O. L. Sands, president of the Airport Operators Council International.

STATEMENT OF O. L. SANDS, PRESIDENT, AIRPORT OPERATORS COUNCIL INTERNATIONAL (AOCI); ACCOMPANIED BY J. DONALD REILLY, AOI EXECUTIVE VICE PRESIDENT; AND J. J. CORBETT, AOI VICE PRESIDENT—FEDERAL AFFAIRS

Mr. SANDS. Before going into my prepared text, Mr. Chairman, I should like to observe that I approach this text with somewhat mixed feelings after having heard all of the arguments and after having looked back on over 30 years experience as an active professional airport manager.

I have heard a few things in here this morning that really make me wonder a little bit. Perhaps at the conclusion of my prepared remarks, if I have a minute or two extra, I might comment on one or two of those things on which you might be personally concerned, because we on the Airport Operators Council know your great concern for the transportation industry and aviation in general, and we applaud you.

We have done that before and I do so now, and we are greatly indebted to the work of this committee and you in particular.

I am O. L. Sands, president of the Airport Operators Council International and executive director of the New Orleans Aviation Board, which operates New Orleans International Airport. Accompanying me today are J. Donald Reilly, AOI executive vice president, and to my left, J. J. Corbett, AOI vice president—Federal Affairs.

The Federal Aviation Administration currently has two different sets of regulations in effect to assure that potential hijackers do not board aircraft.

New Federal Aviation Regulation Part 107 requires airport operators to provide a secure environment in the landing areas of the airport. Airport operators were required, by June 16 of this year, to have developed and sent to regional FAA offices their plans for the identification of persons and ground vehicles to be permitted access to the "air operations areas"—the runways, taxiways, ramps—and to provide protection against access to these areas by unauthorized persons and vehicles.

These plans, 531 in number—that is the exact number, Mr. Chairman. We have been kicking around this 500-plus figure all morning—now being reviewed, modified and approved by the FAA. Airport operators will then implement the plans, involving hundreds of millions of dollars of lighting, fencing, badging systems, closed circuit TV systems, and the like.

Mr. Chairman, as I said, we are grateful to you, the committee, and the Senate for providing in S. 3755 an amendment to the Airport and Airway Development Act of 1970 to permit the Federal Government to participate, at 82 percent, in the capital costs involved in these costs of airport security. We hope that the House will also recognize the need for financial help in purchasing and installing these security items.

You will note that, under current regulations, airport operators have responsibility for antihijacking measures in the landing areas as opposed to the terminal buildings where passengers are processed.

Part 121 of the Federal Aviation Regulations imposes the obligation on the air carriers directly to screen their passengers and baggage to "prevent or deter the carriage aboard the carriers' aircraft of any sabotage device or weapon in carry-on baggage or on or about the persons of passengers."

Thus the scheduled airlines presently have the obligation under Federal regulations to make sure that passengers and baggage boarded on their aircraft are "clean" in a security sense. The airport operator is not involved in this process as it involves the contractual relationship between the passenger and the airline.

I wish to emphasize that, Mr. Chairman, because I am going back to that contractual relationship in just a few moments.

As of August 1, the airlines must, after applying the FAA's security profile to all passengers, require certain "selectees" to have their baggage searched and be themselves cleared through a metal detector or a consent search.

Airport operators believe that these regulations are wise and that airlines must continue to have the responsibility to deny boarding to any passenger who does not consent to these Federal requirements.

Again going back to the contract on his ticket. Our members support the provisions of S. 3815 and S. 3871 which would extend the use of metal detectors to all passengers and baggage prior to boarding, not just to selectees. We so recommended to President Nixon by telegram on July 14.

The acquisition of metal detecting equipment, referred to in both bills, has already been approved by the Congress in H.R. 15097, the FY 1973 DOT Appropriation Act. That act allows the FAA to purchase and assign to the airlines \$3.5 million of detection equipment, for use by airline personnel at U.S. airports. The language of the pending bills, which is phrased in terms of "furnishing airports" with these devices, should best track the language of the recent appropriation act.

We have reviewed the proposal in S. 3871 to turn the overall Federal responsibility for aviation security over to the Department of Justice. Our members feel very strongly that one Federal agency should be in complete charge of the Government's antihijacking efforts.

I would like to reemphasize that—one Federal agency.

At present, there is an almost total lack of coordination at airports, and I have heard that this morning also, among representatives of the different Federal agencies involved. FAA has its Air Transportation Security Officers; Customs has its Customs Security Officers; the Department of Justice supplies Deputy U.S. marshals, and the FBI, under nominal Justice Department supervision, also has its personnel on our airports. But nobody seems to be in charge. These forces, generally armed, roam around airports, do not know their counterparts from other agencies and are reluctant to take direction from anyone. This situation could have disastrous consequences in time of emergency if not remedied soon.

Let me paraphrase, Mr. Chairman, that one time that happened at my airport and we had quite a battle with over 50 shots fired between law enforcement agencies.

Senator CANNON. Were they shooting at each other?

Mr. SANDS. They were shooting at each other. We had two people seriously injured.

Airport operators want somebody to be in charge. In our view, the Congress should strengthen the authority of the FAA to make the personnel of the other Federal security agencies comply with FAA direction.

The proposal to give overall aviation security responsibility to the Department of Justice is, in our view, inappropriate at this time. FAA presently has the statutory responsibility for aviation safety and has been attempting, without a lot of success, to obtain the wholehearted support of other Federal agencies. We want FAA strengthened, not removed, in the overall governmental security effort.

If, however, Congress does not strengthen the authority of FAA to direct the efforts of other agencies, then airport operators will later be forced to recommend that a new agency, perhaps in the Department of Justice, be assigned that responsibility.

Again, someone should have the total responsibility.

Whether implemented by Federal personnel or airline employees, the present passenger and baggage inspection and screening system must be applied uniformly throughout the United States. Our members note that some airlines are very security conscious and are taking all reasonable steps to make FAA's antihijacking regulations work. Other airlines, according to our members, do not appear to be taking these regulations as seriously as they should. For the top management of some airlines, the FAA security measures seem only to be a bother which gets in the way of selling tickets and moving aircraft. Unless there is an across-the-board, 100-percent implementation of the regulations, there will continue to be hijackings.

This is equally true with respect to airport security. If airline A and airport A have tightened security, airline B and airport B then become prime targets. We have heard of numerous examples of passengers being refused boarding on one airline and gaining easy access to the flight of another competing airline.

The presence of Federal agents at U.S. airports can be helpful in assuring that the passenger screening process is indeed carried out by airline personnel. At some 33 major U.S. airports, Federal officers are available to offer backup support to the airlines in the searching of selectees. Until metal detectors are made available for every flight at every U.S. airline airport, the backup support of these Federal officials will be essential. We were disappointed to discover that, for budgetary reasons, the President's Office of Management and Budget is attempting to reduce the existing Federal force by some 900 men by June 30, 1973. We hope that Secretary Volpe will be successful in his efforts to have this proposal defeated.

It is unreasonable to expect that local law enforcement officers can handle the passenger security requirements connected with aircraft boardings. Municipal law officers are, first, not always available in

adequate numbers at airports; second, they are not trained in the detailed requirements of screening passengers.

I would like to paraphrase, Mr. Chairman, if I may, that this is most important. Many of our small airports and even our larger airports around the country are dependent for law support, municipal law support, either by contractual arrangements or otherwise, with small, suburban police forces.

These men may be trained in running down people who violate all kinds of crimes on the roads or on the streets. But the American passengers still have an amount of dignity and as has been said here this morning in other testimony, there is only one potential hijacker for every million or two passengers. These people are paying their way and they have to be treated with a certain amount of courtesy and discretion. And I have seen just the opposite of that in some of the screening arrangements that pertain to some of our airports, including my own.

Senator PEARSON. Mr. Sands?

Mr. SANDS. Yes, sir.

Senator PEARSON. As I recall your governmental setup, you have county and city and State jurisdiction, don't you?

Mr. SANDS. This is correct.

Senator PEARSON. Who do you call upon for law enforcement?

Mr. SANDS. With the city of Kent. We back that up with the parish of Jefferson, the county of Jefferson, and the sheriff's deputies. We will call in the highway patrol and anybody we can get to respond to something if these people cannot respond.

Now you must remember that unless you detail a certain amount of men, gentlemen, for a specific job and keep them there, there are other duties, there are other emergencies. I was interested in the Secretary's reference to a bank robbery. So if you have a bank robbery downtown, and we have a situation at the airport, where do you think the men are going to be who are assigned out there except the minimum number which is assigned in our particular situation, Senator? They are going to be at that bank robbery. They will be blocking roads. They will be in a number of other places.

To continue, from the fact that they are not trained in the detailed requirements of screening passengers; third, they would be thrown into direct conflict with the airline passengers, sometimes with disastrous results.

It must be recognized that airport law officers are already overburdened with the requirements of total landing area security. The immediate need is for focus and action in one well-trained and well-instructed passenger boarding security force.

Furthermore—and I said a few minutes ago I am going back to this contractual arrangement between the passenger and the airline—moreover, the passenger has a contractual arrangement with the airline that the airline will transport him provided he complies with certain conditions. These are printed on the back of his ticket, the airport has no such relationship with the passenger upon which to rely. Unless the search and seizure laws of the various governments involved—Federal, State, and local—can be changed, local law officers, as individuals, would run the great risk of being subject to

suits for false arrest, and their governing bodies may also be subject to suit.

This is not an idle statement, gentlemen. This is something that hangs over these people all the time.

In conclusion, Mr. Chairman, we recommend that FAA be given strengthened authority to direct the activities of the other Federal security forces; that, as provided in S. 815, all airline passengers be effectively screened, by use of metal detectors as soon as they can be made available; and that the Federal Government maintain its posture of support to the airlines in the selectee examination procedure.

Full Federal attention must be focused on making the existing regulatory system work. Airport operators will fulfill their obligations under the regulations for better aviation security; we hope the airlines will do so also.

That concludes my prepared text.

If I might make some observation, Mr. Chairman.

We have had the question of whether 31½ million is enough to implement these things and the question has come up that you need these at every boarding gate. May I submit, sir, that New Orleans International Airport was the first airport in the world to have 100-percent total boarding screening, and we bought these things with our own money.

We are not asking you under the provisions of these or any other bills to return that money to us. They don't cost that much.

No. 2, it is ridiculous to think about putting one of these things at every gate, even at a large airport. You can get the same results by implementing other things which may also have fallouts which are good for you.

Let's take, for instance, an airport with a satellite area like Los Angeles, where you go down the corridor and you arrive at a satellite area. If that area is sterile and for passengers only, and no visitors are allowed to go into that satellite area, they can be screened in the corridor and you have six gates in every one of those, regardless. Some of them more.

Now this is nothing new, gentlemen. In the European airports, where most of—

Senator CANNON. Those boarding areas are not all sterile, though. The passengers can go down and get in there.

Mr. SANDS. They could be. A great number of them, Senator, could be.

Senator PEARSON. That is in your judgment.

Mr. SANDS. I am trying to get across that depending upon the configuration of your own building, you may not need—let me go back, as I started to say just this one point.

Our business, of course, here in the United States is largely domestic. In Europe the business is largely international. When you go into the transit area, nobody goes in there but you. That area is held off. You can do the same thing here, and you can do it personally and very easily, and then there would be no passage of contraband or whatever you want to call it from a passenger—to the passenger from a visitor who was not departing.

This is one way you could do it.

There are other instances of concourse airports such as our own, where we find that we can pass these people through with only an average of one detector for every two gates, and have 100-percent coverage.

Again, in the United States, you may be interested to know that at our own airport, we are experimenting with what I just spoke of, sterilizing one of our two main concourses. It is working. We are not getting any kickback from the passengers at all. They are all cooperating.

Now, we either have to extend these to all concourses or none, because manifestly this screening is a nuisance. It is a necessary evil. So—

Senator PEARSON. Let me interrupt you.

In a corridor, I view the corridor as a large passageway where people walk eight or nine abreast in crowds. How do you identify the subject which gives some detection of metal or a weapon?

Mr. SANDS. You make a constricted throat in that corridor, Senator.

Senator PEARSON. I see.

Mr. SANDS. This is what we are doing now in that one corridor, and as I say, you have to do it in all of them, because we have competing flights from both these corridors and it is a nuisance.

After a little while of that, some people say, "Let's not go on airline A, let's go over here on airline B, and go to New York or Washington."

Senator CANNON. How long did you have that test in effect?

Mr. SANDS. We have had that test in effect for the last 10 days, sir.

Senator CANNON. What has been your overall experience since you put in your magnetometers throughout your entire airport?

Mr. SANDS. The overall experience has been excellent.

Senator CANNON. I don't mean on hijacking. What do you find in the trash cans and this sort of thing, since you put it in force?

Mr. SANDS. You would be surprised. You find an awful lot of things. Many things have nothing to do with hijacking at all.

Senator CANNON. With relation to hijacking. Have you found pistols, knives?

Mr. SANDS. With relation to hijacking, we have picked up a certain amount of weapons, knives. In one instance, I remember a small hatchet, and things of this nature. However, this was only at the beginning. In the last year and a half—and we have had our screening on for over 2 years. We were the pilot on that and we hoped everybody would follow us, and nobody did, including the FAA. But in the last year and a half, we haven't had any problem along that line because everyone knows the screening process goes on and yet it is very unobtrusive, and we have had no reaction except cooperation from the public.

Senator CANNON. Who do you have there to handle your law enforcement aspect of this?

Mr. SANDS. This is the thing I referred to here. We started out with U.S. marshals, to begin with. These were furnished to us in this pilot program through the good auspices of the FAA; Lowell Davis was spearheading this program. He made these arrangements. They are still there. In addition to that, we have FAA security forces.

Now, the customs agents have got into the act, and, of course, they are responsible for Customs, and this is what I was saying. I was making these remarks from firsthand experience, not from things which we hear, Senator, but from things which we know, or at least I know.

We don't believe that the problem is as great as has been made out when a little good, ordinary commonsense is ground in, and taking into consideration the fact that each airport area, each terminal building is architecturally different, there must be an application different to each one of them as to how best you seal it off and how you operate these things. But it can be done with a minimum of effort. I think your \$3,500,000 might be enough.

Senator CANNON. What is the cost of the magnetometers or screening devices at your airport?

Mr. SANDS. A little over a thousand dollars apiece, sir, and it costs us about \$3,000 to install from our own labor.

Senator CANNON. How many of them did you have to have?

Mr. SANDS. We had 14 of them. We had at that time 26 gates.

Senator CANNON. Senator Pearson?

Senator PEARSON. I want to thank Mr. Sands for his testimony.

I would like to digress just for a moment. I know it would be of interest, general interest. When I visited you and we first met some years ago, you had probably the best record in relation to complaints about noise of any airport in the United States.

I don't know whether it was precise location, but I do recall, Mr. Sands, the kind of committee systems and public relation.

Have you been able to maintain that, or are you still—have you still got the kind of record of public accommodation from the public?

Mr. SANDS. Senator, to answer your question, I got my first noise suit about 90 days ago, the first we have ever had, and it is purely and simply a nuisance suit, somebody wants to get paid off. We will take care of that, and I don't think we will have too many more, either.

Yes, to answer your question directly, it has worked.

Mr. PEARSON. The committee system that you had down there still—

Mr. SANDS. Still functions.

Senator PEARSON. Thank you very much.

Senator CANNON. How do you think we could handle this problem about smaller airports? You are one of the 20 large ones, but take the small airport that has maybe a couple of flights a day. What are we going to do for policing forces there, to attempt to assist in that type of situation?

Mr. SANDS. Well—

Senator CANNON. Or six flights a day.

Mr. SANDS. As I say, Senator, I have been in this business as an active airport manager for over 30 years, and I have managed all sizes of airports. Even now from where I am spending a good deal of my time at Florida, I am going out of Daytona Beach and that is almost like a secondary airport for me, and that fits your description.

There, right now, at the present time when I have boarded from there, this airport is served by two airlines, National and Eastern. One of the airlines was screening its passengers; the other one wasn't.

Nevertheless, the detection device that they have is portable, and you know, they can be moved from gate to gate. And in a small airport such as that, it is rare that you have two aircraft boarding at one time.

There is very little conflict at all. One of these magnetometers of the latest device as we have heard discussed here this morning would certainly be sufficient for that type of airport, and yet that is not such a small airport in terms of service to its community. It boards 150,000 passengers a year.

Senator CANNON. How do they provide the search?

Mr. SANDS. How do they provide for the search?

I can't answer that question, and I don't know what they would do because so far they haven't even had to have one. This is another thing about the small, country airport. I doubt very much whether they are going to have hijacking attempts, unless and until we would go to, let's say, a 90-percent coverage, and you had 10 percent left, and then somebody uses that as an effort to get on. Right now, the gateway is open on practically any airport you would name.

Now, some of your airlines have adopted screening devices in your major airports, plenty of them. You have passed through them.

Senator CANNON. At Allentown, Pa., which was quite small—

Mr. SANDS. Yes.

Senator CANNON. Now, I noticed you mentioned the smaller airports could have the portable devices. I have noticed that the movable devices—not the hand-held ones—

Mr. SANDS. That is what I am speaking of.

Senator CANNON. I have noticed those at Baltimore, at Friendship. So it doesn't necessarily just have to be the small airports.

Mr. SANDS. Senator, we experimented with them first before we made permanent installations. We had them also. They work.

Mr. REILLY. Senator, in further response to your question, a lot of small airports make arrangements to try to see if, as in Senator Cotton's instance, there can be a policeman who drives through at the time that you have the two flights per day, so that he can be on hand in case there is a problem at the boarding gate.

In a lot of airports where we do not even have an on-airport manager, where there is no full-time employee on the airport and the two airline flights come in each day, they get to the situation where under the regulations, the airline will have to refuse a boarding if someone is a selectee, and that, as we understand it, is their contractual right.

Mr. SANDS. Senator, let me add to what Jack has just stated, that this would be the answer. I find that in the smaller airports, where you have one or two airlines, you have a very close rapport between airline managements. Their top management may be very, very competitive, but those two fellows have to live together. They will swap equipment and everything else, and they work together. If one of them will deny you or I passage and go to the other one and say I have denied this fellow passage because of such and such, he wouldn't get on that other airline either and I think that is probably the answer to your question.

Then he goes away from there and goes someplace else. But at least he doesn't board that aircraft, either one of them.

Senator CANNON. Thank you very much. We appreciate your testimony.

Mr. SANDS. I appreciate the opportunity of addressing the committee.

Senator PEARSON. Good to see you again.

Mr. SANDS. Thank you.

Senator CANNON. Next witness, Mr. J. J. O'Donnell, president of the Air Line Pilots Association.

STATEMENT OF JOHN J. O'DONNELL, PRESIDENT, AIR LINE PILOTS ASSOCIATION; ACCOMPANIED BY JACK BAVIS, PILOT, EASTERN AIRLINES, EXECUTIVE ADMINISTRATOR, ALPA; CAPT. AL BONNER, FIRST VICE PRESIDENT, ALPA; AND MISS KELLY RUECK, VICE PRESIDENT OF THE STEWARD AND STEWARDESS DIVISION, ALPA

Mr. O'DONNELL. Thank you, Mr. Chairman.

On my left this morning is Mr. Jack Bavis, a pilot with Eastern, and Executive Administrator of ALPA. He is also director of the Flight Security Committee for the Air Line Pilots Association. On my right is Captain Al Bonner, First Vice President. On my far right is Miss Kelly Rueck, who is the vice president of the Steward and Stewardess Division of ALPA.

I am John O'Donnell, president of the Air Line Pilots Association. In this capacity, I am privileged to represent 46,000 professional pilots and cabin attendants of 37 U.S. airlines.

The Air Line Pilots Association appreciates the strong concern of Congress over air piracy, and I am pleased to return here today to comment on two additional antihijacking bills—S. 3815, introduced by Senator Schweiker, and S. 3871, introduced by Senator Boggs and Senator Javits. The Air Line Pilots Association considers that both of these bills, when enacted, will serve as strong deterrents to the heinous crime they are designed to combat.

As I have recently urged in letters to all members of the Senate, our association strongly supports the passage of S. 2280, introduced by Senator Magnuson and recently reported out by this committee. We believe that the additional legislation proposed in the two bills before you today will favorably complement S. 2280, and we hope that the provisions and intent of the bills will be enacted into law. I will now direct myself specifically to the provisions of S. 3815 and S. 3871.

Both of these bills provide that all passengers boarding scheduled flights be screened and that their hand baggage also be screened. We, as do the sponsors of this legislation, believe that the screening devices placed at airport gates must be used, and both of these bills would require such use. It is our belief that not only should they be used for regularly scheduled flights, but also for charters as well. The charter industry today uses the same types of aircraft, flies the same air routes, and often uses the same personnel, and we think that passengers boarding these flights should come under the same scrutiny as those on scheduled flights.

The Air Line Pilots Association feels that the screening of passengers and their hand luggage still leaves an enormous opening for bombs and other weapons to be carried onto aircraft—through the cargo hold. Not only must passengers and hand luggage be inspected,

but every suitcase, parcel, freight shipment, et cetera, should be X-rayed. Technology today makes it very easy for a bomb located in the cargo hold of a plane to be detonated by remote control by a hijacker in the passenger compartment or cockpit. A chain is only as strong as its weakest link, and if we are to halt hijackings, we must close all entry-ways for weapons to be placed on board an aircraft.

Senator, if I may digress just a second, it has been reported to me that in one of our Washington newspapers now we have a hijacking going on in Buzz Sawyer, with just such a device, a bomb in the belly of the aircraft, and a detonator being carried inside the aircraft. So surer than heck some nut is going to pick that comic strip up and we will have that problem with us next week.

S. 3871 would place the weapons detection program under the Attorney General and remove the responsibility from the FAA. This would be a major step, and the Air Line Pilots Association has given it a great deal of consideration. We feel that one of the major roadblocks to progress in the war against the aerial criminal is the fragmented responsibility which now exists between the Government, industry and airport management groups. Recent events demonstrate quite clearly that Government agencies and the industry have failed to share their proper responsibilities. We believe that it is time that responsibility for air security be fixed in one Federal agency. Our preference is for an experienced and proven law enforcement organization to assume full responsibility in this area. Therefore, Senators Boggs' and Javits' proposal to put this under the Department of Justice meets with our strongest approval and support.

We do not think, however, that U.S. marshals and deputy marshals need be posted on a full-time basis at all airports. We feel that State, local, and Federal enforcement agencies should share in this. This would be especially true at airports with only a few scheduled or charter flights daily. Of course, at the larger airports, full-time security personnel should be in attendance, but we still feel that local and State authorities should be assigned a large share of this responsibility, and that Federal law enforcement should not be reduced because of local and State activity.

Additionally, the association would like to take this opportunity to suggest how the Federal Government could utilize money spent, at present, unnecessarily in the airline industry and put it to use in the programs relating to the bills we are here to discuss today. Although pilots are checked and scrutinized carefully by highly experienced airline check personnel, there is a complete duplication of that function by FAA inspectors. Substantial expenditures in that area could and should be channeled into the hiring, training, and maintaining of sorely needed security personnel. In fact, those inspectors already on the FAA payroll could be used for our suggested purposes and thus cause no personal hardship relating to a change in governmental priorities.

We fully support those sections of the bill dealing with increasing the maximum penalty for carrying an unauthorized weapon aboard an aircraft, and with providing both civil and criminal penalties for hijacking threats.

Section 8 of S. 3871 would authorize the President to suspend air commerce between the U.S. and foreign countries that refuse to

extradite persons accused of air piracy. We would very much like to see all hijackers extradited, but under the current international conventions and agreements, governments have the right to either extradite or try the hijacker under their own laws. Under these circumstances and in view of the fact that S. 2280 already reported out by this committee would also provide for the suspension of air service between the U.S. and any country that maintained air service with a "safe haven" country, we prefer the provisions of S. 2280.

The final section of Senator Boggs' and Javits' bill would do away with the Sky Marshal program. Although the intent of this program was good, we have seen that the personnel can be put to better use on the ground at airport and cargo gates, and therefore, periodic and sporadic use of sky marshals on high risk flights only should be continued.

In conclusion, the Air Line Pilots Association supports:

The mandatory, thorough screening of all passengers and hand luggage as proposed in both S. 3815 and S. 3871, with the additional examination by X-ray or other equipment of all baggage and cargo intended for the cargo hold.

The placing of the full responsibility for weapons detection under the jurisdiction of the Justice Department, with a sharing of enforcement responsibility by local, State, and Federal authorities.

Increasing the maximum penalty for carrying unauthorized weapons on aircraft.

Providing both civil and criminal penalties under Federal law for hijacking threats.

Inflight sky marshal activities should be reduced, and the use of sky marshals at the loading gates increased.

In addition, we continue to support the provisions of S. 2280 dealing with suspension of international air service in favor of section 8 of S. 3871.

Thank you for the opportunity to present our views. I shall be glad to attempt to answer any question that you may have.

Senator PEARSON. Captain, we have been talking about money and cost all morning. What is this X-ray equipment that you make reference to on baggage? Is that an expensive item? How reliable is it? How could it be used? What would be the procedures and so forth?

Mr. O'DONNELL. There are two different forms, Senator. One is the form that has been demonstrated last week in New York and is being demonstrated at Washington National Airport this week, where the boarding gate for the shuttle has one of the X-ray screening devices available. Every passenger who goes on board puts his luggage in front of it and the entire contents can be seen. It accelerates the loading of the air shuttle type of operation. There also is that same type of device for all the baggage that goes into the belly of the aircraft.

I do not have the price on the equipment that is required for screening the belly compartments, but I am under the impression that it is between \$3,000 and \$6,000 for the units to screen hand luggage to go on board aircraft.

Senator PEARSON. Could one of these kinds of units do a great deal more than the detection of passenger type? You wouldn't need as many, in other words, at any given airport?

Mr. O'DONNELL. No sir, you wouldn't. In 1969, we met with John Volpe, the Secretary of Transportation, and Jack Shaffer, the FAA Administrator, when the hijacking threats started to accelerate. At that point in time we asked them to purchase metal detectors or put out a regulation to require the airlines to purchase metal detectors. At the same time we asked them to eliminate hand-carrying luggage or to provide either search or screening of that luggage. This was 3 years ago. Today they are still sitting around and the Secretary said this morning that it is not perfected yet.

We had an air safety forum here in Washington a few months ago where we had all this equipment on display for the public to see. We were trying to incite in the public that this material is available, this equipment is available, but it requires somebody to purchase it and use it.

Senator PEARSON. Okay.

Senator CANNON. Thank you very much. We appreciate your appearance here before us.

Mr. O'DONNELL. Thank you very much, sir.

Senator CANNON. The committee will stand in recess. That concludes our witnesses this morning.

(Whereupon, at 12:50 p.m., the committee was adjourned.)

