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HEARING

BEFORE THE

COMMITTEE ON COMMERCE

UNITED STATES SENATE

NINETY-SECOND CONGRESS

SECOND SESSION

ON

NOMINATIONS

CHESTER M. WIGGIN, JR., ALFRED TOWSON MacFARLAND,
RUPERT L. MURPHY, AND RUDOLFO MONTEJANO TO BE
COMMISSIONERS OF THE INTERSTATE COMMERCE COM-
MISSION

SEPTEMBER 14, 1972

Serial No. 92-76

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U.S. SENATE
HEARING
COMMITTEE ON COMMERCE
UNITED STATES SENATE

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NOMINATION OF CHESTER M. WIGGIN, JR., OF NEW HAMPSHIRE, ALFRED TOWSON MacFARLAND OF TENNESSEE, RUPERT L. MURPHY OF GEORGIA, RUDOLFO MONTEJANO OF CALIFORNIA, TO BE COMMISSIONERS OF THE INTERSTATE COMMERCE COMMISSION

THURSDAY, SEPTEMBER 14, 1972

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

The committee met at 10:25 a.m. in room 5110, New Senate Office Building, Hon. Vance Hartke, presiding.

Present: Senators Magnuson, chairman of the committee, Hartke, Hart, Cannon, Moss, Hollings, Cotton, Pearson, Baker, Stevens, and Weicker.

OPENING STATEMENT BY SENATOR HARTKE

Senator HARTKE. The committee will come to order.

The Interstate Commerce Commission has been the focal point of much discussion and debate during the past several years. Some people, greatly dissatisfied with the Commission's performance, have proposed that it be abolished. Others, including the administration, would move toward the same end, but for a different reason. They believe that our transportation system would be improved by decreasing the scope of economic regulation.

The committee has listened to the arguments on these issues and has rejected the administration's proposals for deregulation. But that rejection should not give the Commission reason for complacency. There remains strong dissatisfaction with the Commission's performance—which is shared by one member of this committee, and perhaps more.

This committee has ordered reported the Surface Transportation Act which will contribute substantial remedies, we hope, to our transportation problems. But the Act still relies on the Commission's regulation of the industry and protection of the interests of consumers and shippers.

Against this background, of course, it hardly need be said that four nominees to the Commission is a very important matter because these are the men upon whom we must rely, not only to continue the Commission's functions, but also to make marked improvement in its operation. And so their nomination does deserve careful consideration.

I would like to make one other point at this time. We ought to

remember that this Commission, which is an arm of Congress and is the oldest bureaucracy in the Congress, should continue to be the arm of the Congress. Hopefully, we can free it from some of the economic strangulation that the administration—not this administration alone—but all administrations have attempted against it. I hope we can establish it as an independent agency which, in my opinion, at the present time it is not. One of the most severe restrictions on it is that whenever you have the purse strings, you know you have control of an operation or an agency for all intents and purposes. As long as the Office of Management and Budget is going to have authority to review the activities of the Interstate Commerce Commission, I know that we are going to be faced with certain difficulties in increasing the efficiency and improving the functions of the Commission. But I do believe that there can be improvement and I think there has been improvement in the Commission functioning.

I would hope that the Commissioners recognize that they are the Commission and not the staff. There is one thing that the American people are tired of. They are tired of the people who have taken for themselves authority which is really given to those who are directing the activities. The activities of the Interstate Commerce Commission are the responsibility of the Commissioners and the staff is to carry out their orders and not the other way around, which frequently, is the case.

Now, Senator Cotton, do you have any statements you want to make before we start?

Senator COTTON. No, I don't have any.

Senator HARTKE. Why don't we start out with Mr. Chester M. Wiggin, Jr., of New Hampshire. Is that all right with you?

Senator COTTON. Yes, it is certainly alright with me.

Mr. Chairman, I would like to request the privilege of introducing Mr. Wiggin to the committee. Each member has a copy of his résumé. It would suffice to say that he is a New Hampshire boy, and graduated from Dartmouth. He served at an early age in the New Hampshire Legislature, and is a member of the bar of New Hampshire. He also served with the Marine Corps in the Pacific in World War II, coming out as a captain and was awarded the rank of lieutenant colonel on his retirement.

His major experience consists of employment in a legal capacity with the Pentagon. He became the administrative assistant to the late Senator Styles Bridges, and served in that capacity on the Hill for 9 years.

After the death of Senator Bridges, he became my administrative assistant and served in that capacity for 7 years until he, I guess, had had about enough of the Senatorial offices and voluntarily retired.

Shortly thereafter, he was appointed by President Nixon to serve as Federal Cochairman of the New England Regional Commission. That nomination was confirmed by the U.S. Senate on September 21, 1970.

In his capacity as Cochairman of the Commission, he has served, of course, with all six New England Governors.

I now would like, Mr. Chairman, to read into the record the statement of my colleague, Senator McIntyre, who is in New Hampshire and unable to be here.

Senator McIntyre's statement is as follows:

Mr. Chairman, I'm happy to testify today in behalf of the confirmation of Chester M. Wiggin's appointment to the Interstate Commerce Commission.

This appointment testifies to the high esteem in which Mr. Wiggin is held by the President of the United States and his advisors and reflects great honor upon my home state of New Hampshire.

I support the President's nomination with pleasure and enthusiasm.

Despite our differing political loyalties, I have no reservations about Mr. Wiggin's qualifications for this post. Mr. Nixon would be hardpressed to find a better nominee in either party.

Chet Wiggin's consummate fairness, courtesy, honesty, and ability will serve him—and a new and much larger constituency—as well as they served him, his previous offices and constituencies in the past.

I have known Chet for many years. If I have not known him as a political ally, I have known him as a friend and as a man who has always had the best interests of his Nation and our people in mind and in heart.

Through his years as an able and devoted Administrative Assistant to my friend and colleague, Senator Norris Cotton, to his more recent—but equally distinguished—tenure as Federal Co-Chairman of the New England Regional Commission, his performance has been distinguished by its professionalism, good judgment, integrity and total commitment to the job at hand.

Mr. Chairman, I want this Committee to know that Tom McIntyre is proud to support the nomination of Chester M. Wiggin, Jr., to the Interstate Commerce Commission of the United States.

Now, Mr. Chairman, I will not read them, but I would like to insert in the record at this time very warm letters of recommendation from every one of the six New England Governors with whom Mr. Wiggin has served as Federal Cochairman of the New England Regional Commission. Every one of them, of both political persuasions are very enthusiastic in their support. I would also like to insert into the record at this time a resolution adopted by the New England Governors at their last meeting, endorsing Mr. Wiggin for the post to which he has been nominated.

I will say that all but one of the letters from the New England Governors were addressed to the chairman of this committee, Senator Magnuson. I have his permission, of course, to insert them into the record.

The other one, from the Governor of Rhode Island, was addressed to our esteemed colleague, Senator Pastore, and I think I have his permission to insert that in the record as well. I therefore ask to have these materials inserted in the record at this point.

(The material follows:)

CONCORD, N.H., July 5, 1972.

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

DEAR MR. CHAIRMAN: I heartily endorse the nomination of Chester M. Wiggin, Jr., of Hopkinton, New Hampshire, for appointment to the Interstate Commerce Committee.

Mr. Wiggin has a long and distinguished career of service to the people of New Hampshire, as Administrative Assistant to the late Senator Styles Bridges and later to our present Senior Senator, Norris Cotton. Throughout those years, he showed outstanding ability in discharging what I would consider highly demanding responsibilities and as a result, he enjoys an enviable reputation among the people of my State.

Most recently, I have had close personal contact with Mr. Wiggin, in his capacity as Federal CoChairman of the New England Regional Commission. I think I speak for all of the New England Governors in saying that he not only has performed effectively in this assignment but has demonstrated a thorough and sensitive understanding of the problems and needs of our region. In my judg-

ment, his background and competence would make him highly qualified for this new appointment.

Accordingly, I have no hesitancy in urging favorable consideration of Mr. Wiggin's nomination by your Committee.

Sincerely,

WALTER PETERSON, *Governor.*

MONTPELIER, VT., *July 10, 1972.*

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

DEAR SENATOR MAGNUSON: I wish to go on record in support of the nomination of Chester M. Wiggin, Jr. to the Interstate Commerce Commission. I have worked very closely with Chet in his current position as Federal Cochairman of the New England Regional Commission.

I can truly say that Chet has my fullest support as I feel he will bring valuable experience and background to the ICC. He has served in a most difficult position as Federal Cochairman in such a way that has demonstrated his leadership capabilities, his broad knowledge of government, and a personal involvement that has been greatly appreciated, not only by me but by all the other New England Governors. I cannot recommend Chet too highly for your consideration.

I hope you will make my comments known to your committee in its consideration of Mr. Wiggin's nomination.

DEANE C. DAVIS.

Sincerely,

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS,
PROVIDENCE, *July 14, 1972.*

HON. JOHN O. PASTORE,
New Senate Office Building,
Washington, D.C.

DEAR JOHN: I understand the nomination of Mr. Chester M. Wiggin, Jr., for appointment to the Interstate Commerce Commission is now pending before the Senate Commerce Committee. I understand further that the appointment would fill an existing Republican vacancy.

I have been associated with Mr. Wiggin through the New England Regional Commission on which he has served as Federal Cochairman. That position is a very difficult one at best and yet Chet has always been responsive to the needs of this region. He has been extremely fair and straightforward in his dealings with all six Governors. Nevertheless, he has gone out of his way on several instances to be helpful to Rhode Island. In short, he is the kind of person who could represent us very ably on the Interstate Commerce Commission. I, therefore, strongly recommend his confirmation without hesitancy.

I hope it will be possible for you to indicate my strong support for Mr. Wiggin to Senator Magnuson and the other members of the Committee.

Warmest personal regards.

Sincerely,

FRANK LICHT.

HARTFORD, CONN., *July 19, 1972.*

HON. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, Old Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: I am very pleased to urge favorable consideration of Chester M. Wiggin, Jr., of New Hampshire, whose nomination for appointment to the Interstate Commerce Commission is now pending before your Committee.

Mr. Wiggin has served for approximately two years as Federal Cochairman of the New England Regional Commission. In that capacity, he consistently has worked in a cooperative and effective manner with my office. Through his efforts, much has been done to implement the Federal-State relationship implicit in the Public Works and Economic Development Act of 1965. I am interested particularly

with his understanding of the problems and needs of our region and I have every confidence he will bring these same sympathetic qualities to his performance on the Interstate Commerce Commission.

While I personally regret seeing him leave, I am persuaded that his ability and judgment make him an excellent choice for this new assignment.

Sincerely,

THOMAS J. MESKILL, *Governor.*

BOSTON, MASS., *July 25, 1972.*

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

DEAR MR. CHAIRMAN: I am writing in support of the nomination of Chester M. Wiggin, Jr., for appointment to the Interstate Commerce Commission.

We in New England are confronted with a multiplicity of transportation problems, many of which are the legitimate concern of the Interstate Commerce Commission. It therefore seems to me highly desirable that we have geographic representation on the Commission, and based on my association with Chet Wiggin during the last two years I have every confidence in his capacity to perform in this assignment. His background is excellent and in his work with the New England Regional Commission he consistently has demonstrated ability and judgment.

I think this is a good appointment and I am very pleased to urge your favorable consideration.

Sincerely,

FRANCIS W. SARGENT.

STATE OF MAINE,
OFFICE OF THE GOVERNOR,
Augusta, Maine, July 26, 1972.

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

DEAR MR. CHAIRMAN: I have the pleasure to write you in regard to the pending nomination of Chester M. Wiggin, Jr. to the Interstate Commerce Commission.

My association with Chet in his capacity as Federal Cochairman of the New England Regional Commission persuades me that he would make a tremendous contribution to the ICC, and I would hope that the Senate acts favorably on his nomination.

Sincerely yours,

KENNETH M. CURTIS,
Governor.

STATE OF VERMONT,
EXECUTIVE DEPARTMENT,
Montpelier, Vt., September 5, 1972.

HON. NORRIS COTTON,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR COTTON: I previously have written Chairman Magnuson endorsing the nomination of Chet Wiggin for appointment to the Interstate Commerce Commission.

You may be interested to know that the New England Regional Commission, at its last regular meeting, formally and unanimously adopted a Resolution commending Chet for his fine work as Federal Cochairman over the last two years. I think this expression of confidence on the part of six New England Governors clearly reflects the feeling of all of us that he is highly qualified for this new assignment.

In my capacity as State Cochairman of the Commission, I am enclosing a copy of the Resolution in question for such use as you deem appropriate.

With kindest personal regards.

Sincerely,

DEANE C. DAVIS.

Enclosure.

NEW ENGLAND REGIONAL COMMISSION

RESOLUTION NUMBER 57

A Resolution of the New England Regional Commission Concerning Chester M. Wiggin, Jr.

Whereas, Chester M. Wiggin, Jr., of Hopkinton, New Hampshire, was appointed by President Nixon on September 21, 1970, to serve as Federal Cochairman of the New England Regional Commission, and

Whereas, Mr. Wiggin has discharged the responsibilities of his position in a consistently exemplary manner and in so doing has demonstrated a high degree of integrity, diligence, and competence, and

Whereas, Mr. Wiggin's level of performance and leadership have contributed materially to establishing and maintaining the kind of Federal-State relationship contemplated by the Public Works and Economic Development Act of 1965, and

Whereas, the President has placed further trust and confidence in the abilities of Mr. Wiggin by nominating him for appointment to the Interstate Commerce Commission, now, therefore, be it

Resolved unanimously by the New England Regional Commission (Mr. Wiggin abstaining) that

The Commission hereby commends Chester M. Wiggin, Jr., for outstanding performance of the duties and responsibilities of the position of Federal Cochairman and extends to Mr. Wiggin its warm good wishes for continued success in public service.

Effective Date. This Resolution is effective immediately.

- (s) KENNETH M. CURTIS,
Governor of Maine.
- (s) DEANE C. DAVIS,
Governor of Vermont.
- (s) FRANK LICHT,
Governor of Rhode Island.
- (s) THOMAS J. MESKILL,
Governor of Connecticut.
- (s) WALTER PETERSON,
Governor of New Hampshire.
- (s) FRANCIS W. SARGENT,
Governor of Massachusetts.

Senator COTTON. I will not take more time of the committee, other than to say that I have been associated with Chet Wiggin for many years, so no one could know him and know of his capacities, I think, better than I. And, I would unreservedly urge and hope that this committee will recommend his confirmation.

His recent experience as Cochairman of the New England Regional Commission, among other things, has given him some of the practical background of transportation problems, at least in the Northeast. That experience should be of value not only to him but also to the Commission. I'm also happy that after the long years of complaint on my part that at last the Northeast may be represented on this Commission.

I will say to Mr. Wiggin, I hope that he won't forget when he gets on the Commission to keep on helping me raise my voice about air transportation, even though that is in the hands of the CAB.

That's all I have.

Senator HARTKE. Thank you, Senator Cotton. Mr. Chairman, do you have any statement?

The CHAIRMAN. No. I merely wanted to ask the——

Senator HARTKE. We haven't had his statement.

The CHAIRMAN. Oh, you haven't read it. Go ahead.

Senator HARTKE. We will put, at this time, the biographical sketch and the material on Mr. Wiggin in the record. His financial report has been filed with the committee.

(The biography follows:)

BIOGRAPHICAL SKETCH OF CHESTER M. WIGGIN, JR.

Address: Hopkinton, N.H.

Age: 55.

Marital status: Married.

Political affiliation: Republican.

Military: Combat service with U.S. Marine Corps, World War II. Last rank held, Lieutenant Colonel, USMCR.

Education: Public schools of Conway, N.H.; A.B., Dartmouth College (1939); and LL.B., Boston University Law School (1942).

Professional: Admitted to Bars of New Hampshire, District of Columbia, and U.S. Supreme Court.

Career: 1945-1947: Marine Legal Aide to Under Secretary of the Navy.

1947-1953: Appointed Attorney-Advisor, Executive Office of the Secretary, Department of the Navy. Assigned responsibility for establishment, staffing, and operations of Board for Correction of Naval Records, created pursuant to Legislative Reorganization Act of 1947. Had direct supervision over staff of attorneys and clerical personnel. Reported solely to Assistant Secretary of the Navy for Air.

1953-1962: Appointed Administrative Assistant to U.S. Senator Styles Bridges, senior Senator from New Hampshire. Served in that capacity until sixty days after the Senator's death in November, 1961. Charged with responsibility for supervision of Washington and New Hampshire offices, and for competent discharge of manifold administrative, legislative, public relations, and political duties. Expected to act with initiative, intelligence, and judgment in resolution of a great variety of daily problems incident to the operation of an influential Senator's office.

1962: Took six months leave of absence, as candidate for Congress, First District of New Hampshire.

1962-1969: Appointed Administrative Assistant to U.S. Senator Norris Cotton, senior Senator from New Hampshire. (Duties as above.) Served until voluntary retirement in 1969.

1970: Appointed by President Nixon to serve as Federal Cochairman of the New England Regional Commission. Nomination confirmed by the U.S. Senate on September 21, 1970. This Commission, consisting of the six New England Governors and a Federal Cochairman, is a Federal-State agency established pursuant to the Public Works and Economic Development Act of 1965. As permanent member of the Commission's Executive Committee, the Federal Cochairman shares independent responsibility with that Governor designated to act as State Cochairman for the overall administration of Commission activities. Is also accountable to the Secretary of Commerce for fiscal management of Federal funds made available by the Congress for Commission use.

Entire government service has been in management positions, under minimal supervision and requiring the exercise of qualitative judgment, intelligent determination, and independent action.

Experience, particularly in the U.S. Senate and with the New England Regional Commission, has developed broad knowledge of the governmental process and its relation to the community.

Senator HARTKE. I think it is appropriate at this time that we have Mrs. Wiggin, if you would, stand up, please. We'll let you see Mrs. Wiggin.

Senator COTTON. I apologize to Mrs. Wiggin.

Senator HARTKE. Now, Mr. Wiggin, you may make any statements you have today.

STATEMENT OF CHESTER M. WIGGIN, JR.

Mr. WIGGIN. Mr. Chairman, I have a prepared statement, a very brief one.

Senator HARTKE. Yes, Mr. Wiggin. You may proceed in any fashion you see fit.

Mr. WIGGIN. Mr. Chairman, I appreciate having the opportunity to appear before you and the members of this committee. I previously submitted a brief résumé of my background and experience, and would like to make a short statement by way of elaboration.

Initially, I should state that I own a small block of stock in the Telecom Corp., of which I will divest myself promptly if the Senate acts to confirm my nomination to the Interstate Commerce Commission. Other than that one holding, I know of no financial or other interests which could be construed as representing potential or possible conflicts of interest.

As is evident from the record, my work background has been largely in administrative assignments requiring the exercise of discretionary judgment. During my 6 years as a civilian employee of the Navy Department, I served as operating head of the Board for Correction of Naval Records, which was established by the Legislative Reorganization Act of 1947, for the purpose of correcting errors and removing injustices.

The intent of that act was to provide an administrative device for doing equity in the cases of officer and enlisted personnel of the Navy and Marine Corps, and thereby relieving the Congress of one large segment of private relief bills.

In 1953, I was appointed administrative assistant to the late Styles Bridges, U.S. Senator from New Hampshire, and served in that capacity until his death in 1961.

Upon closing Senator Bridges' office, I was appointed administrative assistant to Senator Norris Cotton; and except for one brief interval, remained in that position until the latter part of 1969, when for personal reasons of a family nature, I returned to New Hampshire.

Members of this committee are fully conversant with the functions performed by an administrative assistant and I will not burden the record on that point, except to state my hopeful conviction that I did my job in a responsible and effective manner. Sixteen years as a Senate staffman contributed measurably to my ability to perform in my current post, and I would assume this same experience would be helpful to some degree at the Interstate Commerce Commission.

In September of 1970, I was appointed by the President to serve as Federal Cochairman of the New England Regional Commission, established pursuant to the Public Works and Economic Development Act of 1965. During the past 2 years, I have attempted to work cooperatively and effectively with our six Governors who represent the State membership on the Commission, as well as our 12 Senators and 25 Members of the House.

In discharging my duties, I like to feel that I have helped make the Commission the responsible and responsive institution intended by the Congress.

I take pride in the fact that all six Governors, without reference to partisan affiliation, have endorsed the nomination now pending be-

fore you. I think this reflects some feeling that I am aware of and concerned with the problems of the Northeast.

While I have had exposure to transportation-related matters over the years, I do not pretend at this point to be an authority on those issues coming within the jurisdiction of the Interstate Commerce Commission. However, I do believe I would bring to this position a capacity to learn, mature judgment, and plain commonsense.

This concludes my formal statement except to say that, if confirmed, I will do my best to see that the trust and confidence vested in me by the President and the U.S. Senate are not misplaced.

Senator HARTKE. Thank you, Mr. Wiggin.

Mr. WIGGIN. Thank you, Mr. Chairman.

Senator HARTKE. At this time, I will defer to the honorable chairman of this committee, Senator Magnuson.

The CHAIRMAN. Well Senator, I have only one question to ask of Mr. Wiggin.

We know each other quite well from our experience around here. One of the problems down at the ICC, and it may be Congress fault just as much as the ICC, is the constant squabbles we have over rate cases. The law requires a certain procedure, suspension of a rate that is requested—which you know about. We in the outer reaches of this country feel that there has been a great deal of discrimination. Those places are the furthest from the markets.

If you have a blanket raise, railroad rates, for instance, freight rates, it doesn't lay up the country equally. It is discriminatory and affects many of the far reaches of the country; for example, the Northeast.

Mr. WIGGIN. Yes, sir.

The CHAIRMAN. It may be that Congress is going to have to change the procedure so that the shippers who are involved in this have a much better opportunity to present their cases.

When a rate is made and then it is suspended, then you've got to come back in and try and prove that it is discriminatory.

So the whole burden of proof and everything lies upon those who think the rate should not have been put into effect. I think we've got to have more investigatory processes on rates.

Now, the ICC has raised railroad rates in the past 18 months. I don't know how much, what percent, but I hear the figure of something like 28 percent in the last 2 years.

And when the Commission decides they are going to put a rate increase into effect, it pretty much closes the door even though they may hear later on during the suspension period some of those who complain.

I hope, if and when you are confirmed, you would use your administrative experience, of which you have considerable, to see what we can do about that so that these rates are just not put in arbitrarily—I don't mean arbitrarily. I shouldn't say that. But a decision is made and then you come in after the facts; this isn't the way to operate it.

Rates are getting considerably higher all the time, and shippers, I think, have a right to complain. I hope you will take a good long look at it, and maybe we can have a better procedure before we arrive at a decision on rate cases.

Mr. WIGGIN. If I may respond briefly, Mr. Chairman. I most certainly will accept that counsel, wise counsel and advice. I personally abhor any kind of discriminatory practice.

I am indigenous to a remote area of the country. I am conscious, perhaps, of more than some of the difficulties to which the chairman addresses himself. I most certainly would agree to give this very careful attention.

I would make the one additional point, that I think we in Government have an obligation to bring the Government to the people of the United States, to serve the people.

I think too frequently we fail to do that, and perhaps one can observe that the further we get away from the urban centers, the lower degree of service we achieve. It would be pompous and pretentious of me to comment at this juncture of what I could or could not do, I suspect, if confirmed to this post. But I would assure the Chair that I am most conscious of this problem.

I feel very strongly about it. I have lived with it for the last 2 years in my current post. I lived with it for 16 years in my Senate employment.

The CHAIRMAN. Thank you.

Senator HARTKE. Senator Cotton, any further questions?

Senator COTTON. No further questions. I understand that we have on file a list of all your investments and that you have stated that you hold one stock which you would divest yourself of, if and when you are confirmed. And, none of your other financial interests, so far as you can ascertain, could possibly raise any point of conflict of interest.

Mr. WIGGIN. That is correct, Senator, that there is one small stockholding that could be suspect, and as I've indicated, I would expect to divest myself promptly. If there are any of the others—and there aren't all that many—which are open to question, I would, of course, undertake the advice of committee counsel on that point and, of course, divest myself of other holdings that appear to be in conflict.

Senator HARTKE. Yes, Senator.

The CHAIRMAN. Mr. Wiggin, I could take a long time to ask you about freight car shortage, but I'll leave that alone for a while. But I suppose you know that the docket No. 1 down there was a freight car shortage?

Mr. WIGGIN. Yes, sir; I understand.

The CHAIRMAN. And that's 80 years ago, I guess, and we still haven't solved it yet. We have some legislation that we hope will help. But I know you will be—we'll be getting ahold of you about that anyway.

Mr. WIGGIN. I understand, Mr. Chairman.

Senator HARTKE. Senator Moss.

Senator MOSS. I have no questions, Mr. Chairman.

Senator HARTKE. Senator Hollings.

Senator HOLLINGS. No questions.

Senator HARTKE. Senator Cannon.

Senator CANNON. No questions.

Senator HARTKE. Senator Pearson.

Senator PEARSON. No questions.

Senator HARTKE. Senator Baker.

Senator BAKER. No questions.

Senator HARTKE. Mr. Wiggin, I am delighted to say that we, as our distinguished Senator and colleague from New Hampshire, hope to

have some representation from the Northeastern part of the United States. I know that's due to his persuasiveness on the President, especially after he mentioned it about 15 times before the Senate, and I think that's a very accommodating thing for him to do.

I might say that I, too, live in a remote section of the country, as far as ICC is concerned. That is the Midwest. We have most of the transportation facilities going through there and no one on the Commission representing us in that area.

I hope the President gets that message equally well. Of course, I may not be persuasive in getting somebody from the Midwest, but I would hope that some consideration would be given to the balance which, at the present time, is not present on the Commission as regards geographical areas.

Now, some people will say, "Well, you represent the whole United States of America." But I don't think you have to represent just the Southeast sections. Southern strategy may be good politics, but it is not necessarily good for the transportation field.

In this area, let me ask you a question. In your background, although you have quite a long record of public service and dedication to administrative operations, your background is not principally in the transportation field; is that correct?

Mr. WIGGIN. That's correct.

Senator HARTKE. I wonder if you have any special views concerning the transportation, especially the surface transportation problems of this Nation, that you feel need our attention or that this committee should be aware of at the time your nomination is being considered.

Mr. WIGGIN. I will have to be somewhat parochial in my response, Mr. Chairman.

Senator HARTKE. That's all right. I would like to see a little more of that occasionally.

Mr. WIGGIN. I am from New England, obviously. We live with a very serious transportation shortage in our end of the country. Senator Cotton speaks to it rather frequently in terms of air service. It is by no means limited to air service. Our air service is practically non-existent in some parts of our six States. I don't have a ready answer for you.

The questions, I think, are evident, Mr. Chairman, to which we must address ourselves. I am now speaking in terms of our future development, social and economic. Transportation is the lifeblood of the future of this country, it seems to me. We must address ourselves to it rather seriously.

Amtrak was one affluent. It has worked to advantage in New England, to some advantage. But we still have desolate areas in the transportation sense.

I personally would like to see a greater financial effort made to develop and complement our inner mode transportation systems; again, particularly in the Northeast. And I am sure the Northeast experience or the New England experience, can be related nationally, particularly in the more remote areas.

Senator HARTKE. May I ask you, how do you envision the role of the ICC? There has been a lot of criticism directed at the Commission, that they have more or less been a passive agency. They have taken the role that when complaints are directed to them, then they will

consider them; that if there is a conflict between competing operations, competing modes, or competing interests, then they will attempt to be an arbiter or act in a judicial capacity.

There are people who feel that they should develop more initiative in the field of protecting the public interest on their own without waiting for a request for action.

Now, what is your view? Is the present role one which you think is satisfactory? Do you think they should be more active, or do you think the passive role is a proper one for the Commission?

Mr. WIGGIN. Mr. Chairman, again, without wanting to be pretentious about this, because I am a new boy in the block, and I don't pretend to know the answers; but I think I can answer in a general sense, that I feel very strongly that this or any other regulatory commission should take an aggressive and nonpassive role. I think we have to go out and identify these problems, address ourselves to the problems whether they be of the regulatory commissions of the Congress or the executive branches of the Government.

I would hope that in my small way, I assume that I do have national responsibilities if this nomination is confirmed. Again, in a parochial sense, I frankly would like the opportunity to go out to the States, to the PUC's for the industries, and say, "What's wrong? What can we do? What is needed?" And perhaps come back and articulate some of those problems as I view them.

I am not sure that is responsive, Mr. Chairman, but that is my attitude.

Senator HARTKE. Well, one other item.

Mr. WIGGIN. Yes.

Senator HARTKE. That is, frequently we find that most of the agencies under the jurisdiction of this committee look upon their responsibility as one primarily, for example, to the transportation industry. The industry itself is not the sole concern. The fact of the matter is that the primary concern should be the public which means, in this case, the consumer. What the ultimate effect upon the consumer is, should be a primary concern. This is an item which the chairman mentioned a moment ago; that is the fact that what happens to the shippers also happens in the ultimate end result to the individual consumer. I would hope you would give that your consideration.

Mr. WIGGIN. I most certainly will, sir. I feel strongly, as I indicated earlier, that it is the consumer, the public, that is our constituency here.

Senator HARTKE. Senator Stevens, any questions?

Senator STEVENS. No questions.

Senator HARTKE. Senator Baker?

Senator BAKER. No.

Senator HARTKE. Senator Pearson?

Senator PEARSON. No.

Senator HARTKE. Thank you, sir. Now, the next nomination, since Senator Baker is here, is Alfred Towson MacFarland of Tennessee, to be an Interstate Commerce Commissioner for the term of 7 years, expiring December 31, 1978, vice John W. Bush, term expired.

Senator Baker and Senator Brock.

Senator BAKER. Mr. Chairman, I acknowledge Senator Brock, and, with your permission, I would like him to take the chair for the purpose of introducing Mr. MacFarland.

STATEMENT OF HON. WILLIAM BROCK, U.S. SENATOR
FROM TENNESSEE

Senator BROCK. Mr. Chairman, as in my statement of March 24, 1972, before the full Senate, I strongly support the nomination of Mr. Alfred Towson MacFarland as a Commissioner of the Interstate Commerce Commission.

Today, I am delighted to present Alfred MacFarland to the distinguished members of this committee. I hope that you will speedily report his nomination to the full Senate with your unanimous support.

For those of you who have never met Alf MacFarland, I would say that you have before you one of the most highly qualified individuals ever to be nominated to the Interstate Commerce Commission.

Each of you have received his extensive résumé and know that he has served his State and his country in numerous capacities, never questioning the difficulty of the task.

As you proceed to question Mr. MacFarland, you will find his candor most refreshing. All Tennesseans know that Alf MacFarland has never taken the course of least resistance merely to avoid controversy. In just the short time I have known him, he has stood on his principles and risked criticism on any number of occasions. Even without his impressive credentials, his honesty alone would be sufficient to assure the Commission one of its finest members.

Alf MacFarland is a life-long Democrat with a truly distinguished record of public service. He has served both as Democratic representative and Senator in the Tennessee State Legislature.

Under a Democratic State administration, he filled the post of general counsel to the Tennessee Public Service Commission and later became the State's Commissioner of Revenue.

From 1959 to 1961, Mr. MacFarland advised the Governor of Tennessee as a member of his cabinet and served on the boards of a host of State committees.

Thus, Mr. Chairman, I am not unaware of, or surprised at, the strong Democratic support for Mr. MacFarland. He has received the unqualified endorsement of virtually every prominent Democrat in Tennessee, as well as that of many others throughout the country.

I have but a partial list of such endorsements which I would like to add to my remarks.

As a friend and a fellow public servant, I commend Alf MacFarland to this committee as I have and will do in the Senate. I have no doubt that he will serve in his new capacity with the same dedication and forthrightness which has marked his distinguished career.

Mr. Chairman, I noted with interest that one of our colleagues from the House, the Congressman from the Sixth District of Tennessee, Congressman Bill Anderson is here as is a representative of Congressman Joe L. Evins who, I understand, could not be with us today but who has given very strong support for the nomination of Mr. MacFarland.

I think Congressman Evins is familiar to you as the distinguished House delegate of Tennessee and is on the Committee on Appropriations.

Senator BAKER. Mr. Chairman, I will not burden the committee with

further, extensive introduction or remarks, but I ask that they be included in the record.

Senator HARTKE. They will be included in the record.
(The information follows:)

OFFICIAL DEMOCRATIC ENDORSEMENTS OF MR. ALFRED T. MACFARLAND AS A
COMMISSIONER OF THE INTERSTATE COMMERCE COMMISSION

- The Honorable Joe L. Evins, Democrat Member of Congress.
The Honorable William Anderson, Democrat Member of Congress.
The Honorable Ed Jones, Democrat Member of Congress.
The Honorable H. S. Walters, Former U.S. Senator, Democrat.
The Honorable Thomas Stewart, Former U.S. Senator, Democrat.
The Honorable John Wilder, present Democrat Lieutenant Governor of Tennessee.
The Honorable William D. Baird, former Democrat Lieutenant Governor of Tennessee.
The Honorable Frank Gorrell, former Democrat Lieutenant Governor of Tennessee.
The Honorable James Bomar, former Democrat Lieutenant Governor of Tennessee.
The Honorable William J. Peeler, Democrat State Majority Leader.
The Honorable Ed Blank, Tennessee State Senator, Chairman Democrat Caucus.
The Honorable Douglas Henry, Jr., Tennessee State Senator, Democrat.
The Honorable Thomas Wiseman, Tennessee State Treasurer, Democrat.
Mr. David Alexander, former Tennessee State Treasurer, Democrat.
General David Pack, Democrat Attorney General of Tennessee.
The Honorable Beverly Briley, Democrat Mayor of Nashville, Tennessee.
Mr. Henry Loeb, former Democrat Mayor of Memphis, Tennessee.
Mr. James A. Peeler, present Chairman of the Democratic Party, State of Tennessee.
Mr. William A. Webster, Chairman of Tennessee Delegates to the 1972 Democratic National Convention.
Mr. William Leech, Democrat President of Tennessee Constitutional Convention.
Mr. Marshall Ledbetter, Four-time delegate to the Democratic National Convention from Tennessee.
Mr. Comer L. Donell, Chairman of the Wilson County, Tennessee Democratic Committee (Mr. MacFarland's home county).
Mr. John J. Hooker, twice Democratic Gubernatorial Candidate, State of Tennessee.
Mr. Frank N. Bratton, immediate past President, Tennessee Bar Association.

STATEMENT OF HON. HOWARD H. BAKER, JR., A U.S. SENATOR FROM TENNESSEE

Mr. Chairman, I am pleased to have the honor today of introducing to the distinguished Members of the Committee on Commerce my fellow Tennessean, Alfred T. MacFarland, nominee to membership on the Interstate Commerce Commission. Although I know that my colleagues on the Committee have been provided with biographical information about Mr. MacFarland, I would like at this time to point out a few of the highlights of what has been a long and distinguished career of public service. An able attorney, Mr. MacFarland has practiced law in Lebanon, Tennessee, since 1942, taking time out to serve as a Representative in the Tennessee State Legislature, a Professor of Law at Cumberland University, and a State Senator from Smith and Wilson Counties.

From 1951 until 1955, Mr. MacFarland held the position of General Counsel to the Public Service Commission, the three-member elective body which regulates the operation of railroads, motor carriers and public utilities performing intrastate service within the State of Tennessee. In 1959, Mr. MacFarland was appointed by Governor Buford Ellington as Commissioner of Revenue, in which capacity he served until 1961. As Commissioner, Mr. MacFarland also served as Chairman of the State Board of Equalization, a member of the State Oil and Gas Board, and a member of the State Board of Claims.

This extensive experience in administrative practice and the problems confronting regulatory bodies eminently qualifies Mr. MacFarland, in my opinion,

for membership on the Interstate Commerce Commission. I have long known him as a distinguished attorney, legislator and administrator and I am confident that his service on the Commission will be characterized by the highest level of ability.

Senator BAKER. I might comment just briefly. I have known Alf MacFarland as a distinguished attorney, as a distinguished public official and as a distinguished Democrat.

He served in the Tennessee Legislature as a State senator from Smith and Wilson Counties. He was a professor of law at a number of universities. He was general counsel of the Public Service Commission and later served as the Commissioner of Revenue, appointed by Governor Buford Ellington. He has also been chairman of the State board of equalization which has the responsibility for reviewing ad valorem taxes. He is a member of the State oil and gas board and a member of the State board of claims.

Mr. MacFarland comes from a distinguished family and gave distinguished service to Tennessee over a long period of time. He has done noble duty in public service for a number of years.

I am proud to join my colleague, Senator Brock, in commending him to this committee and urge support for his nomination.

Senator HARTKE. Thank you. Is Congressman Anderson here? Congressman Anderson, do you have anything you want to say?

STATEMENT OF HON. WILLIAM ANDERSON, U.S. REPRESENTATIVE FROM TENNESSEE

Mr. ANDERSON. Senators, Mr. Chairman, distinguished members of the committee, thank you very much indeed. I don't have a prepared statement.

I do want to say, however, that I know of no one who is more qualified nor from whom we can expect a more superior objective and performance in the ICC than the nominee Alfred MacFarland.

I have known Mr. MacFarland for many years and he has a representation not only in Tennessee but throughout the border States in the south. He is one of the most skilled attorneys and one of the most distinguished public servants that has come forward in many, many years.

I certainly want to add my endorsement to him as a skilled attorney, as a public servant and as a distinguished member of the Democratic Party, sir.

Senator HARTKE. Thank you, Congressman Anderson. I understand that William Keel is here, administrative assistant to Congressman Evins, is that correct?

Mr. KEEL. That is right.

Senator HARTKE. Mr. Keel.

STATEMENT OF WILLIAM KEEL

Mr. KEEL. Mr. Chairman, members of the committee, I would like to thank you for this opportunity of appearing on behalf of Congressman Evins who, as you know, is of the Tennessee House delegation in support of the confirmation of Mr. Alfred T. MacFarland.

Mr. Evins had planned to attend these hearings but, unfortunately, there was a conflict in his district and he was unable to be here today. He is a long-time personal friend of Mr. MacFarland. He knows him

well and knows of his excellent qualifications and wanted me to convey to you his strong desire that Mr. MacFarland be recommended and confirmed in his nomination for the Interstate Commerce Commission.

Senator HARTKE. Thank you, Mr. Keel. Mr. MacFarland, your biographical data will be put in the record and you have filed your financial statement which is available to the committee.

(The biography follows:)

BIOGRAPHICAL SKETCH OF ALFRED TOWSON MACFARLAND

1. Personal Data

a. Born: Lebanon, Tennessee, April 23, 1917; sixth son of Lon P. MacFarland (died August 15, 1930) and Elizabeth Crowe MacFarland (died November 26, 1965).

b. Married, Julia Tyree Bate, Castalian Springs, Sumner County, Tennessee, in Gallatin, Tennessee, October 5, 1952.

c. Three children, Alfred Towson MacFarland, II, age 18, Miss Tyree Bate MacFarland, age 15, and Carter Crowe MacFarland, age 12.

d. Residence: 1 MacFarland Lane, Castalian Springs, Sumner County, Tennessee 37031. Own and operate 500 acre farm, 1st Civil District of Sumner County, Tennessee.

2. Education

a. Attended public schools of Wilson County, Tennessee, and at Nashville, Davidson County, Tennessee, being Leeville School, Leeville, Wilson County, Tennessee, Knox School, Nashville, Davidson County, Tennessee, and Mt. Juliet School, Wilson County, Tennessee.

b. Graduated Lebanon High School, Lebanon, Wilson County, Tennessee, 1935.

c. Attended Vanderbilt University and the University of Alabama, Tuscaloosa, Alabama, and graduated from University of Alabama with BA Degree August 17, 1940. At University of Alabama: Sigma Alpha Epsilon Fraternity, Student Court, Glee Club, Spirit Committee, Tau Kappa Alpha Fraternity, Honorary, Jasons, and Y.M.C.A. Cabinet. Attended and graduated from Cumberland University Law School with Degree of Bachelor of Law, June 9, 1941. J.D. Degree Samford University, Birmingham, Alabama, April 7, 1969 (substituted for LLB Degree previously granted by Cumberland University).

3. Military Service

a. Enlisted U.S. Marine Corps Reserve, June 23, 1941, and honorably discharged "Special Order of the Major General Commandant", auth MGC ltr 312600 AU-271-cc, dated 8 Oct. '41, October 11, 1941.

b. Later commissioned First Lieutenant, United States Marine Corps, October 8, 1948, Serial No. xxxxxx, honorably discharged December 1, 1957.

4. Public Service

a. Representative Tennessee State Legislature from Wilson County, Tennessee, 1945-1947.

1. Member, Committee on Agriculture.

2. Member, Committee Judiciary.

b. Professor of Law, Cumberland University, 1947-1948.

c. State Senator from Smith and Wilson Counties, 1951-1953.

Member, Committee Criminal Jurisprudence.

Chairman, Committee Finance Ways & Means.

Member, and Secretary Judiciary Committee.

Member, Labor Committee.

Member, Military & Veterans Affairs Committee.

Member, Parks, Forestry, Fish & Game Committee.

Member, Privileges & Elections Committee.

Member, and Secretary Rules Committee.

Member, Social Welfare & Unemployment Security Committee.

Chairman, Select Committee on Election Contest.

d. General Counsel, Tennessee Public Service Commission (formerly Railroad & Public Utilities Commission), 1951-1955.

e. Commissioner of Revenue, State of Tennessee, 1959-1961.

- f. Member, Governors Cabinet, 1959-1961.
- g. Chairman, State Board of Equalization of Tennessee, 1959-1961.
- h. Member, State Oil and Gas Board, 1959-1961.
- i. Member, State Board of Claims, State of Tennessee, 1959-1961.

5. *Business and Professional*

- a. Began practice of law, Lebanon, Wilson County, Tennessee, in March, 1942, and have maintained law office and practiced at such place to the present time.
- b. Admitted to practice Supreme Court of Tennessee, 1942, United States District Court, Middle District of Tennessee, January 26, 1948, Federal Communications Commission, February 11, 1948, United States Court of Customs and Patent Appeals, February 18, 1948, The Tax Court of the United States, March 11, 1948, Interstate Commerce Commission, July 7, 1948, United States Court of Appeals for the Sixth Circuit, April 4, 1949, Supreme Court of the United States, May 29, 1950, United States Court of Appeals for Fifth Circuit, March 31, 1953, United States Court of Military Appeals, July 6, 1953, and United States Emergency Court of Appeals, September 30, 1953.
- c. Member of Lebanon-Wilson County Bar Association (First, Second and Third President), Tennessee Bar Association, and American Bar Association.
- d. Associated with Sam B. Gilreath, Dean of Law, Cumberland University, in practice of law from 1942 to 1948. Associated with Louis Chambers, David M. Harrison, Lan MacRae and John E. Cooksey prior to formation of present firm in 1958.
- e. At present senior partner law firm of MacFarland and Reed, 107 West Market Street, Lebanon, Tennessee.
- f. General Counsel and Secretary of Tennessee Farmers Cooperative, LaVergne, Tennessee.
- g. General Counsel and Secretary of Farmers Chemical Association, Inc., P.O. Box 87, Harrison, Tennessee 37341.
- h. General Counsel of Tennessee Electric Cooperative Association, 710 Spence Lane, Nashville, Tennessee.
- i. General Counsel of Castalian Springs-Bethpage Utility District of Sumner County and Trousdale County, Tennessee.
- j. One of the founders of The Peoples Bank, Director and General Counsel of First Federal Savings and Loan Association, both of Lebanon, Tennessee.
- k. Practice of law has consisted of a general practice with a good portion of practice devoted to corporate practice, cooperative associations, tort and probate work.

6. *Politics*—Democrat

Senator HARTKE. Any statements you care to make will be received at this time.

STATEMENT OF ALFRED TOWSON MacFARLAND

Mr. MACFARLAND. I have no opening statement, sir. I think the information which I have furnished you fairly well sets out those positions that I have held in my private practice since I was admitted to the bar in Tennessee and I am prepared to answer such questions, sir, as you might have to put to me.

Senator HARTKE. Mr. Chairman.

The CHAIRMAN. I have no questions right at this time. I will wait till the end.

Senator HARTKE. Senator Cotton.

Senator COTTON. I note from your list of assets that you own shares in certain Tennessee farmers cooperatives.

Mr. MACFARLAND. Yes.

Senator COTTON. Certainly nothing could be more innocuous than being identified with a farmers cooperative.

In order to keep the record clear, farmers cooperatives, from time to time, do take positions or deal with transportation problems and freight rates, is that true?

Mr. MACFARLAND. Yes, sir, this is so. This is the nonvoting or preferred stock that I hold since a good part of my practice in the past 20 years. It's been in the representation of a considerable part of the practice in the representation of farmers cooperatives.

Senator COTTON. I assume that if there should be a case before the ICC in which one of these Tennessee farmers cooperatives was interested, you would undoubtedly disqualify yourself?

Mr. MACFARLAND. Should I be confirmed, sir, I would very promptly divest myself of such stock that has some reasonable market value, and in order to avoid even the appearance of a conflict, I would very promptly and properly divest myself of that or any other stock that might—

Senator COTTON. Thank you.

Senator HARTKE. Senator Moss.

Senator MOSS. Thank you, Mr. Chairman.

Mr. MacFarland, you have a very long and distinguished record and undoubtedly you are eminently qualified, particularly for the position for which you have been nominated.

There are two problems, though, that have come to my attention and I would like to ask you two or three questions about them.

As you know, by statute, the appointments to the Commission are limited in that no more than six members of any one political party may serve on the Commission. And I see from your résumé, you list yourself as a Democrat. You are being nominated as a Democrat to serve on the ICC. This raises some questions that have been brought to my attention and which give me some concern.

Do you currently consider yourself to be a Democrat?

Mr. MACFARLAND. Yes, sir; I do.

Senator MOSS. Now, did you support the Democratic nominee for the Presidency in 1960?

Mr. MACFARLAND. My recollection, sir, is that I did not vote for the Democratic nominee. I took no active part in the campaign and my recollection, at that time, is that I did not vote for the Democratic nominee.

Senator MOSS. Did you, in fact, tell the writer of an article that you did vote for Mr. Nixon in 1960?

Mr. MACFARLAND. My recollection, sir, is that I did tell him that I voted for him in 1960 and, as I recall, in 1968.

Senator MOSS. You voted for him, also, in 1968?

Mr. MACFARLAND. Yes, sir. This is a part of the same article. They have some other things in the article which are incorrect, but I did tell him those things; yes, sir.

Senator MOSS. Is it your intention to vote for Mr. Nixon again in 1972?

Mr. MACFARLAND. I would answer you frankly and candidly, sir. I expect to vote for Mr. Nixon in 1972.

Senator MOSS. Well, if that is so, if that comes about, then it will have been three times, at least, that you have not voted for the Democratic nominee.

Mr. MACFARLAND. This is true, sir.

Senator MOSS. And, yet, you classify yourself as a Democrat?

Mr. MACFARLAND. I do, sir. If I might, by way of explanation, say that when this question was raised by—in consideration of this hearing, I have estimated that since I was 21 years old and started voting

in county, State, and Federal elections, that between 350 and 400 times, I have voted. I don't know the exact number.

But now, these are in county races, in State races which, in several years ago, came every 2 years in Tennessee. I would judge that between 350 and 400 times, I have voted.

I have voted other than Democratic on four occasions—three occasions—two occasions for the President of the United States. I supported Senator Brock in his race and was quite active in that campaign, sir.

Senator MOSS. You took an active part in the campaign of Senator Brock?

Mr. MACFARLAND. Yes, sir; I certainly did.

Senator MOSS. He was a Republican running against the incumbent Democrat in that race?

Mr. MACFARLAND. Yes, sir; he was.

Senator MOSS. I suppose that there are not very many people that are absolute purists in that they never cross the line, but the nominee for the Presidency of a political party is a pretty good indication of what you consider yourself to be, is it not?

Mr. MACFARLAND. Yes, sir; I think so. At that same time, I supported Democrats for Governor in those same races, I'd be very frank to tell you. I crossed political lines in national elections but in support of Democratic candidates of other offices.

So there were some possibly 10 votes at that time in the general election of the Democratic and one Republican.

Senator MOSS. What is your belief as to why the statute has been written, saying that no more than six members of the ICC can be of one political party?

Mr. MACFARLAND. I take it, sir, that it was written as a safeguard or a safety valve because the control of the Congress on occasion changes.

The control of the White House from one political party changes, and it is as a safeguard so that both parties, although it might be the minority party, will have some representation, or the majority party having some; the majority party having the majority representation.

I assume it was put in, in 1887, the ICC Act and the other commissions, the numerous commissions here. That is generally found in those statutes. As I recall, in August—

Senator MOSS. But if you were confirmed and assumed a position on the ICC at least for the rest of this term, Mr. Nixon would have at least seven adherents on the ICC, would he not?

Mr. MACFARLAND. Not in my opinion, sir. My entire life, and that of my father, my brother, the entire family has been in the Democratic camp. And when I was quite a young boy, I remember there was one Republican in our town a doctor, who happened to bring me into the world, a Dr. Lillard, and I was amazed that he and my father spoke.

And I asked him, my father, I was somewhat disturbed about it at the age of 10 or 12 that he and Dr. Lillard were friends. They were friends on everything, but politics.

And so this is the middle section of Tennessee, particularly Wilson County, 30 miles east of Nashville, it was overwhelmingly Democratic. I don't recall that it has ever gone Republican.

In a national action—I tried to find this through the World Almanac—I was not able to find this county voted Republican. They supported Wallace very heavily, but it is Democratic country.

I am, sir, and I feel in my own mind and heart, a Democrat. I have—and very candidly, sir, I say to you that what you have asked me, I have answered truthfully, that I did on those occasions support—and in the most recent senatorial race in Tennessee, I supported Senator Brock.

Senator Moss. Well, you have, of course, explained a lot of the local situations that exist in your county and in Tennessee as a State, I guess. But the thing that troubles me now is, you are nominated on a national level.

Mr. MACFARLAND. Yes, sir.

Senator Moss. We are out of Tennessee now.

Mr. MACFARLAND. This, I know.

Senator Moss. This is on the national level and if you are confirmed, you will sit on the ICC as a national Democrat.

Mr. MACFARLAND. Yes.

Senator Moss. Now, regardless of what you do in the counties of Tennessee, you are expected to serve on the ICC as a Democrat. This poses a difficult problem for this committee. We can look at your professional record and I would say you are eminently qualified. I haven't heard anyone say anything derogatory about your acumen and ability and integrity as a public servant and as a lawyer. But what we are faced with, up to right now, goes right back down to the statute which says one party may not have more than six on there. And if a person by simply styling himself as a Democrat or Republican can then be nominated by the President, it wouldn't be difficult to finally have the whole Commission of one particular persuasion. This is what troubles me.

I am going to listen and think about this a great deal, but I just wanted to tell you that this gives me a great deal of trouble, sir.

Mr. MACFARLAND. Yes, sir.

Senator Moss. Thank you.

Senator HARTKE. Senator Stevens.

Senator STEVENS. No. I have no questions.

Senator HARTKE. Senator Hollings.

Senator HOLLINGS. Mr. MacFarland, it unfortunately doesn't give me any trouble. I was wondering what the gimmick was by your appearance here to take a Democratic seat. I see now it is to be a Republican seat, under the name of a Democrat.

Let me put it this way: Could you accept the appointment from President Nixon as a Republican seat on this Commission?

Mr. MACFARLAND. I would have to state candidly, if I was appointed a Republican, it would be a misnomer because I do not consider myself a Republican, nor have I ever considered myself a Republican.

Senator HOLLINGS. You and I have tried law cases. Your record is—and I'm a juror in a sense on this one—your record is that you voted for Nixon in 1960, 1968 and are going to vote for him again in 1972. This is three times for the Republican presidential nominee and you opposed a Democratic nominee to the U.S. Senate.

I don't know, other than making the decision on the facts of this case, how you expect to find differently.

Mr. MACFARLAND. Sir, during that time I was in the cabinet of the democratic governor. I supported him and I was considered there—and I believe that I have here a list of people in Tennessee who have said that they feel and know that I am a Democrat.

I believe these letters have gone in to the chairman, and maybe some of the members of the committee. I'm sorry that they have not gone in, but there are two former U.S. Democratic Senators, there are three Congressmen, the president of the Tennessee State—all former, living Governors of the State, the State treasurer, and without burdening the record, I would say the member of the present senate majority leader is a Democrat, the chairman of the Democratic Caucus, senators from Tennessee, the State treasurer, the former State treasurer, the attorney general of Tennessee, the mayor of Nashville, the former mayor of Memphis, the chairman of the Democratic Party of the State of Tennessee, the chairman of the Tennessee delegates to the 1972 national convention, a four-time delegate to the Democratic National Convention, the chairman of the local Democratic Party of my county, a former candidate for—unsuccessful candidate for Governor on two occasions.

These people, I am told, have letters in to the distinguished chairman. I have copies of some of those letters, sir. I don't have them all, but I think those letters speak for themselves.

Regardless of what I say, they enlighten my activities on a local basis and I recognize the meaning "this is a national office," but my activities since my practice has been on a local basis, and I have fallen into the Democratic camp there. I am in the Democratic camp and I submit that if there was serious question, I believe that these people, who are the people who run the Democratic Party in Tennessee, would have had some hesitation in sending these letters which, sir, I did not ask for. They were solicited certainly by friends of mine. To the most extent, some were completely on their own. Some called me and said, "I wrote a letter in your behalf. This question has come up."

Senator HOLLINGS. Well, of course, it is not a State seat, you see.

Mr. MACFARLAND. Yes, sir, I recognize that.

Senator HOLLINGS. It is a national seat.

Mr. MACFARLAND. This, I recognize.

Senator HOLLINGS. And nationally, in three of the last four elections, you are identified as a Republican and you opposed the Democratic nominee to the U.S. Senate and, here in the Senate, that's the only way we can identify a man's party.

We have Independents like Mr. Buckley, but he votes with the Republicans. We have an Independent opposed by a Democrat in Virginia, Harry Byrd, but he votes with the Democratic organization, and that is the test we use at this level.

It is obvious from all these letters, you are extremely able and very influential and a very capable person and some want you back in the Democratic Party. But that just makes the question moot.

I am not a bit disturbed. I would be glad to vote for you for a Republican seat if Mr. Nixon prevails next year and the seat opens up. Your convention committeeman consulted me and has written me letters opposing you. So have the national Democratic committeeman from the State of Tennessee and the national Democratic committeewoman. She wrote me a letter, and among other things, Mr. MacFar-

land, I am quoting from that letter—and by the way, Mr. Chairman, if there's no objection, I will include all the letters that I received both pro and con in the record.

"Mr. MacFarland did not take a passive role in the" * * * "If President Nixon wishes to reward Mr. MacFarland for his political services to a Republican Senator, let it be for a Republican's seat on the Interstate Commerce Commission," this is something we can understand.

(The letter follows:)

STATE DEMOCRATIC EXECUTIVE COMMITTEE OF TENNESSEE,
Nashville, Tenn., July 21, 1972.

Senator FRITZ HOLLINGS,
Senate Office Building,
Washington, D.C.

MY DEAR SENATOR HOLLINGS: It has been brought to my attention that President Nixon plans to nominate Mr. Alfred MacFarland, Lebanon, Tenn., as the Democratic appointee to the Interstate Commerce Commission. At this time, I am not questioning his qualifications for that office, but do want you to note that Mr. MacFarland actively supported Bill Brock, Republican, in 1970.

Mr. MacFarland did not take a passive role in that bitter campaign against our Democratic Senator Albert Gore. MacFarland's radio spots against our able and respected Senator Gore flooded the airwaves that Fall. His participation in that vitriolic campaign still rankles deeply among Democrats in Tennessee.

We respectfully ask that Mr. MacFarland not be confirmed for the Democratic seat. If President Nixon wishes to reward Alf MacFarland for his political services to a Republican Senator let it be for a Republican spot on the Interstate Commerce Commission. Thank you.

Democratically yours,

JEAN LIVINGSTON,
National Committeewoman, Tennessee.

Senator HOLLINGS. At least my senior colleague, Senator Thurmond, had the candor to step aside. He was nominated and elected as a Democrat, but then he stepped aside. Congressman Watson did the same. They stepped aside and stood and were elected as Republicans. I am the first to recognize that the membership of a party is a moving target down in Tennessee and down in South Carolina. So we are not trying to pull a fast one on you or whatever it is.

The fact is that party membership is going to change. That is why—I wondered what the gimmick was, since the law says—and knowing you as an outstanding lawyer, I thought you were going to say you were for Governor Wallace or an Independent, that you weren't a member of the same party.

But you have now called yourself a supporter of the Republican nominee as the record shows in response to Senator Moss' questions, in 1960 and in 1968. And in 1972, what you intend to do is vote Republican and that you are a Republican. You don't leave any discretion to me. I wish I had some discretion.

I highly respect our colleague on this committee, Senator Baker. He and I came to the Senate at the same time, and I'd be glad to do him a favor. But I can't call you a Democrat with the testimony you have given me today, and I will submit all of these letters. I've got them from personal friends. I've gotten them from former Senators.

I worked in Tennessee, myself, for years. My son graduated from Baylor; in fact, he debated Bill Brock's son up there. I've got a lot of Tennessee friends, and you are a very popular man, a very distinguished citizen in Tennessee.

But from the answers you have given me, you have given me no discretion. You said, "I was Republican in 1960, 1968, and I'm a Republican in 1972," and the law says you can't have more than six men from the same party on the ICC.

I have no further questions.

The CHAIRMAN. At that point, Mr. Chairman, I think in all fairness, we should note several letters that were sent to the committee. Many of them are from the members of the bar in Tennessee and, generally speaking, suggest just what Senator Hollings from South Carolina has said; that they think if you had been nominated as a Republican, you are qualified, highly qualified.

I think in all fairness, we ought to put all these letters in the record. Senator HARTKE. They will be in the record.¹

The CHAIRMAN. Both pro and con. But we did receive them as communications, and some of them said they wanted to testify if they saw fit, some of the lawyers.

Go ahead. Excuse me.

Senator STEVENS. May I just interject a question. It is my understanding that the qualification is that not more than six can be affiliated with the same political party. How he voted in 1960 or 1968 and how he intends to vote in 1972 are irrelevant here. What does that have to do with whether or not he is taking a seat as a member of the same political party of six other people on the Commission?

And I would like to say in a friendly tone to my colleagues on the other side of the aisle, if the qualification of voting for President Nixon in 1972 is going to turn people from Democrats into Republicans, the Republican ranks are going to swell by overwhelming proportions in this election.

I remember sitting here and watching people being nominated during the Kennedy administration and the Johnson administration. I think you are setting a broad precedent, particularly when the witness has been so candid with us about his constitutional rights, especially when he didn't even have to tell you how he's going to vote in 1972.

Senator HOLLINGS. Mr. Chairman, can I respond to that?

Senator HARTKE. You certainly can.

Senator HOLLINGS. The record was made by the Senator from Alaska, by the distinguished witness. He had told us of news articles, of records made. We didn't have to bring up other records. As an example, you had a difference with former Governor Ellington.

Mr. MACFARLAND. I don't recall any differences. I recall, with Governor Ellington, I was in his cabinet—identified while in his cabinet, excuse me, sir.

Senator HOLLINGS. And you resigned from that cabinet?

Mr. MACFARLAND. I did resign from that cabinet. I had a very serious coronary and went into the cabinet in an extremely difficult position, this commission of revenue. I had an extremely serious coronary.

I came back after having been out for some three and a half months, seriously ill, and I came back and took over those duties. And in a letter to Governor Ellington, I resigned.

¹ See p. 41.

If there were any difference between Governor Ellington and me, he never made it known to me or I to him. I resigned because I was ill. I had not recovered.

I went back to my office and it took me a good 6 months or a year to get back on my feet, and I categorically, would categorically deny Governor Ellington and I had had any serious difficulties at all, sir.

Senator HOLLINGS. Would you be surprised that if an investigatory report quoted Governor Ellington classifying you as a Republican and not a Democrat? Would you be surprised at that?

Mr. MACFARLAND. I would be very much surprised.

Senator HOLLINGS. It wouldn't make a difference now that you have already stated that in 1960, 1968, and now in 1972 that you are supporting the Republican ticket.

Now, going back to the response of the Senator from Alaska, it isn't a question of majority vote or what they are going to be. It's a question of how he identifies with a party. People change their politics. I think a large majority of America is Independent.

But, unfortunately, under the statute, we are called upon to designate as to a particular party, and there was no better updated information as to whether or not he is Republican than to say in 1968, he voted Republican and he intends to vote within 2 months Republican here in 1972, and he opposed the Democratic Senator at the last election.

Now, how better to find a Republican than that, as far as the Senator is concerned?

Senator STEVENS. If my good friend George Meany is a Republican, I'd be glad to claim him this year.

Senator HOLLINGS. We could go on to the case of Connally, and I wish Connally had the candor of Thurmond to go ahead and join the other party; if you want to go into these side issues. I have nothing against Republicans.

Senator MOSS. There's too many of them.

Senator HOLLINGS. My State has voted Republican. They voted that way in 1964 and 1968 and may vote Republican in 1972. I'm not angry.

I was appointed by two Republican Presidents, President Herbert Hoover and President Eisenhower, to serve on a Government commission. I also grew up in a county that voted for Wendell Wilkie back in 1940, so you can imagine that. There's no difference there.

But this statute—and you are a good lawyer—says you can't be of the same party, and under the facts you testified to, you called yourself a Republican. I don't know how else to call you.

Mr. MACFARLAND. I would respectfully disagree, sir.

Senator HOLLINGS. I understand the difference. You have given it by volume, and if Senator Thurmond used the same volume, he would be big press today, but don't go down and tell Senator Thurmond that.

Senator CORTON. May I call the attention of my good friend, the distinguished Senator from South Carolina, to a little bit of history.

You know there were, I regret to say, a large number of Republicans who did not vote for Barry Goldwater. They voted for Johnson. And by coincidence, I recall—and I can furnish the instances—three or four times that President Johnson filled a seat on a regulatory commission that was a Democratic seat, by a Republican who voted for

President Johnson. I also think that the reverse took place several times under President Eisenhower. Quite a number of non-Republican seats were filled, strangely enough, by people who were Democrats and voted for Eisenhower.

Now, I never objected, and I don't recall any of my colleagues objecting, when President Johnson filled those seats because we didn't want to drive them out of our party just because they couldn't go along with the group. We wanted them back.

We didn't raise that issue. But at times, we would fill these seats with people that call themselves Independents. They couldn't sit in the Republican Convention. I can't imagine that they would be possibly elected as delegates and be Republicans.

That may not be the best practice in the world, but it has worked both ways since I've been on this committee. I just wanted to call the Senator's attention to that.

Senator HARTKE. Thank you. Senator Cannon.

Senator CANNON. Mr. MacFarland, in going over your distinguished background sheet here, I note that under military service, you enlisted in the Marine Corps Reserve on June 23, 1941, and were discharged on October 11, 1941. Then you were later commissioned as a first lieutenant in the Marine Corps, October 8, 1948. What happened between October 1941 and October 1948? Were you in service during that time?

Mr. MACFARLAND. Sir, the day I finished law school, as I recall I caught a bus and went to Nashville.

The CHAIRMAN. Talk a little louder so everyone can hear you in the back of the room.

Mr. MACFARLAND. I went to camp and joined the—enlisted in the Marine Corps. I was to go to Parris Island. This is some 30 years ago. But my recollection is fairly clear on this.

In October, some 4 days before I was supposed to go, I received a medical discharge. I'd had an injury from a horse falling on me as a young man, and I had what is known in our part of our country as a gimp leg. I thought it was sufficient to qualify me.

I made it an effort then over a period of some 3 or 4 years to get into some—every conceivable branch of the service and even made a trip to try to join the Royal Canadian Air Force.

I came to Washington, as I recall, to Senator Kefauver's office and was talking to one of his assistants, and he told me there were some specialties of commissions in the Marine Corps, and I said I made an honest effort, in my opinion, to get into the Marine Corps. I was rebuffed. I have tried to get into other branches of the service, including the Coast Guard.

At that time, the first question was, "Have you ever been discharged from any other branch of the service?" I am sure, sir, you are familiar with this. I would have to honestly answer "Yes."

I did answer "Yes" and, as I recall, somebody in Senator Kefauver's office told me about these commissions, and I was not at all elated. But he said, "Let me have a biographical sketch."

And when I got home, after being here 3 or 4 days in one of those unusual and bizarre happenings, the commission got home on it before I did, after I tried for 4 years to enlist, to get into anything, and I did come to Washington and I served a brief term over in the Pentagon.

The CHAIRMAN. Well, was that after 1948?

Mr. MACFARLAND. Yes.

The CHAIRMAN. So that—

Mr. MACFARLAND. No active service in the Marine Corps.

The CHAIRMAN. No active service in the Marine Corps?

Mr. MACFARLAND. No, sir.

The CHAIRMAN. But the physical disability didn't prevent you from being commissioned to lieutenant.

Mr. MACFARLAND. Apparently it didn't. I was amazed that the commission got home before I did, but this is what happened.

The CHAIRMAN. Thank you, Mr. Chairman.

Senator HARTKE. Senator Hart.

Senator HART. Whichever way you answer this will have no bearing on my vote.

Mr. MACFARLAND. Yes.

Senator HART. You show that you are the owner of a collection of guns valued at \$11,000.

Mr. MACFARLAND. Yes, sir.

Senator HART. Are you a member of the National Association to Keep and Bear Arms?

Mr. MACFARLAND. No, sir; nor the National Rifle Association. I was, for a short while, and I did not renew my—I am a member of an organization that meets on occasion known as the Wilson County Fox Hunters Association.

Senator HART. Well, to my knowledge, the Wilson County Fox Hunters Association is not seeking to recall the Senator from Michigan.

Mr. MACFARLAND. No, sir.

Senator HART. The National Association to Keep and Bear Arms is.

Mr. MACFARLAND. I'm not a member of that organization. These are antique guns and it's a collection of shotguns. I will say that since that time, I think there's one rifle in there, deer rifle, some several handguns, one handgun that was carried by my grandfather to California in 1850. Most are shotguns.

I do bird hunting. I do some upland game hunting, and occasionally, since we have some fairly good lakes nearby, I do a little duck hunting. But that's the extent of my participation in it. That incident—

Senator HART. More seriously—

Mr. MACFARLAND. Yes?

Senator HART. I think at this point, I should go no further than did Senator Moss. Senator Moss said on this business of political affiliation—the purpose of the statute, what your responsibility is—that the problem gave him a great deal of trouble. It does me, too, partly—and this would suggest that I would ultimately resolve it in your favor—I worked in an office of a Governor of Michigan for several years and we, the the rest of us, were accused of running around Michigan looking for people we could nominate to State commissions where the statute required a party distribution and who also, the Republicans charged, turned out to be fellows who had voted for Mennen Williams. They insisted that they were Republicans and we agreed with them. I will continue to examine my memory, shake my memory, but I think we never went so far as to identify as Republicans, men or women who had twice voted for Democratic gubernatorial nominees and proposed to do it a third time.

That is the sort of fair appraising of Senator Hollings' description of the way he would resolve that. So however I vote, and should it be not to advise and consent to your nomination, it would be on the basis only of the question of political identification and protection of the statute because every communication that I have received, whatever their other points of view on this politically, have emphasized the great ability and distinguished service that you have rendered your State.

MR. MACFARLAND. May I say in that connection, sir, at the time that I was assisting Senator Brock in his race, I voted in that election for the Democratic candidate for Governor of the State. I had introduced him 4 years prior to that time in his opening speech. His ancestors had come from our little town. He asked me to introduce him. I did, and took a very active part in his campaign and voted for him for Governor; at the same time, I suppose, voted for Senator Brock.

Senator HART. Well, running through my mind is that old and not particularly reputable story about, you know, one time it's her fault, and the second time it's mine. But we are now confronted with the third vote that you're talking about.

MR. MACFARLAND. Yes, sir.

Senator HART. That's my problem.

MR. MACFARLAND. I tried to be candid with you, sir, I believe.

Senator HARTKE. Any other questions from any members or comments? Senator Magnuson.

The CHAIRMAN. I'm quite familiar with the ICC law and the basis of why we put this in. All independent commissions—

MR. MACFARLAND. Yes.

The CHAIRMAN. Which you must understand, are arms of Congress.

MR. MACFARLAND. Yes; I do understand that.

The CHAIRMAN. And they are not in the executive branch—the President merely makes the appointment. Now the purpose of these restrictions is not met by how you voted last time or whether you voted for a Democratic sheriff or against a Democratic Senator, it isn't so much that. But that is only the record to determine a great deal of a man's philosophy, and the fact that you come from a long line of Democrats, and your family, is nice history; but what we have to be concerned about is, what is your philosophy now? And your philosophy now seems to me to lean toward the Republican approach to the problems of the country.

Now, that's your business, and there are a lot of people that feel that way. But we have the responsibility on this committee to keep these commissions not all of one political philosophy and that's what counts.

I suppose, as the Senator from South Carolina said, you might come in and say that you voted for Wallace, for instance.

MR. MACFARLAND. Although I was in school with him, sir, I didn't vote for him.

The CHAIRMAN. That's all right. We have to determine that philosophy, and it isn't a question again about your qualifications or your long associations with other Democratic offices, but you have got to bring it up to date.

What is your present philosophy? And we have to decide whether that would violate the intent of the law to have seven members on the Commission with the same philosophical approach. This is our problem.

As someone said, you could go on with that and maybe you could take all of these so-called independent commissions and finally stack them that way. Now, when Mr. Eisenhower was President—and this is true—he did send up a couple of times people from the military. Of course, they said they were neither Republican nor Democrat and that they hadn't even voted. There we had no question of philosophy except the military approach on some commissions. And sometimes, we did not confirm them and they sent up someone else.

So our problem here is not so much what you have done in the past, not about your credentials. It is a question of, as the law says, not having these commissions overloaded with one type of philosophical approach.

Now, your approach obviously in the past few years, at least in the past 3 or 4 years, has been—right or wrong, that's your business—a Republican approach. You can't interpret it any other way.

Apparently, you did a great job in the Governor's race because you organized farmers for Brock, lawyers for Brock, sportsmen for Brock, and doctors for Brock. You must have done a good job. In other words, the article in the New Yorker says that you probably were the most important outsider for Brock and did a lot to swing the campaign.

Now, that was your business. Senator Brock has been a good Senator, that's not the point here, and you thought he was going to be a good one or you wouldn't have done this.

Mr. MACFARLAND. I did.

The CHAIRMAN. And obviously, you thought Gore was a bad one.

Mr. MACFARLAND. He's not.

The CHAIRMAN. Well, not a bad one, but you didn't agree with a lot of things he said.

Mr. MACFARLAND. That's true.

The CHAIRMAN. But it is a question, and that's perfectly your right to do this. But we have got to consider on these commissions who are supposed not to be dominated by any particular party, although they do give them the majority. We have a problem there.

Now, let me ask just one question. How long were you with Governor Ellington in his cabinet?

Mr. MACFARLAND. Approximately 2 years.

The CHAIRMAN. Two years.

Mr. MACFARLAND. Yes, sir. Just a little better than—

The CHAIRMAN. And you say that you resigned?

Mr. MACFARLAND. Yes, sir.

The CHAIRMAN. And there's some statements that Governor Ellington dropped you. Now, you're not—

Mr. MACFARLAND. I deny that. I took my resignation.

The CHAIRMAN. I don't know, but—

Mr. MACFARLAND. I went to him and told him.

The CHAIRMAN. These are letters that people get emotional about, the politics, and I understand.

Mr. MACFARLAND. I'm sure I understand. I went to Governor Ellington and told him my problem, told him what were overwhelmingly physical demands on me at that time and I was not a well man, and I thought I'd better resign for his and for my good, and I got highly praised from him at that time.

The CHAIRMAN. There is some record that he made some statements regarding this matter when the FBI called upon him pursuant to your nomination, and he suggests that we should look at those statements.

Now, I don't know what the committee wants to do about that, or even whether the FBI would let us look at them. I don't know. But we've got a serious problem here, particularly when you have a Republican administration. Republicans had the same thing when we had a Democratic administration, and this is what the committee is going to have to decide.

I don't think there is any question about the committee criticizing your independence, how you voted and whom you supported. That's your business. But you have to shape up to the fact that, frankly, we want Democrats on the ICC, a few of the five that we have left, this is what we want, we Democrats. And we don't want to have it 7 to 4, and I'm talking about the philosophy, not about your votes or not about your actions.

I think this is what the committee will have to decide and we have had some problems with this. We sent a fellow down in 1960 by the name of Timothy Murphy from Massachusetts to the floor. A lot was brought out after we had gone through with it, that he really wasn't a Democrat, and they knocked him out.

Senator COTTON. His name was Murphy?

Senator MAGNUSON. Timothy Murphy from Massachusetts and, on the floor, they voted against him. But a lot of this came in between the reporting of Mr. Murphy and the vote. There was a hold on the Senate floor for weeks and all of this came out, and the nomination finally was defeated.

So we've got to be careful about our responsibility here, too, according to the law.

Mr. MACFARLAND. Yes. This, I recognize.

Senator HOLLINGS. I have to ask this question: Did you support Senator Baker in his election?

Mr. MACFARLAND. I did not, sir.

Senator HOLLINGS. You did not. Do you support him now?

Mr. MACFARLAND. You are a Senator from South Carolina, and in Tennessee our backgrounds have not been too different. You have—

Senator HOLLINGS. Right.

Mr. MACFARLAND (continuing). Come on to the U.S. Senate, you have a legal background. We strongly think about obligation and appreciation, and my understanding is that Senator Baker has been extremely interested in and was the person who got this appointment. It would be difficult for me to vote against the man who I am told made this appointment possible, and that is a pure appreciation sort of thing.

I don't know how I will vote in the election but it would be extremely difficult for me to vote against him, I'll be perfectly candid with you. That's a matter of appreciation because he has worked long and tirelessly knowing I did not support him in his first run.

I supported a former Governor, Frank Clement, in that race. I took no active part, but I voted for Frank Clement.

Right at this time, I don't know.

Senator HARTKE. The communication system doesn't work.

Senator HOLLINGS. How would you vote, Mr. MacFarland, giving you the original thrust of the meaning and purpose of the statute herein, for example, Senator Baker is interested in his reelection campaign—

Mr. MACFARLAND. Yes.

Senator HOLLINGS (continuing). And herein, he is interested in building and bringing to the Republican cause former Democrats and, herein, you say that you don't see how you could not vote against him. So now for the record you've got me asking as a juror on your case to what party you belong. Having voted Republican in 1960 and 1968 and going to vote Republican in 1972, and you supported the Republican nominee in 1968 and in "1970" and now leaning toward the support of the Republican nominee in 1972, you now say, "I'm a Democrat." That's the whole thing. And you put the Senators here, in the kind of situation where I couldn't see how you presumed to really fill that seat as a Democrat for the very reason you have just testified to.

You didn't see a man offering gratitude. That man, Senator Baker, knew he wanted for himself the Republican's support when he supported you. That's good politics but we are not here as a member of the members building party. We're called upon to fill that seat depending whether you are a Republican or Democrat. And we intend to do it here the next month or month after next, until we fill it with a Democrat. I'm glad we had this chance to meet.

The CHAIRMAN. Is there a Republican vacancy on the ICC now?

Senator HARTKE. That depends. If Senator Cotton gave up his Republican seat, why, we would have.

Senator COTTON. As a matter of fact, Mr. Chairman, I didn't realize there was going to be such a furor about this political affiliation. I forgot to ask Mr. Wiggin if he's a Republican.

Is Mr. Wiggin in the room? Are you a Republican?

Mr. WIGGIN. Yes, sir; I am, Senator.

Senator COTTON. Did you ever vote for a Democrat?

Mr. WIGGIN. No, sir.

Senator COTTON. Now, it appears to me from the evidence brought out, Mr. Chairman—and I can't resist saying this—that this poor gentleman here is completely ineligible according to the declarations this morning that were served on this committee. You are registered as a Democrat, aren't you?

Mr. MACFARLAND. Sir?

Senator COTTON. You are registered as a Democrat?

Mr. MACFARLAND. We have no registration in the party of Tennessee, sir.

Senator COTTON. Well, you sure can't have a Republican seat because you won't even say you are a Republican.

If you claim to be a Democrat, I don't know how you can have a seat as an Independent, and you can't have a seat as a Democrat; as a matter of fact, I guess you are ineligible to sit as anything. Would that be the inference?

The CHAIRMAN. He could say, "I was a Democrat but I've changed."

Senator COTTON. Well, he didn't say he wanted to change.

Senator HARTKE. Thank you, Mr. Chairman. Senator Baker, in view of the fact that I have—

The CHAIRMAN. A lot of people change.

Senator HOLLINGS. May I make a statement. In fairness, Mr. MacFarland, Senator Gore has never mentioned your nomination to me. I see him around in the Senate aisles from time to time here, not a political thing or being vindictive. It's still a label. I forgot that and I was just asked by the press and I thought it might be better known that Senator Gore, as many times as I have seen him, has never mentioned this to me.

Senator HARTKE. Senator Baker, do you have some questions?

Senator BAKER. Yes, Mr. Chairman. I don't think that anyone needs to defend the candor and honesty with which this candidate has given his testimony. It is refreshing but it has created concern for my Democratic colleagues on the committee. I won't recite his previous testimony and the colloquy that the committee members have had with him.

But I will observe, Mr. Chairman, that something here troubles me. It may be that some of my colleagues wish to dispell this disquiet.

It seems to me that the approach taken by the distinguished Senator from South Carolina and others is to measure whether one is a Republican or Democrat on the basis of whether one supports the national ticket. I submit that the statute itself makes no such provision.

I refer, of course, to title 49, section 11 U.S.C.A., Interstate Commerce Act, which simply provides that not more than six of the Commissioners shall be appointed from the same political party.

There is no mention of national political party or the President's party or the like. Now, some mention having been made of the fact that I was a candidate for reelection in Tennessee, it is a matter of interest to me that that would be the thrust of the argument against this nominee; that is, that you judge whether a man is a Republican or Democrat in Tennessee, on whether he supports or doesn't support in the national election a particular nominee for President.

If that is the basis, then I conjecture that the Republican Party is far better off than any of us hoped in Tennessee in 1972. But I don't think that is the basis upon which we judge it. I very much doubt that, for instance, Joe Carr, who is secretary of state, considers himself a Republican because he supports this nominee or do many others, I suspect measuring into the tens, maybe even hundreds of thousands of Democrats, who have not supported the recent Democratic presidential nominee and may not in 1972.

But, Mr. Chairman, I believe that on the basis of the testimony of this witness, that he has verified his credentials in the Tennessee Democratic Party. The statute doesn't require that there be a national party. As far as I'm concerned, the national party is a loose aggregation without statutory existence.

There is no statutory provision for a national Republican or a Democratic Party. But I have here, and the chairman has in the record of this committee, a ringing endorsement from the State Democratic chairman. Not some past one, but the present one and a long list of distinguished Democrats, former Senator Tom Stewart, the present secretary of state, the present speaker of the house, the Lieutenant Governor, former mayor of Memphis and on and on.

It is really a Who's Who of Democrat politicians in Tennessee.

Now, I don't want to get into a legalistic argument of whether the seat has to be a Democratic seat or whatever. The statute clearly

doesn't make it a Democrat seat. The statute clearly does not make it a conservative or liberal seat. The statute just simply says that no more than six shall be of the same political party.

What political party you belong to in Tennessee where we do not have registration by party is a matter of intention, and this man states, and his record verifies, that he intends to be, is, and will be in the future a Democrat.

Now, I will conclude, Mr. Chairman, by saying that much has been said about the nominee's support of Bill Brock for the Senate. Well, I don't want to take the role of a witness. But if there is anybody in this room that can testify to his vitality and efficiency as a Democrat, I can, because he fought me in 1966 and he did a damned good job of it. Alf MacFarland is a legitimate Tennessee Democrat, on the basis of my appraisal of the situation.

If this committee makes him something other than a Democrat in Tennessee, it is going to have profound impact on a lot of Tennesseans, in my judgment.

Mr. MACFARLAND. Thank you.

Senator HARTKE. Any other questions or statements here?

Mr. MacFarland, just for the benefit of the record, as I understand it, for the benefit of the committee, Mr. Stafford is a Republican, Mr. Brewer, Mr. Hardin, Mr. Gresham, and Mr. Tuggle are Republicans. These are presently members of the Commission.

Of those who are nominated, there have been nominated three individuals as Democrats. Mr. Murphy for renomination, Mr. MacFarland as a Democrat, Mr. Montejano as a Democrat, and Mr. Wiggin as a Republican.

Now, in view of that situation, following just the record itself, would give an indication that under such circumstances, Mr. Wiggin would be the sixth Republican and, therefore, any other person who would be nominated and confirmed could not be a Republican.

I think it is only fair to say that the intention of the statute was, in the terms of the chairman, to deal with political philosophy, not to have it overbalanced.

The fact still remains, we are faced here with a decision to make and, ultimately, the committee and the Senate will decide whether you are a Democrat or whether you are a Republican. And, ultimately, that will be decided upon the facts, and if Senator Cotton didn't think that this was going to be brought up today, I think it is not the first time we have been misled on the fact. It's been like that ever since it's begun.

Senator COTTON. It's not that I didn't expect it would be brought up. I just didn't expect the uproar. [Laughter.]

Senator HARTKE. We haven't had even 2 hours. That's not an uproar. We haven't even had a demonstration. We ought to have a demonstration.

Mr. MacFarland, what is your political affiliation?

Mr. MACFARLAND. My political affiliation, sir, is a Democrat. I voted in the Democratic primary in September.

Senator HARTKE. Since Senator Baker raised this question, according to the law of Tennessee, is there any way by which you can identify yourself as a Democrat, Republican, or an Independent or anything else?

MR. MACFARLAND. Not that I know of, sir. There is a statute that has never been construed by the courts that at the time of the primary in Tennessee, that there is an implied intent. That's as strong as it is; if you vote in the primary, that you will support the nominee.

Senator BAKER. Mr. Chairman, can I say a word in that respect. Being intimately familiar with Tennessee primary laws—and I think this might have some bearing on this situation—the only opportunity in the Tennessee statutes that I'm aware of, to declare one's allegiance to a political party is at the time one addresses himself to the officer of the election on the primary election day and requests to vote in the Republican or Democratic primary.

At that point, you declare that you want to vote in the Democrat or Republican primary, that's all. You may be challenged by any voter who says you are not a Republican or not a Democrat, at which time you have to sign an affidavit that it is your intention to support the nominee of that party, at which time, you are permitted to vote regardless of the challenge.

The last, most recent opportunity for this man to declare whether he was a Republican or a Democrat by voting in a primary was in August of 1972, so with the chairman's permission, did you vote in the Republican or Democratic primary in August of 1972?

MR. MACFARLAND. I voted in the Democratic primary, Senator Baker.

Senator HARTKE. Now, for clarification, as I understand that law, it says then that you intend to support the major party nominees as they are voting in that primary: is that right?

Senator BAKER. That's right. The presidential race is not involved in our primary election in August. The presidential preferential primary is in the spring.

Senator HARTKE. How did you vote in the presidential preferential primary in the spring?

MR. MACFARLAND. I did not vote.¹

Senator HARTKE. You did not vote? Why?

MR. MACFARLAND. Senator, as I recall, I was in a lawsuit in Birmingham.

Senator HARTKE. Is absentee balloting permitted?

MR. MACFARLAND. Yes, sir.

Senator HARTKE. Is this the first primary that you failed to vote in?

MR. MACFARLAND. No. I have been voting since I was 21 years of age. It is the first time we have had a presidential preferential primary in Tennessee.

Senator HARTKE. But you did not vote in that primary?

MR. MACFARLAND. No.

Senator HARTKE. Now, I think it will not do any good at this time; I have attempted, as chairman of this hearing, to permit everyone to have his say and have a statement. I don't think it does any good to reiterate the statements that have been made or go over some of the questions.

There is a rather serious charge made against you about misrepresentation in a magazine called the New Yorker, concerning the campaign of 1970. And I do think that in view of the fact that that charge

¹ See p. 71.

is made, that in all fairness, we ought to give you an opportunity to make whatever comment you feel is appropriate. That is concerning Mr. Gore's position on busing, for example, and on the question of—

Mr. MACFARLAND. Mr. Chairman, at the behest of the writer of that article, I met him and had what I thought was a very frank and a very friendly discussion, we had lunch at a restaurant out in the country and spent some hour and a half with him, 2 hours perhaps. What came out in the New Yorker in every instance or in some instances was not what I said to this gentleman.

He painted an inaccurate picture. I did not feel at the time that I made any comments about the Senator although I did identify some radio tapes and spots. I did not feel that I had misrepresented the situation that Senator Gore took, which he'd taken in the Senate of the United States and publicly.

And, otherwise, I did not feel that I had misrepresented his positions. I stated, frankly, what I thought of those positions. Senator Gore and I have been friends for many years. We had differed on a good many things. I had written him a letter as a friend and as a supporter and had gotten what I considered a not too courteous reply, and I later talked about this. And the differences, sir, were so great—in good conscience and sincerity, I could not have supported him and did not support him.

This created some furor in Tennessee and I was asked repeatedly about Senator Gore's personal life. I said, "Senator Gore, in my opinion, is a gentleman." I still say that.

We differ politically but—

The CHAIRMAN. If I could just interrupt. We've got a voting coming up. I've got to ask you two questions on your law practice which has been quite varied. Have you ever represented railroads?

Mr. MACFARLAND. No, sir.

The CHAIRMAN. Have you ever represented inland water carriers?

Mr. MACFARLAND. No, sir.

The CHAIRMAN. Okay. I wanted that for the record.

Senator HARTKE. We'll recess these hearings subject to the call by the Chair. We will just have to make the best arrangements we can here. Sorry. We'll notify you, Mr. Murphy, and also—

Mr. MACFARLAND. May I inquire? Shall I stay here or shall I stand by?

Senator HARTKE. Staff will make arrangements just as soon as we can. We are on a limited time of voting.

We'll recess to the call of the Chair.

(Recess.)

Senator HARTKE. Do you have any family?

Mr. MACFARLAND. Yes, sir. I have a brother in Tennessee, attorney.

Senator HARTKE. That's a noble profession.

Mr. MACFARLAND. His name is Lon MacFarland, attorney, from Columbia, Tenn., approximately 45 miles southeast of Nashville.

Senator HARTKE. Senator Baker, I know you are here to protect your interests. I have no further questions of Mr. MacFarland.

I will say this, though, that if there are any further questions, I will leave the hearing record open as all the others are also left open.

Thank you for coming and I appreciate your staying until we came back.

Mr. MACFARLAND. Thank you, sir.

Senator HARTKE. We will now take up Mr. Murphy, Rupert Murphy. Rupert L. Murphy's biography will be included in the record.
(The biography follows:)

BIOGRAPHICAL SKETCH OF RUPERT L. MURPHY

Rupert L. Murphy, a Democrat, was first appointed to the Interstate Commerce Commission in 1955 by President Eisenhower for the balance of an unexpired term ending December 1957. He was reappointed for a full seven-year term on January 30, 1958, and was again reappointed by President Johnson for a term which will expire December 1971.

The Commissioner was born at Byromville, Georgia July 27, 1909, the son of Luther H. and Ardelia (Woodruff) Murphy. He received LLB and LLM degrees from Atlanta Law School and is admitted to the Georgia Bar and the bars of the District Court of the United States, Northern District of Georgia, and the United States Supreme Court.

Commissioner Murphy was associated with the Southern Freight Tariff Bureau from 1926 to 1929. From 1929 to 1942 he represented the Fulton Bag and Cotton Mills in Atlanta. In 1942 Mr. Murphy entered the private practice of law and represented the Georgia-Alabama Textile Association at Atlanta, the American Cotton Manufacturers Institute, the Cotton Manufacturers Association of Georgia, the Alabama Cotton Manufacturers Association, the Tufted Textile Manufacturers Association, and the National Textile Waste Exchange.

He is past President and Chairman of the Board of Governors, Southern Traffic League; he was General Chairman of the Southeast Shippers Advisory Board, and was Vice President of the National Industrial Traffic League.

The Commissioner's varied assignments during his service on the Commission have made it possible for him to participate in all facets of its regulation. He served for a number of years as a member of Divisions 2 and 3, which were concerned principally with rate, tariff, valuation, safety and service matters. On January 1, 1958, he became Chairman of Division 1, the operating authority division, and continued to serve in that capacity until March 1, 1961, when he was elected to the newly created post of Vice Chairman of the Commission. As Vice Chairman, he was responsible to the Commission for the operations of its regulatory bureaus.

On January 1, 1962, Commissioner Murphy was elected Chairman of the Commission for the ensuing year. Following his Chairmanship, Commissioner Murphy served as a member of Division 3, the finance division. He again became Chairman of Division 1 on April 1, 1965, which post he still holds. On February 2, 1967, Commissioner Murphy was selected by the Commission to serve as a member of the Executive Committee of the National Association of Railroad and Utilities Commissioners.

Commissioner Murphy has, for the past several years, been given special assignments including the handling of motor carrier service complaints and small shipments problems, and coordinating the Commission's activities in the field of freight car shortages, better utilization and service.

He is a member of the American Bar Association, the Georgia Bar Association, the Federal Bar Association, the Association of Interstate Commerce Commission Practitioners, the American Society of Traffic and Transportation, and is a member of Delta Theta Phi legal fraternity, Delta Nu Alpha transportation fraternity, and National Lawyers Club.

He is married to the former Marion Kerlin of Fayetteville, Georgia, and has one son, Rupert L. Murphy II. The family lives at River House, Arlington, Virginia.

Senator HARTKE. This is a reappointment. Do you have any special statement that you care to make at this time?

STATEMENT OF RUPERT L. MURPHY

Mr. MURPHY. No.

Senator HARTKE. Senator Cotton, do you have any questions?

Senator COTTON. No questions. Mr. Murphy has served with distinction. In his reappointment, I'd be happy to vote for him.

Senator HARTKE. Senator Baker?

Senator BAKER. I have no questions.

Senator HARTKE. What is your political position, Mr. Murphy?

Mr. MURPHY. Democrat.

Senator HARTKE. I'm going to repeat to you, and I've said this to you privately, and I'm going to say it publicly and I'm going to repeat it again and again.

I hope that the Commission will remember that they are Commissioners. With all due respect to the expertise of the staff, if there's one complaint I hear about every bureaucracy, it's the fact that staff tells the Commissioners what to do and, in some cases, I find that the staff feels that they have the Commissioners at their mercy.

I will say to you now, and I say to the chairman who is present, that if there's ever any case of that kind where you feel that there is an attempt made to intimidate Commissioners by staff members, if you'll bring it to the attention of the committee, we will have public hearing and full disclosure of those facts. Because if there's one thing that this country is fed up with is the fact that they find that the Government is beyond their reproach, and the civil service is not made to protect civil servants in acts which are not in the public interest.

The second thing is that I hope that the Commission would be more daring, take more initiative and would also be willing to recognize that there is such a thing as the human quality involved in operation of government. That very simply means that sometimes when you look at the present, the fact is that it does not necessarily appear that that is what really should be done in the situation. That's what you are there for, to exercise the quasi-legislative function of the Congress.

Just as I said a moment ago, ultimately, the Senate will decide the political affiliation of any individual or the nomination of a confirmation very simply by the fact of the way we vote. Ultimately, that is the decision, and I know that you have a long, indeed dedicated, career behind you. I wish you the best as I certainly am going to be hearing from you.

Mr. MURPHY. Mr. Chairman, may I say one word in response to your statement. I defy anyone to point out any instances where the staff has controlled me.

I get their advice, work with them very close, but I took the oath of the office to perform my duties and I do not believe that you can find an instance where you can say that the staff substituted their views for my position on it.

Senator HARTKE. But, you see, Mr. Murphy, let me say for the record again, that is not the essence of the complaint of the man in the street. The essence of the complaint of the man in the street is not that it is controlled: for example, if there is an item before one of the staff members and this is true in every Commission I have seen here, they say, "Well, that's not before the Commission."

I tell you that any piece of correspondence, any memorandums, any telephone call made, by any staff member are made to the Commission and not to the staff.

Mr. MURPHY. I agree with you.

Senator HARTKE. And that's the point. Whenever I hear the statement made, "Well, that's a matter that's before the hearing examiner

and not before the Commission," well, it's before the Commissioner and there's no reason under the administrative law that that Commission cannot at any time go right straight back to the bottom of that situation and touch it. Once you freeze yourself into the bureaucratic trap of believing that you cannot act which, at the present time, is strangling this country, you come up with the end result that people complain, not about getting a decision, but rather that they cannot find out which way they are going.

The end result of justice delayed is often justice denied. That is going to have to be dealt with effectively. That's a great disenchantment in this country with the Federal Government. That's a great disenchantment with government, generally. It is not the fact that something is done which is just absolutely contrary to good judgment, but the failure to decide, the delay of deciding.

And let me say that even in the field of rate structures of which certain magistrates complain about the number and speed of increases, all I can say to you is, if the increase is justified, then it should be done. If it is not, it shouldn't.

What I am saying is that the decision should be made on the merits as quickly as possible, as expeditiously as possible, and with as little redtape as possible and I am sure you agree with that.

It is just giving you a sounding board for me to say it.

Senator CORRON. Let me say, Mr. Chairman, I agree with your concept. But, I was thinking while you were admonishing Mr. Murphy, I'm supposed to be in another committee meeting now. I'm represented there by members of my staff who will have to report to me, and bring me up to date. I, therefore, think Senators, too, are sometimes influenced by their staff.

Senator HARTKE. I don't say you should not be influenced by the staff. I was saying that, ultimately, you should be the boss, Senator Cotton, and I know you are.

Thank you, Mr. Murphy.

Now, we have one more nominee. That is Mr. Rudolfo Montejano.

STATEMENT OF RUDOLFO MONTEJANO

Senator HARTKE. Good morning to you, sir. Your biographical record will be included as a part of the record, and you filed your financial report with the committee.

(The biography follows:)

BIOGRAPHICAL SKETCH OF RUDOLFO MONTEJANO

Born: Santa Ana, California, August 7, 1938. Married, three children.
Admitted to Bar: California, 1966.

Education

High School: Santa Ana High School, Santa Ana, California.

Preparatory: University of California, Berkeley, California (AB-1960).

Alumni Scholar; Kiwanis Foundation Scholarship; John Treadwell Bixby Scholarship; California Alumni Scholarship.

Legal: University of California (Boalt Hall) Berkeley, California (LLB-1966). California Law Review-Research Board 1965-66; John Woodman Ayer Fellowship in Law, 1964-65 and 1965-66.

Fraternity : Phi Delta Phi.

Legal Authorships : Comment 53—California Law Review 611 (1965).

Private Clubs and Organizations

California Alumni Association ; Boalt Hall Alumni Association ; Orange County Bar Association ; Orange County Junior Barristers ; Santa Ana Chamber of Commerce.

Military Service

U.S. Army Intelligence Corps, 1st Lieutenant 1961-63 ; Honor Graduate, Officers Infantry School, Ft. Benning, Georgia ; Award for Outstanding Performance During Tour of Active Duty.

Business Experience

Cohen, Stokke & Owen, Attorneys at Law, 1212 North Broadway, Santa Ana, California (June 1971-Present).

Rutan & Tucker, Attorneys at Law, 401 Civic Center Drive West, Santa Ana, California (1966-May 1971).

Office of the Attorney General of the State of California, San Francisco, California (Legal Assistant, Summer 1965).

Public Office

President of the Board of The Rancho Santiago Community College District.

President of the Board of Trustees of the Santa Ana Unified District.

Trustee of Bowers Museum, Santa Ana, California.

Senator HARTKE. What is your political affiliation ?

Mr. MONTEJANO. I am a Democrat, sir.

Senator HARTKE. All right. Now then, do you have a statement that you care to make ?

Mr. MONTEJANO. No, sir.

Senator HARTKE. Senator Cotton, do you have any questions you care to ask ?

Senator COTTON. Do you, to your knowledge, have any financial holdings that could possibly conflict with your duties on the Commission ?

Mr. MONTEJANO. No, sir, I do not. But if I do, then I will divest myself of those holdings immediately.

Senator COTTON. And, have you had any experience pertaining to transportation ?

Mr. MONTEJANO. No, sir. My experience in the transportation field is quite limited. I have had experience in dealing with matters of public concern in terms of education, primarily. I served as president of the Board of the Rancho Santiago Community College District and also the Santa Ana Unified District in my hometown. So I have had public administrative experience as chairman of the board.

Senator COTTON. Thank you. I have no other questions.

Senator HARTKE. What is the nature of your law practice, sir ?

Mr. MONTEJANO. I'm a trial attorney in a law firm.

The law firm itself has tax work, corporate work, business—

Senator HARTKE. You do no work whatsoever of transportation companies, corporations or shippers ?

Mr. MONTEJANO. No, sir.

Senator HARTKE. How familiar are you with the activities of the ICC ?

Mr. MONTEJANO. I'm not very familiar with the activities as such. I'm aware of generally what the Commission does, generally the structure of the Commission, but in terms of the detail workings of the Commission, I really have little knowledge.

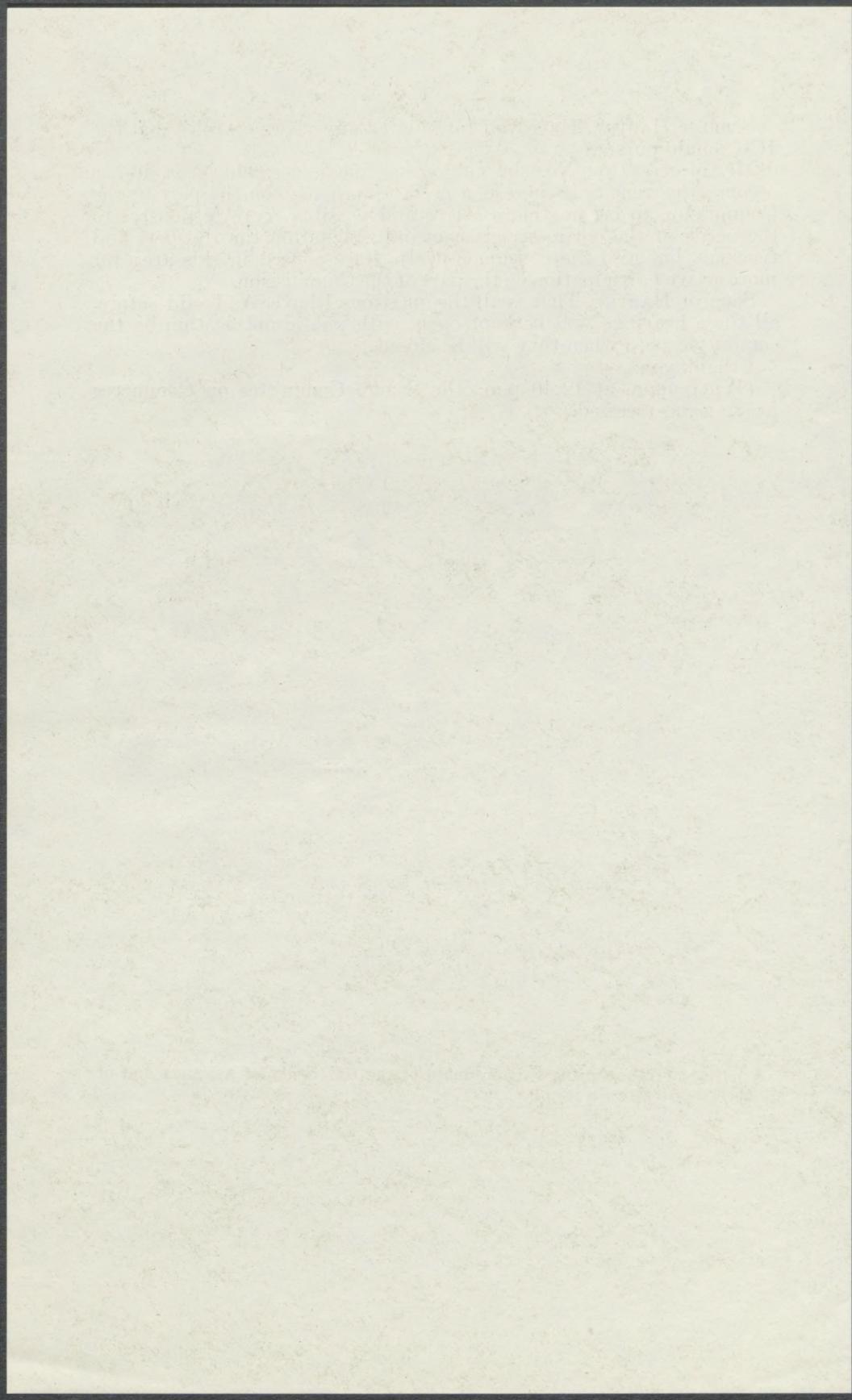
Senator HARTKE. Have you formulated any views on roles that the ICC should pursue?

Mr. MONTEJANO. No, sir, not on specific issues. However, it has become apparent that there is a need, apparently, on the part of the Commission to become more active and possibly more responsive to the needs of the entire society, not only including the shippers and truckers, but also the consumer itself. I see a need in this area for more active participation on the part of the Commission.

Senator HARTKE. That is all the questions I have. As I said before, all these hearings will be kept open, with public notification by the committee as to when they will be closed.

I thank you.

(Whereupon, at 12:40 p.m., the Senate Committee on Commerce hearing was recessed.)



ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 29, 1972.

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

DEAR CHAIRMAN MAGNUSON: I wanted to take this means of strongly urging and recommending the confirmation of Senator Alfred MacFarland of Lebanon, Tennessee, as a member of the Interstate Commerce Commission.

In this connection enclosed are clippings from the Tennessee press concerning Senator MacFarland, which I believe you will find of interest in connection with your forthcoming confirmation hearings on his nomination by the President.

Certainly Senator MacFarland should be confirmed—he is a man of honor and integrity, his qualifications for this appointment are outstanding, and I recommend him highly and without reservation.

With kindest regards and best wishes, I am
Sincerely your friend,

JOE L. EVINS,
Member of Congress.

Enclosure.

[From the Nashville Tennessean, Friday, Mar. 24, 1972]

NIXON PICKS MACFARLAND FOR ICC POST

(Tennessean Washington Bureau)

Washington.—President Nixon has nominated Lebanon lawyer Alfred MacFarland to a \$38,000 post on the Interstate Commerce Commission. Sen. Howard Baker and William E. Brock III. announced yesterday.

Baker and Brock both said they expected no problems as to Senate confirmation of MacFarland.

MacFarland would succeed John M. Bush of Ohio, whose term is expiring. Bush serves as vice chairman of the 11-member committee.

MacFarland held a variety of high level positions in Democratic state administrations before returning to the practice of law in Lebanon a decade ago.

He was active in the successful Senate campaign in 1970 when he supported Brock who unseated Democrat Albert Gore.

MacFarland's appointment is for a full term of seven years. The appointment was forecast two weeks ago by the Lebanon Democrat, which learned that the FBI was investigating MacFarland's background.

The ICC regulates common carriers, such as the trucking industry and railroads in interstate commerce.

MacFarland, who will be 55 on April 23, was commissioner of revenue in the administration of Gov. Buford Ellington, and was general counsel to the Tennessee Public Service Commission.

He also served as chairman of the State Board of Equalization and has held membership on the state Oil and Gas Board of Claims.

A native of Lebanon, he is a graduate of the University of Alabama and of Cumberland University law school.

[From the Nashville Tennessean, Friday, Mar. 24, 1972]

MACFARLAND HAS REPUTATION FOR PERSONAL INDEPENDENCE

(By Charles L. Fontenay)

"Administration leaders say privately MacFarland was too independent for them."

That statement from a news story just over a decade ago describes Alfred T. MacFarland, the Lebanon attorney whom President Nixon just nominated to the Interstate Commerce Commission, about as well as any single sentence could.

They used to call him "Young Alfred" a couple of decades ago, when he was too independent for Gordon Browning's administration. He was in the State Senate then, and his old friend, Speaker Walter M. (Pete) Haynes of Winchester, would peer down from the rostrum over his spectacles and boom, "Young Alfred . . .!" MacFarland got that nickname in college.

He was born in Lebanon and stayed there to go to school, except for work on his BA degree at Vanderbilt University and the University of Alabama. He went back to Lebanon for his LLB degree, from Cumberland University, famous for its production of noted lawyers.

There, one day, Watson Chambers, son of the dean, was conducting a class and asked the question, "What is the law merchant?" It went the rounds for a time, with no one able to answer it, giving MacFarland time to look up the answer (a body of law having to do with shipping).

When MacFarland held up his hand, Chambers looked at him in some surprise: "Is that you, Young Alfred?" he asked. The nickname caught on among the students and was picked up by Haynes and the late John Hooker Sr.

MacFarland had served one term in the State House of Representatives, in 1945, before he came to the Senate in 1951 and became Governor Brown's floor leader.

He and Jim Camp of Sparta worked as sort of an administration team on the floor—and as a social team with a third senator, Forrest Ladd of Memphis. But when Browning sent up a bill to increase cigarette taxes, that was too much for MacFarland and Camp both. Averring that the governor had promised no new taxes they bowed out of the administration fold, and administration bills from then on were handled catch-as-catch-can (Haynes came down from the speaker's rostrum to guide the tobacco tax bill through the Senate).

Shortly after that legislature ended, MacFarland was appointed general counsel for the Tennessee Public Service Commission and served in the post for four years. He says he never fell out with the commissioners on any major question, so the interlude must be considered one of the more unusual periods of his life.

That sort of peace and general agreeableness did not extend to his next public job, state revenue commissioner in Gov. Buford Ellington's cabinet. He held the post for a year and a half and did a pretty impressive job: collections of taxes went up noticeably, and the percentage of the cost of collection dropped to less than 1% for the first time in more than 10 years.

But MacFarland had a legislative program he wanted to see enacted—repeal of the state's fair trade law on liquor and more effective laws to control illegal liquor in the state—and the administration wouldn't back him up. MacFarland quit in 1961 and went back to Lebanon again to practice law.

There he has been ever since, a country lawyer and a gentleman farmer. As for his law practice, he said, "Well, you know, as you grow older you get out of trial work more and into more probate work. That's what I've done." His farm is at Castalian Springs, across the line in Sumner County, and it's primarily for living and "raising cattle, chickens and children."

His cattle are Santa Gertrudis, the first American breed, tough, big red animals developed by the King Ranch in Texas. He has three children—he was married a little later in life than most men, in 1952 to Miss Julia Tyree Bates—and the oldest is now a freshman in college. (The chickens, apparently, are not exceptional.)

MacFarland suffered a heart attack in 1960, while he was revenue commissioner, but has had no such trouble since. He attributes that fact largely to the farm and the children.

"When you get home from the office and ride around the farm on horseback, the farther you get away from the house, the less your business tensions bother

you," he said. "The cattle aren't going to talk to you about them. All they want is a little grass and water."

MacFarland, nearing 55, has always worn an observant, somewhat sardonic expression on his rather long face, and the expression has not changed much as his hair thinned. Behind the expression is a considerable store of good humor and a very strong sense of integrity.

Most of those who have known MacFarland well have respected that integrity, even when it inconvenienced them.

After he had broken with the administration in 1951, when the Senate and House couldn't agree on the terms of the tobacco tax bill, Haynes—who knew his man—appointed MacFarland chairman of the conference committee. "I know you didn't vote for the bill, Young Alfred," he said, "but the majority of the Senate did, and I want you to represent the will of the Senate on the conference committee," MacFarland did.

MacFarland's last exhibition of his personal mode of independence was in 1970 when, a lifelong Democrat, he took the job as statewide chairman of a citizens' committee for the senatorial campaign of William E. Brock III in opposition to his neighbor from Carthage, incumbent Sen. Albert Gore.

But, assuming the Senate confirms his appointment, he'll undoubtedly have an opportunity to exercise it again on the Interstate Commerce Commission.

STATE DEMOCRATIC EXECUTIVE COMMITTEE OF TENNESSEE,
NASHVILLE, TENN., July 3, 1972.

Senator WARREN MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: It has been brought to my attention that President Nixon is planning to nominate Alf McFarland from Tennessee to the Interstate Commerce Commission as a Democrat. Mr. McFarland may or may not have other qualifications for this office, but he is *not* a Democrat.

Mr. McFarland in the 1970 Senate race not only supported Bill Brock, Republican, but took an active leadership role in that Republican's campaign. The radio in Tennessee was flooded with radio spots taped by Alf McFarland against Senator Albert Gore, incumbent Democratic nominee. Senator Gore, as you know, was an outstanding Democratic Senator and statesman. His defeat in a contemptible campaign to which Alf McFarland contributed still rankles Democrats in Tennessee.

Tennessee Democrats would appreciate your protest against Mr. McFarland's appointment to the Democratic slot on the Interstate Commerce Commission.

Sincerely yours,

MRS. JEAN LIVINGSTON,
National Committeewoman.

NASHVILLE, TENN., July 5, 1972.

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

DEAR SENATOR MAGNUSON: I am writing to voice strenuous objection to the nomination of Mr. Alfred MacFarland of Tennessee who is being considered for a position as a *Democrat* on the Interstate Commerce Commission.

No Republican labored more diligently than Mr. MacFarland in 1970 for the election of Republican Senator William E. Brock III. Mr. MacFarland's efforts in defeating Senator Albert Gore through techniques, including numerous radio spots, which were duplicitous and reprehensible should disqualify him for any honors due a Democrat.

I am certain that the Democratic party has many potential Commissioners whose loyalty to and support of the party is neither questionable nor capricious.

I urge the Commerce Committee to reject this nomination of Mr. MacFarland as a Democrat.

Very truly yours,

JANE G. ESKIND.

JAMES F. SCHAEFFER,
Memphis, Tenn., July 5, 1972.

Senator WARREN MAGNUSON,
*Chairman, Senate Commerce Committee,
 Senate Office Building, Washington, D.C.*

DEAR SENATOR MAGNUSON: I am advised that the name of Alf McFarland of Lebanon, Tennessee has been placed before your committee for advice and consent for an appointment as Commissioner of the Interstate Commerce Commission. Although I have no knowledge of Mr. McFarland's expertise and ability with regard to commercial matters, I am concerned about his credentials for membership on the commission as a Democrat.

In 1970, I was in the Republic of South Vietnam when Senator Albert Gore ran for re-election as Senator from the State of Tennessee. My understanding, however, is that Mr. MacFarland openly and actively supported the candidacy of Bill Brock in that election. As a lifelong Democrat, I feel that when an individual denounces an incumbent Democratic Senator with a long history of highly creditable service to his State and Nation and instead supports the candidacy of his Republican opponent, then that individual can no longer be considered a Democrat for purposes of nomination to any commission.

Should Mr. McFarland be deemed acceptable for this appointment in view of his background and experience, then I would not question his selection to serve in this capacity as a Republican. Nevertheless, I strongly urge that your committee review and reject this nomination if the appointment requires that the person be a member of the Democratic Party.

Sincerely,

J. E. MITCHELL.

HAYNES & GILREATH, ATTORNEYS,
Knoxville, Tenn., July 5, 1972.

HON. WARREN MAGNUSON,
*U.S. Senator, Chairman, Commerce Committee,
 Senate Office Building, Washington, D.C.*

DEAR SENATOR MAGNUSON: You have before your Committee the nomination of one Alfred McFarland, an attorney from Lebanon, Tennessee, for a seat on the Interstate Commerce Commission. Mr. McFarland has been nominated by the President as a "Tennessee Democrat" to take the place of a Democrat on the Commission.

As a Democrat, attorney, and delegate to the 1972 Democratic National Convention from the Second Congressional District of Tennessee, I am completely and totally opposed to Mr. McFarland's being confirmed for this position by your Committee and the Senate of the United States. Mr. McFarland was a leader in a so-called "Democrats for Brock" campaign organization during the 1970 campaign for the United States Senate between former Senator Albert Gore of Tennessee and the Republican Congressman Bill Brock.

Now Senator Brock is trying to pay off one of his chief supporters in that election with a seat on the Interstate Commerce Commission. In no sense of the word is Alfred McFarland a Democrat, especially a "Tennessee Democrat", particularly in view of his all-out support of Brock in the election in 1970. Mr. McFarland even went so far as to make radio and television taperecordings of himself and his voice denouncing Senator Gore and masquerading as a Democrat in support of Bill Brock.

To confirm this man to the Interstate Commerce Commission as a "Tennessee Democrat", to replace a Democrat on the Commission, would be a gross injustice to all loyal Tennessee Democrats. Moreover, it would be a totally undeserved slap in the face to former Senator Albert Gore whom this man worked day and night to defeat in 1970.

I would appreciate your doing everything in your power to insure that this man is not confirmed to Interstate Commerce Commission. As long as the Democratic party controls the United States Senate I would think that the Democratic majority would only confirm a true Democrat to the Commission to fill a "Democratic seat" on the Commission.

Thank you very much for your consideration. I know you will do what is right for the Democratic party and the Interstate Commerce Commission.

With kindest personal regards, I am,

Very sincerely yours,

MICHAEL Y. ROWLAND.

FERGUSON & SHINE,
ATTORNEYS AT LAW,
Kingsport, Tenn., August 15, 1972.

Senator ERNEST F. HOLLINGS,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: I am enclosing herewith a copy of a letter under date of July 6, 1972, which I sent to Senator Warren Magnuson in his capacity as Chairman of the Senate Commerce Committee. As a Democratic member of that Committee, I felt you would be interested to learn of my opposition to the nomination of

As you will note, the enclosed letter details my opposition to Mr. MacFarland, Mr. MacFarland to a Democratic seat on the I.C.C.

whom I do not consider a member of the Democratic Party of the State of Tennessee. Not only do I feel that Mr. MacFarland has deserted the Democratic Party in this State, but the enclosed article from the *New Yorker* magazine, in my mind, clearly indicates he left the National party sometime in the late 50's. You have no doubt already received a letter from Mrs. Jean Livingston of Chattanooga, Democratic National Committeewoman from Tennessee, wherein she joins with me in stating her opposition to the nomination of Mr. MacFarland.

Your assistance in opposing this nomination will be appreciated and as I indicated to Senator Magnuson some time ago, I desire an opportunity to testify at the time Mr. MacFarland's nomination is considered by the Committee.

Very truly yours,

D. BRUCE SHINE,
Democratic National Committeeman from Tennessee.

Enclosure.

FERGUSON & SHINE,
ATTORNEYS AT LAW,
Kingsport, Tenn., July 6, 1972.

U.S. Senator WARREN MAGNUSON,
Chairman, Senate Commerce Committee, New Senate Office Building, Wash-
ington, D.C.

DEAR SENATOR MAGNUSON: I am writing to you in my capacity as Democratic National Committeeman from Tennessee to express my opposition to the nomination by the President of Alfred T. MacFarland, Esq. of Lebanon, Tennessee, to a seat on the Interstate Commerce Commission.

The nomination has been made pursuant to 49 USC Section 11. That portion of the Code provides that of the eleven (11) Commissioners, "Not more than six of the Commissioners shall be appointed from the same political party." In submitting Mr. MacFarland's name to the Senate, the President has designated that his nominee is a member of the Democratic Party and ergo, he will be, if confirmed by the Senate, one of five Democrats on the ICC.

This is to advise you that Mr. MacFarland is *not* a Democrat and confirmation of him by the Senate will constitute a Commission with seven members of the same political party (Republican), an act clearly in violation of 49 USC 11.

Mr. MacFarland in 1970 left the Democratic Party and played a key and instrumental role in the election of a Republican U.S. Senator from Tennessee. He prepared radio advertisements, the text of which publicly stated that he was then and there supporting a Republican nominee (William Brock III) over the nominee (Albert Gore) of his former party, the Democratic Party. Further, in addition to lending his public support to Mr. Brock via radio advertisements, Mr. MacFarland made speeches to public groups indicating his support of Mr. Brock and engaged in utterances against Senator Gore which were untruthful and calculated to arouse a feeling of animosity against the Democratic Party and all its nominees.

In fairness to Mr. MacFarland, an attitude which he never exhibited toward Senator Gore, I must say that the President's nominee is an able member of the Bar of Tennessee, who has in the past exhibited the necessary qualifications to sit on the Interstate Commerce Commission. I would not oppose his nomination if the President had submitted it in its proper classification—a nomination of a member of the Republican Party. However, such is not the case. His nomination is patently a reward by Senator Brock and President Nixon for Mr. MacFarland's deserting the Democratic Party and joining the Republican Party. If the President and Senator Brock wish to reward Mr. MacFarland for this act, then I suggest they submit his name to the Senate for one of those six (6) seats reserved for the President's party and not a seat designated by law to the party he so actively opposed and deserted.

I would welcome the opportunity to publicly appear before the Sub-Committee which will conduct Mr. MacFarland's confirmation hearing and to express to them the feelings of all good Democrats in Tennessee over this nomination.

Very truly yours,

D. BRUCE SHINE.

[From the New Yorker, July 10, 1971]

* * * * *

Of all the television and radio political appeals I had heard in Tennessee, by far the most effective were those featuring a man named Alfred MacFarland, a lawyer from Lebanon, in Middle Tennessee. Formerly a supporter and friend of Gore's, MacFarland had turned against him and was now head of a group called Democrats for Brock. Many observers felt that he had been having a devastating effect on Gore's chances. One of MacFarland's thirty-second radio spots, delivered in a resonant and inexplicably convincing voice, went, "No child ever got an education riding on a bus." Bill Brock said that the other day when he was talking about a subject that concerns every parent of school-age children—busing. I'm Alfred MacFarland, of Lebanon. I'm a lawyer. And I agree with Bill Brock that busing is un-Constitutional, that it's wrong, and that our elected representatives ought to be doing everything they can to stop forced busing. However, Senator Albert Gore has failed to do that. In fact, he recently opposed an amendment which would remove from the federal courts' jurisdiction the administration of our local schools. That kind of misrepresentation is one of the reasons I'm backing Bill Brock for the Senate seat now occupied by Albert Gore—even though I've been a Democrat all my life." When it came to misrepresentation—not of constituents but of facts—MacFarland was a match for his candidate. From the start, Senator Gore steadfastly opposed the busing of children to achieve racial balance in public schools, because he believed that the value of community schools was greater than the value of racial balance. And the amendment that MacFarland referred to—submitted by Senator Sam J. Ervin, Jr., Democrat of North Carolina, earlier that year and withdrawn for lack of support—had been aimed not at busing but at wiping out altogether the Supreme Court's desegregation order in the landmark case *Brown v. Board of Education*. In another radio address, MacFarland stated, "I'm from Lebanon, and one thing I firmly believe in is the right of the people to make their own decisions in matters of religion, including whether or not their children can pray in school if they want to. But Senator Albert Gore doesn't feel that way. Three times—*three times* in the U.S. Senate—he has taken a position *against* allowing voluntary prayer in our public schools." The "three times" referred to three amendments that were proposed within a period of an hour in the Senate in 1966. Two votes were taken on an amendment put up by Senator Everett M. Dirksen; it was rejected after every major church body in the United States had denounced it. The third vote was on a resolution offered by Senator Birch Bayh, Democrat of Indiana, to the effect that the sense of the Senate was that the Supreme Court had never said anything about voluntary prayers; this resolution was also rejected, on the ground that it was not the business of the Senate to describe what the Court hadn't done.

After listening to several other campaign appeals by MacFarland, I telephoned him at his law office in Lebanon, and he suggested that we meet for lunch that day at a place called the Cracker Barrel Country Store, outside town. Over a lunch of ham and biscuits, MacFarland, a pleasant-looking bald man in his early fifties, with a thin face and deep seams running from the sides of his nose to the corners of his mouth, told me that he had formerly served in both houses of the state legislature and as commissioner of revenue, that he thought of himself as an independent Democrat, and that he had voted for Nixon in 1960 and 1968. As the head of Democrats for Brock, he went on, in addition to the television and radio spots he had made innumerable speeches throughout Middle and West Tennessee, and had also organized such supporting groups as Farmers for Brock, Lawyers for Brock, Sportsmen for Brock, and Doctors for Brock; along the way, he added, he had collected a large number of campaign contributions from Democrats who were going to vote Republican this time. After lunch, he suggested that we take advantage of the sun, which was uncommonly warm that day, and led the way outside to a picnic bench on the restaurant's grounds.

"This is a mellow spot," MacFarland said as we sat down. Pointing toward a gentle slope that rose off to one side, he continued, "My grandfather and grandmother are buried right over there on a little hillock. I'm the sixth generation of MacFarlands here. My grandfather had slaves. He freed them in 1858. They just skedaddled, every one of them. Of course, they were all back inside of a week.

When the news came about the Emancipation Proclamation, townsmen came over to talk to my grandfather, who was a doctor and was highly respected here. They asked him what to do, and he said, "I see no change. Some men are born to rule and some are born to serve. Good day, gentlemen." MacFarland paused and looked fondly up the hillside. Finally, he turned back and went on, "I married one of the few Phi Beta Kappa girls I ever knew who was a Republican. Smart people tend to be liberal. Anyway, she never pressed me, but she was happy when I came out for Brock."

I asked what had led him to make that decision, and he answered, "I suppose watching the Democratic National Convention in 1968. If that Allard Lowenstein is a Democrat, I'm not. If Charles Goodell is a Republican, I'm not. Maybe I'm a progressive conservative. But it goes back even before then. I became convinced four or five years ago, after voting for Gore in 1964, that he wasn't the man for Tennessee. I watched him vote wrong repeatedly. His closeness to the Kennedys bothered me. And his voting record was spend, spend, spend. In one of my spots, I point out that if all the legislation he has proposed had been enacted, it would come to two hundred and twenty-five billion dollars, or more than the entire federal budget." He did not mention that these bills had been proposed over a period of eighteen years, that many of them were duplicates or adaptations of bills that had failed earlier, or that, of course, only a very small number of them had ever been enacted. "Then I got even more discouraged by Albert Gore when he voted against Haynsworth and Carswell—very discouraged," MacFarland continued. "I wish Albert could explain those votes to me. But what really set me off was the gun-control bill that Albert supported. I wrote him about that and got back a not very courteous reply. Country feeling is very strong on guns. There are thirty thousand people in this county, and nine out of ten families have guns at home. Most of the city people came from the country not too long ago, and they're used to having guns. Now Albert wants to take them away." Neither Gore nor any other senator had ever proposed that guns be taken away from sane adults who had no criminal record. Rather, he and a few others had supported a move to register guns, like automobiles.

I asked MacFarland which provisions of the gun-control laws he found objectionable, and it turned out that he was unfamiliar with the contents of the two bills that had been enacted, which did little more than make it illegal for minors, ex-convicts, and mental defectives to obtain firearms through mail-order purchases. "Regardless of the facts on the gun issue, Albert could at least listen to the voters," MacFarland said irritably. Suddenly he jumped up, took out a pocket knife, opened it, jabbed it into the ground, and straightened up and waved a weed he had dug out. "These things are a plague and an abomination—Russian thistles," he said, and abruptly sat down again. He was silent for a few moments, and then went on, "Whether or not Albert Gore voted to disarm the people, ninety per cent of them here think he did." Of course, many of them thought so because Alfred MacFarland had told them to. * * *

ROSENFELD, BOROD, BOGATIN & KREMER,
Memphis, Tenn., July 5, 1972.

HON. WARREN MAGNUSON,
Chairman, Senate Commerce Committee, U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: It has recently come to my attention that a fellow Tennessean, Alf McFarland, is being considered for a commissioner on the Interstate Commerce Commission. It has also come to my attention that he is being considered for this post as a Democrat. I have no knowledge concerning Mr. McFarland's qualifications for this position, and I do not intend by this letter to cast any doubt upon them. However, I do feel that if his party affiliation is important in determining whether he should receive this appointment, you and other members of the Senate Commerce Committee should be advised that although Mr. McFarland might call himself a Democrat, he was one of the chief contributors and strategists in the successful campaign of Bill Brock to unseat Senator Albert Gore in 1970. Mr. McFarland might call himself a Democrat, but for many Democrats in Tennessee that election provided a true litmus-test of state and national party affiliations for the decade to come.

Sincerely yours,

RONALD S. BOROD.

UNITED STEELWORKERS OF AMERICA, A.F.L.-C.I.O.,
Memphis, Tenn., July 5, 1972.

Hon. WARREN G. MAGNUSON,
*Old Senate Office Building,
 Washington, D.C.*

DEAR SENATOR MAGNUSON: Mr. Alf McFarland of Lebanon, Tennessee, has been nominated by Senator Brock to serve on the I.C.C. Commission. I want to oppose this nomination as Mr. McFarland, a supposed Democrat, worked very hard for Senator Brock against Gore. To me, this is his pay-off.

I strongly urge you to do everything that you can to defeat this appointment.

Sincerely,

HUGH M. BROWN, Jr.,
Legislative Representative.

MEMPHIS AFL-CIO LABOR COUNCIL,
Memphis Tenn., July 5, 1972.

Senator WARREN G. MAGNUSON,
*Senate Office Building,
 Washington, D.C.*

DEAR SENATOR MAGNUSON: Mr. Alf McFarland of Lebanon, Tennessee, has been nominated by Senator Brock to serve on the ICC Commission.

I would like to oppose this nomination, as Mr. McFarland, a supposedly Democrat worked hard for Senator Brock against Senator Albert Gore and to me this is his payoff.

I strongly urge you to defeat this appointment.

Sincerely,

BILLY E. WILLIS,
Program Coordinator.

MEMPHIS, TENN., July 7, 1972.

Re Alf McFarland, U.S. Commerce Commission Appointment.

Senator WARREN G. MAGNUSON,
*Chairman of Senate Commerce Committee, U.S. Senate Building,
 Washington, D.C.*

DEAR SENATOR MAGNUSON: It is my understanding that for some time your committee has been considering the appointment of Mr. Alf McFarland of Lebanon, Tennessee to the United States Commerce Commission as a representative of the Democratic Party under the established practice that part of the commission is made up of Democrats and the other part is made up of Republicans.

This is to go on record that unquestionably, without hesitation, and unequivocally, Mr. Alf McFarland can by no stretch of the imagination be considered a Democrat.

In polite, parlor language, he is a political prostitute.

Mr. McFarland in the 1970 election proceeded to cut a radio tape which was played over and over throughout the entire State of Tennessee, damning to high heaven Senator Albert Gore and his record in the United States Senate. He started this tape by saying, "This is Alf McFarland and I am a life-long Democrat *but* I cannot support Senator Albert Gore." He went on to state why, often mistimes quoting the record such as Senator Gore's position on school busing or prayer in the schools. Needless to say, these were highly emotional issues during the last election and Senator Brock used every political advantage possible out of these issues mainly by distorting them from the actual truth and waiting until the last four days before really publicizing them. All Alf McFarland did was lay the ground work for two consecutive months prior to Senator Brock's newspaper campaign the last four days of the election on these issues.

Is it any wonder then that Senator Brock and Senator Baker have joined hands to promote Alf McFarland of Tennessee as being the new Interstate Commerce Commission appointee wrapping him in the "Democratic banner".

If there is any doubt in your mind that this man may be anything other than a Republican, I would suggest that you confer with the State Democratic Chairman, Mr. Jimmy Peeler of Covington or any of the duly elected members of the State Democratic Executive Committee.

I was elected Chairman of the Democratic Party of Shelby County which has a population of slightly in excess of seven hundred (700,000) thousand persons. This is the largest county and also the largest city in the State of Tennessee. I believe if you confer with anyone knowledgeable in politics they will all concur that to appoint Alf McFarland as a Democrat is a sham. I do not believe that anyone would object if he were appointed as a Republican but I do not, in all candor, think that it is fair to occupy a Democratic seat with such an appointment.

Sincerely yours,

J. B. COBB,

Chairman of the Democratic Party of Shelby County.

FRANKLIN, TENN., July 8, 1972.

Re Alfred MacFarland Nomination to ICC.

HON. WARREN G. MAGNUSON,
U.S. Senate Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: I read a report in the local press on yesterday concerning a letter which you had received from the Honorable Bruce Shine, Democratic National Committeeman from Tennessee concerning Mr. MacFarland's appointment to the ICC. I cannot let this matter go unanswered without putting in my opinion, although I am confident you must receive barrels of mail such as mine.

I am one of those forgotten people in the Democratic Party inasmuch as I am white, male and 57 years of age. I have practiced my profession for some 30 years in a small country town in Tennessee and the Lord has been good to me in that I have always made a good livelihood. Since the time of the civil war, my forebearers have been "chicken eatin Methodist and yellow dog Democrats". If there has been a Democrat in America, I was born and bred one.

Four years ago, I became terribly disenchanted by the Democratic Party and the trend which it had taken. I had never prior to that time scratched a Republican ticket and like Lot's wife thought my party was above reproach. I prided myself on being a Democrat of the Jackson, Jefferson, Truman and Roosevelt schools. I voted Republican four years ago although I still consider myself a Democrat. I do not feel that I left the Democratic Party but rather the Democratic Party left me in the lurch. They no longer spoke my language nor expressed my views. Perhaps conservatism is a curse but I wonder if liberalism isn't just as bad?

I am crying to you, Senator Magnuson, as a Democrat who voted for a Republican President and two Republican United States Senators to help bring our party back to the standards that we know and not to the young female black element who has taken over. Suddenly it has become a great curse to be a mature middle aged white man as far as our Democratic Party is concerned. Have we lost our reason to the extent that experience and maturity are of no value?

Alfred MacFarland is as fine a Democrat as there is in Tennessee and I would stake my life on it. I have not talked to him since this news story, but I do know from his history in the Democratic Party that his feelings are very much as mine. Of course, he should be confirmed as a Democrat, because he is as surely a Democrat as the Pope is Catholic! Won't you as a leader in our party help bring us out of the mire and give us something that we can unify behind?

The nomination of Senator McGovern would complete the destruction of the Democratic Party and would take us as long as reconstruction days to return to respectability. I realize I am a voice in the wilderness, but I think I speak the sentiment of hundreds of thousands of true Southern Democrats who beg for leadership at this time.

Let me hasten to add that I am not a Wallace man nor a professional Southerner, but I am an American with a true concern for the party which I served in an official capacity in the State of Tennessee.

I know you will indulge me this letter and only hope that you find time to personally read it. I guess it helps a fellow to get it off of his chest and now back to representing the farmers in my county!

Respectfully yours,

DAVE ALEXANDER.

ATHENS, TENN., *July 10, 1972.*

Senator WARREN G. MAGNUSON,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: This is written to you as Chairman of the Senate Commerce Committee, in support of the early confirmation of Alfred T. MacFarland, of Lebanon, Tennessee, recently nominated by the President to fill a vacancy on the Interstate Commerce Commission.

As a retired lawyer of more than 40 years practice, including extended service as a trial attorney with the Department of Justice and a hearing examiner with the Federal Power Commission, plus activity in the Tenn., D.C., Federal, American Bar Associations, and Administrative Law Section thereof, and The American Law Institute, I think I am completely familiar with the ideal qualifications for the head of a regulatory agency such as ICC. From my long knowledge of Alfred MacFarland, I think he is ideally qualified to make an outstanding contribution in the position for which he has been nominated.

My reasons for this conclusion are that he is a man of high moral character and integrity, objectivity, courage, good formal legal education, and practical and extensive experience in areas which give him a head-start in the duties of the most important position. Furthermore, I know that his confirmation will meet with widespread approval of the organized bar, because he is the type of man before whom competent lawyers like to appear.

Press reports indicate that a Bruce Shine, of Kingsport, identified as the new Democratic Committeeman for Tennessee, has protested MacFarland's nomination as a Democrat, on the pretense that he bolted the Democratic Party in 1970, because he supported Republican Senator Bill Brock in his successful race to unseat Democratic incumbent Albert Gore. MacFarland and his ancestors, like a good many other Tennesseans, were born into the Democratic party, and worked for the party all their lives. However, of the 150,000 and upwards Democratic majority who had elected Albert Gore, most of us felt that Bill Brock, whom we respected and liked, would come much nearer keeping in touch with our views, and wishes than Albert has for the past several years. So we put what we felt were the best interests of our State and Nation first and elected Brock—rather than supported Gore the Democrat, who had not truly done so. We all, certainly consider ourselves Democrats—but not members of the so-called "New Left", which Mr. Shine possibly favors.

Very truly yours,

RICHARD N. IVINS.

SENATE CHAMBER,
 STATE OF TENNESSEE,
Nashville, July 10, 1972.

HON. WARREN G. MAGNUSON,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: It is my understanding that Tennessee's National Democratic Committeeman, Bruce Shine, has recently communicated with you pertaining to President Nixon's nomination of Alf MacFarland of Lebanon, Tennessee, to the Interstate Commerce Commission.

Apparently, Mr. Shine is attacking Mr. MacFarland's nomination on the basis that his support of William E. Brock against Albert Gore characterized him a Republican rather than a Democrat. I have known Mr. MacFarland for many years and known him to be an active participant in the Democratic party. I would suspect that on this occasion and this occasion alone he undertook his actions for reasons best known to him. I would state that as far as I know in that same election he supported the Democratic nominee for Congress in his district and the Democratic nominee for Governor. Further, I know he worked quite actively in the campaign of the Democratic nominee representing his district in the State Senate.

The Democratic Party in Tennessee is being split to pieces by petty battles such as Mr. Shine is bringing into play in this instance. As chairman of the Democratic Caucus in the General Assembly and as chairman of the Senate Democratic Caucus, I wholeheartedly urge that all Democrats on the Committee support the nomination of Alf MacFarland. It is my position that our party in this State can ill afford to push anyone out who desires to be a member. I know quite well that

Alf MacFarland is a Democrat and always has been a Democrat and now desires to be an active participant within the Democratic Party.

Again, I want to emphasize my strong support for this nomination, and if I can provide you with any further information, please let me know. I appreciate your kind consideration.

Yours very truly,

EDWARD C. BLANK II.

SENATE CHAMBER,
STATE OF TENNESSEE,
Nashville, July 11, 1972.

HON. WARREN G. MAGNUSON,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: It has come to my attention that certain Democrats in the State of Tennessee have recently questioned whether or not the Honorable Alfred MacFarland of Lebanon, Tennessee and a member of the Interstate Commerce Commission is a good and loyal member of the Democratic Party in the State of Tennessee.

I am a lifelong Democrat as is every other member of the Peeler family in the State of Tennessee of which I have any knowledge. I have had the honor of serving as College President of the Young Democrats of Tennessee, President of the Young Democrats of Tennessee and Counsel to the Honorable David Bunn when he was President of the Young Democrats of America. I have been a delegate to a Democratic National Convention and six times the Democratic Party has honored me by electing me to the General Assembly of the State of Tennessee, where I now have the privilege of serving as Majority Leader of the State Senate. I have known Alfred MacFarland all of my adult life and it is my considered opinion that his credentials as a Democrat are impeccable.

True, he did not see fit to support the candidacy of Senator Albert Gore in his re-election campaign against now Senator Bill Brock of Chattanooga. I would be less than candid if I did not state to you that I was disappointed with Mr. MacFarland for not having supported Senator Gore as I sincerely believed then and believe now that Albert Gore was truly an outstanding United States Senator and a great public servant. I supported him wholeheartedly and feel that the people of Tennessee suffered a great loss when they failed to re-elect him to the United States Senate. Be that as it may, however, I do not feel that Alfred MacFarland or anyone else should be penalized or their loyalty to the Party questioned simply because they do not believe as I do or because they do not vote as I do.

The late Will Rogers once said "I am not a member of any organized political party, I am a Democrat". I have long been of the opinion that the Democratic Party is wide enough and tall enough to embrace people of all walks of life, of varying political philosophies, and that therein lies its genius.

I do not question for one moment the motives of those who might question whether or not Mr. MacFarland is a "loyal Democrat", however, I do not believe that any individual or group of individuals should set themselves up as a super-board, so to speak, and anoint themselves with the authority to say who are Democrats and who are not.

Alfred MacFarland has served as Floor Leader of the State Senate for the "Grand Ole Man" of the Democratic Party in Tennessee, Governor Gordon Browning. He has served in the Cabinet of the late Governor Buford Ellington and is a man of great ability. In short, he is a man whose talents and abilities the Democratic Party in Tennessee can ill afford to lose.

Sincerely yours,

WM. J. PEELER.

BOMAR, SHOFNER, BOMAR & IRION,
Shelbyville, Tenn., July 11, 1972.

In re confirmation of Hon. Alfred T. MacFarland as a member of the Interstate Commerce Commission.

HON. WARREN G. MAGNUSON,
Senator,
Washington, D.C.

DEAR SENATOR MAGNUSON: This letter is written for the purpose of requesting that the committee which you chair recommend the Honorable Alfred T. Mac-

Farland for confirmation by the Senate as a Democratic member of the Interstate Commerce Commission. The writer is a life-long Democrat, having served as a Democratic member of the Tennessee Legislature for eighteen (18) years, as a Democratic Speaker of the House of Representatives for ten (10) years, and as a Democratic Speaker of the Senate and Lieutenant Governor for two (2) years. During this tenure of service, Mr. MacFarland served in many different Democratic positions. He was General Counsel for the Tennessee Public Service Commission, was a member of the State Senate as a Democrat in the year 1951, and served as a member of former Governor Buford Ellington's cabinet as Commissioner of Revenue during his first administration.

Mr. MacFarland is a distinguished attorney and has held many posts in the Democratic Party, both elective and by appointment, at one time or another during a rather extensive and noteworthy career in public service.

It is my feeling that Mr. MacFarland ranks extremely high in all Democratic circles in Tennessee and certainly his loyalty to his party has never been questioned. I feel that his experience and his ability will make him an outstanding member of the Interstate Commerce Commission, and I sincerely hope that your committee will confirm his appointment without delay.

Sincerely yours,

JAMES L. BOMAR, JR.

SENATE CHAMBER,
STATE OF TENNESSEE,
Nashville, July 11, 1972.

Re Alfred MacFarland, nomination to ICC.

HON. WARREN G. MAGNUSON,
Chairman, Commerce Committee, U.S. Senate,
Old Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: I have learned from the news media that Mr. Bruce Shine, Democratic National Committeeman from Tennessee, has written you a letter opposing the appointment of the Honorable Alfred MacFarland to the ICC on the ground that he is not a Democrat.

I never like to use the word I, but under the circumstances I believe that I would know more about Alfred's political affiliations than would Mr. Shine, who lives at Kingsport in East Tennessee.

I was born and reared here in Wilson County as was Alfred. He has been a Democrat all his life. He served in the State Senate as a Democrat. He served as Attorney for the Public Service Commission, composed of three Democrats. He served as Commissioner of Revenue as a Democrat under Governor Buford Ellington, deceased. Alfred MacFarland is a Democrat, a southern gentleman in every respect, a Sunday School teacher, an Attorney, a man of superb character and integrity. I only wish that you knew him as I do.

Alfred supported Senator Bill Brock as other Democrats did as Tennessee is a Democratic State and Senator Brock could not have been elected without Democratic votes. I have supported Albert Gore all my life. I introduced him the first time he ran for Congress and he is a friend of mine. In the same election that Albert was opposed by Senator Brock, I was running for re-election to the State senate and not only did Alfred support me and other Democrats, except Senator Gore, but his whole family worked for me. His boy, Little Mac, went from door to door asking people to vote for me. How can it be said that a man is not a Democrat when he's always supported Democrats, except on only one occasion.

Again, I detest the use of the word I, however, Alfred MacFarland has helped me be elected as a Democrat, Mayor of my home town seven terms, Lieutenant Governor two terms under former Governor Bufford Ellington, deceased, as a Democrat. When I complete the present term of office in the State senate, I will have served more years in the State senate than any other Tennessean.

I tell you this because I believe I would know more about Alfred than would Mr. Shine.

Thank you for indulging me in this letter and do hope you get time to read it.

Sincerely,

WILLIAM D. BAIRD.

NASHVILLE, TENN., July 12, 1972.

HON. WARREN G. MAGNUSON,
U.S. Senator,
Senate Office Building, Washington, D.C.

MY DEAR SENATOR MAGNUSON: This letter is being written to you in the interest of Alfred MacFarland, a Lebanon, Tennessee lawyer, who has been recently nominated to become a member of the Interstate Commerce Commission.

I am advised that hearings on this matter will come up next week.

I am also advised that opposition from some quarters has been lodged against Mr. MacFarland on the condition that he is not a Democrat.

I have known Alfred MacFarland for many years and I know his entire family. They are and always have been good solid Democrats. There may have been instances where he has not gone along one hundred per cent with his party but in his entire life time I have never heard of but one or two occasions where such things might have happened and I am sure he must have had good reasons.

He has not deserted his party and I am sure can be depended on as a Democrat in the future.

I hope you can give this letter some consideration.

Just a personal word here, I served with you on your Commerce Committee for some time and when I was defeated for the Senate I think I had seniority which would have placed me where you are today—but I got beat.

With my very kindest personal regards, I am,

Sincerely yours,

TOM STEWART.

TENNESSEE SENATE CHAMBER,
Nashville, July 12, 1972.

HON. WARREN G. MAGNUSON,
U.S. Senate, Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: It has come to my attention that the nomination of Mr. Alfred MacFarland of Lebanon, Tennessee, to the Interstate Commerce Commission, has been placed in question. I understand further that this is based on the fact that he is designated as a Democratic nominee when, reportedly, he supported Bill Brock against Albert Gore in the 1970 general election.

I would urge that the nomination be confirmed on the basis that throughout his lifetime Alfred MacFarland has been, and is still, a Democrat. He is well qualified for this position. In the past he served as floor leader under former Governor Gordon Browning, as Commissioner of Revenue under former Governor Buford Ellington, as a member of the Senate of the State of Tennessee, and in numerous other categories, at all times bringing honor to the Democratic Party.

The party in this state at this time is trying to rebuild and I would hope that we would not weed out anyone of such honored credentials who seeks to be a Democrat at this time.

While I do not condone leaving our party on any occasion, I cannot see that any of us are in a position to judge on such a limited basis. Again, I urge the confirmation of this nominee.

With best wishes, I am

Very truly yours,

JOHN S. WILDER.

TENNESSEE TREASURY DEPARTMENT,
Nashville, July 13, 1972.

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

DEAR SENATOR MAGNUSON: I read in the newspapers that the appointment of Alfred MacFarland to the Interstate Commerce Commission has been questioned on the basis of an allegation that he is not a Democrat.

I am a life-long Democrat and I am presently serving as State Treasurer, elected by the Democrat-controlled legislature of Tennessee. I have been involved in Democrat party politics in Tennessee for over twenty years and I have known Alf MacFarland for most of that time. Although he was very active in the campaign of Senator Brock in his 1970 campaign against Senator Gore, this is the first time that I have ever known Mr. McFarland to support a Republican. At the same time he was doing this, it is my information that he was also supporting the Democrat nominee for governor, John Jay Hooker, Jr. I am also personally aware that his brother, Lon MacFarland, supported the Democrat nominee for governor, because I worked with him in various activities. Although Mr. MacFarland and I differed in the 1970 senate race, I do not believe that we, in Tennessee or anywhere else, can refuse to accept anyone into our Democrat ranks or expel anyone from our Democrat ranks as a result of a single or occasional support of a Republican candidate.

In this respect, I disagree with my friend, Bruce Shine, Democrat National Committeeman.

Yours very truly,

THOMAS A. WISEMAN, JR.

ROTARY INTERNATIONAL,
Columbia, Tenn., July 13, 1972.

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

DEAR SENATOR MAGNUSON: I am very pleased to learn that President Nixon has nominated Alfred T. MacFarland of Lebanon, Tennessee to the Interstate Commerce Commission, a position for which I feel he is well qualified. In fact, Mr. MacFarland has held several responsible positions and served them with distinction. One example is the Commissioner of Revenue for the State of Tennessee.

I have noticed that Mr. MacFarland has been attacked through the press regarding his party affiliation. This is unfortunate because I know Mr. MacFarland is a fine christian gentleman who will be an asset in our government.

I have been a democrat all my life and have attended four Democratic National Conventions as a delegate; therefore, I, as a loyal democrat, can recommend Mr. Alfred MacFarland without reservation for this position.

Any consideration in his behalf will be greatly appreciated by his host of friends.

With warmest regards,

MARSHALL LEDBETTER.

ATHENS, TENN., July 14, 1972.

Re Alfred T. MacFarland—Interstate Commerce Commission.

Senator WARREN G. MAGNUSON,
U.S. Senator,
Senate Office Building, Washington, D.C.

DEAR SENATOR: I would like to recommend to you that the nomination of the President of Alfred T. MacFarland to the Interstate Commerce Commission be approved by your Committee to the end that this nomination may be confirmed.

Alf MacFarland and his brother and I have been intimate friends for approximately 38 years. The reputation of Alf MacFarland is above reproach and his character is of the finest. He is not only one of the ablest and most competent attorneys in Tennessee, but he is one of the finest gentlemen that I have ever known. He and his family have always been affiliated with the Democrat Party in Tennessee, and in fact, many leaders have been selected from his family. I have not always agreed with Alf, but I have respected his opinion and he has respected mine. He is the type fellow that you can argue with and fight with all day and still go out with him in the evening and have a most enjoyable time.

I hope that you can see your way clear to affirm this appointment.

Yours sincerely,

FRANK N. BRATTON.

METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY,
Nashville, Tenn., July 17, 1972.

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

DEAR SENATOR MAGNUSON: I am writing to request that your committee recommend Alfred T. MacFarland for confirmation by the Senate as a Democratic member of the Interstate Commerce Commission.

I come from several generations of Democrats, served in 1948 as Secretary of the State Democratic Executive Committee, and was a Democratically elected County Judge for Davidson County from 1950 until 1962 when we consolidated city-county government. I am now in my third term as Mayor, running actually non-partisan, but have led the Democratic Party until just recently in this County.

I have known Alf MacFarland since he came to the Bar, as his brother and I were classmates at law school, graduating in 1932. I have known him to be a life-long Democrat, participating in all the Democratic elections and in General elections on the Democratic side. Perhaps there has been an occasion or two when some particular individual was so offensive in some of the local races that he might not have been 100%, but I know that his heart is Democratic. I have never voted for a Republican in my life unless he told a falsehood and pretended to be a Democrat, up until this moment.

I would sincerely recommend Alf MacFarland, who is a very fine attorney and has held many posts for the Party and has served under several Democratic administrations of the State Government, and I am sure he would lend credit and ability to the post for which he has been nominated.

With kind personal regards to you and your continuing activity in behalf of our country, I am

Most sincerely,

BEVERLY BRILEY, Mayor.

TENNESSEE YOUNG DEMOCRATS,
Nashville, Tenn., July 18, 1972.

Senator WARREN MAGNUSON,
Chairman, Senate Commerce Committee, Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: I wish to urge strongly that you not vote for approval of the appointment of Alfred MacFarland as a Democratic member from Tennessee to the Interstate Commerce Commission. My reason for this request is that Mr. MacFarland openly supported the Republican Senatorial candidate who opposed Senator Albert Gore in 1970. I believe that this gives sufficient cause to question the advisability of Mr. MacFarland's appointment.

Sincerely,

NANCY HENDRIX COBB,
President.

THE POLLAK Co.,
Nashville, Tenn., July 18, 1972.

Senator WARREN MAGNUSON,
Chairman, Senate Commerce Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: As a Democrat, in Nashville, Tennessee, I wish to register my most vehement objection to the appointment of Alf MacFarland as the Democratic Member to the Interstate Commerce Commission.

It would be truly unfair to have a man who, in recent years, has been an active Republican to fill this seat.

Very truly yours,

DAVID L. POLLACK.

STATE DEMOCRATIC EXECUTIVE COMMITTEE OF TENNESSEE,
Nashville, Tenn., July 19, 1972.

Hon. WARREN MAGNUSON,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: I am writing to you in regard to the Honorable Alfred T. MacFarland, Attorney at Law, of Lebanon, Tennessee, who has been nominated by the President to serve as a member of the Interstate Commerce Commission.

It is my understanding that some question has been raised about Mr. MacFarland being a Democrat.

It has been my pleasure to be acquainted with Mr. MacFarland and his family for more than 40 years. His father was a distinguished Democratic leader in Tennessee as has been several of his other relatives.

Mr. MacFarland has served in a number of high offices as a Democrat, including the Tennessee Legislature and as a member of the cabinet of a Democrat governor.

It is true that Mr. MacFarland headed the "Democrats for Brock" during the 1970 senatorial campaign and it is my understanding that he did this for personal reasons. At the same time he was leading the "Democrats for Brock", he was actively supporting many Democratic candidates on both the State and local levels.

We, of course, were disappointed in his decision in 1970. However, we did not look upon this as having left the Democratic Party by any measure.

It is rare that a person of such high integrity and great ability is available for public service. Therefore, as Chairman of the Democratic Party in Tennessee, I strongly urge that Mr. MacFarland's nomination be confirmed by the Senate.

Sincerely,

JAMES A. PEELER, *Chairman.*

SENATE CHAMBER,
STATE OF TENNESSEE,
Nashville, July 20, 1972.

Re Honorable Alfred MacFarland.
COMMERCE COMMITTEE,
U.S. Senate, Senate Office Building,
Washington, D.C.

GENTLEMEN: The name of the Honorable Alfred MacFarland of Lebanon, Tennessee has been placed in nomination for a seat on the Interstate Commerce Commission. I have known Mr. MacFarland for many years and am thoroughly familiar with his outstanding reputation for competence, character and learning. No better person could have been proposed for this important post.

With regard to his political party membership, I as a Democrat am pleased to have this opportunity to emphasize to you the adornment and luster which Mr. MacFarland has always brought to the Democratic Party of Tennessee. He has always been and is now a true Democrat of true Democrats, constantly willing to shoulder his share and more of Party responsibility and discharge it in an exemplary fashion. An information which you may have received to the contrary is erroneous and without foundation.

With best regards,

DOUGLAS HENRY, JR.

MASCOT, TENN., July 21, 1972.

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

DEAR SENATOR MAGNUSON: The nomination of Alfred MacFarland to a Democratic seat in the ICC is pending before your committee. I understand that Mr. Bruce Shire, our new National Committeeman has attempted to block the nomination. If justice is done, he will succeed.

The idea that Mr. MacFarland could fill a seat reserved by law for a Democrat is a travesty. In 1970 this man flooded the airwaves with commercials attacking the record of our great Democratic Senator, Albert Gore. His appeals to ignorance succeeded, and unfortunately for Tennessee and for the Nation. Albert Gore was defeated. His replacement, Mr. Brock, is now attempting to further insult

the intelligence of Tennessee Democrats (and the U.S. Senate) by passing this man off as a Democrat to repay a political debt.

Here is one real Democrat (as an officer of my precinct committee, and a member of the Board of Governors of the Knox County Democratic Party) who respectfully urges you to do all in your power to see that this seat is filled by a Democrat worthy of the name.

Very truly yours,

DOROTHY CONLEY,
Mrs. L. J. Conley, Jr.

HAMILTON COUNTY DEMOCRATIC PARTY,
Chattanooga, Tenn., July 21, 1972.

Senator WARREN MAGNUSON,
Chairman, Interstate Commerce Committee, Senate Office Building, Washington, D.C.

DEAR SENATOR: The Executive Committee of the Hamilton County Democratic Party (Chattanooga, Tennessee) would like to go on record before your committee as unanimously censoring the recommendation of Mr. Alf MacFarland as Democratic appointee to the Interstate Commerce Commission in Tennessee.

In making the nomination, President Nixon consulted none of Tennessee's Democratic leaders; rather, he sought and accepted the counsel of Senators Bill Brock and Howard Baker—both Republicans. The idea of Republican officeholders selecting a candidate for a *Democratic* post is—in and of itself—patently absurd. They will inevitably choose a man who is either ill-qualified to hold that post or to whom they are politically beholden. In this case, they have done both.

Mr. MacFarland's credentials as a Democrat lapsed several years ago; he may have been a faithful party member at one time, but he heads the casualty list of Tennessee Democrats in the recent past. He has been an outspoken critic of Democratic politics and has openly dissociated himself from current party policies on numerous occasions. The fact that he once belonged to the Democratic Party does not alter the material evidence of his more recent desertion.

It is indeed appropriate that Senator Bill Brock should commend Mr. MacFarland to the President. In 1970, Mr. MacFarland directed a radio and television attack on Sen. Albert Gore, the Democratic nominee and Mr. Brock's opponent. His remarks were broadcast all over the state throughout the entire election and did untold damage to Sen. Gore's unsuccessful re-election bid. This is, in our opinion, curious conduct for a loyal Democrat.

In the course of many years, there are times when each of us is reluctant to support certain Democratic nominees. Party loyalty constrains us, however, to dissent in a discreet manner. We may quietly withhold our vote from the nominee, but we do not—under any circumstances—boldly campaign for the opposition.

We feel that in the course of the 1970 elections, Mr. MacFarland performed a lasting disservice to the Democrats of Tennessee and he is, thus, poorly qualified to represent those Democrats on the Interstate Commerce Commission. This post should only be offered to those whose party credentials are fully intact; as long as any question remains as to Mr. MacFarland's party preference, he deserves no consideration.

As the governing body of the Hamilton County Democratic Party, we hereby request the Interstate Commerce Committee to reject the nomination of Alf MacFarland as Democratic appointee to the Interstate Commerce Commission in Tennessee pending the nomination of a Tennessean more broadly acceptable to the Democrats of this state.

Sincerely,

Mrs. JOE MURPHY,
Secretary-Treasurer.

STATE OF TENNESSEE,
THE SECRETARY OF STATE,
Nashville, July 25, 1972.

HON. WARREN MAGNUSON,
Old Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: I am writing to you in regard to the Honorable Alfred MacFarland of Lebanon, Tennessee who is being considered to serve as a member of the Interstate Commerce Commission.

I have known Mr. MacFarland and his family over 30 years and I had the pleasure of serving in Governor Buford Ellington's cabinet with him. He is a man of high principle and integrity.

I strongly recommend that Mr. MacFarland's nomination be confirmed by the Senate.

Sincerely,

JOE C. CARR.

LAW OFFICES OF BASS, BERRY & SIMS,
Nashville, Tenn., July 31, 1972.

HON. WARREN MAGNUSON,
U.S. Senator, Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: I am writing to you as Chairman of the Senate Commerce Committee on behalf of Alfred T. MacFarland, who is under consideration for an appointment to the Interstate Commerce Commission. In order to identify myself, I am a Democrat and served eight years in the Tennessee State Senate. I also served as Lieutenant Governor and Speaker of the Senate for four years.

I feel that Mr. MacFarland is exceedingly well qualified for this appointment. He is a very able attorney and is an outstanding citizen. He has served his State and Party well in several official capacities and has always performed his duties in a faithful and outstanding manner. I can recommend Mr. MacFarland for this office without any qualifications whatsoever.

Your Committee's favorable consideration of Mr. MacFarland would be greatly appreciated.

Sincerely yours,

FRANK C. GORRELL.

MEMPHIS, TENN., August 1, 1972.

Senator WARREN MAGNUSON,
Old Senate Office Building, Washington, D.C.

DEAR SENATOR: One of the finest men in this State is Alfred T. MacFarland. Cognizant of his nomination to high public office, I would like to underline and strongly recommend Mr. MacFarland.

I served Memphis as Mayor eight years and have had both business and personal dealings with Mr. MacFarland and found him typifying the best in so very many virtues particularly in his integrity, ability and courage.

Sincerely,

HENRY LOEB.

TENNESSEE FEDERATION OF DEMOCRATIC WOMEN,
Nashville, Tenn., August 9, 1972.

Senator WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: A recent newspaper article called to my attention the fact that Mr. Alfred MacFarland of Lebanon, Tennessee, is being seriously considered for a seat on the Interstate Commerce Commission.

If the seat on the Commerce Commission is to be filled by a Democrat, Mr. MacFarland hardly qualifies. He not only publicly endorsed the Republican nominee in our Senate race in 1970, but it is generally known that he worked actively in the campaign of Senator Brock who was, at that time, running against the Democratic nominee, Senator Albert Gore. Furthermore, Mr. MacFarland has been quoted in a national magazine as admitting that he has voted other than Democratic more than once.

Obviously, Mr. MacFarland, having been recommended by Republicans and nominated by a Republican, is being repaid for his defection and betrayal of the Democratic Party. It hardly seems fitting for Democrats to place in a Democratic seat a man whose loyalty to the Party is under such question. I strongly urge you to select a real Democrat to occupy this important post.

Yours very truly,

Mrs. RILLA MORAN WOODS,
President.

SENATE CHAMBER,
STATE OF TENNESSEE,
Nashville, Tenn., August 15, 1972.

Senator ERNEST F. HOLLINGS,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLINGS: I write you to urge the confirmation of Alfred T. MacFarland of Lebanon, Tennessee as a Democratic member of the Interstate Commerce Commission. Mr. MacFarland was nominated by the President to fill the Democratic seat on the Interstate Commerce Commission and his nomination has been held up.

Mr. MacFarland has held many positions in the Democratic party. He has been a Democratic Senator and a Democratic Floor Leader in the Senate. He did an outstanding job as Commissioner of Revenue under the late Democratic Governor Buford Ellington and also served as attorney for the Public Service Commission under the Democratic Administration. Mr. MacFarland is a man of great ability and integrity and has a reputation for personal independence.

I enclose a photostat of an article from a Democratic newspaper, the Nashville Tennessean, which may be of interest to you.

It is true that he actively opposed Senator Albert Gore and among the cogent reasons that Mr. MacFarland and his brother fell out with Senator Gore was Senator Gore's opposition to the nomination of Judge Haynesworth. There is no doubt in my mind that the great majority of Democratic leaders in the State of Tennessee actively support Mr. MacFarland's nomination. Many of these have written and sent telegrams to Senator Warren G. Magnuson, Chairman of the Commerce Committee. I am sure these are available to you.

Among the Democratic leaders in the State of Tennessee who have endorsed Mr. MacFarland are Ex-Senator H. S. Walters; Ex-Senator Tom Stewart; James A. Peeler, Chairman Democratic party; James A. Webster, Chairman of the Democratic Delegates to the Democratic Convention; present Lt. Governor John Wilder; Ex-Lt. Governor William D. Baird; Frank Gorrell; James Bowmar; Congressman Joe L. Evins; Congressman W. R. Anderson; Congressman Ed Jones; John J. Hooker, Jr., Democratic Nominee for Governor 1970; William J. Peeler, Democratic Senate Majority Leader; Thomas A. Wiseman, Democratic State Treasurer; and David Paek, Democratic Attorney General.

In addition to these, many other Democratic leaders have endorsed this nomination. To my knowledge no one has raised any question as to Mr. MacFarland's ability, or his integrity. The opposition has been because of his opposition to Senator Gore.

I would like to urge you to support Mr. MacFarland's confirmation, and I feel sure that it would meet the approval of a very substantial majority of the Democratic leaders in this State.

I am sure that the Democratic party in Tennessee is like the Democratic party in South Carolina and it is hard to find outstanding Democrats who do not at some time or other oppose some Democratic nominee.

I am sorry that we did not make more progress in obtaining a nomination for Senator Jackson. I am sure that you and I both agree that he would have made an outstanding President.

I am,

Sincerely yours,

EDWARD C. BLANK II.

COLUMBIA, TENN., August 11, 1972.

Senator ERNEST F. HOLLINGS,
U.S. Senate Office Building,
Washington, D.C.:

I endorse and urge the confirmation of Alfred T. MacFarland to the Interstate Commerce Commission. Mr. MacFarland is extremely able. He has held many responsible positions in the Democratic party, including Senate Democratic Leader, Attorney for the Public Service Commission and Commissioner of Revenue under Democratic administrations. Mr. MacFarland has been active in the Party for many years. Mr. MacFarland is an independent thinker and

a man of the highest integrity. I join with many Democrats in strongly recommending and urging the confirmation of this nomination.

WILLIAM J. WEBSTER,
*Chairman, Tennessee Delegation
to 1972 Democratic Convention.*

JULY 13, 1972.

HON. WARREN G. MAGNUSON,
U.S. Senate.

HON. WILLIAM B. SPONG, JR.
U.S. Senate.

HON. VANCE HARTKE,
U.S. Senate.

DEAR SENATORS: The Honorable Alfred T. MacFarland, a long time friend and constituent, has been nominated by the President to the Interstate Commerce Commission. I very strongly recommend and endorse the nomination. Mr. MacFarland is an extremely capable and able attorney and administrator and is fully qualified to be a Commissioner for the ICC. Nowhere could the President have found a person more qualified to be appointed. He is a Democrat and active in the Party. In reviewing his past services to his country and State I find the positions he has held both on the appointed and elected levels have been accomplished with much dignity and concern for his fellowman, his State and Nation.

I consider Mr. MacFarland extremely interested in honest, good, efficient government. His record clearly and proudly shows this. I respectfully ask for your support and confirmation of Alfred T. MacFarland.

WILLIAM R. ANDERSON,
Member of Congress.

JULY 14, 1972.

HON. WARREN G. MAGNUSON,
*Chairman, Senate Commerce Committee,
Senate Office Building, Washington, D.C.:*

I am advised that preliminary hearing being held with respect to confirmation of Alfred T. MacFarland for membership on the Interstate Commerce Commission. As you will recall, I spoke with you personally of my very high esteem and high regard for Alfred MacFarland and have also written the committee urging his prompt confirmation.

Alfred MacFarland is a member of a distinguished Democratic family in Tennessee and he, himself, is a distinguished Democrat. His father managed the campaign of the late Senate McKellar and as Senator Gore defeated Senator McKellar there has been some feeling between the Gore and McKellar forces. However, this in no way reflects on the Democratic faith of Alfred MacFarland and members of his family. He was elected as a Democratic State Senator in Tennessee and served as Commissioner of Finance and Taxation during the administration of Democratic Governor Gordon Browning. He is an able and distinguished lawyer and a Democrat of long standing although he did not support Senator Gore in the last campaign—and this is what has caused some opposition. There is nothing in his record which reflects upon his honor, integrity, and ability.

Again, I strongly urge the confirmation of Alfred T. MacFarland for membership on the Interstate Commerce Commission to which he has been appointed.

Favorable and prompt action in this regard is requested and will be appreciated.

With esteem and best wishes, I am

Sincerely your friend,

JOE L. EVINS,
Member of Congress.

STATE OF TENNESSEE,
OFFICE OF THE ATTORNEY GENERAL,
Nashville, Tenn., July 27, 1972.

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

DEAR SENATOR MAGNUSON: Recently I addressed a letter to you endorsing the appointment of Mr. Alfred T. MacFarland as a member of the Interstate Com-

merce Commission. Inadvertently, in doing so I addressed the letter to you as Chairman of the Interstate Commerce Commission. Please excuse this error as, of course, you realize I was addressing the letter to you in your capacity as Chairman of the Senate Commerce Committee.

With kind regards, I am,
Very truly yours,

DAVID M. PACK,
Attorney General.

COMER L. DONNELL,
ATTORNEY-AT-LAW,
Lebanon, Tenn., August 16, 1972.

Senator WARREN MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate Office Building, Washington, D.C.*

DEAR SENATOR MAGNUSON: I would like to take this opportunity to write to you in behalf of Alfred MacFarland who, it is my understanding, comes before your Committee in regard to his appointment to the Interstate Commerce Committee. I have known Alfred for a number of years and have found him to be a highly principled, effective lawyer. It is my opinion that you could not find a better or more competent appointee.

As Chairman of that Democratic Executive Committee for Wilson County, Tennessee, a position which I have been privileged to hold for the last several years, I have found Alfred MacFarland to be an active and helpful worker in the Democratic Party. We have worked together in behalf on many Democratic nominees. I consider Alfred MacFarland to be a Democrat and strongly urge his confirmation to the Interstate Commerce Committee. I would respectfully have to disagree with anyone from another section of the State who might make a statement to the contrary.

Very truly yours,

COMER L. DONNELL.

NASHVILLE, TENN., *August 17, 1972.*

Senator E. F. HOLLINGS,
*Senate Office Building,
Washington, D.C.*

DEAR SENATOR: I have written already to Senator Warren Magnuson, Chairman of the Commerce Committee, recommending the appointment of Alfred MacFarland of Lebanon, Tennessee to the Interstate Commerce Commission, and I also desire to express a few words in his behalf to you.

I served in the Senate with your Senator Maybank for a few years, and I think I met you on a trip I made to South Carolina during that time.

At any rate, I am presuming to write to you in behalf of Alfred MacFarland. He is and always has been a Democrat and is a man thoroughly capable of performing the duties of a Commissioner on that body. I have known him for a good many years, and I do not hesitate to endorse him as a candidate for this position.

I hope you can favorably consider him.

I am dictating this letter from the hospital where I am spending a few days and requested my secretary to sign my name and mail it to you.

Very truly yours,

TOM STEWART.

CONSTITUTIONAL CONVENTION,
Nashville, Tenn., August 22, 1972.

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

DEAR SIR: I have been most concerned over the recent political attacks which have been launched against the Honorable Alfred T. MacFarland. Alf has been a lifelong Democrat as well as an unselfish servant to his government at all levels.

I have either known or known of Alf MacFarland all of my life and have been constantly impressed with his character, integrity, and forthright approach to the many complex problems with which he has dealt. I sincerely believe that his appointment to the Interstate Commerce Commission should be given the highest

degree of consideration since it would be extremely difficult to find a more qualified individual.

Sincerely yours,

WILLIAM M. LEECH, Jr.

CHAMBLISS, BAHNER & CRAWFORD,
Chattanooga, Tenn., August 23, 1972.

Senator ERNEST F. HOLLINGS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR HOLLINGS: From somewhere out of the misty past I seem to recall that you and I worked together on building the Lookout Mountain Hotel in the summer of 1927. That was the summer before I went to VMI—and, if I mistake not, you went to the Citadel. Am I right?

Based on this tiny bond, I would like to ask your help.

I'm trying to promote confirmation of my close personal friend Alfred MacFarland for the Interstate Commerce Commission. I know, of course, that there is opposition on the ground that Alfred supported and worked for Bill Brock against Albert Gore. However, the same could be said of most of the Democrats in the State of Tennessee. Had Albert been running in South Carolina, I am sure it would have been the same, especially in the light of his opposition to my friend (and yours), Clement Haynsworth, for the Supreme Court.

As a former Democratic Ward Chairman for some ten or twelve years and a former part of the party machinery, I am anxious to see leadership that can bring healing and strength to the Democratic Party. We need it. I fear that to practice retaliation on people who occupy no official party position and defect on personal and unique grounds, is but to drive the wedge deeper.

The other side of the coin may well be even more compelling:

Alfred is a man who, to my personal knowledge, by training, character and ability, is peculiarly qualified to do an outstanding job for the people of the United States on the Interstate Commerce Commission.

On this basis, I hope you will give every consideration to his candidacy—and I assure you of my appreciation for anything you can do!

With kindest regards,

JAC CHAMBLISS.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVE,
Washington, D.C., August 29, 1972.

Senator ERNEST F. HOLLINGS,
Senate Commerce Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR HOLLINGS: It has been brought to my attention that hearings will be conducted by the Senate Commerce Committee on September 14 next, on confirmation of the appointment of Mr. Alfred T. MacFarland of Lebanon, Tennessee, as a member of the Interstate Commerce Commission. It had been my plan to attend these hearings personally to voice my strong and unreserved endorsement in support of Mr. MacFarland's confirmation.

However, an import and conflicting commitment in my District on September 14 will prevent my attending the hearings, but I wanted to take this means of expressing my strong support of Mr. MacFarland to you personally by letter and a similar letter has been written to Chairman Magnuson.

Mr. MacFarland is a lifelong Democrat and was a supporter of Senator Kenneth D. McKellar in the race in which Senator McKellar was defeated by Senator Gore, and since that election, there have been some feelings between the Gore and McKellar forces. However, this in no way reflects on the Democratic faith of Mr. MacFarland and members of his family.

He was elected as a Democratic State Senator in Tennessee and served as Commissioner of Finance and Taxation during the administration of Democratic Governor Gordon Browning. He is an able and distinguished lawyer and a Democrat of long standing, although he did not support Senator Gore in the last campaign and this is what has caused him opposition. There is nothing in his record which reflects on his honor, integrity and ability.

Again, I strongly urge the confirmation of Alfred T. MacFarland to the membership of the Interstate Commerce Commission to which he has been appointed.

Favorable action by you and the Commerce Committee on his confirmation is urged and will be most appreciated.

With esteem and best wishes, I am

Sincerely your friend,

JOE L. EVINS,
Member of Congress.

P.S.—Attorney and Democrat MacFarland is endorsed by many leading Democrats of Tennessee. Please help secure MacFarland's confirmation.

Thanks.

JOE.

NASHVILLE, TENN., *September 15, 1972.*

Senator ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HOLLINGS: I am pleased to see that you and other good Democrats are questioning Alfred MacFarland's credentials as a member of the Democratic Party.

A man who works for the election of Republicans as ardently as Mr. MacFarland works is not a Democrat by any standards.

Please tell the committee that we Tennessee Democrats are smarter than Senator Baker would have them believe.

Sincerely,

Mrs. RAY PATTERSON.

TULLAHOMA, TENN., *September 16, 1972.*

Hon. WARREN G. MAGNUSON,
Chairman, Commerce Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: Reference is made to Mr. Alf McFarland of Lebanon, Tennessee who I understand is being considered for a Democratic seat on the I.C.C.

I encourage your opposition to this appointment for one who does not seem to know whether he is a Democrat or Republican.

He supported Senator Bill Brock when he was campaigning against Senator Albert Gore. Senator Brock misrepresented the facts when he campaigned on the School Prayer Amendment. He is as bad a representative for this state as I can imagine.

Sincerely,

CHARLES F. BLAIR,

I am not a political leader, just an interested citizen and I know I am a Democrat, and proudly so.

DAVID PRICE, JR.,
CERTIFIED PUBLIC ACCOUNTANT,
Brentwood, Tenn., September 16, 1972.

Senator WARREN G. MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: This letter is written to urge the rejection of the nomination of Alfred T. MacFarland to the Interstate Commerce Commission as a Democratic member of that Commission. It is obvious that the President is interested in packing the Commission with Republicans in contravention of the policy to keep the Commission bi-partisan.

To label MacFarland as a Democrat is a libel to the Democratic Party. I am sure you know that he has admitted voting Republican in the last two presidential elections and has expressed his intention to do so again in November. It is believed however that MacFarland read himself out of the party when he actively campaigned for the election of Senator Brock over Senator Albert Gore. The campaign was one of the most vicious in the history of Tennessee. With

unlimited funds, Brock blitzkrieged the state with television coverage equivalent to a presidential campaign. It was a smear campaign based on lies and half-truths against Senator Gore who had little funds to combat Brock. Brock used character assassination second only to Goebbels of Nazi Germany. Senator Gore was one of the best and most responsible representatives that Tennessee ever sent to Washington and would certainly still be in the United States Senate except for Brock's propaganda campaign of distortion.

I am sure that most Democrats in Tennessee will agree with the above. I would much prefer to have a bona fide Democrat occupy the seat on the I.C.C. even if it means that the Commissioner will not be from Tennessee. I am sure that you have noticed how strongly MacFarland is supported by Senators Baker and Brock, both members of the Republican Party. Their views are not shared by the Democrats of Tennessee.

Most sincerely yours,

DAVID PRICE.

MURFREESBORO, TENN., *September 21, 1972.*

Senator WARREN MAGNUSON,
*Senate Office Building,
Washington, D.C.*

DEAR SENATOR: Please bury beyond recall the nomination of Alf MacFarland of Lebanon for the commission post. If he is a Democrat, Bill Brock would like to have 600,000 like him in this state; the Democratic Party would not hold an office in the state.

This man is no national Democrat. He has not supported a national Democrat in years. He fought Estes Kefauver and Albert Gore for years. He opposed Stevenson, Kennedy, Humphrey, and McGovern. He did vote for Johnson in 1964, but he merely joined the bandwagon then. He voted for Joe Evins merely because no Republican could conceivably beat Joe. He has supported a Democratic candidate for governor of Tennessee, it is true, but only because until 1970 the Democratic primary winner was a cinch to win. It is a safe bet that he will support the Republican candidate for governor in 1974 if the party has a chance to win.

This deep-dyed reactionary has no place on the commission. He would take us back to 1900. It would be an insult to loyal Democratic party workers if this turncoat should be put on the commission as a "representative" of our party. There would be no better way to destroy the effectiveness of the two-party system than to buy this sneaker-trick that Republicans are loyal members of the party of Jackson, FDR, Kennedy, and McGovern.

Sincerely,

NORMAN L. PARKS.

P.S.—The truth is that, like Governor Ellington himself, he worked for the election of Republican Governor Winfield Dunn under cover while working in the open to defeat Albert Gore.

NASHVILLE, TENN., *September 26, 1972.*

Senator WARREN G. MAGNUSON,
*U.S. Senate,
Washington, D.C.*

DEAR SENATOR MAGNUSON: I was glad to see in "The Tennessean" this morning that the Commerce Committee has again postponed consideration of Alf MacFarland for the ICC.

His nomination as a Democrat was an insult to the Democrats of Tennessee. We have been plagued with 'Democrats' like him who never supported the nominees of the Democratic Party, or its platform and programs.

I read where he has been repeatedly defended as a 'Tennessee Democrat'. Down here that is a code phrase that says 'does not believe in the national Democratic Party and will not support its nominees or platform'.

If your Committee would refuse to confirm Alf MacFarland it could mark the turning point toward reclaiming Tennessee as a Democratic state. Many of us in the State are working toward that end.

Yours sincerely,

Mrs. TOM RAGLAND,
(Formerly Democratic National Committeewoman from Tennessee).

CLARKSVILLE, TENN.,
September 27, 1972.

Senator WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee.

DEAR SENATOR: I am a life-long farmer, have been also a life-long Democrat. Have served four years in State Senate, and eight years in House, have served fourteen years as chairman of State Soil and Water Conservation Committee—until kicked out by present Governor Dunn. So couldn't have much love for Republican party. And don't want Democratic party ruined in Tennessee.

Why I am writing this? Think if Hon. Alfred MacFarland's appointment is blocked in your committee, it will do great deal of harm to party in this State. He is highly qualified for the position, and is held in high esteem all over State. The fact that he cannot conscientiously support Geo. McGovern has the support of large majority of Democrats in this State. And am so afraid will cause defeat of Cong. Anderson in this district.

Please accept this in spirit which it is written. In behalf of Democratic party.

Respectfully,

CUYLER DUNBAR.

G. WILSON HORDE,
ATTORNEY AND COUNSELLOR AT LAW,
September 27, 1972.

Senator WARREN MAGNUSON,
Chairman, Senate Commerce Committee, Senate Office Building,
Washington, D.C.

DEAR SIR: It is my understanding that the appointment of Mr. MacFarland of Tennessee to the Interstate Commerce Commission is pending before your Committee.

As a loyal Democrat, I wish to express my opposition to Mr. MacFarland in his attempt to fill a Democrat seat. Mr. MacFarland openly supported Senator Brock against the then incumbent Senator Albert Gore in 1970. At this time he is openly supporting Mr. Nixon for reelection and Senator Baker for reelection. Mr. MacFarland calls himself a "Democrat," however, in the last few state-wide races he has supported Republicans. I don't feel he is a Democrat nor do I feel that Mr. MacFarland's activities should be rewarded by giving him the Democratic seat on the ICC.

Yours very truly,

G. WILSON HORDE.

[TELEGRAM]

WASHINGTON, D.C., July 13, 1972.

Senator WARREN G. MAGNUSON,
Senator VANCE HARTKE,
Senate Office Building, Washington, D.C.:

The Honorable Alfred T. MacFarland, a long-time friend and constituent, has been nominated by the President to the Interstate Commerce Commission. I very strongly recommend and endorse the nomination. Mr. MacFarland is an extremely capable and able attorney and administrator and is fully qualified to be a commissioner for the ICC. Nowhere could the President have found a person more qualified to be appointed. He is a Democrat and active in the party. In reviewing his past services to his country and State I find the positions he has held both on the appointed and elected levels have been accomplished with much dignity and concern for his fellowman, his State and Nation.

I consider Mr. MacFarland extremely interested in honest, good, efficient government. His record clearly and proudly shows this. I respectfully ask for your support and confirmation of Alfred T. MacFarland.

WILLIAM R. ANDERSON,
Member of Congress.

[TELEGRAM]

SMITHVILLE, TENN., July 14, 1972.

Hon. WARREN G. MAGNUSON,
*Chairman, Senate Commerce Committee,
Senate Office Building, Washington, D.C.:*

I am advised that preliminary hearings is being held with respect to confirmation of Alfred T. MacFarland for membership on the Interstate Commerce Commission. As you will recall, I spoke with you personally of my very high esteem and high regard for Alfred MacFarland and have also written the committee urging his prompt confirmation.

Alfred MacFarland is a member of a distinguished Democratic family in Tennessee and he himself is a distinguished Democrat. His father managed the campaign of the late Senator McKellar and as Senator Gore defeated Senator McKellar there has been some feeling between the Gore and McKellar forces.

However, this in no way reflects on the Democratic faith of Alfred MacFarland and members of his family. He was elected as a Democratic State Senator in Tennessee and served as Commissioner of Finance and Taxation during the administration of Democratic Governor Gordon Browning. He is an able and distinguished lawyer and a Democrat of long standing although he did not support Senator Gore in the last campaign and this is what has caused some opposition. There is nothing in his record which reflects upon his honor, integrity and ability.

Again, I strongly urge the confirmation of Alfred T. MacFarland for membership on the Interstate Commerce Commission to which he has been appointed.

Favorable and prompt action in this regard is requested and will be appreciated.

With esteem and best wishes I am,

Sincerely, your friend,

JOE L. EVINS,
Member of Congress.

[TELEGRAM]

COLUMBIA, TENN., July 15, 1972.

Senator WARREN G. MAGNUSON,
*Senate Office Building,
Washington, D.C.:*

Wish that you would confirm Alf T. MacFarland to Interstate Commerce Commission.

W. J. WEBSTER,
Chairman, Tennessee Delegation to National Convention.

[TELEGRAM]

CHATTANOOGA, TENN., July 21, 1972.

Senator WARREN MAGNUSON,
*Chairman, Senate Committee on Interstate Commerce,
Senate Office Building, Washington, D.C.:*

Executive Committee of Hamilton County Democratic Party voted unanimously July 20, 1972, to censor nomination of Alf MacFarland to Democratic post on Tennessee Interstate Commerce Commission on grounds of questionable party loyalty. Request committee to reject nomination. Letter follows.

HAMILTON EXECUTIVE BOARD.

[TELEGRAM]

KNOXVILLE, TENN., *September 4, 1972.*

Senator WARREN MAGNUSON,
*U.S. Senate Building,
 Capitol Hill, D.C.:*

Tennessee Young Democrats oppose confirmation Alf MacFarland for Democratic ICC seat. Letter to follow.

MARY LYNN FLETCHER,
Vice President.

[TELEGRAM]

NASHVILLE, TENN., *September 18, 1972.*

Senator ERNEST HOLLINGS,
Capitol Hill, D.C.:

As a State senator and a lifelong Democrat active in helping to elect other Democrats to the State Legislature I do not consider Alfred MacFarland a Democrat, either on the State or National level. Therefore I urge you not to recommend his nomination to the ICC as a Democrat.

Senator JAMES ROBERSON.

[TELEGRAM]

KNOXVILLE, TENN., *September 11, 1972.*

Senator WARREN G. MAGNUSON,
*Senate Office Building,
 Washington, D.C.:*

I understand the Commerce Committee will soon consider the appointment of Alfred T. MacFarland to the Interstate Commerce Commission. I oppose Mr. MacFarland's confirmation for a Democratic seat on the ICC since he publicly worked for the election of Republican Senator William Brock. While I do not mean to question Mr. MacFarland's qualifications other than party affiliation, I do strongly resent the President's nomination of him as a Democrat for Democrat's seat. I urge your committee to reject his confirmation.

CHARLES D. SUSANO, Jr.,
Chairman, Democratic Party of Know County, Tenn.

[TELEGRAM]

NASHVILLE, TENN., *September 18, 1972.*

Senator ERNEST HOLLINGS,
Capitol Hill, D.C.:

As a Democrat active on both the state and national level on behalf of local and Federal candidates running as Democrats I urge you to vote against Alfred MacFarland as a Democrat nominee to the ICC. There is little evidence that he has ever supported Democrats on any level.

MATT LYNCH,
President, Tennessee State Labor Council (AFL-CIO).

[TELEGRAM]

NASHVILLE, TENN., *September 18, 1972.*

Senator HOLLINGS,
Capitol Hill, D.C.:

As president of the Tennessee Federation of Democratic Women, 4700 members strong, we protest the nomination of Alfred McFarland as a Democrat to the ICC. We urge you to vote against his nomination as a Democrat.

RILLA MORAN WOODS.

[TELEGRAM]

NASHVILLE, TENN., *September 18, 1972.*

Senator HOLLINGS,
Capitol Hill, D.C.:

As Democratic National Committeewoman from Tennessee, long active in State Democratic politics, I can truthfully say that I have never known Alfred McFarland to support any Democrat. I urge you to reject his nomination to ICC as a Democrat.

 MRS. JEAN LIVINGSTON.

[TELEGRAM]

MARYVILLE, TENN., *September 18, 1972.*

Senator HOLLINGS,
Capitol Hill, D.C.:

As director of the Womens Division for President Lyndon Johnson's campaign in 1964 in Tennessee, I never saw or heard of Alfred McFarland. I urge you to vote against his nomination to ICC as a Democrat.

 AGNES BIRD.

[TELEGRAM]

NASHVILLE, TENN., *September 17, 1972.*

Senator MAGNUSON,
Capitol Hill, D.C.:

As director of the Women's Division for President Lyndon Johnson's campaign in 1964 in Tennessee I never saw or heard of Alfred MacFarland.

I urge you to vote against his nomination to ICC as a Democrat.

 AGNES BIRD.

[TELEGRAM]

NASHVILLE, TENN., *September 16, 1972.*

Senator WARREN G. MAGNUSON,
*Chairman,
 Capitol Hill, D.C.:*

As a Democrat active on both the State and national level on behalf of local and Federal candidates running as Democrats I urge you to vote against Alfred MacFarland as a Democrat nominee to the ICC. There is little evidence that he has ever supported Democrats on any level.

 MATT LYNCH,
President, Tennessee State Labor Council (AFL-CIO).

[TELEGRAM]

NASHVILLE, TENN., *September 16, 1972.*

Senator MAGNUSON,
Capitol Hill, D.C.:

As president of the Tennessee Federation of Democratic Women, 4,700 members strong, we protest the nomination of Alfred MacFarland as a Democrat to the ICC. We urge you to vote against his nomination as a Democrat.

 RILLA MORAN WOODS.

[TELEGRAM]

NASHVILLE, TENN., *September 16, 1972.*

Senator MAGNUSON,
Capitol Hill, D.C.:

As Democratic national committeewoman from Tennessee long active in State Democratic politics, I can truthfully say that I have never known Alfred MacFarland to support any Democrat.

I urge you to reject his nomination to ICC as a Democrat.

Mrs. JEAN LIVINGSTON.

[TELEGRAM]

NASHVILLE, TENN., *September 16, 1972.*

Senator WARREN G. MAGNUSON,
Chairman, Capitol Hill, D.C.:

As a State senator and a lifelong Democrat active in helping to elect other Democrats to the State legislature, I do not consider Alfred MacFarland a Democrat, either on the State or National level. Therefore, I urge you not to recommend his nomination to the ICC as a Democrat.

Senator JAMES ROBERSON.

[TELEGRAM]

NASHVILLE, TENN., *September 17, 1972.*

Senator WARREN MAGNUSON,
Capitol Hill, D.C.:

To my knowledge, and Davidson County adjoins the Wilson County line where he resides, Alf MacFarland never actively supported the Democratic Party or its candidates, certainly not to the extent that he has supported Republican candidates through radio and television spots and the newspaper media. When your committee considers his appointment on September 18, I trust you will consider this fact. He cannot legitimately fill a Democratic appointment.

GWEN McFARLAND,

President, Davidson County Women's Club.

[TELEGRAM]

MANCHESTER, TENN., *September 17, 1972.*

Senator WARREN MAGNUSON,
Capitol Hill, D.C.:

The Democratic Executive Committee of Coffee County, Tenn., opposes the confirmation of Alfred MacFarland as a Democratic member of the Interstate Commerce Commission.

C. W. WESSON,

Chairman, Coffee County Democratic Executive Committee.

[TELEGRAM]

CHATTANOOGA, TENN., *September 18, 1972.*

Senator WARREN G. MAGNUSON,
Capitol Hill, D.C.:

Please oppose confirmation of Tennessee's Alfred MacFarland as Democratic member of ICC. He's a Republican. Thanks.

Dr. ROBERT P. CLARK, Jr.,

Third Congressional District Chairman, McGovern for President.

[TELEGRAM]

MEMPHIS, TENN., *September 19, 1972.*

The CHAIRMAN,
Senate Commerce Committee,
Capitol Building, Washington, D.C.:

Reference Alfred MacFarland nomination to Interstate Commerce Commission and in opposition thereto masquerading for many years as a Democrat. Mr. MacFarland has held high position in State government and in State Democratic party circles as a Democrat. When the going got rough and we became embroiled in Senator Gore's fight for survival, Mr. MacFarland came out and openly supported candidate Brock under the heading of Chairman of Tennessee Democrats for Brock. As you know, Senator Gore, one of our greatest Senators, was closely defeated in this campaign. Now, as compensation to MacFarland he is offered a position on the Interstate Commerce Commission. As a Democrat and as manager of Senator Gore's campaign and acutely aware of the damage done by Mr. MacFarland to Senator Gore's effort, you are strongly urged not to approve this nomination.

JAMES F. SCHAEFFER,
Attorney at law.

[TELEGRAM]

SEPTEMBER 19, 1972.

Senator VANCE HARTKE,
Chairman, Senate Commerce Committee, Senate Office Building,
Washington, D.C.

Reference Alfred MacFarland nomination to Interstate Commerce Commission and in opposition thereto masquerading for many years as a Democrat. Mr. MacFarland has held high position in State government and in State Democratic party circles as a Democrat. When the going got rough and we became embroiled in Senator Gore's fight for survival Mr. MacFarland came out and openly supported candidate Brock under the heading of Chairman of Tennessee Democrats for Brock. As you know Senator Gore, one of our greatest senators, was closely defeated in this campaign. Now, as compensation to MacFarland he is offered a position on the Interstate Commerce Commission. As a Democrat and as manager of Senator Gore's campaign and acutely aware of the damage alone by Mr. MacFarland to Senator Gore's effort, you are strongly urged not to approve this nomination.

JAMES F. SCHAEFFER,
Attorney at Law.

[TELEGRAM]

NASHVILLE, TENN., *September 25, 1972.*

Senator WARREN G. MAGNUSON,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: Believe confirmation on nomination of Hon. Alfred T. MacFarland as Commissioner, Interstate Commerce, before your committee. Have known Mr. MacFarland, fellow Democrat, number of years. Have profound respect for him as public official, capable attorney, citizen whose integrity above reproach. Unfortunate that his loyalty to Democratic Party questioned when by Tennessee standards we classify him unquestionably Democrat.

At time we badly need men of the ability of nominee, kindly request your most careful consideration and pray favorable reaction to nomination.

Sincerely,

FORREST M. DURETT.

MACFARLAND AND REED,
Lebanon, Tenn., October 27, 1972.

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

DEAR SENATOR MAGNUSON: In going over the transcript of the proceedings held concerning my appointment by the President to the Interstate Commerce Commission for a term of seven years ending December 31, 1978, I should very much like to have this opportunity to correct the record and the transcript and I make specific reference to a question by Senator Hartke beginning on Page 68 at line 3.

"Senator HARTKE. How did you vote in the Presidential Preferential Primary in the spring?

Mr. MACFARLAND. I did not vote.

Senator HARTKE. You did not vote? Why?

Mr. MACFARLAND. Senator, as I recall, I was in a lawsuit in Birmingham."

After returning to Tennessee and upon reflection, I checked with the election officials of the voting precinct where I vote and with the Election Commission and find that I in fact did vote in this Presidential Preferential Primary, and I further find that I voted in the Democratic Primary which incidentally was the first such primary ever held in the State of Tennessee to my knowledge.

My statement to the effect that I did not vote in the Presidential Preferential Primary was therefore in error and my answer should have read "I did vote, and for a Democrat in this Primary held in the Spring of 1972 in Tennessee."

I respectfully ask for permission that the record and transcript be corrected in this instance.

Yours very truly,

ALFRED T. MACFARLAND.

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