labored with the House of Representatives to defeat the necessary appropriation. Failing in this, he had attempted to bring about the defeat of Washington for re-election in 1796, and the elevation of the pro-French Thomas Jefferson to the Presidency—a scheme that was blocked by Washington's withdrawal. Following Washington's Farewell Address, Adet continued to labor unsuccessfully, through a public appeal and otherwise, for the defeat of the presumably pro-British John Adams, the Federalist candidate, and the election of the presumably pro-French Thomas Jefferson, the Republican candidate.

With such outrageous foreign intermeddling specifically in mind, Washington issued an earnest warning in his Farewell Address to the American people. He especially deplored the growth of a violent partisan spirit that inflamed the people with fierce likes or dislikes for foreign countries.

Nothing is more essential than that permanent, inveterate antipathies against particular nations and passionate attachments for others should be excluded, and that in place of them just and amicable feelings toward all should be cultivated. The nation which indulges toward another an habitual hatred or an habitual fondness is in some degree a slave. . . . Against the insidious wiles of foreign influence (I conjure you to believe me, fellow-citizens) the jealousy of a free people ought to be *constantly* awake. . . .[6] [Italics inserted]

Washington then turned to formal entanglements. With the disputes caused by the "forever" French alliance clearly in mind, he solemnly asserted: "It is our true policy to steer clear of *permanent* alliances with any portion of the foreign world. . . . [But] we may safely trust to temporary alliances for extraordinary emergencies." [Italics inserted][7] Washington, in other words, was giving specific advice to a youthful and disunited nation in the year 1796—advice that had been dictated by recent and bitter experience. He was thinking of the existing permanent alliance with France, and probably had no intention of charting a specific course which the United States would have to follow for all time. He did not say—as he was later made to say—"No alliances, with any nation, at any time, for any purpose." The policy of noninvolvement—not isolation—that he recommended was not so much aloofness from the affairs of Europe as the exclusion of European agents and intrigue from the affairs of the United States.

HOUSE OF REPRESENTATIVES—*Monday, September 29, 1969*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

The Lord bless thee and keep thee.—Numbers 6: 24.

We come to the altar of prayer, our Father, with grateful hearts as we remember the loving care with which Thou didst watch over our fathers as they founded and built our country. Time and again they found shelter under the shadow of Thy protecting love. Thou didst make of them bearers of Thy truth, champions of Thy law, and supporters of Thy kingdom. Give to us, their children, the courage and the strength to be true to our sacred trust.

In days of distress and in times of trouble fortify our spirits with a deep faith in Thee who never slumbers nor sleeps. Keep alive within us the great memories of the past, the good experiences of the present, and the grand visions of the future. May we always labor for that spiritual harvest when all Thy children shall be gathered under the banner of truth and love, and stand united in a common brotherhood.

In Thy holy name we pray. Amen.

THE JOURNAL

The Journal of the proceedings of Thursday, September 25, 1969, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 574. An act to authorize the Secretary of the interior to engage in feasibility investigations of certain water resource developments.

The message also announced that the Senate had passed with amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 474. An act to establish a Commission on Government Procurement.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 406. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the rotation of certain property whenever its remaining storage or shelf life is too short to justify its retention, and for other purposes;

S. 740. An act to establish the Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes; and

S. 2210. An act to amend the Federal Property and Administrative Services Act of 1949 so as to permit donations of surplus property to public museums.

EMERGING NATIONS MUST ALSO SHARE IN NEW IMF RESERVES

(Mr. HANNA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANNA. Mr. Speaker, today starts a week in which this great Capital will play host to the representatives of the many nations of the world who are members of the International Monetary Fund. As one of the principal matters on the agenda, they will be formalizing what has already come to be a generally accepted proposition that the International Monetary Fund will include in the future the creation of the reserves of members in special drawing rights which will multiply the effectiveness of the gold supply of the world, and undergird the trade of the world.

Mr. Speaker, I think this is a very singular accomplishment, but there is something that is missing. In the arrangements that have been agreed upon the nations who will be benefited most are the 10 strongest and richest nations of the world.

Where I think we have an opportunity here is in the suggestion that was made by the gentleman from Wisconsin (Mr. REUSS) in saying that the rich nations should make available through some mechanism in the World Bank such as IDA or through the soft windows of the regional banks, some of the new reserves that they will be creating for the smaller nations; the emerging nations of the world.

It seems to me, Mr. Speaker, that just as we have found in America that the trickle-down theory did not operate to improve the economic strength of our Nation, it is equally true that a trickle-down theory between nations is not going to work. We should put together some of the solid benefits from the almost 70 percent of new reserves that we are going to get for practically nothing out of this new system, and make it operative for the underdeveloped nations where the great new market potential of the world really lies.

Mr. Speaker, I would hope to see that some of this kind of dialog is included in the IMF meetings which will be going on in this city this week.

Mr. Speaker, I yield back the balance of my time.

HONOR, RECORDS, AND LIVES OF SIX GREEN BERETS BEING SACRIFICED

(Mr. WAGGONNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WAGGONNER. Mr. Speaker, in a cruel, compassionless demonstration of self-serving, the Army, the CIA, and unknown other agencies and individuals in the Government are preparing to sacrifice the honor, the exemplary records, and perhaps even the lives of six members of the Green Berets for the alleged slaying of a Vietnamese triple spy. If this trial proceeds, it will be the most outlandish miscarriage of justice perpetrated deliberately by Government agencies and individuals ever to come to public attention.

The victim in this travesty is not the Vietnamese triple agent, but six American servicemen who have proudly worn the uniform of the military and faithfully served the flag of the United States. The other principal victim will be the United States itself, if our Government is paraded before the world as a murderer of civilians.

There are those at home and abroad, in Government and out, who will go to any length to embarrass this country in any connection with the war in Vietnam.

[6] J. D. Richardson, ed., *Messages and Papers of the Presidents* (Washington, 1896), I, 221, 222.

[7] *Ibid.*, I, 223.

They are baying like wolfhounds for the lives of these servicemen but they must be denied. We cannot make scapegoats of these men whose principal offense is having obeyed orders. Opposition to the war does not include the right to disgrace our servicemen in the conduct of their duties.

The total handling of this case has been disgraceful; filled with illegalities, cruel confinements, missing evidence, the absence of a corpus delicti, denial of the most common civil rights, all in an effort to shift the guilt and blame from one person to another, one agency to another.

If any trial is called for, it is to penetrate the cloud of confusion which surrounds all that has gone before in this case and no party to this disgraceful incident will escape free of guilt if the truth is not made available to the people. This star chamber, kangaroo court is beneath the dignity of this Nation.

I have talked with Secretary Laird about this case and told him there will be no support of the war in Vietnam left anywhere if these men are made scapegoats in this incident.

I call on the President to intervene in the interests of these servicemen and, to a larger degree, in the interests of the United States at home and abroad.

STUDENT MORATORIUM ON THE VIETNAM WAR

(Mr. RYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYAN. Mr. Speaker, in his press conference last Friday, President Nixon, in response to a question asking his view of the student moratorium against the war in Vietnam planned for October 15, said, "under no circumstances will I be affected by it."

That was a rather appalling statement from the President of the United States, and I hope he will reconsider.

If the President really means he will not be affected by campus opposition to the war, then there is very little hope that he understands what is happening in America.

The October 15 moratorium is intended as a peaceful expression of student opposition to the war which will extend beyond the campuses, for it has the support of Americans all over the country who want an end to the war in Vietnam.

Both the primaries and the general election of 1968 should have convinced the President, who was the principal beneficiary of the tide running against the war, that he had a mandate for the American people to bring the war to a prompt conclusion.

In the winter of 1968 presidential candidate Richard Nixon said he had a plan to end the war. Now, 9 months after his inauguration, President Nixon not only has not done so, but is bogged down in the same quagmire as his predecessor; and his latest press conference revealed that the rhetoric has not changed either.

The President's seemingly inflexible attitude toward opposition to the war will only make it more difficult for him to extricate himself from the Vietnam policy which he inherited and which he is perpetuating.

It is time for the President and the Congress to realize that palliatives and ploys will not make the war any more acceptable to the American people. And it is time for both to be very much affected by public opinion—on and off the campus.

VIETNAM

(Mr. WIGGINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIGGINS. Mr. Speaker, on Sunday, Hanoi radio commented upon President Nixon's refusal to withdraw all American troops from Vietnam in accordance with one of the several timetables urged upon him by some Members of this body and the Senate.

Hanoi asserted that our President was a warmonger and was refusing to follow the wishes of the American people or their representatives in Congress.

Since Hanoi pays close attention to the speeches of some of our Members, I hope they will listen carefully to this one.

No one urging the withdrawal of American troops from Vietnam upon any terms other than those best calculated to insure the continuity of a freely selected government in South Vietnam speaks for me or the people whom I represent.

The people whom I represent know that the withdrawal of American troops from Southeast Asia will not result in peace, Mr. Speaker. The war will continue and the killing will go on regardless of an American presence in Vietnam.

We are urged by a few to disregard the fighting, to withdraw our troops, and to pretend that a war halfway around the world is unworthy of our attention. Oddly, a different rule is usually applied by this same few to other areas of the world.

I urge our President to reject the foolish counsel of those who apparently believe that evil will disappear in the world if we just turn our backs and pay no attention to it. Too many Americans have died in this century teaching us the fallacy of such a policy.

The issue is not just Vietnam. It is all Southeast Asia. And the question is—and always has been—Will world peace be jeopardized if North Vietnam is permitted to pursue policies ranging from subversion and terror, to open warfare against neighboring republics?

The answer has been plain to every American President for the past 20 years, as it is now to most Americans.

Pay no attention to Hanoi or their domestic cheerleaders, Mr. President.

Do what you must—because it is right and in the long-range interest of world peace, and the American people will back you up.

SEE THE SOUTH

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Alabama. Mr. Speaker, according to a travel study prepared for the Southern Travel Directors Council, people traveling through 11 Southern States spent $10.8 billion during 1968 to make the South the No. 1 tourist area in the Nation. Alabama took its fair share of the revenues with a $454 million total. Of this amount more than $288 million were spent by out-of-State visitors.

These expenditures provide 200,460 business concerns with their income to employ 1,006,690 people of the region. Personal income to people in the region generated by this travel business reached $3.9 billion. In addition, State and local tax revenue produced, totaled $890 million.

But, Mr. Speaker, this increased travel in the South means something much more than just a dollar income. For years, all many people ever knew of the South was Miami and a few other areas. Now people are beginning to see more of the South. A South that is very much like the rest of the Nation. A South alive with people with very real problems. A South that is proud of its particular place in American heritage.

There are many beautiful things to see and do in the South and many real people to meet.

So, Mr. Speaker, I urge our friends to come south. They will like what they find there. For a starter, how about visiting Mobile, Ala.? It is one of the most beautiful cities in the Nation.

PRESIDENT NIXON'S PRESS CONFERENCE

(Mr. ARENDS asked and was given permission to address the House for 1 minute.)

Mr. ARENDS. Mr. Speaker, our admiration for President Nixon and confidence in him, as well as that of the vast majority of the American people, was enhanced by his televised press conference.

President Nixon's press conference is in the nature of the people's forum where members of the press ask pertinent and searching questions on a wide range of subjects of immediate concern to the people. By my count there were no less than 20 questions asked.

President Nixon answered each question with complete frankness, displaying as always a thorough knowledge of situations and developments. Obviously he has been doing his homework thoroughly.

Friday's press conference resolved whatever doubts anyone might have as to his forthrightness and capacity for bold leadership. Once again President Nixon has demonstrated that he is taking the American people completely into his confidence.

PARTISAN POLITICS MUST STOP AT THE WATER'S EDGE

(Mr. GERALD R. FORD asked and was given permission to address the House for 1 minute.)

Mr. GERALD R. FORD. Mr. Speaker,

last Friday the chairman of the Democratic National Committee joined a small group of Congressmen who would limit the President's options in Vietnam by demanding a specific timetable for a U.S. withdrawal—a withdrawal without terms and without honor, a withdrawal tantamount to surrender.

The national chairman, who also is a Democratic Senator from Oklahoma, presumably speaks for a segment of the Democratic Party when it is out of power.

Mr. Speaker, I cannot believe that Chairman HARRIS speaks or acts for all the members of his party, or even a majority of it.

I cannot believe he speaks for the Speaker of the House, or for the majority leader, or for hundreds of my colleagues on the other side of the aisle.

Mr. Speaker, there was a time when politics in the Congress stopped at the water's edge. There was a time when Republicans and Democrats alike supported our President in their conduct of foreign affairs and in the waging of war.

I hope that era has not ended. Today, with a Republican President in office, there are those who would intensify the effort to make war and foreign affairs matters for partisan politics.

But, Mr. Speaker, I still do not believe that any one man, regardless of his party position, does speak or can speak for the Democrats in this Congress and in this Nation, especially in an area where national commitments and national integrity are at stake.

Mr. Speaker, I am convinced that for most Americans, of both parties, politics still does end at the water's edge. And I am sure that the leadership in both parties agrees with that position.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON AGRICULTURE

The SPEAKER laid before the House the following communication from the chairman of the Committee on Agriculture, which was read, and, together with the accompanying papers, referred to the Committee on Appropriations:

SEPTEMBER 26, 1969.

Hon. JOHN W. MCCORMACK,
Speaker of the House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: Pursuant to the provisions of section 2 of the Watershed Protection and Flood Prevention Act, as amended, the Committee on Agriculture today considered and unanimously approved the work plans transmitted to you by Executive Communication and referred to this Committee. The work plans involved are:

Sebastian Martin-Black Mesa, New Mexico, Executive Communication 893.

Warner Draw, Utah, Executive Communication 893.

Buck and Doe Run Creeks, Missouri, Executive Communication 1049.

Candy Jack, Wyoming, Executive Communication 1049.

Ledgewood Creek, Iowa, Executive Communication 1049.

Salt Lick Creek, Kentucky, Executive Communication 1049.

Swift Creek, North Carolina, Executive Communication 1049.

Upper Blackwater, Virginia, Executive Communication 1049.

Yours sincerely,

W. R. POAGE,
Chairman.

CALL OF THE HOUSE

Mr. CEDERBERG. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 187]

Andrews, N. Dak.	Edwards, Calif.	Mikva
Baring	Fascell	Mills
Beall, Md.	Feighan	Monagan
Bell, Calif.	Findley	Moorhead
Biaggi	Fish	Morton
Boggs	Flynt	Murphy, N.Y.
Boland	Ford, William D.	Obey
Bolling	Foreman	O'Konski
Brademas	Gallagher	Pepper
Brock	Gibbons	Powell
Brown, Calif.	Goldwater	Purcell
Celler	Green, Oreg.	Quillen
Chappell	Halpern	St Germain
Chisholm	Hansen, Wash.	Sandman
Clark	Hawkins	Schadeberg
Clausen, Don H.	Holifield	Scheuer
Clay	Howard	Sikes
Colmer	Kirwan	Smith, Iowa
Conyers	Kluczynski	Staggers
Corbett	Lipscomb	Steed
Cowger	Lowenstein	Steiger, Wis.
Cunningham	Lujan	Stokes
Daddario	McKneally	Teague, Calif.
Daniels, N.J.	Macdonald, Mass.	Wampler
Dawson	Madden	Whalley
Dent	Mann	Wilson, Bob
Diggs	Meskill	Wilson, Charles H.
Dingell	Michel	Wold
		Wright

The SPEAKER. On this rollcall 344 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

EXTENDING AUTHORITY TO SET INTEREST RATES ON MORTGAGES TO VETERANS

Mr. O'NEILL of Massachusetts. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 556 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 556

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13369) to extend for two additional years the authority to set interest rates necessary to meet the mortgage market for guaranteed and insured home loans to veterans under title 38 of the United States Code and for other loans, and all points of order against said bill are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Veterans' Affairs, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or amendment in the nature of a substitute recommended by the Committee on Veterans' Affairs now printed in the bill. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from Massachusetts is recognized for 1 hour.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 556 provides an open rule, waiving points of order, with 1 hour of general debate for consideration of H.R. 13369 to extend the authority to set interest rates necessary to meet the mortgage market for guaranteed and insured home loans to veterans. The Ramseyer rule was not complied with and that is the reason for waiving points of order.

Public Law 90–301 empowered the Secretary of Housing and Urban Development, together with the Administrator of Veterans' Affairs, to set the interest rate which would apply to FHA and VA housing loans. That authority expires on October 1, 1969.

The purpose of H.R. 13369 is to extend for 2 years—until October 1, 1971—the authority of the Administrator of Veterans' Affairs to set the interest rate on Veterans' Administration guaranteed loans at such rate as he may from time to time find the loan market requires. It does not affect FHA loans.

There would be no additional cost to the Government.

Mr. Speaker, I urge the adoption of House Resolution 556 in order that H.R. 13369 may be considered.

Mr. Speaker, I yield now to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I think it goes without saying that there is no one in this Chamber, no one in the Congress, who looks forward with great pleasure to the fact that this kind of legislation is necessary to meet the conditions in the money market that exist today. Without this authority that would extend the right of the Veterans' Administration until October 1, 1971, to set the interest rates on VA guaranteed loans at a rate that is consistent with the market level, we simply are not going to get any veterans' housing in this country.

I would assume if things go normally, we are going to hear a great deal of talk from some people about the regrettable fact that the interest rates are at an all-time high in our country.

I believe this might be an appropriate time to remind ourselves that interest rates are a function of the inflationary conditions in the economy generally. It is not interest rates alone that are the villain and that are responsible for the fact that housing construction in the country today is at an unsatisfactory level and may indeed drop to less than 1 million units before this year is over.

We have high land costs. We have inflated costs so far as land is concerned.

Recently there were called to my attention some of the labor contracts which have been negotiated in the construction industry. I shall not take the time this afternoon to list all of the facts and figures and statistics available which I shall include in the RECORD, but let me give a couple of examples.

Down at Kansas City, Mo., on April 1 of this year, the painters and ironworkers, after a 119-day strike, settled on a 3-year contract calling for a $3.18-an-hour increase.

In southern California the United Association District Council No. 16 went on strike the first of July of this year. They have a final settlement. I believe the strike there lasted more than 100 days. The final settlement called for a total wage and fringe benefit increase of $3.51 an hour.

Until we get a little statesmanship, I believe both in management and the labor councils, inflation and rising interest rates cannot be controlled. On the part of management, there must be a resistance to unrealistic demands. On the part of labor, there must be a restraint from some of the demands currently made. Otherwise we are simply going to find ourselves steadily increasing the possibility of reaching that point down the road where we are pricing the low-income families or even the moderate-income families out of the housing market altogether.

I would certainly applaud the appointment of the Cabinet Commission on Collective Bargaining in the construction industry. That Commission was established by the administration within the past couple of weeks and is going to look into some of the problems and try, I believe, to bring a balanced approach to the very obvious need to do something about bringing these inflationary threats, not only in respect to interest rates but also on land costs, wage rates and construction costs under control, so that we can begin to construct the housing we so desperately need in this country.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Iowa.

Mr. GROSS. Does this bill provide for a federally paid subsidy of 3 percent to veterans?

Mr. ANDERSON of Illinois. No. This bill does not contain that provision, if my understanding of the legislation is correct. It would merely extend for 2 years the authority of the Administrator of Veterans' Affairs to agree on an interest rate or to fix an interest rate for veterans loans which would be compatible with the interest rates prevailing presently in the money market. But it does not provide for a subsidy.

Mr. GROSS. If I remember correctly, a majority of the House voted not too long ago to authorize a 10-percent interest rate, with 3 percent of it subsidized by the Federal Government, for students and student demonstrators. Is there some reason why there should be this difference as between veterans and student demonstrators?

Mr. ANDERSON of Illinois. Of course, in response to the gentleman from Iowa, I supported that legislation dealing with student loans because, again, what we are dealing with are the simple facts of life. If we want to get the loans for the students to continue their college education we simply had to get the interest rate up to that point. I do not like it any better than the gentleman from Iowa does. I wish they were down to a 4- or 5-percent level.

Until we get inflation under control in this country, I repeat, these rates, as a reflection of inflationary conditions, will not be brought under effective control.

Mr. GROSS. I would assume that someone who supported the bill the other day would probably offer an amendment. Does the gentleman intend to offer an amendment today to provide for a 10-percent interest rate for veterans, with 3 percent of it subsidized?

Mr. ANDERSON of Illinois. No. I do not intend to do that, for the simple reason I do not believe we have to go to 10 percent on the loans of this kind. If we give the authority provided in this bill, I believe we can get veterans housing constructed. I do not believe we have to provide for 10-percent interest rates or a 3-percent subsidy to get the job done.

Mr. GROSS. The student loans were guaranteed, were they not?

Mr. ANDERSON of Illinois. Yes.

Mr. GROSS. Why, then, did you have to go to 10 percent?

Mr. ANDERSON of Illinois. I think those loans are frankly in a different category. I do not know that I am familiar with all of the reasons why lending institutions in this country have not been as anxious as they should have been in many cases to make loans of that kind. Therefore there has to be some additional incentive to make sure that those funds continue to flow.

Mr. GROSS. Can it be that one is categorized as being students and the other servicemen? One being put above the other? Why should there be better treatment for students and student demonstrators than for the servicemen of this country? Why?

Mr. ANDERSON of Illinois. I am glad to yield at this point to the gentleman from Pennsylvania (Mr. SAYLOR), who can supply an answer to the gentleman's question as to why these loans are not made so readily by the banks.

Mr. SAYLOR. I thank the gentleman for yielding.

One of the reasons why we had to go to 10 percent on student loans is that the committee has not allowed this paper to be negotiable. Any bank that takes it has to hold it for its entire period of time; that is, 16 years. If a change were made and this paper were negotiable, I am sure the interest rate could then be below 10 percent.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman from Pennsylvania for that explanation.

Mr. Speaker, I have no further requests for time and I reserve the balance of my time. I also include here the figures on recent wage settlements reached in the construction industry throughout the country:

RECENT WAGE SETTLEMENTS

KANSAS CITY, MO.

On April 1, 1969, the Painters and Ironworkers went on strike. One hundred and nineteen days later, the painters settled for a three-year contract for $3.18 per hour. The ironworkers settled for $3.80 per hour.

The Sheet Metal journeymen $4.05 per hour for a three-year contract after a 45-day strike.

The Associated General Contractors (Heavy Contractors) settled with their union for $5.30 over a period of three years.

Within the next 22 months, the following wage scales will prevail:

	Per hour
Labor	$9.18
Teamster	9.39
Cement finisher	10.10
Operating engineer	10.05
Ironworker	8.87
Painter	7.62
Sheet metal	9.45
Plumbers and pipefitters	9.23

COLORADO SPRINGS, COLO.

After a 53-day strike in Colorado Springs, the following eleven changes were made in their agreement:

1. Coffee break not to exceed ten minutes between 10 a.m. and 10:30 a.m. and 2:30 p.m. and 3 p.m.

2. It shall be the obligation of the employer to provide free and adequate parking space for automobiles of the employees used in traveling to the job site. If no free parking is available within one-fifth mile of the work area, employer shall provide transportation to and from said parking facility—on employee's time, if less than one mile and on employer's time if more than one mile.

3. Double time for overtime, and overtime shall be paid at double time on new construction excluding jobbing work.

4. When any member has to work overtime, the employer must call the union hall and state the place and approximate time of overtime except service work.

5. Seven paid holidays. In the event one holiday falls on a Sunday, the following Monday will be observed as a holiday; monies to come out of vacation fund.

6. Heated facility—employer shall provide an adequate heated lunch area on all jobs. A pickup with heater will be considered a heated area provided not more than two men per pickup. If a heated facility is already available to plumbers and pipe fitters, the mechanical employer will not be required to provide another such facility.

7. Travel rate, 15 miles free zone, over 15 miles 15 cents per mile.

8. Subsistence, July 1, 1969—$12.50 per day; July 1, 1970—$14.00 per day.

9. General and non-working foreman shall not replace a journeyman on any job, except for emergency work—not to exceed two hours.

10. Committee to set up safety standards. Two from management—two from Local 58.

11. Additional wage package of $2.08—July 1, 1969—65 cents per hour and 3 cents apprenticeship training:

January 1, 1970, 40 cents per hour.

July 1, 1970, 45 cents per hour.

January 1, 1971, 55 cents per hour.

This new two-year contract effective July 1, 1969 through July 1, 1971, spread as follows:

July 1, 1969: $5.61 per hour basic wage rate "journeyman"; .25 per hour vacation fund; .17 per hour paid holidays; .25 per hour pipe industry insurance fund; .15 per hour pension fund; .10 per hour pipe industry development fund; and .05 per hour apprentice and journeymen training fund.

January 1, 1970: $5.71 per hour basic wage rate "journeymen"; .50 per hour vacation fund; .17 per hour paid holidays; .25 per hour pipe industry insurance fund; .20 per hour pension fund; .10 per hour pipe industry development fund; and .05 per hour apprentice and journeymen training fund.

July 1, 1970: $5.91 per hour basic wage rate "journeymen"; .75 per hour vacation fund; .17 per hour paid holidays; .25 per hour pipe industry insurance fund; .20 per hour pension fund; .10 per hour pipe industry development fund; and .05 per hour apprentice and journeymen training fund.

January 1, 1971: $6.06 per hour-basic wage

rate "journeymen", $1.00 per hour vacation fund; .17 per hour paid holidays; .30 per hour pipe industry insurance fund; .30 per hour pension fund; .10 per hour pipe industry development fund; and, .05 per hour apprentice and journeyman training fund

This totals an increase of $2.05 per hour plus 3 cents apprentice and journeymen training plus 5 cents development fund. Additionally in the new contract a dues check off of one percent of gross wages to be deducted from pay and remitted by the employer to the union. The Industrial Relations Council awarded a two-year increase of $1.75 in the Denver area which was accepted by the other five unions within the State of Colorado except the Colorado Springs area. There 33 cents per hour over all other plumbers and pipe fitters within the state came about at the end of a 60-day strike with both federal mediation and national UA officials in attendance.

SOUTHERN CALIFORNIA

United Association District Council No. 16 went on strike July 1, 1969, demanding wage and fringe benefit increases totaling $5.04 per hour and a 32-hour work week during a three-year contract. Final settlement called for total wage and fringe benefits increases of $3.51 per hour with 36-hour work week effective July 1, 1971. Wage rate before strike was $5.79 per hour plus $2.32 fringe benefits; effective July 1, 1969, wage rate will be $8.30 per hour plus $3.32 fringe benefits, an increase of 43.3 per cent. In addition, new contract will require contractors to pay into pension trust fund hourly wages plus fringe benefits for UA work not included in their contract with the general contractor or awarding authority. Union calls this a work preservation clause. Union demands have been firm since July 8th. Contractors were forced to agree on September 18th after refrigeration contractors, fire sprinkler contractors and industrial pipework contractors signed on union terms and national contractors would not cooperate.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I yield 10 minutes to the gentleman from Texas (Mr. PATMAN).

Mr. PATMAN. Mr. Speaker, when the honorable chairman of the Committee on Veterans' Affairs, the gentleman from Texas (Mr. TEAGUE), appeared before the Rules Committee on this legislation, I also requested time to be heard. I contended before the Rules Committee that increasing the interest rates on veterans housing, the mortgages of which are guaranteed by the Federal Government, would not increase the amount of housing starts on mortgage loans for veterans. This is the same position I took on the floor of this House in March of 1968 when this similar legislation that we are now debating was on the floor.

You will recall that on May 7, 1968, the President signed into law an act which gave the Secretary of Housing and Urban Development and the Administrator of the Veterans' Administration discretionary authority to raise mortgage interest rates on FHA and VA housing loans above the statutory rate of 6 percent.

In May of 1968, the FHA and VA interest rate was raised from 6 percent to 6.75 percent. In January of 1969, the 6.75 percent rate of FHA and VA mortgages was raised to 7.5 percent. Within a period of less than 1 year, these two insured loan programs experienced a rate increase of 1.5 percent—amounting to a percentage increase of 25 percent.

Since this legislation does not continue the discretionary authority for the FHA program, but merely the VA program, let me indicate to this body what the VA housing starts program looks like as a result of these two increases. From January to May of 1968, VA new housing starts were running at an annual rate of a low of 52,000 units a year to a high of 63,000 a year. In June of 1968, just after the 7.5-percent rise, VA housing starts were down to 54,000. We ended up the year of 1968 with 56,000 new VA-guaranteed housing units.

At the beginning of 1969, when the VA interest rate ceiling was raised from 6.75 percent to 7.5 percent, VA new housing starts at an annual rate were estimated at 57,000 units, the exact same amount at an annual rate basis as estimated in May of 1968 before the initial increase in the rate ceiling from 6 percent to 6.75 percent. As I have indicated, in January 1969, the VA statutory rate went up another three-quarters of 1 percent, to 7.5 percent. But what has happened?

Currently, according to the latest figures, VA housing starts for the month of July were down to a level of 46,000 units at an annual rate basis. These figures conclusively indicate, Mr. Speaker, that increasing interest rates has not, does not and will not elicit more VA-guaranteed housing units.

Mr. Speaker, the plain simple fact is that housing starts do not increase when mortgage interest rates are increased. The low- and moderate-income veteran—the veteran this program is supposed to help—is priced out of the housing market when interest rates go up. Few veterans can afford 8, 9, and 10 percent interest rates.

Mr. Speaker, last week the Senate passed Senate Joint Resolution 152, which extends for 90 days the authority both for the Secretary of Housing and Urban Development and the Administrator of the Veterans' Administration to set interest rate ceiling on FHA and VA loans above the statutory 6 percent. Senate Joint Resolution 152 was agreed to by this body last Wednesday. Any pressures in this instance, therefore, have been removed and, as a result, I do not myself see any necessity for this legislation.

If for no other reason we should proceed with a great deal of caution on this legislation since it divorces the VA interest rate from the FHA interest rate and could create a chaotic and unfavorable situation in which the FHA program would be vying with the VA program to the benefit of neither the FHA or VA borrower.

As I say, Mr. Speaker, I do not see the need for this legislation, but, by the same token, I do not intend to take any action to move to have it recommitted or killed.

I want to assure both the chairman of the Veterans' Affairs Committee and this body that the Senate Banking and Currency Committee and your House Committee on Banking and Currency will explore this matter of the FHA–VA interest rate in great detail.

The Senate Banking and Currency Committee has already begun its investigation on this subject, and it is contemplated that in the immediate future the House Committee on Banking and Currency will also be in the middle of its inquiry into this matter.

My main purpose in asking for the floor, Mr. Speaker, is to indicate to the Members my intention to offer an amendment, at the appropriate time, to this legislation. This amendment in substance is contained in a bill, H.R. 9476, introduced by the esteemed chairman of the Committee on Veterans Affairs, the gentleman from Texas (Mr. TEAGUE), on March 25, 1969. My amendment would very simply provide for the investment of part of the assets of the national service life insurance fund in VA-guaranteed mortgages, up to an amount of $5 billion, between enactment of this bill and June 30, 1974.

To finance this proposed investment of national service life insurance funds in VA-guaranteed mortgages, this amendment would establish a national service life insurance investment fund, to which the Secretary of the Treasury would be required to transfer from the national service life insurance fund such amounts, up to $5 billion, as the Administrator of Veterans' Affairs may request. The investment fund would pay interest to the insurance fund at the average rate on loans purchased by the investment fund less 1 percent, but not less than the average return on the other invested portion of the insurance fund. The Administrator of VA would also be authorized to utilize the investment fund to purchase loans from the direct loan revolving fund; to sell participation certificates in mortgages held by the fund; and to utilize available funds in the loan guarantee and direct loan revolving funds to cover deficiencies in the investment fund.

Mr. Speaker, leaving aside these technical niceties, all this amendment says is that the funds which the veterans of World War II have paid into the national service life insurance fund should be made available to veterans to allow them to purchase VA-guaranteed housing. This specific program to which this amendment would apply ceased issuing policies in 1951 and, therefore, the insurance in force under the program would, of course, decline over time.

To indicate the substantial amount of assets in the fund, it should be pointed out that the assets of the fund, which are largely invested in special Treasury interest-bearing securities and policy loans, as of June 30, 1968, amounted to $7 billion, and it is estimated that by June 30, 1970, the fund will be up to a $7.2 billion mark.

The actuarial estimate of policy obligations, as of June 30, 1968, totaled $6.9 billion, leaving a balance of $91 million for contingency reserves.

Mr. Speaker, there is no question that this insurance program is actuarially sound. The estimate for 1970 indicates, for example, that revenues to the insurance fund will total $827.8 million, and expenses will total $823.5 million, leaving a net income for the year of $4.3 million.

Nor will my amendment in any way jeopardize either the safety, liquidity, or cash flow of the insurance fund. The

fund will be making investments in VA mortgages guaranteed by the Federal Government. These mortgages can be sold. If the fund wants the mortgages, they will be receiving the principal and interest payback on the mortgages. Furthermore, the interest on the investment will be greater than that which is now received from the Treasury on those investments made by the fund in special Treasury securities. In other words, Mr. Speaker, not only will there be no drain on the fund whatsoever in monetary terms, but the value of the fund will, in fact, be increased by this approach.

Mr. Speaker, I trust that the honorable chairman of the Veterans' Affairs Committee and other esteemed members of this committee will support my amendment.

Mr. ANDERSON of Illinois. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I was very interested in the gentleman's explanation of his proposal to make this $5 billion available for veterans housing. I would ask the gentleman from Texas is it not a fact, however, that this money is not actually in a segregated fund, and available in the Treasury now, but that it has been borrowed, and that what you have, therefore, are I O U's that are in the Treasury? Therefore what we would have to do is to go out and borrow in the money market the $5 billion to make it available for this purpose. Would we not thereby be creating even greater pressures in the money markets and thus cause interest rates to go up—which is of course, I know, something that the gentleman would not advocate?

Mr. PATMAN. Even if the interest rates were to go up, the veterans would get housing, and they are not getting housing now.

Why should we say we ought to let the Treasury use this money to pay for anything the Congress appropriates the money for, and keep it away from the veterans? It is the veterans' money.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. PATMAN. Mr. Speaker, may I have some additional time?

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 additional minutes to the gentleman from Texas (Mr. PATMAN).

Mr. Speaker, would the gentleman yield to me?

Mr. PATMAN. I yield to the gentleman from Illinois.

Mr. ANDERSON of Illinois. Mr. Speaker, I would state to the gentleman from Texas that I have before me, in connection with the hearings that were held on H.R. 9476, the letter that was written under date of May 20, 1969, by the Associate Deputy Administrator of the Veterans' Administration in the absence of Mr. Driver, who was then Administrator:

> The purchase of mortgages as contemplated in this bill could increase federal outlays up to $5 billion during the five-year period, fiscal year 1970–1974, resulting in increased requirements for Treasury borrowing from the public.

He goes on to state that this would be inflationary. Would not the gentleman from Texas agree that his proposal, desirable as it may be on the surface—and I share with the gentleman his desire to see more veterans housing in this country—but given the conditions that exist now, would it not be creating undesirable pressures that would drive the interest rates still higher, thereby making housing even less available than it is now?

Mr. PATMAN. It would be no more inflationary than if you received the funds from other sources and put them into housing. There is no difference between the two.

May I remind the gentleman from Illinois also that shelter, housing, is just as important to many people as food and clothing. You cannot say that every expenditure is inflationary.

There are many ways to stop inflation—many ways. But there is no definite and proven way to stop the pressure so it is not any more inflationary than $5 billion to be spent by the veterans fund.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Iowa.

Mr. GROSS. Does the gentleman know whether dividends are still being paid on Government life insurance?

Mr. PATMAN. I know that on some Government life insurance policies, dividends are paid. It all depends on the policy.

Mr. GROSS. I am talking about war risk insurance paid-up policies.

Mr. PATMAN. That is one that they are still paid on, on policies, according to the earning of the fund.

Why should the Treasury insist—or anybody else—that veterans money should be taken and used for other things, and not permit veterans themselves to use it for a purpose that will relieve a great need and give them the comforts and conveniences of life that they are entitled to receive, and use their own money to build their own houses. I cannot conceive of a fairer or better proposition.

The gentleman from Illinois is mistaken in saying that they are lying loosely around in the Treasury. You see, a reserve is very carefully preserved and protected and these securities now used are in that particular box of reserves, and not transferred over and as other money paid in—instead of going right into the Treasury to be spent—but right into this reserve fund.

Mr. GROSS. The gentleman from Texas and the gentleman from Iowa opposed the bill before the House the other day to, for all practical purposes, establish a 10-percent interest rate on student loans. Does the gentleman know of any reason why there should be this different standard—one for veterans and the other for students and student demonstrators?

Mr. PATMAN. The gentleman's point is a good one. If we adopted a policy of letting the students who even engage in riots get loans from the Government with a Government guarantee and then give to the commercial banks a 3-percent subsidy on top of the 7 percent, that is paid by the Government, why then it would be just as sensible to let the veterans borrow money to build homes at 10 percent and giving 3 percent of it to the lender, just as it is proposed on student loans. If you do not pass this, you are discriminating against the veterans.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I have no further requests for time.

The SPEAKER. Does the gentleman from Illinois (Mr. ANDERSON) have any further requests for time?

Mr. ANDERSON of Illinois. No, Mr. Speaker.

Mr. O'NEILL of Massachusetts. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. TEAGUE of Texas. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13369) to extend for 2 additional years the authority to set interest rates necessary to meet the mortgage market for guaranteed and insured home loans to veterans under title 38 of the United States Code and for other loans.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13369, with Mr. BENNETT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. TEAGUE) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. AYRES) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE of Texas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, Public Law 301 of the 90th Congress delegated authority to the Administrator of Veterans' Affairs and the Secretary of Housing and Urban Development to set the interest rates on loans made by the Federal Housing Administration and on guaranteed and direct loans of the Veterans' Administration. The authority to set such rates of interest expires on October 1, 1969. The current rate of interest as set by these two officials is 7½ percent.

The bill before us provides for a 2-year extension until October 1, 1971, of the authority insofar as it relates to the Administrator of Veterans' Affairs to set the interest rate at such a level as he determines necessary in order to permit the veterans housing program to work. If the authority should lapse, the rate would revert to 6 percent, an unrealistic rate in view of the general housing situation and interest rate conditions.

The Veterans' Administration favors this bill and there would be no addi-

tional cost to the Government as a result of its enactment, the bill was reported unanimously by the committee.

Mr. Chairman, I take this opportunity to commend the gentleman from Nevada, the chairman of the Subcommittee on Housing of the Veterans' Affairs Committee, for his action in promptly reporting this measure to the full committee, and also that of his colleagues on the subcommittee who were unanimous in deciding that this measure was essential. All of the members of the subcommittee have been helpful—Hon. WALTER S. BARING, chairman, Hon. RAY ROBERTS, Hon. DAVID E. SATTERFIELD III, Hon. HENRY HELSTOSKI, Hon. DON EDWARDS, Hon. EDWARD R. ROYBAL, Hon. WILLIAM H. AYRES, Hon. SEYMOUR HALPERN, Hon. JOHN J. DUNCAN, and Hon. MARGARET M. HECKLER.

Mr. AYRES. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. BROYHILL).

Mr. BROYHILL of Virginia. Mr. Chairman, there is no question but what the legislation we have before us today is absolutely necessary if we are going to continue the GI home loan program. We are simply facing the facts of life. There will be no money available whatsoever unless we do extend the authority of the Veterans Administrator to continue the interest rate at somewhat around its present level.

My understanding is that, if the bill is not passed, the interest rate for GI loans will revert back to 6 percent, and there is no such thing as a 6-percent interest rate today for any type of mortgage, guaranteed, insured, or what not. The prime rate on premium-type loans is set at a rate of 8½ percent. The fact is there is really no net 7½-percent money available. In order for the GI to benefit from existing law, the seller, the mortgagor, or someone else is going to have to pay additional points somewhere between 8 and 15 percent.

In fact, the Federal National Mortgage Association is the only source of secondary financing for GI loans today. A notice sent out by that Association dated September 22 points out that the discount rate for GI loans for a 90-day commitment is 93.42, and for a 6 months' 93.43, plus the fact that the mortgagor in making the application must pay a three-quarters of 1 percent nonrefundable fee.

Any way you slice this, GI loans today are being sold to a Federal secondary mortgage source at a discount of 7.32 percent.

I am not criticizing the Federal National Mortgage Association because this is competitive. All of us are aware of the fact that this is what has to be paid for these loans if they are going to be made available to anyone. My point is not to criticize what the Federal National Mortgage Association is doing. The problem is this. On the same date, February 22, 1969, the Federal National Mortgage Association announced that, notwithstanding that they will buy these mortgages at 93.42 and 93.43, they will be unable to buy any single-family GI loans in the District of Columbia at the present time. The notice reads in part as follows:

FNMA finds it necessary, effective immediately, to decline to accept submissions of FHA-insured and VA-guaranteed mortgages covering properties located in the District of Columbia. Unless it is established that such mortgages are not usurious.

The problem is caused by the D.C. usury law, which proscribes rates in excess of 8% per annum. There is no exemption for FHA and VA mortgages under District of Columbia law. FNMA believes there is substantial risk that courts may hold, under the D.C. usury statutes, that discount points and perhaps certain other amounts received by lenders must be included in determining whether a loan is usurious.

In the case of a 30-year 7½% mortgage, any amount received by the lender in excess of 4½ points, allocated over the 30-year term, produces an aggregate yield in excess of 8% per annum. We believe that the calculation of the total "points" as to any D.C. mortgage must include any loan closing or origination fee, and also any other fees or charges received by the lender which do not represent actual out-of-pocket expenses of the lender.

The letter concludes with this statement:

With respect to the future, FNMA's position is that only authoritative action by either the Congress or the courts can solve the D.C. usury problem, unless, of course, there is a marked change in market conditions.

The net effect of that is that no veteran can purchase a single-family residence in the District of Columbia at the present time under the GI bill of rights.

If these loans cannot be sold to FNMA, there is no place else to sell them, unless the discount rate is a great deal higher, so at the proper time I intend to offer an amendment that will exempt this act from the District of Columbia usury law. It will not cause the GI to pay any more in interest rates. If the seller is paying these fees now, it would merely permit the loans made to the GI's in the District of Columbia to be sold to FNMA.

I hope at the time I offer my amendment it will be favorably considered.

Mr. AYRES. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania (Mr. SAYLOR).

Mr. SAYLOR. Mr. Chairman, I thank the gentleman for yielding.

I take this time to direct a question to our colleague, the gentleman from Virginia, and also to commend him for his presentation of the problems involved in this legislation.

However, with respect to the amendment which will be offered by the gentleman, I wonder why the gentleman limits his amendment to exempt these mortgages from usury laws just in the District of Columbia, because there are other States in the Union that have the same problem. I think the gentleman's amendment would be a great deal more acceptable if it were put in such form that the Federal Government would be permitted to guarantee these mortgages despite the usury laws of any State in the Union, including the District of Columbia.

Mr. BROYHILL of Virginia. Mr. Chairman, I thank the gentleman for that statement. I would prefer that the amendment include the other 23 States that have similar usury laws which affect GI loans. I was fearful, however, that it might be objectionable to some Members representing those States for us to attempt to superimpose our judgment as to what the usury laws in those States ought to be. Insofar as the District of Columbia is concerned, we legislate for the District of Columbia, and it is within our jurisdiction and our prerogatives to amend on existing law which affects the District of Columbia, but I would be happy to change it, if I thought I could get the support for it.

Mr. SAYLOR. I think the point the gentleman made is good and I say frankly the States that object will have the opportunity to come in and speak. I hope the gentleman offers his amendment so as to include the District of Columbia and the other States.

Mr. BROYHILL of Virginia. I thank the gentleman from Pennsylvania.

Mr. TEAGUE of Texas. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of Virginia. I yield to the gentleman from Texas.

Mr. TEAGUE of Texas. Mr. Chairman, I will say to my friend on the committee, he knows we know the problem, but the gentleman also knows we have not explored it, and I certainly would not want to override our States without giving them a chance to testify. So I hope the gentleman will keep his amendment within the limits.

Mr. SAYLOR. With that assurance, Mr. Speaker, I will support the amendment offered by the gentleman from Virginia.

Mr. Chairman, I yield 5 minutes to the gentlewoman from Missouri (Mrs. SULLIVAN).

Mrs. SULLIVAN. Mr. Chairman, the amendment to be offered shortly by my esteemed colleague, the gentleman from Texas (Mr. PATMAN), chairman of the Committee on Banking and Currency, is the most important piece of housing legislation to come before this body since the start of this session of Congress. This amendment is the first realistic approach offered to help solve what has become a housing recession in the Nation—and believe me that is no overstatement. Housing starts have fallen from an annual rate of 1.9 million in January to less than 1.3 million and it is widely expected they will drop below 1 million by late this year or early in January unless a course of action indicated by this amendment is taken.

The current rate of housing starts makes a mockery out of the goals that we so enthusiastically endorsed in the 1968 Housing Act. Instead of moving rapidly toward achieving 26 million new or rehabilitated housing units in 10 years we are moving rapidly in the wrong direction. So much so that in another 2 or 3 years we will likely find ourselves adopting new housing goals of 30 million or 35 million units during another 10-year period.

HOUSING BEARS FULL BRUNT OF ADMINISTRATION'S ANTI-INFLATION EFFORT

In effect, the country faces a housing crisis worse than that of 1966, the year that ironically produced the motivation to establish our current national housing goals. Housing once more has been made

the victim of inflation and the methods being used to fight inflation. Inflation alone has priced millions of people out of the housing market because the homes they need are now beyond their means. When this condition is coupled with a high-interest, tight-money policy, which is now being employed to fight inflation, the situation becomes hopeless for all but the middle and higher income segment of our population. While the rest of the economy continues to boom, disaster has overtaken the housing industry. It is the only section of the economy that has reacted to monetary and fiscal measures now being employed to battle inflation. If the rest of the economy had reacted in the same way, we would all find ourselves not in a recession, but well into a depression.

Mr. Chairman, because of inflation and the tight-money, high-interest policy being used to fight inflation, funds that normally would flow into the mortgage market are being diverted into high yielding short-term investments. By the same token, the money that is left for mortgages is costing everyone, and particularly the low- and moderate-income families—the families that the FHA and VA programs are designed to serve—a minimum 25 to 30 percent more than was the case less than 2 years ago. FHA and VA mortgages which carried 6 percent interest then, now have an effective interest rate of about 8.25 percent. Last week Secretary of Housing and Urban Development George Romney reported that the price of borrowed money has gone up 3 percent since January and average monthly housing payments have increased by 30 percent since that time. The lack of mortgage money and the attendant increase in interest rates have brought the FHA and VA programs to a standstill in Maryland, the District of Columbia and in other areas as well. In essence, the low- and moderate-income families of this Nation are being told that only middle- and higher-income citizens have the right to purchase and own a home. The system has clearly broken down.

PROPOSED IN MINORITY REPORT OF MORTGAGE INTEREST RATE COMMISSION

Remedial action required the recognition that decent housing and a suitable living environment are just as important to the Nation and its people as having enough food and clothing and medical care. Decent housing is as fundamental to the needs of our people as anything anyone in this Chamber can name.

Mr. Chairman, adoption of the amendment to be offered by Congressman PATMAN would serve as a dramatic demonstration of that recognition. His proposal is a step that is absolutely required if our housing industry is to have the resources required to meet the needs of the people. Both he and I served on the Mortgage Interest Rate Commission, established to develop recommendations to get the housing industry back on its feet in terms of providing adequate home loan funds at reasonable rates. During its studies, the Commission concluded that an additional 1 percent of the gross national product must go into housing if the national housing goals are to be reached. Translated into dollars, this means that at least an additional $9 billion a year must be devoted to home building. Both Congressman PATMAN and I recommended in the minority report of the Commission on Mortgage Interest Rates the utilization of national service life insurance funds to help provide the required increase in mortgage money. In this one amendment alone, this Congress can make a decision that has the potential to furnish more than half of all the additional mortgage money needed to meet the national housing goals and can do so without expenditure of one additional tax dollar.

NEED FOR H.R. 13694, CREATING HOME OWNERS MORTGAGE LOAN CORPORATION

Important as it is, this amendment is not enough to assure that all veterans who should will actually benefit from the additional mortgage funds it provides. There are many veterans' families which are tragically blocked from home ownership because interest rates have raised those costs beyond their ability to pay. It is outrageous that moderate income families now face the prospect of having to make interest payments which amount to 133 percent of the principal on their homeownership loans. This is the case when interest rates reach 8 percent and higher on a $20,000, 30-year VA mortgage. At the end of the mortgage term the homeowner will have paid $32,000 in interest.

In my judgment, adoption of this amendment should be followed by creation of a Home Owners Mortgage Loan Corporation to make direct loans for low- and moderate-income families at interest rates that are no higher than 6 or 6½ percent. Such a vehicle, using FHA field offices to process applications and approve loans, and operating with a fund of at least $2 billion a year, will give assurance that no credit-worthy low- or moderate-income family in this Nation will be deprived of the opportunity for home ownership. In effect, the Home Owners Mortgage Loan Corporation would be a national bank of last resort for those credit-worthy families who cannot obtain mortgage funds from conventional lending institutions. Its establishment, more than anything else, I am certain, will exert a powerful influence that will bring all mortgage interest rates down to a reasonable, decent level. Creation of such a vehicle is proposed in H.R. 13694 which I introduced with the cosponsorship of the chairman of the Housing Subcommittee, the gentleman from Pennsylvania (Mr. BARRETT), I hope to have presented to the House as soon as possible.

But neither the Sullivan-Barrett bill, nor Congressman PATMAN's amendment to H.R. 13369, will solve all of the Nation's housing problems. That solution will only be achieved when all sections of the economy, both private and public, are brought into full play and are guided by a will to serve the public interest first. Congressman PATMAN's proposed amendment to H.R. 13369 today would be a giant step in this direction. Here is an opportunity for us to really begin meeting the national housing goals.

If the Patman amendment is adopted to this bill, it will really mean something. It will provide a very effective solution for veterans needing housing loans. So I urge my colleagues to support it.

This amendment allocates $5 billion of reserves held against veterans' service life insurance policies for direct loans to veterans unable to borrow money in the regular mortgage market to buy a home.

It is money which belongs to the veterans—as reserves against their life insurance—and should be used in a manner which directly benefits veterans. There is no better investment in which these funds can be placed—if put into VA-guaranteed mortgages, they are 100 percent safe, and will bring a better return than those same funds now bring from the Treasury.

This money does not belong to the Treasury to meet current bills; it belongs to veterans who have managed to enjoy good health and not die as quickly as the insurance actuaries perhaps had guessed they would. Let us use it to help veterans own homes. They can't buy them now because the mortgage market has dried up. This bill before us is not going to get any more money into veterans housing unless the Patman amendment is added to it.

I ask the House to consider his amendment seriously and agree to it, when it is offered.

Mr. AYRES. Mr. Chairman, I yield myself 1 minute.

I rise in support of H.R. 13369. This bill, extending as it does the Administrator's discretionary authority to establish the maximum interest rate on GI home loans for 2 additional years, is necessary if we are to have any kind of a GI home loan program for returning Vietnam veterans.

Section 3 of Public Law 90–301 authorized the Secretary of Housing and Urban Development in consultation with the Administrator of Veterans' Affairs to set the maximum interest rate on FHA and VA loans. This discretionary authority expires on October 1, although a measure recently passed by the House and Senate would extend it for 90 days. Should this authority be permitted to expire, the interest rate which has been established currently at 7½ percent would be immediately rolled back to the statutory 6 percent, the maximum rate established by law prior to the enactment of Public Law 90–301.

Admittedly, the inflationary spiral and the competition for money which has been evident in our Nation in recent years has caused the flow of mortgage capital into the GI housing market to diminish. It has not stopped completely, however, as evidence by the fact that there were more than 103,000 GI home loans closed during the first 6 months of this current year as compared with approximately 95,000 during the first 6 months of 1968 and approximately 74,000 during the first 6 months of 1967. If the interest rates are permitted to revert to 6 percent, it is obvious that lenders would be unwilling to invest in GI loans. As a result, the home loan program for returning veterans would come to a screeching hault.

Let me remind my colleagues that our

failure to act on this legislation does not affect the returning Vietnam veteran alone. Many World War II and Korean conflict veterans still have entitlement to GI home loan benefits. The World War II program, however, is scheduled to expire July 25, 1970. Our failure to enact this legislation will deprive this group of veterans of the opportunity to purchase a home during this critical period when they have but a few months of entitlement remaining.

I urge that this bill be passed so that it can be transmitted to the other body for their prompt attention, thus assuring the continuation of this vital program.

Mr. TEAGUE of Texas. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. BARRETT).

Mr. BARRETT. Mr. Chairman, I wish to thank the chairman of our committee for yielding me this time.

I certainly believe this is a most appropriate time to bring this bill to the floor of the House, and I feel the chairman of the Committee on Veterans' Affairs as well as the chairman of the full Committee on Banking and Currency (Mr. PATMAN) as well as all of the members on the minority side and all the members of the committees deserve commendation for bringing this bill to the floor at this time.

This will give us an opportunity to have the money flow into the areas where those people are who are in dire need of housing. This housing is badly needed today. We have 600,000 fewer starts today than we had at the beginning of this year. I believe every Member on both sides of the aisle should and will support this amendment which will be offered and this bill, because we have already asked for an extension and both houses have passed a 3-month extension so that we can take a hard look at the interest rate question. This matter is now before the President, and I hope it will be signed into law shortly. I think all of the Members know that a 1-percent increase in a veteran's mortgage costs brings about an addition of $4,820 to a 30-year mortgage. Since the present waiver was enacted the interest rate increase has added about $7,200 to the cost of a $25,000 home on the basis of a 30-year mortgage. If we are to compensate these men who made these great sacrifices to keep this country free, I think everybody in this body ought to vote unanimously to keep the interest rate down.

Mr. Chairman, I hope everybody votes for the Patman amendment and that we have a unanimous vote in favor of the bill.

Mr. TEAGUE of Texas. Mr. Chairman, the purpose of the bill, H.R. 9476—similar to the amendment of the gentleman from Texas (Mr. PATMAN)—is to increase the availability of Veterans' Administration guaranteed home loan financing for veterans desiring to purchase homes, and at the same time to increase the income of the national service life insurance fund. The measure would establish on a revolving fund basis in an amount not to exceed $5 billion, an investment fund from which home loan financing would be available through commercial sources with the proceeds being repaid into the fund as the loans are repaid each month.

The current interest rate on Veterans' Administration guaranteed home loans is 7½ percent. Due to higher interest rates in some areas and to the prevalence of "points," there is a dearth of money available for financing of home purchases generally, and for veterans in particular.

The national service life insurance trust fund is a trust fund created from the proceeds of premiums paid, largely by World War II veterans, on their insurance policies. There are now 5,427,000 such policies with a face value of $37,372,938,000. Generally these policies cover individuals who served on or after October 8, 1940, and before April 26, 1951, when this insurance program ceased receiving new applications. The fund is today invested in interest-bearing obligations of the U.S. Government which has a yield as indicated in the table which follows. It should be noted that the overall yield is 3.9 percent.

INVESTMENTS IN NATIONAL SERVICE LIFE INSURANCE TRUST FUND

Date	Amount of U.S. (or U.S. guaranteed) securities held at end of period (billions)	Average rate of interest on securities in col. (2) (percent)	Amount of U.S. securities purchased or refinanced in the 6 months ending with date in col. (1) (millions)	Average rate of interest on investment in col. (4) (percent)
(1)	(2)	(3)	(4)	(5)
Dec. 31, 1959	$5.7	3.00	(1)	
June 30, 1960	5.8	3.06	$598	3.81
Dec. 31, 1960	5.8	3.07	None	
June 30, 1961	5.8	3.07	367	3.12
Dec. 31, 1961	5.7	3.07	28	3.38
June 30, 1962	5.8	3.09	445	3.25
Dec. 31, 1962	5.8	3.09	5	3.27
June 30, 1963	5.7	3.11	315	3.37
Dec. 31, 1963	5.8	3.11	41	3.46
June 30, 1964	5.8	3.16	483	3.63
Dec. 31, 1964	5.8	3.16	56	3.59
June 30, 1965	5.9	3.21	558	3.63
Dec. 31, 1965	6.0	3.21	64	3.80
June 30, 1966	6.1	3.33	599	4.38
Dec. 31, 1966	6.1	3.43	200	6.03
June 30, 1967	6.1	3.51	512	4.61
Dec. 31, 1967	6.1	3.53	167	5.46
June 30, 1968	6.2	3.65	444	5.65
Dec. 31, 1968	6.2	3.77	211	6.11
June 30, 1969	6.3	3.89	347	6.22

[1] Not required.

It is estimated that with the availability of $5 billion from the NSLI reserves, there would be 256,300 loans guaranteed and purchased. Based on recent VA experience, about 30 percent or 77,000, would be on newly constructed homes and the remaining 70 percent, or 179,300, would be on existing homes.

If this bill is enacted, the yield will be increased to 6½ percent—7½ percent interest less 1 percent administration fee. The national service life insurance fund would continue to be fully guaranteed by the the U.S. Government with no possible loss to a policyholder or his beneficiary.

Thus there would be two simple results flowing from enactment of this legislation; namely, the availability of $5 billion of mortgage money, and an increase in the interest yield to the national service life insurance trust fund.

Hearings were held on this measure before the Subcommittee on Housing on May 21 and 22, 1969. All the testimony received—homebuilders, bankers, real estate boards—with the exception of that of the Veterans' Administration and Treasury Department, was favorable. Veteran groups were favorable.

Pertinent statistics on the loan guarantee program follow:

GI LOAN APPLICATIONS

	1967	1968	1969
January–March	40,649	51,050	53,304
April–June	68,300	62,471	65,870
July–September	78,667	69,496	
October–December	61,600	65,649	
Total	249,216	248,666	

GI LOANS

January–March	34,495	50,628	53,216
April–June	40,943	44,527	50,170
July–September	58,461	55,625	
October–December	66,523	60,437	
Total	200,422	211,217	

COMPARISON OF USE OF LOAN ENTITLEMENT BY VETERANS OF DIFFERENT SERVICE PERIODS IN YEARS IMMEDIATELY FOLLOWING ELIGIBILITY

Fiscal year	Loans closed	Eligible veterans at beginning of year	Percent of eligible veterans using entitlement
World War II:			
1946	176,000	2,374,000	7.4
1947	635,000	12,110,000	5.2
1948	521,000	13,074,000	4.0
Korean conflict:			
1954	48,000	2,740,000	2.6
1955	120,000	3,731,000	4.4
1956	159,000	4,239,000	4.3
Post-Korean veterans:[1]			
1967	73,000	3,682,000	2.0
1968	113,000	4,052,000	2.8
1969[2]	131,000	4,585,000	2.9

[1] Veterans with all service after January 1955 (excludes active duty servicemen).
[2] 11 months actual, 1 month estimated.

SECONDARY MARKET PRICE NO DOWNPAYMENT GI LOANS (NEW AND EXISTING)

Date	Contract rate (percent)	Price	Yield	Date	Contract rate (percent)	Price	Yield
July 1965	5¼	$99.3	5.32	May 1968	6¾	$94.9	[1] 7.36
February 1966	5¼	95.7	5.73	September 1968	6¾	95.8	[1] 7.25
March 1966	5½	95.6	[1] 5.99	December 1968	6¾	94.3	7.44
April 1966	5¾	95.5	[1] 6.27	January 1969	7½	97.3	[1][2] 7.83
September 1966	5¾	92.8	[1] 6.59	February 1969	7½	96.9	7.88
October 1966	6	92.9	[1] 6.84	March 1969	7½	96.3	7.96
April 1967	6	97.0	[1] 6.35	April 1969	7½	96.1	7.99
April 1968	6	92.5	6.89	May 1969	7½	96.0	8.00

[1] Contract rate increased.
[2] Lowest discount for contract rate.

The Veterans' Administration report indicates that, during the first year of operations, this bill would "increase Veterans' Administration general operating expenses by $2,650,000." This is not a cost; it is an advance, since the administrative costs of the program would be met by the 1-percent fee. Loans would be made at 7½ percent—1 percent would be given to the agency for administration, and 6½ percent would go into the national service life insurance trust fund. Thus no cost to the Government because of the enactment of this bill.

Mr. OLSEN. Mr. Chairman, I believe the House should reject the measure before us today because its passage will surely mean higher interest rates for our veterans. It is likely that the overall cost of loans to veterans could be higher than the cost of loans from the Federal Housing Administration.

Interest rates have gotten completely out of hand, and the exorbitant interest charges of commercial lending institutions have placed us on the brink of a severe housing shortage. Rates have been increased on the pretense of fighting inflation but, in fact, these higher rates contribute to inflation.

Why should we in the Congress cater to these exorbitant demands? Nobody can afford to build or buy a house any more, and I am convinced this legislation will only make matters worse.

What are we doing? We are voting to guarantee higher interest rates to the lending institutions. They would be the real winners, not the veteran who would be forced to pay more and more for the use of money he desperately needs for a home.

If our commercial lending institutions cannot or will not provide loans at reasonable interest rates to our veterans, I submit it is the moral responsibility of our Government to make funds available for low interest loans, not guarantee higher interest rates and, as a result, higher interest.

I vote against this legislation because I oppose higher interest.

I vote against this legislation because I believe the time has come to draw the line on the exorbitant interest demands of the commercial lending institutions.

I vote against this legislation because it is not the way a nation shows its gratitude to those who risked their lives in our defense.

Mr. HOGAN. Mr. Chairman, I wish to commend the gentleman from Virginia (Mr. BROYHILL) for his amendment relating to mortgages in the District of Columbia, which I heartily support. I do, however, wish to call to the attention of my colleagues and members of the Veterans' Affairs Committee a mortgage crisis which exists in many States, including my own State of Maryland.

Because of the inaction of the Maryland State Legislature, it has become virtually impossible for families of moderate means to buy a home in my district. Returning veterans from Vietnam are unable to take advantage of the benefits which Congress has given them under the VA mortgage provisions because lenders will not finance homes in Maryland because of the current legal limitations on interest and other payments.

It is extremely unfortunate that only the rich are able to buy homes because of the shortsightedness of Maryland legislators and our Governor.

With due respect to the members of the Veterans' Affairs Committee, I do strongly urge that prompt consideration be given to an amendment which would eliminate the inequities facing our returning veterans who choose to reside in those States where the current mortgage crisis exists. The situation is becoming so desperate for these potential homebuyers that it demands immediate action.

I also hope that members of the House Banking and Currency Committee, which has the responsibility to oversee the Federal Housing Administration mortgage program, will also be diligent in directing their attention to this problem so that applicants for FHA-guaranteed mortgage loans will not be denied the benefits of this program because they live in one of the States from which mortgage money has fled.

I have discussed this matter with my colleague from Maryland (Mr. GUDE) and he and I both urge that the Veterans' Affairs Committee and the Banking and Currency Committee consider the plight of the residents of Maryland and other States and take corrective steps as quickly as possible.

The CHAIRMAN. Are there any further requests for time?

If not, the Clerk will read.

The Clerk read as follows:

H.R. 13369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968 (Public Law 90–301), is amended by striking out ", until October 1, 1969," and inserting in lieu thereof ", until October 1, 1971,".

With the following committee amendment:

Strike out all that follows the enacting clause and insert in lieu thereof the following:

"That notwithstanding the provisions of section 1803 (c)(1) of title 38, United States Code, the Administrator of Veterans' Affairs is authorized, until October 1, 1971, to establish a maximum interest rate for guaranteed or insured loans to veterans under chapter 37 of title 38, United States Code, not in excess of such rate as he may from time to time find the loan market demands."

AMENDMENT TO THE COMMITTEE AMENDMENT OFFERED BY MR. TEAGUE OF TEXAS

Mr. TEAGUE of Texas. Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Amendment offered by Mr. TEAGUE of Texas to the committee amendment: On page 2, line 3 and line 9 strike out the quotation marks.

The amendment to the committee amendment was agreed to.

AMENDMENT TO THE COMMITTEE AMENDMENT OFFERED BY MR. BROYHILL OF VIRGINIA

Mr. BROYHILL of Virginia. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. BROYHILL of Virginia to the committee amendment: On page 2, line 9, immediately after the period insert the following: "In the case of any mortgage loan to which the authority of the Administrator under the foregoing sentence applies, the provisions of section 28–3301 of the District of Columbia Code shall not apply."

Mr. BROYHILL of Virginia. Mr. Chairman, I do not intend to take the 5 minutes because there is in attendance in the House at the present time the same Members as were present when I explained the purpose of my amendment a few moments ago during general debate.

The net effect of my amendment is to exempt GI home mortgage loans from the District of Columbia usury laws. It will not cause an increase in the cost of the mortgage to the veteran.

I pointed out a moment ago where the Federal National Mortgage Association had announced it would refuse to purchase GI mortgage loans in the District of Columbia in the future until it was determined that the discount points charged on the loan would not cause a violation of the District of Columbia usury laws. In fact the FNMA stated that they would wait until the courts or the Congress cleared the matter up.

Mr. Chairman, my amendment will clear the matter up in order for FNMA financing to make available for GI home loans in the District of Columbia by stating that the provisions of the District of Columbia Usury Act shall not apply to this bill.

Mr. TEAGUE of Texas. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of Virginia. I yield to the gentleman from Texas.

Mr. TEAGUE of Texas. Mr. Chairman, we accept the gentleman's amendment over here.

Mr. AYRES. Mr. Chairman, will the gentleman yield?

Mr. BROYHILL of Virginia. I yield to the gentleman from Ohio.

Mr. AYRES. Mr. Chairman, we have no objection to the amendment on this side.

The CHAIRMAN. The question is on the amendment to the committee amendment offered by the gentleman from Virginia (Mr. BROYHILL).

The amendment to the committee amendment was agreed to.

Mrs. SULLIVAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The Chair has already announced that the amendment offered by the gentleman from Virginia (Mr. BROYHILL) to the committee amendment was agreed to.

Mrs. SULLIVAN. I was trying to receive recognition, Mr. Chairman.

The CHAIRMAN. The gentlewoman from Missouri is recognized for 5 minutes on her pro forma motion.

Mrs. SULLIVAN. Mr. Chairman, I shall not take the 5 minutes. I rise to say that I strongly oppose the amendment which was just declared adopted. I was seeking recognition to oppose it but it seems that I was not recognized in time. It is unfortunate that it was declared adopted without opposition.

I strongly oppose that amendment to waive the District of Columbia interest rate ceiling on VA-guaranteed loans. The lenders here are charging side payments—points—which raise their rate of return over the District's 8 percent usury ceiling. If 8 percent is not enough return, how much is a fair return? Is it 10 percent? Is it 12 percent? Or is it 25 percent? How high are we content to let it go? This amendment removes any District limitation on VA loans.

This is an interest-raising amendment, not a veterans' housing amendment.

Several months ago there was a proposal before us to raise the legal interest rate ceiling in the District of Columbia from 8 percent to 16 percent. We defeated that resoundingly. I certainly do not want to see the rate on VA mortgage loans go up to 16 percent now through the back door, through this amendment which was declared adopted before anyone could be heard in opposition to it.

AMENDMENT TO THE COMMITTEE AMENDMENT OFFERED BY MR. PATMAN

Mr. PATMAN. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. PATMAN to the committee amendment: On page 2, line 9, immediately after the period, insert the following: "For the purpose of preventing the maximum interest rate established under the foregoing sentence from rising to unreasonable levels, and to facilitate the making of housing loans to veterans under authority of the said chapter 37 of title 38, United States Code, as modified by the foregoing sentence, such chapter 37 is further amended by adding at the end of subchapter III thereof the following new section:

"'§ 1828. Investment of funds of the national service life insurance fund in first mortgage loans guaranteed under section 1810 of this chapter

"'(a) When issuing a commitment to guarantee a proposed home mortgage loan under section 1810 of this chapter, the Administrator is authorized and is hereby directed to issue, if such is requested by the lender-mortgagee, a non-assignable commitment to purchase the completed loan from such lender-mortgagee. For each such commitment the lender-mortgagee shall pay a nonrefundable fee of not in excess of one-half per centum of the amount of the commitment. Such commitment shall provide for the purchase of the loan from the lender-mortgagee for the price specified in the commitment (which price shall be specified in the commitment (which price shall be specified as a percentage of par) if the lender-mortgagee certifies to the Administrator, subsequent to the disbursement of the loan proceeds but not later than one hundred and eighty days from the date of the Administrator's issuance of the loan guaranty evidence, that—

"'(1) it has not been successful in effecting a sale of the loan to a private investigator at a price equal to or in excess of that specified in the Administrator's commitment;

"'(2) it has not charged or collected from and will not charge or collect from the seller or builder of the property, or from any third person or entity, directly or indirectly, any discount (points) in excess of the difference between the face amount of the loan and the price specified in the Administrator's purchase commitments plus the commitment fee specified in this subsection (a);

"'(3) the loan is not in default.

The purchase price specified in any purchase commitment issued under this subsection shall not be less than the average price for which one hundred and eighty day purchase commitments were auctioned by the Federal National Mortgage Association at the last Association auction preceding the issuance of the Administrator's purchase commitment, but in no instance shall the Administrator agree to pay more than par (unpaid principal balance plus accrued interest) nor less than 96 per centum of par for any loan purchased under this subsection. If an auction of purchase commitments by the Federal National Mortgage Association has not been conducted during the three months immediately preceding the issuance of a commitment under this subsection the price to be specified in such commitment shall be determined by the Administrator but any such price determination by the Administrators shall not exceed par nor be less than 96 per centum of par. Upon the purchase of a guaranteed loan pursuant to a commitment issued under this subsection the Administrator's guaranty of the loan shall continue in full force and effect and shall inure to the Investment Fund established in subsection (b) of this section. Insofar as practicable the Administrator shall utilize the purchase authorization in this subsection in those localities where the discount levels are determined by him to be substantially in excess of the discounts entailed in the Federal National Mortgage Association average auction prices for its one hundred and eighty day purchase commitments.

"'(b) There is hereby established in the Treasury of the United States a revolving fund to be known as the National Service Life Insurance Investment Fund (hereinafter called the Investment Fund). The Investment Fund shall be available to the Administrator for all operations under this section, including the payment of expenses and losses, except administrative expenses. To provide the Administrator with the funds necessary to purchase loans as the consequence of commitments issued or to be issued pursuant to subsection (a) of this section, the Secretary of the Treasury shall transfer such funds from the National Service Life Insurance Fund (hereinafter called the Insurance Fund) to the Investment Fund, except that the aggregate of transfers pursuant to this subsection shall not, in the period between the enactment of this section and June 30, 1974, exceed $5,000,000,000, nor exceed, in any fiscal year $1,000,000,000.

"'(c) The Administrator shall utilize the funds transferred to the Investment Fund as provided in subsection (b) of this section to purchase loans pursuant to commitments issued as provided by subsection (a) of this section. The Insurance Fund shall be paid interest on all funds transferred to the Investment Fund at the same rate as the average interest rate on loans purchased by the Administrator less 1 per centum but in no event less than the average return on the other invested portion of the National Service Life Insurance Fund. All moneys received by the Administrator from the repayment of such loans shall be deposited in the Investment Fund and shall also be available, until June 30, 1975, for the purchase of loans pursuant to commitments issued as provided in subsection (a) of this section, except that if the Administrator at any time determines that the balance in the Investment Fund is in excess of anticipated needs for the purchase of loans, he may so notify the Secretary of the Treasury, who shall then transfer such excess to the Insurance Fund. All collections of interest on loans purchased and all nonrefundable commitment fees received pursuant to the authority in subsection (a) of this section shall be deposited in the Investment Fund by the Administrator, who shall, after determining the amount to be retained in the Investment Fund as a reserve for expenses and losses, periodically notify the Secretary as to the amount of such interest collections available for transfer to the Insurance Fund and the Secretary thereupon shall effect such transfers. Such transfers shall constitute the payment of interest to the Insurance Fund. The Administrator is authorized to invest on an interim basis unexpended balances of the Investment Fund, including the reserve for expenses and losses, in obligations of the United States Government or agencies thereof. After June 30, 1975, all moneys received in the repayment of loans purchased pursuant to subsection (a) of this section and all interest collections on such loans, except for such sums which the Administrator determines to be necessary for retention in the Investment Fund as a reserve for losses, shall be deposited in the Insurance Fund. Such deposits shall be continued until the funds transferred to the Investment Fund by the Insurance Fund are repaid in full with interest.

"'(d) In the event of a deficiency in the Investment Fund reserves for expenses and losses, the Administrator is hereby authorized and directed to guarantee the Investment Fund against loss of interest or principal and shall discharge such guarantee by transferring to the Investment Fund from available funds of the Loan Guaranty Revolving Fund such sum or sums as may be necessary to defray such deficiency. Any deficiency in the Investment Fund defrayed by the Loan Guaranty Revolving Fund shall be paid to such Fund by the Investment Fund as soon as such payment becomes feasible.

"'(e) The Administrator may sell, and shall offer for sale, any loan purchased under the authority of this section at a price determined by the Administrator, but not less than the price paid by the Administrator to purchase the loan (i.e., the percentage of the unpaid balance of the loan), plus accrued interest. The Administrator may, in respect to loans thus sold, guarantee any such loans subject to the same conditions, terms and limitations as would be applicable in the case of loans guaranteed under section 1810 of this chapter. The proceeds of any such sales shall be deposited in the Investment Fund.

"'(f) Notwithstanding any of the foregoing provisions of this section, the Administrator, when authorized by appropriation Acts so to do, may set aside first mortgage loan assets of the Investment Fund as the basis for the sale of participation certificates pursuant to and in accordance with the provisions of the Participation Sales Act of 1966 (Public Law 89-429), and until June 30, 1974, the proceeds of any sale of such participation certificates shall be deposited in the Investment Fund and be available for the purposes of that fund. After June 30, 1974, the proceeds of any sales of such participation certificates shall be deposited in the Insurance Fund.

"'(g) In the administration and management of the Investment Fund the Administrator shall, to the extent feasible, invest the funds thereof in loans which will represent a broad spectrum of the veteran homebuying population in respect to age, income, and location of the properties which will constitute the loan securities. In order to facilitate a more adequate supply of mortgage financing for veterans in the lower and middle income brackets the Administrator shall purchase only loans not in excess of $30,000 which are secured by single family dwellings only. The Administrator is authorized to adopt such standards, policies, and procedures and to promulgate such regulations as he considers necessary or appropriate for carrying out his functions and responsibilities under this section. In carrying out such functions and responsibilities the Administrator may contract with private entities for the servicing of any loans purchased by him for the Investment Fund provided that the servicing fee payable pursuant to any such contract shall not exceed the

Administrator's estimate of the cost of the direct servicing of such loans by agency employees.'

"The analysis of chapter 37 of title 38, United States Code, is amended by adding at the end thereof the following:

" '1828. Investment of funds of the National Service Life Insurance Fund in first mortgage loans guaranteed under section 1810 of this chapter.' "

Mr. PATMAN (during the reading). Mr. Chairman, I think that this amendment is well understood. The Committee on Veterans' Affairs over a long period of time—I mean years—has discussed this amendment in the form of a bill. Therefore, Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Chairman, reserving the right to object, and I shall not object, what was the fate of the Broyhill amendment?

The CHAIRMAN. It was agreed to.

Mr. GROSS. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

POINT OF ORDER

Mr. AYRES. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. AYRES. Mr. Chairman, I make the point of order that the amendment which has been offered by the gentleman from Texas is not germane to the bill under consideration, H.R. 13369.

The CHAIRMAN. The gentleman from Ohio will be heard in support of his point of order.

Mr. AYRES. Mr. Chairman, the bill which the House is debating today, and which was reported unanimously by the Committee on Veterans' Affairs, extends for 2 years, until October 1, 1971, the authority of the Administrator of Veterans' Affairs to set the interest rate on guaranteed loans of that agency and direct loans of that agency. It does not involve loans by FHA or any other Government agency.

The amendment offered by the gentleman is a whole new scheme to take funds from the national service life insurance trust fund and make them available for housing loans. I submit, Mr. Chairman, that this is a subject alien to the central purpose of H.R. 13369, and I insist upon my point of order that the amendment of the gentleman is not germane to the bill.

The CHAIRMAN. Would the gentleman from Texas like to be heard on the point of order raised by the gentleman from Ohio?

Mr. PATMAN. Mr. Chairman, I would like to be heard on the point of order.

In the first place, the gentleman from Ohio has indicated that there is included in my amendment FHA interest rates. It does not include them; it only includes Veterans' Affairs interest rates.

Mr. Chairman, the plainly expressed legal purpose and effect of the committee amendment is to extend and enlarge the authority of the Administrator of Veterans' Affairs to carry on programs of guaranteed and insured loans to veterans under chapter 37 of title 38 of the United States Code. The committee amendment expressly refers to chapter 37, and directly affects the powers of the Administrator under that chapter. It enlarges those powers by giving the Administrator authority over interest rates—authority he would not otherwise possess under chapter 37. My amendment relates directly to this interest rate authority by giving the Administrator further power to control or influence the rates on chapter 37 loans—not on all loans, of course, that would be beyond the scope of the bill—but just on these chapter 37 loans that the committee amendment relates to. The subject matter is highly technical and therefore my amendment must be lengthy in order to be technically correct. But the parliamentary principle is very simple. The committee amendment relates to the Administrator's authority with respect to chapter 37 loans, and my amendment relates to the Administrator's authority with respect to chapter 37 loans, and therefore my amendment is clearly germane to the committee amendment.

Mr. Chairman, I respectfully suggest that the point of order raised by the gentleman from Ohio should be overruled.

The CHAIRMAN. The Chair is prepared to rule on the point of order raised by the gentleman from Ohio (Mr. AYRES).

The proposition before the Committee has a narrow purpose: To grant the Administrator of Veterans' Affairs authority, for a 2-year period, to establish a maximum interest rate for guaranteed or insured veterans loans.

Under present law, the Secretary of Housing and Urban Development, together with the Administrator, has authority—until October 1 of this year—to set the interest rates on both FHA and VA loans.

The amendment offered by the gentleman from Texas (Mr. PATMAN), authorizes and directs the Administrator, in certain situations, to purchase loan commitments from the lender-mortgagee in a veterans loan transaction. Such purchases would be funded through a revolving fund in the Treasury, with assets transferred from the national service life insurance fund. Commitments purchased by the Administrator under this authority could then be sold through the Participation Sales Act of 1966.

It has been suggested that the purpose of the two propositions is similar in that both the committee amendment and the amendment offered by the gentleman from Texas are designed to help veterans obtain housing loans. In a very broad sense this may be true, but the precedents indicate that where a bill is drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane. In the 90th Congress, for example, it was held that where the Committee of the Whole had under consideration a bill designed to aid in the control of crime through research and training, an amendment aimed at the control of crime through regulation of the sale of firearms was not germane. That was on August 8, 1967.

The committee amendment under consideration extends only the authority of the Administrator. It does not "extend existing law" in the sense that it reenacts it and could possibly open up the basic law to modification. The Chair therefore holds that the amendment offered by the gentleman from Texas (Mr. PATMAN) which materially alters the provisions of chapter 37 of title 38, United States Code, is not germane to the limited proposition under consideration. The Chair therefore sustains the point of order.

PARLIAMENTARY INQUIRY

Mr. PATMAN. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. PATMAN. Mr. Chairman, I hope that the Chairman has not overlooked the fact that the committee amendment, that is the amendment offered by the gentleman from Texas (Mr. TEAGUE), in the form of a bill, upon which the rule was granted and which we are now considering, relates to the administrative authority with respect to chapter 37 loans. My amendment relates to the Administrator's authority with respect to chapter 37 loans.

Mr. Chairman, I do not see how anything could be more germane than that. I just cannot understand how it would be possible to bring any bill out and have any assurance of its germaneness if a rule like that were adopted.

I respectfully suggest that I am afraid the Chairman has overlooked that point.

The CHAIRMAN. The Chair has already ruled, but the Chair will be glad to state for the purpose of the record in reply to the gentleman from Texas that the provisions of this piece of legislation only relate to the interest rates and not to title 38, United States Code, chapter 37, as a whole.

Therefore, as the Chair stated, the amendment was not germane.

Mr. ALBERT. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I am sorry the parliamentary situation is such that the House will not be able to act on the Patman amendment at this time. Except for technical changes the amendment, as I understand it, is identical to H.R. 9476 which was introduced by the distinguished chairman of the Veterans' Affairs Committee, the gentleman from Texas (Mr. TEAGUE). It provides that up to $5 billion contained in the national service life insurance fund out of a total of approximately $7 billion could be invested in VA-guaranteed mortgages. Purchases in any one fiscal year could not exceed $1 billion. I believe this is a most fair and equitable proposal. The moneys contained in the national service life insurance fund are the veterans' funds, the premiums collected by the Veterans' Administration on their life insurance. This money is now invested solely in Government bonds yield-

ing the trust fund an overall average of less than 4 percent. Recent issues yield about 6 percent. If our veterans must pay 7½ percent or higher on their home loans, loans which incidentally are fully guaranteed against loss by the U.S. Government, it would appear to be only just that the higher rate inure to the benefit of the veterans own insurance fund.

The Patman amendment, if it were in order and were adopted, would, I believe, result in preventing a further rise in the current 7½ percent rate level on VA mortgages. Possibly it might result in a modest reduction. I think that all of us without regard to our views as to current overall monetary policy can agree on the desirability of this result. The veterans of this country certainly deserve special consideration. The proponents of H.R. 13369 contend that failure to enact it will totally dry up funds for the GI home loan program. In view of this fact, I shall cast a somewhat unenthusiastic "aye" in favor of the committee bill. Nevertheless, I think we should be cognizant of the fact that we may very well, by continually jacking up interest rates, be pricing our veterans in the low- and modest-income groups out of the housing market. A year ago, we took the 6-percent lid off the GI home loan program. The results are anything but reassuring. Starts on VA housing have declined from an adjusted annual rate of 65,000 in December 1968 to 46,000 in July 1969. It is obvious I believe that higher rates on VA mortgages are not the best answer to solving the current housing problems faced by our returning veterans.

I also believe the Patman amendment would have been helpful because it would have given some measure of protection to the housing industry against current restrictive monetary policy. I personally have grave reservations about the equity and efficacy of that policy in general. But I am particularly concerned over its effects on housing. Private nonfarm housing starts declined from an annual rate of 1.8 million units in January to about 1.3 million units in August. Applications for proposed home construction indicate a further drop in the future; 1957 saw a similar precipitous decline in housing. The 1957 housing debacle was a major factor in causing the 1957–58 economic recession. A sick housing industry because housing uses so many materials, so many appliances, and so much labor, can and does back up and affect the entire economy.

The amendment of the gentleman from Texas would have helped in some measure to prevent, I hope, a repetition of the unhappy events of 1957–58.

It is supported by the building industry, by the realtors, lenders, veterans' organizations, labor, and public interest groups. It is my understanding that no witness appeared before the Veterans' Affairs Committee in opposition to the legislation. It has been endorsed by the Veterans' Administration and this is what the Department of Housing and Urban Development had to say in regard to the matter:

As far as housing investment is concerned, the effects of this approach would be beneficial. It would improve the competitive position of housing in the aggregate and the VA segment of the market in particular. Of course a direct increase of this magnitude in the capital investment in housing would contribute significantly to the achievement of the ten-year National Housing Goal set forth in the Housing and Urban Development Act of 1968. Moreover, most of the housing receiving VA assistance is low and moderate income housing.

I strongly urge its adoption.

Mr. TEAGUE of Texas. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would like the Members of the House to know that this is not a dead issue. As the gentleman from Texas (Mr. PATMAN) said, we have been considering this in our committee for a number of years. This is the first time we have had hearings on a bill.

In our subcommittee it was voted to hold the consideration of the bill in abeyance until we had had further meetings with the administration.

We know, for example, that Mr. Romney took the following position:

As far as housing investment is concerned, the effects of this approach would be beneficial. It would improve the competitive position of housing in the aggregate and the VA segment of the market in particular. Of course a direct increase of this magnitude in the capital investment in housing would contribute significantly to the achievement of the ten-year National Housing Goal set forth in the Housing and Urban Development Act of 1968. Moreover, most of the housing receiving VA assistance is low and moderate income housing.

Then he said that he would defer to the Treasury Department.

We know what the Veterans' Administration's concern was for this bill. We have had one meeting with people from the administration and we have been promised a reconsideration of the administration's position in the White House. Our committee will take up this bill again.

AMENDMENT TO THE COMMITTEE AMENDMENT OFFERED BY MR. BARRETT

Mr. BARRETT. Mr. Chairman, I offer an amendment to the committee amendment.

The Clerk read as follows:

Amendment offered by Mr. BARRETT to the committee amendment: On page 2, line 5, strike out "October 1, 1971" and insert in lieu thereof the following: "January 1, 1970".

The CHAIRMAN. The gentleman from Pennsylvania is recognized.

Mr. BARRETT. Mr. Chairman, my amendment is very simple. It would limit the extension of the interest rate waiver to 3 months in place of the 2 years provided in the pending bill. This would keep it in harmony with the Senate joint resolution just approved by both bodies of the Congress last week. That resolution extended for 3 months the interest rate ceiling waiver for both FHA and VA on the grounds that further study is needed. In particular, the report of the Commission on Mortgage Interest Rates has only recently been printed and there has not been time to study it or to hold hearings on it. Moreover, a provision in the housing bill just approved by the Committee on Banking and Currency by a vote of 35 to 0 provided for the same 90-day extension on the grounds that more study is needed.

Mr. Chairman, we all know the damage which high interest rates are doing to our economy and to homebuilding and the home buying public in particular. The Congress cannot forever simply go along with these rates and repeatedly waive its own ceilings on interest rates. There is an urgent need for careful study of other courses of positive action and my amendment would assure prompt attention to this matter.

Mr. TEAGUE of Texas. Mr. Chairman, I rise in opposition to the amendment. For over a year we have had a commission composed of 10 Members of Congress trying to work out something on the question of interest rates and the availability of money. That commission has just submitted its report. All our committee was trying to do was to put a date into the bill which would not disrupt the program in the next year. The Congress may not have acted until January, and it was our feeling in our committee that to add another 2 years could do no harm in any way, and it would not make us come back facing the same thing we are facing today, in just 90 days from now.

I see nothing in the amendment which would in any way help. I do see it causing us further trouble.

Mr. Chairman, I hope the amendment is defeated.

Mr. SAYLOR. Mr. Chairman, I rise in opposition to the amendment.

Mr. SAYLOR. Mr. Chairman, we have just heard an amendment offered by my distinguished colleague, the gentleman from Pennsylvania (Mr. BARRETT) which has the purpose of making a consideration of this bill an operation in frustration. What the amendment does is extend for 90 days the present law.

After a full hearing before the House Committee on Veterans' Affairs and in cooperation with the last administration and with this administration, it was determined a minimum extension of 2 years was necessary.

I did not know what was happening in the Banking and Currency Committee until we had a report just a few minutes ago about what they have done, but if this House wants to do something for veterans, it will support the House Committee on Veterans' Affairs and support it because the House Committee on Veterans' Affairs was unanimous in reporting out this bill, and asking for a 2-year extension.

Mr. Chairman, I hope the amendment is defeated.

Mr. PATMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, may I say that two laws expire relating to interest rates, one on September 21 of this year, in just this month, and the other one on October 1, the law we are talking about. A resolution has been passed for the first bill—passed by the Senate and sent over here and we accepted it.

On the last one, the one on the VA rates and FHA rates—that was passed by the Senate last Tuesday asking for a 90-day extension so the House and the Senate Banking and Currency Committees could make a report before the law expires. The resolution came here on

Wednesday morning, and it was unanimously adopted.

So, now, talking about errors and operation of errors, it occurs to me it would certainly not be understood that Congress was acting very sensibly or certainly very wisely if within days it passed a bill here to absolutely contradict what has already been done.

Ninety days will give us time in the committees that have jurisdiction to have hearings and report out new bills to be passed by the Congress.

It occurs to me this amendment certainly should be in order to conform to what Congress has done just this week, on Tuesday and Wednesday of this week. The amendment which was offered by the gentleman from Pennsylvania (Mr. BARRETT) should be adopted.

If we do anything else, it is certainly disorganization at its worst. It is no compliment to Congress to agree to something on Wednesday unanimously and then here, just a few days later, on Monday, do just exactly the opposite.

I certainly hope that the amendment offered by the gentleman from Pennsylvania (Mr. BARRETT) will be adopted.

Mrs. SULLIVAN. I rise in support of the amendment. There is no reason why the ceiling on VA loans should be suspended for 2 years and the ceiling on FHA loans suspended for only 3 months when, as the gentleman from Texas has said, they have been considered together.

Mr. Chairman, on September 23 the Senate passed Senate Joint Resolution 152 extending for 3 months the period during which Congress can decide what to do about the serious question of FHA–VA mortgage rate ceilings. The House passed the bill the next day. It is now awaiting the President's signature. It is a certainty he will sign it. Otherwise, tomorrow, the statutory ceiling of 6 percent would go back on FHA–VA mortgage loans. Obviously, in today's mortgage market, no lender—except an extremely philanthropic one—is going to lend mortgage money at 6 percent.

But what should the ceiling be? Should it continue to be 7½ percent, as now set by administrative determination? Should it be higher? Lower? We must make a decision on this matter shortly—it is a question which must be resolved, unless we are willing to let the veteran, and the moderate income family, continue to be the major victims of mortgage interest rate inflation.

The bill before us extends for 2 years the period in which we can avoid grappling with this problem insofar as the veterans are concerned—2 years in which the administration would have to make the tough decisions on this, and Congress would have no part in the determination. This would be an abdication of our responsibility. And it would certainly mean a continuation of very high interest rates, because the administration believes that is the only way to curb inflation. Every Member of this House knows what high interest rates have done to the housing market, and particularly to FHA and VA housing. Are we willing to see the solution to this problem put off for 2 years in the case of veterans' housing? I am not willing to do so.

The Committee on Banking and Currency is committed, through Senate Joint Resolution 152, to hold prompt hearings and made a determination on what the FHA interest rate ceiling should be—or if there should be none at all. We are required to recommend action on this within the 3-month deadline called for in Senate Joint Resolution 152. The FHA and VA rates have been tied together. They belong in tandem. They should not be separated.

I submit, Mr. Chairman, that if this amendment is adopted, Congress will come forward with a solution before next January 1. We must do so.

As I said, there is no reason why the ceiling on VA loans should be suspended for 2 years and the ceiling on FHA loans suspended only 3 months. Let us not abdicate our responsibility on this vital issue. With a 3-month deadline facing us, we will be more likely to act in the veterans' behalf than if we just shrug off the responsibility and left it up to the Administrator of the Veterans' Administration for the next 2 years to make decisions Congress should be required to make, and must make before January 1, 1970, in the case of FHA loans.

I urge adoption of this amendment.

Mr. AYRES. Mr. Chairman, I rise in opposition to the amendment and move to strike the last word.

Mr. Chairman, we all know how after the discussion in the committee this bill extends the authority of the Administrator for 2 years. We also know that under the present operation, which the Administrator is acting under, we have gotten considerable help.

This has not been as plentiful as we hoped to have. Not only are we considering new starts, but also we are considering existing housing and loans closed.

For January through March of this year, and for April through June, there were respectively 53,000 plus applications made in the first quarter and 65,000 plus in the second quarter. The loans closed were 53,000 plus and 50,000 plus in the first two quarters.

If we are going to have any stability to the program we are going to have to give the Administrator authority longer than just a short period, because housing is not planned overnight.

I support the chairman of the Committee on Veterans' Affairs, the gentleman from Texas (Mr. TEAGUE), wholeheartedly when he says we are trying to cooperate with this 2-year extension.

Mr. TEAGUE of Texas. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. TEAGUE of Texas. As chairman of the Committee on Veterans' Affairs, I know that my committee realizes it is very important for the FHA and the VA to work together. I can assure the House it is rather difficult to know what the Banking and Currency Committee is going to do.

As I understand it, I say to the gentleman from Pennsylvania (Mr. BARRETT) his subcommittee would not act on the interest rates, and deferred to the full committee. We waited as late as we could. The bill was on suspension, and the chairman asked me to take it off, and I took it off.

I hope the amendment will be defeated.

Mr. BARRETT. Mr. Chairman, will the gentleman yield?

Mr. TEAGUE of Texas. I am glad to yield to the gentleman from Pennsylvania.

Mr. BARRETT. I want to answer the statement by the gentleman from Ohio, when he talked about applications. We are talking about starts. There are 600,000 fewer starts today than there were at the beginning of the year.

I want to say I am certain of the opinion that both the gentleman from Texas and the gentleman from Ohio want to do everything they can for the veterans, but we must also understand that when we raise interest rates we are not building homes for veterans, nor are we building them for the low- and moderate-income people. This builds them only for the high-income people.

The reason, as the gentleman said, we did not pass on the interest rates in the subcommittee, is we wanted everybody in the full Committee on Banking and Currency to have an opportunity to explore this subject.

If the Members want to help the veterans, this is the time to help them. All the veterans are screaming about high interest rates throughout the country. I was at a meeting last Saturday night, where it was said, "You Members of Congress had better do something, because you are reaching an explosion point."

This is what we are trying to do, to get the trend of interest rates down, not up.

Interest rates copy each other. We want to get the rates down.

Mr. TEAGUE of Texas. Mr. Chairman, I do not know what figures they use on housing, but the Veterans' Administration tells me in fiscal year 1969 there were 219,334 loans with a dollar value of $4 billion, and they project there will be 256,000 with a dollar value of $4.5 billion in the year 1970. Those are the figures I have.

Mr. PATMAN. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. PATMAN. Mr. Chairman, there is one thing about this bill that was brought up in the Rules Committee which I think should be considered. Heretofore the FHA rates and the VA rates were tied together.

Now, this is an effort—and it will succeed if this bill becomes law—to have the VA divorce itself from the knowledge, the judgment, and the wise decisions of those who make the FHA rates and let the VA rate go off by itself with one person to fix the rate.

Now, I do not think that is very sound judgment. Heretofore the housing agencies of the administration, whichever administration was in power, would determine what the FHA rate would be, and then the VA rate could follow to the same level.

Mr. TEAGUE of Texas. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. Yes. I yield to the gentleman.

Mr. TEAGUE of Texas. Why did not the gentleman offer an amendment to include the FHA in this bill, then?

Mr. PATMAN. I did not want the FHA in this bill, and I do not think anybody wanted the VA to go off by itself. The FHA subject would not be germane to this, either. I had an amendment that I thought was germane which amended exactly the same section that the bill did, but it was held to be not germane. I am not questioning the Chairman's decision. However, I do not know who wants to divorce the VA from the FHA rate. Do you not think the President would feel a lot better if his housing agencies and administrators and the people who have special knowledge of these things were fixing the rates? Which is the best agency to fix it? Do you want to have the VA go off on their own and fix rates through the Administrator of Veterans' Affairs.

Mr. Chairman, for this reason I believe this bill is a dangerous bill.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman.

Mr. BURKE of Massachusetts. I would like to ask the gentleman if it is not true that this bill provides that the Administrator will have carte blanche rights to raise interest rates on veterans as high as 9½ or 10 percent if they so see fit.

Mr. PATMAN. That is right. Of course, there are other fringe benefits that the lender gets such as points and things like that. This will provide an interest rate against conscience—against conscience.

Mr. BURKE of Massachusetts. This bill is unconscionable.

Mr. PATMAN. It is.

Mr. BURKE of Massachusetts. Just think we would deliver a message to the veterans of this country that we will place in the hands of an Administrator the right to raise interest rates higher than they are now. Place the VA loans, which are guaranteed by the Government, into the hands of those, who are inflicting high interest rates on the public. I do not think it is a just thing for us to do and, if anything, I believe the committee should come out at least with a ceiling restriction on the Administrator on how far he can go.

Mr. PATMAN. May I reply to that? I do not think it will compliment the Congress very much or the House, either, for the veterans to know that you were very careful to look after the welfare of even the rioters in college and give them not only a guaranteed 7-percent education loan but to increase the bonus to the bankers by 3 percent because they were making the loan to the students.

Here is a case where we desperately need housing. Do you not think you should at least let the Government pay this difference between 6 percent and what the veteran has to pay for housing? If you have done that for the students who riot and get loans from the Government to go to college, do you not think we should do it for these veterans? It occurs to me that we are inconsistent and completely wrong in one respect or the other here. I suggest that this amendment should be agreed to.

Otherwise, we are very much inconsistent.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. SAYLOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time for the purpose of calling to the attention of my colleagues the fact that according to the CONGRESSIONAL RECORD of March 26, 1968, on rollcall No. 70, the original bill passed the House by a vote of 366 to 12.

All this pending bill proposes to do is to extend that right for a period of 2 years.

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. SAYLOR. I shall be happy to yield to the gentleman from Massachusetts (Mr. BURKE) a colleague of mine for many years, who has an illustrious record in the Congress. While I may disagree with him in this issue—I know that it is not personal, but a difference in our approach to a very complex problem. Both of us are desirous of making it possible for all veterans to get loans to acquire homes at rates that are reasonable.

Mr. BURKE of Massachusetts. I wish to point out to the gentleman from Pennsylvania that his statement is true. He is very knowledgeable on this subject—his deep interest in the plight of the veteran is well known to all of us. I respect him and I know of the perplexing problem we all face.

Mr. TEAGUE of Texas. Mr. Chairman, will the gentleman yield?

Mr. SAYLOR. Of course I yield to the chairman of the Committee on Veterans' Affairs.

Mr. TEAGUE of Texas. Mr. Chairman, I continue to be amazed at what Members will get up on this floor and say. The gentleman from Texas (Mr. PATMAN) would lead you to believe that this is something new and different. Until 2 years ago the FHA and the VA were separate. However, the Committee on Banking and Currency comes over and wants jurisdiction over something which came within the jurisdiction of the Committee on Veterans' Affairs. If they had acted and had done anything, we would not have reported this bill. We had been waiting on the Committee on Banking and Currency to do something. However, this is in the jurisdiction of the Committee on Veterans' Affairs and it was reported out unanimously and every veterans' group testified in support of it.

Mr. BARRETT. Mr. Chairman, will the gentleman yield?

Mr. SAYLOR. I am glad to yield to the gentleman from Pennsylvania.

Mr. BARRETT. The gentleman is always most gracious and I knew he would not turn me down. However, I wish to remind the gentleman from Texas, the chairman of the Committee on Veterans' Affairs, that neither the Committee on Banking and Currency nor the Housing Subcommittee has never done anything to transgress or violate the rules which exist between the two committees. I think the gentleman would tell you that on one of the occasions in 1967 when we were talking about the veterans' housing bill to be inserted in the housing bill by the Subcommittee on Housing, I called the gentleman from Texas on the phone and I told the gentleman what we anticipated doing and asked the gentleman if this would be an infringement upon the jurisdiction of his committee. The gentleman from Texas (Mr. TEAGUE) graciously responded by saying:

No, sir; you go right ahead.

Mr. Chairman, we never infringe upon the jurisdiction of any other committee of the House.

The CHAIRMAN. The question is on the amendment to the committee amendment offered by the gentleman from Pennsylvania (Mr. BARRETT).

The question was taken; and on a division (demanded by Mr. BARRETT) there were—ayes 16, noes 58.

So the amendment to the committee amendment was rejected.

Mr. PATMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to compliment the gentleman from Texas (Mr. TEAGUE) for what he has done in trying to help the veterans get the money to build their homes, and especially in trying to get the use of their own money, the money that they themselves paid into their insurance reserve fund. It seems to be very reasonable, logical, and right that this privilege be provided to them. But since by a point of order, by a technicality, the veterans are being deprived of this opportunity and privilege, it occurs to me that the Committee on Veterans' Affairs, as I think the chairman of the committee indicated a while ago, will carry on the fight, and that the fight is not over.

Mr. Chairman, I hope that I am correct in assuming that the chairman of that committee is going back to the committee, and is going to fight vigorously for the bill that will make this possible. The chairman of the committee has all kinds of supporting evidence from the administration in power that this is a good bill, but it would be a little bit inconvenient for them at the present time—but what is more inconvenient to a group of people like the veterans of world wars who have offered to give their lives for the cause of their country, being deprived of decent housing, and decent shelter for themselves and their families.

Mr. Chairman, I cannot think of anything that is a worse thing to do to a group like that than to deny them the opportunity to build homes at reasonable rates of interest with their own money that they have paid into a reserve fund, and that reserve fund is going to be protected by the interest they pay on they own loans.

So, Mr. Chairman, I hope I am corrcet in assuming that the gentleman from Texas (Mr. TEAGUE) is going to continue to fight like he has always fought, for the principles he believes in.

Mr. TEAGUE of Texas. Mr. Chairman, if the gentleman will yield, I would say

that I think I stated in a very profound way that this issue is not a dead issue, and that we will keep it in view.

Mrs. SULLIVAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, too, want to commend and compliment the chairman of the Committee on Veterans' Affairs for the sincere and genuine concern he has always demonstrated for the veterans. I know that he will work for adoption of the program of direct loans Mr. PATMAN tried to attach to this bill. I know that Mr. TEAGUE has been for it, and that it was in effect, his bill which Mr. PATMAN had sought to attach to this measure today.

There is just one additional thing I want to bring before the House today, and that is about the matter of points.

Mr. Chairman, we are in a situation now where the mortgage companies want as high a return on 100 percent Government-guaranteed mortgages over 30 years as the banks are getting on a short-term temporary basis in lending money to big corporations.

The savings institutions are fully protected against loss on VA loans. Furthermore, they are restricted on how much they can pay out to their own depositors. But they do not want to be restricted on how much they can charge for housing loans to veterans. Without the Patman amendment, this bill gives the savings and loans and mortgage bankers the right to continue charging whatever the traffic will bear in order to make a loan to a veteran—a fully guaranteed loan—to buy a house.

The veteran is not allowed to pay more than 1 percent for getting the loan—one "point." But the seller of the house can be charged an unlimited number of points—the current rate is somewhere around 7 or 8 points—$80 on each $1,000 of the loan, or $1,600 on a $20,000 loan. The veteran is not supposed to be charged any of this, but the real estate industry tells us that these points are surreptitiously slipped into the cost of the house—and the veteran does pay in higher prices. This is a scandal. The Federal Reserve Board has smoked out this scandal in connection with regulation Z under the Truth in Lending Act. I did not think it would legally be happening; I cannot get any flat assurance that it is not happening.

What I am referring to is a very complex, highly technical issue raised by regulation Z of the Federal Reserve Board in implementation of the Truth in Lending Act. As interpreted by the Federal Reserve, the law requires that buyers of homes under FHA and VA insurance be informed of the points charged to the lenders, and that these points—which the buyers legally are not supposed to have passed on to them—must be counted into the annual percentage rate of the finance charge.

The question is whether the Board is right in its judgment that—in some way or other—these points are in fact passed on to the borrower, in violation of laws and regulations covering FHA-insured or VA-guaranteed loans. I went into this in depth with the Federal Reserve and other agencies affected or involved, as the following material from the recent hearings of the Subcommittee on Housing will document:

[Excerpts from hearings of Subcommittee on Housing, House Committee on Banking and Currency, housing and urban development legislation, 1967]

STATEMENT BY CONGRESSWOMAN LEONOR K. SULLIVAN ON TREATMENT OF SELLERS' POINTS ON FHA OR VA MORTGAGES UNDER THE FEDERAL TRUTH IN LENDING ACT

Because of the uncertainties and confusion over the treatment under the Federal Truth in Lending Act (Title I of the Consumer Credit Protection Act of 1968, Public Law 90–321) of discount "points" charged to the seller on an FHA-insured or VA-guaranteed mortgage, as indicated by the testimony in our hearing record, I requested reports on this matter from the Board of Governors of the Federal Reserve System, the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Bank Board, and the Federal Trade Commission.

Section 106 of the law itself covers the matter in these words:

"§ 106. Determination of finance charge

"(a) Except as otherwise provided in this section, the amount of the finance charge in connection with any consumer credit transaction shall be determined as the sum of all charges, payable directly or indirectly by the person to whom the credit is extended, and imposed directly or indirectly by the creditor as an incident to the extension of credit, including any of the following types of charges which are applicable:

"(1) Interest, time price differential, and any amount payable under a point, discount, or other system of additional charges.

"(2) Service or carrying charge.

"(3) Loan fee, finder's fee, or similar charge.

"(4) Fee for an investigation or credit report.

"(5) Premium or other charge for any guarantee or insurance protecting the creditor against the obligor's default or other credit loss."

This language represents a rewriting in Conference, without intent to change the meaning, of the provisions of Section 202(d) of the Truth in Lending bill, as originally passed by both the House and Senate, which defined "finance charge", in part, as:

"Section 202(d) 'finance charge' means the sum of all the mandatory[1] charges imposed directly or indirectly by a creditor, and payable directly or indirectly by an obligor, as an incident to the extension of credit, including loan fees, service and carrying charges, discounts, interest, time price differentials, investigators' fees, costs of any guarantee or insurance protecting the creditor against the obligor's default or other credit loss, and any amount payable under a point, discount, or other system of additional charges. * * *"

House Report 1040, 90th Congress, on the legislation which eventually became the Consumer Credit Protection Act of 1968, explained the above provision, in a section-by-section summary of the bill, in this fashion:

"Section 202(d)—Definition of 'finance charge.'—Defines a finance charge as all mandatory charges imposed by a creditor and payable by an obligor as an incident to the extension of credit.;"

As the principal author of the Consumer Credit Protection bill, it was my understanding that we were providing for inclusion in the finance charge of only those charges actually passed on to the buyer. However, in Regulation Z, implementing the Truth in Lending Act, the Federal Reserve covered this matter in the following manner:

SECTION 226.4—DETERMINATION OF FINANCE CHARGE

(a) General rule. Except as otherwise provided in this section, the amount of the finance charge in connection with any transaction shall be determined as the sum of all charges, payable directly or indirectly by the customer, and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, whether paid or payable by the customer, the seller, or any other person on behalf of the customer to the creditor or to a third party including any of the following types of charges:

(1) Interest, time price differential, and any amount payable under a discount or other system of additional charges.

(3) Loan fee, points, finder's fee, or similar charge.

As a result of the uncertainties expressed in this hearing, I therefore addressed the following letter to Vice Chairman J. L. Robertson of the Federal Reserve, who has been in charge of the Fed's work on Regulation Z:

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON CONSUMER AFFAIRS OF THE COMMITTEE ON BANKING AND CURRENCY,
Washington, D.C., August 1, 1969.

Hon. J. L. ROBERTSON,
Vice Chairman, Board of Governors of the Federal Reserve System,
Washington, D.C.

DEAR MR. ROBERTSON: In my work on the Commission on Mortgage Interest Rates and also in hearings of the Subcommittee on Housing of the House Committee on Banking and Currency, the question has come up repeatedly about the necessity for disclosure to the buyer of a home under FHA or VA mortgage insurance the points *charged to the seller* in such a transaction. It has been my understanding that since the person obtaining the FHA or VA insured mortgage may not legally be charged any points, other than the one percent fee otherwise provided for, there is therefore no way that the seller can legally pass the points on an insured mortgage onto the buyer. Thus the seller's points on such a mortgage would not have to be disclosed to the buyer as part of the buyer's finance charge on which the annual percentage rate is computed.

However, Mr. Oliver H. Jones, executive vice president of the Mortgage Bankers Association of America, a member with me of the Commission on Mortgage Interest Rates, has insisted that Regulation Z requires disclosure to the buyer of the seller's points, even on an FHA mortgage. And in testimony on July 21, before the Housing Subcommittee, he said his organization had devised forms for their members' guidance which called for calculation and disclosure of the seller's discounts. I asked: "Is it really a requirement or is it just that the mortgage bankers are doing this on their own?"

His answer was: "The lawyer at the Federal Reserve would not give us any satisfaction that we would be safe not doing it."

I was about to insert in the hearing record the relevant portions of Section 226.4(a) of Regulation Z, and emphasize that the seller's points would be a factor only if "payable directly or indirectly by the customer", and adding the fact that legally such points

[1] The word "mandatory" was not included in S. 5 as it originally passed the Senate; otherwise this language was identical in both the House and Senate versions of the bill, before it was sent to Congress.

could not be passed on to the buyer under an FHA or VA-insured mortgage transaction.

However, before doing that, I had the staff of my Subcommittee check with your experts and we discovered that the Federal Reserve has, in fact, been suggesting to callers, or advising, that seller's points probably should be included in the finance charge and be computed into the annual rate, on the theory that they are indeed passed on to the buyer in the purchase price. But I believe there has been no formal interpretation issued on this; apparently it has been only an informal suggestion to those who have inquired.

It seems to me that a very important policy consideration is involved here as it applies to FHA or VA-insured mortgages on which points cannot legally be passed on to the buyer of the home. Let me say at this point that I believe the buyer *should* be advised of what points the seller has had to pay in order to get an FHA or VA-insured mortgage, and I am making such a suggestion in the report of the Commission on Mortgage Interest Rates, but, as I said, I do not believe either the Housing law or the Truth-in-Lending Act cover that point. I believe also that the lender's *yield* when points are required should be revealed, but, again, I do not believe the present Housing laws or Truth-in-Lending cover that point either. I am much more concerned at the moment, however, in making sure that the legal requirements of Regulation Z are clear on this point, and have been fully considered. If the policy has been determined, then I think it should be clearly stated in a written interpretation, or in a supplement to the regulation. In any event, I would appreciate having it spelled out in a letter which I could have on this point.

I am forwarding a copy of this inquiry to the Commissioner of FHA and to the Veterans Administrator, as well as to the Chairman of the Federal Trade Commission and the Chairman of the Home Loan Bank Board. I hope, before a formal declaration is made on this matter, those agencies will be consulted, particularly from the standpoint of *how* a seller's points on an FHA or VA-insured loan could legally be passed on to the buyer. If this is done through hiding the points in the selling price, how do FHA and VA and the lenders judge this or justify it in making appraisals on which the mortgages are based?

I was always under the impression that an appraisal—particularly one by the FHA or VA—was supposed to reflect the value of the house, that is, the cash value. Instead, according to very surprising testimony received in my Ad Hoc Subcommittee on Home Financing Practices and Procedures (set up to investigate speculative real estate transactions in the inner city area of Washington, and elsewhere) appraisals are often based not on the cash value of the home but on the *financing* available. If this is acceptable to FHA and the VA, and it is my understanding that it is not, then seller's points *could* be incorporated into the sale price of the home under an FHA or VA-insured mortgage. I think that would be deplorable. That is why I have presented this matter to you at such length. To the extent that Regulation Z acknowledges the legitimacy of such a practice, even though FHA and VA do not, I strongly feel it should be cleared up as soon as possible.

I am going to ask that the record of the Housing Subcommittee hearings be held open until I can obtain a report from you on this issue.

Sincerely yours,

LEONOR K. SULLIVAN,
Chairman.

Copies of this letter were sent to the four other agencies named. Following is the covering letter which was sent to the FHA Commissioner, with an identical letter going also to VA Administrator Donald E. Jornson:

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON CONSUMER AFFAIRS OF THE COMMITTEE ON BANKING AND CURRENCY,
Washington, D.C., August 4, 1969.

Hon. WILLIAM B. ROSS,
Acting Assistant Secretary for Mortgage Credit-FHA Commissioner, Department of Housing and Urban Development, Washington, D.C.

DEAR MR. ROSS: I am enclosing a copy of a letter I have sent to Vice Chairman J. L. Robertson of the Federal Reserve Board dealing with the disclosure of sellers' "points" to the buyers on FHA-insured or VA-guaranteed mortgage loans. The question arises primarily in connection with the application of Regulation Z implementing the Truth-in-Lending Act.

This issue has come up time and time again in the Commission to study Mortgage Interest Rates and also in the hearings of the Housing Subcommittee. We also discussed it in connection with the hearings of my Ad Hoc Subcommittee on Home Financing Practices and Procedures.

I have received completely different interpretations from different Government agencies on this issue, and must admit that I am confused. That is why I have asked Mr. Robertson to resolve the problem so that everyone in the mortgage lending industry as well as the home buyers will be aware of the requirements. Because of the importance of any Federal Reserve Board decision on this point, I have urged Mr. Robertson to make sure that your agency is consulted.

In addition, I hope you can advise me in writing just what your agency has been advising lenders to do on this point up to the present time. And I would appreciate it if you would set out for me clearly whether you permit your appraisers to include in the value of the house, the value on which the mortgage is based, the points being charged in the mortgage market for this kind of loan. As I stated to Mr. Robertson, it is my understanding that you instruct appraisers to evaluate the house on the basis of its cash market price rather than on the type of financing available.

Sincerely yours,

LEONOR K. SULLIVAN,
Chairman.

The following somewhat different covering letter was sent to the Chairman of the Federal Home Loan Bank Board, with an identical letter going to FTC Chairman Paul Rand Dixon:

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON CONSUMER AFFAIRS OF THE COMMITTEE ON BANKING AND CURRENCY,
Washington, D.C., August 4, 1969.

Hon. PRESTON MARTIN,
Chairman, Federal Home Loan Bank Board, Washington, D.C.

DEAR MR. MARTIN: I am enclosing a copy of a letter I have sent to Vice Chairman J. L. Robertson of the Federal Reserve Board dealing with the disclosure under the Truth-in-Lending Act of "points" paid by the *seller*. I am particularly interested in clearing up the question of the application of Regulation 2 to the points paid by sellers in those transactions, such as FHA-insured or VA-guaranteed mortgages, in which the buyer is not *permitted* to pay the points. Thus, I have sent copies of this letter to the FHA Commissioner and to the VA Administrator dealing specifically with that point.

But I imagine that in many transactions other than FHA–VA transactions this question would arise, including transactions which may be under the jurisdiction of your agency. Hence I have asked Mr. Robertson to consult with your agency as well as the others listed in my letter.

As I noted in that letter, I believe the buyer should have knowledge of the points paid by the seller because this is important information for him to have in a transaction of such magnitude. But I do not think this is covered in the law or in the regulation except to the extent that the parties assume or suspect that in some way or other those points paid by the seller have been passed on to the buyer. Where this involves co-operation of appraisers, I think it is a misuse of the appraising procedure. In any event I would like your views on this issue from the standpoint of the most effective enforcement of the Truth-in-Lending Act.

Sincerely yours,

LEONOR K. SULLIVAN, *Chairman.*

Replies have been received as follows:

VETERANS' ADMINISTRATION,
Washington, D.C., August 11, 1969.

Hon. LEONOR K. SULLIVAN,
Chairman, Subcommittee on Consumer Affairs of the Committee on Banking and Currency, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: Your letter August 4, 1969, to Mr. Johnson, concerning the disclosure of sellers' "points" to the buyers on FHA-insured or VA-guaranteed mortgage loans is receiving attention, and you may expect a timely response from the Administrator.

Sincerely yours,

JOHN J. CORCORAN,
General Counsel.

FEDERAL TRADE COMMISSION,
Washington, D.C., August 12, 1969.

Hon. LEONOR K. SULLIVAN,
House of Representatives, Washington, D.C.

DEAR MRS. SULLIVAN: I have your letter of August 4, 1969, and the enclosed copy of your letter to Vice Chairman J. L. Robertson of the Federal Reserve Board, regarding the Truth-In-Lending Act.

I shall furnish you with a report on this matter as promptly as possible.

With best wishes, I am

Sincerely yours,

PAUL RAND DIXON,
Chairman.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM,
Washington, D.C., August 13, 1969.

HON. LEONOR K. SULLIVAN,
House of Representatives, Washington, D.C.

DEAR MRS. SULLIVAN: This refers to your letter of August 1, 1969, regarding the treatment of so-called "seller's points" in mortgage transactions under Regulation Z.

The Regulation expressly requires the inclusion of "seller's points" as part of the finance charge, stating in § 226.4:

"* * * the amount of the finance charge in connection with any transaction shall be determined as the sum of all charges, payable directly or indirectly by the customer, and imposed directly or indirectly by the creditor as an incident to or as a condition of the extension of credit, whether paid or payable by the customer, *the seller*, or any other person on behalf of the customer to the creditor or to a third party, including any of the following types of charges:

* * * * * *

"(3) Loan fee, *points*, finders fee, or similar charge."

[Italic supplied in both instances.]

* * * * * *

While this matter was carefully considered in the preparation of the Regulation, we will, of course, review it as you suggest and consult with the agencies mentioned in your letter. In view of the complexity of the matter and the number of agencies concerned, such review will doubtless take some time and, therefore, I felt I should write you

in the meantime as to the present meaning of the Regulation.

Sincerely,

J. L. ROBERTSON.

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
FEDERAL HOUSING ADMINISTRATION,
Washington, D.C., August 14, 1969.

HON. LEONOR K. SULLIVAN,
Chairman, Subcommittee on Consumer Affairs, Committee on Banking and Currency, House of Representatives, Washington, D.C.

DEAR MRS. SULLIVAN: I am replying to your request of August 4, 1969, for comments on the treatment of discount "points", paid by the seller in FHA insured mortgage transactions, under the Truth in Lending regulations.

We agree with your position that any misunderstanding or difference in interpretation of the requirements should be resolved so that everyone in the mortgage industry will be aware of the disclosure requirements. We would be pleased, as suggested, to consult with the Board of Governors of the Federal Reserve System whenever requested.

In reply to your first question, because this Department is not one of the agencies responsible under the Truth in Lending Act for enforcement, we have made it a practice to suggest to inquirers that questions requiring interpretation should be put to the agency responsible for enforcement rather than to HUD. We have not advised lenders whether or not the "points" paid by sellers need be disclosed to borrowers in real estate mortgage transactions. On the related question, which seems to require no interpretation, we have informed lenders that, in the determination of the "finance charge," the inclusion of "points" paid by the sellers appears to be mandatory under Sec. 226.4 of Regulation Z.

In regard to your second question, the FHA has not authorized or instructed its appraisers to include an increment for "points" in appraising homes for mortgage insurance purposes. However, as the FHA appraisal of value reflects, among other considerations, actual sales prices of comparable properties, "points" paid in other transactions may affect an appraisal. Where the sellers in sales of comparable properties have had to pay "points" or the amount of the "points" are facts which do not appear in the records from which appraisers obtain their information. The FHA appraiser does know, of course, that FHA insured mortgage financing is contemplated but neither he, nor the insuring office, is informed of the "points" the seller may be required to pay to obtain financing for the purchaser.

Thank you for the opportunity to comments on this matter.

Sincerely yours,

WM. B. ROSS,
Acting Assistant Secretary—Commissioner.

Because the record of the Housing Subcommittee hearings have been held open for the correspondence, and because a final resolution of this issue remains to be made by the Federal Reserve and will "doubtless take some time," as Mr. Robertson stated, I am submitting this material for inclusion in the record even though it is still incomplete as of August 15, 1969.

The following letters were received too late for inclusion in the hearings of the Housing Subcommittee:

VETERANS' ADMINISTRATION,
Washington, D.C., September 2, 1969.

HON. LEONOR K. SULLIVAN,
Chairman, Subcommittee on Consumer Affairs of the Committee on Banking and Currency, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: I am pleased to respond to your inquiry of August 4, 1969, concerning the disclosure of sellers' "points" to the buyers of homes financed through VA-guaranteed mortgage loans. You stated that the question has been presented in connection with the application of Regulation Z implementing the Truth-in-Lending Act.

Since the Veterans' Administration, although subject to compliance with the Act, has been given no enforcement responsibility, we have not undertaken to advise lenders involved in our program concerning Truth in Lending. Therefore, we have given no advice to lenders concerning the disclosure of "points" paid by the sellers of property when the purchaser is obtaining GI financing. As you know, Section 108 of the Act allocates responsibility for its enforcement and for compliance with Regulation Z to nine separate Federal agencies according to the class of creditor involved. We have instructed our field office personnel to acquaint themselves with Section 108 so that they may provide inquiring loan guaranty participants with correct information when a question of jurisdiction to enforce compliance arises. We have also, of course, issued instructions to our field offices to implement VA's compliance with the Act and the Regulation in our direct loan and property disposal programs. The matter of disclosure of points does not arise in connection with our direct loan and property disposal programs as the VA does not charge points.

Since the inception of the VA home loan program we have not permitted lenders to charge or collect points from veterans buying or building homes with the proceeds of loans guaranteed by the VA. We have taken the position that if a veteran were to be charged points, or points were to be collected from him, the result would be a loan on which the effective rate of interest would exceed the maximum allowable rate under the governing law and our regulations which, currently, is 7½ percent, assuming that the loan is made at the maximum rate of interest permitted by our regulations.

Our field offices have been instructed to make certain in establishing the reasonable value of property that no allowance is given to the builder or other seller for loan discounts charged by the lender as they are not considered to be elements of real estate value. In this manner we endeavor to keep discounts out of the established reasonable value, which determines the maximum loan amount. However, the appraisal procedure necessarily involves taking into consideration comparable sales in the area. Although the sales prices can be easily determined, the details of the transactions are usually not known, such as the number of points paid and by whom, the amount of the broker's commission, and the net amount realized by the sellers. Consequently, we recognize that "points" may get built into established reasonable value to some extent.

Veterans may agree to purchase prices that exceed the VA reasonable values if they desire to do so and pay the excess in cash from their own resources. With respect to sales price, we recognize that a knowledgeable seller, knowing that the lender will require points, will undoubtedly take that fact into consideration in setting his asking price. We have no way of knowing, of course, all the factors that are considered by any particular seller in establishing his sales price. The VA does not condone or participate in the charging or collecting of points. The amount of points to be charged is determined by the lender and the fact that points are actually collected is governed by the seller's willingness to pay them.

Your interest is appreciated, and I hope the foregoing information will be helpful to you. We will be pleased to have a VA representative discuss the matter with Mr. Robertson of the Federal Reserve Board if he so desires.

Sincerely,

DONALD E. JOHNSON,
Administrator.

FEDERAL TRADE COMMISSION,
Washington, D.C., September 26, 1969.

HON. LEONOR K. SULLIVAN,
House of Representatives,
Washington, D.C.

DEAR MRS. SULLIVAN: In further reference to your letter of August 4, 1969, a copy of which is enclosed, our staff has been in touch with the Truth in Lending Staff of the Board of Governors of the Federal Reserve System. It is our understanding that a meeting will be held in the near future to resolve the points which you raised.

Naturally I shall furnish you with a report on this matter at that time.

With best wishes, I am

Sincerely yours,

PAUL RAND DIXON,
Chairman.

In conclusion, Mr. Chairman, I would like to say that the amendment offered by the gentleman from Virginia (Mr. BROYHILL), which was gaveled through before I could be recognized to oppose it, takes away in the District any restraint against the points charged on VA loans. I think this is unconscionable.

Mr. BURKE of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to point out to the Members of the House that after this vote that was referred to that was taken 2 years ago when the great majority of the House followed the advice and counsel given on the floor at that time, the national interest rate on GI loans at that time, I believe, was 6 percent. What took place? On May 7, 1968, the interest charges were increased to 6¾ percent.

On January 24, 1969, under the authority of that public law, they were increased again up to 7½ percent.

Now we are being asked to extend this act for another 2 years and to continue this type of authority. I predict that if this authority is given, these rates will go higher than the prime rate is today, 8½ percent.

All that we are doing is encouraging the bankers of this country to reach into the pockets of these veterans. I might point out that money loaned at the rate of 9 percent doubles itself in 12 years. You can imagine a veteran being called upon to pay back the sum of $30,000 over a period of 12 years, on a $15,000 mortgage. We might be returning to the days of 1929 when the banks of this country went too far. They kept on hiking up the interest rates and, finally, got to the place where nobody could pay off their mortgages and these homes that were mortgaged fell back on the banks when the banks foreclosed. We had a real panic in this country.

The bankers are not using good judgment today. They are not acting in the best interest of this Nation. The Federal Reserve has not exercised the powers it had. This administration has not exercised the powers it has. I say that it will be wrong for this Congress to give this clearance or permission to act for another 2 years and allow these interest rates to pyramid the way they are going now.

You will lead this country down the road to a depression. This will result in the wholesale foreclosures of homes because veterans will be unable to pay the bank. You will cause a condition that you will regret.

But, unfortunately, those who are speaking for this bill today do not look back at history and they do not look at the danger of increased interest rates.

When the interest rates in this country on homes go above 8 percent, we are in a really dangerous situation.

I say that we will be very foolish if we allow any Administrator to continue with this policy. We made a mistake 2 years ago. All right—but let us not make it again.

I hope that if there is any legisation passed here that the committee will at least come up with a ceiling on what that interest rate should be. Otherwise, we are putting the veterans into a fool's paradise—trying to buy a home and pay rates that will go as high as 9 percent and 9½ percent and possibly 10 percent, according to the whims of the Administrator.

Mr. COLLIER. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I certainly will not take the 5 minutes, but I have listened intently to my good friend, the gentleman from Massachusetts, and the question that disturbs me in this debate is this—what in the world good does it do to provide the benefit of a veteran's loan if the interest is totally unrealistic with the result that the veteran cannot possibly get a loan anywhere at the present rate?

Mr. BURKE of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I am delighted to yield to the gentleman from Massachusetts. I would like him to comment on that.

Mr. BURKE of Massachusetts. What this Nation needs today is a strong usury law and a change in the excess profits tax laws. Profits are now higher than ever in the history of the country. That is what is needed—a limitation on the excess profits of these bankers who gouge the public the way they are doing.

Mr. COLLIER. In the meantime, while we are getting the Federal usury law, which the gentleman knows we are never likely to get—where do you suppose these veterans will get a loan to buy a home in the meantime. Or must he sit and wait hoping that a Federal usury law will be passed?

Mr. BURKE of Massachusetts. Why should a veteraan get tied up with a mortgage on his home at 9 percent or 9½ percent?

Mr. COLLIER. I am not talking about the particular interest rates that are subject to change from time to time.

Mr. BURKE of Massachusetts. What is that going to do to the veteran?

Mr. COLLIER. Mr. Chairman, I refuse to yield further to the gentleman.

When any veteran wants to buy a home after he returns from the service he should be able to take advantage of the loan program that is available to them. But goodness knows they are not going to be able to get a loan at submarket interest rates. So I ask again, what in the world good is a program if it cannot provide the means of getting a loan? You can talk interest rates all you want, but the fact is that you are not doing the veteran any favor by making it impossible for him to get the loan he needs. Frankly, if you are willing to accept this situation, you might just as well kill the Veterans' Administration loan program completely.

Mr. BARRETT. Mr. Chairman, will the gentleman yield?

Mr. COLLIER. I am happy to yield to the gentleman from Pennsylvania.

Mr. BARRETT. We have learned through many years of hearings on housing that though interest rates are high, the building contractor builds for the higher income family, and what we are trying to do is to divert that money into the lower and moderate income-family type of housing. Now we can get the flow of money into that field. The builder does not care for whom he builds as long as he gets his profit, and as long as we keep giving high interest rates, we will only get housing for those who can pay the higher amounts.

Mr. COLLIER. I understand, and I want to see the veteran get the lowest possible interest rate available. But I do want him to be able to compete in the mortgage market for a home loan. If he is not permitted to do so, it would defeat the very purpose of the program. What is being suggested by the opponents of this bill is equivalent to supporting no VA loan program at all.

Mr. RANDALL. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman from Missouri is recognized.

Mr. RANDALL. I shall not take all of my time. I support H.R. 13369 because it is necessary if there is to be any veterans' housing program.

Mr. Chairman, as I read the title of the bill, it states:

> To extend for two additional years the authority to set interest rates necessary to meet the mortgage market for guaranteed and insured loans to veterans.

The key words are "authority" to be used only if "necessary."

If anytime it was necessary, it is right now. I was in my home area last week. We have been plagued by strikes all summer long. They are settled now. I talked to some builders and they said, "There is no difference now that the strike is settled. There is no building; even after the strike because there is no money available." Home construction is at a complete standstill. There is some multiple unit building but not very much of that. It is all because there is no loan funds available. Today I heard the argument against this bill that it would saddle veterans with high interest rates. The fact is that without this bill there will be no veterans building program. There is no building going on now. If the Veterans' Administrator in his wisdom thinks it is necessary to set interest rates high enough to meet the mortgage market for loans then he will act if in his discretion he believes no move is necessary then there will be no use of the authority granted. Someday, sometime in the future interest rates should level off the veteran. When that time arrives the veteran will not necessarily be saddled forever with the high rate of interest. He will have the opportunity or privilege to refinance his loan at a lower rate of interest.

I have discussed with the chairman of the Veterans' Affairs Committee whether or not there were any witnesses who appeared before his committee who favored the bill. He has just assured me that all major veterans organizations sent representatives to testify before his committee and that they were in favor of the extension of the authority given to the Veterans' Affairs Administrator to set interest rates necessary to meet the mortgage market for 2 additional years. At the present time the veterans' housing program, now authorized, means nothing. It is worse than useless. There is no building being done.

Many areas of our country have been crippled by strikes, but the strange fact is that there is no more building of homes proceeding in those areas which have not been plagued by strikes than there are in those areas which have suffered from labor difficulties. The common denominator is that there is no building loans available, particularly under the veterans' guaranteed and insured loan program under title 38 of the United States Code.

In the course of this debate one of the objections raised to this measure is that it gives to one man the authority to adjust interest rates. Well, of course, someone has to exercise the authority. This is a measure which calls for the exercise of discretion as to when the use of authority should become necessary. Why is it that our friends who oppose this measure seem to lack confidence in the Veterans' Affairs Administrator? Surely they should understand that he will not raise interest any higher than necessary to secure the needed loans to proceed with the veterans' home programs.

Earlier in the debate one of our Members deplored the fact that we are considering this measure before an effort can be made to pass a national usury law to prohibit high interest rates. Such an argument is without merit because, if we wait until a ceiling is put on interest rates, we might wait indefinitely. There is no assurance that such a bill could be passed this year or next, if ever.

The opponents suggest that, if we pass this bill today, veterans will be hurt by such high rates of interest as 8½ or 9 percent for the rest of their lives, or at least during the duration of the loan. Once again, this argument is without merit because, when the period of tight money comes to an end, which it surely will with the passage of time, veterans will avail themselves of new and lower interest rates and secure new financing, when these more favorable interest rates become a reality in the future.

This measure is urgently needed because, if under the present law, the Congress takes no action prior to October 1, 1969—the maximum interest rate reverts back to 6 percent or the previous statutory maximum under the National Housing Act. In view of the present tight money market conditions, it is obvious that lenders would be unwilling to invest in GI loans at this percentage of interest. Under these conditions the VA guaranteed program would come to a complete halt until such time as the law is amended to permit lenders to realize a

satisfactory investment on GI loans. Veterans would thus be denied their loan benefits. No time is a good time for such a thing to happen. Moreover it should be remembered that the entitlement of all World War II veterans ends July 25, 1970.

There is no single valid reason why this bill should not be enacted. On the other hand there are multiple and quite sufficient reasons why veterans should not be denied their benefits under the veterans loan program, if we let the Administrator establish an interest rate which will not be in excess of such rate as he may from time to time find the loan market demanding. This extension should be approved today.

Mr. SYMINGTON. Mr. Chairman, last week the House voted to subsidize interest rates on student loans so students could complete their education. I am sure we are no less anxious to achieve interest rates veterans can afford in buying their homes—veterans who have fought to preserve the country, its educational opportunities, and the students who enjoy them.

Many men will be returning from the battle area to continue their lives. They return certainly to the welcome of a grateful Nation. How do we manifest this gratitude? With 9-percent mortgages, which cost $30,000 over a 12-year period on a $15,000 loan? Is that a welcome? No; it will be cold comfort to the American veteran to learn that the home of his foxhole dreams remains a dream. I realize this bill is a compromise arrived at in the interest of the veteran. It is just that the veteran cannot afford that much interest.

There must be a better way to help him in his search for housing. Among possible alternatives we could consider are the Home Owners Mortgage Loan Corporation suggestion offered by Representatives SULLIVAN and BARRETT, and the national service life insurance investment fund, supported by Representative PATMAN which, by providing direct loans to veterans, would prevent them from being priced out of the housing market.

We cannot be sure, Mr. Chairman, that we have done our best by the 40,000 who will not come back. Let us at least do it for those who will.

Mr. TEAGUE of Texas. Mr. Chairman, I move the previous question.

AMENDMENT OFFERED BY MR. PATMAN

Mr. PATMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PATMAN: On page 2, line 6, add "the rate fixed shall not be higher than the FHA rate".

The CHAIRMAN. The gentleman from Texas is recognized for 5 minutes in support of his amendment.

Mr. PATMAN. Mr. Chairman——

POINT OF ORDER

Mr. SAYLOR. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman makes his point too late. The gentleman from Texas was recognized.

Mr. SAYLOR. Mr. Chairman, I was on my feet trying to get recognition.

The CHAIRMAN. The gentleman states he was on his feet at the time the amendment was read?

Mr. SAYLOR. I have been on my feet for the last 5 minutes.

PARLIAMENTARY INQUIRY

Mr. RANDALL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The Chair will hear the gentleman from Pennsylvania on the point or order.

Mr. RANDALL. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. RANDALL. The pending motion, as I understood, was to move the previous question. That motion was made before the amendment was offered.

The CHAIRMAN. The Chair will state that in the Committee of the Whole the previous question is not in order.

Mr. SAYLOR. Mr. Chairman, my point of order is that the gentleman's amendment comes too late. The committee amendment has been adopted.

The CHAIRMAN. The committee amendment, as amended, is still pending and the Chair has not put the question thereon. The gentleman from Texas is recognized for 5 minutes in support of his amendment.

Mr. TEAGUE of Texas. Mr. Chairman, a further point of order, and I was on my feet when the gentleman offered his amendment. His amendment is not germane to this bill.

Mr. GERALD R. FORD. Mr. Chairman, a further comment on the point of order.

The CHAIRMAN. The gentleman will state it.

Mr. GERALD R. FORD. Mr. Chairman, the gentleman from Pennsylvania made a point of order and the Chairman recognized the gentleman for that purpose. The Chair never ruled against the point of order of the gentleman from Pennsylvania, so the gentleman from Texas has the right to argue for the point of order made by the gentleman from Pennsylvania.

The CHAIRMAN. The Chair intended to rule against the point of order of the gentleman from Pennsylvania because the premise of his point of order was not factual. The gentleman from Pennsylvania made the point of order on the hypothesis that the committee amendment to the bill had been adopted; had been agreed to, but that question had never been put.

Mr. GERALD R. FORD. Mr. Chairman, with all due deference to the Chair, the Chair did not say the point of order was overruled.

The CHAIRMAN. The Chair intended to do so. Therefore, the Chair now so rules.

Does the gentleman from Texas (Mr. PATMAN) want to be heard on his point of order?

Mr. PATMAN. Mr. Chairman, this comes right after line 6 on page 2, and it says "The rate fixed shall not be higher than the FHA rate."

Here is the reason. Why would anybody argue to charge the veterans more interest than any other people? If we argue against this amendment, that is the argument we are making, that we want the lender to have the privilege of charging veterans more than they charge other people. That is exactly it. I cannot understand why anybody would be against this amendment.

The CHAIRMAN (Mr. BENNETT). The Chair is prepared to rule on the point of order.

The gentleman from Texas (Mr. PATMAN) offered an amendment to the amendment of the committee. The committee amendment gives the Administrator authority to set the interest and the amendment of the gentleman from Texas (Mr. PATMAN) establishes a maximum interest. The amendment is germane. Therefore, the Chair overrules the point of order.

The gentleman from Texas (Mr. PATMAN) is recognized for 5 minutes in support of his amendment.

Mr. PATMAN. So, Mr. Chairman, in order to be consistent, we have already discriminated against the veterans in the interest rates because we are not willing to give them the same Federal subsidy help that we are giving to the rioters on the college campuses, although they are destroying school property. We are giving them to give to the banks a 3-percent bonus that the Government pays. So, in failing to give the veterans the same treatment, we are in effect discriminating against the veterans in favor of the rioters on the college campuses.

Mr. ICHORD. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. I yield to the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, as I understand the bill, the amendment offered by the gentleman from Texas would not permit the Veterans' Administration to have the authority to charge higher than the FHA rate of interest. Would the gentleman from Texas advise the House as to how the FHA rate of interest is set?

Mr. PATMAN. It is set by the Secretary of Housing and Urban Development. I think we have got a better judgment from the people who are experienced in this and who have been doing this over the years, and it is not only one person, but it involves a number of people in HUD who advise the Secretary who is a member of the Cabinet. This is preferable than to have just one political appointee who happens to be the head of the Veterans' Administration who will just go ahead and fix the rate he wants. Should we not have some restraint on one person under those circumstances?

This bill attempts to go off in a different direction, and go away, giving them an open end. It will let them do anything they want to. It will be just one person who can do that. I think surely we cannot argue against this amendment without arguing and clamoring for the moneylenders to have plenty of power to charge the veterans any rate they want to.

You do not want any rate for veterans. So whenever you fix it at the same rate as FHA, and no higher, what is fairer than that? Are you not willing for the veterans to be protected at least up to that point? That is all we are asking for in this amendment.

Mr. SCOTT. Mr. Chairman, I rise in opposition to the amendment.

As I understand procedure in this body, we operate under a committee system in which the various committees of the House are vested with certain responsibilities. The Committee on Veterans' Affairs, which reported this measure, is vested with the responsibility of acting upon veterans' legislation.

The proposed amendment would have another committee of the House exercise jurisdiction over the affairs of veterans. Mr. Chairman, it just seems to me to be an improper amendment. Frankly, it seems subject to a point of order on this ground but I realize that it cannot now be timely raised. Whether it is a valid ground for a point of order or not, it is a valid basis for the consideration of this House.

The bill, as I understand it, provides that the only thing the Administrator of Veterans' Affairs does is to make it possible to obtain loans for veterans by saying that the interest rate shall be within the market. If the interest rate proposed is below the market a veteran cannot obtain a loan. The Administrator under the bill could set the rate at 3 percent, if the general public could receive loans at such a low rate of interest.

We are not in effect raising the interest rate. We are just making it possible for veterans to receive loans.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. SCOTT. I yield to the gentleman from Michigan.

Mr. CEDERBERG. In all the years I have been here in the House I have never known the gentleman from Texas (Mr. TEAGUE) to do anything that was not in the best interest of veterans. Everything which comes out of his committee is in the best interest of veterans. I believe that is true in this case. I oppose this amendment.

In all these years I have listened to the gentleman from Texas (Mr. PATMAN) expound on all these theories of interest rates, and so forth, and I have never been able to follow him. I do not believe many others have.

I suggest, in the interest of the veterans, we should follow the gentleman from Texas (Mr. TEAGUE), and vote this amendment down.

Mr. ROGERS of Florida. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Florida is recognized for 5 minutes.

Mr. ROGERS of Florida. Mr. Chairman, I ask unanimous consent to speak out of order.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. GERALD R. FORD. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The question is on the amendment to the committee amendment offered by the gentleman from Texas (Mr. PATMAN).

The amendment to the committee amendment was rejected.

The CHAIRMAN. The question is on the committee amendment, as amended.

The committee amendment, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ALBERT) having assumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13369) to extend for 2 additional years the authority to set interest rates necessary to meet the mortgage market for guaranteed and insured home loans to veterans under title 38 of the United States Code and for other loans, pursuant to House Resolution 556, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SAYLOR. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 340, nays 21, not voting 69, as follows:

[Roll No. 188]

YEAS—340

Abbitt	Broyhill, N.C.	Daniel, Va.
Abernethy	Broyhill, Va.	Davis, Ga.
Adair	Buchanan	Davis, Wis.
Adams	Burleson, Tex.	de la Garza
Addabbo	Burlison, Mo.	Delaney
Albert	Burton, Utah	Dellenback
Anderson, Calif.	Bush	Denney
	Button	Dennis
Anderson, Ill.	Byrne, Pa.	Dent
Andrews, Ala.	Byrnes, Wis.	Derwinski
Ashbrook	Cabell	Devine
Ashley	Caffery	Dickinson
Aspinall	Cahill	Donohue
Ayres	Camp	Dorn
Baring	Carey	Dowdy
Barrett	Carter	Downing
Belcher	Casey	Dulski
Bennett	Cederberg	Duncan
Berry	Chamberlain	Dwyer
Betts	Chisholm	Eckhardt
Bevill	Clancy	Edmondson
Biester	Clausen, Don H.	Edwards, Ala.
Bingham		Edwards, La.
Blackburn	Clawson, Del	Eilberg
Boland	Cleveland	Erlenborn
Bow	Cohelan	Esch
Brasco	Collier	Eshleman
Bray	Collins	Evans, Colo.
Brinkley	Conable	Evins, Tenn.
Brock	Conte	Fallon
Brooks	Corman	Fish
Broomfield	Coughlin	Fisher
Brotzman	Cramer	Flowers
Brown, Ohio	Culver	Flynt
Foley	Lukens	Rogers, Colo.
Ford, Gerald R.	McCarthy	Rogers, Fla.
Ford, William D.	McClory	Rooney, N.Y.
	McCloskey	Rooney, Pa.
Fountain	McClure	Rosenthal
Fraser	McCulloch	Rostenkowski
Frelinghuysen	McDade	Roth
Frey	McDonald, Mich.	Roudebush
Friedel		Roybal
Fulton, Pa.	McEwen	Ruppe
Fulton, Tenn.	McFall	Ruth
Fuqua	McMillan	St Germain
Galifianakis	Macdonald, Mass.	St. Onge
Gallagher		Sandman
Garmatz	MacGregor	Satterfield
Gaydos	Mahon	Saylor
Gettys	Mailliard	Scherle
Giaimo	Marsh	Schneebeli
Gilbert	Martin	Schwengel
Gonzalez	Mathias	Scott
Goodling	May	Sebelius
Gray	Mayne	Shipley
Green, Pa.	Meeds	Shriver
Griffin	Miller, Calif.	Sikes
Griffiths	Miller, Ohio	Sisk
Gross	Minish	Skubitz
Grover	Mink	Slack
Gubser	Minshall	Smith, Calif.
Gude	Mize	Smith, N.Y.
Hagan	Mizell	Snyder
Haley	Mollohan	Springer
Hall	Monagan	Stafford
Hamilton	Montgomery	Staggers
Hammer-schmidt	Moorhead	Stanton
	Morgan	Steed
Hanley	Morse	Steiger, Ariz.
Hanna	Morton	Steiger, Wis.
Hansen, Idaho	Mosher	Stephens
Harsha	Murphy, Ill.	Stratton
Harvey	Myers	Stubblefield
Hastings	Natcher	Stuckey
Hathaway	Nedzi	Taft
Hays	Nelsen	Talcott
Hébert	Nichols	Taylor
Hechler, W. Va.	Nix	Teague, Tex.
Heckler, Mass.	O'Hara	Thompson, N.J.
Helstoski	O'Neal, Ga.	Thomson, Wis.
Henderson	O'Neill, Mass.	Tiernan
Hogan	Ottinger	Tunney
Horton	Passman	Udall
Hosmer	Patten	Utt
Hull	Pelly	Van Deerlin
Hungate	Perkins	Vander Jagt
Hutchinson	Pettis	Vanik
Ichord	Philbin	Vigorito
Jacobs	Pickle	Waggonner
Jarman	Pike	Waldie
Johnson, Calif.	Pirnie	Watkins
Johnson, Pa.	Poage	Watson
Jonas	Podell	Watts
Jones, Ala.	Poff	Weicker
Jones, N.C.	Pollock	Whalen
Jones, Tenn.	Preyer, N.C.	White
Karth	Price, Ill.	Whitten
Kastenmeier	Price, Tex.	Widnall
Kazen	Pryor, Ark.	Wiggins
Kee	Pucinski	Williams
Keith	Purcell	Wilson, Bob
King	Quie	Winn
Kleppe	Railsback	Wold
Koch	Randall	Wolff
Kuykendall	Rarick	Wyatt
Kyl	Rees	Wydler
Kyros	Reid, Ill.	Wyman
Landgrebe	Reid, N.Y.	Yates
Landrum	Reifel	Yatron
Langen	Rhodes	Young
Latta	Riegle	Zablocki
Lennon	Rivers	Zion
Lloyd	Roberts	Zwach
Long, La.	Robison	
Long, Md.	Rodino	

NAYS—21

Alexander	Farbstein	Patman
Annunzio	Hicks	Reuss
Blatnik	Leggett	Ryan
Burke, Fla.	Matsunaga	Sullivan
Burke, Mass.	Melcher	Symington
Burton, Calif.	Moss	Thompson, Ga.
Conyers	Olsen	Ullman

NOT VOTING—69

Anderson, Tenn.	Brown, Calif.	Dawson
	Brown, Mich.	Diggs
Andrews, N. Dak.	Celler	Dingell
	Chappell	Edwards, Calif.
Arends	Clark	Fascell
Beall, Md.	Clay	Feighan
Bell, Calif.	Colmer	Findley
Biaggi	Corbett	Flood
Blanton	Cowger	Foreman
Boggs	Cunningham	Gibbons
Bolling	Daddario	Goldwater
Brademas	Daniels, N.J.	Green, Oreg.

Halpern	Madden	Schadeberg
Hansen, Wash.	Mann	Scheuer
Hawkins	Meskill	Smith, Iowa
Holifield	Michel	Stokes
Howard	Mikva	Teague, Calif.
Hunt	Mills	Wampler
Kirwan	Murphy, N.Y.	Whalley
Kluczynski	Obey	Whitehurst
Lipscomb	O'Konski	Wilson,
Lowenstein	Pepper	Charles H.
Lujan	Powell	Wright
McKneally	Quillen	Wylie

So the bill was passed.

The Clerk announced the following pairs:

Mr. Boggs with Mr. Arends.
Mr. Daniels of New Jersey with Mr. Corbett.
Mr. Flood with Mr. Lipscomb.
Mr. Celler with Mr. Hunt.
Mr. Pepper with Mr. Meskill.
Mr. Holifield with Mr. McKneally.
Mr. Madden with Mr. Quillen.
Mr. Kirwan with Mr. Cunningham.
Mr. Biaggi with Mr. Brown of Michigan.
Mr. Daddario with Mr. Findley.
Mr. Murphy of New York with Mr. Michel.
Mr. Dingell with Mr. Beall of Maryland.
Mr. Brademas with Mr. Andrews of North Dakota.
Mr. Charles H. Wilson with Mr. Teague of California.
Mr. Howard with Mr. Halpern.
Mr. Fascell with Mr. Goldwater.
Mrs. Green of Oregon with Mr. Bell of California.
Mr. Kluczynski with Mr. O'Konski.
Mr. Clark with Mr. Whalley.
Mr. Blanton with Mr. Schadeberg.
Mr. Mills with Mr. Wylie.
Mr. Anderson of Tennessee with Mr. Zion.
Mr. Colmer with Mr. Wampler.
Mr. Feighan with Mr. Cowger.
Mr. Mann with Mr. Whitehurst.
Mr. Gibbons with Mr. Foreman.
Mr. Smith of Iowa with Mr. Lujan.
Mr. Mikva with Mr. Hawkins.
Mr. Brown of California with Mr. Dawson.
Mr. Stokes with Mr. Obey.
Mr. Edwards of California with Mr. Clay.
Mr. Wright with Mr. Chappell.
Mrs. Hansen of Washington with Mr. Diggs.
Mr. Lowenstein with Mr. Scheuer.

The result of the vote was announced as above recorded.

The doors were opened.

The title was amended so as to read: "A bill to authorize the Administrator of Veterans' Affairs, until October 1, 1971, to set interest rates necessary to meet the mortgage market for guaranteed and insured loans under title 38 of the United States Code."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TEAGUE of Texas. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to extend their remarks and to include extraneous matter on H.R. 13369.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

CHARGES AGAINST GREEN BERETS WITHDRAWN

(Mr. RIVERS asked and was given permission to address the House for 1 minute.)

Mr. RIVERS. Mr. Speaker, regardless of the reason given for withdrawing the charges against the Green Berets, they have been withdrawn.

This thing should not have gotten as far as it has gotten. Already one can see clouds gathering over Saigon that would have turned this thing into a sideshow that would have been unequaled since, I guess, the Billy Mitchell trial, or even one in religious history.

The American people did not want these young men tried. I believe that the hand of Providence has intervened, because too many tears have been shed and too many mistakes already have been made.

Now, I am not going to deprecate the efforts of anybody, but a lot of people have been involved in this case. All of us have tried to do what we could to see that the bowels of the U.S. Army would not be dumped in the atmosphere of Saigon, nor the intelligence-gathering agencies of this Government be brought to public trial in Saigon, nor the military of this country further degraded in the eyes of the world.

However, Mr. Speaker, the charges have been withdrawn. These men will be restored to duty. Their records will be clean. And, Mr. Speaker, take it from me, we will see, because of this House, for you and the American people, that their records will be clean. This sort of thing must never happen again.

CHARGES AGAINST GREEN BERETS WITHDRAWN

(Mr. RODINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODINO. Mr. Speaker, I am deeply gratified that Secretary of the Army Resor has finally addressed himself personally to all of the issues in this case, including all of the mishandling that has occurred to date, and has taken a just and fair position. I say, and other Members of Congress have stated to the Secretary in our letter of September 9, that our national interest has already suffered greatly, and any trial of these men by the commanders in the field would do even more irreparable damage. These dedicated servicemen have been finally released. However, nothing can undo the suffering experienced by them and their families. I pledge to these men and their families that I, for one, shall continue to do everything in my power as a Member of Congress to undo the damage that has been done in this case and to insure that never again will servicemen be exposed to the abuses and miscarriages of justice that have characterized this case until the Secretary's action today.

Mr. ALBERT. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I am glad to yield to the distinguished majority leader.

Mr. ALBERT. Mr. Speaker, I was delighted to get the report that these officers are being released. Captain Brumley is from my district and his family and friends are elated that these young soldiers will not have to go through the ordeal of a trial. This was the right thing to do and it should have been done a long time ago. Under the leadership of the gentleman from New Jersey (Mr. RODINO), we tried to point this up to the appropriate authorities. We are glad that this action has been taken not only in the interest of our constituents but in the interest of the Army and in the cause of justice.

Mr. STEPHENS. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I am glad to yield to the gentleman from Georgia.

Mr. STEPHENS. Mr. Speaker, I appreciate the gentleman's bringing this matter to the attention of the House and of the country. I know a very happy father and mother in Athens, Ga. They are glad to hear this news, because their son, Capt. Budge Williams, was one of those who was placed under these charges. I am glad, too, that the Secretary has finally yielded to reason. He has done that which we urged him to do in our 2-hour conference on September 8 and that which we repeated in our letter to him of September 9. We asked him to take personal control of this matter for the very reasons he now gives for dismissing the proceedings. The Secretary's action is good news for America.

Mr. ROGERS of Florida. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I am glad to yield to the gentleman from Florida.

Mr. ROGERS of Florida. Mr. Speaker, I want to say, also, that I, too, am pleased to hear this news. The Secretary responded finally to the pleas of a great number of Members of Congress. The gentleman in the well of the House, Mr. RODINO of New Jersey, has been the leader in this work. I think it should be a great satisfaction to his constituency that his leadership resulted in a victory for justice in this situation, and particularly I think it emphasizes again the importance of civilian control of the military and an alert Congress. I say that because if it had not been for alert Members of Congress, these men would have been tried.

Mr. Speaker, I commend the gentleman from New Jersey (Mr. RODINO) particularly for his leadership. It has been excellent.

Mr. LONG of Maryland. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Speaker, I, too, want to praise the gentleman from New Jersey (Mr. RODINO) for his leadership in this effort in which we all were privileged to join. I feel that the Army made a wise decision in finally dropping these charges. It was the Army that was really on trial and it would have been the Army which would have been convicted had it gone ahead with the court-martial.

Mr. Speaker, one more thing, in reading the remarks of Secretary Resor, as reported in the press, I got the impression that he was still insinuating that the men were guilty of something. The Congress should call on the military authorities to make sure that these men's careers are not damaged. Warrant Offi-

cer Boyle, who lives in my district, received the soldier's medal for saving lives. He is the kind of man we need in our Regular Army. I want to make sure, and I hope that Congress makes sure, that these charges are dropped without prejudice.

Mr. RODINO. I thank the gentleman for his remarks.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, I was well pleased when I learned the news a few minutes ago that the Secretary of the Army had directed that the charges against the Special Forces officers—the Green Berets—had been dismissed. This is, I think, a satisfactory conclusion to a very sorry episode in the history of the U.S. Army.

At this time I would like to renew the tribute which I paid last week to the distinguished gentleman from New Jersey (Mr. RODINO) for his effective and forceful leadership in this matter in recent days and for the magnificent job which he did in leading the special order on the floor of the House last week, thoroughly documenting the case and developing it.

Mr. Speaker, I believe that I speak for the officers concerned and for their families when I say that we deeply thank the gentleman from New Jersey (Mr. RODINO) for his outstanding leadership in this matter.

Mr. RODINO. I thank the gentleman from Georgia for his remarks.

Mr. CULVER. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Iowa.

Mr. CULVER. Mr. Speaker, I rise also to express my appreciation and admiration for the outstanding leadership afforded to this House and to this country in this matter involving the Green Berets by the gentleman from New Jersey (Mr. RODINO) and also the chairman of the Armed Services Committee (Mr. RIVERS) and those others of my colleagues through whose initiative the impropriety of these proceedings has been dramatized.

I was very pleased to learn that the Secretary of the Army has dropped the charges against the eight Green Berets. Earlier this month I urged the Secretary to exercise his jurisdiction over this case. I am glad that he has now belatedly seen the wisdom in doing so.

I am happy for the eight men involved and their families that they will be spared the unjustified hardship of going through with the trial. I am also glad for the United States that the trial will not go forward, because in my judgment our national interests could only have suffered in the process.

Mr. RODINO. I thank the gentleman.

Mrs. SULLIVAN. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the distinguished gentlewoman from Missouri.

Mrs. SULLIVAN. Mr. Speaker, I wish to commend my colleague for bringing this to the attention of the Members of the House and I join in expressing my pleasure at this decision by the Secretary of the Army and to congratulate the gentleman from New Jersey (Mr. RODINO) for his efforts in behalf of these men.

Mr. RODINO. I thank the distinguished gentlewoman.

Mr. OLSEN. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Montana.

Mr. OLSEN. Mr. Speaker, I wish to thank the distinguished gentleman in the well, the gentleman from New Jersey (Mr. RODINO), and the chairman of the Committee on Armed Services for their persistent efforts in behalf of these men about whom we speak and I am glad to learn that justice has prevailed.

I especially wish to commend again the gentleman from New Jersey for the special order that he conducted last week which in my opinion must have had a real influence upon the decision which has just been made and I wish to thank him personally for his efforts.

Mr. RODINO. I thank the gentleman from Montana for his remarks.

Mr. BRAY. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Indiana.

Mr. BRAY. Mr. Speaker, I do not care to discuss the details of this case, but as a member of the House and Senate committee I do want to say that there have already been far too many errors made in this Vietnamese war.

Mr. Speaker, I think the Secretary of the Army took the proper course, one which I wish had been taken earlier.

Mr. RODINO. I thank the gentleman for his remarks.

Mr. HAYS. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I am glad to yield to the gentleman from Ohio.

Mr. HAYS. Mr. Speaker, I too want to join others in commending the gentleman from New Jersey (Mr. RODINO) for his efforts in behalf of these men. None of these gentlemen are from my area, but the people in my district as near as I could ascertain were outraged that this thing went as far as it did.

I wish to commend the gentleman and the chairman of the Committee on Armed Services (Mr. RIVERS), because let us lay the facts on the table, they and others forced the Secretary of the Army to do the thing which he should have done a long time ago and which he was reluctant to do even as he did it today.

Mr. RODINO. I thank the gentleman from Ohio.

Mr. THOMPSON of New Jersey. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from New Jersey.

Mr. THOMPSON of New Jersey. Mr. Speaker, I would like to join in expressing my gratitude and the gratitude of the New Jersey delegation to the gentleman in the well (Mr. RODINO), the dean of our delegation, for his efforts in this matter.

It is very heartening to hear the chairman of the great Committee on Armed Services express himself as he did.

Mr. Speaker, in my opinion we owe a great debt of gratitude to the gentleman from New Jersey (Mr. RODINO) for his diligent and successful efforts.

Mr. RODINO. I thank the gentleman.

Mr. RHODES. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I too want to commend the gentleman from New Jersey for his efforts and to also congratulate the Department of the Army upon expunging these charges from the record of the Green Berets.

Mr. Speaker, in my district resided a young officer whose name is Capt. John J. McCarthy. Capt. John J. McCarthy was tried and convicted back in 1967 in the Johnson administration on a set of facts almost identical to those under which the Green Berets were to be tried. I have refrained from bringing the matter to the House's attention at the request of Captain McCarthy, his parents, and at the request of his counsel. The matter is now under appeal under the regular procedure of the Department of Defense.

But because of the events of today I can no longer remain silent.

I have studied the record of Capt. John J. McCarthy's trial, and I thoroughly believe that there is on the face of the record grounds for reversal. Witnesses who could have testified for him, had they been available at the trial, were not compelled to attend. There are other recitals of error which indicate that Capt. John J. McCarthy should be relieved of serving any further time under this sentence. He is in the U.S. Disciplinary Barracks right now. The court-martial, although it found him guilty and sentenced him, did not sentence him to be dismissed. In fact, he is a prisoner while serving in the U.S. Disciplinary Barracks, although he is still a captain, U.S. Army.

I certainly hope Secretary Resor will do as I pled with him to do back in December of last year, and review this case again and release Capt. John J. McCarthy. This young man is a fine officer with a good record. He deserves the same type of treatment which has finally been accorded to the Green Berets.

Mr. DICKINSON. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding, and I would like to join in the comments made by so many of my colleagues. I commend the gentleman from New Jersey (Mr. RODINO) for his unceasing efforts on behalf of our American servicemen.

Mr. Speaker, I suggest that the Secretary of Defense thoroughly look into this whole matter to determine who has been handling the case, for I know of no single act within recent times that has had such an adverse effect on the morale of our Special Forces and on the confidence the public has for our Armed Forces in general. Although the charges have been dropped and their records are clear, this sordid mess surely will continue to haunt these eight elite servicemen.

I commend the action that has been taken—from the Secretary on down—

but I can only say that it comes entirely too late.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, I too want to join in congratulating the distinguished gentleman from New Jersey (Mr. RODINO) on his leadership in this matter, and for his insisting upon the full constitutional and legal rights for the men in our armed services. I think it reflects great credit to the House of Representatives and to the Committee on the Judiciary of which the gentleman from New Jersey (Mr. RODINO) is a most distinguished member.

Mr. GETTYS. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from South Carolina.

Mr. GETTYS. Mr. Speaker, I too would like to associate myself with the remarks of other Members in praising the gentleman from New Jersey (Mr. RODINO) for the very splendid job he has done in this Green Beret case, particularly with reference to the prodding and the pitchforking upon those people who have the authority to come to the right decision, and to have the courage to admit and announce a mistake.

Mr. WIDNALL. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from New Jersey.

Mr. WIDNALL. Mr. Speaker, I would like to congratulate my colleague from the State of New Jersey (Mr. RODINO) for his courageous and determined spotlighting of the problem over in Vietnam. I am very, very pleased by the decision of the Secretary of the Army, Mr. Resor, and for what he has done today. I think that part of that decision came about as a result of the very, very determined efforts of the gentleman from New Jersey (Mr. RODINO) in the way that he gathered the Members of the Congress together and obtained the support of the people within the United States.

I just personally hope that we are not going to stop right here in connection with this effort, because I think that the conditions under which the prisoners have been incarcerated during the time that they were held were a disgrace, and the American people cannot stomach that sort of action any longer. I hope we will continue to do something along that line, too.

Again I congratulate my colleague from New Jersey on a great job.

Mr. HUNT. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from New Jersey.

Mr. HUNT. Mr. Speaker, I take this opportunity to tell the gentleman in the well that I am most pleased with the results of the Green Beret case. Having been associated with a unit of a similar nature in World War II, I can understand what they went through.

I want to compliment the gentleman, and add my congratulations to the gentleman from New Jersey for the very valiant fight that he put up for the constituent from his district, Captain Marasco. I think it is the proper decision to make.

People all too soon lose track of the fact that we are fighting a common enemy. If mistakes were made, then they should have been debated at the proper local jurisdiction instead of by the methods that were used.

I think that the gentleman from New Jersey has been instrumental in bringing this case and these facts to the surface, and that is the proper method and the proper legal way, and the proper legal system has had its effect.

I hope that we will now once more go back to defending our Nation, and that we will stop vilifying people who are only soldiers in the name.

I cannot say too much for the gentleman from New Jersey in regard to this case, and to say that he has made a very fine fight. I again congratulate the gentleman.

Mr. THOMPSON of Georgia. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentleman.

Mr. THOMPSON of Georgia. Mr. Speaker, I would also like to congratulate the gentleman from New Jersey (Mr. RODINO) for the tremendous fight that he has made on behalf of the Green Beret personnel who were accused in Vietnam. Particularly, it will be a pleasure for me tomorrow night when I speak to the wives of some of the Green Beret who are stationed in Vietnam to tell them of the tremendous efforts of yourself and your dogged determination and refusal to quit until this matter was properly resolved. I certainly congratulate the gentleman.

The SPEAKER. The time of the gentleman from New Jersey (Mr. RODINO) has expired.

Mr. HELSTOSKI. Mr. Speaker, no better news could have come to the families of the eight men, six of whom were formally charged with the murder of a Vietnamese counterspy.

This news of the dropping of charges against these members of the Armed Forces has lifted a great burden from both the accused and their families. The anxiety they have gone through cannot be ascertained in words, but the sound of relief can probably be heard all over America.

I have always felt that there was an injustice in this case and the entire handling of it was miscalculated and in poor judgment.

In dropping the charges against the Green Berets, Secretary of the Army Stanley R. Resor moved in a fair and humanitarian manner. He should be commended for taking this action—one which removed the charges. Unfortunately, it did not remove the stigma of being accused of murder.

It is now the responsibility of the military to take appropriate action to correct this injustice done to these men. But the question is, "How can we erase the psychological effect that these last few months had upon these men and their families?"

There is no doubt that these men were following orders of their superiors, that they lived within the military code. Now, these same superiors should take action to remove any stigma of crime from the records and return to them their full rights and privileges accorded to others within the military structure.

Mr. Speaker, in dropping charges against the Green Berets, I feel that justice has been served in a case that should never have been, in the first instance, brought against these men.

GENERAL LEAVE TO EXTEND REMARKS

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to extend their remarks on this subject.

There was no objection.

GRANTING ADDITIONAL TRAVEL AUTHORITY TO THE COMMITTEE ON PUBLIC WORKS

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules and on behalf of my colleague the gentleman from Hawaii (Mr. MATSUNAGA), I call up House Resolution 538 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 538

Resolved, That, notwithstanding the provisions of H.R. 189, Ninety-first Congress, the Committee on Public Works is authorized to send not more than seven members of such committee, not more than two majority staff assistants, and not more than one minority staff assistant to Addis Ababa, Ethiopia, to attend the African Highway Conference of the International Road Federation from October 10, 1969, to November 9, 1969, inclusive, and for the purpose of conducting an investigation and study of public works which would include mutual problems involving rivers and harbors, flood control, highways, water pollution and related subjects for travel in Ethiopia, Kenya, Uganda, Tanzania, Zanzibar, Egypt, Greece, Spain, Italy, Israel, Congo, and England.

Notwithstanding section 1754 of title 22, United States Code, or any other provision of law, local currencies owned by the United States shall be made available to the Committee on Public Works of the House of Representatives and employees engaged in carrying out their official duties under section 190(d) of title 2, United States Code: *Provided*, That (1) no member or employee of said committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954, as amended by Public Law 88-633, approved October 7, 1964; (2) no member or employee of said committee shall receive or expend an amount of transportation in excess of actual transportation costs; (3) no appropriated funds shall be expended for the purpose of defraying expenses of members of said committee or its employees in any country where counterpart funds are available for this purpose.

Each member or employee of said committee shall make to the chairman of said committee an itemized report showing the number of days visited in each country where local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished

for the same period of time in any other country, irrespective of differences in time zones. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

The SPEAKER. The Chair recognizes the gentleman from California (Mr. SISK).

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 538 and ask for its immediate consideration.

Mr. Speaker, the resolution would authorize not more than seven members of the Committee on Public Works, two majority staff assistants, and one minority staff assistant to travel to Ethiopia, Kenya, Uganda, Tanzania, Zanzibar, Egypt, Greece, Spain, Italy, Israel, Congo, and England, between October 10 and November 10, 1969, and would authorize the use of counterpart funds where available.

They would attend the African Highway Conference of the International Road Federation in Addis Ababa and in the various countries would investigate and study public works, which would include mutual problems involving rivers and harbors, flood control, highways, water pollution, and related subjects.

The resolution provides that per diem shall not be furnished for a period of time in any country if it has been furnished for the same period in any other country, irrespective of differences in time zones.

Mr. Speaker, I urge the adoption of the resolution.

Mr. GROSS. Mr. Speaker, will the gentleman from California yield?

Mr. SISK. I am glad to yield to my good friend from Iowa.

Mr. GROSS. Is there, by any chance, a printing error in this resolution?

Mr. SISK. I am not at all certain that there is none, but if there is, let me say to my good friend, I am not aware of it.

Mr. GROSS. In addition to the African countries listed for junketing, there is Ghana, Mozambique, Zambia, as well as The Gambia, which produces a couple of hundred thousand dollars of peanuts a year, as I understand it. There is also the Ivory Coast, Nigeria, and Biafra.

Mr. SISK. If I correctly understand the suggestion of my friend, he believes there must be an error by not including all the countries of Africa. Is that the point of his question?

Mr. GROSS. Yes.

Mr. SISK. I assume there was some specific point in that omission. Of course, the Committee on Rules considered the resolution as it was introduced, and only those countries listed were specified.

Mr. GROSS. Are we going to do some roadbuilding in Egypt, Greece, Spain, Italy, Israel, the Congo, and England, which are also points of call for these junketeers. Are we going to do some roadbuilding in those countries? What, in the end, will this resolution cost us?

Mr. SISK. Seriously, let me say to my good friend from Iowa, as he very well knows, these travel resolutions come along, and in most cases—and I am certain in this case—the Public Works Committee seriously feels that benefits can be obtained for the knowledge of the committee, the knowledge of the Congress and for our country by visitation to those countries, by observing the methods which they are using today in the area of flood control, highways, water pollution, and a whole variety of things. It is my understanding that they propose, in addition to attending the African Highway Conference, to make some studies on progress in England and other areas and bring that knowledge back for the benefit of America.

Mr. GROSS. What do they use in Ethiopia and Zanzibar, oxcart roads? What kind of roads do they construct over there the knowledge of which would be beneficial to us in the matter of roadbuilding?

Mr. SISK. If I could suggest to my good friend, surprisingly enough, when we visit other parts of the world—and I do not claim to be much of a world traveler—we find that other countries are ahead of us in some areas. I am not saying that these particular countries are. On the other hand, I would assume that if we do not go and observe and find out what is going on, then certainly we could be missing a bet. How much ahead or how much behind some of these countries may be in the use of machinery, equipment, and roadbuilding facilities I do not know. I assume that, of course, is the purpose of the Public Works Committee in wanting to make this trip.

Mr. GROSS. Will it be a proper climax for the seven committee members and the two staffers to end their junket in England? Will they study roadbuilding or something else when they get there?

Mr. SISK. Of course, it might be that London might be the climax. I do not want to propose anything in this situation. I suppose there may be some meetings in London, I may say to my friend.

Mr. GROSS. So, the gentleman would say he does not believe there has been a printing error; that they did not indicate they wanted to take in a few more countries? They are apparently passing up Paris on this trip.

Mr. SISK. I note they are not going to Paris, Berlin, Moscow, Tokyo, and there are several other places in the world that are not named. It is not that big a resolution. This is a trip for the purpose of attending a meeting and for visiting certain countries in that area of the world, and I am sure it would benefit America primarily.

Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, let me say at the outset that I agree with the statements just made by my friend from California, particularly in answer to the questions raised by my good friend, the gentleman from Iowa (Mr. GROSS). I hasten to point out that there are 12 countries that will be visited in a period of 5 days.

Members of the committee are going to have to do a lot of investigating in 5 days and they are going to have to keep on their toes to cover these 12 countries and still do the things the resolution says they are going to do. They plan to study mutual problems involving rivers, harbors, flood control, highways, water pollution, and related subjects. Being from the Lake Erie region, I hope they bring back some very valuable information on water pollution, because we can use it in that area.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, what does the gentleman mean by 5 days? The dates for this junket are October 10 to November 9, which is about 30 days.

Mr. LATTA. The period the gentleman has reference to is the travel period, and the actual meeting dates are from the 20th of October until the 25th of October, which is only about 5 days of meetings.

Mr. GROSS. Only 5 days of meetings?

Mr. LATTA. That is correct.

Mr. GROSS. And the rest will be spent how?

Mr. LATTA. I presume on various other "related subjects." Quite frankly, I am not too enthusiastic about the passage of this resolution.

Mr. GROSS. Mr. Speaker, I thank the gentleman, and say to him that I, too, am not enthusiastic about this resolution. In fact, I am against it.

Mr. SISK. Mr. Speaker, I yield to the distinguished chairman of the Public Works Committee, the gentleman from Maryland.

Mr. FALLON. Mr. Speaker, the Committee on Public Works has received authorization over the years from this body to travel overseas for study and investigation of projects and problems within its jurisdiction. It has as well attended many international meetings at which representatives from all sections of the earth, both on a governmental and private level, have appeared for a beneficial exchange of ideas.

The resolution before this body today authorizes a similar type of trip for similar purposes.

I believe these meetings are important and necessary both from the viewpoint of exchanges of ideas which follow and the resulting information that can be helpful to our Nation and to the other nations' representatives with whom we meet.

I further feel that this type of trip for a very real reason is helpful to the individual Members who travel to these areas.

Throughout the years the committee has sent subcommittees to many portions of the United States to hold hearings on problems involving legislation affecting a particular area. Throughout the years the committee has always, whenever the situation presented itself, sent a subcommittee out in time of disaster in various parts of the country. I see no basic difference between these types of trips, which we all know are essential for the protection and well-being of all of our citizens, and the type of authorization before us today, which will provide the same type of information and hopefully better develop other sections of the world in the way we hopefully do in this country.

Mr. Speaker, at the African Highway

Conference of the International Road Federation to be held in Addis Ababa, Ethiopia, between October 20 and 25, 1969, that organization, one of the most distinguished of its type, will present its 1969 Man-of-the-Year Award to a great and good friend of mine and a distinguished public servant, the Federal Highway Administrator, Francis C. Turner.

I have personally known Frank Turner for over a quarter of a century. I have heard him testify before the Committee on Public Works on numerous occasions. I have availed myself of his expertise to help solve many road problems presented to the committee. Frank Turner has given over 40 years of his life to the service of his country as a career employee of the Bureau of Public Roads and today he properly stands at the apex of his career as the leader of the Federal highway program in this country as Federal Highway Administrator.

Frank Turner is a graduate of Texas A. & M. College and a native of Texas. He recently received an honorary degree from his alma mater. He joined the Bureau of Public Roads in 1929 and served in various capacities with this Bureau including Chief Engineer and Assistant Federal Highway Administrator. It is properly fitting that organizations such as the International Road Federation, which encompasses most of the Nations of the world as well as major industries in the development of good highways, should honor Frank Turner. When the International Road Federation honors a man such as Frank Turner it honors not only itself but all those who believe that good roads are the path to good living.

Mr. LATTA. Mr. Speaker, I have no further requests for time and reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

JOINT LABOR-MANAGEMENT TRUST FUNDS FOR SCHOLARSHIPS AND CHILD CARE CENTERS

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules and on behalf of the distinguished gentleman from Indiana (Mr. MADDEN), I call up House Resolution 555 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 555

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4314) to amend section 302(c) of the Labor-Management Relations Act of 1947 to permit employer contributions to trust funds to provide employees, their families, and dependents with scholarships for study at educational institutions or the establishment of child care centers for preschool and school age dependents of employees. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 4314, the Committee on Education and Labor shall be discharged from the further consideration of the bill S. 2068, and it shall then be in order to consider the Senate bill in the House.

The SPEAKER pro tempore. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Nebraska (Mr. MARTIN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 555 provides an open rule with 1 hour of debate for consideration of H.R. 4314 regarding joint labor-management funds for scholarships and child care centers. The resolution also provides that, after passage of the House bill, the Committee on Education and Labor shall be discharged from further consideration of S. 2068 and it shall be in order to consider the Senate bill in the House.

The purpose of H.R. 4314 is to permit voluntary labor-management cooperation on confronting two pressing national and family needs: Educational scholarships and child care centers. The bill would contribute to meeting these needs without the appropriation or use of Federal moneys.

Section 302 of the Labor-Management Relations Act prohibits payments by employers of money or other thing of value to employee representatives. However, section 302(c) sets forth six exceptions to the general prohibition and thus permits employer contributions to joint trust funds to finance medical care programs, retirement pension plans, and other specific programs.

This bill would add a seventh exception to section 302(c) and would thereby validate employer contributions to jointly administered trust funds established to provide educational scholarships for employees and their dependents, or to provide child care centers for dependents of employees. Enactment of the bill will not require such contributions and will not require the establishment of such trust funds. It would simply make clear that Federal law will not inhibit voluntary labor-management cooperation in establishing these programs. There is no apparent public policy served by inhibiting such cooperation.

The bill specifically sets forth that no labor organization or employer shall be required to bargain on the establishment of these trust funds, and that refusal to do so shall not constitute an unfair labor practice. Establishment of the jointly administered funds would be permissive and not a mandatory bargaining subject.

H.R. 4314 would further make applicable to these trust funds the requirements that the detailed basis on which payments are to be made is to be specified in a written agreement with the employer, and that provisions are made for an annual audit of the trust funds. It also sets forth the details of the joint administration.

Mr. Speaker, I urge the adoption of House Resolution 555 in order that H.R. 4314 may be considered.

Mr. MARTIN. Mr. Speaker, House Resolution 555 provides for an open rule with 1 hour of debate on the bill H.R. 4314. This is a bill to amend section 302(c) of the Labor-Management Relations Act of 1947 to permit employer contributions to trust funds to provide employees, their families, and dependents with scholarships for study at educational institutions or the establishment of child care centers for preschool and school age dependents of employees.

Mr. Speaker, this legislation, as I have just pointed out, provides not on a mandatory basis but on a voluntary basis that management and the unions in reaching an agreement on a labor contract may bargain voluntarily on the setting up of these joint funds.

The legislation, however, specifically provides that the funds are to be paid by management. None are from the unions, but the funds are paid by management, by business itself, then to be jointly administered by both the unions and by management. This seems to me to be a one-sided piece of legislation, another club in the hands of unions in negotiating with business.

To keep our labor-management relationships on an even keel legislation and the laws enacted in this field have to be kept on an equal plane. At the present time, in my estimation, the pendulum favors the unions.

This is another piece of legislation which contributes even further to the advantages the unions would have in bargaining with management.

Mr. Speaker, I do not believe anyone in this House is naive enough to feel that simply because this legislation does not make it mandatory to be a subject of bargaining it is only on a voluntary basis. Unions in trying to negotiate a new contract informally or unofficially can say, "We want some settlements, we want some funds to be jointly administered for scholarships and for child care centers," and put it unofficially on a mandatory basis. This is what has happened before in negotiations of this type, and what is going to happen again if this is enacted into law. I do not doubt for a minute that the House is going to pass this legislation this afternoon.

This simply gives the unions themselves another club in their insatiable desire to have things in their favor and laws passed that will benefit the unions in opposition to the welfare of management and business itself.

Mr. Speaker, I reserve the remainder of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration

of the bill (H.R. 4314) to amend section 302(c) of the Labor-Management Relations Act of 1947 to permit employer contributions to trust funds to provide employees, their families, and dependents with scholarships for study at educational institutions or the establishment of child care centers for preschool and school age dependents of employees.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 4314, with Mr. SLACK in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Kentucky (Mr. PERKINS), will be recognized for 30 minutes, and the gentleman from Ohio (Mr. ASHBROOK) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise to urge approval of H.R. 4314. This is a simple and a good bill. It amends section 302(c) of the Labor-Management Relations Act to authorize employer contributions to joint trust funds established to provide educational scholarships for employees and their dependents, or to provide day-care centers for dependents of employees. The establishment of such trust funds would be entirely voluntary, as the bill specifically provides that no employer or labor organization would be required to bargain about the creation of such funds.

This bill offers an imaginative approach to helping meet two urgent national needs—providing scholarships to help our young people get an advanced education, and providing adequate day-care facilities for the young children of working mothers.

We all know that more must be done in these two areas. The number of young men and women who are able and who wish to attend college increases, but the costs of going to college also increase. More and more mothers with young children wish to or must work, but there are not adequate numbers of child-care centers to which they can entrust their children.

This bill, H.R. 4314, would enable labor and management to agree at the bargaining table to establish joint trust funds to finance scholarship programs for employees and their dependents, or to finance child care centers for the young children of employees. It would thus engage the wealth and energy of our private enterprise system in helping meet the two needs of providing more educational scholarships and more day care centers. It would help meet these needs without the appropriation or use of Federal funds.

Mr. Chairman, I cannot see any objection to H.R. 4314. By permitting these joint funds, we will enable labor-management cooperation in confronting two needs of high priority. These funds would not only advance national goals; they would also directly serve the interests of employers and employees. These funds will help working parents send their children to college, and help industry by insuring that our colleges continue to provide the skilled manpower it needs. It will help working mothers by enabling them to leave their young children in day care centers, and will thereby help industry attract the labor force which it needs. It will do all of this through voluntary cooperation between labor and management.

I urge speedy approval of H.R. 4314.

Mr. ASHBROOK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, like my colleagues in the committee, I have no objections to the enactment of this measure. It would permit what is now forbidden by law: the establishment through collective bargaining between an employer and a labor union of a trust fund to be used to finance educational scholarships and child-care centers for the benefit of the employer's employees, their dependents, and their children, such fund to be jointly administered by the employer and the union. I have always been reluctant to make exception to what I consider a wise provision of the law. Areas of negotiation and bargaining should not be unduly broadened. This is an area where I believe an exception can and should be authorized because the subject matter is not a responsibility of either management or union and does not impinge on either's prerogative.

There are three aspects of this proposal which commend it to the favorable attention of the Congress:

First. The collective bargaining must be entirely voluntary; in fact, neither the employer nor the labor union has any legal obligation to bargain about, or even discuss, a demand for the establishment of such a fund;

Second. It is highly desirable that nongovernmental institutions, in this case private employers and unions, should be encouraged to use private funds to aid education. Heretofore, such aid has come in ever-increasing volume from the Federal Government until it has reached proportions so high that many educational institutions are dependent on it for their very survival. It is to be hoped that measures such as the pending bill may initiate a trend away from what ultimately may result in the total federalization of education in the United States; and finally,

Third. I feel reasonably certain, based on what we know of public attitudes throughout the country, that the beneficiaries of the type of aid contemplated in this proposal will generally not be found among those students who have taken the lead in disrupting many campuses, and in some cases actually bringing the educational process to a complete halt.

For these reasons, Mr. Chairman, I support the pending bill.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Iowa.

Mr. GROSS. Am I correct in assuming that there are no Federal funds involved in this bill—that is, an obligation upon the taxpayers of this country, either directly or indirectly?

Mr. ASHBROOK. The gentleman is absolutely right and that is why I tried to point out in my inept manner the fact that this is one of the reasons that I favor this legislation, particularly because the trend seems to be in the other direction. As I pointed out, this legislation, if enacted, would encourage private funds from the employers and the unions. Therefore, there are no Federal funds involved. They are strictly private funds. It is strictly a voluntary situation insofar as this bill is concerned and that is the basic reason I rise in support of it and urge my colleagues to support this bill.

Mr. PERKINS. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from New Jersey (Mr. THOMPSON), the author of the bill.

Mr. THOMPSON of New Jersey. Mr. Chairman, as the chairman of the subcommittee which held hearings on H.R. 4314, I rise to urge my colleagues to approve this bill.

H.R. 4314 is identical to a bill which was passed by voice vote by the House in 1968. This year, once again, the bill enjoys broad bipartisan support. H.R. 4314 was supported during the hearings by the AFL–CIO; the Amalgamated Clothing Workers of America; and the International Ladies' Garment Workers Union. The U.S. Department of Labor, through a statement by Assistant Secretary W. J. Usery, expressed its support for this bill.

H.R. 4314 is a simple bill. It would amend section 302 of the Labor-Management Relations Act to permit employer contributions to joint trust funds voluntarily established to finance educational scholarships or day care centers for employees and their children.

Section 302 of the Labor-Management Relations Act sets forth a general prohibition on employer payments to employee representatives; this prohibition was intended to prohibit bribery, kickbacks, and other corrupt practices. But the Congress never intended 302's prohibition to forbid voluntary labor-management cooperation for laudable goals. Therefore, six specific exceptions to 302's prohibition were set forth in section 302(c), permitting employer contributions to joint trust funds to finance pension plans, medical care plans, and other programs. H.R. 4314 would add a seventh exception to 302's prohibition, and would thereby permit employer contributions to joint funds to finance educational scholarships and day care centers for workers and their families.

It is unnecessary to dwell at length on the worth of these two goals of educational scholarships and day care centers. Higher education is no longer a luxury in our society. Our society today needs ever increasing numbers of well-

educated men and women, but as the necessity and importance of post-high school education has grown, the costs of higher education have risen sharply. A working family faces a harsh financial burden as it budgets to give its children the advantage of higher education. Even with the Government and other financial aid now available, many talented young people are financially unable to get the help they need to go to college. The relentless rise in college costs—now estimated to exceed 5 percent per year—will make it increasingly difficult for students from working families to finance a college education. H.R. 4314 would permit labor and management to create funds for scholarship programs, and could make a higher education possible for many children of working parents.

The present shortage of good day care centers presents an equally compelling need. Testimony received by the subcommittee indicates that 4.5 million preschool-age children have working mothers, but that there are only 531,000 spaces available in qualified day care centers.

This means that many mothers who must work to meet family obligations are forced to make unsatisfactory child care arrangements during the day, leaving their children with neighbors, relatives, or alone. The opportunity to entrust their young children to good day care centers would undoubtedly be a major attraction to employment in those industries which rely heavily upon women for their work force. Passage of H.R. 4314 would permit labor-management cooperation in financing such child care centers.

Mr. Chairman, H.R. 4314 could make an important beginning in meeting these two needs. It would permit labor and management to join together in solving problems which are directly related to their mutual and separate interests. The employer would invest in expanding the number of college-trained personnel he needs in his business, and would be able to attract the working mothers he may need.

The labor organization would help its members finance the education of their children, and would be able to offer working mothers the peace of mind which comes from knowing their children are well cared for while they work. H.R. 4314 would encourage the involvement of our private sector in meeting critical needs, and would benefit industry, labor, employees, their children, and the public. As I see it, the only question before the House is whether section 302, which was intended to prevent bribery, should continue to inhibit voluntary labor-management cooperation for these two goals, given the safeguards written into the bill.

Three final points should be mentioned. First, H.R. 4314 does not contemplate the use of one penny of Federal money. It rather frees the private sector of our economy, industry and labor, to cooperate through collective bargaining to finance scholarship programs or day care centers. Second, the safeguards of section 302(c)(5)(B) apply to the funds authorized by H.R. 4314. These include requiring a written agreement establishing the fund, annual audit of the fund, and others. Third, the bill specifically provides that no labor organization or employer shall be required to bargain about the establishment of these funds. It would not require either management or labor to agree to establish a fund, and would not require either party to contribute to a fund. Establishment of these funds would be absolutely voluntary.

Mr. Chairman, it is a rare bill which promises to benefit working families, employers, and the public in such a clear way. We will take an important step forward in meeting major national and individual needs if we enact H.R. 4314. I hope we will take that step today.

Mr. WILLIAM D. FORD. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the gentleman from Michigan.

Mr. WILLIAM D. FORD. Mr. Chairman, as a cosponsor of this legislation, I should like to compliment the distinguished gentleman from New Jersey now in the well who is the author and principal sponsor of this legislation. I also would like to express my appreciation to the chairman of the subcommittee for the handling of this legislation and for the diligent manner in which he has relentlessly pursued the enactment of this much needed legislation. I should like to also join my colleagues who have complimented the distinguished chairman of the full Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS), who has added his considerable efforts and prestige in bringing this bill to the floor and assisting in securing its passage.

Mr. Chairman, I support H.R. 4314. I agree with those who have preceded me that this bill is very straightforward. It simply makes clear that section 302's prohibition on employer contributions to employee representatives will not prevent labor and management from establishing joint trust funds to finance educational scholarships or child care centers. Its passage would enlist the wealth and energy of our private enterprise system in attacking two problems which affect the interests not only of the employer and the employee, but the national interest as well.

I am particularly interested in the portion of the bill authorizing child care centers financed by a joint fund. The testimony before the subcommittee indicated that 10.6 million mothers with school-age children are in the labor force. Two out of five of these mothers have children under age 6, which is a total of 4.5 million preschool children. Yet only 531,000 day care center spaces are available.

This shortage of day-care centers means, in the words of Assistant Secretary of Labor W. J. Usery, that—

> Child care arrangements made by too many mothers are inadequate if not poor.

This bill, H.R. 4314, would permit employers and labor unions to establish jointly administered trust funds to finance child-care centers for children of workers. Such centers could be particularly important in those industries which rely on women for their work force—the apparel and service industries, to name only two. Such industries might find child-care centers a great advantage in attracting and retaining the workers they need.

Of course, in addition to helping industry, good child-care centers financed through the collective-bargaining mechanism would benefit many women and their children. Mothers who must work to meet family obligations would feel more secure knowing their young children were well cared for. And millions of American children would be assisted by the environment and advantages of day-care centers operated by qualified personnel.

In short, I believe these centers would benefit the industry, the mother, and the child. In my judgment there is no public policy served by continuing to inhibit labor-management cooperation in creating funds to finance such centers. Indeed, the opposite is true; I see a clear public policy in permitting such cooperation on a voluntary basis. This is all that H.R. 4314 does. I hope we will pass this bill today.

Mr. O'HARA. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the distinguished gentleman from Michigan.

Mr. O'HARA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I wish to commend the gentleman from Kentucky (Mr. PERKINS) and the gentleman from New Jersey (Mr. THOMPSON) for bringing this bill forward. I cannot think of a bill which so clearly advances private and public interests. The funds which this bill would authorize—for scholarships or for day care centers—are very directly related to the employment relationship. A union member who knew that the collective bargaining process was enabling his child to go to college, or financing the day care center to which her child was entrusted, would not only have a heavy personal burden eased; that worker would look with renewed respect at his union and employer for agreeing on such measures, and would have his faith in our private enterprise system strengthened.

Section 302 of the Labor-Management Relations Act prohibits payments by employers to employee representatives; this prohibition has been interpreted to extend to payments to joint funds not specifically excepted in section 302(c).

As I see it, the only question before the House is whether this section 302, which was enacted to prevent bribery and other corrupt practices, should continue to inhibit the voluntary cooperation for laudable ends which H.R. 4314 envisions.

As the gentleman from New Jersey so correctly stated, section 302(c) presently contains six exceptions to section 302's general prohibition on employer payments to employee representatives. Among these exceptions are jointly ad-

ministered trust funds for medical or hospital care, for retirement pensions, and for other worthy purposes. These exceptions reflect the judgment of previous Congresses that 302's prohibition should be relaxed in situations where employer contributions to joint trust funds will meet important needs of workers and their families, provided there are safeguards to prevent abuses by any party. H.R. 4314 would add a seventh exception to 302's prohibition, and would thereby permit employer contributions to joint funds for scholarships or child care centers for the families of workers. The bill would free labor and management to proceed with these trust funds, if both parties agree to do so.

Mr. Chairman, I can think of no reason why section 302 should continue to inhibit the kind of voluntary cooperation which H.R. 4314 would authorize. I would stress again that this bill specifically provides that the establishment of these funds is voluntary, and that no employer or labor union can be required to bargain about their establishment. The bill contains numerous additional safeguards, including a requirement for a written trust agreement, and annual audit of the trust fund.

I urge my colleagues to approve H.R. 4314.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON of New Jersey. I yield to the distinguished gentleman, the chairman of the Committee on Education and Labor.

Mr. PERKINS. Mr. Chairman, I thank the gentleman for yielding.

I want to pay tribute to the distinguished gentleman from New Jersey (Mr. THOMPSON) for his leadership and perseverance in bringing this legislation to the floor after the Senate failed to act last year.

Mr. THOMPSON of New Jersey. Mr. Chairman, I would like to thank my friend, the gentleman from Kentucky (Mr. PERKINS) very much, and to express my gratitude to the gentleman for his assistance.

I also wish to express my gratitude to the gentleman from Ohio (Mr. ASHBROOK), the ranking minority member on the subcommittee, and to the other Members who have cosponsored this legislation and cooperated in bringing it to the floor today.

The CHAIRMAN. The gentleman from New Jersey has consumed 6 minutes.

The Chair now recognizes the gentleman from Ohio (Mr. ASHBROOK).

Mr. ASHBROOK. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon (Mr. DELLENBACK).

Mr. DELLENBACK. Mr. Chairman, I thank the gentleman from Ohio for yielding me this time.

H.R. 4314, which I have been proud to cosponsor on two occasions, is highly desirable legislation in both its purposes and in its means provided to achieve these purposes.

I think that the bringing of the bill to this point of action is a tribute not only to the chairman of the subcommittee, the gentleman from New Jersey (Mr. THOMPSON), but I think it is also a tribute to the bipartisan nature of the bill. I certainly appreciate the support that the entire subcommittee, and indeed the entire Committee on Education and Labor, has given to what I think is a significant and important piece of legislation.

Mr. Chairman, the first goal of this bill is to make additional scholarship funds available for the Nation's students. In the past few years, Congress has consistently upheld the principle that education has become a necessity rather than a luxury in our country. One indication of Congress' attitude on this matter has been the substantial appropriations approved for scholarships and loans to students in institutions of higher education. Before the end of this academic year, the Office of Education will have distributed close to half a billion dollars through just the three major Federal student aid programs alone.

H.R. 4314 offers us the rare opportunity to renew and strengthen our commitment to student aid without spending any more Federal dollars. Scholarships created as a result of this legislation would be funded by private sectors without Federal contribution. The Federal Government's role would not go beyond the opening of options to labor and management which are presently closed to them. It should also be emphasized that the setting aside of funds under this bill would be entirely optional rather than a mandatory obligation.

Congress has also recognized the need for improved and expanded day care centers as more and more mothers join the labor market. Yet it is an acknowledged fact that the establishment of these centers has not kept pace with the rapidly growing demand for them. In its comprehensive study of Oregon working women, the Bureau of Labor in my State recommended that one of their major goals be—

> A comprehensive plan to establish a network of child care facilities and after-school youth shelters. . . . Such plan should also include a program to encourage and to stimulate the setting up of these facilities by employers of working mothers.

In my opinion, neither the Federal Government nor the State governments—separately or jointly—have the means at this time to meet the present great demand in this area. H.R. 4314 would make it possible for the private sector to contribute significantly toward meeting this need. By passing H.R. 4314, Congress would help to realize the potential of this significant contribution.

Last September the House demonstrated its strong support for this legislation by passing it with a voice vote. Now, a year later, I urge my colleagues to repeat this action by passing this measure, thereby communicating to our colleagues in the Senate our deep conviction that H.R. 4314 should be acted upon favorably as soon as possible.

Mr. EILBERG. Mr. Chairman, I rise in support of H.R. 4314 which is now under consideration. I sponsored a bill similar to this one in both the 90th and this Congress. I believe H.R. 4314 represents another indication of the maturity of the collective bargaining process. It would permit voluntary labor-management cooperation in confronting two pressing national and family needs: educational scholarship and child care centers. This bill would contribute to meeting these needs without the appropriation of any Federal moneys. H.R. 4314 enlists the wealth and creativity of our private enterprise system in providing scholarships and child care centers, by permitting employers and labor organizations to establish joint trust funds for these purposes through the collective bargaining process.

Joint trust funds to provide educational scholarships for employees and their dependents, created through the collective bargaining mechanism, would help make higher education financially possible for many children of working families. In addition to meeting these family needs, such scholarships would serve the national interest by permitting more young people to pursue a higher education, thereby expanding the Nation's reservoir of intellect and talent.

There is no question that the need for additional child care centers is urgent and is growing. As of March 1966, there were nearly 10 million working mothers, having about 17 million children who were under 18 years of age.

Two out of five working mothers had children under age 6. Of the 17 million children of working mothers, 4.5 million were under age 6; 2 million were under age 3; and 2.5 million were ages 3 to 5.

The number of facilities to serve these growing millions of children of working mothers is vastly inadequate. Although it is difficult to determine the exact number, it is estimated that only about a half million children are presently being cared for in licensed day or child care facilities.

Millions of children are forced to rely upon—or suffer from—haphazard arrangements. At the worst, it has been suggested that there are about 50,000 children under age 6 who are left alone to care for themselves.

Even those who have more stable babysitting arrangements, however, would be far better off if they had the advantage of proper day care, including attention to their medical, nutritional, educational, as well as emotional needs.

I believe if we do not face up to the needs of these children, and of their worried, hard-working mothers, we shall reap an ever-increasing harvest of social problems.

We profess to believe in the value and dignity of each individual. Yet we are allowing millions of young children to be neglected and reared in circumstances that can only undermine their human values. This is as unnecessary as it is inhumane.

Many countries of the world have demonstrated greater concern for their future adult citizens than we. Denmark, in particular, has been in the forefront in assuring proper day care for its children. Israel, too, has devoted itself to the problem of providing high quality and widespread day care.

Lest some say that by providing day

care for children we shall undermine traditional family values, I emphasize that nowhere in the world is the welfare of the family and the importance of its unity more important than in these countries.

Day care is not expected to replace family care and parental love. By fulfilling an important practical need, it does, in fact, strengthen the family.

Our own American industry is just awakening to the possibility that by cooperating in the establishment and operation of child care facilities, it can assure itself of a more reliable and productive work force. There are very few companies which have dared to venture into the field. This bill, however, should stimulate much new activity.

This bill, Mr. Chairman, will not require employers to establish trust funds for the purposes of child care centers and scholarships. It will, however, make it possible for them to do so.

Mr. COHELAN. Mr. Chairman, I rise in support of H.R. 4314. This bill is an amendment to the Labor Management Act of 1947, which would add another exemption to the general prohibition against employers giving payment of anything of value to representatives of employees. The general prohibition has specified exemptions; for example retirement pensions, medical care plans, and so forth. The new exemption in this section would enable voluntary labor-management cooperation in establishing joint trust funds for education scholarships and day care centers.

This bill is a definite contribution, not only to the collective bargaining process, but also to the country as well. By adding these exemptions, this bill will enable unions and business to establish programs, subject to collective bargaining, that will provide additional educational opportunities for employees and their families, and will also assist working mothers by providing child care day centers. There is a need for expanding efforts in both areas. I do not need to point out that the costs of schooling have increased tremendously. It is difficult if not impossible for a wage earner to have one child in college, much less two or three. Hence this aspect of the bill could have a potential effect on the educational patterns in this country.

I am pleased to note that the committee also specified that the use of the term "educational institutions" in the bill applied to post secondary educational opportunities, as well as for four year colleges and universities. This clarification contributes to the potential utility of the exemption. The need for day care centers is obvious. With the increase in the number of working mothers, the care and well-being of their children is, for them, a personal need, and for the country, a societal need. By including day care centers in this bill, the House has made a contribution to alleviating this recognized need.

In conclusion, Mr. Chairman, I would like to reiterate that none of these exemptions are mandatory. The bill only permits these two worthwhile activities, if they are a part of the collective bargaining process. In so doing, this bill contributes not only to the expansion of collective bargaining, but also potentially contributes to worthwhile societal needs.

Mr. PERKINS. Mr. Chairman, I have no further requests for time.

Mr. ASHBROOK. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

H.R. 4314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302(c) of the Labor-Management Relations Act, 1947, is amended by striking out "or (6)" and inserting in lieu thereof "(6)" and by adding immediately before the period at the end thereof the following: "; or (7) with respect to money or other thing of value paid by any employer to a pooled or individual trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, or (B) child care centers for preschool and school age dependents of employees: *Provided,* That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: *Provided further,* That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds".

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there any amendments?

There being no amendments, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. ALBERT) having resumed the chair, Mr. SLACK, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4314) to amend section 302(c) of the Labor-Management Relations Act of 1947 to permit employer contributions to trust funds to provide employees, their families, and dependents with scholarships for study at educational institutions or the establishment of child care centers for preschool and school age dependents of employees, pursuant to House Resolution 555, he reported the bill back to the House.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present, and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Doorkeeper will close the doors, the Sergeant at Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 354, nays 1, not voting 75, as follows:

[Roll No. 189]

YEAS—354

Abbitt	Dickinson	Jones, Ala.
Abernethy	Dingell	Jones, N.C.
Adair	Donohue	Jones, Tenn.
Adams	Dorn	Karth
Addabbo	Dowdy	Kastenmeier
Albert	Downing	Kazen
Alexander	Dulski	Kee
Anderson, Calif.	Duncan	Keith
	Dwyer	Kleppe
Anderson, Ill.	Eckhardt	Koch
Andrews, Ala.	Edmondson	Kuykendall
Annunzio	Edwards, Ala.	Kyl
Ashbrook	Edwards, La.	Kyros
Ashley	Eilberg	Landgrebe
Aspinall	Erlenborn	Landrum
Ayres	Esch	Langen
Baring	Eshleman	Latta
Barrett	Evans, Colo.	Leggett
Belcher	Evins, Tenn.	Lennon
Bennett	Fallon	Lloyd
Berry	Farbstein	Long, La.
Betts	Fish	Long, Md.
Bevill	Fisher	Lukens
Biester	Flowers	McCarthy
Bingham	Flynt	McClory
Blackburn	Foley	McCloskey
Blanton	Ford, William D.	McClure
Blatnik		McCulloch
Boggs	Fountain	McDade
Boland	Fraser	McDonald, Mich.
Bow	Frelinghuysen	
Brasco	Frey	McEwen
Bray	Friedel	McFall
Brinkley	Fulton, Pa.	Macdonald, Mass.
Brock	Fulton, Tenn.	
Brooks	Fuqua	MacGregor
Brotzman	Galifianakis	Mahon
Brown, Mich.	Gallagher	Mailliard
Brown, Ohio	Gaydos	Marsh
Broyhill, Va.	Giaimo	Mathias
Buchanan	Gilbert	Matsunaga
Burke, Fla.	Gonzalez	May
Burke, Mass.	Goodling	Mayne
Burleson, Tex.	Gray	Meeds
Burlison, Mo.	Green, Pa.	Melcher
Burton, Calif.	Griffin	Meskill
Burton, Utah	Griffiths	Miller, Calif.
Bush	Gross	Miller, Ohio
Button	Grover	Minish
Byrne, Pa.	Gubser	Mink
Cabell	Gude	Minshall
Caffery	Hagan	Mize
Camp	Haley	Mizell
Carey	Hall	Mollohan
Carter	Halpern	Monagan
Casey	Hamilton	Montgomery
Cederberg	Hammer-schmidt	Moorhead
Chamberlain		Morgan
Chisholm	Hanley	Morse
Clancy	Hanna	Morton
Clausen, Don H.	Hansen, Idaho	Mosher
	Harsha	Moss
Clawson, Del	Harvey	Murphy, Ill.
Clay	Hastings	Natcher
Cleveland	Hathaway	Nedzi
Cohelan	Hays	Nelsen
Collier	Hébert	Nichols
Collins	Hechler, W. Va.	Nix
Conable	Heckler, Mass.	O'Hara
Conte	Helstoski	Olsen
Conyers	Henderson	O'Neal, Ga.
Coughlin	Hicks	O'Neill, Mass.
Cramer	Hogan	Ottinger
Culver	Horton	Passman
Daniel, Va.	Hosmer	Patman
Davis, Ga.	Hull	Patten
Davis, Wis.	Hungate	Pelly
de la Garza	Hunt	Perkins
Delaney	Hutchinson	Pettis
Dellenback	Ichord	Philbin
Denney	Jacobs	Pickle
Dennis	Jarman	Pike
Dent	Johnson, Calif.	Pirnie
Derwinski	Johnson, Pa.	Poage
Devine	Jonas	Poff

Preyer, N.C.	Sandman	Tiernan
Price, Ill.	Satterfield	Tunney
Price, Tex.	Saylor	Udall
Pryor, Ark.	Scherle	Ullman
Pucinski	Schneebeli	Utt
Purcell	Schwengel	Van Deerlin
Quie	Scott	Vander Jagt
Railsback	Sebelius	Vanik
Randall	Shipley	Vigorito
Rarick	Shriver	Waggonner
Rees	Sikes	Waldie
Reid, Ill.	Sisk	Watkins
Reid, N.Y.	Skubitz	Watson
Reifel	Slack	Watts
Reuss	Smith, Calif.	Weicker
Rhodes	Snyder	Whalen
Riegle	Springer	White
Rivers	Stafford	Whitten
Roberts	Staggers	Widnall
Robison	Stanton	Wiggins
Rodino	Steed	Williams
Rogers, Colo.	Steiger, Ariz.	Wilson, Bob
Rogers, Fla.	Steiger, Wis.	Winn
Rooney, N.Y.	Stephens	Wold
Rooney, Pa.	Stratton	Wolff
Rosenthal	Stubblefield	Wyatt
Rostenkowski	Sullivan	Wydler
Roth	Symington	Wylie
Roudebush	Taft	Wyman
Roybal	Talcott	Yates
Ruppe	Taylor	Yatron
Ruth	Teague, Tex.	Young
Ryan	Thompson, Ga.	Zablocki
St Germain	Thompson, N.J.	Zion
St. Onge	Thomson, Wis.	Zwach

NAYS—1

Martin

NOT VOTING—75

Anderson, Tenn.	Diggs	Mann
Andrews, N. Dak.	Edwards, Calif.	Michel
Arends	Fascell	Mikva
Beall, Md.	Feighan	Mills
Bell, Calif.	Findley	Murphy, N.Y.
Biaggi	Flood	Myers
Bolling	Ford, Gerald R.	Obey
Brademas	Foreman	O'Konski
Broomfield	Garmatz	Pepper
Brown, Calif.	Gettys	Podell
Broyhill, N.C.	Gibbons	Pollock
Byrnes, Wis.	Goldwater	Powell
Cahill	Green, Oreg.	Quillen
Celler	Hansen, Wash.	Schadeberg
Chappell	Hawkins	Scheuer
Clark	Holifield	Smith, Iowa
Colmer	Howard	Smith, N.Y.
Corbett	King	Stokes
Corman	Kirwan	Stuckey
Cowger	Kluczynski	Teague, Calif.
Cunningham	Lipscomb	Wampler
Daddario	Lowenstein	Whalley
Daniels, N.J.	Lujan	Whitehurst
Dawson	McKneally	Wilson, Charles H.
	McMillan	Wright
	Madden	

So the bill was passed.

The Clerk announced the following pairs:

Mr. Garmatz with Mr. Gerald R. Ford.
Mr. Daniels of New Jersey with Mr. Corbett.
Mr. Flood with Mr. Lipscomb.
Mr. Celler with Mr. Arends.
Mr. Pepper with Mr. Byrnes of Wisconsin.
Mr. Holifield with Mr. McKneally.
Mr. Madden with Mr. Quillen.
Mr. Kirwan with Mr. Cunningham.
Mr. Biaggi with Mr. Hawkins.
Mr. Daddario with Mr. Findley.
Mr. Murphy of New York with Mr. Cahill.
Mr. Clark with Mr. Beall of Maryland.
Mr. Brademas with Mr. Andrews of North Dakota.
Mr. Charles H. Wilson with Mr. Diggs.
Mr. Howard with Mr. Broomfield.
Mr. Fascell with Mr. Goldwater.
Mrs. Green of Oregon with Mr. Bell of California.
Mr. Kluczynski with Mr. O'Konski.
Mr. Mills with Mr. King.
Mr. Colmer with Mr. Wampler.
Mr. Feighan with Mr. Cowger.
Mr. Mann with Mr. Whitehurst.
Mr. Gibbons with Mr. Foreman.
Mr. Smith of Iowa with Mr. Michel.
Mr. Edwards of California with Mr. Teague of California.
Mr. Stokes with Mr. Obey.
Mr. Wright with Mr. Chappell.
Mr. Lowenstein with Mr. Scheuer.
Mrs. Hansen of Washington with Mr. Smith of New York.
Mr. Brown of California with Mr. Lujan.
Mr. Anderson of Tennessee with Mr. Myers.
Mr. Corman with Mr. Whalley.
Mr. Gettys with Mr. Schadeberg.
Mr. Stuckey with Mr. Broyhill of North Carolina.
Mr. McMillan with Mr. Pollock.
Mr. Dawson with Mr. Podell.
Mr. Mikva with Mr. Powell.

The result of the vote was announced as above recorded.

The doors were opened.

A motion to reconsider was laid on the table.

The SPEAKER. Pursuant to the provisions of House Resolution 555, the Committee on Education and Labor is discharged from further consideration of the bill, S. 2068.

The Clerk read the title of the Senate bill.

The Clerk read the Senate bill, as follows:

S. 2068

An Act to amend section 302(c) of the Labor-Management Relations Act of 1947 to permit employer contributions to trust funds to provide employees, their families, and dependents with scholarships for study at educational institutions or the establishment of child-care centers for preschool and school-age dependents of employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302(c) of the Labor-Management Relations Act, 1947, is amended by striking out "or (6)" and inserting in lieu thereof "(6)", and by adding immediately before the period at the end thereof the following: "; or (7) with respect to money or other thing of value paid by any employer to an individual or pooled trust fund established by such representative for the purpose of (A) scholarships for the benefit of employees, their families, and dependents for study at educational institutions, or (B) child-care centers for preschool and school-age dependents of employees: *Provided,* That no labor organization or employer shall be required to bargain on the establishment of any such trust fund, and refusal to do so shall not constitute an unfair labor practice: *Provided further,* That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds".

AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PERKINS:

Strike out all after the enacting clause of the bill S. 2068, and insert in lieu thereof the provisions of H.R. 4314, as passed by the House.

The amendment was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 4314) was laid on the table.

GENERAL LEAVE

Mr. PERKINS. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PRESIDENTIAL TASK FORCE ON INTERNATIONAL DEVELOPMENT

(Mr. ADAIR asked and was given permission to address the House for 1 minute and to review and extend his remarks.)

Mr. ADAIR. Mr. Speaker, I rise today to commend President Nixon upon his selection of the Presidential Task Force on International Development, which will be chaired by Rudolph A. Peterson, president and chief executive officer of the Bank of America. They are all able, eminent men—specificially including our former colleague Tom Curtis.

The President has directed the task force to focus on the underlying rationale of the U.S. aid effort and its relationship to overall U.S. foreign policy. The task force has been charged with developing a new U.S. approach to aid for the 1970's for presentation to him next February.

As a Hoosier I was particularly interested in the selection of Dr. Earl L. Butz to the task force. Dr. Butz is a vice president and former dean of agriculture at Purdue University, Lafayette, Ind. He also served as an Assistant Secretary of Agriculture in the administration of President Eisenhower. Dr. Butz is uniquely qualified to make a significant contribution in the important areas of agrcultural economic development, food production, and technical assistance as the task force considers new directions for the U.S. aid effort.

A list of the members of the task force follows:

Earl L. Butz—Vice President and former Dean of Agriculture, Purdue University, Lafayette, Indiana.

William J. Casey—Partner, Hall, Casey, Dickler, and Howley, Roslyn Harbor, New York.

Terrence Cardinal Cooke—Archbishop of New York.

John E. Countryman—Chairman of the Board, Del Monte Corporation, San Francisco, California.

Thomas B. Curtis—Vice President and General Counsel, Encyclopaedia Britannica, Inc., Chicago, Illinois.

Ralph Burton Gookin—President and Chief Executive Officer, H. J. Heinz Co., Pittsburgh, Pennsylvania.

William T. Gossett—Immediate Past President, American Bar Association, Bloomfield Hills, Michigan.

Walter A. Haas, Jr.—President Levi Strauss & Co., San Francisco, California.

Gottfried Haberler—Professor of International Trade, Harvard University, Cambridge, Massachusetts.

William A. Hewitt—Chairman of Board and Chief Executive Officer, Deere & Co., Moline, Illinois.

Samuel P. Huntington—Professor of Government, Harvard University, Cambridge, Massachusetts.

Edward Mason—Professor, Harvard University, Cambridge, Massachusetts.

Rudolph A. Peterson, Chairman—President, Bank of America, Piedmont, California.

David Rockefeller—Chairman of Board, The Chase Manhattan Bank, N.A., New York City.

Robert Roosa—Partner, Brown Brothers, Harriman, Harrison, New York.

General Robert Wood, Retired—Staff Member, Research Analysis Corporation, Stafford, Virginia.

TENNIS MATCH SHOWS PHYSICAL FITNESS OF MEMBERS OF CONGRESS

(Mr. McCLORY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCLORY. Mr. Speaker, the Nation has every reason to be proud of the physical fitness of the Members of the 91st Congress, as well as the athletic skill of those who assist our Federal lawmakers as administrative aides, legislative assistants, secretaries, and in other capacities.

In an historic match, sponsored by the Capitol Hill Tennis Club, played Saturday at the East Potomac Park courts between a team composed of Members of Congress and the congressional staff team, the final score stood at 11 to 5 in favor of the staff players. However, the outstanding performance of the day was turned in by our colleague, RICHARDSON PREYER of North Carolina, who was a three-time winner. In addition to his singles victory over the club's runnerup, Fred Arner, in straight sets, Mr. PREYER, teamed with Senator ERNEST F. HOLLINGS of South Carolina, downed a doubles combination of Dave Markey and Jerry Gallegos.

An even more dramatic match was the mixed doubles match with Representative and Mrs. Preyer over the staff captain, Mack Cameron, and the club's program chairman, Jan Farnsworth. Mrs. Preyer also won the only women's singles match of the day—winning over Virginia Leake.

Another surprising success for the congressional team was the mixed doubles victory of Representative and Mrs. John Jarman of Oklahoma over a staff mixed doubles team composed of Joe Bastien and Virginia Leake.

A total of 10 Members of the House of Representatives and Senate took part in this tennis match confirming the growing interest in tennis in our Nation's Capital as well as throughout the Nation.

The stronger tennis players among the staff who were successful in one or more of the matches included: Bob Wager, Senate Government Operations; Fred Arner, Library of Congress; Dave Markey, Congressman BEALL; Jerry Gallegos, Senate Press Gallery; David Doane, Senator JORDAN; Arthur Schiff, Representative MCCLORY; Bob Tonsing, Representative BROTZMAN; Ed Knight,, Library of Congress; Dick Gentry, Representative SAYLOR; and Joe Bastien, Senator GURNEY.

Much credit for the organizing and successful execution of the match is due to Dick Gentry, president of the Capitol Hill Tennis Club, as well as the program chairman, Jan Farnsworth.

A complete list of our colleagues who participated follows:

Senator ERNEST F. HOLLINGS, of South Carolina.

Representative BROCK ADAMS, of Washington.

Representative RICHARDSON PREYER, of North Carolina and Mrs. Preyer.

Representative LOWELL P. WEICKER, Jr., of Connecticut.

Representative JOHN JARMAN, of Oklahoma and Mrs. Jarman.

Representative ROBERT MCCLORY, of Illinois.

Representative PAUL FINDLEY, of Illinois.

Representative DAVID DENNIS, of Indiana.

Representative ROBERT KASTENMEIER, of Wisconsin.

Representative JOHN CONYERS, of Michigan.

FREEWAYS—RAPID RAIL TRANSIT

(Mr. NATCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. NATCHER. Mr. Speaker, our committee is still of the opinion that there is a place for both a freeway system and a rapid rail transit system in our Capital City. We believe that in order to meet the tremendous day by day growth of traffic the freeway program must be carried out along with the rapid transit system.

We started appropriating funds for our freeway system following the 5-year study which was adopted by the District of Columbia in 1958. We now have available over $200 million which must be used for the freeway system.

In 1962 we started having trouble over the freeway system and this has been the situation up to July 9, 1969, when I recommended to the House that the conference report on the supplemental appropriations bill deleting the $18,737,000 for the start of construction on the rapid transit system be approved. Following our refusal to again approve construction funds for rapid transit construction until the freeway system was started and underway according to the provisions of the Highway Act of 1968, we have had certain actions starting with the District of Columbia City Council vote which approved a resolution requiring the District government to comply with the Highway Act of 1958. This was on August 9, 1969.

On August 11, 1969, the Department of Highways and Traffic received an order from the Commissioner and the Deputy Commissioner directing the Highway Department to proceed immediately to implement the provisions of section 23 of the Federal Aid Highway Act of 1968.

On August 11 the House of Representatives approved the District of Columbia Revenue Act which contained the following provision:

SEC. 903. No funds may be appropriated for any fiscal year under article VI of the District of Columbia Revenue Act of 1947 (D.C. Code, secs. 47–2501a–47–2501b) until the President of the United States has reported to the Congress that (1) the District of Columbia government has begun work on each of the projects listed in section 23(b) of the Federal-Aid Highway Act of 1968 and has committed itself to complete those projects, or (2) the District of Columbia government has not begun work on each of those projects, or made or carried out that commitment, solely because of a court injunction issued in response to a petition filed by a person other than the District of Columbia or any agency, department, or instrumentality of the United States.

On August 12, 1969, I received the following letter from President Nixon:

THE WHITE HOUSE,
Washington, D.C., August 12, 1969.

DEAR BILL: Your diligent efforts through the years to ensure that the District of Columbia will enjoy a balanced transportation system are very much appreciated by all of us who are concerned with the welfare of our Capital City. As you know, I have previously expressed my desire that a fair and effective settlement of the issues involved in the transportation controversy be reached to serve the interests of all those concerned—central city dwellers, suburbanites, shoppers, employees and visitors. It is my conviction that those steps necessary for a fair and effective settlement have been taken.

The City Council of the District of Columbia has now voted in favor of a resolution to complete the requirements of a Federal Aid Highway Act of 1968. Immediately thereafter, the Commissioner of the District of Columbia directed the Department of Highways to implement immediately the requirements of the Act. The Secretary of Transportation has directed the Federal Highway Administrator to rescind the letter of his predecessor dated January 17, 1969, thus placing these projects back into the Interstate System. Furthermore, the Federal Highway Administrator has been directed to work closely with the Highway Department of the District of Columbia in order to continue work until completion of all projects and the study called for in the Federal Aid Highway Act of 1968. I trust that these actions will fulfill the criteria which you set forth in your statement of August 11, 1969.

The District of Columbia Government is firmly committed to completion of these projects as the Federal Aid Highway Act of 1968 provides. I join the District of Columbia Government in that commitment, and I have directed the Attorney General and the Secretary of Transportation to provide assistance to the Corporation Counsel of the District of Columbia to vigorously defend any lawsuits which may be filed to thwart the continuation of the projects called for by the Act.

A balanced transportation system is essential for the proper growth and development of the District of Columbia. I hope that this evidence of tangible progress would permit us to assure the citizens of the District of Columbia that your Subcommittee will be in a position to approve the $18,737,000 deleted from the Supplemental Appropriation bill together with the $21,586,000 in the Regular Appropriation bill for the District of Columbia for Fiscal Year 1970.

With cordial regards.

Sincerely,

RICHARD NIXON.

On August 13, 1969, F. C. Turner, Federal Highway Administrator, directed a letter to T. F. Airis, Director of the District of Columbia Department of Highways and Traffic, stating that certain adjustments had been made in the Interstate System for the District of Columbia and that such action had reinstated the system to its status as covered in the Interstate System cost estimate re-

ferred to in the Federal Aid Highway Act of 1968.

On September 18, 1969, I received the following letter from Mr. Airis, the Director of the Department of Highways and Traffic of the District of Columbia:

GOVERNMENT OF THE DISTRICT OF COLUMBIA, DEPARTMENT OF HIGHWAYS AND TRAFFIC,
Washington, D.C., September 18, 1969.

Hon. WILLIAM H. NATCHER,
Chairman, Subcommittee on Appropriations for the District of Columbia, U.S. House of Representatives, Room 2333, Rayburn Building, Washington, D.C.

DEAR MR. NATCHER: On September 17, 1969, the Department of Highways and Traffic, D.C. received bids for the construction of a new Potomac River crossing—Interstate Route 266—vicinity of the Three Sisters Islands—Contract No. 1—Substructure River Piers, Federal-Aid Project No. D.C.-Va. I-266-2 (103)1.

A total of six bids were received, ranging from a low of $1,152,830 to a high of $1,528,480. The low bid, submitted by the Head Construction Company, Washington, D.C. is approximately five percent above our office estimate. The low bidder is considered competent and qualified to carry out the provisions of this contract and, as a result, the contract was awarded to the Head Construction Company on this date, with the concurrence of the Bureau of Public Roads, Federal Highway Administration.

We anticipate that all necessary contract documents will be completely executed sometime tomorrow, and efforts will be made to have the contractor commence operations early during the week of September 22, 1969.

The above information is being furnished in order that you and your Committee may be kept abreast of the progress being made by the District Government in implementing the provisions of the Federal-Aid Highway Act of 1968.

With warmest regards.

Sincerely yours,

T. F. AIRIS,
Director, Department of Highways and Traffic, District of Columbia.

On September 18, 1969, I received the following letter from Robert P. Mayo, Director of the Bureau of the Budget:

EXECUTIVE OFFICE OF THE PRESIDENT, BUREAU OF THE BUDGET,
Washington, D.C., September 18, 1969.

Hon. WILLIAM H. NATCHER,
Chairman, Subcommittee on the District of Columbia, Committee on Appropriations, House of Representatives, Room H302, Capitol, Washington, D.C.

DEAR MR. CHAIRMAN: This is to clarify the situation with respect to the District of Columbia appropriation requests for the proposed rapid rail transit system.

I would like to assure you that the appropriation for fiscal year 1970 of the $18,737,000, earlier deleted from the District of Columbia supplemental appropriation for fiscal year 1969, together with the appropriation of the $21,586,000 in the 1970 fiscal year appropriation request, would be in accord with the program of the President.

Sincerely,

ROBERT P. MAYO,
Director.

On September 22, 1969, I received an excellent statement from Mr. Airis, the Director of the Department of Highways and Traffic, covering all of the highway projects listed under the Highway Act of 1968 and the action the Department of Highways and Traffic is taking at this time to comply with the resolution of the City Council and the Highway Act of 1968. This statement clearly shows that the freeway program is underway.

Mr. Speaker, all of these acts indicate clearly that we are in complete agreement that freeway construction as provided under the Highway Act of 1968 must proceed with rapid rail transit construction.

I will now recommend that the $18,737,000 deleted from the supplemental appropriations bill together with the $21,586,000 in the regular appropriations bill for the District of Columbia for fiscal year 1970 be appropriated for rapid rail transit construction. I will further recommend that the Federal share for rapid transit construction appropriated for fiscal year 1969 totaling $43,772,000 be released. The provision concerning this amount is contained in the report accompanying the appropriations bill for fiscal year 1969 for the Department of Interior and related agencies and the following part of the report applies:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

FEDERAL CONTRIBUTION

Appropriation, 1968	
Estimate, 1969	$55,147,000
Recommended, 1969	43,772,000
Comparison:	
Appropriation, 1968	+43,772,000
Estimate, 1969	−11,375,000

Funds available under this appropriation item are to enable the Department of Housing and Urban Development to pay the Washington Metropolitan Area Transit Authority, as part of the Federal contribution toward expenses necessary to design, engineer, construct and equip a rail rapid transit system, as authorized by the National Capital Transportation Act of 1965, as amended. Funds included in this bill represent two-thirds of the Federal contribution to this project, the remaining one-third to be provided by the District of Columbia.

The committee directs that this appropriation shall be available only to the extent that an amount equal to one-half the funds provided by this appropriation has been provided by the District of Columbia as required by Public Law 89-173.

The committee's recommendation is based on a total program of $68,763,000 consisting of $8,860,000 for engineering and design; $5,200,000 for rights-of-way and land acquisition; and $54,883,000 for construction. Deducting $3,105,000 representing that portion of the program which will be financed from prior year funds leaves a total of new obligational authority of $65,658,000. Of this total amount $43,772,000 is included in this bill and $21,886,000 would be for provision by the District of Columbia.

REASON, COMMONSENSE, AND THE MODERN AIRCRAFT CARRIERS

(Mr. SATTERFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SATTERFIELD. Mr. Speaker, our distinguished colleague from California (Mr. HOSMER), has just written an outstanding article titled, "Reason, Commonsense, and the Modern Aircraft Carriers" which appears in the October issue of the magazine Navy. In his discussion of the lessons of history and the sheer logic of a strategy which recognizes the effectiveness of our naval attack carrier forces, the author brings into sharp focus the fallacy of those who seek a reduction in these forces. Mr. HOSMER, who is well qualified to discuss the subject, outlines in his article a course for U.S. strategy which will provide the greatest deterrent to global confrontations such as Vietnam. This article constitutes one of the best presentations, I have seen, of the logic in support of the effectiveness of naval attack carrier forces and the commonsense conclusion that we should maintain a sufficient number of carriers and air wings to assure that effectiveness. I ask unanimous consent to include this article at this point in the RECORD.

There was no objection and the article was ordered to be printed in the RECORD:

REASON, COMMONSENSE AND MODERN AIRCRAFT CARRIERS

(By Representative CRAIG HOSMER, Republican of California)

"Those who cannot remember the past are condemned to repeat it."

These words of George Santayana in "Reason and Common Sense" are worth remembering during the debates now raging and to follow on the President's defense budget and national security.

Reading statements of critics of the defense budget, I see little semblance of either reason or common sense. And the most ardent critics don't seem aware of their strategic shortcomings or that they are advocating repetition of costly defense mistakes made in past decades.

One of the major items under attack is a recommended investment of $377 million dollars for completion of the second in a series of three modern, nuclear powered aircraft carriers of the *Nimitz* class, previously authorized by Congress and the Secretary of Defense after lengthy review, and on which $133 million already has been contracted.

The assertions I have read which would "justify" the withholding of these funds are, to my mind, so lacking in substance, let alone validity, that they seem scarcely to require answering.

LESSONS OF HISTORY

The trouble is, however, that a good many American people, including some in Congress and the fourth estate, have only a superficial knowledge of the key strategic role of aircraft carriers in controlling the seas and their value to the country. This is strange, because the Congress is charged with the fundamental Constitutional responsibilities for national defense, and the press should be aware of the lessons of history.

The indispensable value of aircraft carriers to this country in the past 30 years and in the present, have not only been repeatedly demonstrated but also thoroughly documented. Their potential value for the foreseeable future *should not* be doubted by anyone.

I feel it is high time that the old canards, which assert aircraft carriers are "too costly" and "too vulnerable" be recognized as only sloganized oversimplifications, and excluded from serious defense debates in the future. These aberrations were born before we built our first fleet carriers. They have been resurrected too frequently in the past and are

now, once again, being reasserted with a ring of original momentous discovery.

We have blundered before because we have allowed unsubstantiated nonsense, such as this, to obscure the real facts, the real issues and our real defense needs. The national strategy, if formulated with fiction, rather than facts, can imperil the Republic.

We blundered in the long twilight preceding World War II, and found ourselves with only seven carriers all told, when the Japanese struck Pearl Harbor. If we had had 20 modern carriers, which even Brigadier General "Billy" Mitchell had strongly advocated in the early 1920s, we might have deterred the attack, or won the war sooner with carriers, as we did when we built sufficient such task forces.

LOSS OF KOREAN BASES

When the Korean War started we were again down to seven active modern "attack carriers" of the ESSEX class although, just a few years earlier we had completed building 24 of them. If we had been able to station more than one in the Western Pacific, after the severe defense cuts by Secretary of Defense Louis Johnson and the Congress in 1949, we might have deterred the invasion of South Korea. At least we would have been better prepared for what followed—the loss of all land air bases in South Korea; later a costly crash program of recommissioning and training got sufficient carriers on the scene to help turn the tide.

Reason and common sense tell us, now, that North Viet Nam was also not deterred from invading the South by what they saw us doing to the readiness of our armed forces in the early sixties. Was it just a coincidence that the carrier was under severe fire by Defense Secretary McNamara as Ho Chi Minh made his preparations? How could he have conceived that we would have had the will and persistence to build ten major airfields and dozens of smaller ones after the fact of invasion? How could he anticipate we could commit many carriers to help South Viet Nam, if Mr. McNamara was going to cut the carrier force, as he had indicated he would like to do?

Congress and the press should recall that Mr. McNamara eventually was persuaded, on the basis of sound studies and empirical evidence, that carriers were *not* "too expensive" *not* "too vulnerable," as he had believed. In fact he was finally convinced that the effectiveness values of modern nuclear carriers to spearhead the offensive power of our fleets justified the construction of three NIMITZ class carriers. That was in 1966 after five years of study and after five years of deferring needed carrier replacements. That was only three years ago.

THE COST OF DELAY

The previous neglect of carrier forces undoubtedly cost us much more dearly in the pocketbook than if we had actually had more in service. These blunders also cost us dearly in lives and in wars that might have been deterred, if we had demonstrated a proper force posture and adequate will to use the forces to curb the conflicts. In order to deter, the forces in being and the will must be demonstrable *before* the conflict starts—while the situation is deteriorating into a potential conflict crisis. Warnings, without the proper posture of forces, are meaningless to a potential enemy. The warnings must be credible!

An essential part of any country's posture to deter aggression has been the capability to bring to bear sufficient tactical air strength on the potential area of conflict. Sufficiency must be in numbers and combat performance needed to achieve control of the aid and to maintain it, while providing close support to the ground forces or interdicting the enemy's logistic supply lines. Sufficiency also includes readiness.

CARRIER FORCES ROLE

We have recognized that an essential part of our force posture must include tactical air.

Because we are, in effect, an island nation, we have also recognized that some of our tactical air must be sea based in carrier task forces, in order to: (1) insure control of the seas and the air over the seas; (2) control of our sea lines of communications; (3) cover our own and friendly warships and our merchant fleets; (4) cover and support amphibious operations; and, as we discovered in World War II, (5) to cover and support ground forces in the land battles, when sufficient air bases are not available on land, in the vicinity of the land combat, to accommodate the required numbers of tactical aircraft. This is especially critical when there are no adequate land bases available within effective combat radius of the ground forces.

We have had too few aircraft carriers and sea-based air wings before the last three wars and in other crises.

Apparently, also, we have had too few in the eyes of our enemies before each of those wars. The Japanese thought we had not enough to be a great risk to their plans. It was apparently obvious to the North Koreans and Chinese that they had a favorable chance to take the entire Korean Peninsula before we could get enough land and sea-based tactical air in position to oppose them. They lost the gamble, because of our courageous ground forces and, because we were eventually able to get additional carriers there before the enemy achieved his objective. In the case of Viet Nam, it can be conjectured, I think credibly, that, if we had been *able* to concentrate 10 or 12 carriers, and a good portion of Marine expeditionary force in their sea-bases, close to the Viet Nam coast (plus a decisive declaration of our intentions to use them if invasion occurred) Ho Chi Minh might not have invaded South Viet Nam. If we *had* been able to do this, it would have been a visible and, therefore, credible deterrent that he would have had to consider—and we might not have had to deploy at all.

Why do we always have to have another war to prove the carrier's value? Even with all the land air bases we built in Thailand and South Viet Nam we haven't had enough land-based tactical air there and have had to continue using two or three carriers throughout the war.

MOBILE AIR BASES

The carrier is not an untried new development, like the ABM, which merely because it is new, is worthy of the debate it has stimulated. On the contrary, the carrier is one of our more combat-tested and valuable national defense assets. It is the one fleet element that gives our Navy superiority over the Soviet Fleet. For the carrier air wing is the fleet's best defense against Soviet cruise missiles. Carriers can be concentrated to mass their total air strength at one place and then disperse to cover wider areas. Carrier task forces are, therefore, one of the most flexible instruments of our national power. They are mobile air bases, moving as necessary to meet the current threat, operating without foreign political restrictions, on 70 per cent of the earth's surface. This gives us airfields anywhere, in any ocean, and along any coast, where we may need them. Carrier based aircraft can cover 85 percent of the land areas of the world (600 mile combat radius from the carrier), excluding the U.S. and Soviet Russia. Carriers do not stand alone. Without carriers we would still need all the carrier's multi-purpose, screening or supporting ships that contribute to fleet balance including sea control, antiaircraft defense, assault bombardment and fire support. The Soviet Navy would be superior without our carriers.

As a member of the Joint Committee on Atomic Energy, I have a particular appreciation of nuclear-powered carriers, such as the *Nimitz* which have tremendous advantages over fossil-fueled carriers. The *Enterprise* has already demonstrated this. The advantages of the nuclear carrier should be well known—she can steam at full speed for unlimited distances without refueling, and, since she does not carry propulsion fuel, there is more room in her hull for aviation fuel and other combat supplies. To my mind, the advent of nuclear power makes the future of the carrier even more promising and the case for continued construction even more compelling.

I have had it proven to my satisfaction that a carrier, because of its mobility and toughness, is at least as survivable in a general war as a foreign land base, which is at a fixed point—easily targeted by missiles as well as aircraft. Likewise, I am convinced that, in other limited kinds of wars, the carrier is less vulnerable, since it is not subject to ground attack (as in Viet Nam, where hundreds of land based planes were destroyed or damaged by mortars) or captured (as in Korea).

Vulnerability, as well as high costs, are generally cited in criticism of the carrier in absolute terms without comparison to alternatives. All forces are vulnerable in wartime. We must buy the most survivable forces we can.

Everything we buy for defense, including our manpower, is expensive but, if we want adequate defense, we are obligated to buy the best. These days, if we don't have the best, we haven't much of anything.

COMPARATIVE COSTS

Carriers are expensive, but it is a delusion to think that, because a carrier's construction costs are so visible in the President's budget and are ten times that of a one runway airfield, land-based tactical air costs to the taxpayer are less than sea-based tactical air. Even if it were more expensive to have sea-based tactical air (not true) we would still need lots of carriers and carrier-based air wings, because we don't have any choice. We simply cannot bring enough land-based tactical air to bear on the areas of potential conflict either to deter the threat now existing there, as in Europe and Korea, or to deter new threats of aggressive activity in other areas, due to new wars of national liberation or open conflicts between nations. But the fact is, that on a weapons system basis, carriers are not relatively more expensive.

Each land-based tactical air wing and its basing system costs about the same as a carrier air wing and its basing system. This year the cost is about $500 million per wing in average annual overall procurement, operation, maintenance, direct and indirect support costs. This is one of the hidden aspects of the defense budget not revealed by comparing large item and small item procurement costs. But it is revealed by examining records of the Department of Defense and applying a "board of directors" technique for examining the unit-cost of production, as in a manufacturing plant. By this method, one avoids the tunnel-vision errors of comparing only one piece of equipment with another.

The aircraft for both wings perform about the same and have about the same combat effectiveness. This means to me that the relative cost effectiveness of the two systems depends strictly on the relative effectiveness of the two basing systems in getting enough aircraft to the right place at the right time.

We say we buy armed forces to deter aggression. We have maintained them in a forward posture for the same reason.

FORCES DETER WAR

What then is wrong?

It can't be the simplistic suggestion I have seen in scanning the news: that having our forces in a country or near it provokes war.

That is clearly specious. Our forces in Europe have successfully helped preserve peace in that area. This is also the way it has worked in Korea, since the end of the last war there. Whether it will continue to work there, if we lose our foreign air bases in Okinawa and Japan, is open to question. Personally, I doubt it, unless we make it obvious that more sea-bases are covering that area.

As I reason it, we may have thought that we had about enough total tactical air capability through the years. Obviously there were times when we did not, or we had the wrong kind. The answer must be (a) it was not flexible or distributable enough geographically (b) the lack of adequate numbers of land bases to affect the area of aggression was well known to the enemy and (c) the sea-based proportion of our total tactical air strength was inadequate. If the latter proportion had been higher, our total tactical air flexibility and distributability would have been greater. It might then have been enough to deter.

Where we did have enough tactical air, locally or credibly available, deterrence has worked in many instances, e.g., the Quemoy and Lebanon crises. Apparently, when there were sufficient carriers available, in the vicinity or directly at the scene and our stated intent to use the forces, if necessary to prevent further aggression, was unequivocal we won.

"NO MORE VIETNAMS"

There are lessons here: Where the quality of our posture forces has been high, and the credibility of our intentions unmistakable, we have prevented open conflict; where the number of carriers available made our tactical air posture adequate to the threat, deterrence worked; where either the force, or our will, has not been believed adequate by the enemy, war resulted.

President Nixon has said that this country wants "no more Viet Nams." This is a popular theme, but Mr. C. L. Sulzberger of the New York Times wrote recently "since it is already announced (by the Communists) that other 'Viet Nams' elsewhere are being planned, it is high time we studied the significance to ourselves of this approach."

There is no doubt that the future holds many uncertainties. Soviet Russia is expanding into the Middle East, South Asia and Africa—their progress paced by a rapidly growing Navy and Merchant Marine. Both are of high quality. The nuclear deterrent—or a detente—does not foreclose other wars; it hasn't and the probabilities are it won't. There are now several open conflicts in the world and several others apparently heating up.

We cannot expect to be clairvoyant about which crisis will demand our use of power in the future, or where it will occur or what kind of conflict it will be.

Our task, in protecting our political, economic and moral integrity (our security) in the face of these uncertainties is, I believe, to take coordinated political, economic and military steps to head off future "Viet Nams," *before they occur*. The military step is to develop strong armed forces of sufficient credible power and flexibility to deter preparatory or final military acts leading to this kind of war. Responding to it, after it has started, is like jumping into the fire to put it out. And that follows the enemy strategy.

President Nixon says—"no more Viet Nams." I believe we can do it, if we properly organize our forward posture deterrent forces. The only kind of war we want is the war we deter from happening.

TWO NECESSARY STEPS

I feel there are two important things we must do to refresh the forward posture of the U.S. for this kind of deterrence.

(1) We should establish, where we don't have it, a strong naval presence—at least on a rotational basis—in the strategic areas of the world's oceans. This means, in my opinion, that at a minimum, we have strong naval forces in the Indian Ocean, with a couple of aircraft carriers to insure air superiority over Soviet missile ships, able to control the strategic ocean areas there.

(2) As our foreign bases continue to decline, we should gradually increase the naval deterrent presence in those areas. The main problem today in maintaining a forward strategy posture is the rapid shrinkage in the availability of fixed land bases overseas. In 1953 the United States had rights to over 551 bases, 120 of which were air bases. Today, we have a total of 173, including about 35 air bases. The curve continues downward. We need them for control of the air to protect and support our foreign-based troops. If this country is to have adequate overseas air power, whenever it is needed, we need not only enough airplanes but *an assured base structure* on which to deploy them.

I believe it is safe to assume that we shall continue to lose our oversea bases, whether through our own decisions to reduce permanent in-country forward deployments or through political eviction.

We have recently suffered eviction from our extensive, carefully constructed, base network in France, which cost us billions. This resulted in further crowding of base and support facilities in Germany and England. Base rights are tenuous now in Spain, Libya, Japan, Okinawa, Philippines and Thailand. When we cease combat operations in South Viet Nam, we shall probably abandon most, if not all, of the air bases we constructed there. In the 1970's, we could be reduced to an *assured* foreign base structure in Europe with sufficient capacity to support about five tactical air wings at the most and in the Far East about three air wings at the most. My point is that, short of an actual combat situation, the maximum *assured* build-up capacity of the available land bases would total about seven to eight air wings. Severe over-crowding of base conditions would result.

OVERFLIGHT RESTRICTIONS

Nowhere else in the world (except at Panama and Guantanamo) do we *now* have a tactical air base in a foreign country overseas. Nor do we have an assurance of having bases, when needed. Nowhere else can we count on having bases *in advance* of the need to repel actual aggression. But, more important, we can no longer be *sure* of having them where they might help in *deterring* an actual aggression *anywhere else* in the world.

Further complicating our responses to crises, by shifting aircraft from land base to land base—even in areas where we may continue to have foreign bases—is the increasing problem of overflight rights and restricted operating rights. These were problems I tended to overlook until I saw all the difficulties our Air Force had in responding to the Lebanon crisis a few years ago. These serious problems are getting worse. Increasingly, nations are becoming unwilling to permit flights of military aircraft across their sovereign territories, or to permit U.S. aircraft operating from bases in their countries, to conduct flights to other countries. Only on the oceans, does freedom of overflight parallel the freedom of the seas.

All this compels careful reorienting to an out-of-country sea-basing of air wings, by increasing the proportion of tactical air wings that are sea-based to reinforce our forward strategy. This in turn will project a much more convincing image of a flexible deterrent forward posture than if most of our control-of-the-air forces were based on land.

Carrier task forces, on the other hand, have convincingly shown an adequate response to crises. Sufficient such forces thus give world-wide substance to our forward strategy. Their response time is no problem and, of even greater importance they can "respond" *before* the crises occur.

Our problem, today, facing an unstable future with the likely prospect of more "Viet Nam" type crises, is that we do not now have a sufficient proportion of our tactical air based at sea so as to deter them where they are likely to occur.

WE ARE MIXED UP

On this score, be it in terms of dollars or readiness we seem to be all mixed up in the order in which we plan to apply force to an unexpected situation or crisis. When we consider areas where we do not have forces in place, it appears to me, our planning is disorderly. Perhaps our recent predilection for land basing in foreign countries overseas needs a thorough review. In the past there has been too much of an overtone of land-bound strategic thinking, rather than strategic maritime thinking.

In any case, I get the distinct impression that what has occurred, and what we are planning for in the event of a crisis, is a race between the Army, Air Force and Navy-Marine Corps to get there first. Now possibly we might eventually, in a given situation, require all services to be there. But to plan for all to arrive at the outset is, in my humble opinion, disorderly.

I feel we should again get our signals straight. If we need a quick show of strength, and for a variety of other reasons, we have Marines. And we have carrier forces for that purpose to provide air cover and air support if needed. We already have such sea-based forces in the Mediterranean and in the South China Sea, for example. When we consider a forward strategy posture for deterrence, these are the sea-based forward posture forces. That is where they fit now, and that is where they should fit in the future. Properly postured they deter. Properly advised of a growing tension, they can draw closer to the scene. For purposes of diplomacy, they can be used in a variety of ways to prevent a new potential crisis from boiling over into actual conflict. But if it should and the Marines land to assist they don't necessarily have to be based in the country they are helping.

Therefore, especially in the critical initial stages, that kind of force can be controlled in an orderly and positive way, like tapwater—on or off—and there and ready for use. This gives great latitude and flexibility to our government in responding to the political, military, economic and psychological aspects of a crisis. Embarked Marines and carriers are our best crisis force. Properly deployed in strategic ocean forward areas they become convincing deterrent forces. If a crisis occurs of longer than temporary duration, the next logical step is to consider more Marines and possibly the Marine air wings. The last step should be a commitment on the ground of Army forces and Air Force tactical air wings when action clearly will be prolonged.

Quick reaction Army and Air Force units can be clearly ear-marked for the crisis reinforcement of any permanent forces already stationed in foreign countries, e.g., NATO, Korea, but not for initial crisis response in other places. Because foreign bases are not adequate to support all the crisis requirements for tactical air even in those areas, the mobility and flexibility of our fleets become mandatory in meeting fast developing threats. By getting the signals straightened out and orderly planning restored, considera-

ble savings in research and development will accrue, even with an increase in maritime R and D.

The subject of savings brings up an interesting point. In the studies I have seen, the kind of quick response tactical air deployment capability the Air Force needs for just one air wing would cost about three to four times as much as buying and sending an aircraft carrier with its air wing to the same crisis area. And this is just the mobility costs, not the costs of ferrying the land based tactical aircraft to the scene, not the costs for base rights or any others. The higher costs are due to the fact that such a quick-response would require assigned airlift which must be charged to that response capability.

If these costs were looked at from the standpoint of mobility readiness for ten years to respond to just that one crisis, the cost of a Nimitz-class carrier and its ten year operating expenses would be over $900 million; the similar mobility costs just for new airlift aircraft necessary to deliver all of one Air Force tactical air wing's required operation and maintenance supplies to the same place (9,000 miles away within 15 days) would be over $3 billion.

I do not suggest that we cease and desist in the improvements now underway to decrease reaction time in deploying Army forces and tactical air units. But I believe that those assets should be dedicated primarily to increase our response time in reinforcing our permanently deployed forces at assured bases in Europe or in South Korea (or wherever).

PROPORTION OF AIR WINGS

We now have in our Navy and Air Force a total equivalent of 40 tactical air wings. Sixteen are allocated to the Navy and 24 to the Air Force. I think that, for the time being, we should consider that total number fairly firm, in view of the threats as I understand them, even post-Viet Nam.

But, on the basis of present world realities, shouldn't we change that proportion? Since 70 per cent of the world is ocean, carrier-based air wings can cover 85 per cent of the land area of the world (excluding the United States and the USSR) while the land-based wings can now cover only 20 per cent from the land-fixed bases. Soviet aircraft can intercept our vital air and sea lines of communications along many ocean-crossing routes, which are undefendable by our land-based aircraft. Also the Soviets are expanding into several strategic land areas, which are the likely scenes of future "Viet Nams." All of these factors, plus the increasing presence of the Soviet Fleet in all the strategic ocean areas of the world, could add up to a compelling argument for a requirement for 27 carriers. This could reduce the Air Force proportion of air wings to 13.

However, I think a more prudent approach would be to plan that, post-Viet Nam, the Air Force should be allocated no more than one tactical air wing for each standing Army division fixed at the pre-Viet Nam level of the Army, and, in general, should be located so as to provide mutual readiness and training of the division and the wing. Every soldier deserves the very best close air support he can be given. Constant division/wing team practice is necessary to assure that, as the Marine Division wing team experience has proven. The remainder of our tactical air should be planned for flexible sea-based deterrence of conflict situations, through regular deployments in all the strategic ocean areas, including, the Mediterranean, as now; the North and South Atlantic; the North and South Pacific and the Indian Ocean.

It is my conviction that the majority of American people understand the need for strong armed forces. I don't believe they want us to disengage from the real world. But, what they do not want is a repetition of any blunders that may have helped get us deeply into two agonizing wars in the last 20 years.

Reason and common sense tell us that what is needed now is a more rapid program for procuring new nuclear carriers—not further deferrals of modern ship construction.

If we take action soon toward this urgently needed reapportionment of our tactical air wings, we may well be of greater service to the people of this nation in two ways:

1. We will have taken positive constructive action toward preventing more "Viet Nams," while actually strengthening our security.

2. We will have made it evident that, in this action, Congress has remembered the past and doesn't intend to repeat it.

PELLY URGES REVOCATION OF UNITED NATIONS ECONOMIC SANCTIONS AGAINST SOUTHERN RHODESIA

(Mr. PELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PELLY. Mr. Speaker, the Department of State has informed me it would be inconsistent with our obligations under the United Nations Charter to begin trading with Southern Rhodesia because of the sanctions against that country into which we entered in the U.N. and which were promulgated by a Presidential Executive order on January 5, 1967.

However, Mr. Speaker, allow me to speak of inconsistencies of a related but separate nature; that is, those demonstrated by our Department of State with regard to Southern Rhodesia.

The United States today is purchasing chromite from the Soviet Union at a price of $48 a ton as compared to the prevailing price of a few years ago in Southern Rhodesia of $31.35 a ton. Inconsistency No. 1. Why should we buy from the Soviet Union at an inflated price when we can buy from Southern Rhodesia at a lower price? The answer given by the Department of State, in addition to that of our sanctions, is that the Soviets produce a higher grade chromite and the Rhodesian price probably is higher today.

Well, despite increased prices and a small differential in grade, Mr. Speaker, how inconsistent can it be when you use American dollars to purchase from a country that is supplying upward of 80 percent of the military equipment being used in Vietnam to kill American servicemen when, instead, the same product could be purchased from a country that has never been responsible for the death of one U.S. citizen?

The stated purpose of the sanctions is that they are designed to lead the Smith regime in Southern Rhodesia to agree to a peaceful negotiated settlement with the United Kingdom.

Inconsistency No. 2. We are taking the side of a nation whose flagships are carrying materials to North Vietnam during the time of a tragic and trying conflict in that part of the world.

The "unstated" argument is over Southern Rhodesia's internal racial policies. This is not intended to condemn or condone the policy of the Smith government, but only to reach inconsistency No. 3; namely, we refuse to trade with Rhodesia while we trade with Russia which has exercised violent anti-Jewish policies as has been so dramatically pointed out in this body in recent days during the Jewish high holiday season.

Mr. Speaker, if there is inconsistency it is in the State Department, not in what would happen if we revoked our participation in the United Nations sanctions against Rhodesia.

We should remind ourselves it is the constitutional obligation of the House of Representatives to regulate trade. I fully realize that by the Import-Export Control Act, Congress delegated to the President the authority to regulate trade in the interest of national security, but it was never intended to promote international civil rights such as was done by President Johnson against Rhodesia. This act was intended to halt trade in strategic materials and when there was a question of national security, and Mr. Speaker, I see absolutely no way in which Rhodesia can be considered acting against our national security.

It is for these reasons that this day I have done two things. First, I have written President Nixon urging that he issue a new Executive order revoking President Johnson's previous Executive order declaring that further study indicates that it is not essential to our national defense to remain on the U.N.'s list of nations with sanctions against Southern Rhodesia. Second, I have introduced a joint resolution of Congress calling for the end of sanctions against Southern Rhodesia.

Mr. Speaker, the inconsistencies of policy as exercised and stated by our State Department are inexcusable and sheer folly. It is no wonder our great Nation has slipped in world opinion in recent years.

TENNESSEE WALKING HORSES SHOULD BE PROTECTED AGAINST ABUSE

(Mr. KUYKENDALL asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KUYKENDALL. Mr. Speaker, may we, for a moment, talk about horses? In recent weeks, thanks to the Nation's press, it has come to the attention of all of us that some of our citizens are still living in the days of bear-baiting and dog fighting.

Mr. Speaker, a beautiful breed of animal with a wonderful name, the Tennessee walking horse, is being tortured and ruined with the cooperation of many unscrupulous trainers and show ring judges.

The hundreds of Tennesseans who breed and own Tennessee walking horses, who love this magnificent animal, have either given up the show ring entirely or else suffer almost insurmountable disadvantages in competition, due to the unscrupulous actions of those members of the show ring circuit who mutilate the feet of their horses to produce an artificially high gait in the show ring.

I want to serve notice that I am declaring my own personal war on this

evil practice, and its practitioners. Especially as a Tennessean, it makes me so mad I start boiling every time I think about it.

Certainly Federal law is not designed to curb minor practices of a local nature, but the horse that bears the name of our State is being shown in circuits throughout the country and I think it is a reflection on all of us in Tennessee if we do not support an effort to stop this brutal practice.

When I was a youngster at the rodeos in Texas, the mark of a shyster promoter was to place burrs or tacks under the saddle to make horses buck more fiercely. There was no law against it at that time, but this practice was frowned on by all legitimate operators even 30 years ago.

I see no difference in today's handlers who make the ankles of his prize animals look like raw hamburger and the fly-by-night rodeo promoters of my boyhood who put tacks under the saddles.

I am particularly concerned about the thousands of lovers of Tennessee walking horses throughout our State and Nation who refuse to participate in such practices and, therefore, either have abandoned the show ring or any automatically placed at a serious disadvantage. This practice allows an unskilled fly-by-night trainer to accomplish, with pain, what a skilled trainer might take many months of hard work to do with patience and care.

In introducing the legislation to prevent this practice in interstate commerce, I am hoping we can start a wave of public revulsion that will cause the practice to be abandoned immediately and make my legislation totally unnecessary. As a Tennessean who rode a horse before he could walk, I believe the beautiful animal that bears the name of our State is well worth saving.

GALLAGHER WELCOMES FEDERAL TRADE COMMISSION INVESTIGATION OF WELCOME NEWCOMER

(Mr. GALLAGHER asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. GALLAGHER. Mr. Speaker, I am pleased to learn today that, according to the Washington Daily News, the Federal Trade Commission is looking into the practices and procedures of Welcome Newcomer. Since my Special Subcommittee on Invasion of Privacy initiated congressional consideration of credit bureaus and credit reporting firms, I have been closely following press reports and actively developing additional information. Jonathan Cottin's pioneering series of articles in the Washington Daily News disclosed disturbing aspects of the use of Welcome Newcomer to gain data for the credit bureaus with which they are affiliated.

As pleasant and as useful as such visits frequently are, it appears that a call by a hostess sets in motion a scurry of personal information which the individual may have little knowledge and no control. This is illustrated by a case in my files of a naval commander. Although his wife specifically told a Welcome Newcomer hostess that the family did not use credit, shortly after and as a direct result of her visit, unwanted and unsolicited credit cards appeared in the family's mailbox.

Mr. Speaker, a major point in my continuing privacy investigations is that the individual citizen must be able to limit the spread of personal data about himself. I contend that this is a legitimate expression of deep psychological needs which are essential to the development of both the private personality and a stable society.

I also agree with the opinion by Supreme Court Justice Douglas in Griswald against Connecticut that the Bill of Rights to our Constitution creates "zones of privacy." I term these areas of personal autonomy "the intellectual imperative" and I believe that they are a crucial ingredient in the continuation of American political democracy.

Mr. Speaker, at this point in the RECORD I insert the article mentioned earlier from the Washington Daily News of September 29, 1969. I also insert an article which goes into some depth about the activities of Welcome Newcomer which comes from the May 14, 1969, issue of the outstanding publication directed to the computer community, Computerworld:

[From the Washington Daily News, Sept. 29, 1969]

DAILY NEWS SERIES TRIGGER: FTC TO PROBE WELCOME GROUP

(By Jonathan Cottin)

The Federal Trade Commission, acting in response to articles in The Washington Daily News, has begun looking into operations of Welcome Newcomer, a neighborhood greeting service with branches thruout the nation.

Altho FTC policy requires that officials refuse comment on agency inquiries, the regulating body's Bureau of Deceptive Practices has questioned The News about the stories that began appearing March 19 and which set off a wave of reaction on Capitol Hill.

An FTC investigator requested detailed information from The News about the Welcome Newcomer affiliation with Associated Credit Bureaus, Inc., a connection which figured prominently in the original stories.

Welcome Newcomer, whose telephone number is the same as the Associated Credit Bureau office here, offers merchants, for a fee, information on the lives of new residents.

The data, collected by friendly hostesses who dispense gift coupons and friendly chatter, is funnelled to the Associated Credit Bureau, which has nationwide facilities to check out each new family's credit by contacting their previous town of residence.

If the credit check indicates the family is a good risk, credit is transferred to the new city, according to Edward F. Garretson, spokesman for the local Associated Credit Bureau.

The FTC's Bureau of Deceptive Practices expressed particular interest in whether the newly arrived housewife is told by the Welcome Newcomer hostess that the information she provides will be used as the basis for a credit check.

While Mr. Garretson has maintained all hostesses are instructed to explain the reasons for the questions, many housewives contacted said the Welcome Newcomer hostesses failed to detail the reasons for the personal questions.

All new arrivals are asked names of family members, address, ages of husband and wife, occupation, previous residence, whether the home is owned or rented, make and model of car, religion, phone number and what the family says it needs.

On March 20, chairmen of the House Privacy Invasion subcommittee and the Senate Anti-Trust and Monopoly subcommittees announced fact-finding investigations into Welcome Newcomer to determine if there are violations of individual privacy.

The Senate and House probes also covered the operations of Welcome Wagon, another greeting service which maintains it does not collect or make available credit information about new families.

No results of these staff investigations have been revealed.

Rep. Cornelius E. Gallagher, D-N.J., in a floor speech March 20, said the practice of "hiding under the skirts" of a greeting service "in order to gain personal information about the living habits of Americans is a dishonorable and disreputable business."

[From Computerworld, May 14, 1969]

CREDIT BUREAUS USING "PRIVATE EYES": GALLAGHER—HOW INFORMATION IS GATHERED AND USED

(By Joseph Hanlon)

WASHINGTON, D.C.—Private investigators are being used by a computerized credit bureau to gather information, charged Congressman Cornelius E. Gallagher (D–N.J.). Gallagher is chairman of the Special Subcommittee on the Invasion of Privacy, and has been particularly concerned about computers and privacy.

"Credit bureaus are hiding behind the skirts of Welcome Newcomer hostesses to gain personal information about the living habits of Americans," charged Gallagher. "By using the subterfuge of welcoming new people while disguising their true data-gathering purpose, the employers of these ladies are clearly invading the traditional privacy of the American home."

Washington Credit Bureau Manager Edward Garretson's contention that information given to his Welcome hostesses was "very much akin to what a guy tells the corner bartender," was commented on by Congressman Gallagher:

"When you fall off the wagon, you may tell a lot to the bartender in the wee small hours, but it stops there. But when you fall off Mr. Garretson's version of Welcome Wagon, you fall into a fishbowl where any subscriber of the 2,200 ACB member bureaus can learn your family's innermost secrets."

Congressman Gallagher has denounced the Welcome Newcomer service as being an invasion of privacy. Here is a description of the service concerned.

Like the better-known Welcome Wagon, Welcome Newcomer greets the new resident, gives him gifts from local merchants, and gives local merchants information on the new resident. But Welcome Newcomer provides another service: It gives the local credit bureau information which enables it to build a file on the newcomer.

Welcome Newcomer asks two sets of questions. Answers to the first set are printed and distributed to businesses and churches that subscribe to the service. These questions ask for: name and birth date of husband, name and birthday (not date) of wife, wedding anniversary, number of children, husband's employer, religion, make and year of automobile, list of oil company credit cards, and if home is owned or rented.

Answers to the second set of questons are turned over to the parent credit bureau, but are not sent to subscribers. These questions ask for: previous address, previous employer, and names of stores with which the family had credit.

According to Patrick Rheaume, vice-president of Chilton Corp. here (owner of Welcome Newcomer and 40 credit bureaus), this information is not entered directly into a person's

file. Rather, it is sent to the credit bureau in the city where the person lived previously, and that credit bureau undates the file and forwards it. Rheaume admitted that some credit bureaus automatically obtain files on new residents, whether or not the person requests it.

INFORMATION USE NOT CLEAR

Rheaume declared that "it is made very plain to newcomers that the information is being asked for merchants." But it may be less clear that the information goes to the credit bureau, too. Rheaume conceded that not all of those interviewed realized that the information goes to the credit bureau, and he claimed only that "in a majority of cases, the newcomer knows why he is being asked these questions."

COMPUTERS ARE INVOLVED

The Dallas credit bureau, which operates a Welcome Newcomer service, is one of two that have computer installations intended as prototypes for the credit bureau industry [CW, Mar. 19]. Rheaume stressed that information gathered by Welcome Newcomer hostesses was not entered directly into the computer. But the report supplied by the credit bureau in the person's former city is entered into the computer, and the data supplied by the hostess plays an integral part in obtaining that report.

Rheaume explained to *Computerworld* that the newcomer's former address and the name of his former employer (obtained by the hostess) were used by the credit bureau in the person's former city to identify him. The list of stores where the person had credit may include listings not known to that credit bureau, and enables it to compile a more complete file.

The Dallas credit bureau Credit Bureau Services, is owned by Chilton Corp. Welcome Newcomer, Credit Bureau Services, and Chilton all operate from the same office with the same telephone number (821-7000). All of Chilton's 40 credit bureaus are members of the Associated Credit Bureaus, Inc., according to Rheaume.

He estimates that Welcome Newcomer is operated "in 15 to 20 market areas."

The first disclosure of the connection between Welcome Newcomer and credit bureaus was in the *Washington Daily News*, March 19, 1969. The author of the article interviewed a number of housewives, and in his article said that housewives visited by hostesses "generally indicated no knowledge that the information they provided was going to be sent anywhere."

VOLUNTARY PRAYERS IN PUBLIC SCHOOLS

The SPEAKER pro tempore (Mr. EDMONDSON). Under previous order of the House, the gentleman from Ohio (Mr. LUKENS) is recognized for 60 minutes.

Mr. LUKENS. Mr. Speaker, recently, a memorandum of the American Hungarian Federation, originating from one of its constituent organizations, the Hungarian Association of Cleveland, reached my desk. It expresses in an eloquent and emotional language the beliefs and anxieties which I feel the majority of our citizens of whatever ethnic descent feel both in my district and in other districts and States of these United States.

The memorandum deals in general with the causal relationship between the decline of public morality and the decline of religious observances. Specifically, the memorandum supports the various constitutional amendments to reinstate prayer in our public schools. These amendments have been introduced and reintroduced in both Houses of Congress since the 1963 decision of the U.S. Supreme Court—*School District* v. *Schempp* and *Murray* v. *Curlett*, (374 U.S. 203, 83 S. Ct. 1560 (1963)).

The American Hungarian Federation is distressed—as we are distressed—by the rise of violence in our national life, the shockingly high incidence of crime in the streets of our great cities, the ever-mounting evidence of lawlessness and intimidation across the land.

Certainly one crucial factor in this process of decay has been the decline of religious observance. Like everything of signficance in life, religion—to be real—must be practiced. The religious rites of prayer, publicly manifest, proclaim to all the nature of our faith and our deepest commitment. A society without religion is unknown in history. Even the most militantly atheistic states—the Soviet Union and Communist China—have been forced to create a kind of secular religion based upon Marxist ideology and the absolute authority of the state in every area of life, in effect to compete with traditional religious faith and practice. Men cannot live in a spiritual void. When God is read out of public life, the false gods of totalitarian ideologies will speedily fill the vacuum.

I speak for those many millions of our citizens who are profoundly disturbed by the decline of religion as a vital factor in our public life and who feel deeply that we of the Congress have a solemn responsibility to act so as to redress this situation.

It is especially appropriate that our special session today is held at what is still a time of mourning for the loss of a great American who never hesitated to identify himself with the cause of religious renewal in America—Everett McKinley Dirksen.

As I have introduced and reintroduced an amendment identical with Senator Dirksen's school prayer amendment both in the 90th Congress and in the present session of the House of Representatives, I would like to take this opportunity to reaffirm the need for such an amendment and commend the American Hungarian Federation for taking this appropriate stand at a time when the sonorous voice of the great orator is dead. I also want to expound the necessity and utility of amending the decisions of the Supreme Court which had produced so many ill aftereffects.

I share the feeling of the memorandum from the Hungarian American community that—

> The waywardness of a frightfully large percentage of American youth is the direct result of the lack of teaching of religion and/or ethics in our public schools.

The loss of faith in God, in ethical values, and in civilization itself inevitably corrodes the integrity of public and private life and leads from chaos to some form of imposed order by dictatorship.

I believe that it is not too late to arrest this process in our beloved land and to draw upon the immense resources of good will, humanity, and religious belief present in the great "silent mainstream" of America—men and women of every race and creed who share the concerns we are gathered here today to express. In the words of the memorandum:

> A well-balanced society cannot be uprooted by senseless rioting, so long as it remains morally strong and united.

Such moral strength and unity must find their expression in those public manifestations of faith which bear witness to our deepest beliefs and our abiding commitments. The pervasive influence of religion in our schools and in society generally has been symbolized by the practice of prayer and the reading of the Bible, with its insistent proclamation of divine law in human life. The fruit of such faith, we believe, will be a greater social conscience and moral awareness from which a truly law-abiding citizenry may derive inspiration.

Ultimately, religious and ethical teaching and instruction must rest with the family in the home as well as in church and synagogue. The recognition of this fact, however, does not preclude our acting in this body to implement the will of the people with regard to constitutional change as advocated by the late Senator Dirksen and many other distinguished Members of the Congress including myself. By so doing we may well give new direction, new energy, and new hope to all who seek to restore in this land that respect for the due processes of law and order without which no society can endure.

But this desirable goal can only be attained if the Government fulfills its first obligation: to insure the safety and security of all, and to create and maintain an atmosphere in which men may live and work without fear. This means that the execution of justice must be fair, and concise.

Yet decisions of the Supreme Court of this date provide no clarity of the basic interpretation of the first amendment. The Court seemed to have rejected the "neutrality" doctrine, that is, that the first amendment only requires that government be neutral among religious bodies and, therefore, laws of benefit to religion are constitutional when the benefit is extended on a nonsectarian basis. Yet the Court failed to define clearly the limits of permissible state activities along the line of the enforced separation of state and church. The Court only committed government to studied neutrality with respect to religion while government attempts to fulfill its numerous delegated, implied, and reserved secular responsibilities—*Everson* v. *Board of Education*, 330 U.S. 1, 52 (1947). It is reasonable to assume that the first amendment is not concerned with awarding nonbelievers with the right to constrain government from acts which lend its approval to religion on a nonsectarian basis.

The U.S. Congress, during the last 15 years, gave ample evidence of such a constitutional view. In 1954, the phrase "under God" was inserted in the Pledge of Allegiance—36 U.S.C. par. 152 (1958). In 1956, "In God We Trust," was adopted as the national motto by a joint resolution—70 Stat. 732. In 1955, "In God We Trust," first authorized for imprinting on coins in 1865—13 Stat. 517, 518—was prescribed for all money and coins—69

Stat. 290. In 1952, Congress memorialized the President to proclaim a National Day of Prayer each year—36 U.S.C. par. 185. We certainly should continue in this fine tradition by allowing prayers in space vehicles and by approving the constitutional amendment providing for voluntary school prayer in order to return the Bible, the cornerstone of our Judeo-Christian tradition, to its proper place in the schools.

Would this amendment interfere with the establishment clause of the first amendment? In my opinion, it would certainly not. The substance of the amendment consists of the right of persons to engage in nondenominational prayer in a public building supported in whole or in part by public funds.

The crux of my amendment consists of leaving the decision to the community itself, that is, to the local school board. If there exists a sizable minority in the locality, it could work through the school board to prevent what the Supreme Court now calls discrimination against nonbelievers—*McGowan* v. *Maryland*, 366 U.S. 420, 465 (1961). There is no need to deprive the youth of this Nation from an opportunity to pray in the schools because of the objection of tiny and usually geographically localized minorities, and to convert local issues into nationwide decision with unforeseeable consequences.

Mr. PATTEN. Mr. Speaker, will the gentleman yield?

Mr. LUKENS. I yield to the gentleman.

Mr. PATTEN. Mr. Speaker, I would like to note that the largest mail I have ever received in the Congress in the last 6½ years, well over 10,000 letters have come from my constituents who are disturbed with the feeling that their children are not getting some spiritual training in our public schools.

In the last few years I have sat down with members of our bar association and we have discussed the Supreme Court decision and possible amendments. I have met with leaders here in Washington of our three main religious groups—the National Council of Churches, the Catholic bishops, and the Rabbinical Congress—and many of use were hoping as a result of these conferences we could have an amendment to the Constitution that would not offend freedom of religion as we would like to have it and that would not cause an uproar throughout the country.

Now in my State we used to say the "our Father" and the 23d Psalm at the opening of school every morning. Even when I was teaching school, I found that many different groups objected. I well remember the State house in 1953, 1954, 1955, and 1956 when the Governor was always beset by this problem. When I mention objections, I am not including any atheists or nonbelievers in that category—but Seventh Day Adventists and different groups who found some objection to the particular prayer, even the "our Father" or the 23d Psalm.

It has always been a very difficult matter and I would like to say to the gentleman and to the sponsors of this resolution that the people of my district would like to feel that their children can receive some moral training. I know they would appreciate it if the Members of Congress could see their way clear to adopt an amendment so we could arrive at that end.

I think if we stay with it and think enough about it, we ought to be able to come up with something. I think there is no doubt that 90 and some odd percent of the people in my district would like to have prayer in the public schools.

I thank the gentleman for yielding.

Mr. LUKENS. I thank my colleague from New Jersey for his comments and joining in this movement to support religious observance. There is no doubt about the concern of the average American, and certainly the Members of this body, in the fact that we have lost a great deal of our integrity, our concepts and concern—if you will, public attention to morality and public attention to integrity. We find that with the concomitant decrease in attention to and concern for public religious observances, whether in high school, grade school, or any other public gathering, that we see ourselves drawn further and further apart from those things that used to be basic and intrinsic to the American way of life.

Surely we have seen a rise—and I endorse the rise—in the amount of individual freedom and expression allowable under recent Supreme Court decisions, but there is no doubt that every time an individual gains a right or increases the amount of a right against the system of morality, morality loses something. I am glad to have had a Member of your distinction join in support of this endeavor.

I call upon the Judiciary Committee to report on the constitutional amendments submitted to it in order to stem moral decay and to insure that the moral fiber and patriotic devotion of the next generations should equal those of the past. This legislation obviously is not perfect, but we here in Congress, I think, should honestly try to represent the wishes of the majority of our constituents who, I believe, wish to see some action taken toward a fair solution of the problem of the people who would like to see a voluntary religious observance reinstituted in our public schools.

Mr. CRAMER. Mr. Speaker, will the gentleman yield?

Mr. LUKENS. I yield to the gentleman from Florida.

Mr. CRAMER. I congratulate the gentleman in the effort he is making on the resolution he and others have presented for a number of years after Supreme Court decisions came out relating to prayer and Bible reading in the schools. Many of us who were then on the Judiciary Committee tried for a number of years to get the committee interested in the matter, and to hold proper hearings on the matter. Certainly there is no issue facing this country today, or problem facing the country, that deserves the attention of the Committee on the Judiciary more than this one does, and yet it has been kicked under the rug year after year. The committee is not giving proper attention to it.

I had the privilege of visiting with the distinguished and recently deceased minority leader in the other body on a number of occasions on the subject of the prayer amendment. The gentleman is absolutely correct. In my opinion, the Congress has the duty to the American people to have this matter considered in full by the Congress, and it is my opinion that the Congress should vote out a constitutional amendment so it can properly be considered by the respective legislatures, or in the alternative by the people themselves.

Mr. LUKENS. I thank the gentleman from Florida.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. LUKENS. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman from Ohio, who has brought to the attention of the Congress something that is on the minds of many people throughout the country. I think it is a very much misunderstood issue. But there is one thing that I do want to admonish the gentleman and all of the Members of the Congress: Under no circumstances do we want to advance something that will infringe on the basic religious liberties of the people of this country, because that is one of our cherished freedoms.

The gentleman is focusing attention on this particular situation. We want to see an influence on our children that will be associated with voluntary prayer. But we certainly must make certain that it is consistent with religious liberty at its best.

Mr. GALLAGHER. Mr. Speaker, will the gentleman yield?

Mr. LUKENS. I yield to the gentleman from New Jersey.

Mr. GALLAGHER. Mr. Speaker, I wish to commend the gentleman for expressing his concern, which obviously is the concern of many people in this country. The gentleman from Florida (Mr. CRAMER), to whom the gentleman from Ohio yielded a moment ago, pointed up the fact that the Judiciary Committee did wrestle with this question for a considerable period of time, and the problem was always what the format would be, or what the formula might be as to what prayer might be desirable and not offensive.

At that time I recall testifying before the Judiciary Committee as to a point I thought might be a happy compromise, since, obviously, we were all quite concerned with the issue.

That idea would be to adopt the Quakers' attitude on this moment, which would be for a moment or two of silent prayer or silent meditation at the beginning of the school session. Those who found that uncomfortable could silently cheer Mrs. Murray, who brought about in the first place the decision of the Supreme Court banning prayer.

This has been an issue that has troubled many people for a long period of years. Once again, I hope, if we do arrive at some way of expressing the concern of millions of Americans throughout the country, that we might adopt the silent prayer or silent meditation approach. In that way I feel it would not be unpleasant to anyone, and hopefully each could silently express his belief in God or some silent communication with God, or, as

I say, reject the whole idea and sleep for another moment or two.

Mr. Speaker, I compliment the gentleman for taking this time to speak on this subject. However, the essential issue remains that in public school we cannot force anyone to accept another's concept of God. Everyone must have the right to follow his beliefs or nonbeliefs according to his own individual conscience. This is the essential issue of the Supreme Court decision on prayer in school.

Mr. LUKENS. Mr. Speaker, as a Quaker, I am somewhat reluctant to press that particular point of view upon others. However, I do think it offers some potential. It offers an approach to some method of religious observance which ought to be investigated by the committee, and there is some concern that we have tended to eliminate some exposure for young people through daily prayer in the schools. The fact is that many people in this country still believe in God and express it through some daily observance. It is a source of dismay to many that we have lost our source of exposure daily for our young people.

There are many who respond by saying that the children should find that exposure at home or in church and that this prayer does not belong in the school. However, the public school system is really the last resort for many young people as far as religious exposure. But I think some kind of observance should be occurring there.

Mr. GALLAGHER. Mr. Speaker, I think the gentleman is performing an extremely useful service here today.

Mr. FLYNT. Mr. Speaker, will the gentleman yield?

Mr. LUKENS. I yield to the gentleman from Georgia.

Mr. FLYNT. Mr. Speaker, I join with the distinguished gentleman from Ohio in the remarks he is making. I think he is performing a useful service to this body and to the country in effectively and forcefully bringing this matter to our attention today.

As one Member of this House who has, during the last three or four consecutive Congresses, introduced a concurrent resolution which would provide for a constitutional amendment to permit voluntary prayer in schools, I am delighted to see the gentleman from Ohio and others rekindle the fires that many of us started several years ago.

I am sure the gentleman is as interested as I was in reading a few days ago about a school in New Jersey, which, at the beginning of classes each day, would read from the most recent CONGRESSIONAL RECORD the prayer with which each session of the House of Representatives is opened. I think it might be quite interesting to let the Supreme Court decide whether a class in a school could legally read the prayer which is offered in the House of Representatives each day that we are in session.

I remember distinctly that, just a day or so after the unfortunate Supreme Court decision prohibiting prayer in the schools, a resolution was promptly introduced and adopted which called for the placing of the words "In God we trust" in this Chamber directly above the Speaker's chair. I think that the message carried not only through this building, but also throughout the country. That message was that, even if the Supreme Court saw fit to prohibit prayer, the House of Representatives of the United States of America renewed and reaffirmed our belief in Almighty God and that in Him we place our trust.

Mr. LUKENS. Mr. Speaker, I thank the outstanding gentleman from Georgia for his timely comments. Certainly I appreciate his support.

Mr. RUTH. Mr. Speaker, will the gentleman yield?

Mr. LUKENS. I yield to the gentleman from North Carolina.

Mr. RUTH. Mr. Speaker, I support the resolution offered by the gentleman. I am sure hundreds of people in the Eighth District of North Carolina will be happy to learn of the effort being made in this House to return prayer to the public schools.

Mr. LUKENS. Mr. Speaker, I thank the gentleman for his comments.

Mr. BROYHILL of Virginia. Mr. Speaker, I join my good friend and colleague, the Honorable DONALD E. LUKENS, in expressing support for the constitutional amendment which has been before the Congress for many years, which would restore to the children of this Nation the right to make reference to belief in, reliance upon, or to invoke the aid of God or a supreme being in the public schools of this Nation—a right which was arbitrarily and capriciously denied them by a misguided U.S. Supreme Court during the course of two decisions in 1962 and 1963.

For two centuries the children of this Nation were taught that our Founding Fathers called upon the Creator of us all for the divine guidance in establishing the United States of America, as they did.

Throughout the years since this Nation was born, our fathers and mothers, and their fathers and mothers before them, were privileged, in the working of our Government; making of public documents; during proceedings and activities; in ceremonies; in schools and institutions; as well as on our coinage, currency, and obligations, to make reference to belief in, reliance upon, or to invoke the aid of God or a supreme being.

But in June of 1962, and again in June of 1963, decisions of the highest court in the land put an end to prayer in our public schools and denied our children their heritage so valiantly protected throughout our history. The decisions also cast a cloud of suspicion over other truths we as a people had long held self-evident—a cloud that has not dissipated in the intervening years.

Mr. Speaker, millions of Americans complained bitterly about these decisions because of their belief that our children, as students, should be afforded the same opportunity to participate in prayer in our schools as was afforded their fathers before them, if they so desired. They demanded action.

The Congress quickly responded to demands for a constitutional amendment to permit voluntary prayers and reading from the Bible, under the able leadership of our former colleague, the Honorable Frank Becker of New York in the House, and of the late esteemed minority leader, the Honorable Everett McKinley Dirksen, in the Senate. Unfortunately, in spite of wide popular support of the people for the amendment, neither the House nor Senate Judiciary Committees chose to act.

After it became apparent that no action was contemplated in the House Judiciary Committee, Mr. Becker, on July 9, 1963, filed a discharge petition, to permit the House to work its will in considering the amendment. The response to the petition . . . more than 180 signatures in a few weeks, indicated the strong sentiment in the House to have the bill considered and reported, and the chairman of the Committee on the Judiciary then scheduled hearings on the Becker amendment and many similar ones.

Although volumes of testimony was taken from interested parties, the committee did not report the bill during the 88th Congress, nor has the necessary action been taken during the 89th, 90th, or 91st Congresses.

The Senate, on the other hand, was finally prodded by the late minority leader into holding hearings and reporting a bill to the Senate floor in 1966, where it failed by six votes of obtaining the required two-thirds vote. Armed with undeniable evidence that the breakdown in morality and alarming increase in criminal activity among our youth dates directly back to the Supreme Court's prayer decisions, Senator Dirksen began again rallying support this year, and prospects for obtaining the required two-thirds vote in the Senate looked most encouraging when he met his untimely end.

Mr. Speaker, I believe each of us, as representatives of the people, are honor bound to restore to our children the right that has been taken away by the rulings of the Supreme Court. These decisions have proved to be an attack on the very foundations of our Republic. And many of the problems we face today with our youth result directly from removal of voluntary prayer from our schools. The result of the decisions has been to remove moral guidance from our children while attending school, and to leave them in a vacuum, void of those teachings of morality and godly virtues we were privileged to receive in school.

Restoration of voluntary prayer in our schools will not be a panacea for all the problems now so evident among our young people, Mr. Speaker, but establishment of this right in our Constitution will be a step in the right direction and will aid greatly in bringing back a sense of morality to the school system which our children need so much.

Although I oppose in principle the use of a petition to discharge the chairman of a committee, I did sign the petition filed by Congressman Becker in the 88th Congress, and I filed a discharge petition for my own identical amendment during the 89th Congress, because I felt, and feel, so strongly that the work begun by Mr. Becker and Senator Dirksen must be carried forth. I hope all our colleagues will keep the possibility of a discharge petition in mind this year, should one become

necessary to let the House work its will. The first session of the 91st Congress is well underway, the champion of the prayer amendment in the Senate has passed away, and the children of this Nation are daily denied the teachings of reverence and morality they need.

I join my colleagues today, Mr. Speaker, in restating the necessity, the urgency, for action by the House of Representatives in support of a constitutional amendment to help the parents and schools of our Nation to again bring to our children the greatest teachings ever to enlighten mankind.

Mr. MINSHALL. Mr. Speaker, I welcome this opportunity to reiterate my strong endorsement of the constitutional amendment offered by the late Senator Everett M. Dirksen to permit prayer in our public schools. Not only would its adoption be a lasting tribute to a great American, it could well lead to safe harbor a Nation which today is threatened by the high seas of amorality.

One of the finest statements I have read on the present troubled state of public morals has been written by the Hungarian Association of Cleveland with the American Hungarian Federation. These two splendid organizations have issued a concise but outstanding brief for adoption of the Dirksen amendment. I commend it to the attention of this Congress in the hope that action soon will be forthcoming on the proposed amendment:

MEMORANDUM OF THE AMERICAN HUNGARIAN FEDERATION

The American Hungarian Federation, in cooperation with the Hungarian Association of Cleveland, considers it its duty to contribute whatever it can to ease the critical domestic situation in the United States.

During the past Presidential election, campaign speakers emphasized the general demand for LAW and ORDER. President Nixon and Attorney General John Mitchell both promise to get relief in regard to the increasing crime rate that outstrips several times the population increase.

Today, the capital of the nation is also a capital of crime. Recent rise in rapes, murders and armed robberies there and in most of our major cities remains unprecedented.

Committees have been appointed even by the President and they ponder possible solutions. Do we need more politics and police, or less lenient judges? No doubt there is a need for all that, but equally important is the enactment of very strict anti-crime laws with mandatory sentences.

Unfortunately the voice of the judiciary in the recent past has been uncertain (hopefully the appointment of The Honorable Warren Burger as Chief Justice will improve the regrettable trend of the Supreme Court in the last fifteen years) and as a result, the courts in the final analysis protect the guilty more than the innocent. Yet the most important function of any government is to ensure and safeguard the peace and security of its citizens and to create an atmosphere in which all can live and work without fear. This cannot be maintained by letting the guilty to go unpunished on procedural grounds. There is an overwhelming need for strict laws and unhesitating law enforcement.

Juvenile delinquents cannot be corrected by suspended sentences and supporting them by welfare payments whereby they are freed from the obligation to work and are provided with the free time needed to smash store windows, vandalize churches and kill people for "kicks."

The stoppage of crime and the punishment of criminal elements cannot form proper topics of constitutionality debates. A rethinking of the rationale of past decisions of the Supreme Court since the Miranda decision is desperately needed in order to restore the balance between prosecution and defense.

In our opinion, the waywardness of a frightfully large percentage of American youth is the direct result of the lack of teaching of religion and/or ethics in our public schools. The Bible and specific prayers are banned from the halls of learning by an all too strained interpretation of the First Amendment, forbidding the establishment of a state religion, by the Supreme Court. And both the state legislatures and Congress have failed until now to overcome this deficiency by passing the proper constitutional amendment as proposed by the late Senator Everett McKinley Dirksen from the State of Illinois.

Colleges today increasingly witness the revolt of misled students against the "establishment." Where did we fail?—ask the bewildered educators and parents. The answer is simple, many of today's young people reject morality and virtue as old-fashioned, pretending to perceive all too clearly the hypocrisy of the present social order. They defy the laws of God and man, because they are not "related" to God, to the churches and religion. They rebel against ethical values, human culture and civilization itself.

The warning of history confronts us: the decay of every civilization begun with the collapse of public morality. Action to stop the trend is needed today, else our people will be swept into chaos or dictatorship.

A well-balanced society cannot be uprooted by senseless rioting, as long as it remains morally strong and united. Yet a society cannot be morally strong unless it is grounded in the belief in the Creator and unless prayer and religion are allowed to exercise their proper functions in the schools and public life. President Nixon, by having religious services conducted in the White House on Sundays gives us a certain direction, yet without extending religion's pervading influence to the schools, we cannot expect the strengthening of the eroded moral fiber of our youth. Therefore, we urge all legislators to take favorable action on the School Prayer Amendment of the late Senator Everett McKinley Dirksen which was co-sponsored by many Senators and Representatives in the United States Congress.

Belief in God and the teaching of religion do not curtail individual freedoms and in view of the pluralistic religious structure of the United States do not amount to the establishment of any state religion prohibited under the First Amendment. The citizen who believes in the binding force of divine law, will be law-abiding and display greater social and moral conscience and awareness.

Let us not allow a tiny minority force its destructive laws on the whole nation.

The Bible is reverently used at the inauguration of the President of the United States, let us return it to its proper place in our schools as well!

Washington, September 13, 1969.

Rt. Rev. ZOLTAN BEKY, D.D.,
Bishop emeritus, Chairman of the Board, American Hungarian Federation.

Judge ALBERT A. FIOK,
National President, American Hungarian Federation.

Dr. JOHN B. NADAS,
President, Hungarian Association of Cleveland, National Vice President. American Hungarian Federation.

Mr. HORTON. Mr. Speaker, for more than a quarter of a century this Nation has faced the turmoil of international and domestic crisis. It is obvious such unstable circumstances are taking a serious toll on the spirt and energies of our people, particularly those young people on whom the future of our Nation must depend.

Young people are finding life superficial, hopeless, and without meaning. They turn away from life and they turn away from themselves. And they have no resource from which to draw strength.

For this reason, it is appropriate and extremely important to make known the vitality of prayer. I gladly join in this special order with my colleagues recognizing the importance of prayer in our daily life.

I share the concern of parents throughout the country for their children. Every parent must want their children to receive the proper insights to understand their existence a little better.

Down through the years our leaders in Congress and in the White House have prayed in the manner of their choice for inspiration and guidance in carrying out their responsibilities.

Prayer was offered at the Convention in Philadelphia which produced our Constitution. Prayer is offered as each House of Congress opens its daily sessions.

In 1955 Congress provided its Members a special nonsectarian chapel. This room, with an accent on simplicity, gives the men and women who must make the gravest decisions for America and the world a place to worship.

The chapel is designed for private meditation and prayer, not for a general assembly.

With all the turmoil in our country today it would be well to look to the words of our first President:

While just government protects all in their religious rights, true religion affords to government its surest support.

President Nixon's inauguration was one of the first times since George Washington that a full-scale worship service has been a part of the inaugural program.

Prior to the swearing-in ceremonies on the Capitol steps, about 750 persons attended a prayer service at the State Department auditorium.

The country is in need of spiritual therapy. The renewal of worship and prayer in the routine of Government is most encouraging, and most necessary to the spirit of America.

Mr. MICHEL. Mr. Speaker, I want to take just a few minutes to call attention to some inconsistencies.

The first amendment to the Constitution of the United States says:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .

These simple words, which almost any literate person should be able to understand, have been twisted, distorted, and stretched so as to deny children in kindergarten the right to use prayer to express their gratitude to the Creator for material blessings and to invoke His protection over their teachers and parents.

Associate Justice Stanley F. Reed pointed out in a dissenting opinion in *McCollum* v. *Board of Education*—333 U.S. 253–254 (1948)—that—

The Congress of the United States has a chaplain for each House who daily invokes divine blessings and guidance for the proceedings. The armed forces have commissioned chaplains from early days. They conduct the public services in accordance with the liturgical requirements of their respective faiths, ashore and afloat, employing for the purpose property belonging to the United States and dedicated to the services of religion. Under the Servicemen's Readjustment Act of 1944, eligible veterans may receive training at government expense for the ministry in denominational schools. . . .

Both the House of Representatives and the Senate can employ chaplains or we can enlist guest clergymen to open our sessions with prayer. The Army, the Navy, and the Air Force can commission chaplains and build chapels for worship services. Veterans of our wars who desire to study theology can do so under the GI bill of rights. But, Mr. Speaker, innocent little children cannot send up a prayer of thanksgiving to the Almighty for milk and cookies.

Associate Justice William O. Douglas spoke for the majority in the case of *Zorach v. Clauson*—343 U.S. 313–314 (1952)—when he said:

We are a religious people whose institutions presuppose a Supreme Being. . . . When the state encourages religious instruction or cooperates with religious authorities by adjusting the schedule of public events to sectarian needs, it follows the best of our traditions. For it then respects the religious nature of our people and accommodates the public service to their spiritual needs. To hold that it may not would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who do believe. . . . We find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence. The government . . . can close its doors or suspend its operations as to those who want to repair to their religious sanctuary for worship or instruction. . . .

Practically the entire machinery of government, National, State, and local legislative, executive, and judicial, shuts down for 2 days each and every week, in observance of the Lord's Day of most Christians and the Sabbath of Jewish groups and some Christians. It also shuts down for certain religious holidays, such as Christmas and Good Friday and, to a lesser extent, on the Day of Atonement and the Jewish New Year. But Mr. Speaker, we forbid little children to come unto our Heavenly Father with expressions of gratefulness for the birds that sing, even though many schools are permitted to tell them all about the birds and the bees.

Mr. Speaker, as far as I am concerned, no amendment to the Constitution is needed to give schoolchildren the right to pray in the classrooms. The Supreme Court of the United Sates has no jurisdiction in the matter as long as Congress makes no law respecting an establishment of religion. By arrogating unto itself such jurisdiction, the Court is prohibiting the free exercise of religion.

Certainly I would not want schools turned into places of worship, but the classroom does not become a church because the pupils join in a brief prayer or read passages from the Word of God. Should the teachers or school officials attempt to proselyte or to promote the interests of a particular denomination, that would be a matter for the local authorities to settle.

Opening this great body with a short prayer has never, to my knowledge, offended anyone privileged to sit here as a Member. Ministers of all the leading religions, Roman Catholic, Jewish, Protestant, and other Christian denominations, have offered prayers in our behalf. It would be a sad day when we would be forbidden to have such devotional exercises. It is a sad day for our Nation when pupils in our schools must forgo the blessings and benefits that come from prayer.

Let us hope that the Supreme Court of the United States, which will be presided over by a new Chief Justice and which will soon have a new Associate Justice, will take another and a closer look at some of the unfortunate decisions it has handed down during the last few years. Just to be on the safe side, let us adopt a House joint resolution to submit a constitutional amendment to the sovereign States, thus making it clear to all that the people of the United States, acting through their chosen representatives in the National Congress and the various State legislatures, want prayer to be permitted in the classrooms.

Mrs. REID of Illinois. Mr. Speaker, as the sponsor of a prayer amendment—House Joint Resolution 427—I wish to join my colleagues in discussing the memorandum of the American Hungarian Federation regarding morality in our society and the need to restore appropriate prayers in our public schools.

Over the past few years I have presented several statements here in the House of Representatives expressing my deep concern over the crime, rioting, vandalism, burning, and looting that has occurred all too frequently throughout our beloved land. Everyone is asking "What are the causes for this decline in morality and respect for law and order?" There are some who still seem to think the answer lies solely in spending more and more money. Certainly efforts must be continued to be made to help the underprivileged help themselves—but we must remember that "Man doth not live by bread alone."

Today, I want to remind you once again that many of those involved in criminal activities and rioting, looting and destruction of property, are the very young and I ask you to ponder whether it is mere coincidence that the criminal activities of these young people—even though admittedly a minority—have risen so greatly since the Supreme Court decisions which to all effects and purposes have banned prayer and Bible reading from our schools or any reference to a diety. I just wonder how many of these young people who have resorted to such activities have even read the words from the Ten Commandments contained in the Holy Bible.

I realize that much has been written and spoken concerning the decision on prayers in public schools and I have noted the argument that those who differ with us believe their children should not have imposed on them a compulsory period of silence or separation during the recitation of a school prayer. By the same token it can also be reasoned that the great majority of schoolchildren who have participated or desire to participate in school prayers have been forced to accept the position of the nonbeliever.

Our is a Nation founded under God—and it has grown to greatness under God and our history shows that prayers are an integral part of our heritage, beginning as early as November of 1620, when the Mayflower Compact was started with a prayer. From then until the present time, our leaders have constantly called upon the help of God and every session of the Congress is opened with a prayer.

In the 88th, the 89th, the 90th, and again in this present Congress, I have introduced resolutions calling for a constitutional amendment which would restore the freedom of voluntary prayers to our students in our schools. To my regret, however, I—and others who have introduced identical or similar resolutions—have been unsuccessful in our efforts to secure final and favorable congressional action.

When I testified in support of a prayer amendment in 1964, I stated my feeling then that "to deny our youth, their teachers, and their counselors the privilege of a communal exercise of their allegiance to God as well as to country is a rejection of our most constant source of power and strength." I also pointed out that we live in a season of increasing immorality and warned that "any diminution of emphasis on individual, moral and spiritual responsibilities can only further reduce our level of integrity and increase our rate of crime."

Today, once again, I call for prompt committee action and earnest consideration by the Congress of the proposed constitutional amendment to permit voluntary prayers in our public schools.

Mr. BUCHANAN. Mr. Speaker, I would like to join my distinguished colleague, the gentleman from Ohio (Mr. LUKENS), and the American Hungarian Federation in their call for a return to voluntary prayer observances in public buildings. In doing so, I would like to commend both Mr. LUKENS and the federation for their efforts toward this end.

In a recent public memorandum, the American Hungarian Federation expressed the deep concern of its members over the increasing crime and disorder within the United States as well as their intention to contribute in any way possible toward the easing of this critical domestic situation. They pledged their support for efforts by our Government to enforce law and order in this country and for the enactment of stronger and more effective anticrime laws. Primarily, however, the memorandum expressed their strong conviction that a great deal of the disregard for law among our Nation's youth can be attributed to the lack of moral or religious training in our public schools.

While the causes of crime are often as complex as the solutions and while State-prescribed religious exercises in

our schools would certainly be in violation of the separation of church and state principle embodied in the first amendment of the Constitution; there is, in my judgment, reason to give very serious consideration to the point which the American Hungarian Federation has raised in this regard.

In today's rising crime rate we see an almost total lack of respect for our Nation's laws and for those who enforce them. Respect for law and for the various modes of behavior necessary to the maintenance of a civilized society, however, is not a trait which is inborn in human beings or which occurs at some magic age. Such respect is something instilled in human beings from a variety of sources; including the home, the church, and the schools. Today, however, we have a situation where the great confusion and consternation emanating from the Supreme Court's various prayer decisions have almost completely eliminated the contributions of our Nation's public schools toward the creation of this atmosphere of respect.

Mr. Speaker, I have already indicated my strong belief in the principle of separation of church and state which is set forth in the first amendment of the Constitution. This is a wise principle which recognizes and assures the religious freedom so basic to our democracy. The framers of our Constitution intended this principle to be a prohibition to any establishment of a state religion and not, in my judgment and in the judgment of countless constitutional scholars, to prevent the voluntary practice of religious beliefs. I firmly believe that it is as wrong to prohibit the free exercise of religion as it is for the state to establish a religion. For this reason, I have been glad to join in the introduction of legislation calling for a constitutional amendment to make it absolutely clear that voluntary prayer observances in public buildings are not prohibited by the Constitution. In this effort, so courageously led by the late Senator Everett Dirksen, hundreds of Members of the House and Senate have expressed their deep concern over the unfortunate effects of the Supreme Court decisions set forth in the case of Engel against Vitale and subsequently in the cases of Murray and Schempp.

Mr. Speaker, our concern is a reflection of that equally felt by our constituents throughout this great Nation. It is, among other things, a concern for the preservation of those elements of religious orientation which have been such an important part of our Nation's heritage. Regardless of the great variety of religious beliefs which have always been held by our citizens, a recognition of God has indeed been a part of our national heritage. This has been reflected in the words of our Founding Fathers, in our national songs and anthems, and in the Pledge of Allegiance to our Nation's flag. The President, Vice President, and most of our country's high officials take their oaths of office on the Holy Bible. In further witness to our religious traditions, the Congress in 1955 passed Public Law 140, which placed the inscription "In God We Trust" on our coins and currency. The following year a resolution was passed making these same words our national motto.

Our concern is, however, above all, a concern for the preservation of those rights granted by our Nation's Constitution. In a day when our Nation is making greater strides than ever before toward assuring that constitutional rights and freedoms are enjoyed by all its citizens, it would indeed be cruelly ironic to allow a situation to be continued whereby one of the most basic of these rights—the right to free and voluntary religious expression—is denied.

Mr. CUNNINGHAM. Mr. Speaker, the people of our great country must continue to demonstrate a reliance upon a supreme being.

A great many months, and even several years, have gone by since the Supreme Court handed down its decision prohibiting prayers in this Nation's public schools. The late Senator Everett McKinley Dirksen was a strong advocate of prayer on a voluntary basis in our public schools. I feel it only fitting that we again bring this issue to the forefront.

Mr. Speaker, I call to my colleagues' attention the following memorandum from the American Hungarian Federation. It has much merit.

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The American Hungarian Federation, in cooperation with the Hungarian Association of Cleveland, considers it its duty to contribute whatever it can to ease the critical domestic situation in the United States.

During the past Presidential election, campaign speakers emphasized the general demand for law and order. President Nixon and Attorney General John Mitchell both promise to get relief in regard to the increasing crime rate that outstrips several times the population increase.

Today, the capital of the nation is also a capital of crime. Recent rise in rapes, murders and armed robberies there and in most of our major cities remains unprecedented.

Committees have been appointed even by the President and they ponder possible solutions. Do we need more politics and police, or less lenient judges? No doubt there is a need for all that, but equally important is the enactment of very strict anti-crime laws with mandatory sentences.

Unfortunately the voice of the judiciary in the recent past has been uncertain and as a result, the courts in the final analysis protect the guilty more than the innocent. Yet the most important function of any government is to ensure and safeguard the peace and security of its citizens and to create an atmosphere in which all can live and work without fear. This cannot be maintained by letting the guilty to go unpunished on procedural grounds. There is an overwhelming need for strict laws and unhesitating law enforcement.

Juvenile delinquents cannot be corrected by suspended sentences and supporting them by welfare payments whereby they are freed from the obligation to work and are provided with the free time needed to smash store windows, vandalize churches and kill people for "kicks."

The stoppage of crime and the punishment of criminal elements cannot form proper topics of constitutionality debates. A rethinking of the rationale of past decisions of the Supreme Court since the Miranda decision is desperately needed in order to restore the balance between prosecution and defense.

In our opinion, the waywardness of a frightfully large percentage of American youth is the direct result of the lack of teaching of religion and/or ethics in our public schools. The Bible and specific prayers are banned from the halls of learning by an all too strained interpretation of the First Amendment, forbidding the establishment of a state religion, by the Supreme Court. And both the state legislatures and Congress failed until now to overcome this deficiency by passing the proper constitutional amendment as proposed by the late Senator Everett McKinley Dirksen.

Colleges today increasingly witness the revolt of misled students against the "establishment." Where did we fail, ask the bewildered educators and parents. The answer is simple. Many of today's young people reject morality and virtue as old-fashioned, pretending to perceive all too clearly the hypocrisy of the present social order. They defy the laws of God and man, because they are not "related" to God, to the churches and religion. They rebel against ethical values, human culture and civilization itself.

The warning of history confronts us: the decay of every civilization begun with the collapse of public morality. Action to stop the trend is needed today, else our people will be swept into chaos or dictatorship.

A well-balanced society cannot be uprooted by senseless rioting, as long as it remains morally strong and united. Yet a society cannot be morally strong unless it is grounded in the belief in the Creator and unless prayer and religion are allowed to exercise their proper functions in the schools and public life. President Nixon, by having religious services conducted in the White House on Sundays, gives us a certain direction. Yet without extending religion's pervading influence to the schools, we cannot expect the strengthening of the eroded moral fiber of our youth. Therefore, we urge all legislators to take favorable action on the School Prayer Amendment of the late Senator Everett Dirksen which was co-sponored by many Senators and Representatives in the United States Congress.

Belief in God and the teaching of religion do not curtail individual freedoms and in view of the pluralistic religious structure of the United States do not amount to the establishment of any state religion prohibited under the First Amendment. The citizen who believes in the binding force of divine law, will be law-abiding and display greater social and moral conscience and awareness.

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The Bible is reverently used at the inauguration of the President of the United States, let us return it to its proper place in our school as well!

Rt. Rev. ZOLTAN BEKY, D.D.,
Bishop emeritus, Chairman of the Board, American Hungarian Federation.
Judge ALBERT A. FIOK,
National President, American Hungarian Federation.
Dr. JOHN B. NADAS,
President, Hungarian Association of Cleveland; National Vice President, American Hungarian Federation.

Mr. DULSKI. Mr. Speaker, I join in commending the gentleman from Ohio (Mr. LUKENS), a respected member of the committee of which I am chairman, for bringing this matter to the attention of the House today.

The problem of law and order is one which is of great concern to all of us. Clearly there is need for a strengthening of our laws so as to impose stricter sentences on violators, particularly on repeaters.

Our police have been hamstrung by court rulings which have placed great limitations on law enforcement. Unfortunately, many of these rulings have been retroactive, thus changing the rules in

the middle of the game, so to speak, and letting guilty individuals go free.

Now that law enforcement officers are on notice about their rights in apprehending suspects, they are following the new rules of the game. But it is very evident that the laws still are too lenient in dealing with various offenses against society which have become prevalent in our modern-day atmosphere.

The need is not simply for more laws, but for stricter enforcement at the judicial level. The morale of our police officers has been seriously shaken by the lack of support which they have been receiving from various courts.

As a result, offenders have been literally laughing at the police when the offenders are released with ease to impose on the community again with little or no penalty for their previous offense.

THE PRAYER DECISION

One of the High Court decisions which has been widely misinterpreted is its so-called decision on prayer in public schools. The decision was based upon a narrow interpretation by the Court which was mushroomed in popular understanding to forbid prayer of any sort in the schoolrooms, regardless of the lack of objections by the students involved.

The accepted interpretation of the Court ruling as resulted in the near-general ban on prayer in the Nation's schoolrooms. This is most unfortunate. Each session of the House—also the Senate—is begun with a prayer by our respective Chaplains. Why should prayer be banned from the schoolrooms?

An attempt to amend the Constitution in 1966 to specifically permit prayer in the classrooms was defeated in the Senate when supporters were unable to muster the required two-thirds majority.

There are those who disagree for personal reasons, but I feel the large majority of our citizens favor the optional restoration of prayer to the opening procedure of our Nation's classrooms.

It seems regrettable that the only way to accomplish this simple right which has been practiced without challenge for nearly two centuries of our Nation's history is by a constitutional amendment. But if that is what is takes, let us do it.

GENERAL LEAVE TO EXTEND

Mr. LUKENS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE VIETNAM MORATORIUM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. TUNNEY) is recognized for 10 minutes.

Mr. TUNNEY. Mr. Speaker, I hope that all Americans will join, on October 15, in expressing their personal unhappiness with that Asian quagmire, the Vietnamese war, by remaining silent for a few moments, alone or in groups, in parks or along the streets, or in churches and other places of public gathering.

A massive vigil of silence will bring home to President Nixon, with more force than any other form of protest, the deep distress in all our hearts over the growing list of the dead in Vietnam. I hope that all who are troubled in their conscience about the war will express their disapproval on October 15.

I feel that silence is a form of protest in which all Americans can comfortably join to express their dissatisfaction with the failure of the administration to expedite the deescalation of this tragic conflict. Those who have never marched, or carried pickets, or spoken out aggressively about the war need an appropriate and recognizable means of expressing their dissent. A silent vigil on October 15 provides that means.

The President's statement, at his press conference last Friday, that he would not listen to the voices of protest was, I feel, inappropriate. Perhaps if surrounded by silent disapproval, the President will be forced to listen to the quiet promptings of his own conscience, the existence of which was demonstrated several months ago when he said that he hoped all American troops would be withdrawn from Vietnam by the end of 1970. As things now stand, that timetable is not going to be met, and it looks as through it is not going to be met for many years after 1970 if troop withdrawals continue along at the present levels.

Mr. STEIGER of Arizona. Mr. Speaker, will the gentleman yield?

Mr. TUNNEY. I yield to the gentleman from Arizona.

Mr. STEIGER of Arizona. I thank the gentleman for yielding.

I would ask, once the silence has been expressed on this date, what do those who remain silent suggest we do as an alternative to what is being done?

Mr. TUNNEY. I feel that it is very important to start on a regular incremental basis a deescalation of our troops from Vietnam. I feel that it ought to be accomplished over a period of from 18 to 24 months.

I believe it is quite clear that the Thieu-Ky government is incapable at the present time of identifying with the needs of their own people or winning their loyalty. As long as they feel confident that there is going to be a massive American expeditionary force protecting them they are not going to make the kinds of accommodations that are necessary to be able to bring this tragic conflict to an end.

I suppose that the gentleman noted recently in the paper that the National Vietnamese Assembly rejected even the modest land reform proposal that President Thieu had sent to it. I believe this is indicative of the attitude of the Vietnamese leadership, a leadership that, according to most reports, has the support of approximately 10 to 20 percent of the South Vietnamese people.

Mr. STEIGER of Arizona. Mr. Speaker, will the gentleman yield for one further question?

Mr. TUNNEY. I yield.

Mr. STEIGER of Arizona. The gentleman seriously and obviously sincerely is recommending that we establish a time certain for the final removal of all American troops, a time some 18 to 24 months removed?

Mr. TUNNEY. That is correct.

Mr. STEIGER of Arizona. To spend American lives in the next 18 or 24 months, when we know that all the North Vietnamese and the Vietcong have to do is wait and destroy not only Americans while they are waiting but then destroy the remaining South Vietnamese who have remained loyal to the Thieu government. Is that what the gentleman is seriously suggesting?

Mr. TUNNEY. I am suggesting to the the United States that it withdraw its troops from Vietnam over the next 18 to 24 months. I am saying that if the United States continues its present course into the indefinite future—and it is an indefinite future—we will be losing indefinitely into that future 15,000 dead Americans per year. There are some people who say, "Well, what about the thousands of Vietnamese who may or may not be killed if the United States should withdraw in the next few years?" I say, "What about the thousands of Americans who will certainly die with no promise at all of being able within a foreseeable time to get out of a war for a government that has not won the loyalty of its people?" You know as well as I do in Vietnam today the government is no more popular than it was when we went in 3 or 4 years ago.

Mr. STEIGER of Arizona. I thank the gentleman. I might point out that the gentleman is condemning 30,000 Americans to death by waiting 24 months to withdraw them.

Mr. TUNNEY. It would be impossible to withdraw them at a faster timetable. The logistics of the situation make it almost impossible to get them out in a month or two.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield?

Mr. TUNNEY. Yes, I will.

Mr. PUCINSKI. One of the things that always intrigues me about discussions like this is how much emphasis we place on how unpopular the Thieu government is, but we never talk about how unpopular the North Vietnamese Communist government is. At least the people of South Vietnam, whether you accept the elections there or not, and I might recall there were observers to observe the integrity of the elections, including a distinguished group of American Senators as observers at the elections—at least the Thieu government was elected by the free choice of the South Vietnamese under the most difficult wartime conditions. Why do not some of these exponents of how unpopular the South Vietnamese Government is tell us how did the Hanoi Communist government get to where it is and what rights and freedoms and opportunities do the people of North Vietnam enjoy to speak out against their Communist rulers who are holding these people in bondage?

Mr. TUNNEY. Nobody is trying to pretend that the North Vietnamese Gov-

ernment is popular in South Vietnam. I would imagine it has the support of between 10, 15, or 20 percent.

Mr. PUCINSKI. In North Vietnam?

Mr. TUNNEY. In South Vietnam.

Mr. PUCINSKI. I am talking about the North Vietnamese Government.

Mr. TUNNEY. In North Vietnam?

Mr. PUCINSKI. In North Vietnam. Where is there any democratic process that put that Government in power?

Mr. TUNNEY. There was not. But the fact is that we are not losing lives in North Vietnam. We are not spending $30 billion a year in North Vietnam. We are fighting in South Vietnam. That is the point. There are many unpopular governments around the world. They are governments who do not give their people the opportunity to vote or freedom of the press. That does not mean, however, that the United States has to give the flower of its manhood and spend hundreds of billions of dollars in order to go into all of these countries and replace the present governments with governments that are more desirable to the United States.

What I am saying as far as Vietnam is concerned is that the price we have paid domestically, the price we have paid in the growing alienation between young people and adults, the price we have paid materially in the diversion of resources away from our urban areas, from areas of education, from job opportunities, from job training programs, and away from programs to clean up our environment, have made the Vietnam war totally unacceptable.

Mr. PUCINSKI. To whom?

Mr. TUNNEY. To me and to an increasing number of American people.

Mr. LUKENS. Mr. Speaker, will the gentleman yield?

Mr. TUNNEY. Yes. I yield to the gentleman.

Mr. LUKENS. I thank the gentleman from California for yielding to me.

I would like to say that I realize this discussion between the two of us and among other Members in this Chamber will probably not lead to any definite decision on the part of the administration, but without emotion I would like to make a couple of points here.

First of all, I do not think we will agree very much, although I have great respect for my colleague from California.

Mr. TUNNEY. And that respect is shared mutually.

Mr. LUKENS. Thank you.

I have a great deal of concern about, first of all, the presence in Vietnam. It seems to me you ask yourself two questions as a nation or as a national body when you go to war. One is, is it in the interests of the national security and the well-being of this Nation?

I think that was answered by President Eisenhower, President Kennedy, President Johnson, and continued by this administration under President Nixon.

The second question is this: If you go to war, the next question that logically follows is why do we not win? I think it is interesting to note that the gentleman from Illinois (Mr. PUCINSKI) made this point very significantly and that is that the Ho Chi Minh government is really not very popular in North Vietnam, that they killed over 50,000 people to gain power. I think the entire focus on the part of some Americans seems to be misplaced in blaming only the South Vietnamese for mistakes which are totally South Vietnamese.

And, I would simply like to make a couple of points with reference to this matter.

The SPEAKER pro tempore (Mr. EDMONDSON). The time of the gentleman from California has expired.

AMERICAN PRISONERS OF WAR—THE FORGOTTEN AMERICANS OF THE VIETNAM WAR

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Illinois (Mr. PUCINSKI) is recognized for 30 minutes.

Mr. TUNNEY. Mr. Speaker, will the gentleman yield?

Mr. PUCINSKI. Mr. Speaker, I yield to the gentleman from California since he was so nice to yield to me; but first I want to point out to the House that I have taken this special order to call attention to a penetrating article on our American prisoners of war being held by the Communists in Vietnam, which will appear tomorrow in the highly respected publication, Air Force and Space Digest.

I will discuss this article at greater length at the conclusion of this discussion and I shall place the entire article in the RECORD at the conclusion of my remarks.

But I shall first be glad to yield to my colleague from California (Mr. TUNNEY) because the discussion we are having here is very much germane to the article on American prisoners being held in Vietnam.

I yield to the gentleman from California.

Mr. TUNNEY. If the gentleman will yield, I would like to yield to the gentleman from Ohio (Mr. LUKENS).

Mr. LUKENS. I thank both of my colleagues. However, I would like at this time to make these following two points:

No. 1, that there is on hand now over 30,000 captured military documents from the North Vietnamese Army which does not in turn control the NLF or the Vietcong, proving that they do not want just South Vietnam, but they want the whole Indo-China Peninsula which does include Cambodia, South Vietnam, North Vietnam, and eventually Thailand. I think this is borne out by the presence of over 30,000 invading Chinese troops into Thailand.

Mr. Speaker, I feel very strongly as a practicing and believing Quaker, that there is some cause which is worth dying for in this world and it is not just American freedom. It can be termed as freedom. It can also be Vietnamese freedom, it can be German freedom, it can be French freedom.

Earlier we did not quarrel about old and young Americans going over during World War II and to Korea because the war was very well defined. The people knew that a foreign body believing in totalitarian power invaded another country or another land, and it is significant to me that no one denies the fact that the North Vietnamese today are in the process of doing the same thing in South Vietnam and, therefore, South Vietnam is being invaded. It is being invaded by the only signatory to the 1954 treaty, North Vietnam. They are the ones who are violating a written pledge, not America and not South Vietnam.

Mr. TUNNEY. Mr. Speaker, if the gentleman will yield further, there is no question in my mind with respect to the United States. The American people have a very vital interest in certain areas to the effect that Americans should be prepared to die for these beliefs overseas.

In the case of Korea we had a clear case of aggression in which the South Korean people were united around their Government, in which there was practically no subversion whatsoever, in which the South Korean people felt sincerely that the Syngman Rhee government was a legitimate government and they were prepared to die for it.

In the case of Vietnam, on the other hand, we have a country which for 2,000 years was one country, culturally identifiable as one country. But in South Vietnam at the present time you have a large Vietcong force—although it is not as large as the North Vietnamese—but a Vietnamese local force fighting against its own government.

The North Vietnamese troops which are operating in South Vietnam could not possibly survive in a hostile, unfriendly countryside. The fact is that they are getting support from the South Vietnamese people.

We have heard of the much-vaunted pacification program in Vietnam in which the South Vietnamese Government over a period of 3 to 5 years—5 years—has attempted desperately to win the support of the people of the countryside. They did it because they thought that by control of the countryside they would win support. As a matter of fact, what they did was fail to identify with a very basic psychological motive force, which is the only way you can win people's loyalty, which is by giving them a share of power. And in South Vietnam your district chiefs, your province chiefs are appointed from Saigon. The only responsiveness is upward to the generals in Saigon, not down to the people at the local level.

We have deluded ourselves constantly over the past 3 years ever since in the belief that because we control an ever higher number of people, now getting up to 85 percent, that we had their loyalty, and yet the casualty figures of American and South Vietnamese troops that are listed every week proves beyond the shadow of a doubt that we do not have control over 85 percent of the South Vietnamese people.

The fact of the matter is that when our troops or the South Vietnamese troops leave the hamlets the Vietcong infrastructure, which has been submerged, surfaces again and we are no

better off then we were 4 or 5 years ago when we went in with the first group of American troops.

I can remember speaking to General Westmoreland when we had 125,000 troops in Vietnam, back in the early part of September of 1965, and I remember him saying at that time that although there was no way of knowing how long the war would last, he felt that if we had another 50,000 troops that that would be enough to do the job. As you well know, we now have over 500,000 troops engaged, and we are no more able to win a military victory now then we were then.

So I feel, Mr. Speaker, that the time has come to rearrange our national priorities and to stop, if at all possible, the carnage. And I think it is probable that by regular and incremental deescalation from Vietnam that we can give to the South Vietnamese Government the opportunity to start making the essential accommodations that they are going to have to make if they are going to survive when the United States pulls out, whether it is this year, or next year, or 20 years from now, and that is to share power with their own people and give their own people a piece of the action.

Mr. PUCINSKI. Mr. Speaker, I think it is really lamentable that so many well-meaning people who obviously want to end the war, as I do, as does every other Member of this Congress, as does every American citizen—and I do not know of a single person in this country who desires to continue this war a day longer than it has to be continued to bring victory—make statements about the war that must be refused.

One is this whole question of whether or not the South Vietnamese people are interested in this war. I think perhaps we ought to remember that they have suffered the horrors of this war for some 20 years. No people anywhere in this world have suffered as much as have suffered the people of South Vietnam. If there is any miracle in this war it is this indomitable spirit of the South Vietnamese which has held them together against the most vicious attacks.

The gentleman says that foreign armies could not survive in South Vietnam without the help of the people. There is no evidence that the South Vietnamese are helping the North Vietnamese except for the Vietcong. On the contrary. It is our American forces that are being welcomed by the South Vietnamese. We have more than 500,000 American soldiers in South Vietnam. Have you seen one sign asking them to leave? Or one act of sabotage against our forces by the South Vietnamese people?

The fact of the matter is that the whole psychology of this war—and that is what this war is all about—is that the Communists are testing a new kind of guerrilla warfare in South Vietnam—terror, subversion, breakdown of law and order, breakdown of any kind of respect and support for a government. No war has ever produced greater atrocities than we have witnessed in South Vietnam at the hands of the Vietcong, and the North Vietnamese soldiers.

They have come and they have terrorized that country and they have massacred thousands of her people.

I call the attention of my colleagues to the Hue massacre where thousands of innocent citizens, women and children, were shot in the back of the head and dumped into mass graves as a lesson to all other South Vietnamese not to stand up against the Communists.

That is what we are fighting there. I should like to remind my colleague, and I do not challenge or question his motives or his integrity—because I have the highest respect for my colleague, the gentleman from California, and he knows that.

Mr. TUNNEY. It is reciprocated.

Mr. PUCINSKI. But I am afraid that there are people who really have not looked at the horror of this war and what this is all about.

The Communists have selected 73 countries in Asia, Africa and South America for the same kind of terrorism they are waging in South Vietnam. In the Tri-Continental Congress Declaration, which was signed by 600 leading Communist leaders of these 73 countries in Havana, Cuba, on January 19, 1967, they all pledged that if this new technique of horror—if this new technique of subversion—if this new technique of terrorism—the so-called "wars of liberation"—as they falsely call this aggression in South Vietnam—if this new technique works in South Vietnam, then they intend to repeat it in the 73 countries of Asia, Africa and South America.

My colleagues and all of those who want to participate in this day of silence on the 15th of October had better realize that they are inviting a major holocaust in this world if we should ever walk away from South Vietnam without at least letting the South Vietnamese protect their own freedom. World War II will look like kids' play when they start moving in on the 73 countries and the United States and those free powers which still respect and believe in human dignity will not know which way to turn to stop the collapse of freedom.

I do not object to a day of silent prayer for peace, but I want to talk about something today which should be of more than passing interest to my colleagues and perhaps on the 15th of October, we can offer a fervent prayer for these young men, these forgotten Americans in the Vietnam war—the American prisoners of war. We have made every single effort to get the North Vietnamese Communists to tell us the names of American prisoners of war. It was just a week or so ago that we had the galleries full here with relatives and wives of these men who were lost in action—women who were asking, "Are we wives or are we widows?" To this very day, the Communists have refused to tell us where these prisoners are—are they alive; how they are being treated? How many of them are there and what is the state of their health?

I want to talk today about an article which is appearing tomorrow for the first time in the highly distinguished magazine, Air Force & Space Digest. They describe here in this article, which will be available to everybody, the forgotten Americans of the Vietnam war. For the first time, this article documents what is being done to these American soldiers. How they have been tortured and brutalized.

How can we join in a moment of silence on the 15th of October when I see this kind of barbarity being performed on American soldiers in violation of every single concept of human dignity and decency? Silence? We Americans should be demanding world reaction to this outrage against our soldiers instead of engaging in silent protests against our own Government.

Mr. TUNNEY. Mr. Speaker, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman.

Mr. TUNNEY. I can assure the gentleman that I support every attempt and every effort that he makes and that he is attempting to get the American Government to make, to free our prisoners of war from under Communist control and the North Vietnamese. I strongly support these efforts.

I do not think that nearly enough has been done in this regard—whether it be in the form of prisoner swaps or cash payments—I think everything should be done to free these prisoners of war.

Mr. PUCINSKI. But where is the voice of outrage against this inhumanity on our soldiers by those who are planning this great moment of silence on the 15th of October? Where have those people been? These are the same people who told us a year and one-half ago to stop the bombing. They said, "Stop the bombing—just stop the bombing of North Vietnam and the whole war will be over." They spoke with such authority that, if anybody dared to challenge them, he was dismissed as an imbecile—as unpatriotic. They said, "We would like to assure you—we would like to assure you, that, if you stop the bombing, the whole war will be over." So, finally, a great American President, against all the best judgment, decided he would take a risk for peace and he stopped the bombing.

Since then we have lost more American boys on the battlefield than we have since the first 6 years of our involvement in Vietnam. The bombing pause has not brought us one iota closer to peace. I ask you again, my dear colleague, where are the voices of outrage to say that the Communists have broken faith in Paris, that they have broken their word in the Geneva Convention against these American prisoners of war? All I ask my colleagues who want to pause in silence on the 15th of October is, Where are your voices of outrage against what is happening to these American boys?

Mr. TUNNEY. They have been very clear and outspoken for the last 5 years, since the war has been going on, with regard to the prisoners of war, and you cannot obfuscate the basic issue by bringing in the question of the prisoners of war. I have as much feeling for the prisoners of war, as much regard for them, and as much passion regarding the prisoners of war and the efforts that should be made to free them as you have. But let us not get away from the other issue. I know I have intruded upon your time.

Mr. PUCINSKI. You are welcome because this is an important discussion.

Mr. TUNNEY. I am sorry. I support you in what you are doing with relation to prisoners of war. But please do not bring the issue of prisoners of war over to the issue of Vietnam, to the issue of South Vietnam and our ability to get the Thieu-Ky government to be able to fight to support its own people, to be able to win the loyalty of its own people, and to prevent future thousands of American lives being lost in that costly and damaging conflict.

Mr. PUCINSKI. I thank my colleague, and I again assure him that these debates and these discussions are important. I hope that they do not mislead our adversaries. We as Americans may disagree on how to bring this war to an end. We may have differences of opinion. I have some ideas; you have some ideas. But I think on one point we are united, and this is what the President was trying to say the other day. He was trying to pull this country together into a unified cause for human dignity.

I would be much more impressed on the 15th of October if on one day we could pull all the forces of freedom together and say, "Look. We are not going to walk away from Vietnam. We are not going to surrender these people." Then see what happens in Paris.

I cannot help but feel that when we just raise doubts about the Thieu government and raise doubts about the South Vietnamese people, we give the Communists false hopes. For that reason it is my hope that on the 15th of October we would turn to something more. I ask after the prayers of silence, what? The slaughter will continue. American boys will continue to die. So it seems to me we need something a great deal more persuasive and meaningful than a moment of silence on the 15th of October.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I shall not take too much of the gentleman's time, but I wish to compliment him for clearly dealing with what I consider to be the situation in Vietnam. I would also like to state to my friend from California that, having discussed this matter with the President himself, I can say that he has advanced what I refer to as the "phase-in, phase-out" concept in a very positive program of withdrawal, and he is just as anxious as any Member of this Congress to bring about a disengagement of the current commitment in Vietnam as anyone here. So I think we have a very positive program. I think there has been more done in this regard in the last 7 months than I have seen in quite some time.

While many people had disagreements with the previous administration, there were a number of us who stood behind it when we felt they were doing what was right. I think if there is anything that is needed today, it is for the American people to stand squarely behind the President as he moves positively to disengage under this positive program of "phase-in and phase-out" of the troops in Vietnam.

Mr. TUNNEY. Mr. Speaker, will the gentleman yield?

Mr. PUCINSKI. I yield to the gentleman from California.

Mr. TUNNEY. I in no way want to give the implication here today that I do not think the President is completely sincere in what he is attempting to do, and that there is any issue that more deeply concerns him than the Vietnam war. I am positive that he is lending all his intelligence and talents in an effort to resolve this conflict in a way that will be satisfactory to the American people.

The point I am simply trying to make, and that I tried to make, is that I feel it is very important that we have the opportunity in this country to continue the dialog on this war.

I feel it is also important that with this moment of quiet or silence—not violent protest, not shouting, not attacking people, not pulling down buildings, but this moment of quiet meditation—that we may make it very clear on the part of the American people to anyone disinterested that they want the deescalation to continue on the same timetable the President announced 3 or 4 months ago.

Mr. PUCINSKI. Mr. Speaker, I have been urging, as everyone else has been urging, that we try to find some way to get our troops out of Vietnam, but it seems to me the problem we have with those who advocate the day of silence on the 15th of October is that they offer no alternatives.

I have offered one. I do not know if it is any good or not, but it comes from the sincerity of my heart. I have said, why do we not just resume the bombing of the North and pull all our kids out?

I have been told by responsible leaders in the Pentagon that when we ended the bombing, we released 400,000 Communist troops for military duty in South Vietnam, and they are now harassing and killing our soldiers. So I say, why not pull our kids out?

But, we cannot walk away from South Vietnam, so why not resume the bombing of the north and force the North Vietnamese to pull their forces back north, as they did when we were bombing North Vietnam, to use them for antiaircraft duty or for policing of cleanup details or for home guard duty?

President Thieu said that the South Vietnamese army of 1 million men can indeed handle this war within its own resources if all they have to do is contend with the Vietcong.

It has been the great influx of North Vietnamese troops in the last year and a half that has created the military problem for South Vietnam.

We have to find some way of pulling the North Vietnamese troops out of South Vietnam. I submit that one such way is to resume the bombing and get all our kids out of South Vietnam—not 50,000 not 75,000 and not 100,000, but the whole American force.

I think that is at least an alternative. I would like to hear my colleagues suggest some alternatives, rather than a policy of total and complete surrender to the Vietcong and the North Vietnamese.

Mr. TUNNEY. Not total and complete surrender. That is a pejorative word, one assuming all kinds of things which I do not think my plan presumes. When the President said he wanted all troops withdrawn and he was going to withdraw them by the end of 1970, he was not advocating a policy of surrender. I think it was and is a wise policy. He was weighing the resources and the manpower of this Nation and he determined—and I think it was a wise decision—that it was wise to get the United States disengaged before the next 2 years are over. I think it is a good plan.

According to official statistics, infiltration has dropped by more than 50 percent since we stopped the bombing. That is a fact. It is not as though stopping of the bombing had no effect.

Mr. PUCINSKI. What has slowed down?

Mr. TUNNEY. The infiltration from the north.

Mr. PUCINSKI. Yes, because we have been bombing these supply lines in South Vietnam—and the gentleman is absolutely correct. That is one of the things that advocates of the peace demonstrations on October 15 have totally ignored. There is no question about the fact that we have interdicted the enemy's supply lines very seriously, and they are unable to wage the same kind of mass offensive as they did previously. This is exactly as our military people predicted.

Some people say our military people do not know what they are doing. But oddly enough, the timetable that the responsible military people have set—and I am not talking about news reports, news columnists, reporters in Vietnam—I am talking about responsible military officials that have had a pretty good timetable. The bombing halt upset that timetable somewhat, but even despite that bombing halt, they have been able to successfully interrupt the supply lines. We know there have been occasions when the North Vietnamese troops had to wait days and weeks on end, wait for their supplies to get to them before they could launch an offensive.

It seems to me if we let the military wage this war and we stay out of the way a little bit, maybe we can see that glorious day when our kids will come home—but give them a chance. instead of having a prayer day on October 15, which only arouses false hopes.

It is no wonder our negotiators cannot budget a foot forward in Paris, when some of the most outstanding leaders in this country, in the other body and in various other places, are making great big speeches undermining every single effort of this country and its war effort. This is the first time in the history of this country, that we have seen supposedly responsible leaders of Governmen openly waging warfare with our own leaders as to how to conduct the war. It is no wonder the Communists think that somehow or other the spirit of America is going to collapse and they are going to be able to win this war in Washington in the same way they won it in Paris.

Ho Chi Minh used to say:

Americans do not like long wars; I am going to make this a long war and win it.

That is the whole strategy of the Communists. I do not believe we help any when we undermine our President in his efforts to bring this conflict to an end. I would rather see October 15 turn into a day of fervent prayer that our President can convince the Communists they cannot win this war and get them to sit down to meaningful negotiations.

Mr. THOMPSON of Georgia. Mr. Speaker, will the gentleman yield?

Mr. PUCINSKI. I yield to my colleague from Georgia.

Mr. THOMPSON of Georgia. I thank the gentleman for yielding.

There is no doubt that this is the most unpopular war we have ever entered into. I believe it is unpopular because we entered into it in a slow fashion. We have not fought this war in a conventional manner. It is not a conventional war to be fought by conventional means.

It is difficult for me to bring myself to the thinking that we should fight a war on a prolonged basis, more or less as a police action. I, for one, would prefer, if we are to be at war, to go in and bomb the supply areas, regardless of whether that is the city of Hanoi or Haiphong, or wherever it may be.

There is one thing I recall from a visit up in Gettysburg talking with General Eisenhower. He made the statement that if we had fought the war in Germany and in Japan on the same basis we have fought in Vietnam we would still be fighting there.

We have been so concerned that we might cause a civilian casualty in North Vietnam that we have not bombed these supply areas. It is like taking an ant hill, stirring up the ant hill and as the ants scurry along trying to hit them one at a time, rather than hitting where they are concentrated.

If we are unwilling to do what is necessary then I, for one, am unwilling to continue to fight a war year after year after year on a police basis.

I believe we need to give the President time to turn this over to the South Vietnamese. This is precisely what he is doing. Unless the South Vietnamese have the will to resist we cannot imbue or inculcate in them that will. That is something they themselves will have to do.

Mr. PUCINSKI. I thank the gentleman.

Mr. GALLAGHER. Mr. Speaker, will the gentleman yield?

Mr. PUCINSKI. I yield to my colleague from New Jersey.

Mr. GALLAGHER. I have listened with great interest to the discussion going on this afternoon among my good colleagues and good friends. I find it difficult to resist the urge to say something, especially after having served on the Committee on Foreign Affairs of the House for some 11 years.

I do not wholly buy the Communist theory of Vietnam, nor do I buy the proposition that there are not a few dunderheads around. I believe there have been a few for many years.

Looking back, and reflecting upon the discussion, concerning the October 15 day of silence, I look back to a period of 6 or 7 years ago, when I thought we ought to have a period of silence for those who were demanding that the United States change the regime of Diem and Nhu in Saigon. Some of those are now the signers of the October 15 declaration, by the way, and now loudly proclaim their disenchantment with the product of their own inieial desire for intervention in Vietnam.

I recall a discussion at that point which involved the issue of whether we really did have a solemn obligation to get rid of an existing government and whether we had a right to interfere and tamper with the balance of that developing country. The issue was whether it was our duty or business to correct all the hardships and difficulties of those sad and tragic times.

The fact of the matter is that when we do tamper with the delicate balances of a developing country—no matter if it is developing to the right or left—we are actually preparing for an injection of American troops to correct the existing "imbalance" to meet our own intellectual and moral requirements. It seems to me that this is one lesson we should have learned from the war in Vietnam, that before we begin the speeches and rhetoric about uplifting the culture of a developing country, we pause to consider just where such advocacy might lead us, consider where it did lead us in Vietnam.

When Diem and Nhu went out and Big Minh and Little Minh, and their rapid successors took office, we felt intellectually and morally impelled to send various numbers of troops to prop up their governments and cope with their problems. I felt then and I feel now that it would have been better for us to leave than to remain and try to correct the burning Bonza situation with American troops, with American troops sent to make their government moral and righteous. There is no place for self-righteousness in foreign policy, for it blinds men and nations to the limits of their power and the finiteness of their existence. It must be kept clearly in mind that our preaching Jeffersonian democracy to the peasants in Vietnam is just as irrelevant as their preaching agrarian communism to us. Not all revolutions are American revolutions; perhaps we should understand that now. But it was not understood at the time when many of today's most ardent doves swooped down like hawks upon the Diem regime.

It seems to me that those who have signed the October 15 declaration sign something with which I do not necessarily disagree. However, if the sound of silence had been heard from many of these signers when this awful torment first began, perhaps we would not require national silence today.

I am sure that there are many who have signed this resolution who would today give an endorsement to bringing Diem and Nhu back if, by doing that, we could get our kids out of Vietnam. It is rather obvious that even should all the Bonzas in Vietnam immolate themselves tomorrow, the signers of the declaration would state that we are not the world's policeman of the problems of poor Bonzas. They would not have said this years ago; they would have suggested troops. Indeed, they did.

So, the point here is essentially that I agree with the gentleman from California (Mr. CLAUSEN) that if we do have one hope of ending the war, it is to support our President as long as he is making a real attempt to bring the conflict to a close.

The American public is troubled in a way that we have never experienced before in our history. If there is one way of getting out of this war, it seems to me we must support our President, President Nixon, and hope that somehow or other we can keep a unified country demonstrating support for the policies that he is now espousing in order to try to extricate ourselves from Vietnam. If we come apart faster than the Saigon governments used to come apart, it seems to me there will be no hope of extricating ourselves from that war. The only course left for the President then, regardless of who he is, is to determine whether or not America shall experience the choice of another Dienbienphu or another Dunkirk only this time with American soldiers. I think there ought to be another choice, and I don't think that choice is nuclear war. I, for one, as a member of the House Committee on Foreign Affairs, am supporting the President and hope he will find a way out other than a Dienbienphu or a Dunkirk for the United States. I think President Nixon is at this time pursuing the only honorable and rational course available to the United States in its search for peace.

AMERICAN PRISONERS OF WAR—THE FORGOTTEN AMERICANS OF THE VIETNAM WAR

Mr. PUCINSKI. Mr. Speaker, the very highly distinguished magazine, Air Force and Space Digest, has performed one of the most impressive feats of journalism in its October 1969 edition by bringing to the American people and to the free world the first authoritative and documented article on the tragic and scandalous plight of American prisoners of war being held captive by the Communists.

So far as is known, 401 American soldiers are missing in action—most of them airmen—are believed to be prisoners of war being held by the Vietcong or North Vietnam. Nearly 1,000 others are missing in action and are believed to be captives.

Mr. James H. Straubel, publisher, and Mr. John F. Loosbrock, editor and assistant publisher, deserve this Nation's highest commendation for bringing to the free world the first meaningful information about the conditions under which American servicemen are being held prisoners by the Communists.

This article will become available for general circulation tomorrow. It should shake the conscience of the whole free world.

I call this article to the House because I consider it one of the most important documents of journalism in recent years.

Mr. Louis R. Stockstill, the author of this article, has performed a public service of the highest magnitude to the servicemen of America, as well as servicemen from all nations of the world, who shall be eternally grateful to him.

It is my hope that when this article becomes fully circulated throughout our State Department, throughout the United Nations, and throughout the capitals of the free world, it will arouse such indignation that the North Vietnamese will be compelled forthwith to open their prisoner-of-war camps to full inspection and give an accounting of their treatment of these prisoners.

The shocking mistreatment of our American prisoners—most of them airmen—can no longer be ignored by the free world and I submit, Mr. Speaker, that this timely article by Louis Stockstill may very well serve as the lever for world reaction.

It is my hope all free nations of the world would join in an economic boycott of North Vietnam at least until the Communists agree to list all the American prisoners of war and let impartial inspection teams examine these prisoners as to their health and well-being.

The article and introduction follows:

PRISONERS OF WAR—THE FORGOTTEN AMERICANS OF THE VIETNAM WAR

(By Louis R. Stockstill)

(NOTE.—On the following pages you will find one of the most important articles ever published in this magazine. Telling you this may seem redundant. If an article is unimportant, we should not be publishing it at all. At the same time, we have always acknowledged to ourselves that not all readers are interested in everything we print. Our job is to supply a balanced buffet table—not intravenous feeding.

(But the matter of our American servicemen who have sacrificed their freedom, their health, and the peace of mind of themselves and their families in behalf of freedom for others—this is a matter that concerns us all. By the hundreds, these men languish in North Vietnam prisons and in Viet Cong jungle camps—unprotected by the Geneva Conventions which are supposed to guard the rights and persons of all prisoners of war. That the bulk of these American prisoners are airmen brings their plight a little closer to us, perhaps. That others have lost life and limb in the same cause is even more saddening. But death and wounds are irretrievable, and all we can do is to make suitable provision for the wounded and the survivors of the dead. The prisoners, on the other hand, are alive and are retrievable. We can do something about them. We must.

(The author, who has done such a thorough and painstaking job, served for many years on the staff of The Journal of the Armed Forces, ultimately as it Editor. Lou Stockstill has devoted his professional life to the examination and explanation of the problems of the armed forces of the United States. He is now a freelance writer in Washington. This article represents, in our judgment, the finest effort of his distinguished career. It explains the POW problem better, and in more detail, than anything published to date. It includes some concrete suggestions as to what you can do to help.

(Read it, and let your conscience be your guide.—THE EDITORS.)

Once a month, from her living room high up in an Arlington, Va., apartment building, removed from most brutalities of life except her own thoughts, Gloria Netherland walks a long hallway to the mail chute and deposits a letter.

She watches it drop from sight on the first leg of a journey into an unknown void halfway around the world. The letter begins "Dear Dutch." But whether Dutch will read it, or someone else will read it, or whether it will go unopened is impossible to say.

Gloria and Dutch have been married eighteen years, but she doesn't know—hasn't known for a long time now—if he is alive or dead. And if alive, she doesn't know where he is or how he is.

For more than two years she has written the monthly letters—limited to six lines each, according to current Communist rules. None are answered; none are returned.

But, in the pattern of "dreadful uncertainty" that characterizes her daily life, she never fails to write.

"I realize," she says, "that there is just a fifty-fifty chance he is alive, but I feel that I cannot afford to let anything go undone."

Capt. Roger M. Netherland, USN, who was shot down over North Vietnam in May 1967, is one of the senior US pilots missing in the Vietnam War. Flyers reconnoitering the site where his burning plane plunged to the ground believe they heard his voice. But no word has come through since.

"When you are married to a flyer," Gloria Netherland says, "you learn to live with potential disaster. But you expect it to be black and white, not like this. I can't think of him as being gone, but it is very difficult for me to think of him as a prisoner."

Ses says, "The worst day for me was not the day they came to tell me he had been shot down. The worst day was the day his clothes and books and personal things came back. To have to unpack a man's life is not an easy experience.

"And if he is gone, I will have to do it all again. There will be another complete healing period to go through."

Gloria Netherland is but one of hundreds of wives and parents who live on an emotional roller coaster of grief, hope, faith, anxiety, and raw courage. For some, the waiting has lasted more than five years.

Their husbands and sons are the forgotten men of the Vietnam War—approximately 1,400 men captured by the enemy or missing and possibly in enemy hands. Most of the known captives are imprisoned in North Vietnam, others by the Viet Cong in the jungles of the South. A few are interned in Laos and Red China. Files of 981 men have been stamped with the heart-wrenching legend "MIA"—missing in action.

Some 3,000 "next of kin"—wives, children, and parents—in every state now endure what one calls "this limbo of anguish."

The other side has revealed tragically little about these "casualties" of the war. North Vietnam and the Viet Cong, defying international agreements and basic codes of humanitarianism and decency, have consistently refused to discuss the whereabouts of the missing men. Similarly, they have dribbled out only limited and distorted information about selected prisoners in infrequent propaganda movies tailored to their own purposes, often peddling doctored film to foreign outlets. Many wives quite rightly believe that "our husbands are being sold for so much propaganda."

On the shoddy pretext that U.S. captives are not prisoners of war but "criminals," North Vietnam will not allow neutral inspections of its prisons. Yet such inspections are required under the Geneva Conventions, signed by North Vietnam in 1957 and by 119 other governments.

Using the "criminal" charge to mask its defiance, Hanoi not only has rejected inspection of its camps, but has refused to:

Identify the prisoners it holds;

Release the sick and wounded;

Allow proper flow of letters and packages; or

Protect U.S. prisoners from public abuse.

The Viet Cong and Communist forces in Laos have followed Hanoi's lead by imposing an even more rigid blackout.

The curtain of secrecy the enemy has thrown around the prisoners and missing men has, until recently, been duplicated to some extent by the U.S. government. But this is now changing. A brighter spotlight has been turned on the problem. The change has been wrought by the Nixon Administration. The United States government has now opened up some of its previously closed files of information on the imprisoned and missing men. New initiatives and a tougher approach are the order of the day. Further steps may be in prospect.

NEW HOPE FOR POW'S

For the first time, Administration officials are waging an open fight for the prisoners. The diplomatic maneuverings which shielded many aspects of the problem from public view during the Johnson Administration—although perhaps rightly so far that time—have now been partially cast aside. The United States is speaking out.

Two of President Nixon's top Cabinet officers have embarked on a strong public offensive in which they stress concern for, as well as facts and figures about, the treatment of the U.S. prisoners and missing men.

"I don't understand how the North Vietnamese can be so lacking in humanity that they won't even give us the names of the prisoners they have," declares Secretary of State William P. Rogers. "All they have done is to be more intransigent, more unreasonable, and more inhumane."

Secretary of Defense Melvin R. Laird says there is "clear evidence that U.S. prisoners are not being treated humanely," and that conditions in the prison camps are "shocking."

Yet, in order for the tough and forthright new policies to produce desired results, citizens must join the attack. Their assistance could be crucial. Many citizens may never have asked themselves how, or if, they can help. Many still may not be aware of the full story of our forgotten men.

Here then are the sobering facts about the prisoners and the missing, the details of the obscure existence they live, the way they are used and abused by Hanoi. And here, too, is an account of what the U.S. is doing to aid the men and their families, and suggestions as to how you might lend a hand:

Of the known prisoners—the 401 the armed forces have been able to positively identify as captured—192 are Air Force, 140 are Navy, forty-six are Army men, and twenty-three are Marine Corps personnel.

Nearly 1,000 others are missing in action and thought to be captives. The largest number missing from any single service is 516 from the Air Force. More than 260 are missing in the Army, more than 100 in the Navy, and ninety-four in the Marine Corps.

The prisoners and missing men range in rank from private to colonel, or Navy captain. They include such men as Col. Robinson Risner, of Oklahoma City, one of the top AF pilots, and Navy Lt. Cmdr. J. S. McCain, III, son of the U.S. Commander in Chief, Pacific, Adm. J. S. McCain, Jr.

Several of the known prisoners have now been behind bars more than five years. More than 200 have been imprisoned or missing for more than three and one-half years, more than 500 for over two years.

Some military intelligence the United States has gleaned about these men must be kept secret or couched in guarded language to protect the prisoners.

Nevertheless, accounts of torture and inhumane treatment have emerged. The widely publicized story of the capture, escape, evasion, and the rescue of Navy Lt. (j.g.) Dieter Dengler in 1966 presented stark examples. Captured by the Pathet Lao but eventually turned over to North Vietnamese soldiers, Dengler was spread-eagled by his captors and at night left to the mercy of jungle insects, tied to a tree for harassment target practice, repeatedly beaten with fists and sticks (once into unconsciousness) for refusing to sign a statement condemning the U.S., and tied behind a water buffalo and

dragged through the bush. The once 180-pound flyer weighed ninety-eight pounds following his escape and rescue.

STORIES OF MALTREATMENT

Other escaped prisoners have told of similar maltreatment in Pathet Lao and Viet Cong jungle camps.

Most recent evidence about those imprisoned in North Vietnam discloses that many have been tortured by being deprived of sleep, refused food, hung from ceilings, tied with ropes until they developed infected scars, and burned with cigarettes. At least one had his fingernails ripped from his hands. The broken bones of another, set by Communist doctors and still in a cast, were rebroken by guards.

It is difficult to know how typical these examples may be. But, regardless of the continuing secrecy in certain areas, substantial information is available on some prisons and the basic treatment of some prisoners. Portions of the record are cloaked in "it is believed" language, some is official hard fact, and some has come from those foreign news sources Hanoi has permitted to peek into selected prison keyholes.

Prisoner treatment, of course, varies, and often the enemy attempts to camouflage the worst conditions. With that in mind, consider these details about three types of prisons—a jungle camp operated by the Communist Pathet Lao; a Viet Cong jungle camp; and a North Vietnamese institution known euphemistically as the "Hanoi Hilton."

The Pathet Lao camp is a bamboo stockade of primitive thatched huts. Prisoners are fed twice a day, mostly rice but with occasional supplemental foodstuffs. Many suffer from malnutrition. Some are afflicted with intestinal parasites. Except when allowed outside to empty toilet pails prisoners are confined inside the huts, often locked in crude wooden foot blocks or handcuffs. Barbaric treatment, including beatings, is not unique. Prisoners are forced to listen to Radio Hanoi.

The Viet Cong prison or jungle camp houses fewer than a dozen men. The prisoners are fed three times a day, again mostly rice, supplemented by some meat, fish, or vegetables. They are supplied with soap and toothpaste, fifth-rate medical treatment, pills thought to be antimalarial, and even occasional vitamin injections for those in most obvious need. Between meals, prisoners are allowed to smoke, exercise, or just sit. About once a month, they are furnished news of the outside world. They have been told, for example, of the assassinations of Dr. Martin Luther King and Sen. Robert F. Kennedy, of the release of the *Pueblo* crew and the election of President Nixon. They are allowed to write occasional letters, but have no way of knowing the effort is futile. No letters have ever arrived in the US from prisoners held by the VC. To maintain the pretense of a mail-exchange, however, at least one prisoner in this camp was permitted to receive two letters over a ten-month period.

DAILY ROUTINE IN HANOI

In the North Vietnam prison camp (in central Hanoi), daily routine is more formalized. Prisoners are awakened between 5:00 and 6:00 in the morning by a gong, followed by a thirty-minute Radio Hanoi (English language) broadcast piped into their cells. At mid-morning they are taken out to empty toilet buckets. About 11:00 a.m. seventeen to nineteen hours after they last ate, they are fed the first of two daily meals. Food consists mainly of pumpkin or squash, pork fat, a vegetable resembling wild onion tops, and bread or rice.

One former prisoner said, "The main diet is based around bread, and during the summer we got a squash soup and pig fat." Prisoners receive three daily cigarettes and sometimes, possibly for propaganda purposes, have been given sweets. (Propaganda films staged by Hanoi have shown tables laden with food, including mounds of fresh pineapple and bananas. But no one was eating.) After the morning meal—picked up on a wooden tray and eaten in their individual cells—prisoners are allowed to "nap" on their bare-board bunks until 2:00 in the afternoon, when their cells are flooded with another half-hour Radio Hanoi broadcast. Between 4:00 and 6:00 p.m., they are fed the second and final meal of the day. The day ends around 9:00 p.m.

Each prisoner is provided with two sets of pajama-like clothing, two blankets, and toilet articles. Each is allowed to shave twice a week and wash his clothing once a week.

CONSTANT INDOCTRINATION

Brainwashing efforts do not follow the hard-line techniques employed during the Korean conflict, but prisoners are subjected to constant lower-key indoctrination. Not only does Radio Hanoi bombard their cells with slanted news and propaganda a full hour out of each day, but prisoners also are furnished with Communist propaganda periodicals and are lectured on the "history" of Vietnam and the provisions of the 1954 Geneva Accords as conveniently interpreted by their captors. Sometimes men reportedly are taken from the prison to visit state institutions where they can "learn" more about North Vietnam's "culture."

Attempts also are made to induce them to write or record statements expressing sympathy with the North Vietnamese cause and condemning US involvement in the war.

Within the confines of the prison, the captives generally are isolated from contact or communication with more than one or two other prisoners who may share the same cell. Many men are kept in solitary confinement. As they are moved around in the prison to pick up food, empty toilet buckets, wash, etc., they are carefully shepherded so that one prisoner or group of prisoners seldom encounters another.

At infrequent intervals, certain prisoners have been allowed to write to their families, although few letters ever reach home.

That the prisoners are allowed to write at all, and that they are accorded other elemental amenities, may likely be because the so-called "Hanoi Hilton" is anything but typical.

PROPAGANDA SHOWPLACE

U.S. officials, with reasonable suspicion, regard the "Hanoi Hilton" as a propaganda showplace. While foreign newsmen have "seen" prisoners, who have been transported to a central location for that express purpose from at least eight other camps, the "Hilton" is the lone place outsiders have been allowed to enter. And it is the only prison from which U.S. prisoners have ever been released. Obviously, the open-door policy at only one prison creates real doubt that the North Vietnamese can afford to let the world, and in particular the neutral nations, see the conditions that prevail elsewhere.

No prisoner has ever escaped from the prisons of North Vietnam. Those who have managed to struggle back to freedom from the VC jungle camps add up to fewer than two dozen (the specific number is classified). And the Communists have been extremely callous when it comes to returning American prisoners. To date only a handful has been set free. Sixteen have been released by the Viet Cong, nine by Hanoi.

Procedures followed by Hanoi in releasing prisoners are particularly meaningful since North Vietnam has been the bellwether in establishing what might be regarded as overall policy guidance in the treatment of prisoners elsewhere. And it is in North Vietnam that the greatest number of men are believed to be imprisoned. Of the more than 1,400 captured and missing, nearly 800 (mostly pilots) were downed over North Vietnam. The Defense Department believes "a substantial percentage of the missing" may be prisoners.

POW RELEASES FOLLOW PATTERN

All the prisoner releases by Hanoi—two last year and one this August—have followed a similarly disturbing pattern. First, they have been but token gestures, letting just three men out at a time. Second, they have been accompanied by blatant propaganda announcements in the guise of either "humanitarianism" or "good will," or coupled with some "special" day. Third, the names of the men to be freed are withheld for periods of more than a month, thus creating untold agony for thousands of hopeful next of kin. Fourth, releases are carried out through dissident US intermediaries instead of the International Committee of the Red Cross, the traditional go-between in matters affecting war prisoners.

As a condition of each of the three prisoner releases, Hanoi has insisted that US pacifist groups be sent to North Vietnam to take custody of the prisoners and accompany them out of the country.

After a protracted wait, the identities of the prisoners are presented to the world in a staged ceremony. Finally, they are allowed to depart for home with their pacifist countrymen, who are merely used by Hanoi in a grossly overt effort to foment further unrest among American citizens and abet militant critics abroad.

The first two prisoner releases took place last year. Three men were released in February, three more in July. All six were "short termers"—that is, men who had been held prisoner for relatively brief periods of time.

The February 1968 group consisted of two Air Force officers, Lt. Col. Norris M. Overly and Capt. John D. Black, and twenty-three-year-old Navy Lt. (jg.) David P. Matheny. None had been in captivity as much as six months. Lieutenant Matheny had been captured only four months earlier.

The three prisoners released in July 1968 were all Air Force officers: Maj. James F. Low and Capt. Joseph V. Carpenter, imprisoned for seven and six months, respectively, and Maj. Fred N. Thompson, captured less than four months before.

The man designated by Hanoi as the principal go-between for the releases is a fifty-four-year-old pacifist named David Dellinger, Chairman of an organization known as the National Mobilization Committee to End the War in Vietnam, he has traveled frequently to Communist bloc nations and to North Vietnam. Currently, he is under indictment on charges of conspiring to incite a riot in Chicago during last year's Democratic Convention.

As the main contact in the prisoner releases, Dellinger, in turn, has named other U.S. pacifists to act as "escorts" in bringing the prisoners out of Hanoi.

THREE RELEASED IN AUGUST

The most recent release—three men, again—came in August of this year and illustrates how completely Hanoi milks the prisoner situation for its own purposes. However, it marked a minor breakthrough of sorts. For the first time, North Vietnam released prisoners who had been held captive for fifteen to twenty-eight months.

The new policies of the Nixon Administration may have had something to do with the release of the longer-term prisoners. Publicity about two of the men had been widely aired by DoD several months earlier.

Like the two preceding releases, the third also was carried out under the banner of David Dellinger. On this occasion, he designated a somewhat ragtag escort group. The group was substantially larger than any

previously dispatched. There were four escorts. They took along three cameramen.

Leader and spokesman was Rennard C. Davis, twenty-nine, National Coordinator of Dellinger's National Mobilization Committee. A member of Students for a Democratic Society, Davis is also under indictment on charges growing out of the Chicago riots. He had to obtain a court ruling in order to leave the country.

With Davis in the escort group were Linda Sue Evans, twenty-two, an SDS regional organizer; Grace Paley, forty-six, a member of antiwar and antidraft organizations; and James Johnson, twenty-three, Negro, former GI who served a stockade term for refusing to fight in Vietnam. The three cameramen, from an underground movie-making outfit, were identified as Robrt Kramer, thirty-six, an SDS member during a stint at Columbia University; Norman Fruchter, thirty-two; and John B. Douglas, thirty-one.

TEAM FLEW TO HANOI

The seven-member team flew to Hanoi in mid-July, about two weeks after North Vietnam announced plans to release the prisoners. For the next couple of weeks they received Hanoi's "grand tour," were escorted on a 500-mile trip into the DMZ, met with the Prime Minister, and were ultimately entertained at a farewell party well-oiled with rice liquor and propaganda.

At the farewell ceremony, according to details churned out by the North Vietnam News Agency (VNA), the prisoners were "handed over . . . to the American antiwar delegation" with a Madame Bui Thi Cam denouncing the "monstrous crimes" perpetrated by the "US imperialists" who had destroyed towns and crops and "massacred . . . women, children, and old folks."

She said US pilots "caught in the act of committing grave crimes" are not entitled to the protection of the Geneva Conventions, but are, nevertheless, treated "in accordance with the humanitarian policy of the government."

"James Johnson, accepting the prisoners "on behalf of the American antiwar delegation," said, "We know, as these pilots must know, that all over the world the United States has been branded an outlaw nation." His statement, running some 500 words, might almost have been written by Hanoi.

The North Vietnam News Agency said, "The three released American military men then took turns in expressing, each in his own (way), their deep gratitude to the Vietnamese People, the DRVN government, and the Vietnam People's Army, for this humanitarian act as well as for the humane treatment all of them had received throughout the period of their detention."

The names of the prisoners were revealed. Two were Navy men: Lt. Robert F. Frishman, captured twenty-one months earlier, and Seaman Douglas B. Hegdahl, imprisoned for two years and four months. The third was Air Force Capt. Wesley L. Rumble, held for fifteen months.

The prisoners and their escorts left Hanoi on August 5. Arriving in Vietiane, Laos, that night, they were seen for the first time by US newsmen. They were described as "pale and gaunt," clad in "dungarees and sandals."

The press accounts noted that Frishman, acting as spokesman for the prisoners, selected his words "carefully." He said only that he was happy "to be returning home, to be back with my country and my wife."

There then followed a question-and-answer session. Here are revealing excerpts from Frishman's interrogation by the newsmen:

Q. How was the treatment you received . . .?

A. I received adequate food, clothing, and housing.

Q. Would you describe it as humane treatment?

A. Sir, I believe I have answered that question.

Q. Did they make any attempt to indoctrinate you or brainwash you in any way?

A. I have no comment.

Q. Was their treatment better at all when they decided you were going to be released?

A. As I say, my treatment has been adequate.

Q. Are you concerned that other prisoners might be harmed by something you might say here?

A. Yes. I in no way want to jeopardize any of the other people who have been . . .

The sentence trailed off.

When the prisoners arrived in Bangkok the following day, Frishman was quoted as saying, "It's great to be back." Nothing more. At some point during the return journey, Frishman had indicated the desire of all three men to be furnished with military clothing. "We left in uniform," he said. "We intend to return in uniform." The clothing was rushed to Frankfurt, last stop before New York.

ARRIVAL IN NEW YORK

When the three men arrived at Kennedy International Airport in New York, I was there to see them for myself. To television audiences, the returning prisoners may have looked reasonably well cared for. But their appearance on the hot, noisy flight line was deeply saddening.

When the general passengers and the pacifist escorts had disembarked, the families of the prisoners were allowed to board the plane for a brief reunion away from the eyes of the curious. Twenty minutes later, the men and their families began emerging.

There was no brass band, no flags, no clamoring throng to welcome them. Only a cluster of newsmen, cameras, government representatives, police, and a small crowd of onlookers.

Lieutenant Frishman, followed closely by Seaman Hegdahl, was first off the plane. Both wore their new uniforms, the Navy blue contrasting starkly with their drawn, pallid faces. Captain Rumble, ill, stooped, pale, was assisted down the steps, helped into a police car, and rushed to a waiting medical-evacuation plane.

The two Navy men and their families were led to a small platform, barren but for a gaggle of intertwined microphones. Uncertainly at first, and then with alert precision they returned the salute of Air Force Col. Milt Kegley standing nearby.

They were ashen in color. Their eyes were deep, hollow circles of darker gray, much like the exaggerated eyes of starving children. They smiled, but somehow their smiles seemed macabre; not forced, but not exactly real; joyful surely, but with an underlying tautness; perhaps nearer to tears than laughter.

Lieutenant Frishman once again spoke for all three men, repeating what by now had become his stock statement. They were happy to be home, they had received "adequate food, clothing, and housing" from their captors.

He, himself, had been "seriously wounded." The North Vietnamese doctors had removed his elbow and tied the muscles together. "I am glad to still have my arm," he said.

THE ARM WAS WASTED

It hung at his side, the loose sleeve of his jacket emphasizing that the arm was wasted, thin, far shorter than the other. When the suggestion had been made to him earlier that, "They'll fix it better at home," he replied, "Oh, no. They won't. It's impossible now."

Now, as he extolled the "adequate" treatment he and the others had received, and praised the North Vietnamese for saving his arm, Frishman voiced the "hope that there will be some more releases."

At his side, Douglas Hegdahl, once a robust heavyweight, continued to smile, his face almost skeletal. A reporter asked how much weight he had lost. He had "no comment."

But then Frishman addressed the microphones. "I lost forty-five pounds; Seaman Hegdahl lost sixty pounds," he said. It was the first detailed confirmation of their deprivations.

A newsman asked Frishman why the North Vietnamese had selected him for release in preference to some other prisoner.

"I am sure they released me for some reason . . . this reason I do not know," he said.

What about the welfare of other prisoners still held by Hanoi?

"No comment," Lieutenant Frishman said.

PRESS SESSION QUICKLY ENDED

The session with the press was over quickly, the final questions muffled in the roar of a nearby jet. The men were tired; they had been traveling for thirty-six hours.

"I want to be with my wife now," Lieutenant Frishman said. He placed his good arm around her. The prisoners and their families moved off the platform.

As Frishman turned, I saw him for the first time from the side. His shoulders were incredibly thin. The collar of his shirt hung loosely about his neck. The lines of his nose, his cheeks, and his chin were sharply drawn, haggard. So were Hegdahl's.

If the two men had been well-treated, there was nothing in their appearance to verify it. The almost corpse-like pallor of their skin, tightly stretched, almost translucent, mutely testified to long seclusion from sunlight.

The men and their families moved to waiting transportation for the short trip to the medical-evacuation plane and the final leg of their journey to military hospitals. I turned with the other newsmen to walk back into the International Arrivals building for the meeting with the pacifist escorts.

We waited for an hour in a small, stuffy room intensely illuminated by bright klieg lights.

Finally, the pacifists straggled in, having been delayed in customs. The four escorts and the three cameramen gathered on a platform at one end of the room. By any standards, they were unprepossessing in appearance.

The leader and spokesman, Rennie Davis, was the most presentable, dressed in neat trousers and shirt, hair slightly long but combed and parted.

Peering from time to time at notes clutched in his right hand, Davis began a recitation of what the seven-member team had seen and done in North Vietnam. His monologue had little to do with the prisoners. It mainly emphasized the "devastation" that U.S. bombing forays had inflicted on a "determined" and "unbeatable" people now instilled with a "mood of victory." The North Vietnamese believe, he said, that they have President Nixon "trapped."

He introduced Grace Paley, a short frumpy woman in a cotton dress. She said North Vietnam considers U.S. prisoners criminals, but releases them to "show good faith" and as a demonstration of their "humanitarian" treatment.

PRAISE OF HANOI'S TREATMENT

Next up was Linda Sue Evans, young, blonde, wearing tightly fitting, flared blue jeans. "We believe," she said, "that North Vietnam should win." She praised Hanoi's "humane" treatment of the prisoners.

The young Negro, Johnson, principal pacifist speaker at the Hanoi ceremony, was next. He said with obvious pleasure that the North Vietnamese "feel they have defeated the United States."

Davis opened the press conference to questions.

"Are our prisoners being mistreated?" he was asked.

He had seen no such evidence. The group had met a "total of twenty-five to thirty all told," and had been informed by the prison-

ers that they had been protected within the very villages they had bombed, been given immediate medical attention, and "better" food than is provided for their guards.

He said continuing concern is voiced about the treatment of U.S. prisoners, but he is more concerned about the treatment of prisoners from the other side held in camps in South Vietnam.

Davis was asked to comment on a statement by Secretary of Defense Laird that Hanoi's treatment of prisoners is in "flagrant violation" of the Geneva Conventions.

Davis said he thinks North Vietnam "legally regards the United States as an outlaw nation." (An interesting comment. James Johnson had used the same "outlaw" phrase in his Hanoi remarks, but attributed it to the pacifists themselves.)

"You say our prisoners are being treated humanely," I asked Davis. "How many prison camps did you visit?"

Repeatedly, he sought to evade a direct answer, but I kept hammering "how many prisons" at him. Finally he admitted he had "no information at all" about any of the prison camps.

The press conference produced nothing of any kind about the status of U.S. prisoners held by North Vietnam. The pacifists had returned believing what they wanted to believe. They brought back no list of prisoners held by Hanoi, no hint that North Vietnam might consider changing its policy on prisoners.

Except for some fifty letters Hanoi had permitted them to carry home, they had returned only with an array of sugar-coated propaganda. They had swallowed whole as much as possible and stuffed the rest into their luggage.

The press conference could only raise serious doubts about the value of continuing to allow Hanoi the luxury of using such groups to bring back tiny numbers of prisoners. Some administration officials, even some wives and families of prisoners and missing men, also are beginning to question the validity of this practice.

At the current exchange rate, it would take well over 400 years to get all of the men home. And the current release procedures, in the words of the Washington, D.C., *Evening Star*, are "a little like Oriental water torture—and just as humanitarian."

Twenty-five days after Frishman, Hegdahl, and Rumble reached New York, I went to Bethesda Naval Hospital in Maryland to hear the two Navy men tell about their prison life. Sunshine had improved their color; they had regained some weight. They were ready to open up.

Frishman recounted how he had been blindfolded after his capture and, despite serious injuries, driven in a truck to other locations where he was removed from the truck and stoned by the populace. When he reached the prison, he was refused medical treatment and told he "was going to die in four hours" unless he talked. He "finally passed out" and was taken to a hospital. "Then, even with my bad arm, they tied me up with ropes."

Doctors operated on his arm but failed to remove missile fragments. It was six months before the incision healed over. "I would wake up and find my arm stuck to the blankets . . . the scab would come off . . . the wound would drain again." One of his legs was left with "a seeping sore," still draining when he reached the US almost two years later.

During much of his ordeal, Frishman was isolated in a tin-roofed cell, vented by "a few holes." In forty-five-degree winter weather, he froze. In summer, it was "like an oven." Sometimes, he was forced to sit on a stool in the stifling room—"just sit . . . and sit"—until he passed out.

Early this year when interviewed by *L'Europeo*, his captors wrote out what he was to say and then "practiced" it with him.

Did they try to "fatten" him in his final weeks of imprisonment, I asked?

"Yes, they did." On July 4 they took him before the camp commander who "had a real nice table with some fruit on it. . . . I knew then that I was going home."

SOLITARY CONFINEMENT

Hegdahl, too, had been subjected to solitary confinement—in all, for more than a year. The longest stretch lasted "seven months and ten days."

He was permitted occasional mail, but the letters were rifled of enclosures (including money) sent by his parents. The lone package he was allowed also was plundered before it was handed to him.

For propaganda purposes, he was photographed "reading" a U.S. magazine which he was allowed to hold "just long enough for them to take the picture."

Frishman said he was threatened before his release. If he embarrassed North Vietnam, they would "have ways of getting even with me," he was told. He was cautioned "not to forget that they still have hundreds of my buddies."

But those still imprisoned want the facts out in the open, he said. One told him "not to worry about telling the truth," that if it means more torture, "at least he'll know why he's getting it and he will feel that it will be worth the sacrifice."

While North Vietnam's claims of "humane" treatment of the prisoners have failed to stand up to public scrutiny, it is equally apparent that Hanoi's policies and those of the Viet Cong have been cruelly lacking in compassion for the families of the prisoners and missing men.

Take Andrea Rander, whose husband, Army Sgt. Donald Rander, is held by the Viet Cong. He was first reported missing during the January Tet offensive last year. Four weeks later she was officially notified that he had been wounded and imprisoned. She has been waiting almost two years for a letter that has never come. She has great difficulty, she told me, in making decisions. "I keep putting everything off. I keep telling myself I will wait until Donald comes home. It's my way, I guess, of convincing myself that he will be back."

SPORADIC LETTERS

Billie Hiteshew, wife of AF Maj. James Hiteshew, who was captured by North Vietnam in March of 1967, has lived with the problem longer, but at least she has heard from her husband. She receives sporadic letters, including two this year. And she has seen photographs of her husband. Shortly after his capture, CBS purchased a film of Hiteshew—confined in a hospital with a broken leg and arm—being interviewed by Felix Greene, a British antiwar journalist. She watched her husband say he agreed with Senators who feel "we need to take another look at our foreign policy," a view she had never heard him express or even hint at before.

Evelyn Grubb's only knowledge of her husband came from a similar Hanoi propaganda gesture. An unarmed reconnaissance aircraft, piloted by AF Maj. Wilmer "Newk" Grubb, was shot down in January 1966 while a Christmas bombing halt was in effect. Hanoi gloatingly publicized his capture, conveniently obscuring the true nature of his mission. The day Mrs. Grubb heard of his capture, it was snowing, two of her three sons were ill, and she was three months pregnant. Each time she writes she tell him about their sons (there are now four; one he has never seen), and sends photographs of all of them stapled to the letter so he will know if they have been removed. She doesn't know whether he has received a single photograph or letter. In four years, she has had no further official word of her husband.

Elizabeth Hill is another wife I talked with. Only twenty-three, she was married to AF Capt. Howard J. Hill (both are AF "brats") in August 1967. Two weeks later he returned to Southeast Asia, and just before Christmas was shot down. Nine months passed before she learned that his capture had been confirmed. As she told me this, she smiled. "I can't help smiling," she apoligized. "After Howard was missing for so long, I just have to smile when I say he is a prisoner." She has written faithfully for almost two years, but there has never been an answer.

Although regular exchange of mail between prisoners and their families is guaranteed under the Geneva Conventions (even when two countries are not formally at war), the Communists have permitted only a trickle of letters to flow out of North Vietnam.

Efforts of the American Red Cross and the International Red Cross to improve the situation have been essentially futile in the face of Hanoi's obstinance.

NO INSPECTIONS PERMITTED

Not only has North Vietnam rejected Red Cross efforts to establish improved flow of mail and packages to and from US prisoners, and to permit inspections of their prison camps, but they persistently have refused to even acknowledge the existence of, or accept mail from their own men held as prisoners in South Vietnam. The latter camps are regularly inspected by the neutral International Committee of the Red Cross, and names of all captured North Vietnamese and Viet Cong soldiers are prepared for Hanoi and the VC, but are spurned.

Although the Red Cross has tackled the problem again and again through all potential channels (even seeking help from the USSR)—and keeps on trying "all the time," according to ARC Vice President Robert Lewis—most of the effort has fallen on deaf ears.

Mr. Lewis says the Red Cross also has made it clear that it is prepared to send representatives to Hanoi at any time to accept released prisoners, but the North Vietnamese prefer to stick to their practice of using disident go-betweens.

MAIL FOR PRISONERS

Mail for all prisoners and missing men is sent through a variety of channels and addresses. Some is handled by the Red Cross, some is mailed direct to foreign post offices, but little is known to have reached the men to whom it is addressed.

Letters written by the prisoners themselves have fared somewhat better because of their propaganda value. But none ever has arrived in the States from prisoners held by the Viet Cong. And fewer than 100 men held by North Vietnam have been allowed to write over the past five years. The average for this small group has been less than two letters a year.

Currently the letters from prisoners are written on a prescribed form, about five by seven inches, which makes its own envelope when folded. Six lines are provided for the message. Instructions tell the prisoners to write "legibly and only on the lines" and "only about health and family." The form states that "Letters from families should also conform to this pro forma."

Not all wives and parents abide by the advice, but many, like Gloria Netherland, do. Forms are provided by the armed forces. All carry a mailing address in the Vietnamese language reading: "Camp of detention for US pilots captured in the Democratic Republic of Vietnam."

But for most families, whether they use the six-line form letter or a longer page, the return on their investment is slim at best.

For families of men listed as "missing," even the lack of mail might be bearable if

Hanoi and the VC would release the names of all prisoners. But they have consistently refused. Some US Senators say Hanoi "could devise no subtler cruelty."

While no solution to either the mail problem or the list of missing is in sight, the US armed forces, meanwhile, do what they can to ease the plight of the next of kin.

It is not a simple job, nor has it always received top marks in every area, but as the list of prisoners and missing has grown and as the services have learned from past mistakes and found out more about what the families want and need, they have moved increasingly into programs that now garner well-deserved praise.

All of the wives I talked with feel that their husband's service, as one put it, "is doing everything humanly possible."

NOTIFYING NEXT OF KIN

In the early days when a man was captured or turned up missing, next of kin sometimes were advised by telegram. This impersonal approach proved highly unsatisfactory and has long since been abandoned.

Today when catastrophe strikes, a service representative is sent to the home to call on the family, break the news in person, give whatever details are immediately available, and offer such solace and assistance as he can provide.

Either this representative or another is thereafter permanently assigned as an "assistance officer" for all future contacts. He makes sure the families are informed of breaking developments, if any; answers their questions, or refers the queries to someone who can; and ensures that they receive such legal, financial, or other aid as they may require.

The main Air Force effort is performed from the personnel center at Randolph AFB, Tex. Service is available twenty-four hours a day, seven days a week, and next of kin may make collect telephone calls any time, day or night.

Families are told everything the services can tell them about the circumstances surrounding the capture or disappearance of the man. Any subsequent news is passed along as quickly as it is received.

On a broader front, all services have put together special informational programs for the next-of-kin to keep them informed about over-all prisoner developments. These most often take the form of newsletters. But the Army's Adjutant General, Maj. Gen. Kenneth G. Wickham, writes a personal, individually prepared letter to each Army family once a month.

The letters and newsletters are supplemented by personal meetings with individual family members or with groups. This practice was instituted early by the Navy, but has now been made uniform for all services, under expanded policies of the Nixon Administration.

Beginning this past spring, group meetings were instituted under the aegis of a joint Defense/State/military team, with families from several services attending at a central location for each given area. At the meetings, the next of kin receive a full briefing on the prisoner problem.

Much of what they can be told is not new, but it has demonstrated the satisfaction to many, if not all, of those attending that the government is giving the prisoner problem priority consideration, and sincerely wants, and is trying, to help in every way possible.

MEETINGS WITH NEXT OF KIN

The meetings have been spread all across the country. Scheduled mostly at Air Force bases, they are generally held in Service or Officers Clubs, in an informal atmosphere, with local volunteer-wives serving coffee or punch to the families—normally about 100 wives and parents.

One meeting held at Bolling Air Force Base near Washington, D.C., was attended by Ambassador Henry Cabot Lodge (home to report to the President). He told the group what was happening at the Paris peace table. Another briefing session was conducted at the Pentagon itself. Defense Secretary Laird met and talked with the families.

One member of the briefing team, Deputy Assistant Secretary of Defense Richard G. Capen, Jr., said, "We are always frank about telling the families there have been no great breakthroughs. I review the over-all situation; Frank Sieverts [State Department representative] discusses the Paris talks and other State Department efforts conducted through diplomatic channels. Then we spend the remainder of the time, about an hour or an hour and a half, responding to questions."

Mr. Capen says reaction to the briefings has been excellent. Sometimes "wild suggestions" are offered or family members give vent to angry frustration. ("Some cannot understand why we learn so little about the men.") But the meetings, Capen feels, have been extremely useful and have helped to partially satisfy the yearning of many families for some closer contact with their government in Washington.

He has been through many heartrending conversations, but what remains most vividly in his mind is the meeting at which one wife stood up and declared, "I want my husband back, but I don't want to give my country away to do it."

Most of the families, he says, "have real understanding and appreciation of the problems. We want to assure them that when the men do come back, we will be in a position to say we did all we could." He thinks most of the families now feel, if they didn't before, that this is the case.

In addition to the programs designed for the next of kin, the armed forces also carry out certain procedures for the prisoners and missing men themselves.

All, for example, are considered for promotion at the time they normally would have been considered if not in captured or missing status. Their full pay and allowances are continued indefinitely, and they receive whatever general pay increases are authorized for others on active duty. Allotments the men provided for their families are increased as needs dictate.

New laws also have been enacted, and others are being sought, to protect rights of the men that might otherwise be jeopardized.

The military "savings deposit" program, for example, encouraged overseas servicemen to bank a portion of their pay in high-interest accounts as a means of cutting down on the US gold-drain. But the law contained no provision for men who were captured or reported missing. This inequity was corrected only to have a second develop. The maximum that can accumulate in such accounts is $10,000. Anything above that amount draws no interest. With deposits of some men now approaching or exceeding the ceiling, the Defense Department recently asked Congress for authority to invest "excess" amounts in the purchase of US savings bonds and notes.

Yet, despite these and other continuing efforts on behalf of the men and their families, it is all too apparent that the combined activities of the armed forces, the State and Defense Departments, the American and International Red Cross, and the efforts at the Paris talks have reunited few prisoners with their loved ones. Nor has there been any new hope for proper medical care of the sick and injured, neutral inspection of prison camps, full disclosure of the names of all captives, or proper flow of mail.

The new Nixon Administration initiatives are helpful, but only full and continuing exposure of the plight of the prisoners and their families, together with relentless public pressure at home and abroad, are likely to produce desired action.

An occasional newspaper editorial is not enough. Limited news coverage of developing prisoner stories is not enough. An infrequent letter-to-the-editor is not enough. A statement inserted in the back pages of the CONGRESSIONAL RECORD is not enough. A business-as-usual attitude on the part of the American public can only make apparent to Hanoi that these men who have given so much to their country have indeed been forgotten by those for whom they made the sacrifice.

Some wives of the prisoners and missing men have reached the same conclusions. Some are taking steps to counter public apathy, and to arouse the Congress.

Mrs. James Bond Stockdale of Coronado, Calif., wife of a senior Naval officer held by North Vietnam, has encouraged other wives to send telegrams to the North Vietnamese delegation in Paris, and helped to organize prisoner families. Mrs. James Lindberg Hughes of Santa Fe, N.M., wife of a captured Air Force lieutenant colonel, and Mrs. Arthur S. Mearns of Los Angeles, wife of a missing Air Force major, also have been urging the Congress and others to act.

Many of the wives are essentially satisfied that the services and the Administration are doing all they can. But some feel, as Evelyn Grubb says, that "there is a bargaining point for everything; we have to find it." The wives are convinced that more public pressure is essential.

Some have been particularly critical of the inaction by Cougress. "Usually," Mrs. Stockdale has said, "they put something in the *Congressional Record* and then forget about it."

A check of the *Record* discloses that this practice was, until very recently, more or less standard. But there is hopeful evidence of a growing change—partly as a result of appeals by the wives, partly as a result of the more open discussion policy encouraged by the Administration.

In August, shortly before Congress went into brief summer recess, forty-two Senators banded together in a strong statement condemning North Vietnam for its "cruel" treatment of the prisoners and their families. Instigated by two opponents of our Vietnam policies, Charles Goodell (R-N.Y.) and Alan Cranston (D-Calif.), the declaration says if North Vietnam thinks it can "influence the policy of the United States toward the Vietnam conflict" through its intransigent position on the prisoners, it is "doomed to failure."

"Neither we in Congress, nor the Administration, nor the American people as a whole, nor indeed the families directly affected, will be swayed by this crude attempt."

Those signing the statement included both Democrats and Republicans representing thirty-three of the fifty states. Three names that might have added weight but were absent from the list of signatures were those of war critics J. William Fulbright (D-Ark.), George McGovern (D.-S.D.), and Eugene McCarthy (D-Minn.).

The Senate statement ended with a specific plea to "the governments, the statesmen, and the ordinary men and women around the world" who spoke out in 1966 against Hanoi's proposed "war-crimes trials"—a plan that was abandoned by North Vietnam after a wave of world protest.

The Senators said those who protested in 1966 should "make their voices heard once more. Then, as now, the issue was not political but humanitarian—and Hanoi responded to the force of world public opinion. If that force can again be mobilized, this too may contribute to inducing from Hanoi greater respect for human decency and for the rule of law." On August 21, the North Vietnamese delegation in Paris vehemently

rejected the protest as "slander" and an attempt "to deceive public opinion."

In the House of Representatives, Congressman William L. Dickinson (R–Ala.) sent a letter to his colleagues asking that they join him, after the August recess, in making floor statements protesting the treatment of our war prisoners.

Whether these moves are one-shot efforts remains to be seen. What members of both houses seem to have overlooked is the potential force of a Joint Congressional Resolution condemning Hanoi's prisoner policies.

Whatever action Congress may take, what will count most significantly is the time and effort the American people are willing to expend in helping solve the problem.

In my numerous interviews with government officials, representatives of the Red Cross, members of the armed forces, and next of kin of the prisoners, I asked each person what he or she thought would be the most effective attack that could be launched.

They agreed that a four-pronged letter campaign could produce dramatic results. The letters should be directed to:

Representatives of foreign nations;

Newspapers and magazines in foreign nations;

Members of the US House and Senate; and

Xuan Thuy, chief North Vietnamese negotiator in Paris.

The letters to the foreign nations and the press in those nations should urge that pressure be brought to bear on Hanoi to live up to the spirit of the Geneva Conventions by putting into practice the Conventions' rules on the treatment of war prisoners.

The letters to Xuan Thuy should demand the same points. And those individuals who are not necessarily in sympathy with the war should make it clear that proper treatment of the prisoners is nevertheless an overriding consideration. All should note that continued intransigence on the part of Hanoi will only stiffen the resolve on the American public, not weaken it.

Letters to members of Congress (addressed to the Representative from your own congressional district and to either or both of your US Senators) should call for a Joint Resolution demanding proper treatment for the prisoners and missing men, and stressing the solidarity of the nation in this aim.

HOW YOU CAN HELP

If you want to help, send a postcard to AIR FORCE/SPACE DIGEST at 1750 Pennsylvania Ave., N.W., Washington, D.C. 20006, and you will be mailed a list of Washington, D.C., addresses of ambassadors of foreign nations whose assistance could be crucial together with a list of selected foreign newspapers and publications.

Letters to Xuan Thuy can be addressed, in simplified form, as follows: Xuan Thuy, North Vietnam Delegation, Paris Peace Talks, Paris, France.

There is a chance—possibly a good chance—that world opinion might force Hanoi to honor basic codes of human decency.

"By any human standards," the position of North Vietnam is "totally inexcusable," Secretary of State William Rogers says. "I don't understand why we have not become more excited about the prisoner question."

The Secretary is telling the people of the United States that their concern is important. The rest is up to you. If you want to help the men many Americans have forgotten, you can. Your letter could be the one that spells the difference.

VIETNAM

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Georgia (Mr. BLACKBURN) is recognized for 60 minutes.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I am asking to revise and extend my remarks at this point, Mr. Speaker, because I want to insert some comments which will, I believe, further clarify and enunciate my basic position on this matter.

Basically the key question, as I view it, is one which regards the building of a free security organization in Vietnam, which is commonly referred to as Vietnamization. The second thing is we have to consider Vietnam as a part of the total threat in the Pacific basin by Communist encroachment, be it in Laos or North or South Vietnam or North or South Korea. In attemping to take over South Korea on occasion if they thought they could, if South Korea did not have the kind of security organization to back them off, we would be engaged in a war there. So we have to take it in a larger context, which is a free Asian security organization in order to build up the security vacuum which was brought about by the failure of SEATO to handle the problem, which is permissible under the charter for the United Nations. Then, of course, the ultimate phase is for us to move in the direction of economic integration of these various organizations. This is the President's plan. I think he is on the right track and I think we should stand squarely behind him, because we now have a positive program to bring about success.

Mr. Speaker, I talked with President Marcos of the Philippines and he thinks that President Nixon is on the right track. I talked to the Prime Minister of Australia, Mr. Gorton, and he thinks the President is on the right track.

Therefore, Mr. Speaker, I think we ought to get behind the President and support him in this effort.

Mr. TUNNEY. Mr. Speaker, will the gentleman yield for just 30 seconds?

Mr. BLACKBURN. I would be happy to yield to the gentleman for 30 seconds only.

Mr. TUNNEY. Mr. Speaker, by my silence—and I would not want to be silent after the remarks which have been made by the gentleman from New Jersey (Mr. GALLAGHER) and the gentleman from California (Mr. DON H. CLAUSEN) when they said they feel that the President should have support in his efforts to extricate the United States from the war in Vietnam.

I think that the program that was announced by the gentleman from California is a good program, but I am saying that it has to be followed through on. I agree with the President in his statements of several months ago. But the fact remains that we must be sure that the program continues and as a Member of Congress I do not feel it is being unfaithful to my country nor to my President by speaking out and by saying what I think the President ought to do and ought to continue to do in this area. I think it is a responsibility that I have as an elected official because he is my President just as much as he is the President of any other person in this country and he has my support in his efforts.

Mr. THOMPSON of Georgia. Mr. Speaker, will the gentleman yield?

Mr. BLACKBURN. Yes, I yield to my colleague, the gentleman from Georgia.

Mr. THOMPSON of Georgia. I thank the gentleman for yielding.

Mr. Speaker, I cannot help but feel that a part of the concern we have, of course, is the spread of communism. There is a very definite international Communist threat. In China, Mao has stated publicly over and over again that he is in favor of violent revolution in order to spread communism throughout the entire world. There is a great competition between Russia and China as to who is going to be the dominant Communist power.

I think, however, we must recognize one thing, and that is that there will always be nationalism. There will never be one giant monolithic power controlled by one source except, perhaps, for a very short period of time. It may be a situation such as we see now in Eastern Europe at the present time. But I think you will find as the rivalry between China and Russia grows that that is going to be more and more important for some of the other countries. I hope that those other countries will eventually break away from the Communist power struggle and come back to free enterprise.

I was in Japan about a month ago and one of the people at this particular conference—he happened to be a member of the Japanese Diet—remarked to me after one of the meetings—he said, "You know, I am glad that China is a Communist nation." I was very shocked to hear this because this man is certainly not a Communist. In fact, he is one of the strongest advocates of free enterprise I have seen. I asked him, "Why?" He said, "Because for the first time China, despite the cultural revolution, despite its tense relations with Russia, despite its murderous approach toward solving its problems, is finally becoming a unified nation under Mao." And, that heretofore China had a number of dialects and people from one part of the country could not communicate with the people in the north and south and people in the east and west could not communicate with each other because of the variety of dialects.

They have tremendous natural resources. He pointed out the fact that the free enterprise nations are outproducing the Communist nations in every single instance. Japan has just become the third greatest industrial power under the free enterprise system. He said that if China ever unified, they would be shaking in their boots, but that they are not as concerned about that now because they are Communists.

The point I am making is that in Vietnam even after we do withdraw our forces—and I am convinced that President Nixon is going to get the American troops out of Vietnam because unless the South Vietnamese are willing to assume this burden themselves, we cannot indef-

initely police the situation as much as we dislike communism. We simply cannot do it.

But after they are pulled out you are going to find that the nationalist experience in Laos, Cambodia, and Vietnam are still going to be very, very much alive.

Mr. PUCINSKI. Mr. Speaker, will the gentleman yield for a unanimous consent request?

Mr. BLACKBURN. I yield to the gentleman from Illinois for a unanimous consent request.

Mr. PUCINSKI. Mr. Speaker, I thank the gentleman for yielding. I ask unanimous consent that I be permitted to address the House for 1 hour following all legislative business on October 15, at which time I am hopeful we will be able to discuss the various alternatives for peace in Vietnam.

It would be my hope that some of my colleagues would take a similar hour right after my own so that on the 15th of October we can have a responsive discussion here on the floor of the House on the various alternatives for peace in Southeast Asia.

The SPEAKER pro tempore (Mr. EDMONDSON). Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. THOMPSON of Georgia. Mr. Speaker, will the gentleman yield for a unanimous-consent request?

Mr. BLACKBURN. I yield to my colleague from Georgia for a unanimous-consent request.

Mr. THOMPSON of Georgia. Mr. Speaker, I ask unanimous consent that, following all legislative business on the 15th of October I may follow the special order of the gentleman from Illinois (Mr. PUCINSKI) and that I may be permitted to address the House for 1 hour to discuss this issue.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DON H. CLAUSEN. Mr. Speaker, will the gentleman yield for a unanimous-consent request?

Mr. BLACKBURN. I yield to the gentleman from California (Mr. DON H. CLAUSEN) for a unanimous consent request.

Mr. DON H. CLAUSEN. Mr. Speaker, I ask unanimous consent that, following all legislative business on the 15th of October, I may, following the special orders of the gentleman from Illinois (Mr. PUCINSKI) and the gentleman from Georgia (Mr. THOMPSON) be permitted to address the House for 1 hour to discuss this issue.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BLACKBURN. Mr. Speaker, of course we have heard a great deal of discussion today on the subject of Vietnam. In fact, the reason I requested this time was because I wish to address myself to the subject of Vietnam and our present posture there.

I might point out to the Members of this body that I also have reserved an additional hour for Wednesday at the close of business, because I have found that there are a number of our colleagues who wished to address themselves to the subject of Vietnam but who were not able to make arrangements to be present here this afternoon.

That being the case, Mr. Speaker, I would invite the Members of this body who desire to express themselves on this subject to be present again on Wednesday after the close of business.

Mr. Speaker, much uncertainty continues to exist in the minds of many of us, citizens and politicians alike, as to exactly what is taking place in Vietnam.

Some politicians are seeking to exploit the confusion and disillusion which many citizens feel regarding our purposes and accomplishments there.

Some of my colleagues would describe the calls for early withdrawal or definite date for withdrawal as a cheap method of seeking publicity. My own thought is quite to the contrary—the price of such publicity is beyond calculation. In my opinion those issuing such statements are unconsciously trading the sacrifices of a nation's blood, treasure, and integrity for the transient and questionable value of a few words in print and comments of news commentators whose words are often forgotten even as the last syllable has passed. My own measure of values does not permit such a trade to go unnoticed and unchallenged.

No one has been more outspoken in the past than have I in criticizing the previous administration for its failure to move decisively in using the military, economic, and diplomatic powers of our country to bring the struggle to a speedy conclusion. I remain strongly convinced that had we moved from the first with clariety of purpose and method to defeat the enemy, the fighting there would have long since been terminated and our losses in men and material would have been far less than what we have sustained to date.

In effect, we have been fighting a war of attrition against the forces of North Vietnam and the Vietcong. We have been fighting a defensive battle in which we have never sought to destroy the source of the enemy's strength; to the contrary, we have granted the enemy sanctuary within which he could mobilize his resources and plan a new assault after the frustration of his last.

The effects of our policy of attrition have been felt by the leaders of North Vietnam. A staggering 554,000 enemy troops paid with their lives for the ambitions of Communist leaders. Within the loss of such an overwhelming number of men is included her most capable military leaders of all grades, ranks, and experience. While Russia and Red China continue to supply the military hardware to continue the fight, it has become evident that the replacement of manpower is not so easily provided.

The military units of North Vietnam operating in South Vietnam no longer have the high degree of professionalism which marked her earlier forces. The youthful enthusiasm and patriotism is still present in her troops but, attacks in recent months have been clumsy and ineffective in comparison with the attacks of past years.

Because of the deterioration in the quality of North Vietnamese fighting units, our military leaders there and the Nixon administration has concluded that it is unnecessary to attempt at this point in history to move for the destruction or military conquest of North Vietnam. It is estimated that North Vietnam holds in reserve over 300,000 well-equipped and well-trained troops for the purpose of defending North Vietnam. Needless to say, the conquest of such a number of well-trained and dedicated troops would be a very expensive undertaking both in men and material.

Reports from South Vietnam likewise indicate that, to an increasing degree, the people of South Vietnam are beginning to have confidence that their country can resist North Vietnam. The Government of South Vietnam is moving toward an ever faster training program for its military forces which are now being supplied with the most modern military weapons. Some of the South Vietnamese forces are described as very good, while some are described as poor. At the present time it is generally felt that the South Vietnamese forces are incapable of withstanding the military might from the North. We all agree, however, that the ultimate responsibility for the defense of South Vietnam must rest upon the people of South Vietnam. Therefore, it is essential that the Government of South Vietnam continue to improve the military capabilities of her people.

Our Government has set itself upon a course of assisting the South Vietnamese in their moves to strengthen their own military capabilities, while continuing to maintain military pressure upon the enemy forces operating in South Vietnam. As units of the South Vietnamese army develop greater proficiency, these units can assume an ever greater share of the burden of fighting and American forces in corresponding measure relieved.

This plan can continue irrespective of progress or lack of progress in the Paris peace talks. Of course, I have believed from the beginning of the Paris verbal marathon talks that we would obtain concession from North Vietnamese in Paris only to the extent that our military forces in Vietnam compelled concession. Events have proven me to be correct.

The strategy which we now follow is entering an extremely difficult stage. The leaders of North Vietnam have believed from the beginning that American public opinion would ultimately force America's political leaders to withdraw and desert the people of South Vietnam to the military might from the North.

The calculated and ruthless murder of political leaders in South Vietnam for the past 15 years by the Vietcong has created a vacuum in leadership among the people of South Vietnam. They have thus been denied the stabilizing quality of mature political leaders. Some of the vacuum in leadership is being filled as a

result of the South Vietnamese Government's extensive pacification program for the past several years which has been given the strongest American support.

One of the results of inexperienced leadership at the village and district level in South Vietnam has been a loss of confidence by the people of South Vietnam in their government and in their nation's future. But signs of self-confidence are today asserting themselves in South Vietnam which is evidence by an increased willingness to stand up against the brutality of the Vietcong. Thus, there is reason to believe that South Vietnam is emerging as a nation capable of self-government.

To those who would criticize the people of South Vietnam for their tardiness in assuming the responsibilities of self-government and self-defense as compared with the stability in North Vietnam, I hasten to point out that North Vietnam, since the overthrow of the French in 1954, has lived under the iron control of one of the most ruthless dictatorships in modern history. Modern means of transportation and communication combined with the rigid controls, censorship and propaganda of a police state do not permit signs of dissension. There will always be evidences of dissensions and discontent in a free society than in a police state.

The encouraging signs in South Vietnam combined with the wholesale destruction of the armies of North Vietnam and Vietcong are grounds for optimism. Such optimism, however, must be balanced off against the unyielding ambitions of the rulers of North Vietnam. The ambitions of the rulers of North Vietnam are encouraged by the again emerging expressions of discontent in America with our involvement in South Vietnam. The original premise of North Vietnam's rulers that the key to their success lay in the public opinion of America's citizens remains unchanged. The collapse of the French military effort in Vietnam was due to the lack of popular support in France for continuation of the effort. The lesson of France has not been forgotten by the leaders of North Vietnam.

I ask those who now are pleading for a collapse of America's military effort in Vietnam, "Do you consider France today as such an example of nobility in purpose and accomplishment that America should follow her lead?" Heaven forbid the thought.

America has not sought the mantle of leadership in the free world but who can doubt that today she wears that mantle. Let her fail in her purpose in Vietnam and the repercussions will be felt throughout the globe. No nation can, or will, stand to fill the vacuum should America retreat from leadership. Let not future generations wring their hands in helpless serfdom because the one nation with the power to prevent serfdom failed.

Every expression by a public official demanding an early American withdrawal or a commitment for total withdrawal by a specified date only serves to reinforce the premise upon which the leaders of North Vietnam have operated from the beginning. Why should the North Vietnamese delegation in Paris offer concessions if they believe that public opinion in this country will ultimately bring them what they have demanded from the beginning—total American withdrawal and surrender of her purposes there?

Let us consider for a moment the situation in which the leaders of North Vietnam find themselves. Her armies in the south have been defeated in every major battle. Her former powerful and loyal allies to the south, the Vietcong, have been reduced to little more than roving bands of hoodlums, their once broad public support vanishing. Her most powerful allies to the north, China and Russia, are now badly divided between themselves. Her leader, Ho Chi Minh, who successfully saw the Vietnam people through their battles with the Japanese in World War II and later the French, and whose popularity and veneration existed in both North and South Vietnam, is no more. Any hopes for a final overwhelming defeat of American forces as in the battle of Dienbienphu has disappeared with the last shot at Khesahn.

Why then do the leaders of North Vietnam continue to throw their youth into the awesome spectacle of American firepower? It is because they see the same forces of public opinion operating in the United States which brought about the defeat of the French of 1954. If public opinion should fail to support America's leaders in this moment, the North Vietnamese will be in the unique position of having lost everybody and yet won the war.

I would remind my colleagues on both sides of the aisle and perhaps at both ends of the Capitol that we do have a responsibility of leadership. Leadership carries a burden greater than seizing popular moods for purposes of political capital. To the contrary, leadership carries with it a burden of thoughtfulness, foresight, knowledge, and maturity of judgment which public opinion some times lack. The youth of today with their exuberance and idealism, who are crying out for precipitous American withdrawal, are lacking in that quality of maturity of judgment which you and I are expected to reflect. Unfortunately, there are adults among us who also seem to lack the required maturity of judgment. Their failures give aid and comfort to the enemy. Since we are technically not at war, things have been said and proposals made which, at best, must be described as "irresponsibility." Those among us who, by their words, are giving aid and comfort to the leaders of North Vietnam both in Hanoi and in Paris should look closely at the results of their talk. Those results could mean eventual disaster for our Nation.

The success of our purpose in South Vietnam becomes tenuous when we consider the effect upon the morale of the citizens of South Vietnam when signs of weakness appear here. Whether the typical citizen in South Vietnam prefers a democratic society or a Communist dictatorship is matched by his desire for survival; and to him, survival means choosing the victor in the final battle. Public statements in this country, which tend to support a belief that America will not remain until the South Vietnamese are capable of defending themselves, not only corrode the morale and determination of the South Vietnamese people, but could seriously undermine any chance for ultimate American success.

If ever a time existed when the citizens of a democracy should stand as one behind their duly elected leader, then that time is now. Over 38,700 of America's finest young men can never share in the bounties of our Nation because they have given the final commitment in support of their Nation's policy. Our President has reassured us that those who have died shall not have died in vain.

Let us reassure our President that while the mouths which cry out for American surrender are being heard, the hearts, hands and minds of the great majority of American people are pledged to the support of their country.

Mr. STEIGER of Arizona. Mr. Speaker, will the gentleman yield?

Mr. BLACKBURN. I am happy to yield to the gentleman from Arizona (Mr. STEIGER).

Mr. STEIGER of Arizona. Mr. Speaker, there is a genuinely tragic misconception abroad in our land. It is spawned by the politically ambitious, nurtured by the posture of the media, consumed by a confused American public and used by our enemies as its most effective weapon.

The misconception I refer to is the establishment of a time certain to abandon South Vietnam to violent destruction. Those elected officials who espouse this position recognize that they doom the Paris peace talks to certain failure. Their every public utterance strengthens the Communist conviction that delay must bring victory.

What criminal nonsense to announce that we are willing to spend thousands of American lives for another 18 months and still accept certain defeat.

Indeed, these are desperate seekers of instant attention, those Members of both political parties, I am sorry to report, as well as those competing organizers of academic chaos, the ones who would stir our college young people up in the very kind of demonstrations that are best epitomized by the descriptions and eulogizing earlier this evening by the gentleman from California, the so-called day of silence on the 15th of October. That is exactly what I am referring to, that kind of observance and I am sorry the gentleman from California is not here and I regret he has been forced to leave the Chamber, but I am sure he recognizes, as all those who support this ridiculous moment of silence in this Nation, that their actions will be taken by the enemy and distorted and used to sustain the enemy's civilian morale and will be used to destroy the possibilities of a viable peace arrived at promptly in South Vietnam.

It is time the North Vietnamese recognize that our President is subject to just as much pressure to resume the attempt

to reach a military solution, as he is to abandon Southeast Asia. It is true that those of us who believe that the only diplomacy the Communists understand must be delivered from a position of strength have not been as vocal as those doves who sing at the drop of a press conference. We are to be condemned for not being as vocal.

There are no political rewards to be reaped by urging the resumption of the bombing of North Vietnam. There is certain condemnation from the media for the elected official who insists that the only responsible way to end the conflict in Vietnam is to convince the North Vietnamese that indeed their attempt at conquest by aggression has failed and what they have lost on the battlefield they cannot win at any conference table—Paris or press.

We could bomb the dikes in the Red River Delta of North Vietnam. We could invade North Vietnam with South Vietnamese forces. We could close the Port of Haiphong in any one of a dozen ways described at great length and with which every Member of this body is familiar. We must do that which will demonstrate a strength and determination that will reveal the placard wavers and advertisement purchasers for the empty wordsmiths they are—and present their role in its true perspective; a minority view that does not reflect the true will of America.

There are many of us who have urged the President to take whatever new military action he and his advisers deem necessary to make it clear to the North Vietnamese that they cannot succeed. It is time for those of us who feel this way to speak out, that the Communists might know of the real determination of the American people, that the President might not feel that there is only one voice—that of surrender.

Mr. Speaker, I thank the gentleman for yielding.

Mr. SCOTT. Mr. Speaker, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from Virginia.

Mr. SCOTT. I appreciate the gentleman's yielding.

I should like to compliment the gentleman from Georgia for taking this special order, so that those who find themselves in disagreement with a small minority in both Houses of the Congress may express themselves. I say "a small minority." I believe there are a handful in each of the bodies of Congress who want peace at any price and they are calling for the withdrawal of American troops by the end of the calendar year 1970. Certainly I do not share this point of view and would like for the Communists to know that this group is not speaking, in my opinion, for the vast majority of the American people.

I would not like for the Communists to take comfort from any statement which is made by this small group.

It seems to me that the Congress does have the authority to declare war. The Congress does have the authority, through the Senate, to act upon treaties. The Congress does have the authority to make appropriations of money. But the day-to-day conduct of the war is up to the executive branch of the Government. The President is the Commander in Chief of our Armed Forces. The President must have the support of the Congress and the American people. At the same time he has the power, under our form of government, to conduct the war in which we find ourselves.

I fully realize that we have not had a declaration of war. We have supported our President through our Gulf of Tonkin resolution and through the appropriation of funds to continue the war that has been in existence for a period of years.

I am well aware that this is an unpopular war, that the vast majority of the American people would like for our boys not to be in Vietnam. I share this point of view. But at the same time, so long as we have our soldiers there I feel the American people should be and are behind them. It is wrong for the Communists to believe that we want to have our soldiers out of Vietnam on a date certain and that we will not support them beyond that date.

How can our Government negotiate peace if the Communists feel that on the 31st day of December, 1970, all American troops will be withdrawn? What incentive do they have to make an effort to negotiate with this Government?

I feel that negotiation is a two-way street. Perhaps we can give a little and they can give a little. So far they have not done any giving. It has been a one-sided affair. I believe it is time to stop and say, "We will work with you if you will show some inclination to want peace yourselves."

There are many who live within my congressional district, and I am sure within every congressional district in the country, who would like to resume the bombing of North Vietnam. There are many who share the thoughts that have been expressed by the gentleman from Arizona with regard to the bombing of the dikes and the starving of the people of North Vietnam into surrender. There are people who would blockade the ports and shell the North Vietnamese mainland from the sea, and who would invade it, in fact.

Frankly, I would like for us to work with other governments in the world in the containment of communism. I believe we have a responsibility that is shared by all the freedom-loving nations of the world. I believe the President believes this, because from time to time he has expressed himself in a similar vein.

It seems to me that we should support our President in his effort to bring about a cessation of hostilities in this conflict in which we presently find ourselves.

I, for one, do support the President and wish him well in his efforts. I will vote to take whatever action is necessary to maintain the prestige of this country abroad. I think that the North Vietnamese should be aware that this country has not lost a war and I do not think we should lose a war today at the peace table or that we should lose it through the action of some of our Members, a very small minority of our Members in this body and the other body, trying to force the President's hand. I believe the vast majority, if it came to a vote in this House, would support the President in his efforts by whatever means he feels are necessary to terminate this conflict in an honorable way.

I thank the gentleman for yielding.

Mr. BLACKBURN. Mr. Speaker, I thank the gentleman from Virginia.

I now yield to the gentleman from Louisiana (Mr. RARICK).

Mr. RARICK. Mr. Speaker, I thank the gentleman from Georgia for yielding.

Mr. Speaker, I, too, have been greatly concerned about the events in the past several days which appear designed to lead to a direct confrontation and to give a public appearance that the President of the United States, as Commander in Chief of the military forces does not enjoy the confidence of either this Congress or the American people in attempting to work out a solution to the Vietnam war.

Legislation requiring the withdrawal of American troops on a fixed date, advertised long in advance, would make it impossible for the President either to fight or negotiate with the enemy.

What little prestige and power our President now possesses in our unseemly negotiations with the enemy would be completely destroyed if such a maneuver were successful.

This mess that we have in Vietnam—a war which apparently no one ever intended to win—is the responsibility of at least three Presidents representing both major political parties. Today, we witness the sorry spectacle of the same politicians whose views were soundly repudiated at the polls less than 1 year ago again sparring to see who can gain the most political benefits from the blood of young Americans shed on the battlefield.

Very definitely there are those who dislike the war and the way the war is being run but surely they can fight the battle in the Halls of Congress and by vote and in private conversation with the President—not on television or by splashy newspaper ads.

Mr. Speaker, as a former combat soldier, I say the American people know there is but one honorable course to follow while American soldiers are engaged in combat. It is a shame that politicians need to be reminded that Americans have a moral duty to support Americans to victory. The height of immorality is to draft a young man and send him to combat while denying him the right to achieve victory in that combat. The height of national immorality is to engage in a war without the intention of achieving victory.

A great American, Douglas MacArthur, told this body plainly not many years ago that when a great power engages in war and stops short of victory it ceases to be a great power and necessarily engages in other losing wars. Our failure to heed that lesson has brought us to Vietnam.

It is apparent to most Americans who have served their country that when our

fighting men are engaged in a war he who does not help them aids the enemy. Anyone not a part of the solution is a part of the problem. The technique of winning a war by internal subversion is not new—it worked for Ho Chi Minh when he fought the French. It has been the longtime policy of the North Vietnamese Communists merely to hold off and exact casualties from our fighting men while their agents and dupes agitate in the United States to destroy the public support of our fighting men.

We daily witness the sorry spectacle of attack on our whole military system where deserters are treated as honorable dissenters. If this sedition has damaged our morale at home, think of its effect on the morale of a fighting man in Vietnam. These dupes of the Reds have supplied Hanoi with the best propaganda to use against our men.

If we lose the will to win, we also lose the morale to defend our country, our civilization. If we destroy the trust of American young men in their country, we will never again be able to restore any patriotism. We expect them to perform their duty to their country. It is our responsibility to see that their country performs its duty to them.

We must understand that the obligation inherent in military service is a reciprocal obligation. When a young man is asked to risk—to lay down his life for his country—it is unthinkable that his fellow Americans and his national leaders should do less than support him all the way. To aid the enemy, under any guise, prolongs the war and is paid for in the blood and lives, not of those who are encouraging the enemy, but of those who serve their country in uniform. The pious hypocrites who have misused their freedom of speech to prolong the war—to encourage Hanoi—have the blood of 40,000 dead Americans on their hands.

Mr. Speaker, it is the well-known opinion of every reasonable military authority from Kennedy through Johnson to Nixon, including the Joint Chiefs of Staff, that freed of political restrictions our military forces using only conventional weapons could achieve victory in Vietnam within a period of 6 weeks. Every death, after 6 weeks, every dollar spent after 6 weeks, every life affected by disabling injuries, by the loss of husbands, sons, and fathers, after the first 6 weeks of this war was therefore totally unnecessary, and was a criminal breach of our obligation to our fighting men. The American people will demand that those responsible be brought to account, if not now—then later.

If it is but the intent of the party in power or of the new onslaught from the left—the voice of the new Democratic coalition—to play more politics which will cost us additional loss of life in the war, then I say a plague on both your houses.

We now witness two particularly nauseating maneuvers. We find politicians trying to outbid themselves in introducing legislation calling for the withdrawal of our military forces from Vietnam by a fixed date without regard to the number of lives which this irresponsible and opportunistic maneuver will cause.

Why should the enemy concede anything when he knows that he has won his war on Capitol Hill?

The second spectacle involves the announcement of massive parades, protests, sit-ins, shut-downs, and the like—civil disobedience—part and parcel of psychological guerrilla warfare in the United States. No matter how sanctimonius the professions of the instigators of this impending demonstration it is plain that it can have no effect but to aid the enemy. If the President becomes convinced he does not have the support of the American people he will be forced to meet Hanoi's terms at Paris, thus losing the war by surrender. Un-American demonstrations at home but hold out hope to our enemy and prolong the fighting—year after bloody year.

Mr. Speaker, now of all times in our history is the time for Americans to stand up and be counted. So long as there appears to be a possibility of political benefit in this kind of sell-out of our fighting men, there will be politicians of both parties attempting to reap benefits. Loyal Americans and particularly those who have honorably borne the brunt of our conflicts in the past should let it be known in no uncertain terms that there will be no political rewards to be gained by treason. Veterans organizations and individual veterans must stand behind their younger brothers and sons who now are engaged in combat with the enemy by protecting their rear at home from the cowardly attack of these political opportunists.

Mr. RUTH. Mr. Speaker, will the gentleman yield?

Mr. BLACKBURN. I am happy to yield to the gentleman from North Carolina.

Mr. RUTH. Mr. Speaker, the gentleman addressing the House is touching on one of the most sensitive and yet critical issues before the Nation today. I believe almost without exception that everyone in America wants to end the conflict in Vietnam and bring our boys home. This is my desire and the desire of the people of my congressional district.

The most heart-rending letters coming to my office each day deal with the heartaches and hardships reaching now into hundreds of homes in the Eighth Congressional District of North Carolina. Mothers and fathers, wives and children, and friends are distraught over the loss of human life which is occurring each day.

However, I must take exception to a few individuals who in America today are placing an unusually heavy burden on our President in demanding that the conflict be ended and that we in essence capitulate without achieving our objectives. To do so, I feel, would be a betrayal, not only to the thousands whose lives which have been lost in this conflict to date, but even more important it would be contradictory to the very principles of this Nation. Our Nation was founded on freedom and the opportunity to have individual choices. Our interest in Vietnam is but an extension of this freedom we cherish so deeply at home.

For this reason I commend the gentleman addressing the House at this time and extend my support to the President, to give him sufficient time to work out agreements which can be not only acceptable at the moment but will extend in to the future to prevent any more Vietnams from occurring. This, I believe, is the desire of the American people.

Mr. BLACKBURN. I thank the gentleman for his remarks.

Mr. DENNIS. Mr. Speaker, will the gentleman yield?

Mr. BLACKBURN. I yield to the gentleman from Indiana.

Mr. DENNIS. Mr. Speaker, my father, who was a Quaker and a wise man, used to have a saying that you cannot fire off a cannon moderately. We have violated that concept in our conduct of the war in Vietnam by intervening in the first instance and then not pursuing the war to an all-out conclusion in the second. I think the violation of that concept is the reason for the basic—the main reason—for the exceedingly difficult position in which we now find ourselves.

But, Mr. Speaker, there is little point in discussing the errors of the past in Vietnam except as a guide to the future.

The problem we have now is that we are there and we have this problem to resolve and there is a solution. We must find that solution. It is something that we must do.

Now, given the present circumstances in which we find ourselves, I submit, Mr. Speaker, there are only about three things that we can do. You could go back and try to secure a military victory by all-out military effort. I think we can do that, but it is late in the day. It is quite apparent that there is no intention on the part of our Government to attempt that course at the present time.

You could go to the other extreme and get out of there as quickly as it is physically possible to do so, and let the thing go down the drain. That would be to confess defeat; to confess we have lost some 35,000 Americans in vain, and it seems to me that if there is any viable alternative that such a policy is utterly impossible as an American policy.

That then leaves really but one other course, and that is the course which the President apparently is following, of gradual deescalation, gradual withdrawal and phaseout, and as the phrase goes, a gradual Vietnamization of the war.

I do not think anybody can say with all assurances that that will be successful, but I do think there is a reasonable fighting chance that it may prove to be successful.

I had the opportunity of being briefly in the countryside out there in Vietnam. I am not as pessimistic as the gentleman from California, although I think it would be a mistake to be too optimistic. But I was out in some of those hamlets viewing the situation there.

I remember particularly one down in the delta. There were no Americans there except two young lieutenants in their 20's, and a big Negro sergeant from Texas. They had armed these local people. They had trained the local defense forces. They had moved the people back

in there who had been evicted. They were learning the language. They elected a mayor down there, and they were electing a city council. They were trying to build up a city government while the war goes on. And there are many other dedicated Americans over there, civilian and military alike, who at least believe they could do that successfully, and who are trying. The President thinks they should be given a chance, and I think so, too. I think we have to give the President a reasonable opportunity to work this thing out in a reasonable length of time, to try to get the situation where the Vietnamese can take over for themselves with a reasonsable hope that the thing will not fall to the Communists, as I am absolutely certain it would do if we drew out abruptly tomorrow.

Therefore it seems to me that it is a disservice at this particular point in time for us here in the Congress to try to draw deadlines and tell the President of the United States when and by what date this process of withdrawal must be accomplished.

Such efforts may be well intentioned, and I assume that they are, but they amount to telling the enemy beforehand if you just keep going up to a certain date we are going to quit.

I am confident that the President will phase the thing out as rapidly as he thinks it can properly be done. It seems to me that under the circumstances, at this particular difficult point of time, you are tying his hands and by giving the enemy that kind of advance notice, however well intentioned it may be, can only be of aid, comfort, and assistance to the enemy, and we ought to oppose it.

Mr. BLACKBURN. Mr. Speaker, I thank the gentleman for his remarks.

Mr. Speaker, I want to express my gratitude for those who have participated on this occasion. I would note again that we will have a similar hour at the close of business on Wednesday of this week.

Mr. Speaker, I yield back the balance of my time.

Mr. KUYKENDALL. Mr. Speaker, I thank the gentleman from Georgia for this opportunity to join him in urging all Americans, including leaders of our political parties, to unite behind the President in bringing a speedy peace in Vietnam.

After all these long dreary years of suffering and sacrifice in the Vietnamese people and our own men fighting this heartbreaking war, there is, at last, a ray of hope. President Nixon has succeeded in putting the United States on the peace offensive and once more world opinion is swinging behind America's efforts. The President's far-reaching proposals for ending the war have been eminently fair and by their stubborn refusal to negotiate in a sincere effort for peace the Communists are being exposed as the warmakers and aggressors they are.

But the President cannot do it alone. He must have the support of his countrymen. Responsibility for prolonging the war must be borne by those who, for whatever reason, throw obstacles in the way of the President in his search for peace.

Who will deny that the enemy in Hanoi is encouraged when the chairman of one of the major parties publicly announces that his party is going to make failure to end the war the primary issue in winning congressional seats in next year's election? And how gleeful that same enemy must be when that same chairman, joined by a group of his fellow party members, openly supports and encourages planned student demonstrations with all the potentional for violence that has been associated with all such demonstrations in the past?

Mr. Speaker, let us stop kidding ourserves and the American people. There are just too many people in responsible positions who, because of their irresponsible statements and their desire to win an election at any cost, are putting politics above peace and the national interest.

I am proud to say, Mr. Speaker, that the members of my party did not engage in this kind of activity. The former President had the support of the party leaders who refused to make the war in Vietnam a political issue. Mr. Nixon, in his campaign for the Presidency, refused to make the war an issue.

So let us demand now that all Americans stand up and be counted on the side of peace, an honest peace, an honorable peace, a peace with justice for the people of Vietnam, a peace which will guarantee them the right to choose their own government whatever the complexion of that government. Let us not permit some, stirred by political ambition, to hide behind slogans that parrot the propaganda of the enemy.

A united America now will convince the enemy he cannot depend on victory through American repudiation of the high goals of the President and he will begin meaningful negotiations which will bring about the quickest possible end to the war.

Mr. DON H. CLAUSEN. Mr. Speaker, in order to complete the record of the question of Vietnam policy raised by the gentleman from California (Mr. TUNNEY) I would like to insert an editorial written by William Randolph Hearst, Jr.—noted publisher of the Hearst Newspapers.

In it he refers to my "phase-in, phase-out" concept for Vietnam that I referred to earlier. I know this is the policy of President Nixon and I believe that he is on the right track. It is the alternative that we have been seeking.

The comments made by Mr. TUNNEY sound like Senator FULBRIGHT and I am sure if he leaves them in the RECORD as expressed today, these remarks will help prolong the negotiations in Paris and offer encouragement to the Communist strategists in Hanoi.

I think the gentleman from California (Mr. TUNNEY) is very confused and, in my judgment, naive and immature on this question and yet, I respect his right to express it.

However, I believe the time has come for you to decide once and for all—are you on the side of our President of the United States and the South Vietnamese who are fighting communism there, or are you supporting the position of the Vietcong and the North Vietnamese terrorists?

I, for one, like the gentleman from Illinois (Mr. PUCINSKI), believe the President needs all the backing possible from the Congress and the people we represent.

The editorial referred to above, follows:

BLUEPRINT FOR PEACE

(By William Randolph Hearst, Jr.)

Some kind of sympathetic chord appears to have been struck in this column two weeks ago, in which I offered a solution for our dilemma in Vietnam.

In essence it was that the free countries of Southeast Asia be made to pitch in and start doing their proper share of the fighting we are now doing to save them from Communist agression.

Apparently a lot of other people think so, too, and I hereby renounce any claim to originality. In any event, ever since the column appeared I have been swamped with letters, telegrams and phone calls—nearly all expressing enthusiastic support and some offering specific plans of action.

Today I am devoting this column to one of those action plans. It strikes me as the best blueprint for ending the war and winning the peace I have yet to encounter. It was contained in a long communication from Rep. Don H. Clausen (R., Calif.)

Rep. Clausen has just returned from an official, 33,000-mile fact-finding swing through eight nations in the war area, made during the first month of the enemy New Year offensive. His main conclusion (and mine):

"For too long now, we have been doing the job for the South Vietnamese and the other Asian nations which are threatened by what is happening in South Vietnam."

"Helping them is one thing, but carrying the overwhelming burden of combat for them is not now, and never has been, the sole responsibility of the United States."

Having said this, Mr. Clausen proceeds to tell in detail exactly what he thinks we should do about it, and I am going to let him tell it as much as space permits in this own words.

What I want to emphasize in advance is that his thinking (and mine) involves no notion of deserting the South Vietnamese or failing to live up to our commitment. Mr. Clausen himself emphasizes this right off the bat.

"My basic proposal," the Congressman writes, "involves what I call the 'Phase-in—Phase-out Concept.' This is to avoid any connotation of unilateral withdrawal.

"Very briefly, it means redirecting the manpower emphasis in Vietnam whereby vastly more South Vietnamese and free Asian security forces would be injected into the ground war there and a like number of American fighting men withdrawn on a carefully conceived, methodical and realistic timetable basis.

"This could be done by creation of what I call a 'Free Asian Security Force' composed of regular military units of the countries of free Asia which are directly threatened by Communist expansion.

"I am sincerely advancing this concept to our nation's leaders, and I hope that every effort will be made to explore its feasibility. My own judgment is that such a program is feasible—that the manpower is available, that the idea is practical, logical and fair, that the free Asian nations can be convinced of this diplomatically, and that it can be put into effect logistically within a year.

"It suggests a broad but positive and orderly plan for reducing U.S. involvement in Vietnam without any sacrifice of our basic

security requirements. Further, it would place the conduct of the war in the hands of Asians themselves."

The big stumbling block in all this, of course, is how to get the free countries of Southeast Asia to unite for such an effort so long as we continue plugging the dike for them.

Mr. Clausen, a realist, is well aware of the chilly reception these countries late last year gave to Gen. Maxwell Taylor and now Secretary of Defense Clark Clifford when the Presidential envoys came asking them for more help.

Yet both of us feel that our reluctant Allies can be persuaded to recognize that taking over their own responsibility will be the best thing for them in the long run.

In the last analysis, the security vacuum which exists in Southeast Asia, cannot be filled indefinitely by the U.S. It can be filled only when the free countries of the area set up their own common bulwark against the Communists.

To sell these countries on what obviously is essential for their future, Rep. Clausen declares, a dramatic diplomatic offensive by this country is required. Since this could originate only in the White House, he writes as follows:

"I therefore urge President Johnson to call a summit conference of the non-Communist Far Eastern nations for the purpose of forming a Free Asian Security Force.

"Purpose of this force would not only be for the immediate future needs of Vietnam but to provide the organizational structure to guarantee lasting security for all peoples living in the Pacific basin countries.

"Our best diplomatic efforts must be used to this end. We must switch from defense to offense."

Mr. Clausen points out that such a diplomatic offensive would not involve a starting from scratch. Thus we already have the basis for a permanent free Asian security force now in Vietnam, consisting of fighting forces from various countries in the area in addition to the South Vietnamese.

We also have the basis for coordinated action to implement the Phase-In—Phase-Out program. With SEATO in a state of virtual collapse, a natural coordinating vehicle is the association of Southeast Asian nations, or ASEAN.

Formed only last year to further mutual interests ASEAN at present is composed of Indonesia, Malaysia, the Philippines, Singapore and Thailand. All these would be among the nations which President Johnson would summon to the proposed summit conference.

Rep. Clausen concludes his proposal with these remarks:

"I believe we have done more than our share in Vietnam, and we've paid an extremely high price in the process. In my judgment, Phase-In—Phase-Out is the course we, as Americans, can and must now follow.

"We have much to gain through the formation of a free Asia security force for Vietnam to meet immediate needs—and the formation of a partnership of the Pacific in the future, after Vietnam.

"Thus, in considering the Phase-In—Phase-Out concept it is necessary to look beyond the war to find its true merits and potential value to the people of Asia and us here at home. Because whatever happens in Vietnam, we must be prepared to live not only with ourselves, but with the people of Asia and the free world in the future.

"What we're really seeking, I believe, is economic integration of the free Pacific Basin communities where we can maximize cooperation and coordination in economic, political and security matters.

"What do we have to gain? Everything—but most important of all we will gain an additional and more viable security buffer against possible Red Chinese or even Soviet encroachment in the Pacific region, and a proper sharing of our heavy financial and manpower burden in Southeast Asia.

"What I have outlined is an action program aimed at these goals. It is a program all Americans can take pride and purpose in supporting."

* * * * *

So much for Congressman Clausen's most constructive improvements on what was already a pretty good idea.

We'd better get the big band wagon, because I think we're going to have lots of company on this one.

GENERAL LEAVE

Mr. BLACKBURN. Mr. Speaker, I ask unanimous consent that all Members desiring to do so may have 5 days in which to insert their remarks at this point in the RECORD on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

ADDED SUPPORT FOR LICENSING AUTO MECHANICS

The SPEAKER pro tempore (Mr. EDMONDSON). Under previous order of the House, the gentleman from New York (Mr. HALPERN) is recognized for 5 minutes.

Mr. HALPERN. Mr. Speaker, today I am reintroducing my bill designed to require States to license and examine auto mechanics and set up training programs to assure the competence of new mechanics.

Joining me today in sponsoring this legislation is a bipartisan group of my colleagues: Mr. TUNNEY of California; Mr. BLACKBURN of Georgia; and the following members of the New York delegation, Mr. BRASCO, Mr. ADDABBO, Mr. BUTTON, Mr. REID, Mr. MURPHY, and Mr. FARBSTEIN.

I would also like to acknowledge that Mr. MATSUNAGA of Hawaii is in general agreement with most aspects of my bill, and with some revision is planning to introduce similar legislation.

The urgency of "the Motor Vehicle Mechanic Licensing Act" can not be underestimated. By the end of this year almost 105 million vehicles will be on America's highways, our urban expressways, and our neighborhood streets. This is a staggering 3.5-million increase in registered vehicles in only 1 year. This new high in vehicles includes 86.5 million automobiles, and over 18 million trucks and buses.

Just nine States account for over 50 percent of the number of vehicles, each having over 3 million vehicles jamming public arteries. California leads with an incredible 11.4 million registrations; New York has 6.5 million; Texas, 6.4 million; Pennsylvania, Ohio, and Illinois and Michigan each have over 5 million; and Florda and New Jersey have between 3 and 4 million vehicles.

Who is serving this staggering consumer investment in automobiles? How reliable is the repair work? Are the repairs safe or are they potential causes of deadly accidents? Are consumers being overcharged?

Unfortunately, only too often the answers to each of these questions are all too familiar to us. Overcharging, cheating, bills for work undone, sloppy, deficient repair work—the incidence of mechanic negligence and consumer abuse is phenomenal.

The latest evidence I have found—from a survey by the National Automobile Dealers Association—indicates that 36 percent of 10,000 car owners were dissatisfied with repair work on their autos. One out of every three, that is a poor performance record, to say nothing about the $25 billion annual repair bill Americans pay or the safety of their automobiles.

Indeed, over 4,000 complaints about faulty repair work, shoddy service, and rising repair costs have been received by Senator HART of Michigan as a result of his Senate Antitrust Subcommittee investigation into car repairs.

The auto licensing bill would require a minimum of 3 years' training and mandatory testing of all mechanics to assure uniform qualifying standards. It would provide Federal financing up to 80 percent of a State's licensing program; and if a State failed to develop a licensing program, then 10 percent of its highway trust fund would be withheld.

The Secretary of Labor would also be required to approve the State licensing and training programs. Additionally, States would set up a grievance board, representing both public and mechanic, to hear consumer complaints.

Generally, the bill provides that States—

Assume responsibility for licensing examinations, including the following requirement:

First, a minimum of 3 years' training;

Second, a mandatory, specific examination, to assure uniform qualifying standards;

Third, provision that applicants who fail exam be trained for requalifying test within 1 year;

Fourth, practicing mechanics with at least 3 years' training experience may take qualifying exam without training;

Establish apprenticeship and training programs to qualify applicants for licensing examination;

Require advanced training for licensed mechanics as part of their on-going training to keep abreast of modern automotive design;

Provide a procedure for consumer complaints before a grievance board representing both mechanic and public;

Discipline licensed mechanics determined incompetent, and prosecute any mechanic operating without a license.

The legislation also provides that the Federal Government—

Finance up to 80 percent of a State's licensing program;

Withhold 10 percent of a State's highway trust funds if it failed to develop a licensing program;

Require the U.S. Secretary of Labor to approve State licensing and training programs;

Grant funds to States only if they operate federally approved automobile inspection programs.

The failure to license auto mechanics is one of the most blatant omissions in our laws to protect the consuming public. As I said when first introducing this bill—

It isn't only a question of protecting the public from being gouged, but it's a matter of saving human lives.

The significance of this legislation is also underscored by the following article, Mr. Speaker, which I would like to include in the RECORD for the benefit of my colleagues. The article, from the September issue of the Reader's Digest, makes it abundantly clear that auto mechanics must be licensed.

BEHIND THE HIGH COST OF AUTO REPAIRS

(By Ralph Kinney Bennett)

Glenn Baldwin, of Bethesda, Md., had driven his new car only 194 miles last fall when the carburetor sprayed gasoline on the hot engine, causing a $165 fire that scorched the paint off the hood and destroyed the engine hoses and wiring. "We'll fix it like new," said the manufacturer's representative. "They did," Baldwin says wryly. Shortly thereafter, the "repaired" carburetor sprayed gasoline again, ruining the new paint job and again melting wiring and hoses.

In Hacienda Heights, Calif., William Doal paid $47.94 to have his car's oil leak repaired. The leak persisted. He spent $53.29 for additional repairs. The leak continued. Finally, a service-station mechanic found the problem to be a leaky oil pressure switch. He installed a new one for $2.95.

David L. Ramsey took his car to an Atlanta garage to have the noisy brakes checked. A mechanic okayed them. When the brakes became noisier, Ramsey took his car to another garage. "Buddy, you don't *have* any brakes," said the mechanic after taking the wheels off and finding crumbling brake shoes and damaged drums. Evidently, the first man, finding the right front wheel in marginal but acceptable condition, had passed the brakes without looking at the other three wheels.

These are typical signposts along the weary, frustrating and costly road that the average motorist must travel to have his car fixed. In a country with about 100 million vehicles, where a car in good running order has become more a necessity than a luxury (Americans travel nine of every ten miles by car), the scope of the auto-repair problem is obvious. American drivers spend an estimated $25 billion a year on automobile repair and maintenance. Most pay willingly *if* they feel they are getting full value for their money. However, a recent National Automobile Dealers Association survey showed that 36 percent of 10,000 customers queried were dissatisfied with auto-repair work done for them.

Since the Senate Anti-trust and Monopoly Subcommittee, headed by Sen. Philip A. Hart (D., Mich.), began its hearings on the auto-repair industry in December 1968, thousands of angry car owners, disgruntled mechanics and automotive specialists have told of shoddiness and ballooning costs in the auto-repair business. The auto-makers themselves acknowledge the seriousness of the problem, noting that it reflects ultimately on the success of their product.

Glenn F. Kriegel, a former aeronautical engineer who now runs a Denver auto diagnostic center, testified that of 5000 cars he rechecked following repairs, fewer than one percent had been *properly* repaired. Badly repaired items ranged from broken auto frames to improperly installed steering linkage to unconnected distributor wires. A new study done for the Hart subcommittee by the Automobile Club of Missouri at its sophisticated diagnostic center in St. Louis showed that, of 7804 late-model cars tested, 5842 had one or more potentially dangerous defects. Worse, rechecks of 2000 of the test cars, after owners had taken them to mechanics for repair of the defects, showed that 35 percent of the specified work was not done properly. Such sloppy repair work unquestionably accounts in part for the staggering accident rate on our highways.

Why is our auto-repair system in such trouble? These are the basic reasons:

1. The Mechanic Shortage. Today there are 800,000 auto mechanics in the country—one for every 125 vehicles on the road—and that ratio is expected to worsen. An estimated 105,000 men must be recruited and trained each year to provide enough qualified mechanics to service the country's soaring number of vehicles. But a study showed that of 98,000 students graduating from automotive training courses in vocational schools in 1966, only 17,000 have remained in the repair business. "These days not many want to get their hands dirty while earning their pay," says a Ford Motor Co. executive.

Many qualified young men decide against entering the repair business because pay is generally low for the work involved. Although $10,000 is not an uncommon salary for a very specialized mechanic, the average mechanic earns about $6500 a year. Most are paid on a piecework basis.

For instance, to replace the rear springs on a 1967 Chevy II, a General Motors manual lists two hours of work at $8 an hour. This hourly wage is usually split 50–50 between the mechanic and the garage owner. Some mechanics are therefore tempted to "beat the book"—to rush through repair jobs in less than the specified time so they can do more jobs and make more money in a given day. Often, the result is below-par work.

The effects of the mechanic shortage may be compounded by a lack of sound management in the garages. All the big auto companies are making a major effort to recruit and train service managers and to improve management tools and techniques. "We've got to arrange things," says John Baughman, manager of Ford's service research center, "so we don't have expert mechanics using up their time on simple jobs like, say, wheel alignment, which can be handled at a relatively low skill level. The top people should be used on the tough jobs."

But until better mechanic "image" and improved service management become the rule rather than the exception, the consumer will pay the toll for the mechanic shortage. "Shop operators are constantly faced with the temptation to hire mediocre repair people," says Neal Mann, executive secretary of the Independent Automotive Damage Appraisers Association. Understandably, repair bills go up when unskilled men diagnose automotive problems by trial and error. In addition, an unskilled or badly rushed mechanic is likely to install a new part rather than save the customer money by fixing an old one.

2. The Fast Buck. Uninitiated in the mysteries of submersible fuel pumps and dual ignition systems, the average car owner is at the mercy of an unscrupulous mechanic. In California last year, the attorney general's consumer-fraud office brought action against five auto-repair companies for such practices as selling used parts as new, charging for work not done, and luring customers into expensive repair jobs by showing them worn or damaged parts from another car.

Decisive legal action is rare. "If a mechanic is called up on something," reports Herschel Elkins, a deputy attorney general in California, "he can always say he made an honest mistake. But there's a good chance he won't get called up." Elkins points out that several gas stations near the California-Nevada border prey on eastbound women drivers in cars with out-of-state license plates. They spray oil on the alternator while the woman's attention is diverted, then tell her that the alternator is about to malfunction. Faced with the possibility of a breakdown in the desert, she often buys a new alternator (about $100), which the station "just happens to have on hand." "We know this is going on," says Elkins, "but since the victims are from out of state, it's almost impossible to get witnesses back to California."

Testimony before the Hart committee shows that some shops consider women "fair game" and "a good source of revenue" because it is easy to convince them that their cars are on the verge of breakdown. This can amount to big business, since women buy about 40 percent of the nation's auto repairs.

Sometimes actual criminal fraud takes a back seat to a hard-to-pinpoint kind of less-than-honesty that nets a dollar here, a dollar there. A Yonkers, N.Y., man who questioned a $128 charge for tune-up and lubrication of his car was told, "Oh, we did some extra work we don't normally do on all cars." Like many other motorists, he felt helpless to do anything about it.

Such shortcuts for a few extra dollars hurt the consumer, but they also hurt the many good, honest garages whose reputations suffer from the cheats and corner-cutters.

3. Rising Parts Prices. Americans spend $14 billion a year on auto parts—and prices on parts have increased about 60 percent in the last nine years (some as much as ten percent in 1968 alone). More complex and luxuriously equipped cars account partly for this increase. Automatic transmissions and high-performance engines are more and more in demand, and each year the sales curve sweeps upward on such accessories as air-conditioning, power steering and power brakes.

Particularly puzzling to the Hart subcommittee, and to auto mechanics, however, are seemingly arbitrary disparities in prices of similar parts. Strikingly similar chrome fender moldings for two comparably priced different makes cost $2.50 and $7.55. Door panels for one corporation's low-priced model cost more than for any of its other cars, including its expensive prestige model. A left front-door panel for the low-priced car, for instance, costs $39.70, while the same panel for a much more expensive car built by the same manufacturer is listed at $23.85.

Such costly parts—particularly exterior styling of concern to the car owner because today's sleek and sophisticated automobiles are more damage-prone than ever before. Dime-thin sculptured sheet metal on hoods, fenders, doors and rear decks is easily dented or punctured, and even bumpers, which once protected cars in low-speed collisions, are now fancy trim of thin-gauge steel.

Auto-industry spokesmen say that increased costs of materials, labor, design, retooling and distribution, along with the growing variety in accessories, account for the rise in parts prices. But consumer groups and Congressional probers feel that further explanation is needed, if only to convince motorists that high parts prices are not unreasonable.

The Road Ahead. What can this nation on wheels do to stem the tide of high-cost, frequent and often low-value repair work? Engineers, mechanics and automotive experts who have been studying the problem make these recommendations:

Certification of auto mechanics should be required. It is ironic that in our auto-oriented society there are no standards of training for the people who take care of our cars. Plumbers, electricians, cosmetologists must pass an examination and get a license in some states, but in no state is this required of an auto mechanic. Licensing is being considered in both California and New York, but

many mechanics lobby against it, fearing that it would drive them out of business. Yet a uniform quality of service must be made possible, not only in auto-dealer garages but in the vast network of independent garages and service stations that handle about 70 percent of all repair work.

Licensing *can* work. In Canada's Ontario Province, auto mechanics have been licensed since 1937. A young man wanting to enter the business must complete a four-year program of on-job training and full-day classes at vocational school in order to qualify for a license examination. "When a motorist takes his car into an Ontario garage, he at least has the assurance that it will be worked on by a person who knows something about it," says W. F. Davy, director of the Industrial Training Branch of the Ontario Department of Labor.

But how, ask many in the automotive field, can a mechanic expect to earn a license certifying him proficient to work on the wide variety of American and foreign cars? Informed opinion suggests the possibility of specialized licensing in different areas (transmission, engine, body work, etc.). The person able to earn all the licenses would be rated a master mechanic.

New ways to attract and train mechanics must be found. Vocational schools are doing their part, but many do not have the modern equipment or up-to-date instruction methods needed. Auto manufacturers have training centers around the country, but most of the men attending them are experienced mechanics trying to keep abreast of new technical developments. The auto-makers train about 7000 new mechanics each year under such programs as high-school graduate apprentice training and the Defense Department's Operation Transition, which trains former GIs as mechanics. But although the companies donate equipment to vocational schools and cooperate with government programs for the disadvantaged, they do not believe the training of new mechanics is primarily their responsibility. Rather, they believe that emphasis should be placed on upgrading the nation's trade schools as a source of recruits. It seems clear that a major effort, with the government, the educational system and the automotive industry cooperating, is needed to provide a generally high standard of mechanic training.

Detroit can fight high repair costs. While the American car continues to be, mile for mile, the world's greatest automotive bargain, it can be made less vulnerable, easier to repair and maintain. "We are convinced," says Senator Hart, "that many consumers' complaints about high cost of repairs started back on the design boards." Detroit is accelerating its efforts to answer repair and maintenance problems, and programs in the works for some time are now beginning to appear.

Pontiac's use of resilient Endura front bumpers is one example. Ford's new economy Maverick, with bolt-on front fenders and improved accessibility to service points is another. Throughout the industry, engineers are sitting down with designers to minimize vulnerability and improve maintainability in future car designs.

Lee Iacocca, executive vice president in charge of the entire Ford line, deals bluntly with the challenge of repairability and serviceability. "Have we done enough? No," he admits. "But we're working like hell on it. This whole industry knows that if it costs too much to repair our cars, people won't buy them."

You, the car owner, can help. Know your car (read that manual in the glove compartment) and the mechanic who works on it. Understand that the more "loaded" your car is with luxury accessories, the more difficult and possibly expensive repairs will become. See that minimal maintenance is performed at proper times, and when you need repairs be as specific as possible about what you want done. Don't accept a bill unless it's completely itemized, and be wary of flashy advertisements on low-low-priced engine and transmission repair. If you feel you've been the victim of fraud or incompetence, complain—to the garage and to the Better Business Bureau.

Informed and realistic people in Detroit and in the automotive-repair industry do not promise any major breakthroughs in the auto-repair problem in the near future, but they cannot ignore the challenge. Declares Senator Hart: "Most of the nation—especially the industry itself—is acutely aware of the intensity of consumer dissatisfaction over the quality and cost of auto-repair work. We must do more to ensure the quality work to which the consumer is entitled."

FIRSTHAND OBSERVATIONS ON VIETNAM

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Maryland (Mr. HOGAN) is recognized for 60 minutes.

Mr. HOGAN. Mr. Speaker, during my August vacation I traveled to Asia with four other Congressmen: The gentleman from Alabama (WALTER FLOWERS), the gentleman from Florida (LOU FREY), the gentleman from New York (JAMES HASTINGS), and the gentleman from South Carolina (JAMES MANN). We had received $1,000 study grants from the Free Pacific Association, founded by Cardinal Yu Pin, exiled Catholic Bishop of Peking. This study fellowship intended to encourage Congressmen to visit Asia for a firsthand look, covered about one-third of our costs. The remainder we paid ourselves. It was a most enlightening experience. We visited Vietnam, Japan, Korea, and Nationalist China.

In Vietnam we covered virtually all of the military areas from the demilitarized zone in the north to the Mekong River Delta in the south where the Communists have stepped up their infiltration.

In addition to briefings and informal off-the-record discussions with our Ambassador, Ellsworth Bunker, and other civilian officials in Saigon, we met with Gen. Creighton Abrams and other military commanders. We also went by helicopter to remote military outposts to chat with our American fighting men. We chose our own itinerary and were shown everything we asked to see. I wish every American could experience what we have experienced.

We spent more than an hour in informal discussions with General Abrams, a leather-skinned veteran of several wars who appears resigned to do the best job he can in spite of the obstacles he faces. He puffed on his oversized cigar and assessed the new enemy offensive which coincided with our visit. He said the enemy's new stepped-up hostilities came as no surprise because our intelligence accurately predicted it. He explained that the enemy's strategy is to keep up a campaign of harassment to let us and the world know that North Vietnam is a viable military force. They keep jabbing at us periodically in different areas and there is a recurrent pattern to their operations.

Before my visit to Vietnam, I did not really have an appreciation of the extremely difficult situation facing our troops. Under our present policies and restraints, there is absolutely no way we can win this war.

One of our military obstacles is that we are engaged in a defensive war. The enemy has all the initiative and for the most part we are sitting back waiting to be hit. American soldiers have never been required to fight this kind of war.

Unlike most other military contests, there is no defined "front." The military action takes place in every sector of South Vietnam in a series of small wars. Our troops are prohibited from going into North Vietnam. The enemy has triple canopy jungle to conceal his movements and he has the element of surprise as a distinct advantage. He has all the initiative in this war. He is able to strike our units and then escape to his sanctuaries in Cambodia, Laos, and North Vietnam. We have to fight him where we find him.

We visited several remote mountaintop artillery bases and found that these installations are really important because they enable us to control whole valleys below. Understandably, the enemy is constantly trying to dislodge us from these positions through the use of suicide troops.

The long, exposed South Vietnam borders adjacent to Cambodia and Laos and the terrain of the country are ideally suited for the enemy's guerrilla-type warfare. The enemy's strategy is to keep up his hit-and-run activities until American public opinion at home demands a cessation of the war.

There was unanimity on the part of all the military commanders we met with that halting the bombing of key targets in North Vietnam seriously hampered our ability to prosecute the war, and substantially increased the number of casualties among our troops. U.S. casualties during the 17 months of the bombing pause have accounted for 50 percent of the total deaths since 1961. The bombing halt also weakened our negotiating position at the peace talks in Paris. The enemy has been able to better supply his troops in the field and rebuild his factories since the bombing stopped. Our air superiority is of little advantage in the Vietnam war because there are few significant targets for our bombs, rockets and missiles in the jungle.

One of our colleagues who accompanied me on the trip, the distinguished gentleman from Alabama (Mr. FLOWERS) has since called for a resumption of the bombing of North Vietnam. While this makes sense from a military point of view, President Nixon must weigh the international political ramifications of such a move as well as the military and make a judgment as to whether or not this would prolong or shorten the war. Resumption of the bombing is certainly one of the options open to us if the North Vietnamese continue to stymie progress at the peace table in Paris. There is no question that we can negotiate better from a position of strength than from a position of weakness.

One striking observation from our

trip was made concerning the young men who are fighting there. From General Abrams to captains commanding remote mountain outposts, every officer with whom we spoke had the highest praise for our American fighting men.

General Abrams told us—

Our equipment—helicopters, artillery, etc.— is outstanding, but the biggest advantage we have in this war is our young men. I've been in the Army for over 30 years and I have never seen a better crop of soldiers than we have here in Viet Nam. They're dedicated. They're bright. I'm astounded at how quickly they learn.

The same accolades were heard everywhere, and I am pleased to say that they were borne out by our own first-hand observations and discussions with our young men.

As one of the Congressmen who toured college campuses last spring to study campus unrest for President Nixon, and as one who has been disgusted by the hippie-type protesters who dominate our TV screens and news pages, it was refreshing and reassuring to see the direct antithesis in the young men in Vietnam. As our distinguished colleague from Florida (Mr. FREY) so aptly said:

I suggest that those who think this generation of Americans is getting soft and doesn't have any guts come over here and see how wrong they are.

I was particularly impressed with the high morale of our troops. This was quite surprising to me because I automatically assumed that the antiwar mood on the part of many Americans would have its adverse effect on our troops. Do not misunderstand me. I am sure that all of the young men I spoke with would prefer to be at home rather than in Vietnam—going home is the soldier's No. 1 topic of conversation—but they are dedicated to doing the best job they possibly can while they are there.

Because the high morale surprised me so much, I attempted to discover the reasons for it. After distilling conversations with numerous men in all levels of rank, the following appear to be the reasons: First, the men know that their tour of duty will last no more than 12 months; second, they know that if they are wounded, no matter where they are, helicopter rescue pilots will go in after them and, within minutes, have them at a hospital where they will get superb medical attention immediately; third, they get prompt, every day mail delivery; and fourth, the food—while nowhere near as good as their mother's or their wife's—is very good, including one hot meal a day even for the men in remote outposts.

We visited several areas which have recently been the scene of extremely heavy fighting.

One day we traveled to Lai Khe, headquarters of the Army's 1st Infantry Division—known as the Big Red One—and were briefed by military commanders at various levels. At the time of our visit, the unit was involved in a military encounter with the Communists who had opened an attack on the unit the night before. We went by helicopters armed with two machinegunners each, and were escorted by helicopter gunships to some remote fire support bases in the 1st Infantry's area of operations.

As we flew, we observed enemy sniper fire in the Michelin rubber plantation area. One base we visited, Gela, is jointly manned by our troops and the South Vietnamese. Uusually, the soldiers had no advanced knowledge of our visit, but here they "knew we were coming and baked a cake." We huddled in a tent, eating strawberry-iced cake with walnuts, baked in a field mess, and chatted about home with soldiers from our respective States. They seemed surprised, but genuinely pleased to see us.

At this base we saw an amazing project which was the joint effort of the American and South Vietnamese soldiers—a well to provide water for the base. The Vietnamese dug the well—perfectly cylindrical—and the Americans provided the installation of the technical equipment—pumps, filters, and so forth. The well now saves us $4,000 per day which was the cost of transporting water to the base by helicopter prior to construction of the well.

We spent some time in Ben Cat, a Vietnamese village, where we chatted with the vilage chief and the young U.S. AID official assigned there. We toured the "commercial" and residential areas of the village, a tiny cluster of buildings, carved out of the jungle. Paved roads make the village far more accessible to the people in outlying areas who come to Ben Cat to "shop." Motorbikes—so much in evidence in Saigon—are also beginning to appear in increasing numbers in remote areas such as this.

We were told that some months ago it would not have been safe for us to be in Ben Cat. Unlike a year ago, about 90 percent of the South Vietnam villages and hamlets are relatively secure from Viet Cong attack.

Security of the cities, villages and hamlets is the key in this war, not holding large hunks of geography. In one area we visited, seven of 14 villages were in Viet Cong hands a year ago. Now all 14 are relatively secure.

The structure of the government is changing in Vietnam. Historically the village chiefs have ruled the country with little loyalty to a central government. This is slowly changing. The Saigon government is trying to give more authority to the local governments and at the same time is building confidence in, and loyalty to, the central government. This confidence will be increased by the land reform program now underway which will place 800,000 acres of land into the hands of the villages at no cost.

As an indication of the self-confidence of South Vietnam's Government, the villagers are being armed by the Saigon regime to assume responsibility for the security of the villages. We saw some of these "popular self-defense forces"—including women—and they take these new responsibilities very seriously. It is significant that the Communists have now launched a campaign of terror against these local militia.

We flew into the ancient walled city of Hue—scene of mindless Communist atrocities during the Tet offensive—where we visited what is generally considered to be South Vietnam's best division, the 1st ARVN—Army of the Republic of Vietnam. We saw captured North Vietnamese weapons and training films. The consensus of our military commanders was that, if all South Vietnamese units were as competent as the 1st ARVN, we would have little difficulty in transferring responsibility for the war as American troops withdraw. Unfortunately, all South Vietnamese troops are not as good as the 1st ARVN Division.

While the ARVN is increasing its proficiency, it is still very dependent on Americans for the security of the nation. At the present time, their personnel is not sufficiently trained to take over the complex aspects of modern warfare, but training is under way to prepare them to assume primary responsibility for their own defense.

Among the other places we visited, in addition to Saigon, were Da Nang, Phu Bai, Camp Eagle—home of the 101st Airborne where my son-in-law, Lt. Bob Lazarus, is assigned—a tour of the A Shau Valley—where the so-called Ho Chi Minh trail is located—including Fire Support Bases Boyd, Birmingham, Bastogne — closed — Veghel — closed—Blaze, and Berchtesgaden. From Berchtesgaden we had an excellent view of Alp Bia—Hamburger Hill—and of Laos which is the launching area for so much enemy activity.

We then continued to Sally, Evans, Quan Tri, Vande Grift, and Dong Ha. At Dong Ha we visited the headquarters of the 3d Marine Division which has seen so much action in Vietnam.

These marines have built a privately financed hospital in Dong Ha for Vietnamese children. Called the 3d Marine Division Memorial Children's Hospital, it is now accommodating 2,100 patients a month even though it is not yet completed. Of the $115,000 in donations received to date, more than $100,000 has come from U.S. troops in Vietnam. The facility has handled 18,000 civilian patients since beginning its operation in September 1968. In addition to the Marines, the Army's 3d Engineer Battalion provided technical assistance and heavy equipment for filling and grading the site. The Navy's Seabees laid the underground plumbing and foundations and the Vietnamese, hired by the sponsors of the hospital, are making bricks and assisting in laying the foundation and providing part of the skilled construction labor.

After leaving Dong Ha we overflew the Khe Sanh area, which has recently been the scene of intense enemy action, and landed at Fire Support Base "Gates," a rugged mountaintop artillery base. While we were chatting with the troops, a CH-53 helicopter flew to the spot and gently placed a 105-millimeter howitzer into position on the mountaintop. The entire operation took a matter of seconds. Without the helicopter it would have been impossible to transport the huge gun to such an inaccessible spot which was in the midst of the roughest mountain, jungle terrain imaginable.

Next we flew along the DMZ to the Laotian border, then back to the coast where enemy fire forced us to alter our

course. We then flew down the coast to the Phu Bai Airport at Hue.

In a T-39 jet, we flew to Da Nang, Qui Nhon, Nha Trang, Cam Ranh, Phan Rang, Vung Tau, and the Mekong Delta. We then returned to the Tan Son Nhut Airport. The pilot, Maj. Frank Bendrick—whose home is in Prince Georges County in my district—gave us a simulated fighter pilot strike as we landed.

All over Vietnam I was impressed with the legacy we will be leaving the country after we depart. When we think of the staggering military appropriations which finance our military efforts there, we tend to think only of the bombs, rockets, and guns. A visit to the country makes one aware of how much of this money has financed the dredging and construction of harbors, the building of airfields, hospitals, schools, orphanages, villages, roads, and so forth. Impressive new paved highways—they must be paved as a deterrent to the laying of enemy land mines—traverse remote mountain areas and will give South Vietnam ready access to rich virgin timberlands which had previously been totally inaccessible. One is also impressed with the beauty of the country. It has tremendous postwar potential as a tourist mecca. Its seashore, rolling rich lowlands, and breathtaking mountains would offer a pleasant treat to postwar vacationers.

Our AID officials in Vietnam made it clear that it will be necessary for our country to continue substantial assistance to South Vietnam after the war ends to help the nation to build an independent economy.

I was favorably impressed with many of the South Vietnamese officials with whom we met. They seemed to be struggling hard to make their fledgling democracy work in spite of the many great problems they have. There are between 50 and 60 political parties in South Vietnam and this contributes to the government's instability. They readily admit that they have corruption, but so does the United States after nearly 200 years of democracy. One of their biggest problems is inflation. It is also one of our biggest problems in the United States. I feel we should not expect them to operate as an advanced sophisticated nation such as we in the United States have today. We should measure them instead against what our country was in its infancy during the American Revolution. That is the point where they are in time.

Many of the officials we met are intelligent, capable people dedicated to making their government work.

It is obviously very difficult to carry on the orderly conduct of government when the capital city is under continual military harassment by the Communists. The Communists have systematically murdered 15,000 South Vietnamese leaders and this terrorism has been intensified in the past few days.

Every night, while we were in Saigon, we heard artillery fire. The day before we arrived, an Army school was bombed, killing eight and wounding about 80. We were awakened one night by a Communist mortar barrage. The rockets fell a half mile from where we had dinner. In spite of the bustle, traffic jams, and wild motorbike drivers in Saigon, one is very much aware that he is in a country at war. Armed soldiers, barricades, barbed wire, and sandbag emplacements are seen everywhere in the city. The tension and horror under which the people of Saigon live are amazing and yet they seem to accept it matter-of-factly. Under these conditions, however, it is obviously very difficult to carry on the normal functions of government.

All of the Vietnamese officials and U.S. military and civilian officials with whom we met anticipated the further troop withdrawal which President Nixon subsequently announced on September 16. By December 15, 1969, we will have withdrawn 60,000 troops.

The concern of all officials with whom we discussed this matter was that the troops should not be withdrawn so rapidly that the safety of the troops remaining there is jeopardized and before the South Vietnam troops are adequately prepared to assume the responsibilities being transferred to them by our departing units.

All those I talked to agreed the time has come for the Vietnamization of the war. The restraints placed on our military men and the difficulties of the terrain have made a military victory impossible. We must let the South Vietnamese assume the responsibilities we have been carrying. But the transfer cannot be made overnight. It takes at least 2 years, for example, to train Vietnamese to take over our helicopter operations.

Since President Nixon came into office, the United States has exerted major efforts toward peace in Vietnam. In this connection, President Nixon has reminded us that:

We have renounced an imposed military solution;

We have proposed free elections organized by Joint Commission under international supervision;

We have offered the withdrawal of U.S. and allied forces over a 12-month period;

We have declared that we would retain no military bases;

We have offered to negotiate supervised ceasefires under international supervision to facilitate the process of mutual withdrawal;

We have made clear that we would settle for the de facto removal of North Vietnamese forces so long as there are guarantees against their return;

We and the Government of South Vietnam have announced that we are prepared to accept any political outcome which is arrived at through free elections;

We are prepared to discuss the 10-point program of the other side together with plans put forward by the other parties.

In short, the only item which is not negotiable is the right of the people of South Vietnam to determine their own future free of outside interference.

Mr. Speaker, we hope and pray that the President will find some way to honorably end this war without sacrificing the freedom of the South Vietnamese for which so many of our young men have died.

VIETNAM

The SPEAKER pro tempore. Under previous order of the House, the gentleman from Kansas (Mr. WINN) is recognized for 10 minutes.

Mr. WINN. Mr. Speaker, I want to affiliate myself with the gentleman from Georgia and commend him for taking time this afternoon to stimulate this discussion on the floor and for his remarks before this body.

President Nixon should be commended, and has been many times this afternoon, for his efforts to secure a peace and for his understanding of the problems that face this country in trying to secure an agreement in Vietnam.

Let me remind some of those who would set datelines on withdrawal that they are playing right into the hands of those in Hanoi. It would be like a football team telling their opponents their entire signal structure.

It is about time we support our own leaders with the enthusiasm and with the spirit that the small minority seems to think they have. It is time that we support our own leaders who are trying their best under almost impossible negotiating circumstances to bring our men in Vietnam home.

About 3 months ago I had the opportunity, together with five of my colleagues, to visit with Ambassador Lodge in Paris. The man was most frustrated and most upset because he had spent hundreds of hours trying to negotiate a peace or a settlement with the almost impossible team of negotiators from Hanoi.

The people of this Nation do want our boys home, but truthfully I doubt if many want the carpet pulled out from under them at this time and I doubt if many of the people of this Nation want the carpet pulled out from under our leaders and from our men in Vietnam.

It is discouraging to me, too, that some who are considered leaders in this Nation, and it has been referred to here today, are not really members of our team—that of the United States of America—but they seem to be cheerleaders for Hanoi.

I would like to point out to some in this Chamber that President Nixon is the first President to deescalate the war in Vietnam and to start withdrawing our fighting men. That is more than we can say about some of the other administrations of this Nation.

Earlier in the discussion this afternoon we were talking about the Thieu-Ky government and the loyalty to it by the South Vietnamese. How about the loyalty of some of our own leaders and possibly some of our Congressmen to our own country?

The President said the other day that he is trying to bring the people of this Nation together. But, it is a little tough to bring us together when we have publicity-seeking experts advocating opposition to our own leader.

In the last several weeks, Mr. Speaker, I have made appearances in Kansas, and believe me the people of Kansas are behind the President of the United States in his efforts to deescalate the war.

Last Saturday night I spoke in Missouri, normally a Democratic State, and the people of Missouri are definitely behind the President of the United States in his efforts to deescalate the war.

I firmly believe that the people of this Nation, with very few exceptions, are 100 percent solidly behind the President in his efforts.

Now let us bow our heads in silence if we must on October 15, if we will, to show Hanoi a total support of our leader and his efforts. That should be what we should bow to on October 15, the much discussed date.

Can you imagine the New York Jets, for instance, if we took Joe Namath away from them as quarterback? Now there are those who want to take the negotiating power away from President Nixon by having him set deadlines and datelines. We must stand behind our President now. We must give him every opportunity to secure a lasting peace.

Mr. Speaker, we cannot hide the ball from this Nation's quarterback.

DO WE NEED A NEW, MULTIBILLION DOLLAR DEFENSE AGAINST SOVIET BOMBERS?

The SPEAKER pro tempore (Mr. EDMONDSON). Under previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 60 minutes.

Mr. REUSS. Mr. Speaker, earlier this year the Senate Armed Services Committee made significant cuts in the R. & D. funds requested for new systems to defend the continental United States against bombers. These cuts reduced funding for development of an airborne warning and control system—AWACS—from $60 million to $15 million, and for an improved interceptor aircraft from $18.5 million to $2.5 million. In addition, the full $75 million requested for development of a new surface-to-air missile, Sam-D, was eliminated, terminating the program.

In its report, the Senate committee said:

> The Bomber Defense Subcommittee was of the view, and the full committee concurred, that the threat from potential hostile bombers is not sufficiently clear and imminent at this time to justify a full go-ahead on programs which in total could ultimately involve expenditures of billions of dollars. In addition, there was a conflict between the Air Force, on the one hand, and the Office of the Secretary of Defense and the Chairman of the Joint Chiefs, on the other, as to the selection of the aircraft for the improved interceptor.
>
> Thus, in consideration of national priorities, the committee reduced the AWACS authorization from $60 to $15 million. This latter amount, together with fiscal year 1969 funds, will permit the pursuit of the promising new radar concept and keep this technology alive. The committee has also reduced the improved interceptor request to $2.5 million to provide funds for necessary cost and design studies and analyses so that firm and specific recommendations can be made next year.
>
> Our study of the bomber defense issue revealed a wide and sharp difference between the national intelligence estimate and the Air Force with respect to the gravity of the Soviet manner bomber threat. The question also arose as to whether it is not possible to effect some economies by phasing down some portions of existing bomber defenses if the present and future threat is as limited as portrayed by the NIE.
>
> The Secretary of Defense, therefore, is directed to study, review, and analyze this matter in detail and submit, in connection with the fiscal year 1971 budget, findings and recommendations as to the nature and extent of the threat, the current and future bomber defense requirements, the possibility of phasing down portions of existing facilities, and other matters pertinent thereto and connected therewith. (S. Rep. No. 91–290, p. 8)

With regard to SAM–D, which is being developed for use in both the continental United States and with the field Army, the committee said:

> The Committee recognizes the need eventually for a follow-on air defense system for the field Army but is not convinced that the SAM–D system is the answer to this requirement or that the development program is urgent at this time. (S. Rep. No. 91–290, p. 50)

The House Armed Services Committee, in the military procurement authorization bill reported on September 26 (H.R. 14000), specifically restores the full $18.5 million for the CONUS air defense interceptor program, the full $75 million for SAM–D, and funds AWACS at a level of $40 million, $25 million over the Senate figure.

When H.R. 14000 comes to the floor this week, I shall offer an amendment to reduce the funding for these three programs to the level authorized by the Senate.

I shall today outline my reasons for offering such an amendment, in the hope that members will have an opportunity to become familiar with the issues involved prior to the limited debate that will be available to us when the bill comes to the floor. Before I begin, however, I would like to express my thanks to the many Air Force and Army officers who gave freely of their time and expertise in helping me and my staff gain an understanding of this area of the defense budget. We were impressed by their patience, candor, and dedication.

In order to come to a reasoned judgment about the kind of bomber defense we should have, we need to ask the following questions:

First. What is the threat?

Second. What are the possible responses to it?

How effective is each response against the postulated threat?

How much does each response cost?

THE SOVIET BOMBER THREAT

Members of the Senate Armed Services Committee have become increasingly skeptical of Air Force contentions that Soviet manned bombers present a serious threat to the continental United States. In hearings held last year by the Preparedness Investigating Subcommittee on the Status of U.S. Strategic Power, Senator STUART SYMINGTON said:

> I am increasingly suspicious about any real necessity of defending against a bomber offense danger. The Air Force could be building up a situation which could be artificial from the standpoint of any real danger from bombers. The last bomber the Soviets built is considerably less effective in operation and performance characteristics, than one we quit making years ago, the B–58.
>
> The Blinder is not nearly as good an airplane as the B–58. But it is the newest the Soviets ever built.
>
> The B–52 is all that we have left, and all we felt we should have left, in our offensive force. What is sauce for the goose is sauce for the gander. What the Soviets have left is even more obsolete, from the standpoint of bomber posture, than what the United States plans to have left. I believe the Soviet bomber threat, for whatever reason, has been grossly exaggerated. (May 10, 1968, p. 375)

In the same hearings, subcommittee Chairman JOHN STENNIS said:

> I have never looked upon those bombers as a serious threat to the United States, unless we just let our guard down completely. They are the same old bombers, the Bear and the Bison. (April 26, 1968, p. 151)

In hearings held this year on the military procurement authorization bill Senator STENNIS said:

> I did get back in touch with the bomber threat the other day. Frankly, it looks to me like it is getting thinner and thinner every year. (March 26, 1969, p. 429)

In terms of numbers of aircraft, the Soviets have about 200 heavy, long-range bombers—the Bear and the Bison. However, about 50 of these are used as tankers, so that only some 150 are available for a strike role. By way of contrast, the United States has 450 B–52's in service, with another 200 in storage, plus 78 supersonic B–58's. The national intelligence estimate is that the Soviet heavy bomber inventory will gradually decline over the next 10 years.

The Soviets also have about 750 Badger and Blinder twin-jet medium bombers, about two-thirds fewer than they had in 1963. There is a controversy between the Air Force and the rest of the intelligence community over the role of these medium bombers in an attack against the continental United States. The National Intelligence Estimate—NIE—is that these medium bombers do not constitute a threat to the continental United States except for portions of Alaska. The Air Force dissents, arguing that these bombers can be used against the United States in one-way Kamikaze-type attacks.

In terms of performance, Defense Secretary Clark Clifford testified in January of this year that:

> Their Bison and Bear long range bombers are distinctly inferior to our B–52s and we have long since eliminated from our forces the B–47s which were clearly superior to their Badger medium bombers. (1969 Posture Statement, p. 46)

For the future, the critical questions about the Soviet bomber threat are whether the Soviets will deploy a new, long-range supersonic bomber, and/or a new and longer range standoff air-to-surface missile. If these new threats do develop, the case for an improved U.S. air defense system would be considerably strengthened.

However, according to the NIE, there is no intelligence evidence of Soviet development of a new long-range standoff missile. The Soviets presently have a rather primitive standoff missile, the Kangaroo, on about half the Bears.

As for a new Soviet heavy bomber, Director of Defense Research and Engineering Dr. John Foster testified before the House Armed Services Committee

on April 30, 1969, that "there is no evidence of any follow-on heavy bomber development" by the Soviets and the Soviet SST "is very unlikely to be converted to a supersonic bomber."

POSSIBLE RESPONSES TO THE THREAT

First. Continue with the current continental air defense system. The current system has the following components:

The radar and tracking stations of the distant early warning—DEW—line around the Arctic Circle.

The semiautomatic ground environment—SAGE—command and control system, consisting of radars and computers at 13 primary locations in the United States. SAGE is being supplemented by the backup interceptor control—BUIC—system, a simpler version of SAGE, which is designed to manage the air defense battle if the SAGE centers are knocked out by Soviet missiles. BUIC is presently being improved by the activation of 15 BUIC III sites.

Nike-Hercules, Hawk, and Bomarc surface-to-air missiles. The first two are terminal defense missiles. There are approximately 100 Nike-Hercules sites, mostly around cities, and a few Hawk sites in southern Florida, installed at the time of the Cuban missile crisis. The Bomarc is a longer range area defense missile. There are 188 Bomarc-B's deployed in six squadrons, mostly in the Northeastern States.

There are 41 interceptor squadrons, consisting of 771 F–89, F–101, F–102, F–104, and F–106 aircraft. All of these aircraft are supersonic except for the 20 to 30 F–89's. The current plan calls for a reduction in this force to 669 aircraft by the end of fiscal year 1970.

The current system has some significant vulnerabilities. As Pentagon Research Director Dr. John Foster told the House Armed Services Committee on April 30, 1969:

> Our current air defense system permits an intercept only a few hundred miles from the North American Defense perimeter. More important, we have essentially no capability against low-altitude attackers. Finally, the ground control structure is vulnerable to destruction by ballistic missiles or submarine-launched cruise missiles.

Nevertheless, the system does limit the effectiveness of Soviet bombers by forcing them to come in at low altitude—which reduces their range—and to use standoff missiles—which decreases their bomb payload. The system also serves to protect the United States from attacks by so-called *n*th countries, such as Cuba, or from harassment tactics by any unfriendly country.

The cost of maintaining our present bomber defense system has declined gradually over the past few years as some of its elements have been phased down. The present annual cost is about $1.1 million, and the 10-year systems cost is approximately $11 billion. To this should be added about $200 million per year for Nike-Hercules and Hawk surface-to-air missiles.

Second. Develop and deploy an AWACS/F–106X force. The proposed Airborne Warning and Control System—AWACS—is an improved radar and control system which would be installed in large cargo planes—either a Douglas DC–8 or a Boeing 707—and would not be vulnerable to missile attack, as the current ground control system is. The airborne radars would also be able to detect and track bombers coming in at low altitude, which our current radars cannot do.

The F–106X is an improved version of the F–106 aircraft currently in the interceptor force. It would have a new "look-down" fire control system, enabling it to locate and fire at bombers flying beneath the interceptor. It would also have a new missile system. These improvements would significantly improve the interceptor's capability against low-altitude bombers.

The estimated 10-year systems cost of the AWACS/F–106X force is $12.1 billion, $1 billion more than the cost of the current system.

Third. Add a small number of F–12's to the AWACS/F–106X force. The F–12 is a high-performance mach 3 interceptor. The Air Force has proposed that a small number of these planes be added to the interceptor force. They have acknowledged, however, that adding F–12's to the force would only be cost effective against a qualitatively improved Soviet threat consisting of supersonic bombers or long-range air-to-surface missiles. As we have seen, there is no intelligence evidence that the Soviets are moving in this direction. The cost of the F–12 is very high—some estimates go as high as $40 million per plane. The Air Force estimates that adding a small F–12 force to an AWACS/F–106X force would add $1 billion to the 10-year systems cost, bringing it up to $13.1 billion.

Fourth. Other improved interceptor possibilities. There has been a great deal of controversy over which interceptor should go with AWACS, with the Air Force and some Members of Congress pushing for the F–12, while the Secretary of Defense and the Chairman of the Joint Chiefs of Staff have favored the F–106X. As a result, the Senate Armed Services Committee has ordered further study of the interceptor question, with a firm recommendation to be made by DOD next year. The Air Force is looking at the F–4, the F–111, the F–14, the F–15, and an entirely new plane, the F–X, as interceptor candidates. All of these would be more expensive than an F–106X force, if only because there would be procurement costs for new airframes, while the F–106X is a modification of an aircraft currently in the force.

Fifth. Replace Nike-Hercules and Hawk surface-to-air missiles with the SAM–D. The SAM–D is designed for use both as part of the continental U.S. air defense system, and as an air defense system for the field Army. It would be a substantial improvement over current surface-to-air missiles. It would permit the engagement of short-range ballistic missiles as well as high performance aircraft, and would make possible the simultaneous intercept of a number of targets.

However, it is exceedingly expensive. The total estimated R. & D. cost is $682 million, and total deployment cost is estimated at another $2½ billion.

Air Force Secretary Harold Brown testified last year before the Senate Preparedness Investigating Subcommittee that SAM–D should be considered for deployment in the continental U.S. air defense system only if Soviet long-range air-to-surface missiles or supersonic bombers became part of the threat—April 30, 1968, Status of U.S. Strategic Power hearings, page 192. As we have seen, there is no intelligence evidence that the Soviets are developing long-range SAM's or a new supersonic heavy bomber.

JUSTIFICATION FOR THE AMENDMENT

The amendment which I shall offer to H.R. 14000 would reduce funding for AWACS and the CONUS air defense interceptor program to the level authorized by the Senate, and terminate the SAM–D program. Accepting the Senate cuts would delay commitment to a full-scale modernization of U.S. air defenses, while retaining the option to proceed with such a modernization if the Soviet bomber threat increases. It would leave us with a somewhat limited air defense system which corresponds to the limited character of the threat.

The considerations which I think justify this amendment, some of which are implicit in what I have already said, are as follows:

First. The Soviet bomber threat is limited and is expected to decline. I have already discussed this at length. What concerns me is that if we go forward with a large-scale air defense modernization program at this time, we may end up 10 years from now with a highly sophisticated, multibillion dollar system with little more to defend against than perhaps 100 20-year-old Soviet bombers.

Second. The limited strategic role of bombers in an age of missiles does not justify an elaborate and expensive air defense system. In a strategic nuclear war there are two main targets—the enemy's offensive and defensive forces, and his cities.

Because of the timing problem, the role of bombers as a counterforce weapon is extremely limited. It would take Soviet bombers some 8 hours to reach U.S. missile sites, and by that time most of the targets would be empty silos. It is true that some missiles might be withheld from an initial U.S. retaliatory salvo, but the Soviet bombers would not be a serious threat to them since it would be very difficult for the Soviets to distinguish expediently between empty and loaded silos.

Soviet bombers might also strike at U.S. bomber bases and Polaris submarine pens to prevent them from being used to prepare a second round of nuclear strikes. After an all-out nuclear exchange, however, this "second round" capability has only marginal strategic importance.

Bombers have a somewhat greater role as a counterpopulation weapon. In a first strike, for example, the Soviets might concentrate their missiles on U.S. missile silos and airfields, leaving to bombers the task of striking cities. The Air Force has estimated that if we had no air defense at all, bombers would kill 73 million people, or 33 percent of the U.S.

population. Fatalities would of course not be that high with our current air defense system.

The important point, however, is that if the Soviets wanted to kill 73 million Americans, or 100 million, or 120 million, they could surely do so simply by adding a few more missiles to their missile force and targeting them at U.S. cities. I do not think depriving the Soviets of the option of killing these people with bombers is a matter of overriding importance—nuclear war is not rendered less horrible when people are killed with missiles rather than bombers.

Defense Secretary Clark Clifford made much the same point earlier this year in the 1969 posture statement when he said:

> No air defense system can provide a significant "Damage Limiting" capability against the Soviet Union unless accompanied by a strong, effective ABM defense. (p. 58)

Unless we can protect our cities against ICBM's, in other words, there is little to be gained by expending large resources to protect them against bombers.

Third. The long-run savings projected for an AWACS-improved interceptor force are conjectural. As we have already seen, the 10-year systems costs for an improved air defense system would exceed the 10-year systems cost of the current system to $1 to $2 billion. The Air Force claims, however, that the annual operations and maintenance cost of the new system would be about $200 to $300 million less than the current system, so that over a period of longer than 10 years the improved system would be cheaper.

Putting aside for the moment Lord Keynes' dictum about the long run, I think we are entitled to be skeptical about cost savings projected that far into the future. In testimony earlier this year before the Economy in Government Subcommittee of the Joint Economic Committee, former Budget Director Charles Schultz pointed out that—

> Past experience indicates that final costs of complex military hardware systems almost always exceed original estimates.

Mr. Schultz cited a number of examples, but anyone who reads the papers can certainly supply his own.

Fourth. The SAM–D missile has only a very contingent role in U.S. air defense plans, and would be justified as a defense for the field Army only in the event of an extended, full-scale conventional war in Europe.

The SAM–D would be considered as a replacement for Nike-Hercules in the continental air defense system only if the Soviets developed a long-range air-to-surface missile or a new supersonic bomber. Even then it probably would not be deployed unless at the same time we deployed a thick, city-defense ABM system. Thus it is difficult to justify a go-ahead for the program on the basis of its possible role in the U.S. air defense system.

However, the Army contends that its primary role is for defense of Army troops in the field. It is needed, they say, to counter the Warsaw Pact threat to Europe in the late 1970's and early 1980's. The threat, the Army estimates, will be composed of many highly sophisticated fighter-bombers, along with tactical ballistic missiles, neither of which the current Hawk and Nike-Hercules missiles can counter effectively.

An extended, large-scale conventional war in Europe between NATO and the Warsaw Pact nations can fairly be characterized as a remote contingency. Even if such a war were to begin, there is a very high probability that it would escalate rapidly into an all-out nuclear war. In that event, I do not think the field Army would be too concerned about their ability to shoot down Soviet fighter-bombers.

It should also be kept in mind that we already have an extensive network of Nike-Hercules and Hawk surface-to-air missiles in Europe, along with a large interceptor aircraft force, all of which would continue to be available to counter attacking aircraft even if the SAM–D is not deployed.

EFFECTS OF THE AMENDMENT

First. AWACS. The $15 million which my amendment would leave in the AWACS authorization would enable the Air Force to complete the contract definition currently in process and to continue the radar technology begun in prior years. It would not, however, provide funds which the Air Force planned to use to initiate hardware development aimed at putting a radar prototype in a high performance jet. Operating the program at this reduced level would slip the initial capability of AWACS by about 1 year.

Senator STENNIS, in explaining his committee's action to the Senate on September 18, said:

> We believe that this latter amount (the $15 million), together with FY 1969 funds, will permit the pursuit of the new radar concept and keep the technology alive.

Second. CONUS air defense interceptor. The reduction from $18.5 million to $2.5 million would limit the CONUS air defense interceptor program to the study level. The $2.5 million would be used to complete studies aimed at identifying the specific air frame to be used for the mission, as well as for some limited long lead efforts in the development of the fire control and air-to-air missile systems. If the full $18.5 million were authorized, the Air Force would do additional work on the fire control and missile system, on the theory that this work would have to be done no matter what interceptor is selected.

Third. SAM–D. My amendment would cut the full $75 million requested for SAM–D, terminating the program.

LABELING OF FOODS CONTAINING HIGH CHOLESTEROL CONTENT

(Mr. YATES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. YATES. Mr. Speaker, for some time I have engaged in correspondence with the Consumer Protection and Environmental Health Service of the Department of Health, Education, and Welfare respecting improper labeling of foods containing a high cholesterol content. Many authorities take the position that there is a direct relationship between high cholesterol levels and heart diseases and many heart specialists have placed their patients upon strict anti-cholesterol diets. Under such diets, patients may use foods that are made with vegetable oil because presumably vegetable oils do not contain saturated fats. The fact is, however, that many foods are labeled as containing vegetable oil products when in fact coconut oil is used, an oil which is as bad as the usual saturated fat as far as cholesterol is concerned.

I am attaching copies of the correspondence I have had in this matter, Mr. Speaker. I cannot understand why a description simply of coconut oil rather than vegetable oil is not required by the Food and Drug Administration. I cannot understand why it continues to dally without taking appropriate action. You will note, Mr. Speaker, that attached to Mr. Pumpian's letter of July 3, is a "Termination of Proposed Rulemaking" which was predicated upon a study to be completed by the American Medical Association's Council on Foods and Nutrition by February 18, 1967. I do not know whether that study was ever completed, but the fact remains that it was the urging of that council which stopped action by the Food and Drug Administration at that time.

This is a matter of some urgency to people who are on anticholesterol diets. I would hope that appropriate action is taken promptly by the Consumer Protection and Environmental Health Service to correct the situation.

The copies of the correspondence follows:

[From Rodale's Health Bulletin, June 7, 1969]

WHAT THEY DON'T SAY

It's what those ads touting low-calorie cream substitutes don't say that's significant. Many nondairy creams have higher percentages of possibly harmful saturated fats than the real thing, but that information is strangely absent from their promotional materials.

However, a Harvard School of Public Health investigator concerned about the use of those products among patients who want to avoid saturated fats "for health reasons" has questioned their desirability. Elaine R. Monsen, Ph. D., found ersatz creams have 20 percent more saturated fatty acids than natural cream. Saturated fatty acids raise the cholesterol level of the blood, and many authorities believe that high cholesterol levels are directly related to heart disease.

In addition, Dr. Monsen, who presented her findings in the *American Journal of Clinical Nutrition*, found that the products are "made primarily from coconut oil. They represent themselves as vegetable oil products, but coconut oil is a saturated vegetable oil—not typical of the vegetable oils." Other vegetable oils, such as corn, safflower and peanut oils, have polyunsaturated fats, which do not raise cholesterol levels, she said.

Another researcher, working independently of Dr. Monsen, confirmed that the products are mostly coconut oil. Dr. Ancel Keys, of the University of Minnesota, said, "Coconut oil

is the worst oil that they could have chosen." The only advantage it has is commercial—it doesn't spoil rapidly. Keys said he would prefer "the real thing" to any of the 14 products studied by Dr. Monsen, although he objects "to overindulgence in butterfat."

Monsen's samples, which were picked up in retail outlets, ranged in fat content from about 10 percent for Coffee-Rich to about 55 percent for D'Zerta Low Calorie Whipped Topping. In all the products but Reddi Wip saturated fatty acids were at least 94 percent of the total fat content—26 percent of the product's bulk. Milk contains just over 3 percent milk fat, half and half creams have about 10 or 12 percent fat, and other creams contain from 10 to 38 percent milk fat. Keys said his research indicated coconut oil was "two times as bad as butter oil on the cholesterol level of the blood." Safflower oil, he said, had one-tenth of the effect of cream.

The two researchers were concerned because, in Dr. Monsen's words, "A wide interest in these products is seen among people who wish to restrict or control their dietary fats, e.g., to decrease saturated fat consumption."

The following chart of the 14 brands of susbtitute creams studied by Dr. Monson shows the percentage of the total fat content composed of saturated fatty acids.

	Total percentage saturated fats
Unsweetened:	
Dry Powders:	
Coffee-Mate	98.1
Cremora	98.6
N-Rich	95.7
Pream	98.0
Liquid: Coffee-Rich	98.2
Soured, semisolid:	
IMO	96.4
Zevo	96.7
Sweetened:	
Dry powders:	
Dream Whip	98.2
Lucky Whip	94.8
Semisolid: Cool Whip	98.9
Whipped: aerosol can:	
Ditto	99.3
Reddi Wip	74.5
Rich's Whip Topping	95.5
Artificially sweetened:	
Dry powder:	
D'Zerta Low Calorie Whipped Topping	98.6

JUNE 25, 1969.

Hon. HERBERT L. LEY, Jr.,
Commissioner, Food and Drug Administration, Department of Health, Education and Welfare, Washington, D.C.

DEAR MR. COMMISSIONER: I am enclosing a copy of Rodale's Health Bulletin for June 7, 1969. As one who has a high cholesterol count, I look for fat free foods and substitutes, and I must say that the statements contained in this health bulletin relative to cream substitutes are amazing and shocking.

Can you tell me why manufacturers of these products and of all products are not required to show the amount of saturated fat their product contains?

Sincerely yours,

SIDNEY R. YATES,
Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington D.C., June 25, 1969.

Hon. PAUL RAND DIXON,
Chairman, Federal Trade Commission, Washington, D.C.

DEAR MR. CHAIRMAN: I am enclosing a copy of Rodale's Health Bulletin for June 7, 1969. As one who has a high cholesterol count, I look for fat free foods and substitutes, and I must say that the statements contained in this health bulletin relative to cream substitutes are amazing and shocking.

Can you tell me why manufacturers of these products and of all products are not required to show the amount of saturated fat their product contains?

Sincerely yours,

SIDNEY R. YATES,
Member of Congress.

FEDERAL TRADE COMMISSION,
Washington, D.C., June 27, 1969.

Hon. SIDNEY R. YATES,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN YATES: I have your letter of June 25, 1969 and copy of Rodale's Health Bulletin concerning the high cholesterol count in cream substitutes.

I shall furnish you with a report on this matter as promptly as possible.

With best wishes, I am

Sincerely yours,

PAUL RAND DIXON,
Chairman.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., July 3, 1969.

Hon. SIDNEY R. YATES,
House of Representatives, Washington, D.C.

DEAR MR. YATES: This is in reply to your letter of June 25, 1969, concerning an article which appeared in Rodale's *Health Bulletin* of June 7, 1969. The article was in regard to the labeling of food as to its saturated fat content.

Under the present terms of the Federal Food, Drug, and Cosmetic Act we have no authority to compel manufacturers to include quantitative information concerning saturated and unsaturated fat content in the labeling of all foods.

A proposal to require a label statement on oils, fats, and fatty foods intended for regulating the intake of fatty acids in dietary management was published in the *Federal Register* of May 25, 1965. This proposal was terminated on March 2, 1966. For your reference regarding the reasons for this termination, we enclose a reprint from the *Federal Register* of that date.

As stated in the termination order, the American Medical Association's Council on Foods and Nutrition, with the assistance of representatives of the affected industries, offered to conduct a comprehensive evaluation of the composition of modified fat diets, including a review of current methods for identifying products specifically designed for use in such diets. We have received the results of this study with recommendations about the labeling of fatty foods. We have also reviewed a policy statement issued by the American Heart Association concerning this matter.

In considering this subject since becoming Commissioner of Food and Drugs, it has become most apparent to Dr. Ley that there is a wide divergence of views among scientists as to the proper course to be followed in this important matter. He believes the best way to resolve this question is to call together a group of internationally recognized scientists who can consider all facets of the matter. Currently, we are discussing with the Department the desirability of such a committee.

Because of your desire to regulate the types of fat you eat, you may wish to obtain a copy of *Composition of Foods*, Agriculture Handbook No. 8, published by Agricultural Research Service, United States Department of Agriculture. In addition to information on other nutritional aspects of a great number of food items, this book contains tables, "Selected Fatty Acids in Foods," and "Cholesterol Content of Foods," which you may find helpful.

If we can be of further assistance, please let us know.

Sincerely yours,

PAUL A. PUMPIAN,
Director, Office of Legislative and Governmental Services.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, FOOD AND DRUG ADMINISTRATION [21 CFR PART 125]

OILS, FATS, AND FATTY FOODS FOR REGULATING INTAKE OF FATTY ACIDS IN DIETARY MANAGEMENT TERMINATION OF PROPOSED RULEMAKING

In the making or establishing requirements for label statements relating to oils, fats, and fatty foods used as a means of regulating the intake of fatty acids in dietary management:

In response to recommendations from a number of clinicians and from the American Diabetes Association that labeling of edible fats, oils, and fatty foods be required to show precise percentages of polyunsaturated, monounsaturated, and saturated fatty acid content, the Food and Drug Administration had published in the Federal Register of May 25, 1965 (30 F.R. 6984), a notice of proposed rulemaking designed to implement these recommendations.

The proponents of the proposed regulation contended that such label statements would assist physicians in recommending special diets to their patients and would assist patients in complying with their physicians' recommendations. While it was and continues to be the position of the Food and Drug Administration that dietary manipulation of blood cholesterol levels has not been established as an effective means of preventing, mitigating, or curing diseases of the heart or arteries, the proposed regulation was published to provide proponents the opportunity to suport a regulation designed to implement their recommendations.

The time for filing comments on the proposal was extended to October 22, 1965, by a notice published in the Federal Register of July 27, 1965 (30 F.R. 9323).

Numerous comments from individual physicians, nutritionists, persons affiliated with academic institutions, professional associations, State and city officials, food and drug firms, and trade associations have been received and evaluated. A broad spectrum of opinion is represented in the comments ranging from pronounced views favoring the proposal, statements opposing it, and the view that the role of fats in the diet has not been sufficiently clarified and defined to permit a sound decision on the available scientific evidence.

While the American Heart Association and the American Diabetes Association filed comments in support of the proposal, the American Medical Association's Council on Foods and Nutrition has commented in opposition on the grounds that the proposed regulation would not assist physicians in prescribing diets and would not be particularly helpful to patients in selecting food for use in a modified-fat diet. The Council has indicated its readiness to conduct a comprehensive evaluation of the composition of modified-fat diets, including a review of current methods for identifying products specifically designed for use in such diets. The Council urged the Food and Drug Administration to reject the proposal as drafted or postpone action on the proposal for a year to permit completion of the study and submission of findings to the Food and Drug Administration. Representatives of the affected industries have offered to assist the Council in this study and have urged that no favorable action be taken on the proposal until the Council has completed its study.

The Food and Drug Administration endorses the objectives of this study as it has

encouraged all legitimate research in this area. Due consideration will be given to the findings when submitted.

On the question of whether the proposed labeling requirements would assist physicians in recommending special diets to their patients, and patients in complying with their physicians' recommendations, it is apparent that the record compiled does not support the proponents' contention.

Accordingly, the Commissioner of Food and Drugs, having considered the comments received and other relevant information, concludes that the proposed subject regulation should not be adopted. The proposal may be resubmitted or another may be made at some future time when additional facts bearing on the issue of appropriate labeling requirements have been developed.

This action is taken pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 403(j), 701(e), 52 Stat. 1048, 1055, as amended; 21 U.S.C. 343(j), 371(e)), and under the authority delegated to the Commissioner by the Secretary of Health, Education, and Welfare (21 CFR 2.90).

Dated: February 18, 1966.

JAMES L. GODDARD,
Commissioner of Food and Drugs.

JULY 8, 1969.

Mr. PAUL A. PUMPIAN,
Director, Office of Legislative and Governmental Services,
Department of Health, Education and Welfare,
Food and Drug Administration,
Washington, D.C.

DEAR MR. PUMPIAN: I have your letter of July 3 replying to my inquiry of June 25 respecting the labeling of food as to saturated fat content.

I cannot understand why it should take so long to resolve this matter.

I have made inquiries of many heart specialists and other internists and all agree that there may be—I say *may* be—a relationship between a high cholesterol rating and the incidence of heart disease. Many such physicians prescribe diets for their patients who have high cholesterol rating of foods that are free of poly-saturated fats.

I don't know why a person should not be able to look at a label on a food product which contains fat and be told whether it contains a type of fat which might be harmful to him.

Certainly, if it contains coconut oil, which is high in poly-saturated fat, the label should say "coconut oil" rather than "vegetable oil." There is a sharp distinction between the type of fat content in coconut oil and other vegetable oils, and the very least you ought to require is an appropriate designation for coconut oil in order that people seeking foods with low cholesterol oils are not deceived.

Sending me a copy of the book *Composition of Food* will not help me or help those who have high cholesterol ratings when they go to a store to buy their food requirements. Ordinarily, if they see the words "vegetable oil" on a label, they will have the impression that it is an oil low in poly-saturated fats.

I would appreciate your reaction to my comments.

Sincerely yours,

SIDNEY R. YATES,
Member of Congress.

FEDERAL TRADE COMMISSION,
Washington, D.C., July 30, 1969.

Hon. SIDNEY R. YATES,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN YATES: This is in further response to your letter of June 25, 1969 with which you enclosed a copy of Rodale's Health Bulletin concerning the high cholesterol count in cream substitutes.

The Food and Drug Administration assumes jurisdiction over the labeling of food products and since you have raised the question of why such products are not required to show the amount of saturated fat contained therein, I am taking the liberty of referring your communication to that Agency. This action is taken in accordance with our liaison agreement with the Food and Drug Administration.

If I can be of any further assistance in the matter, do not hesitate to contact me.

With best wishes, I am

Sincerely yours,

PAUL RAND DIXON,
Chairman.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., August 28, 1969.

Hon. SIDNEY R. YATES,
House of Representatives,
Washington, D.C.

DEAR MR. YATES: This replies to your letter of July 8, 1969, concerning the labeling of foods with information about their saturated and polyunsaturated fat content, and the declaration of the specific source of the fat or oil on food labels. The Federal Trade Commission has also referred to us your letter of June 25, 1969, on this matter.

We are very concerned that foods labeled for dietary use should be fully and informatively labeled so that the consumer can understand what benefit is claimed and how to gain that benefit. That has been the problem in the case of the unsaturated fats.

Very misleading promotional campaigns have been conducted in this area in which one firm pitted its product against another firm's product, based on insignificant differences in polyunsaturate concentrations. This was deceptive and must not be allowed to occur again.

In addition there is a real difference of opinion among informed scientists about whether an increase of polyunsaturated fat in the liet would result in a lowered incidence of arteriosclerotic heart and circulatory disease. The labeling of food for dietary use with the polyunsaturate content would presumably be intended to convey information to the consumer in the context of a lowered incidence of this type of circulatory disease. Before we permit such labeling, we believe it imperative to seek the advice of medical and scientific experts to closely study this matter. We have recommended to the Department the establishment of a Nutritional Advisory Committee to evaluate the available evidence, identify needs for additional information or research, and to recommend action that should be taken by the Food and Drug Administration or others in the Department.

If we can be of further assistance, please let us know.

Sincerely yours,

PAUL A. PUMPIAN,
Director, Office of Legislative and Governmental Services.

SEPTEMBER 5, 1969.

Dr. ROBERT I. LEVY,
National Heart Institute,
National Institutes of Health,
Bethesda, Md.

DEAR DR. LEVY: I am sending you a copy of my letter of July 8 to Mr. Paul A. Pumpian, Director of Office of Legislative and Governmental Services of the Food and Drug Administration, respecting proper labeling to show high cholesterol ratings. I have just received the enclosed letter from Mr. Pumpian commenting on my letter and I am sending it to you because of what he says in the final paragraph. Would you agree with his views?

With kindest regards,

Sincerely yours,

SIDNEY R. YATES,
Member of Congress.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Bethesda, Md., September 19, 1969.

Hon. SIDNEY R. YATES,
House of Representatives,
Washington, D.C.

DEAR MR. YATES: Thank you for your letter of September 5 and the enclosed copies of your correspondence with Paul A. Pumpian, Director of the Office of Legislative and Governmental Services of the Food and Drug Administration, regarding the proper labeling of food products.

Though there is no absolute prospective evidence in man at present that lowering the blood cholesterol and other lipids will help prevent or retard the development of atherosclerosis, certainly circumstancial evidence is quite suggestive of this. Furthermore, the evidence is clear and agreed upon by the vast majority in the field of atherosclerosis that the "average" American and several types of patients with hyperlipoproteinemia (high blood fats) will have their plasma cholesterol concentrations lowered dramatically by diets low in cholesterol and high in polyunsaturated fat.

I have discussed the problems alluded to in your letter with our dietitians and circulated your correspondence. I must say we have discussed this problem area several times before among ourselves, in that, both from what we have heard from our patients, and found by visiting supermarkets, reading labels is very difficult even for a physician or dietitian.

It would be much easier to instruct the patient and much easier for the patient to comply with our dietary recommendations if he or she could tell what kind of fat was in any specific container.

At present, I would think it would be very helpful if all the food products containing vegetable or animal fats were labeled with the specific fats that they contained, i.e., coconut oil, olive oil, corn oil, etc. The term vegetable oil should be eliminated, because it is a misleading term. (There are several vegetable oils, including coconut oil, which are high in saturated fats). For the patient, physician, and dietitian it would be most helpful if the *percent of each specific fat* in the product was included on the label. (The P/S ratio, the polyunsaturated to saturated fat ratio, would also be useful to the dietitian in planning diets).

It is certainly possible that a company might launch an advertising campaign based on the contents of its foods, but I think that that possibility would have to have a basis in fact and does not outweigh the need to provide the physician, dietitian and patient with the essential food information to prepare and select a proper prescribed diet!

I notice in the letter that there is difficulty with some terms. Cholesterol, saturated fat and polyunsaturated fat are not synonymous, nor are the terms vegetable or animal fat synonymous with the degree of saturation.

1. *Animal fat* is fat of animal origin, and is usually, but not always, saturated, and often contains a good deal of cholesterol.

2. *Vegetable fat* is often, but not always, polyunsaturated fat, and usually contains less cholesterol than animal fat.

3. *Saturated fat* implies that there are no chemically active double bonds in the fat.

4. *Polyunsaturated fat* implies that there is more than one double bond in the fat. (When vegetable fats are hydrogenated, they will still be vegetable fats, i.e., of vegeta-

ble origin, but they are no longer polyunsaturated—the double bonds having been removed).

5. *Cholesterol* is a specific type of fat which is usually found in highest amounts in animal fats.

I hope that my comments are of some help to you.

With warmest regards,

Sincerely,

ROBERT I. LEVY,
Head, Section on Lipoproteins, Molecular Disease Branch, National Heart Institute.

SEPTEMBER 26, 1969.

Mr. PAUL A. PUMPIAN,
Director, Office of Legislative and Governmental Services, Consumer Protection and Environmental Health Service, Food and Drug Administration, Washington, D.C.

DEAR MR. PUMPIAN: Reference is made to our earlier correspondence respecting the labeling of foods with information about the saturated and polyunsaturated fat content. You state in your letter of August 28 that you would seek the advice of medical and scientific experts to study this matter and recommend the establishment of a committee to evaluate evidence. Upon receipt of your letter, I wrote to the National Heart Institute of the National Institutes of Health. I am enclosing a copy of a letter I received from Dr. Robert I. Levy which indicates the manner in which proper labeling should be made. Certainly, there is no more expert center for information on the subject than the National Heart Institute.

I would hope that with this information you will be in a position to take steps necessary to protect members of the public on anti-cholesterol diets.

I would appreciate hearing from you as to any action you decide to take.

Sincerely,

SIDNEY R. YATES,
Member of Congress.

MEDICAL RESEARCH NEWEST BUDGET VICTIM

(Mr. ASHLEY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ASHLEY. Mr. Speaker, according to current press reports, five major Federal programs to attack chronic and crippling diseases are to be "phased out" in coming months by the latest Nixon administration plans.

The cuts, if applied, will practically wipe out the chronic disease control programs of the Department of Health, Education, and Welfare and by so doing will "save" $9.7 million a year beginning in 1971, and something less this year—perhaps $3 million—as the new cuts are applied.

The five programs to be eliminated are those in heart disease and stroke cancer; arthritis and diabetes; neurological and sensory diseases—like Parkinson's disease and multiple sclerosis; and respiratory diseases—like pulmonary emphysema.

The only chronic disease control programs to be kept alive, by the present plan, are those in smoking and health, kidney disease, and nutrition.

These planned cutbacks, reported in the Washington Post last week by Victor Cohn and subsequently confirmed by my office, come on top of news that the National Institutes of Health is cutting funds for new medical research grants by some 10 percent, and grant renewals this fall by 5 percent. All come in response to President Nixon's order to cut a total of $3.5 billion from his budget.

It is worth noting, Mr. Speaker, that these reductions were announced on the same day that President Nixon stated flatly that nearly $100 million would be spent this year for the SST, the unproven supersonic transport that will cost the American taxpayer at least $1.2 billion by 1972 when the first prototypes are scheduled for testing.

To compound the irony, the press reported last Wednesday that the President has reversed field and now supports continuation of the 27½-percent oil-depletion allowance—instead of 20 percent which would have returned some $300 million to the Treasury.

Unfortunately, Mr. Speaker, these reports are not the only evidence that the new administration has a firm grip on false values.

Drastic curtailment of NDP financing of urban renewal and low-cost housing; underfunding of pollution abatement—water, air, and land—education and poverty programs; failure to follow up with specifics on welfare and revenue-sharing proposals; insistence on continuing inflexible, outdated trade policies; token adjustment in social security benefits—all are part of the posture of a new Administration which at the same time has given full backing and financial support to ABM, MIRV, NASA, the C–5A transport, new aircraft carriers and high Vietnam expenditures.

Under these circumstances it is hardly strange that the honeymoon between the White House and Capitol Hill is now over. The wonder is that it has lasted this long. If national priorities are to be established which reflect the real needs of our changing society, then clearly the Congress must assume a dominant role.

This does not mean that we can disregard or downgrade the importance of fiscal responsibility and specifically the need to curb Federal expenditures until inflationary pressures are checked and price stability achieved. What it does mean is that we must be responsive to the most pressing requirements of the country and defer investment in those sectors of the economy where activity can be postponed or eliminated.

The cuts in the chronic and crippling disease programs proposed by the administration, like the cuts in new and continuing medical research, reflect a false sense of social and economic values and are certain to hurt both hospitals and medical schools.

Among the projects to be eliminated are a new arthritis treatment center at the University of Michigan in Ann Arbor; a cancer and heart disease program at Boston City Hospital; a heart disease and stroke program in San Francisco; and lung disease centers at the National Medical Center in Denver and Mount Sinai Hospital, Minneapolis.

These and other programs scheduled by the Administration for the budgetary ax are the key to better health for the generations to come. Our investment in these programs today will be repaid untold times in the years ahead and will contribute to the more perfect society for which all people aspire. Mr. Speaker, Congress must speak out clearly on this issue.

ACHIEVEMENTS OF F–111

(Mr. PRICE of Illinois asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PRICE of Illinois. Mr. Speaker, we have heard a great deal of misinformation over the years with respect to the F–111. Fortunately, the tide is now turning and the true story is being told.

I ask unanimous consent to insert in the RECORD an article that appeared in the September issue of Air Force/Space Digest which tells of a number of high achievements of F–111 as reported by Brig. Gen. John Chandler, F–111 program director of USAF's Aeronautical Systems Division, Wright-Patterson AFB, Ohio.

BRIGHT POINTS FOR F–111

Highlights of operational and support capabilities of another aircraft, the Air Force F–111, were outlined at the AIAA Design and Operations Meeting by Brig. Gen. John Chandler, F–111 Program Director of USAF's Aeronautical Systems Division, Wright-Patterson AFB, Ohio.

The F–111A in squadron quantities is being flown by the Tactical Air Command at Nellis AFB, Nev. The A model will soon be followed by the F–111E and D. Later this year the Australians will be flying the F–111C and the Strategic Air Command will be flying the FB–111, the bomber version.

General Chandler underscored in retrospect that, prior to actual delivery of the first F–111A to TAC, a plan was established for a small force deployment to Southeast Asia. Along with this decision, careful provisions were made to assess the readiness of the force to deploy. The activities were codenamed Harvest Reaper for the training and preparation phase, and Combat Lancer for the combat phase.

After being a political football during definition, design, and engineering development phases, the F–111 was to be snatched from a sheltered development environment and placed into combat, General Chandler observes. The spirit of cooperation that prevailed in the Task Force—Headquarters USAF, AFSC, AFLC, and TAC—was a far cry from reacting to external pressures and attempting to develop and procure an all-purpose biservice weapon system, he declares.

This clearly defined objective produced expedited refinement of all the F–111 subsystems. Many changes were made, both hardware and software, at an unprecedented rate, in response to the problems that arose. "I believe the best description of this effort is to say that it effectively compressed the operational development cycle. In my view the time compression was equivalent at least one year. We closed the loop and fed this technology back into our on-going acquisition program and are now producing vastly improved aircraft."

Crews were trained to perform blind, low-level delivery of conventional munitions. Aircraft utilization rates far surpassed the programmed rate with maintenance man-hours per flight-hour below the specification value of thirty-five, and lower than that of our less complex fighters of today, General Chandler says.

In more than fifty combat missions, bomb-damage assessment shows that F–111 aircraft hit radar-significant targets with precision, and even achieved acceptable results on targets yielding less than optimum radar returns, he says. And although political exigencies denied targeting F–111s in the most heavily defended areas, all missions were

flown in North Vietnam and no known battle damage was incurred.

The operation demonstrated that the system was operationally ready and possessed significantly advanced operational effectiveness, General Chandler emphasizes. "As a result we are now procuring a system with demonstrated combat capability. By far the most comforting aspect to me was that we had met the challenge of total system delivery. Specifically, the support system was delivered with the airplane," General Chandler points out.

More than 100 aircraft have been delivered to TAC since mid-1967. These airplanes have accumulated more than 30,000 hours. "Although our safety record has been questioned by some, the record is good," General Chandler underscores. Since the F–111's first flight in December 1964, there have been thirteen accidents due to various causes ranging from pilot error to materiel deficiency. When compared with other Century-series fighters, the F–111 accident rate per hours flown compares favorably with the best record. "Even though our comparative record is good," General Chandler notes, "I hasten to add that we do not condone accidents and we are not complacent in this area."

SOME PERFORMANCE DATA

Ferry range is more than adequate for rapid global deployment with greatly reduced in-flight refueling or refueling stops. Combat ranges with greatly increased conventional-stores loads have doubled and tripled battlefield dimensions. All-weather precision bombing and significantly improved survivability by terrain following have been proved. And circular error probability (CEP) and delivery accuracies have been improved by a factor of four.

"Our performance is meeting or exceeding requirements, and has materially improved our capability to globally meet all levels of conflict," General Chandler emphasizes. Perhaps most impressive of all has been the rapid attainment of system maturity, he says. The flying-hour rate has been as high as sixty hours per month, at the same time exhibiting unusually good supportability factors.

"We have been meeting or bettering our requirements of thirty-five maintenance man-hours per flight-hour. NORS (Not Operationally Ready, Supply), NORM (Not Operationally Ready, Maintenance), and operational readiness rates already are equivalent to or better than fully aged systems such as the F–4 and F–105, even in the area of AGE (Aerospace Ground Equipment)," General Chandler observes.

For example, during the first three months of 1969, the 474th Tactical Fighter Wing at Nellis AFB had an operational-readiness rate of seventy-five percent and a NORS rate of less than five percent. This is indicative of support system reliability, maintainability, and supportability. The supply and AGE performance are already at mature levels, General Chandler declares.

"Our disappointments have been normal, but the attention has been abnormal. As we all say in system acquisition, if you are faint of heart, if you are new to the game, you could say it's dark in here. If you believe, if you are determined, if you won't quit, the future is bright," General Chandler believes.

WALL STREET OVER MAIN STREET, THOSE POVERTY-STRICKEN CORPORATIONS

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, I note with wonder and amazement the announcement that President Nixon is about to name a Presidential commission, headed by one of his old law partners, to study the extent to which the Federal tax structure may be too burdensome on big business. This commission will be charged with the task of recommending changes in our tax laws, which presumably would be aimed at offering tax relief to the corporate structure of the land.

Never have the mighty, strong, and rich had such an eager champion. It is heartening indeed to see that the President is so concerned over those poor barefoot gentlemen who run major American corporations.

We are informed that most of the gentlemen who will compose this commission are conservatives who favor excessive favors in the tax area for major corporations. It is supposed to have been given a November deadline for reporting conclusions to the President. The panel's actual mission is based on the assumption that the present Federal tax structure is hurting business and should be changed further in their favor.

It makes about as much sense to pity the tax status of American business as it would to accuse Governor Wallace of being a secret member of the Black Panthers. Yet with the average citizen being ruined by unfair taxation, outrageous interest rates, and constant price hikes by big business, the administration coos in sympathy for the corporate giants of America. What a ghastly reversal of the elementary rules of commonsense.

Better and lusher depreciation allowances and a value added tax which the consumer would pay for entirely are to be primary considerations of this presidential commission. Never has there been such a bold attempt by Government to further favor the already wealthy at the expense of those already desperate for tax relief. Which brings us to the position of this same administration on the tax reform measure which has passed the House and is awaiting Senate action.

Blatantly, arrogantly, and with a boldly professed contempt for the people of this country, the administration is trying to scale down these tax reforms which are aimed at benefiting middle and lower income taxpayers. It has already publicly requested a cut in proposed new taxes for corporations, greater tax breaks for the rich, and a scaling down of tax relief slated for the overburdened wage earners of the land.

It asks for a $1.6 billion tax break for corporations at expense of tax reform, while creating this additional Presidential commission, loaded with conservative financial figures who have about as much compassion for the average American as a fox has for a rabbit.

While Americans are being hit with new taxes on a State level, the administration is obviously preparing to load more on those requiring help the most. A record $2.8 billion in new or increased taxes has been approved already by 34 State legislatures this year, with every indication that more increases will be voted before the end of 1969. Still pending in several States is legislation which would add more than $850 million to amounts approved to date, bringing the total to $3.7 billion. These figures are official Tax Foundation findings, recently published. Ignoring such damning facts, the administration assails existing tax reforms instead of pushing for them, while preparing a move which would even further add to tax imbalance and injustice. The leaders of this country are consistent, to say the least, leaving facts unmolested and logic undisturbed.

I believe it was Adlai Stevenson who once noted that:

Our public servants serve us right.

NOT A PENNY FOR MEDICAL RESEARCH?

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, of all the disastrous and ill-conceived moves increasingly being initiated by the Nixon administration, none is more fraught with menace or indicative of our national failure than the cutting off of funds to 19 medical research centers. This was done last week. Four of these centers are in my home State of New York. Seven of them specialize in children's diseases. One of them, at the Albert Einstein College of Medicine, just advertised for support funds in the Wall Street Journal. One of the surgeons, Dr. Louis Del Guercio, financed the ad out of his own pocket because he did not want to see the center close down and its essential work go down the drain.

The facility in question is the federally-financed General Clinical Research Center for acute illnesses and injuries at Jacobi Hospital in the Bronx. Ninety-three such centers around the Nation are financed by the National Institutes of Health. They require $42 million this year. The 19 facilities faced with closing because of the administration's action would have required $6.5 million this year.

The Government's saving in the Jacobi case crippled their budget by 60 percent. $225,000 is the sum in question they now require. For this kind of money saving the Government is willing to allow this center to close.

People like the doctor, who could command much more money in private practice, have long given a total commitment to this type of research work in such areas with Government help. Irreparable damage has been done the state of mind of such devoted people by this utterly disastrous decision. By such an act, the shoes of future researchers have already been emptied. It is America's loss. It shall be America's sorrow.

These clinical research centers are usually a unit within a hospital, usually in a teaching center, where students study diseases and test new therapies and surgical procedures on nonpaying volunteer patients. The first such center began at NIH in 1953. The National Government-supported program emerged in 1960. Some centers investigate rare diseases, test drugs or test the body's nutritional requirements in chronic disorders.

The Jacobi center specializes in treatment for shock, blood clots, severe injuries and burns. Its closing will eliminate this special facility for treating burn

victims in the Bronx, a borough of approximately 2 million people.

Six of the most gravely ill people in the hospital can be cared for in it at one time, under 24-hour care. Critically injured accident victims may be admitted at any time.

From its combination of close patient care, testing and computerized data analysis come its findings, communicated through medical literature as well as by lectures to students, hospital doctors and community practitioners. The center's work has already made significant discoveries in the field of treating shock and finding out which patients dare not undergo surgery. Such findings are among payoffs of 7 years of research experiments, which the Jacobi doctors are now preparing to discontinue.

President Nixon had $96 million for the SST last week. He is not upset by price hikes by steel, autos and utilities. His military budget is a whopper. He won't spend money on parks or medical research or the poor or on civil rights enforcement. But he sure has it for a western White House and round the world tours which accentuate the negative, belabor the obvious and accomplish nothing. He cut $1 billion off government aid to education. He has not got money for libraries or schools, but he has money for Franco and a dozen other tin pot dictators around the world. He has no money for the Job Corps, Peace Corps or VISTA, but he has oodles of cash for Thieu and Ky, whose jails and prisons bulge with non-Communist opponents of their regime.

So the 19 medical research centers will close. And the laboratory animals will be killed. And the staffs will disperse to better paying jobs. And faith in Government support of such work will disappear. And the children who might be saved by such research will die—horribly. Whose will they be? Yours? Mine? Our neighbors'? Because we wanted to save $6.5 million? Because we can not find $225,000 for Dr. Louis Del Guercio? Is this America, President Nixon? Is this saving money? Is this national priorities? It is enough to make a man weep for his country. If President Nixon will not help, will the Congress? Or the public? Or some institution? Please.

THE CIVIL AERONAUTICS BOARD

(Mr. MOSS asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. MOSS. Mr. Speaker, there was a time when Members of this body received very calm letters of concern from their constituents about many consumer complaints. But what was once a calm presentation of concern has in many consumer areas become an absolute public outrage. We are all familiar with well-publicized outcries about pollution, warranties, production safety, and the like. Another area, however, which has not been sufficiently publicized is the growing lack of faith by the air transportation users in the actions of the Civil Aeronautics Board. For 9 months now I have been involved in exchange of correspondence with that Board and have actively participated in formal filings before it with as many as 35 of my colleagues in order to attempt to bring about even the most basic compliance with the public interest requirements embodied in the Federal Aviation Act. I must confess in all candor, Mr. Speaker, that I am at an absolute loss to understand why the Board insists on pursuing a course which is not only unlawful and highly irregular, but will lead ultimately to the detriment of travelers, airlines themselves, and all interested parties as well. I have reached the point, therefore, that I feel it necessary to place in the RECORD those documents which are most germane to the history of this endeavor as well as a brief description of the circumstances as they developed.

The Wall Street Journal of January 9, 1969, carried an article titled "More Profitable Fare Setup for Airlines May Result from Coming CAB Meetings." The text of that article follows:

[From the Wall Street Journal, Jan. 9, 1969]

MORE PROFITABLE FARE SETUP FOR AIRLINES MAY RESULT FROM COMING CAB MEETINGS

(By Richard P. Cooke)

NEW YORK.—Top airline executives and members of the Civil Aeronautics Board will meet Monday in Washington in what could be the first step toward a more profitable fare structure, it was learned.

Although the CAB has made no formal announcement of the meeting or what will be on the agenda, it is understood that the conference may set the framework for a uniform position on recent airline fare proposals. Six trunk carriers—United Air Lines, Eastern Air Lines, Trans World Airlines, Northeast Airlines, American Airlines and Braniff Airways—already have said they intend to seek higher fares.

If general agreement is reached on a new fare structure, the airlines would then be required to file or refile applications covering specific routes. Carriers that so far have filed formal applications have deferred setting any specific date for their proposals to become effective.

The Monday meeting is the first of several covering the fare situation. On Tuesday, the CAB informally will meet with Joseph P. Adams, executive director of the Association of Local Transport Airlines, preceding the regular annual meeting between local-service airline presidents and the board slated for Feb. 4. On Friday, Jan. 17, the board will get together with the National Air Carrier Association, which represents the supplemental, or charter, airlines.

The latest application for higher fares was made by United on Jan. 1. United proposed a formula that would increase first class fares between $6 on short hauls and $20 on long hauls. Also, coach fares on short hauls would be increased $4 without any corresponding increase for longer flights.

The effect of the proposed United fares would be to "taper" fares to provide a higher return for short hauls. Historically, short hauls have produced only small profits, if any, for the airlines. CAB officials in the past have indicated they might look favorably on the taper principle, as well as on increasing the differential between coach and first class fares.

Although domestic trunk lines in 1968 flew about 81.45 billion revenue passenger miles, up 14.7% from 1967, industry estimates indicate that pretax profit declined to about $250 million in 1968 from about $350 million the year before. Return on investment is estimated to have slipped to about 6% from 12.2% as recently as 1965. The CAB has set as a guideline a rate of return on investment of about 10.5%.

Following that meeting, where incidently a transcript of the proceedings was not kept, Chairman John Crooker, as reported by Aviation Daily on January 15, stated, "a majority of the Board favors a modest increase in fares," and continued, "I would assume there is a reasonably good chance for action on fares." That was an understatement, Mr. Speaker, for on January 17, the Wall Street Journal reported that effective March 1, a domestic airline fare increase of 3.8 percent had been accepted and approved by the CAB. On January 22, I directed the following letter to Chairman Crooker:

JANUARY 22, 1969.

Hon. JOHN H. CROOKER,
Civil Aeronautics Board,
Washington, D.C.

DEAR CHAIRMAN CROOKER: The local press has carried a story to the effect that recently you have had a meeting with the domestic air carriers in which you have discussed the matter of an increase of passenger fares and have given to the air carriers an indication of the amount of the increase which the Board would accept as being reasonable.

While I well recognize that in certain situations there are benefits of flexibility, expedition and economy derived from the use of informal proceedings, I believe that the regulatory agencies involved must be in a position at all times to render an accounting not only to the effect that the discussions resulting in the determination of rates or fares are in the public interest, but also, that the integrity of such type of process is protected at all times.

In informal proceedings of this type, it is my considered judgment that parties in interest, the Congress and the public, prior to the initiation of proceedings such as the earnings review and ensuing discussions regarding fares, should be apprised of the ground rules which the Board expects to follow, including what opportunity, if any, will be given to parties in interest to participate in such informal proceedings and how the integrity of such proceedings and discussion will be protected.

Accordingly, I should appreciate your comment as to the manner in which your informal discussion of rate making with the air carriers has adhered to the position which I have here expressed—a position which incidentally was enunciated by the Chairman of this committee some 4 years ago after the lengthy study which the committee had conducted into the problems of the regulatory agencies—particularly with regard to the pronouncement of the ground rules in the public interest being followed by the Board, the opportunities of parties in interest to participate in these informal proceedings, and the manner in which the integrity of these proceedings, and discussions is protected.

JOHN E. MOSS,
Member of Congress.

A response to the inquiry, although dated February 6, was not received from the Chairman until February 10; the context of the letter as well as the enclosures is as follows:

CIVIL AERONAUTICS BOARD,
Washington, D.C., February 6, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: This is in reply to your letter of January 22, 1969 regarding the procedures which the Board followed in its recent consideration of domestic passenger fares. We appreciate your concern with preserving the integrity of the regulatory process, and believe that the Board's proce-

dures and actions have been completely in the public interest.

The question of whether or not an increase in domestic fares would be appropriate at this time was raised initially by the carriers with the filing of tariffs by a number of trunklines beginning in October 1968. These tariff filings proposed over-all revenue increase ranging from 4.8 percent to 7.9 percent, but followed differing approaches or formulas to achieve this result. The tariffs were in each case filed at least 45 days in advance of their intended effectiveness date, as compared to the 30 days notice provided for in the Federal Aviation Act, to afford the public full opportunity for comment. Despite the widespread coverage which the carriers' proposals received in the press, no formal complaints were received from the traveling public or members of the Congress.

Nevertheless, the Board undertook a comprehensive review of the industry's economic condition. This undertaking was consistent with the practice of maintaining continuing surveillance of fares which the Board has followed in connection with its past policy of holding the line against increases. Three exhaustive memoranda were submitted to the Board by the staff, dealing both with the general economic state of the industry and possible courses of action to improve it. On the basis of these memoranda, and detailed discussion with the staff, the Board concluded that some revenue increase was warranted.

In the absence of any procedural guidance, it appeared likely that a series of suspensions, further tariff filings, and counter-filings might develop as the carriers sought to meet competitive situations and to arrive at proposals which would be acceptable to the Board. It was the Board's opinion that this would create considerable confusion for several months not only within the industry, but particularly on the part of the traveling public.

In these circumstances, and in light of the Board's conclusion that a degree of revenue increase was justifiable, the Board felt it desirable in the public interest to undertake to limit the increase to an acceptable level and, in so doing, to guide the industry toward achieving some improvement in the fare structure. It was against this background, following full opportunity for public comments, that the Board considered that the views of the carriers would be helpful in its deliberations and acceded to the carriers' request for a meeting. At the conclusion of the meetings the Board announced its tentative decision to permit certain fare increases. These increases are expected to produce aggregate additional revenues of about 3.8 percent for the trunkline industry, well below the levels proposed by the carriers. The Board has prepared a full report of the meetings which will be made available to the public on February 6, 1969. We are enclosing a copy of this report for your information, along with a copy of the Press Release which was issued on January 16, 1969 at the conclusion of the meetings.

As indicated in both the report and the Press Release, the Board's views are necessarily tentative. The carriers have filed tariffs consistent with the Board's statement, to become effective February 20, 1969 or shortly thereafter. The tariffs have been filed on 30 days statutory notice, allowing the public a second opportunity to file complaints against the propsed increases. The Board's final decision will rest upon careful analysis of the new tariffs and full consideration of any complaints which may be received.

In sum, the informal procedures which the Board adopted in its consideration of the fare proposals were subsequent to the time provided the public for opportunity to be heard and, we believe, fully protected the public interest. In the Board's opinion, these procedures also avoided unnecessary confusion for all concerned, and were preferable in this instance to the institution of formal proceedings. The latter are very lengthy undertakings and, as such, would not have been responsive to the immediate need of the carriers for a moderate revenue increase which the Board had found to exist. We assure you, however, that the Board will continue to be diligent in its procedures to the end of maintaining fares at the lowest level consistent with an economically sound industry.

Sincerely,

JOHN H. CROOKER, Jr.,
Chairman.

RELEASE BY CIVIL AERONAUTICS BOARD

The Civil Aeronautics Board has made a tentative determination to approve increases in domestic passenger fares. The increases, the Board estimates, will produce additional passenger revenues of 3.8 percent above what would have been realized under fares which existed in 1968 for the domestic operations of the 11 trunklines.

The Board's determination stems from proposals from six carriers—American, Braniff, Eastern, Northeast, Trans World and United—for fare increases to cover increases in operating costs and profit declines. The carriers' proposals would have involved fare increases ranging between five percent and seven percent.

The CAB had considered the proposals and concluded that increases of that magnitude were not warranted at this time, but tentatively concluded that lesser amounts might be warranted.

In the light of the divergence of approach by the individual carriers in their fare proposals, the Board met at the request of the carriers on Monday, January 13, and on Thursday, January 16 to consider alternative fare adjustments.

In general, the Board expressed tentative concurrence in tariffs providing for the following fare increases:

First-class fares—Each first-class fare would be increased by $3 one way. In addition certain East-West first-class fares in specific markets of 800 miles or more in which fares have heretofore been depressed below industry norms, would be increased by an additional $1 to $7 depending on distance.

Coach fares—Each coach fare in markets up to 500 miles would be increased by $2 one way. In markets from 500 to 1,800 miles, coach fares would be increased by $1 one way. There would be no coach fare increases above 1,800 miles.

Discover America excursion fares—The carriers would be permitted to establish a seven-day minimum stay requirement, and a seven-day minimum advance ticket pickup requirement.

Under the Federal Aviation Act, any interested person may file a complaint against tariffs that are filed.

Accordingly, the Board's views, announced today, are only tentative pending receipt of the tariffs, careful analysis of the tariffs, and any complaints that may be received. The tariffs are required to be filed not less than 30 days in advance of the effective date. It is expected that the new fares would become effective March 1, 1969.

REPORT ON MEETINGS BETWEEN THE CIVIL AERONAUTICS BOARD AND THE DOMESTIC TRUNKLINE CARRIERS ON DOMESTIC PASSENGER FARES

At the request of the carriers, the Board met with representatives of the eleven domestic trunklines, Pan American and Trans Caribbean Airways on January 13 and 16, 1969 to discuss the matter of domestic passenger fares. Chairman Crocker and Members Minetti, Gillilland and Adams were present at both meetings; Vice Chairman Murphy was present at the second meeting. A list of those persons representing their respective companies is contained in Attachment A.

After brief opening remarks, Mr. Keck of United indicated that some expression of the Board's tentative thinking would be useful as a point of departure for the meeting. The Chairman pointed out that revised tariffs had been filed or proposed by several different airlines, all derived from the use of different methodologies. After analysis the Board has concluded that none of the proposals could be approved *in toto* and that all should be suspended. He stated that the tentative views to be expressed during the meeting were for the purpose of giving the carriers the benefit of the Board's preliminary thinking as to fare increases so as to eliminate unnecessary confusion and delay in the preparation of any revised tariffs which the carriers might wish to submit later. The Chairman stated further that any such tariff could be approved by the Board only after it had been filed under the Board's normal procedures, and after opportunity to comment by interested persons.

Chairman Crooker stated that the Board had been giving considerable attention to the subject, that it had received three exhaustive memoranda from the staff dealing with the general economic state of the industry and with various specific alternative courses of action. On the basis of these memoranda (which were not made available to the carriers), it was the general sense of the Board that a degree of revenue increase was warranted. However, it appeared that the present decline in profits was likely to be temporary and that an upturn in profits could be expected, reaching satisfactory levels by 1970 and 1971. This being the prospect, the Chairman suggested that a re-examination of the industry's economic picture would be in order in 24 months or so, with the thought that some reduction might be appropriate at that time. No thought was being given to requiring an expiration date on the tariffs shortly to be filed, however, since a future reduction in fares, if found to be warranted, might take a different form from the increases which the Board would probably be prepared to permit now.

The Chairman then proceeded to summarize in some detail the Board's tentative views with respect to the various facets of the fare structure. The Board was virtually unanimous that some of the revenue increase to be allowed should be achieved through tightening up on promotional fares, especially the Discover America fares. Here it was suggested that the Board would permit imposition of a 7 day minimum stay and a 7 day advance ticket pickup requirement, as a means of diminishing diversion of normal fare traffic to this fare. It was noted that youth fares are presently the subject of a formal proceeding and that, as a result, the Board would be reluctant to take a firm position with respect to these fares. However, pending the outcome of this case, the carriers might consider action on a voluntary basis which would modify these fares to a one-third discount with positive space rather than the 50 percent discount standby fare.

With respect to normal fares, Chairman Crooker stated that the Board was virtually unanimous in the opinion that first-class service was underpriced in relation to cost of service in all distance categories. It was further the view of the majority that coach service was underpriced in short haul markets, but overpriced in the long haul markets. There was some difference of opinion as to those markets in which increases in coach fares would be justified, some favoring increases in markets up to 200 miles, or 400 miles, while others would permit increases in markets up to 1,000 to 1,100 miles in distance. The Chairman stated that there was also considerable difference of opinion as to the advisability of establishing a surcharge at congested airports (specifically New York/Newark, Washington/Baltimore, and Chicago at which the FAA has proposed schedule

limitations), although it was possible that a majority would support some charge.

The Chairman stated that development of a cost oriented formula for general application in determining fares raised a number of difficult questions, and that there was considerable difference of opinion on the Board with respect to its feasibility and desirability. Arguing against such an approach was the fact that value of service factors may be as important as cost of service in pricing air transportation, and that fares based on costs would be unrealistic in some markets. In addition, a formula approach tends to ignore the judgment of the marketplace, and historical incidences such as the fact that north-south fares per mile have traditionally been at a higher level, generally speaking, than east-west fares. On the other hand, there are a number of arguments weighing in favor of a formula approach, although whatever formula is devised should not be used with mathematical precision but only as a guideline in evaluating fare proposals. Some advantages in the use of a formula are that it would assist in moving the fare structure in the right direction in terms of taper and the relationship between first-class and coach fares, and would facilitate objective definition of the structure, determination of fares for new routes, and evaluation of new or changed fares. A formula would also produce internal consistency within the fare structure.

Chairman Crooker summarized the sense of the Board as favoring further staff effort toward development of a cost-oriented formula which would replace the present fare norms as a guideline in evaluating proposed fares. In this connection, he outlined one possible approach which will be subjected to detailed analysis in the immediate months ahead. This approach would assign differing fixed cost elements according to whether the service in question was between points categorized as a village, city, metropolis, major hub, or any combination of these. The assignable cost per mile to reflect distance flown would decline as distance increases, rather than remain a constant factor. A more detailed explanation of this approach was supplied the carriers attending the meeting and is included in this report as Attachment B. The Chairman added that any approach which took a formula as its base might be subject to a tolerance of, for example, plus or minus 4 percent. It might also be subject to additional parameters such as a requirement that jet first-class fares be at least 120 percent of corresponding jet coach fares, and that a floor equivalent to 60 percent of normal fares be established for all promotional fares.

It was recognized that development of such a program, if in fact it proves to be feasible, is a matter for the longer term. Accordingly, the Chairman proposed that the Board would suspend the current tariff filings (if not withdrawn), but would permit alternative filings embodying certain changes as an interim measure which could be implemented promptly. The Chairman enumerated the following fare adjustments which the Board, or majority of the Board, would be inclined to permit:

1. Imposition of a 7 day minimum stay and 7 day advance ticket pickup requirement on Discover America fares;

2. Decrease in the youth fare discount from 50 percent to 33⅓ percent, with provision for a firm reservation;

3. Increase of $1.00 in jet coach fares in markets up to 1,100 miles; and

4. Increase of $2.00 in all jet first-class fares, with additional increases ranging from $1.00 to $8.00 in east-west markets above 800 miles where first-class fares are presently at depressed levels.

The Chairman pointed out that the Board was not insisting on the above specific adjustments in promotional fares. However, the potential revenue benefit made available by these adjustments—estimated at approximately $37 million for the domestic trunkline industry, based on 1967 traffic—would be borne in mind in future assessment of the industry's financial condition. Fares for other classes of service, such as those provided with propeller equipment and night coach, could be adjusted to maintain existing relationships with jet fares. In addition, it was indicated that a majority of the Board was inclined at this point in time to permit a surcharge of $1.00 on fares to/from New York/Newark, Washington/Baltimore, and Chicago in markets up to 750 miles—estimated to amount to $23.4 million in additional revenue for the trunklines.

Taken together, the Chairman estimated that the various adjustments outlined above would (if there were no loss of revenue from passengers using other means of travel or less expensive accommodations) result in a gross increase in revenues of about $209 million per year. However, this would appear to be an actual increase of no more than $188 million—allowing for an assumed 10 percent or more erosion due to loss of traffic and such factors as passengers electing to downgrade from first-class to coach service. This would represent a net increase in 1969 revenues of between 3 and 4 percent. It was acknowledged that a revenue increase in this magnitude would not restore airline earnings to the full 10.5 percent return on investment previously found reasonable by the Board. On the other hand, the Chairman pointed to the unprecedented equipment deliveries in 1968 as apparently a major factor influencing the depressed earnings position now being sustained by most trunkline carriers, and suggested that the public should not be required to pay, at least fully, for the excessive capacity which has been the result. Finally, the Chairman made it clear that any tariffs which may be filed should contemplate the customary 30 days notice and that, in the interest of easing the situation for all concerned, it would be highly preferable that all bear a common effectiveness date.

The Chairman then asked the other members of the Board if they wished to make any comments. Member Minetti stated that he had been unable to attend the Board's deliberations up to this point. For this reason, he had no comments now except to say that his presence at the meeting did not necessarily imply concurrence in whole or in part with any of the proposals outlined by the Chairman.

Member Gillilland stated that these proposals did not represent the views of any one member, but rather were a compromise representing a majority view of the Board. Member Adams stated his personal feeling that there should be more taper in the fare structure and greater increases in first-class fares. He added that he did not associate himself with the Chairman's remarks with respect to equipment purchases and excessive capacity.

Discussion proceeded immediately to the question of the level, or amount, of the over-all revenue increase resulting from the proposal put forward by Chairman Crooker as acceptable to a majority of the Board. The Big Four carriers (American, Eastern, TWA, and United) variously stated that the aggregate dollar increase contemplated was insufficient to cover minimum cost increases known at this time. Several carriers pointed to upcoming contract wage negotiations which they face. Recent wage settlements in other industries were cited as evidence that the minimum increase in wages which they will be able to negotiate will be a substantial burden. It was alleged that this being the case, the revenue increase considered acceptable by the Board would do no more than absorb these increases, at best. Both American and United cited expected increases in labor costs.

Member Minetti raised the question as to what efforts were being made by management to reduce costs. TWA responded by stating that it had programmed cost improvement measures in the magnitude of $20 to $30 million in 1969, adding that this would just keep the company even with the inflationary pressures to which it would be subjected. Eastern stated that it anticipated programmed savings on the order of $18 million in 1969. This carrier went on to state that its tariff filing—estimated by it to produce an approximate 4.8 percent increase in revenues for the trunkline industry—was originally designed only to bring the company into a breakeven position. That is, it was intended to offset cost increases identifiable at the time of filing, increases which it now believes were underestimated.

The Chairman pointed to the possibility, raised by several independent studies, that an increase in fares exceeding a range of 3 to 4 percent might have the ultimate result of a net decrease, or at least no net increase, in total revenues. In other words, greater increases might merely result in the air carriers losing potential traffic to other means of transportation. It was generally acknowledged that reaction in the marketplace, or elasticity of demand, is a rather delicate judgment factor. However, TWA pointed out that most of the individual carrier filings proposed revenue increases in the range of 5 to 6 percent, and that this would seem to indicate a carrier consensus with respect to traffic response. On the other hand, it was noted that some carriers had not filed for any increase and that, as a result, a revenue increase in the magnitude suggested by the Board might more closely reflect an over-all industry consensus.

The discussion then turned to several specific matters—decommonrating of transcontinental fares to/from west coast points, and the raising of obviously substandard fares to a level more closely approximating the norm. On the former point, the Chairman indicated that the Board had not focused on the question and further discussion was deferred. With respect to the question of fares which are clearly out of line with prevailing levels (either above or below what might be regarded as a norm), the Chairman indicated that the Board would be receptive to correcting obvious inequities promptly on an individual basis. However, the over-all or broader problem of restructuring should more appropriately await development of a cost oriented formula, the application of which would automatically eliminate inequities of this type. United and TWA, in particular, urged that such a formula was most important and should be developed and settled upon at the earliest possible time.

At their request, the carriers were furnished a table summarizing, by carrier, the estimated revenue impact of the various fare adjustments previously outlined by Chairman Crooker. To provide the carriers with some time to evaluate these estimates, it was decided to recess until Thursday morning, January 16, whereupon the members of the Board withdrew from the meeting. However, discussions continued for some time further, during which the Board's staff clarified various technical aspects of the revenue estimates in response to questions from the carriers. The summary table which was distributed at the meeting is contained in Attachment C hereto.

Mr. Tillinghast opened the second meeting by stating that, while TWA was disappointed that the Board seemed unwilling to accept its fare filing, TWA had reviewed the Board's suggestions in the hope that they would provide a practical framework for the relief needed by the carriers. Exception was taken to the revenue increase which it had been estimated would flow from conversion of youth fares to a reservation basis at a discount of 33⅓ percent. It was TWA's conclusion that, at best, such a step would result in no revenue increase. TWA also proposed certain modifications in the suggested ap-

proach as follows: (1) application of the $1.00 surcharge at hub airports in all markets up to 1,100 miles; (2) an increase in all coach fares within 1,100 miles to a level 4 percent below the norm where they are presently below that level; and (3) decommonrate transcontinental fares to Los Angeles and San Francisco. The carrier estimated that, with these modifications and allowing for a 10 percent erosion of revenues, the package would produce an increase in revenue for TWA of about 4.1 percent, and a return on investment in the range of 3 to 5 percent in 1969. A copy of a letter to the Board which summarizes TWA's approach and which was circulated at the meeting is contained in Attachment D.

There followed some discussion of the youth fares, with several carriers indicating concurrence in TWA's assessment of the probable revenue impact. It was pointed out that on some carriers as much as 25 to 35 percent of youth travel is at full fares, and that diversion of this traffic to the discount reservation fare could mean a loss in revenue on the order of $2 million for a given carrier. The possibility of retaining the standby feature but at a discount somewhat less than the present 50 percent was raised. There appeared to be little support for this sort of approach. However, there was a general concensus among the carriers that the youth fares are a productive part of the fare structure, several of the larger carriers indicating that their abolition might result in revenue losses on the order of $3 to $4 million annually. In light of the discussion, Chairman Crooker suggested that it might be appropriate to put aside further consideration of this matter for the time being.

Aside from the question of youth fares, the respective carriers indicated that their independent review generally confirmed the validity of the revenue impact which the Boards' staff had estimated would result from the various fare adjustments suggested by Chairman Crooker. However, a number of carriers proposed alternative modifications in approach. With respect to jet coach fares, it was variously suggested that fares up to 1,100 miles be increased by $2.00 rather than the $1.00 initially proposed, or by $2.00 up to 500 miles and $1.00 thereafter, or that the $1.00 increase be permitted in markets of greater distance, *e.g.*, up to 1,300, 1,600, or 1,800 miles. In the case of first-class fares, it was suggested that the increase be $3.00 across-the-board, with a maximum increase of $10.00 in transcontinental markets where the fares are currently at depressed levels; that they be increased by $2.00 as initially proposed or to 120 percent of the coach fare whichever is higher; or that they be increased across-the-board to 125 percent of the corresponding jet coach fare. One carrier specifically endorsed TWA's proposal to extend applicability of the $1.00 hub surcharge, although indicating a preference for inclusion of markets up to 1,300 rather than 1,100 miles. Only one carrier raised again the question of imposing the proposed restrictions on the Discover America excursion fares, and this was to reiterate its firm if minority position that the proposed 7 day minimum stay restriction would cause it, at least, to lose a substantial volume of traffic which now is attracted by these fares for relatively short trips over the weekend.

There followed a general exchange of comments on the various alternatives suggested. This discussion revealed that most carriers were prepared to seek either a $2.00 increase in short/medium haul jet coach fares or an extension of the $1.00 increase to encompass markets of greater distance, with one or two explicitly favoring the former. No carrier indicated an inability to go along with either approach. The transcontinental carriers agreed that TWA's proposal to bring jet coach fares to within 4 percent below the norm had merit, and generally supported TWA's proposal to decommonrate Los Angeles and San Francisco.

With respect to first-class fares, American and TWA felt that a formula which would set transcontinental first-class fares at 125 percent of coach fares would cause substantial numbers of passengers to downgrade to coach service. The end result would be no real public acceptance of the service offered,—and hence no significant public benefit, but with a consequent loss in revenue for the carriers. It was generally felt that $10.00 was the maximum increase which should be attempted at this time, at least until market reaction could be tested. Chairman Crooker noted that in any event an approach along these lines, whatever the percentage finally selected, is premature since the Board intends to pursue development of cost oriented formulas for general application, a project which cannot be accomplished for some months.

The Vice Chairman indicated that he had some reservations about moving toward a formula approach. He expressed the personal view that fare increases should be borne equally by all users of air transportation, and was concerned with loading increases too heavily onto the short-haul passenger when an increase of a few dollars could more readily be absorbed by the long haul passenger. The Vice Chairman also indicated that he found the hub charge concept troublesome. While he recognized the cost basis for such a charge, Mr. Murphy pointed out that we are dealing here with changing circumstances where congestion can disappear at one airport and develop at another.

At the request of the carriers for some expression of the Board's views on the various possibilities which had been discussed, Chairman Crooker stated that he was not in a position to respond at that point in time. However, he indicated that the Board would be prepared to comment that afternoon if the carriers wished to reconvene again that day. Accordingly, the meeting recessed until 2 p.m.

Chairman Crooker opened the reconvened meeting by stating that the Board had met during the noon recess and that he was now in a position to indicate its general thinking on the subject of domestic passenger fares. He emphasized that the Board's position was necessarily tentative at this time, pending review of the actual filings which are made and consideration of any complaints which are received. A majority of the Board would probably approve a revenue increase of about the magnitude described at the Monday meeting and shown in the table distributed at that time, *e.g.*, approximately $162.8 million in the aggregate based on 1967 traffic. Bearing in mind the deletion of the proposed adjustment in youth fares and the associated $21.9 million estimated revenue increase, a majority would be disposed to permit the following specific adjustments:

1. *First-class fares*—an increase of $3.00 one-way across-the-board, and additional increases of from $1.00 to $7.00 depending on distance in east-west first-class fares in certain specific markets of 800 miles or more in which fares have been depressed below industry norms. This is estimated to produce an additional $15 million in first-class revenues for the trunkline industry over the formula suggested at the Monday meeting.

2. *Coach-fares*—an increase of $2.00 one-way in markets up to 500 miles, and an increase of $1.00 one-way in markets from 500 to 1,800 miles, with no increase above 1,800 miles. This is estimated to produce an additional $35 million in domestic trunkline coach revenues over that suggested at the Monday meeting.

3. *Discover America fares*—the carriers would be permitted to establish a 7 day minimum stay requirement, and a 7 day minimum advance ticket pickup requirement.

The Chairman estimated that the above-described adjustments would produce a net over-all revenue increase for the domestic trunkline industry of about $194 million at 1969 estimated volume and allowing for a 10 percent dilution factor. This net revenue gain is expected to approximate 3.8 percent. A summary of the estimated impact of each adjustment on individual carriers is set forth in Attachment E.

The Chairman made the following additional observations:

1. A majority of the Board is not disposed at this time to support a surcharge at congested hub airports in view of the size of the increases outlined above;

2. The Board is not thinking in terms of a 120/125 percent differential between first-class and coach fares at this time in view of the further work contemplated with respect to development of cost oriented formulas, although this is without prejudice to its ultimate consideration of such an approach;

3. The Board is not inclined to permit decommonrating in transcontinental fares at this time since this subject is quite controversial and relates to a specific situation. In the event carriers elect to file tariffs proposing such an adjustment, the Board would hope that the filings would be on more than the customary 30 or 45 days notice so as to provide ample time to solicit the views of the civic parties involved as well as other interested persons.

4. The Board is sympathetic with the objective of eliminating clear inequities (above or below the norm) which may exist in the present fare structure, and will do its best to permit corrections as appropriate. However, this is a complicated matter and it would seem advisable for the carriers to communicate with the staff as to specific situations rather than to attempt to solve the problem in the imminent tariff findings;

5. With respect to the Discover America excursion fares, the Board is availing the carriers of this opportunity to tighten the restrictions on these fares so as to minimize diversion from regular fare services. Should the carriers not elect to make this adjustment, it should be made clear that the Board will bear in mind the $15 million revenue improvement which it has made available to the industry; and

6. The Chairman indicated that the Board would issue a press release at 5 p.m. that afternoon, reflecting the announcement of Board views on a fare increase.

The meeting was then adjourned.

CARRIER REPRESENTATIVES

American Airlines: Mr. George A. Spater, President.

Braniff International: Mr. Harding L. Lawrence, President and Chairman of the Board.

Continental Air Lines: Mr. Harvey J. Wexler, Vice President-Governmental Affairs.

Delta Air Lines: Mr. Charles H. Dolson, President; Mr. Thomas M. Miller,[1] Senior Vice President-Marketing.

Eastern Air Lines: Mr. Floyd D. Hall, Chairman and Chief Executive Officer.

National Airlines: Mr. Dan Brock, Vice President-Traffic and Sales.

Northeast Airlines: Mr. James O. Leet, President.

Northwest Airlines: Mr. Robert Wright, Vice President-Sales.

Pan American World Airways: Mr. Najeeb E. Halaby, President.

Trans Caribbean Airways: Mr. O. Roy Chalk, Chairman of the Board and President.

Trans World Airlines: Mr. Charles C. Tilinghast, Chairman of Executive Committee and President.

United Air Lines: Mr. George E. Keck, President and Chief Executive Officer; Mr. E. A. Bemish,[1] Assistant Vice President-Marketing Services.

Western Air Lines: Mr. Jack M. Slichter, Vice President-Government and Industry Affairs.

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[1] Meeting on January 16, 1969.

POSSIBLE COST ORIENTED FORMULA

1. Merely as a guideline for the Board's use (against which fares proposed in tariffs could be compared) a jet coach fare formula of $y=a+bx$ would be adopted ("a" represents the flat add-on for the cost of processing one passenger, irrespective of the number of miles traveled; "b" represents the rate per mile; "x" represents the number of miles traveled; and "y" represents the computed fare). In line with the hub sur-charge concept proposed by some airlines, "a" would not be a constant, but would depend on whether the point of origin and/or the point of destination is a village (v), a city (c), a metropolis (m) or a major hub (h),—to be categorized by the CAB staff. The dollar amount of "a" would be computed thus:

Point of origin	Point of destination			
	v	c	m	h
v	6	7	8	9
c	7	8	9	10
m	8	9	10	11
h	9	10	11	12

Likewise, "b" would not be a constant, but would depend on the length of the journey (city center to city center distance). In a trip of any given distance, "b" would be computed:

[Cents per mile]

First 500 miles	5.8
Next 500 miles (i.e., 500 to 1,000 miles)	5.4
Next 500 miles (i.e., 1,000 to 1,500 miles)	5.0
Next 500 miles (i.e., 1,500 to 2,000 miles)	4.6
Miles above 2,000 miles	4.2

2. First class fares in each market would necessarily be at least 20% above coach fares.

3. As to coach-class fares and first-class fares, a tolerance of no more than 4%, up or down, from the computed amount, would be regarded as so near the new "norm" as to warrant almost automatic approval, in the absence of some unusual circumstance impelling the Board to suspend and set for investigation.

4. Rounding out to even dollar amounts is a well established concept and would be permitted.

5. There is some opinion that promotional fares (for example, a GIT fare) lower than about 60% of the regular coach class fare should not be approved.

ESTIMATED EFFECT ON TOTAL 1967 PASSENGER REVENUES

[Dollar amounts in millions]

	1st-class fares [1]		Coach fares [2]		Hub charges [3]		Subtotal for normal fares		Youth fares [4]		Discover America [5]		Combined totals	
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
American	$9.8	1.38	$8.4	1.18	$5.2	0.73	$23.4	3.29	$6.0	0.84	$3.1	0.44	$32.5	4.57
Eastern	4.5	.85	11.8	2.23	5.2	.99	21.5	4.07			1.2	.23	22.7	4.30
TWA	7.0	1.27	5.2	.94	2.9	.52	15.1	2.73	4.6	.83	2.6	.47	22.3	4.03
United	13.0	1.49	11.5	1.32	5.1	.58	29.6	3.39	7.1	.82	3.8	.44	40.5	4.65
Big Four	34.3	1.29	36.9	1.39	18.4	.69	89.6	3.37	17.7	.66	10.7	.40	118.0	4.43
Braniff	1.5	1.00	3.2	2.13	.2	.13	4.9	3.26			.3	.20	5.2	3.46
Continental	.8	.75	1.4	1.31			2.2	2.06	1.0	.93	.4	.37	3.6	3.36
Delta	3.0	.83	5.5	1.53	1.3	.36	9.8	2.72			1.1	.30	10.9	3.02
National	1.4	.72	2.6	1.32	.8	.41	4.8	2.45			.8	.41	5.6	2.86
Northeast	.8	1.12	1.6	2.24	.9	1.26	3.3	4.62	.6	.84	.2	.27	4.1	5.73
Northwest	1.8	.87	3.3	1.58	1.8	.87	6.9	3.32	1.5	.72	.8	.39	9.2	4.43
Western	1.5	1.02	2.9	1.99			4.4	3.01	1.1	.75	.7	.48	6.2	4.24
Other seven	10.8	.87	20.5	1.65	5.0	.41	36.3	2.93	4.2	.34	4.3	.34	44.8	3.61
Total trunks	45.1	1.16	57.4	1.47	23.4	.60	125.9	3.23	21.9	.56	15.0	.38	162.8	4.17
Total locals	27.1	8.63	1.5	.48	4.3	1.37	32.9	10.48					32.9	10.48
Total	72.2	1.71	58.9	1.39	27.7	.66	158.8	3.76	21.9	.52	15.0	.36	195.7	4.64

[1] Increase of $2 in all 1st-class fares up to 800 miles, plus increases on certain East-West tickets of 800 miles or more of another $1 to $8, depending on distance.
[2] Increase of $1 in coach fares up to 1,100 miles; thereafter no increase.
[3] Add $1 to each 1st-class and coach fare involving New York/Newark, Baltimore, Washington, and Chicago in markets up to 750 miles.
[4] Cut discount from 50 to 33⅓ percent and provide reservation.
[5] Apply 7-day minimum stay and 7-day advance ticket pickup rules.

ATTACHMENT D

TRANS WORLD AIRLINES,
New York, N.Y., January 15, 1969.

CIVIL AERONAUTICS BOARD,
Connecticut Avenue NW.,
Washington, D.C.

GENTLEMEN: TWA was pleased to have the opportunity to discuss with the Board, in company with other trunk carriers, the Board's informal views as to potentially acceptable adjustments to present fares in order to provide needed revenue relief for the carriers. We are naturally disappointed that the Board seems unwilling to accept the TWA fare filing, which was presented to you on December 6. We are, nevertheless, addressing ourselves to the Board's suggestions in the hope that they will provide a practical framework for urgently needed relief.

Accordingly, TWA is preparing to withdraw its current filing now due to come into effect on February 1, 1969, and, in place, to file a new package for effect March 1, 1969, which in large measure follows the outline laid down by the Board last Monday.

The TWA filing will make the following changes, the revenue impact of which is shown in Attachment I.

NORMAL FARES

First-class fares

TWA, in accordance with the Board's proposals, will increase first class fares $2, with further increases, as suggested, in "depressed" east-west markets.

Coach fares

In accordance with the Board's suggestion, TWA will increase all coach fares by $1 up to 1100 miles.

In addition, as an initial partial step towards removing inequities in the present fare system, and to avoid the prejudice to it which would otherwise result, TWA will file to increase all fares which lie more than 4% below the present CAB fare line to within 4% of that line. This adjustment will only be made in markets below 1100 miles. TWA would be quite prepared to accept a similar downward adjustment in all fares more than 4% above the line, but it is not proposing to do so at the present time, because the impact on other carriers might be to offset the fare increases which the Board apparently feels that they deserve. Attachment II lists the markets affected and shows the revenue impact of these changes.

Hub charges

TWA will file for a $1 addition to each fare involving the FAA designated congested cities (New York/Newark, Baltimore, Washington and Chicago) but will apply an upper limit of 1100 miles, rather than 750 miles as proposed by the Board. We think this entirely logical since the higher costs associated with these airports are so great that they are in no sense offset at the point that hauls exceed 750 miles.

Commonrating

TWA will file to end the practice of commonrating Los Angeles and San Francisco from eastern points by filing new San Francisco fares based on the Los Angeles rate per mile. An upper limit of $5 will, however, be applied on any Los Angeles/San Francisco differential so developed. This anomaly has too long existed and should be corrected.

PROMOTIONAL FARES

Discover America

TWA will accept the Board's suggestion as presented, substituting a 7-day minimum stay for the present over-the-weekend restriction, and adding a 7-day advance ticketing requirement. Other conditions of the Discover America Fare, including the present blackout provisions, would remain.

Youth fares

After careful analysis, based on information obtained from our Continuous On-Board Surveys, we have determined that the change from a 50% standby fare to a two-thirds positive fare would result in a very substantial loss to TWA, rather than the significant gain estimated by the Staff. We would be pleased to discuss with the Staff our survey results which demonstrate the very serious downgrading that would occur after the recommended change was made.

In the circumstances, TWA will retain its current 50% Youth Standby Fare, maintaining our position taken in the Board's Youth Fare Investigation.

Attachment I shows TWA's evaluation of these proposed changes and compares such changes with the estimates prepared by the Board's Staff. You will note that with the exception of the Youth Fare, we are in close agreement with the Staff's estimates, contrary to the views which I initially expressed. In this exercise we have used the same basic methodology as the Staff, generating gross revenue gains and then subtracting out 10% to allow for traffic loss. But, since the Board's proposal for youth fare changes will not generate the revenue im-

provement calculated by the Staff, it is necessary for TWA to obtain compensating increases in order to obtain relief of the magnitude envisaged by the Board. Our adjustments are designed to provide such compensation.

From Attachment I you will note that we project a 1967 revenue value of $25.7 million or 4.56% compared with $22.3 million or 4.03% in the Board's proposal. We believe that our percentage increase should be acceptable to the Board since it lies below those which it has indicated a willingness to accept for our principal competitors, American and United. Also, it is based on the moderation of inequities which have been permitted too long to exist.

TWA's new fares will grant us some urgently needed relief in the face of the relentless pressure of cost increases. We are, however, very conscious that the level of relief which the Board now suggests is acceptable is well below that requested by TWA and other carriers, and far from that necessary to obtain a proper rate of return. We, therefore, welcome the Board's readiness to move towards a sound cost-based fare structure. TWA, as a long term advocate of such a structure, will present to you, at your earliest convenience, its extensive study of such fare structures.

Sincerely,

CHARLES C. TILLINGHAST, Jr.

TWA FARE ADJUSTMENTS, 1967 REVENUE IMPACT

[Dollar amounts in millions]

	CAB suggestion		TWA proposal
	CAB staff estimate	TWA estimate	TWA estimate
1st class	$7.0	$6.6	[1] $6.6
Coach	5.2	5.3	[1] 5.3
Hub charges:			
CAB suggestion (0 to 750 miles)	2.9	3.1	[1] 3.1
TWA Proposal (750 to 1,100 miles)			.4
De common rate LAX/SFO			3.0
Adjustment of inequities			4.8
Discover America	2.6	2.5	[1] 2.5
Youth fare	4.6	(4.9)	
Gross 1967 revenue impact	22.7	12.6	25.7
Less 10 percent traffic loss	($2.3)	($1.3)	($2.6)
Net 1967 revenue impact	20.4	11.3	23.1
Growth to 1969 [2]	5.8	2.7	5.5
Net 1969 revenue,mpact	26.2	14.0	28.6
Gross revenue increase as percent of 1967 revenue	4.03	2.23	4.56
Net revenue increase as percent of 1967 revenue	3.62	2.00	4.10

[1] CAB suggestion and TWA proposal.

[2] Staff estimated growth, 28.6 percent; TWA estimated growth, 23.8 percent.

TRANS WORLD AIRLINES, INC.

ESTIMATED REVENUE EFFECT OF ADJUSTING TO —4 PERCENT OF CAB COACH CURVE 0-1,100 MILES ON 1967 REVENUES

Segment	Mileage block	City center mileage	1967 coach passengers	Fare increase	Revenue increase
CMH-DAY	0-99	64	3,181	$1	$3,089
NYC-PHL		82	36,379	1	35,324
CVG-SDF		89	13,769	2	26,712
TUL-OKC		97	5,009	1	4,864
CVG-IND		99	6,719	1	6,524
Block total			66,385		76,513
DAY-IND	100-199	104	6,745	1	6,549
TUS-PHX		106	8,348	1	8,106
BDL-NYC		106	73,309	2	142,219
PHL-WAS		122	6,337	1	6,153
NYC-MDT		153	6,719	1	6,524
PIT-CMH		161	55,166	2	107,022
CMH-IND		168	4,508	1	4,377
MDT-PIT		172	24,613	2	47,479
MKC-ICT		177	38,836	1	37,910
CLE-DAY		177	923	2	1,791
BOS-NYC		188	81,409	1	79,048
Block total			306,913		447,248
MIA-TPA	200-299	205	5,070	1	4,593
NYC-WAS		205	39,785	1	36,045
IND-STL		230	79,088	1	71,654
STL-MKC		237	242,155	2	438,301
SDF-STL		241	36,690	2	66,409
BNA-STL		253	15,828	2	28,649
PHL-PIT		257	150,457	1	136,314
CLE-IND		262	53,769	1	48,715
AMA-ABQ		272	11,577	1	11,241
Block total			634,419		841,921
ICT-AMA	300-399	303	5,523	1	4,805
CVG-STL		308	49,502	1	43,067
BDL-WAS		309	2,811	2	4,891
PIT-IND		328	41,084	1	35,743
HAR-CMH		330	2,725	2	4,742
DAY-STL		331	20,896	1	18,180
STL-TUL		360	21,071	1	18,332
BOS-WAS		393	37,972	1	33,036
MDT-DAY		394	4,934	1	4,293
Block total			186,518		167,089
WAS-CVG	400-499	403	17,521	1	14,858
NYC-CLE		404	58,932	1	49,974
PIT-CHI		409	229,614	1	194,713
CHI-MKC		412	254,857	1	216,119
PHL-CMH		415	35,952	1	30,487
IND-MKC		452	21,125	2	35,828
DTT-STL		454	70,956	3	180,512
STL-OKC		458	19,106	1	16,202
MKC-AMA		480	8,833	2	14,981
CLE-STL		491	24,318	2	41,243
Block total			741,214		794,917
ICT-ABQ	500-599	548	4,303	$1	$3,562
BDL-CHM		555	5,214	1	4,343
MDT-CHI		580	12,902	1	10,747
PHL-IND		583	32,896	2	54,804
IND-TUL		590	2,758	1	2,297
CHI-ICT		590	30,934	3	77,304
WAS-CHI		595	83,191	1	69,298
Block total			172,198		222,377
BDL-DAY	600-699	619	10,162	1	8,353
BOS-CMH		642	5,748	2	9,449
DTT-MKC		644	21,670	1	17,812
BDL-CVG		650	3,033	1	2,493
CVG-TUL		660	1,491	1	1,225
PHL-CHI		664	200,384	2	329,431
CLE-MKC		699	9,642	1	7,925
Block total			252,130		376,688
BOS-DAY	700-750	707	19,949	2	32,437
WAS-STL		710	101,709	1	82,689
NYC-CHI		711	325,702	2	529,591
BOS-CVG		738	13,778	2	22,403
Block total			461,138		667,120
0-750 total			2,820,915		3,593,873
BDL-CHI	751-799	768	2,320	1	1,886
BOS-IND	800-899	806	8,716	2	14,050
BOS-CHI		849	67,062	2	108,104
CLE-TUL		852	1,570	1	1,265
NYC-STL		873	198,934	1	160,341
CHI-AMA		893	16,016	2	25,818
Block total			292,298		309,578
PIT-TUL	900-999	915	2,551	1	2,043
CHI-DEN		917	38,048	1	30,476
CLE-OKC		949	1,672	2	2,678
Block total			42,271		35,197
PHL-MKC	1000-1099	1,035	23,576	1	18,625
BOS-STL		1,036	26,255	2	41,483
Block total			49,831		60,108
751-1,099 total			386,720		406,769
0-1,099 grand total			3,207,635		4,000,642

Note: Methodology: Unrounded coach fares. —4 percent of CAB unrounded curve raised to—4 percent level and then rounded using 750-mile procedure. CAB coach curve: $6.44 plus 5.2713 cents per mile (based on September 1966 fares).

ESTIMATED REVENUE EFFECT OF ADJUSTING FIRST-CLASS FARES TO MAINTAIN PRESENT DIFFERENTIAL WHEN ADJUSTING COACH FARES TO —4 PERCENT OF CAB COACH CURVE 0–1,100 MILES ON 1967 REVENUES

Segment	Mileage block	City center mileage	1967 1st-class passengers	Fare increase	Revenue increase
CMH–DAY	0–99	64	199	$1	$199
NYC–PHL		82	2,281	1	2,281
CVG–SDF		89	863	2	1,726
TUL–OKC		97	314	1	314
CVG–IND		99	421	1	421
Block total			4,078		4,941
DAY–IND	100–199	104		1	859
TUS–PHX		106	1,085	1	1,063
BDL–NYC		106	9,526	2	18,671
PHL–WAS		122	824	1	808
NYC–MDT		153	873	1	856
PIT–CMH		161	7,169	2	14,051
CMH–IND		168	586	1	574
MDT–PIT		172	3,198	2	6,268
MKC–ICT		177	5,047	1	4,946
CLE–DAY		177	120	2	235
BOS–NYC		188	10,579	1	10,367
Block total			39,884		58,698
MIA–TPA	200–299	205	582	1	570
NYC–WAS		205	4,568	1	4,477
IND–STL		230	9,082	1	8,900
STL–MKC		237	27,806	2	54,500
SDF–STL		241	4,213	2	8,257
BNA–STL		253	1,817	2	3,561
PHL–PIT		257	17,277	1	16,931
CLE–IND		262	6,174	1	6,051
AMA–ABQ		272	1,329	1	1,302
Block total			72,848		104,549
ICT–AMA	300–399	303	892	1	865
CVG–STL		308	7,992	1	7,752
BDL–WAS		309	4,554	2	8,834
PIT–IND		328	6,633	1	6,434
MDT–CMH		330	440	2	853
DAY–STL		331	3,374	1	3,272
STL–TUL		360	3,402	1	3,299
BOS–WAS		393	6,130	1	5,946
MDT–DAY		394	797	1	773
Block total			34,214		38,028
WAS–CVG	400–499	403	4,822	1	4,629
NYC–CLE		404	16,220	1	15,571
PIT–CHI		409	63,197	1	60,669
CHI–MKC		412	70,144	1	467,338
PHL–CMH		415	9,895	1	9,499
IND–MKC		452	5,814	2	11,162
DTT–STL		454	19,529	3	56,243
STL–OKC		458	5,259	1	5,048
MKC–AMA		480	2,431	2	4,667
CLE–STL		491	6,693	2	12,850
Block total			204,004		247,676
ICT–ABQ	500–599	548	724	$1	$688
BDL–CMH		555	877	1	833
MDT–CHI		580	2,170	1	2,062
PHL–IND		583	5,534	2	10,515
IND–TUL		590	464	1	441
CHI–ICT		590	5,204	3	14,831
WAS–CHI		595	13,995	1	13,295
Block total			28,968		42,665
BDL–DAY	600–699	619	1,994	1	1,874
BOS–CMH		642	1,128	2	2,121
DTT–MKC		644	4,251	1	3,996
BDL–CVG		650	595	1	559
CVG–TUL		660	292	1	274
PHL–CHI		664	39,310	2	73,903
CLE–MKC		699	1,891	1	1,777
Block total			49,461		84,504
BOS–DAY	700–750	707	3,914	2	7,358
WAS–STL		710	19,952	1	18,754
NYC–CHI		711	63,894	2	120,121
BOS–CVG		738	2,073	2	5,081
Block total			90,463		151,314
0–750 total			523,920		732,375
BDL–CHI	751–799	768	455	1	427
BOS–IND	800–899	806	1,862	2	3,500
BOS–CHI		849	14,324	2	26,929
CLE–TUL		852	335	1	314
NYC–STL		873	42,491	1	39,941
CHI–AMA		893	3,421	2	6,431
Block total			62,433		77,115
PIT–TUL	900–999	915	378	1	355
CHI–DEN		917	5,635	1	5,296
CLE–OKC		949	248	2	466
Block total			6,261		6,117
PHL–MKC	1000–1099	1,035	4,358	1	4,096
BOS–STL		1,036	4,853	2	9,123
Block total			9,211		13,219
751–1099 total			78,360		96,878
0–1099 grand total			602,280		829,253

ESTIMATED EFFECT ON TOTAL 1967 PASSENGER REVENUES AND ON TOTAL 1969 ESTIMATED PASSENGER REVENUES

[Dollar amounts in millions]

	1st-class fares [1]		Coach fares [2]		Subtotal		Discover America [3]		Combined totals (on 1967)		Estimate for year 1969	
	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent	Amount	Percent
American	$12.3	1.73	$13.6	1.91	$25.9	3.64	$3.1	0.44	$29.0	4.08	$33.6	
Eastern	6.8	1.29	17.9	3.39	24.7	4.68	1.2	.23	25.9	4.91	30.0	
TWA	8.6	1.55	8.8	1.59	17.4	3.14	2.6	.47	20.0	3.61	23.1	
United	16.2	1.86	18.3	2.10	34.5	3.96	3.8	.44	38.3	4.40	44.3	
Big 4	43.9	1.65	58.6	2.20	102.5	3.85	10.7	.40	113.2	4.25	131.0	
Braniff	2.3	1.52	5.2	3.46	7.5	4.99	.3	.20	7.8	5.19	9.0	
Continental	1.2	1.12	2.3	2.15	3.5	3.27	.4	.37	3.9	3.64	4.5	
Delta	4.6	1.28	8.8	2.44	13.4	3.72	1.1	.30	14.5	4.02	16.8	
National	2.1	1.07	3.9	1.99	6.0	3.06	.8	.41	6.8	3.47	7.9	
Northeast	1.1	1.54	2.8	3.92	3.9	5.46	.2	.27	4.1	5.73	4.7	
Northwest	2.7	1.30	5.9	2.84	8.6	4.14	.8	.39	9.4	4.53	10.9	
Western	2.2	1.50	5.0	3.42	7.2	4.92	.7	.48	7.9	5.40	9.1	
Other 7	16.2	1.31	33.9	2.74	50.1	4.05	4.3	.34	54.4	4.39	62.9	
Total trunks	60.1	1.54	92.5	2.37	152.6	3.91	15.0	.38	167.6	4.29	193.9	3.8
Total locals [5]	34.0	11.79	5.5	1.91	39.5	13.70			39.5	13.70		
Total	94.1	2.24	98.0	2.34	192.1	4.58	15.0	.36	207.1	4.94		

[1] Increase of $3 in all 1st-class fares, plus increases on certain east-west tickets of 800 miles or more of another $1 to $7, depending on distance.

[2] Increase of $2 on tickets up to 500 miles; $1 on tickets between 500 and 1,800 miles; no change over 1,800 miles.

[3] Apply 7-day minimum stay and 7-day advance pickup rules.

[4] Percent computed for total trunks only, since estimated revenues for 1969 had not been forecast by individual trunkline carrier. No forecast had been made for the local service carriers.

[5] Excluding Trans-Texas, since we have been informed that this carrier may establish standard class fares, in lieu of existing 1st-class and coach services.

That reply from the chairman was responded to by me in the following letters which were sent on February 17 and 18:

FEBRUARY 17, 1969.

Hon JOHN H. CROOKER,
Chairman, Civil Aeronautics Board, Washington, D.C.

DEAR CHAIRMAN CROOKER: This will acknowledge your letter of February 6 in reply to mine of January 22 inquiring in connection with your recent informal discussions of an increase of airline fares concerning what announcement to parties-in-interest, the Congress, and the public prior to the initiation of such proceedings had been given by the Board as to the ground rules which it would follow in such informal proceedings, including what opportunity, if any, would be given to parties-in-interest to participate in such informal proceedings and how the integrity of such proceedings and discussion would be protected.

Your reply includes comments on other matters such as the manner in which you reach a determination of the percentage amounts of increase which you propose to grant and the absence of informal complaints to the tariff filing despite the widespread coverage which the carriers proposals received in the press. I am reserving my comments of these matters until later.

Your letter however does not reply to the question which I raised, and I do wish that you would undertake to furnish me with your comments in this regard, namely what pronouncement of the ground rules to be followed in the public interest the Board has made regarding these informal proceedings, the opportunities of parties-in-interest to participate in them, and the manner in which the integrity of these proceedings and discussions is protected.

In your answer, I am sure that among other things you will take up the question of whether a transcript is made of the discussions, what agreements under section 412 prevail among the carriers or between the carriers and the Board covering the discussion of fares, what order by the Board was issued permitting the discussion of fares among the carriers and with the Board, what order was issued under section 414 permitting the discussion of such fares among the carriers and with the Board so as to relieve them from the operation of the antitrust laws, what order under section 414 was issued by the Board permitting the carriers relief from the antitrust laws in filing "tariffs consistent with the Board's statement to become effective February 20, 1969 or shortly thereafter", and similar matters.

Sincerely yours,

JOHN E. MOSS,
Member of Congress.

FEBRUARY 18, 1969.

Hon. JOHN H. CROOKER,
Chairman, Civil Aeronautics Board, Washington, D.C.

DEAR CHAIRMAN CROOKER: This letter is reference to a matter contained in your reply of February 6 to certain questions I had raised in my letter to you of January 22 regarding the procedures followed by the Board in its recent discussions with the industry regarding the level of fare increases endorsed by the Board. As I indicated in my letter to you of yesterday commenting on your reply to my inquiry, I had several comments I wished to make with regard to some other discussion contained in your letter which was not addressed directly to that inquiry.

I am particularly disturbed by the several references in your letter to the informal proceedings having been entered into by the Board following the filing of certain tariffs with you by the air carriers, on which tariffs by the Board received no formal complaints from the traveling public or members of the Congress. I leave aside for this discussion the question of whether this is an adequate basis for the Board entering into informal proceedings.

These statements suggests the limiting of the Board to solely that of judges in which they are to act upon a record which is before them. It has always been my impression that the principal obligation of the Civil Aeronautics Board was that of representing the public interest. It seems to me that this understanding of the Board's role is no better expressed than in the words of Commissioner Aitchison which were quoted by Judge Frank in his *Isbrandtsen Co.* v. *United States,* 96 F. Supp. 883, 892 (S.D.N.Y. 1951), and quoted with approval by Judge Hays in *Scenic Hudson Preservation Conference* vs. *Federal Power Commission and Consolidated Edison Company of New York, Inc.,* 354, F. 2d, 608, 2 cir. (1965), as follows:

"This is a somewhat surprising contention, to be contrasted with the following views of Commissioner Aitchison of the Interstate Commerce Commission concerning the obligations of administrative agencies: '. . . The agency does not do its duty when it merely decides upon a poor or nonrepresentative record. *As the sole representative of the public, which is a third party in these proceedings,* the agency owes the duty to investigate all the pertinent facts, and to see that they are adduced when the parties have not put them in . . . The agency must always act upon the record made, and if that is not sufficient, it should see the record is supplemented before it acts. It must always preserve the elements of fair play, but it is not fair play for it to create an injustice, instead of remedying one, by omitting to inform itself and by acting ignorantly when intelligent actions is possible . . .' " (Italics mine.)

Judge Hays in his Consolidated Edison decision has remarked upon the role of the Commission as follows:

"In this case, as in many others, the Commission has claimed to be the representative of the public interest. This role does not permit it to act as an umpire blandly calling balls and strikes for adversaries appearing before it; the right of the public must receive active and affirmative protection at the hands of the Commission."

I trust that you did not intend to imply that the Board's duty in the public interest was in the slightest reduced by virtue of the absence of a formal complaint from the traveling public in this particular tariff filing. I, as a member of that public, certainly have looked to you to represent my interest in determining that rates will not be unjust or unreasonable or unjustly discriminatory or unduly preferential or unduly prejudicial.

Sincerely yours,

JOHN E. MOSS,
Member of Congress.

By order No. 69–2–98 the CAB on February 19 permitted the then proposed airline fares to become effective. The order read:

[Order 69–2–98, dockets 20696, 20719]

FARE INCREASES PROPOSED BY THE DOMESTIC TRUNKLINE CARRIERS

(Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 19th day of February, 1969)

ORDER DISMISSING COMPLAINTS

By tariff revisions [1] marked to become effective between February 20 and March 6, 1969, the domestic trunkline carriers propose to increase most of their local and joint normal fares, Discover America fares, military and youth standby fares, military leave reservation fares, youth advance reservation fares, and most other promotional fares which are computed on a percentage relationship to the normal jet day coach fares. Effective February 20, 1969, one-way first-class fares are being increased by $3.00.[2] Coach fares (including night coach and economy) and major promotional fares, on the other hand, are being increased in varying amounts up to $2.00 per ticket depending on distance.[3]

The National Air Carrier Association (NACA) has filed a complaint against the fare increases proposed by American, Continental, Delta, TWA, and United. The complaint alleges that these carriers are proposing general fare increases while at the same time continuing in effect group inclusive tour basing fares to Hawaii which are at uneconomic levels. It is contended that these latter fares are aimed at capturing inclusive tour charter traffic developed by the supplemental carriers and are being subsidized by higher regular fares. NACA further makes the general contention that the promotional fares of these carriers have been a major contributing factor in the carriers' recent decline in earnings, and suggests that the industry's present earnings deficiency would be largely erased if the average yield had been maintained at the 1965 level.

The Department of Defense has filed an untimely complaint requesting suspension and investigation of the proposed fare increases which the Board will consider on the merits. In summary, the Department alleges that it is a substantial user of air transportation, and that the proposed increase would result in an estimated $6 million annual increase in its costs unless military travel is curtailed or diverted to other modes of transportation. The Department urges that no increases be allowed in the absence of an investigation of the carriers' revenue needs in which it could participate.

American, Braniff, Continental, Delta, TWA, and United have filed answers to NACA's complaint maintaining that the complaint addresses itself to the group inclusive tour basing fares to Hawaii, the lawfulness of which should not be considered here since these fares are the subject of a current formal investigation. These carriers further contend that the complaint does not adequately support the contention that promotional fares have been a major contributing factor in the carriers' declining rate of return, since no account has been taken of the generative effect which they have had upon traffic. The carriers submit that there is an urgent need for an immediate fare increase to reverse the downward trends in their earnings, and that any delay will only serve to worsen the situation. Finally, the carriers assert that no evidence has been offered to support the conclusion that promotional fares *per se* are unlawful since, with the exception of the Hawaiian group inclusive tour basing fares, NACA does not identify the specific fares which it considers objectionable or specify the particular characteristics which it believes would make them unlawful. In essence, these carriers allege that no evidence has been submitted to warrant a reversal of several Board determinations that particular promotion fares are economically sound.

Upon consideration of the tariff filings, complaints, answers, and other matters of record, the Board finds that the complaints do not set forth sufficient facts to warrant investigation of the proposed tariffs and the request therefor, and consequently the requests for suspension, will be denied. The proposals conform to the tentative guidelines contained in our announcement of

[1] Revisions to Airline Tariff Publishers, Inc.'s Agent, Tariffs C.A.B. Nos. 90, 98, and 101.

[2] Effective February 26, 1969, certain first-class fares are being further increased by $1.00 to $7.00. Any necessary action by the Board with respect to these additional increases will be the subject of a later order.

[3] No coach fare increases are proposed for distances exceeding 1,800 miles, and the increases are $2.00 for distances of 500 or less, and $1.00 above 500 miles.

January 16, 1969. The Board has made a comprehensive review of the economic state of the industry, and has concluded that increased costs and expenses during 1969 will deny to the domestic trunkline industry a fair rate of return on investment, unless there be a moderate revenue increase. The trunklines' rate of return on investment in 1968 will be substantially below 1967. Whether the increased revenues will be adequate or more than adequate in 1970 and thereafter (in order to yield an adequate rate of return) will, of course, depend on many factors, such as the state of the general economy, the economic impact of new large aircraft, adequate solutions to congestion problems and so forth. The current tariff filings (to which this order relates) are estimated to provide a revenue increase of slightly less than 4 percent for the domestic trunkline industry, —substantially less than the increases proposed by tariff filings (in November and December, 1968) of several trunkline carriers. The Board concludes that this over-all increase of slightly less than 4 percent is warranted for the time being, and that the manner by which it is being implemented will result in some improvement in the fare structure.

The primary contention made by NACA is that the carriers should not be permitted to increase normal fares while, at the same time, continuing in effect promotional fares such as the group inclusive tour basing fares to Hawaii which are alleged to be at uneconomic levels. These fares, which are the only promotional fares specifically adverted to in the complaint, are presently the subject of a formal investigation, in which their lawfulness will be determined. Insofar as NACA makes the allegation that the declining yield from promotional fares is the primary factor causing the carriers to seek an increase in revenue, we recognize the necessity for an appropriate balance between normal and discounted fares and that is the reason a number of such discounted fares are presently under investigation. However, these considerations do not outweigh the present need for additional airline revenues.

Finally, we are sympathetic with the desire of the Department of Defense to maintain a tight control on the costs of its operations. However, the Board in evaluating the carriers' earlier tariff proposals and the instant filings has carefully considered the effect of the fare increases on all categories of users of air transportation. We are satisfied that the need for the proposed increase is both fully justified and immediate. Conversely, under present circumstances we can find no basis to defer these fare increases pending further consideration in a formal investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404 and 1002 thereof,

It is ordered that:

1. The complaints of the member carriers of the National Air Carrier Association, in Docket 20696, and the United States Department of Defense in Docket 20719, be dismissed; and

2. Copies of this order be served upon the National Air Carrier Association, the Department of Defense, Capitol International Airways, Inc., Modern Air Transport, Inc., Overseas National Airways, Inc., Purdue Airlines, Inc., Saturn Airways, Inc., Southern Air Transport, Inc., Standard Airways, Inc., Trans International Airlines, Inc., Universal Airlines, Inc., World Airways, Inc., and all the domestic trunkline and local service carriers.

By the Civil Aeronautics Board:

HAROLD R. SANDERSON,
Secretary.

STATEMENT OF VICE CHAIRMAN MURPHY AND MEMBER MINETTI

We would prefer a more modest trunkline fare increase; however, we must dissent from the application of a fare increase formula specifically devised to yield the less-than-4 percent revenue increase for trunklines to local service carriers with a resultant revenue increase of almost 10 percent. We permitted a lower price increase on the much more frequently used coach services of the trunklines than on first class services. The accident that local service carriers' single class of service is usually referred to as first class, certainly does not warrant, in our opinion, blind application of the higher level of first class increase permitted trunklines in very different circumstances.

The arguments that local service carrier services are provided at a loss and require Federal subsidy assistance do not justify the carriers charging whatever they choose and no not justify this Board abdicating its statutory responsibility to regulate fares in the public interest. A 10 percent increase is too much. We would permit the local service carriers to meet trunkline first class fares if first class service is indeed provided. Otherwise, the trunkline coach class price-rise formula should apply.

ROBERT T. MURPHY.
G. JOSEPH MINETTI.

Returning to my letters of February 17 and 18, a response was received on March 6, which stated:

CIVIL AERONAUTICS BOARD,
Washington, D.C., March 5, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: This is in reply to your letters of February 17 and February 18, 1969, regarding the discussions recently held by the Board and the trunkline carriers concerning passenger fare increases. Our delay in responding was occasioned by an earlier suggestion that members of our staff might first confer with you or your staff to furnish certain background data pertinent to the matters raised.

Your February 17 letter requests information concerning the ground rules which the Board has adopted regarding "informal proceedings" as to airline tariffs, the opportunities of parties-in-interest to express views or otherwise participate, and the manner in which the integrity of the proceedings and the discussions would be protected. You also ask whether a transcript is made of the discussions, and what agreements and Board actions pursuant to sections 412 and 414 have been entered into or issued. Your February 18 letter deals generally with the Board's role in protecting the public interest in these matters; and we believe that answers to the specific questions contained in your February 17 letter reflect what is done in furtherance of the public interest.

As a preliminary matter, it may be desirable to set forth the statutory procedural framework within which the Board operates in these matters. The rate-making provisions of the Federal Aviation Act, particularly sections 403 and 1002(g), are premised upon the concept that rates and fares for passengers and property shall be established on the initiative of the carriers. When a carrier feels that a particular rate or fare is unreasonably low or inequitable in some respect, or when one or more carriers believe that increasing costs deny to them a fair rate of return on investment, they file tariffs calling for fare increases; and this was done last November by several trunkline carriers. Sometimes carriers take the initiative in filing tariffs containing lower rates or fares. In the 1950's, when such tariff filings incorporating reductions of this sort were not forthcoming despite apparently excessive carrier earnings, the Board instituted a *General Passenger Fare Investigation*. The point is that (under the statute) the Board takes the initiative regarding these fares only where there is reason to believe that the rates proposed or previously established by the carriers are unlawful.

In short, when existing fares may be too low, the carriers (in protection of their own interests) usually file tariffs proposing increases; and when charges may be too high, sometimes the initiative is taken by the carriers and sometimes it is taken by the Board.

With respect to such filings, the statute does not contemplate a requirement of "formal action" by the Board, in the sense of an evidentiary proceeding before a trial examiner. The term "informal action" has thus grown up to mean proceedings less time-consuming than the full evidentiary proceeding before a trial examiner. Use of the word "informal" does not in any sense connote lax or hasty action; it merely distinguishes the statutory procedure followed when fare increases are proposed in carriers' tariffs from the procedure which occurs in a Board-instituted investigation such as the *General Passenger Fare Investigation*.

The statute provides that after a carrier files a tarff, the changes in rates and fares shall be made only upon 30 or more days' notice, and such changes will go into effect unless the Board takes action to suspend their effectiveness and investigate the tariffs. Provision is made in section 1002 (a) and (g) for the filing of complaints against newly filed air carrier tariffs. The Board's rules provide that within time periods specified in the regulation, any interested person may file a complaint setting forth its objections to the tariff. Provision is also made for responsive pleadings. On the basis of the pleadings filed, plus all other information available to the Board, the Board makes its determination as to whether to suspend and investigate a tariff.

Often, no complaints from the public are received. Such was the case with respect to the tariffs that were before the Board at the time of the recent discussions with the air carriers, although these tariffs proposed substantially higher increases than those ultimately approved by the Board. However, the Board carefully screens all tariff filings whether or not complaints are filed, and frequently suspends and investigates such tariffs on its own motion.

In the statutory time within which the Board determines whether to suspend and investigate a particular tariff, the Board frequently finds it necessary to obtain additional information from the carriers (in the interest of gathering essential facts needed in order to reach an informed judgment). These inquiries and conferences are generally held by the staff. However, where the circumstances warrant, the Board itself may hold such conferences. It did so in the instant case. In light of the heavy volume of tariffs filed, the time available to screen them, and the variety of factual questions which may arise, there are variations from case to case as to the extent to which consultations are had with the carriers, and as to what specific procedural steps are employed.

In the recent passenger fare matters, the Board rather quickly determined that it could not approve the tariffs initially filed. The Board believed that all such proposed fares represented increases of a magnitude or were based on philosophies which a majority of the Board Members could not support. The Eastern tariffs and the United tariffs appeared to the Board to present mutually exclusive approaches to a "formula" as a general basis for passenger fares. In light of the Board's determination that the tariffs filed could not be accepted, it seemed appropriate for the Board to tentatively advise the carriers what tariffs would not be summarily suspended.

In the January meeting, no word-for-word transcript was prepared. As you know, transcripts are frequently made of meetings with particular carriers or other persons. However, because of the large number of persons present at the meeting, the technical nature of the subject matter, the fact that the Board's position could be concisely stated

and the desire to encourage a freer flow of discussion, it was the Board's judgment that a transcript of the January meeting was not necessary. Notes were taken of the discussions, a digest of which has previously been furnished you.

Turning to your questions with respect to section 412 and related matters, there were no agreements filed by the carriers, nor was any order issued by the Board covering the fare discussions. The Board has never construed the Act to require Board approval in order to permit the Board to hold a meeting with the carriers in furtherance of the performance of the Board's own functions under the Act. We do not believe that it is necessary under the statute for the carriers to file agreements with the Board covering conferences held by the Board. Accordingly, in the absence of any order under section 412, the carriers were granted no immunity from the operations of the antitrust laws.

Sincerely,

JOHN H. CROOKER, Jr.,
Chairman.

Things remained in a status quo for only 2 weeks. On Tuesday, March 18, Trans World Airlines filed "a fare adjustment plan—aimed at correcting inequities in fare structure." As a result of their filing other airlines followed suit. This filing lead to a decision on my part to formally intervene before the Board. The material surrounding the filing as well as the filing itself and its subsequent outcome is self-explanatory. I, therefore, insert it at this point:

MARCH 21, 1969.

Hon. JOHN H. CROOKER,
Chairman, Civil Aeronautics Board, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, Trans World Airlines Inc., on March 18 filed a request for certain fare increases and decreases to remove inequities in fares. Whether or not in fact the inequity exists is, of course, a disputable question at this point but, the purpose of this letter is to bring to your attention what I think is an unconscionable procedure.

On March 31, the deadline will have arrived for filing complaints with regard to this filing. That means that the public is given a mere thirteen days to gain knowledge of the filing, to gather pertinent facts about the filing, to prepare whatever documentation is required and, finally, to prepare appropriate objections to the tariffs. How the Board in good conscience can feel that thirteen days is sufficient time is, quite candidly, beyond my comprehension.

You are well aware of my sentiments and the sentiments of a number of my Colleagues who are users of airlines with regard to the increases that were allowed in February. I urgently request that you extend the deadline for filing of complaints and assume that you will respond to this request at your earliest convenience.

Sincerely,

JOHN E. MOSS.,
Member of Congress.

TARIFF REVISIONS OF TRANS WORLD AIRLINES, INC., FILED MARCH 18, 1969

Notice to Interested Persons:

By letter dated March 21, 1969, Congressman John E. Moss has requested that the deadline for filing complaints to Trans World Airlines' tariffs for certain fare increases and decreases filed March 18, 1969 (posting date March 18, 1969; effective date May 19, 1969) be extended beyond March 31, 1969.

Upon consideration of the reasons set forth in support of the request and the effective date of the tariffs, the date for filing complaints to these tariffs is hereby extended to April 14, 1969.

THOMAS L. WREN,
Chief Examiner.

APRIL 4, 1969.

Hon. JOHN H. CROOKER,
Chairman, Civil Aeronautics Board, Washington, D.C.

DEAR CHAIRMAN CROOKER: In response to my letter to you of March 21, the Board extended the time for filing complaints under TWA's tariff filing time until April 14.

It is my intention, along with various Members of Congress who are users of the airlines, to file a formal complaint. Due to the death of President Eisenhower and the Congressional recess until April 14, it has become impossible to prepare all the necessary documents and obtain the required signatures by that date. This is to request that the date for filing complaints be extended to April 21, 1969.

Your consideration of this request in light of the circumstances which give rise to its initiation, will be appreciated.

Sincerely,

JOHN E. MOSS,
Member of Congress.

TARIFF REVISIONS OF TRANS WORLD AIRLINES, INC., FILED MARCH 18, 1969

Notice to Interested persons:

By letter dated April 4, 1969, Congressman John E. Moss requests additional time to file a complaint concerning Trans World Airlines' tariffs for certain fare increases and decreases filed March 18, 1969, the effective date of which is May 19, 1969.

In consideration of the matters set forth in the request, it is granted and Congressman Moss and his associates will be permitted to file complaint on or before April 21, 1969.

RALPH L. WISER,
Associate Chief Examiner.

APRIL 16, 1969.

Hon. JOHN H. CROOKER,
Chairman, Civil Aeronautics Board, Washington, D.C.

DEAR CHAIRMAN CROOKER: Last week a member of my staff made inquiry with the Board concerning whether or not United Air Lines had filed a tariff similar to TWA with regard to adjustments of air fares. We were informed that none had been filed.

On Monday, it was discovered that United had in fact filed and a copy of the filing was requested. A copy was provided by Mr. John Dregge yesterday morning and I now discover that the filing was done jointly by United and Braniff on April 4 and today, the 16th, is the final day for filing complaint.

The purpose of this letter is to request that you extend the date for filing complaint through April 21 so that the complaint which is being prepared with reference to TWA can also be filed with reference to United and Braniff.

Sincerely,

JOHN E. MOSS,
Member of Congress.

TARIFF REVISIONS OF UNITED AIR LINES AND BRANIFF AIRWAYS, FILED APRIL 4, 1969

Notice to Interested Persons:

By letter dated April 16, 1969, Congressman John E. Moss requests that the time for filing complaints concerning tariff filings by United Air Lines and Braniff Airways for certain fare increases and decreases (filed April 4, 1969) be extended from April 16 to April 21, 1969—the date for filing complaints to Trans World Airlines' tariff revisions—so that the complaint being prepared regarding the TWA tariffs can also be filed with reference to the United and Braniff tariffs.

Upon consideration of the matters set forth in the request, it is granted.

THOMAS L. WRENN,
Chief Examiner.

CAB FARE INVESTIGATION REQUESTED

Representative John E. Moss (d-Calif.) and 19 of his colleagues today filed a complaint with the Civil Aeronautics Board opposing tariff filings made by Trans World Airlines, Braniff International Airways, and United Air Lines. The 90 page petition requests that the Board undertake a full scale fare investigation and determine a national policy with regard to ratemaking.

In making the request, the twenty Members of Congress, all users of air transportation, traced the piecemeal fashion in which the CAB has considered tariffs over the past 31 years and admonished the Board to fulfill its responsibility under the Aviation Act of 1958.

The complainants, in addition to Moss, are Representatives Richard T. Hanna, Harold T. Johnson, George E. Brown, Jr., Edward R. Roybal, John J. McFall, Phillip Burton, Charles H. Wilson, Lionel Van Deerlin, George P. Miller, Glenn M. Anderson, Robert L. Leggett, Chet Holifield, Jerry L. Pettis, Don Edwards, Augustus F. Hawkins, Walter S. Baring, Jeffrey Cohelan, B. F. Sisk, William S. Mailliard.

[From the CONGRESSIONAL RECORD, Apr. 13, 1969]

COMPLAINT OF MEMBERS OF CONGRESS AND AIR TRANSFORMATION USERS WITH REQUEST FOR TARIFF SUSPENSION AND A GENERAL RATE INVESTIGATION

(Mr. BURTON of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous material.)

Mr. BURTON of California. Mr. Speaker, yesterday 19 Congressmen, including myself, joined with Congressman JOHN MOSS in filing a complaint with the Civil Aeronautics Board regarding various fare changes which, if adopted, would have resulted in giving official status to a ratemaking formula without the benefit of a public hearing.

Congressman Moss is to be commended for his outstanding leadership in the effort to protect the public interest.

TEXT OF THE COMPLAINT BEFORE THE CIVIL AERONAUTICS BOARD, WASHINGTON, D.C., APRIL 21, 1969, IN THE MATTER OF THE TW TARIFF FILED MARCH 18, 1969, AND THE UA AND BN TARIFFS FILED ON APRIL 4, 1969: COMPLAINT OF MEMBERS OF CONGRESS AND AIR TRANSPORTATION USERS WITH REQUEST FOR TARIFF SUSPENSION AND A GENERAL RATE INVESTIGATION

LEGAL PRINCIPLES

Ratemaking is but one species of pricefixing.[1] The Supreme Court has repeatedly stated that the Constitution does not bind rate-making bodies such as the Civil-Aeronautics Board to the service of any single formula or combination of formulae in determining the reasonableness of rates. The Board, to whom Congress has delegated this legislative power, is free, *within the ambit of its statutory authority*, to make the "pragmatic adjustments" which may be called for by particular circumstances.[2]

The Civil Aeronautics Board is empowered by the Federal Aviation Act of 1958 to institute an investigation, upon complaint, *or upon its own initiative*, in to any matter or thing within its jurisdiction, and whenever, after notice and hearing, the Board shall be of the opinion that any individual or joint rate, fare or charge demanded, charged, collected or received by any air carrier for interstate air transportation, or any classification, rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, is or will be unjust or unreasonable, or unjustly discriminatory, or unduly prejudicial, the Board shall determine and prescribe the lawful rate, fare, or charge (or the maximum or minimum, or the maximum and minimum thereof) thereafter to be demanded, charged, collected, or received, or the lawful classification, rule, regulation or practice thereafter to be made effective.

Footnotes at end of article.

In the exercise and performance of its powers and duties under this Act with respect to the determination of rates for the carriage of persons and property, the Board is specifically enjoined by Sec. 102 to consider, among other things, the *encouragement* and *development* of an air transportation system *properly adapted* to the *present* and *future needs* of the foreign and domestic commerce of the United States which *promotes adequate, economical* and *efficient* service without *undue* preference and advantage, and is regulated in such a manner as to *recognize* and *preserve* the *inherent* advantages of air transportation, *foster sound economic conditions* in such transportation, and *coordinate* transportation by air carriers, limiting *competition to the extent necessary*. The pertient parts of Sec. 102 require the Board to also take into consideration the *effect* of air carrier rates upon the *movement of traffic* and *need in the public interest* of adequate and efficient air carrier service at the *lowest cost* in the sense of the lowest fare, as well as the *need of each air carrier* for *revenues* sufficient to enable it to provide such adequate and efficient service.

Additionally, the Congress has authorized the Board, at its discretion, to take into consideration such other things as profit element, rate base, depreciation, taxes, operating expense and load factor standards, cost-oriented formulae, etc. *But these are not required to be considered by law, and therefore cannot take precedent over the statutory standards.* Under the statutory standards of "just and reasonable" it is the results reached not the method employed which is controlling. It is not the theory but the impact of the rate order which counts.[3]

It is the contention of the complainants that the proposed fares do not take into consideration any of the statutory standards of the Act and that the total effect of the rate proposal viewed in its entirety is unjust and unreasonable.

Trans World Airlines, Inc. (Trans World), United Air Lines (United), and Braniff Airways, Inc. (Braniff) make no reference at all to any of these statutory tests. Indeed, all three carriers do not even dignify the propriety of their proposal by claiming that these specific fare changes are needed for revenue sufficient to enable them, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.

Instead, except for a passing reference to a relatively poor overall earnings position, TW's sole justification for the propriety of its proposed fare change rests on the elimination of certain alleged inequities in the fare structure which exist by reason of undue deviation of some fares from the "Industry Jet Coach Regression Line" in order to achieve a more equitable relationship between existing fares.

Thus, the lawfulness of the applicants' proposal rises or falls primarily upon the lawfulness of the Industry Jet Coach Regression Line (i.e., whether that Regression Line or formula complies with the statutory requirements of the Act), and then on its own merits.

Industry jet coach regression line

The Industry Jet Coach Regression Line, Attachment I to TW's letter of March 18, 1969, was constructed on the basis of March 1, 1968 fare levels and the Board staff's formula transmitted to TW by letter of the Director, Bureau of Economics, dated July 8, 1968, updated to reflect the recently approved (February 20, 1969) fare increases of two dollars ($2.00) in markets up to 500 miles and one dollar ($1.00) from 500–1800 miles.

A. Fares

Since the Regression Line is based on March 1, 1968 fares, adjusted for the change of February 20, 1969, as indicated above, it is necessary to first trace the development of it's numerical input to see if it meets the standards set forth above.

Like the rates and charges for property, air passenger fares in the United States were not subject to regulation by the Federal government prior to 1938. Unlike the rates and charges for property, the air passenger fare structure has never been subjected to a general investigation in the thirty-one (31) years of regulatory control under the CAB. The remarkable thing about the regulation of air passenger fares in the United States, therefore, is how little of it there has been. Historically, the Board has been concerned with only the control of air carrier profit levels and not the rates or overall fare structure. Both the public sense of fairness and the economic theory of competitive equilibrium led to the conclusion that appropriate prices could be achieved by insuring a normal rate of return.[4] As long as all the air carriers received some form of government subsidy, the Board could effectively control the profit level by varying the subsidy element. This left the fare levels by and large to the air carrier's discretion. Until World War II, the Board showed little concern with commercial air fares. In fact, there was only one formal proceeding which resulted in a written opinion, and it involved an investigation to determine whether the discounts given to air travel card holders and government employees, were unduly discriminatory.[5] The mail rate cases of this period do contain miscellaneous statements on the need for reasonable rates, but no air carrier air fares were specifically disapproved. Consequently, no standards of reasonableness were implied.

Basically, air passenger fares, like the charges for some other transportation services, have been the product of a base rate per mile multiplied by a selected mileage figure applicable to the points being served. Generally, air carrier tariffs have reflected three policies with regard to the base rate:

1. A variable or indefinite base rate;
2. A uniform flat base rate; and
3. A uniformly tapered base rate.

Three types of mileage-bases have also generally been applied:

1. Direct point-to-point;
2. Nonstop or skip-stop; and
3. Competitive.

These mileage bases have been computed either on the basis of "actual" course-flown or airport-to-airport great circle.

Prior to 1943, the variable base rates were almost uniformly used among the domestic air carriers. Construction of air fares upon this basis means that the rate per mile used in many city pairs, served by the same air carrier, differs from the base rate in use generally on its system. Such a base rate gave the tariffs a decided lack of uniformity, and obscured the air carrier's respective overall fare policy. This fact was cited in the Board's 1943, show-cause order.

During the period prior to 1943, little attention was paid to actual costs in the construction of air fares. The air carriers set fares which they thought would attract business, and go as far as possible to cover costs; i.e., the value-of-service basis. Since commercial revenues at that time did not come any where close to covering costs, the Federal government tacitly approved the prevailing levels as fair and reasonable, by providing a subsidy in the mail payments to make-up the difference between cost and commercial revenues. Some of the more important influences which caused the air carriers to use a variable rate base, may be summarized as:

1. The desire to build-up traffic over weak routes by expanding the markets through the medium of lower prices;

2. Competition from other air carriers or surface carriers, especially over short-haul segments; and

3. Conversely, where competition did not exist, a higher base rate per mile could be charged than was applied to the balance of the air carrier's system.

Thus, initially, air passenger fares were constructed upon a variable or *indefinite passenger-mile basis.*

The outbreak of World War II changed the situation dramatically. Much of the equipment on-hand DC–3s, and on-order, DC4s, had to necessarily be transferred to the military establishment. At the same time, the demand for commercial air transportation multiplied enormously. Because one of the inherent economic characteristics of air carriers is their high leverage, the resulting extremely high utilization of available capacity produced an almost immediate positive effect upon the industry's net earnings, causing the Board to become seriously concerned for the first time with the possibility of excessive air carrier profits. Aggravating the situation was the fact that the air carriers had necessarily removed all of the pre-war discounts on July 1, 1942. As early as March, 1942, Chairman Pouge is reported to have said that the Board might have to examine air carrier fares in the not too distant future.[6]

Initially, the Board attempted to control the rising profits by reducing the mail payments through a series of cases that finally placed the mail rates upon a weight-mileage basis.[7] At the same time the Board made several informal suggestions to the air carriers throughout 1942 that commercial air rates and fares should be decreased. Finally, on February 27, 1943, noting the very high air carrier profits of 1941 and 1942, the Board ordered 11 of the 16 domestic trunklines to show cause why air passenger fares should not be reduced ten percent (10%), and in the same order instituted an investigation into all air carrier rates and fares.[8] The Board based its order on the fact that the reported net earnings of the eleven air carriers during the five months ended November 30, 1942, had been 'excessive'.

Although some air carriers subsequently reduced various fares, there was no blanket reduction of fares such as evisioned by the Board in its show-cause order. The reductions which were put into effect were for the most part compromises which the individual air carriers worked out and which the Board accepted.[9] The major compromise was to iron out some of the disparities in the existing air fares through the adoption by five air carriers of a system-wide *uniform base rate* which did much to bring about greater uniformity in the tariff structure.

The adoption of a base rate to be applied by the air carriers to all city pairs, regardless of their distance apart, was a natural outgrowth of the use by railroads of this type of base rate, especially since th airlines were in competition primarily with the railroads.[10]

This, therefore, was the first-step toward a more rational fare structure replacing what had heretofore been largely a jumble of *ad hoc* prices, having only a casual, if any, relation to mileage, costs or other factors than historical change or surface fares. Henceforth, air passenger fares were to be primarily constructed upon a *uniform flat passenger-mileage basis.*

With the filing of these tariffs, further investigations were dropped,[11] but not without the dissent of Member Harllee Branch. Branch argued that passenger fares were so intertwined with the mail rates, which at that time still included a subsidy element, that the general investigation should be continued to establish standard procedures for handling both questions.[12]

Thus, the original impetus behind the Board's show-cause order, 'excessive' net earnings, was fulfilled (in part) by a change in the fare structure, rather than a reduction in the fare level. Simultaneously, the Board

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backed away from its first real encounter with the possibility of fully examining air rates, fares and charges.

Again, almost two years later, having seen air carrier profits mount steadily through the war years of 1943 and 1944, the Board adopted investigator orders[13] on December 22, 1944, requiring the four largest domestic trunklines to show cause why their mail rate should not be reduced from 60 cents per ton-mile to 32 cents per ton-mile. Rates to be charged shippers for express and air freight were also to be investigated.[14]

Following a series of informal negotiations between the air carriers and the Board, one of the major trunklines proposed a compromise; to reduce both mail rates and air passenger fares to a common level; i.e., a *semi-cost-of-service basis*. The larger air carriers genuinely felt that a reduction in air passenger fares was necessary in order for them to be able to develop the mass air transportation market they envisioned in the immediate post-war period. On the other hand, the smaller air carriers objected vigorously to the proposed reductions. These air carriers felt that it was a serious mistake at that particular point in time to reduce air passenger fares, because they anticipated a drop in the demand for their services. Nevertheless, the larger air carriers prevailed, and between January 25, and May 1, 1945, there was a general reduction in the level of fares, and a partial restoration of some of the pre-war discounts. The Board accepted this compromise, and therefore less than eight months after the adoption of the initial show-cause orders, it issued (on August 7, 1945) revised show-cause orders to the Big Four trunklines increasing the proposed new mail rate from 32 cents a ton-mile to the agreed 45 cents a ton mile.[15] The August 1945 show-cause orders differed from those issued in December 1944, in that no mention was made of an investigation into the rates to be charged shippers for express and air freight.[16] On August 20, 1945, the air carriers made a second blanket reduction in the general level of air passenger fares within one year.[17] It is interesting to note that while the Board did not mention the level of air passenger fares in either the December 1944 or the August 1945 show-cause orders, it was during this eighth month period that domestic trunklines themselves reduced passenger rates drastically, and went from primarily a value-of-service basis to generally a cost-of-service concept. The resulting level of air passenger fares was the lowest ever attained in the United States.[18]

The significance of the Board action and the carrier counter-action should be clearly understood. As an answer to a threatened Board reduction of mail rates, the carriers agreed to some reduction in those rates, *but the carriers themselves suggested reducing passenger rates*. For the second time, then, the Board agreed to a compromise solution drastically affecting passenger fares, without the Board insisting on the development of a factual record in public hearing upon which to base a far-reaching decision. The upshot of this failure or refusal of the Board to perform its duty under the Act in promoting reasonable charges for airline passenger service was a fare level in 1946 and early 1947 which the carriers have pointed to consistently since then as the primary cause of the airline depression of 1947 and 1948.[19]

Another important change made by the Board in 1945, was the computation of the fare-making mileage. The Board changed from a 'course-flown' basis, to 'airport-to-airport great circle' mileage basis. On the basis of this conversion, the yield per passenger-mile tended to be slightly increased, since the airport-to-airport mileage was no more than, and usually lower than, the course-flown mileage.[20] When the air fares are constructed upon a mileage basis, the fare-making mileage is the other element in the formula that determines the air fare between two points. The fare-making *route* is the path over which a particular fare is constructed. Unlike railroad and highway mileage, there is a wide flexibility in the mileage which an air carrier can select. The majority of air fares have been constructed by using the airport-to-airport mileage, by way of all the intermediate points designated upon the air carrier's certificate; provided that there are no competitive or other factors to be taken into consideration.[21] On other occasions the use of nonstop, or skip-stop, mileage is found desirable. In such cases, the route by way of the intermediate points is either so substantially greater than the linear (or nonstop) mileage that the fare should be computed by skipping some or all of the intermediate stops, or certain intermediate points were added to the air carrier's certificate after the air fare structure had already been established.[22] A third classification of mileage, competitive mileage, comes into being when there are two or more routings available between the same two points operated by different air carriers. In these situations, the mileage of the shortest route certificated is usually the one that determines the air fare to be charged by the competing air carriers. This action is similar to the so-called short-line mileage principle of the railroads.[23]

The air carriers went into the immediate post-war period with optimism and enthusiasm. Initially the traffic carried by the Big Four air carriers continued to increase after that of the other air carriers started a downward trend in the latter part of 1946, as they had correctly forecasted. However, during the winter of 1946–47, it became apparent that the pre-war seasonal characteristic of air carrier traffic once again confronted all the air carriers. Further, it was now clearly apparent that the sharp upward projection of passenger business, forecasted by the larger air carriers, would not be realized in the immediate future.[24] Adding to these difficulties were a series of ghastly accidents. Certain of these accidents eventually forced some of the major air carriers to voluntarily ground and modify entire fleets of new aircraft types. As a result, total revenues failed to respond to the lower rates introduced by the air carriers in 1945. These facts, coupled with the sharp increase in the general price level then being experienced, induced the air carriers to (1) seek higher air passenger fares, and (2) inundate the Board with pleas for higher mail rates. Since the rising mail subsidy payments were bringing the Board under heavy political pressure, the Board was not only sympathetic with the air carriers' petitions for air passenger fare increases, but even took an active part in soliciting cooperation among the air carriers in agreeing on what changes should be made. The outcome was three, quick, successive, ten percent (10%), across-the-board increases in April and December 1947, and September 1948. The last increase followed a conference called by the Board of August 19, 1948, to be attended by the Board, its staff, and the heads of the trunkline air carriers, "for the purpose of discussing various problems relative to passenger fares and airline costs."[25] While these air passenger fare cases established no general standards for the handling of rate decisions, nor a precise rate-of-return criterion,[26] the Board did enunicate, on April 21, 1948, certain basic rate-making principles in the *Air Freight Rate Investigation*, which is subsequently applied to air passenger fare cases. The Board set forth its rate-making principles under the section titled "Relation of Rates to Costs" as follows:

Importance of costs to sound rate-making policy:—It is a commonly accepted principle in all transportation rate making, and a requirement to insure the continued existence of any transportation service, that the rate levels have a reasonable relationship to attainable cost levels.

We are of the opinion that economic considerations do not demand that at all times the rate for any class of traffic or type of service must cover the fully allocated cost of carrying that traffic or providing that service rather that *rates must at all times be reasonably related to costs*. The test of reasonableness must include recognition of variations in the ability of traffic to carry a full share of costs at different stages in the development of that traffic, the effect of low rates in generating new traffic, and the resultant effect of increased volume of reductions in unit costs.

But belief in the justifiableness of promotional rates does not lead to endorsement of rates which are uneconomical in character and depart from all regard to cost. Promotional rates, to be sound, must be fixed not only with due regard to the traffic they are expected to generate, but with sufficient regard for attainable costs to assure that the rates will not have to be raised when the expected volume is realized.

While the portion of present full cost which a reasonable rate may cover can properly vary with the stage of development of the service and be adjusted to promote a sound economic growth of such service, this sound economic growth will not be promoted unless such rates are at all times reasonable related to an expected future level of costs at a fuller stage of development. Any different rate pattern would be disruptive to the industry and commerce, produce wide variations in traffic volume and thus hamper the orderly development of the industry. Moreover, uneconomically low rates place undue burdens upon other types of traffic without any promise of compensating benefits in the form of sustained unit-cost reductions and ultimate profitable operations as increased volume develops.[27]

The gist of this 1948 opinion was that in the future the Board's primary test of "just and reasonableness" for air rates, fares, and charges, would be "that rates must at all times be reasonably related to costs;" i.e., *the cost test*. Nevertheless, it appears that the air passenger fare cases during this period were actually decided with very little knowledge of the relation of revenues to costs, or the probable effect of such increases on either the movement of traffic or the need of the air carriers for revenue.[28]

The impact of the third ten percent increase in the level of air passenger fares was off-set somewhat by changes made in the fare structure and the institution of various 'promotional' tariffs. First, at the insistence of American Airlines the surcharge on the DC–6 and Constellation aircraft was removed. Domestic air fares on these two aircraft types had historically been established on a value-of-service basis. Consequently, the removal of the surcharge meant in effect that the domestic air fares for these two aircraft would henceforth be fixed on a cost-of-service basis, and there would be no increase in the air fares applicable to these two aircraft.[29] Since these two equipment types were at that time primarily assigned to the long-haul routes, this action practically eliminated the ten percent increase as far as long-haul traffic was concerned. As a result, almost the entire burden of the third ten percent increase was thrown upon the short-hault market.

Second, over the open and active objection of some major air carriers, the Board permitted the air carriers, without elaborate consideration, to reinstitute the five percent (5%) discount on round-trip tickets. This discount had been abandoned at the start of World War II. Following this, the Board next proceeded to overrule its own staff, on three separate occasions, within one year.

1. It allowed the air carriers to initiate the family-fare plan; i.e., discounts for wives and children.

2. It permitted Western Airlines' "no-meal" tariff to go into effect without a hearing; this tariff provided a five percent (5%)

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reduction in air passenger fares as compensation for providing no-meal service.

3. The Board approved Capital Airlines' proposal to inaugurate the first domestic air coach service between New York-Pittsburgh-Chicago, on November 4, 1948.

The importance of the Board's regulating activities, in regard to air passenger fares during this period, however, should not be overemphasized.

Rather than being the primary moving force in either the 10% fare increase or the introduction of various types of promotional tariffs, the Board served simply as a review and catalytic agent. For the carriers themselves were the ones who took the principal initiative in the fare field.[30]

A substantial recovery developed in 1949 and 1950. Volume reached an all-time peak during the 12 months ended June, 1950. The outbreak of the Korean hostilities in June 1950 resulted in sudden sharp upsurge in all classes of traffic. Consequently, the calendar year 1950 proved to be one of the best years in the history of the domestic air transportation industry from the standpoint of traffic growth, as well as reported earnings.

Introduction of air coach service.—The air carriers' and Board's approach to the introduction of air coach service during this period provides an excellent example of how their policies have tended, historically, to vaciliate with the industry's economic conditions. When Capital initially filed its night-air coach tariff, the Board still had the third ten percent increase under consideration. Consequently, the Board was entirely preoccupied with the raising of the air carriers' overall net revenues. Nevertheless, contrary to its staff's opinion, the tariff was approved. The new service proved to be an immediate success. The Board's immediate concern, therefore, as they saw it, became the diversion of first-class traffic to coach; the coach passenger producing a lower yield per mile per passenger. Anticipating the expiration of many coach tariffs on September 30, 1949, the Board sought to clarify its position regarding air coach service and issued an important policy statement on September 7, 1949.[31] This statement defined coach-type fares as typically being at a level of four cents (4¢) per mile or about two-thirds of the prevailing regular fares.

Since the Board felt that the night-air coach services amounted to really implicit price cutting, and it wanted to raise the air carriers' revenues and profits, the Board continued to resist the expansion of air coach service throughout 1950. When the air coach tariffs came up again for renewal in the fall of that year, the Board and its staff were still concerned that such service would adversely affect the profits of the air carriers. Therefore, the Board renewed the tariffs upon the condition precedent that the air carriers raise the level of the coach fares from 4 to 4.5 cents per mile.

As noted, the Korean War caused another quick shift in the industry's financial position, by again dramatically increasing the percentage utilization of the available capacity provided. The growing prosperity of the air carriers, plus the growing pressure on the part of the noncertificated air carriers for certification, began to bring about a change in the Board's policy from one of attempting to conserve the revenue and net profits, to one of development of the air coach service. The first positive indication of this change was the approval of a daylight DC–6 aircraft, air coach service, between New York and Miami, in July 1951. Then on December 6, 1951, the Board issued another coach policy statement, which read in part:

It is the Board's considered opinion that coach operations to date have conclusively demonstrated their economic soundness and that the certificated domestic carriers should promptly and substantially expand their coach services using aircraft with high passenger-carrying capacity (high-density coach).[32]

The Board also indicated its belief that high-density coach operations could be just as profitable as the first-class services. The statement further suggested the air carriers offer "off-peak" coach services, as an alternative to high-density seating, with air fares no higher than four cents (4¢) per mile. On February 27, 1952, the Board confirmed its policy by summarily suspending the tariffs of certain air carriers for failing to comply with its suggestions.[33]

Thus, in a little more than four years, the Board had completely reversed itself—from almost total apprehension of low coach services, to forced expansion of such services. To a certain extent, the air carriers had changed their position, too. Of course, it should also be noted that during this same period, the air carriers' over-all financial condition, and net earnings position, had also completely changed—from a net deficit to a net profit. *Introduction of a "taper" into the fare structures*—In terms of operating profits, 1951 proved to be an unusually favorable year for the air carriers. The financial results of the fourth quarter of 1951, and the first quarter of 1952, however, were disappointing. The air carriers, consequently, began to feel that a combination of factors posed a threat to their profit margins; i.e., stabilized traffic demand, rising capacity due to new equipment, and rising costs. Some upward revision in air passenger fare appeared necessary to the carriers. A number favored another across-the-board increase. However, even though the air passenger fare structure still had never been fully investigated, it was a generally accepted proposition that the air carriers were making money on their long-haul services, and failing to meet expenses on the short-haul routes.[34]

To rectify this situation, the domestic trunklines filed tariff revisions in March 1952, proposing to increase each one way domestic passenger ticket by one dollar ($1.00), and to eliminate the five percent (5%) discount for round trips. The Board permitted the $1 increase, which represented a kind of terminal service charge, to go into effect by a not too certain three-to-two vote.

Member Joseph P. Adams concurring and dissenting said:

"I concur in the action of the majority suspending the carriers' tariffs which would eliminate round trip discounts and instituting an investigation of the overall fare level."[35]

* * * * *

". . . there *is* no relationship (and there should not be) between prices paid by air passenger, on the one hand, and prices paid by other consumers for such items as food, clothing, railroad transportation, etc. No carrier has seen fit to include in his presentation an explanation of why an air passenger *should* pay more in 1950 or 1951 for an airline seat than he did in 1940 or 1941. No such presentation was attempted, of course, since *the cost to the airlines of providing the passenger with that seat was actually less in 1950 or 1951* than it was ten years before.[36]

* * * * *

The Board's staff, against this factual background, has recommended that the Board suspend and investigate both the one dollar fare increase and the proposal to eliminate round trip discounts. The staff has clearly and forcefully demonstrated to this Board that the actual correlation which the airlines have sought to establish between rising costs in recent months and lower earnings has not been proved. It has shown that in recent months, the lower total earnings figures have been almost entirely accounted for by increases in total capacity operated and other facors, rather than increases in unit cost of material, labor, etc.[37]

* * * * *

A legitimate inquiry is, of course, what useful purpose could be served by conducting such an investigation? To that query, I would suggest several answers. Overall, a factual basis for a very important decision. As already indicated, the Board has now no such basis for its decision here.[38]

* * * * *

Furthermore, from such an investigation, the Board would be in a better position than it can possibly be now to know specifically how the one dollar fare will be shared by the carriers; whether it will be charged and collected by the originating carrier, whether it should be charged the passenger each time he changes airlines, whether it should be prorated, etc. To the best of my knowledge, even the carriers themselves are in no respect uniform on these very practical matters and until at least the carriers are, the Board should not decide the question. *By doing so, despite its lack of knowledge, the Board cannot possibly know whether in fact the one dollar fare increase will necessarily help to solve the short-haul carrier problem which, I take it, is one of the most reasonable arguments justifying the one dollar increase.*[39]

* * * * *

This particular fare increase was unique in that it caused the rate of the increase per mile to decrease as the length of the trip increased. More important, this increase *permanently* changed the United States domestic fare structure to a tapered fare structure.

A tapered fare structure is one wherein there is a regular gradual diminution in the rate per mile as the length of the haul increases. Hence, from 1952 to 1969 air passenger fares in the U.S. were constructed upon a *uniform tapered passenger-mileage basis.*

The first general passenger-fare investigation.—When the Board approved the $1 increase on April 9, 1952, it simultaneously instituted an investigation of these changes and of the general level and structure of fares, and suspended the changes which proposed to eliminate the round-trip discount.[40] Thereafter, the carriers canceled the portion of the proposal that would have eliminated the round-trip discount. As a result of several prehearing conferences, the issues of the investigations were considerably limited so that many of the issues dealing with the fare structure and the relation of fares were eliminated, leaving as the principal issue the general level of trunkline passenger fares.[41]

The air carriers' 1952 annual earnings were better than had been anticipated, which proved to be embarrassing to some of the air carriers in their handling of the investigation. It appeared that the conclusion of the investigation not only would rescind the dollar-per-ticket increase, but might also occasion further reductions. Consequently, in March and April of 1953, all of the air carriers that were party to the proceeding filed petitions requesting dismissal.

The pleas of the air carriers to dismiss the investigation fell on relatively indifferent ears so far as the Board's staff was concerned. The Board itself, however, was a different matter, and as a result, by a crucial 3 to 2 vote, the proceeding was dismissed.[42]

In dismissing the first *General Passenger-Fare Investigation*, the majority instructed the C.A.B.'s staff to conduct and prepare an informal study of the air passenger fare structure and fare level. At the same time the majority held that the reasonableness of fares depends upon the long-term economic-need of the air carriers, stating their belief . . . that it is neither possible nor desirable to regulate this industry by attemtping to relate fares to returns in the short run. To do so would require lowering fares in times of posperity and raising them when traffic conditions were poor. This would not make business sense and it is, therefore, our belief

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that both the industry and the public will be better served by a level of fares which reflects the cyclical needs rather than the needs of any particular year.

With this philosophy in mind, it is our intent to examine any future fare or mail-rate proposals, not only in the light of conditions prevailing at the time they are advanced but with full consideration of abnormal earnings of prior years and the excess earnings which may be expected in the future, as indicated by such experience. In short, should earnings fall markedly in the future the carriers will be expected to absorb such losses without resort to fare or mail-rate adjustments unless it can be demonstrated that such earnings are below the level necessary to provide a fair return over a reasonably extended period which includes the good years as well as the bad.[43]

In defense of its position in dismissing the investigation, the Board's majority stated:

We attach no special significance to the fact that in the 14 years of the Board's existence there has been no general fare investigation. Any inference that the Board is therefore uninformed with respect to the relationship of fares and other significant economic aspects of the industry is a gross *non sequitur*.

The Board is constantly faced with day-to-day decisions upon requested fare changes, and has considered hundreds of such proposals during its history. In passing upon them it must of necessity have in mind the overall aspects of airline economics, proper tariff principles, and the relationship of fares to other operating factors in the industry. The numerous mail-rate cases which have been processed have required detailed determinations of reasonable costs, efficiency, and proper rates of return for individual carriers and groups of carriers.[44]

Members Lee and Adams filed vigorous dissents to the dismissal order. Member Josh Lee was very careful to point out that he favored continuation of the investigation, not because he felt that rates and fares were necessarily too high, but rather, since the Board had never conducted an investigation into air passenger fares, he believed that it was time that it do so.[45]

Member Joseph P. Adams was scathing in his dissent. He objected particularly to an approach to the problem by staff studies. He felt that any facts developed by such studies would have to be tested in a formal hearing. He stressed particularly the shirking of the Board's statutory obligation to develop a sound rate air passenger fare policy. As already noted, he was critical of the 1948 fare conference called by the Board, and what he described as the confused state of the air carrier fares following that conference.[46]

The investigation was meant to adduce facts, upon which the Board would evolve a sound, well reasoned, passenger-fare policy; such a policy as this Board has never had, and won't have until a true investigation has been held. . . .

* * * * *

Only through an investigation of the kind which this Board unanimously ordered just a year ago into the airline-fare structure can the Civil Aeronautics Board properly develop and regulate airline industry prices in the public interest. *During the entire period since its creation by the Civil Aeronautics Act of 1938 this board has never yet carried through an investigation of the prices charged the traveling public of this country by the airlines.*

* * * * *

In other words, for 14 years, although many thousands of individual fare changes have been filed by our air carriers, and although at various times basic methods of constructing air fares by them have been drastically altered, this Board has never investigated the overall fare structure of the air transportation industry to determine whether the charges made for passenger services by the air carriers are in fact reasonable. The effect of the majority decision here is to perpetuate this obvious vacuum in the work of the Civil Aeronautics Board and I refuse to be a party to such continued neglect of our statutory duty.

Twice before, in 1943, and again in early 1945, the Board attempted an investigation into the rate structure of the domestic airline industry. Each time the Board's efforts were successfully thwarted. There was no investigation, no hearing, or other orderly method evolved for the development of a factual basis upon which to predicate sound principles and policy relative to our passenger fare-structure.[47]

The second general passenger-fare investigation.—With the new 'taper' firmly established in the fare structure, the Board issued its fourth 'Coach Policy Statement' on October 5, 1953, announcing that the Board had indefinitely extended the existing coach services.[48] At the same time, the Board eliminated the previous fixed cents per mile limit, which it had been using to evaluate the reasonableness of air coach fares. In its place, the Board substituted a policy that such fare should not exceed seventy-five percent (75%) of the corresponding first-class fare. The Board indicated that it believed the twenty-five percent differential would (1) adequately reflect the differences in costs, (2) maintain the distinction between the fares, and (3) still provide an incentive to generate additional traffic.

A situation, similar to that which had led up to the first General Passenger-Fare Investigation in 1952, occurred again in early 1954. A minor general economic recession diminished the air carriers earnings. This time, however, the Board indicated it would not be stampeded into action, as it had been in 1952. On May 18, 1954, Mr. Earl Johnson, the newly elected president of the Air Transport Association of America (A.T.A.), appeared before the Board and made an informal presentation of the problems confronting the industry.[49] The gist of the presentation was that due to the reduction in load factors following the cessation of the Korean War and a gradual increase in costs, airline earnings had deteriorated, and were going to deteriorate further unless fares were increased.

However in contrast to having the sharply deteriorated earnings forecast, the airlines began in the latter part of 1954 to demonstrate a great deal of strength in terms of revenue and traffic growth. This increasing demand continued until well into 1956 causing the Board and its staff to again become concerned that the airlines were beginning to enjoy excessive earnings. For this or other reasons, the Board decided to institute a new inquiry into the general level of fares so it would be in a legal position to make an overall "across-the-board" percentage adjustment if the level of earnings continued to grow.[50]

The initial order, however, revealed a wide difference of opinion between the carriers as to the proper scope of the proceedings. Some felt the general level approach or some modification thereof was sound. Others contended that only a full-scale investigation into all aspects of carrier earnings, as well as the fare structure, would do justice to the industry in the present circumstances.

At the oral argument, the basic question raised was whether an overall percentage adjustment in the level of fares would be economically feasible. Certain air carriers argued that the economics of the industry would preclude any such general remedy, because the percentage changes that might be sound for one carrier would induce (by way of competition) changes in the fares of the other air carriers, which might leave one of the latter with an unreasonably low general fare level. The smaller air carriers, with relatively short average traffic hauls, maintained that if any substantial percentage adjustment was made in the fares of the longhaul air carriers, they would be forced to meet such reductions regardless of the costs. The short-haul air carriers suggested that air passenger fares were not related to costs, one of the ratemaking principles enunciated by the Board in the *Air Freight Rate Investigation*,[51] and that any over-all percentage reduction would result in an even greater discrepancy than already existed between air fares and costs. The remedy these carriers suggested, in the event that an overall reduction in air fares should be found necessary, was the creation of a fare structure which properly reflected the difference in unit costs of short-haul operations, as opposed to long-haul trips. Conceivably, this might have resulted in some increases in short-haul fares, while the general level of fares was being reduced.

As real as the problems of fare structure are, and as material as the concern is that we conceivably might not be able to employ the general remedy our initiating order contemplates, we are not persuaded on the basis of information presently available that we must sacrifice the course of action originally contemplated to permit the time-consuming study of fare structure that has been suggested. In view of the fact that the basic structure of airline fares has long prevailed in spite of percentage changes, upward and downward, in the general fare level, it would not seem that such a change now would necessarily be economically unfeasible. Also, despite the undeniable differential in unit costs between long-haul and short-haul services, the simple fact is that airline fares are not, and have not been directly responsive to costs. It is entirely possible that "value of service" considerations would preclude the kind of "cost" fare structure that would protect the short-haul carriers in the way they have suggested. At any rate we are not prepared, at this juncture, to abandon the overall percentage remedy on the basis of the conjecture about this remedy when the suggested alternative is no less speculative and is certainly more complex.

As we view the case, moreover, the question is not *whether* we shall explore the structural problems raised, but *when*. Our present view is that we will first examine the general revenue situation, order appropriate percentage adjustments in fares, if necessary, and then turn to the structural problems that may remain. In limiting the scope of the proceedings at the outset, we do not surrender our discretion to investigate fare structures. If at the conclusion of the general revenue phase of the investigation, or even earlier, we should decide that further investigation is necessary, we can reopen the record to take necessary evidence.[52]

After 'extensive' consideration of the problems and information brought to the Board's attention, the Board concluded that it must reject the proposals for expanding the scope of the proceeding to embrace a study of all conceivable aspects of the fare situation. There was no dissent. Owing to various proceduarl delays, the second General Passenger-Fare Investigation was not set for hearings until May, 1957.

Before these hearings could get underway, the Board halted the proceedings temporarily, in order to hear the pleas of seven domestic trunkline air carriers seeking an 'emergency' increase of approximately six percent (6%) in air passenger fares, to be effective April 1, 1957.[53] At the time the nation was beginning to experience an economic recession. The reported earnings of a number of air carriers had turned markedly downward, and were considerably below the level of earnings then considered necessary; i.e., eight percent (8%) on investment. In other words, on a short-term basis, it was clear that the air carriers were suffering from depressed earnings. Further, if such earnings would be expected to continue for an ex-

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tended period of time, the air carriers would have a proper predicate, based upon the rule set-forth in the original *General Passenger-Fare Investigation,* for an adjustment in air passenger fares.

In the Suspended *Passenger-Fare Investigation,* the air carriers conceded that in the past higher costs had been off-set by greater traffic volume, technological improvements, increased productivity and operating economies. However, the air carriers claimed that they had reached the stage in their development where further technological improvements and operating efficiencies could no longer be expected to absorb rising costs, and, therefore, the depressed earning would become worse because the factors causing them were permanent.

The argument that costs are rising faster than revenues and cannot be absorbed by new efficiencies is not novel. It was advanced before us in 1952 when the carriers were advocating elimination of discounts on round-trip tickets. In spite of the carriers' fears, however, 1952 and the succeeding years were highly profitable. This argument was again advanced in 1954 when the Air Transport Association made an informal presentation to the Board forecasting sharply deteriorated 1954 operating results for the domestic trunkline industry, but the lowest level of earnings for any of the carriers party to this proceeding turned out to be the 8.88-percent return on investment reported by United in that year, with the 12 domestic trunkline carriers reporting an average return of 11.01 percent for the year.[54]

The main argument advanced by the air carriers in support of their position that cost increases could no longer be absorbed was that the new turbo-compound aircraft, DC–7 and advanced Constellations, instead of being more economical, were actually more costly than their predecessors. But, in spite of such contentions, no air carrier, other than United Air Lines, offered underlying evidence to support this proposition.[55] As a result, the Board found the air carriers' evidence in support of an emergency fare increase both sparce and vague.[56]

To the extent that the record shows rising cost of any kind, it also shows that the traditional factors that have enabled the industry to absorb higher costs are still operative and are likely to offset recent cost increases. The principal factors in this evaluation are volume and density of traffic and lengths of passenger haul and aircraft hop.[57]

The Board considered these four factors highly significant because they measured the relative cost of the product which the air carriers offer for sale, and reflected a substantial period of operating history and the experience gained therefrom. Consequently, on the basis of the record before it, the Board concluded, 4 to 1,[58] that the decline in earnings was properly attributable to unit cost increases stemming in large part from factors of a nonrecurring nature, and that the traditional factors which had enabled the industry to absorb rising costs in the past should continue to be operative in restoring earnings to a more favorable level.

Inherent in this analysis of the situation was the anticipation that volume of air traffic *would continue* to grow *as it had in the past,* and permit the economies necessary to offset cost increases. (Emphasis added.)[59]

In denying the proposed six percent increase, the Board took cognizance of the depressed earnings of the air carriers, and announced its intention to maintain a continued surveillance of the fare situation. As part of this program, the Board took steps to 'expedite' further proceedings in the second General Passenger-Fare Investigation, with particular emphasis on the rate-of-return issue. The Board again directed that trial of this issue be given first priority in the hearings. The importance of the rate-of-return issue had been highlighted, in the Board's opinion, by the fact that all of the air carriers had urged in the *Suspended Passenger Fare Investigation* that a higher level of earnings was required for the continued development of the industry. However, the air carriers had produced no evidence whatsoever to show that the then customary eight percent (8%) rate of return on investment would be inadequate. On the other hand, if the air carriers were entitled to a rate-of-return greater than 8%, this fact would accentuate the disparity between the earnings they were actually realizing, and the earnings they might be entitled to. The rate-of-return, and not the fare structure, therefore, continued to be the Board's main concern.

On January 15, 1958, Continental Air Lines filed a tariff change reflecting a fifteen percent (15%) increase in air passenger fares, to be effective February 15. Trans-World Airlines then filed a new tariff, to be effective March 15, directed primarily at modifying the existing fare structure but which also provided for an increase in the average fare level. The Board suspended the tariffs because, in addition to depressed traffic conditions, the Board also had new information available on the 'appropriate' rate-of-return for air carriers.[60]

Using the new rates-of-return as a yardstick in measuring the reasonableness of the air carriers reported earnings, and taking into account the recent adverse traffic developments and general business outlook at the time, a bare majority of the Board concluded that an interim fare increase of four percent (4%) plus one-dollar per ticket ($1) was warranted. The majority's determination that part of the increase should be implemented through a flat increase in price per ticket was made to give recognition "to the minimum cost inherent in providing each passenger transportation regardless of distance he will travel."[61] It was designed to assist the smaller, short-haul air carrier, who were considered to be at a disadvantage in this area as compared to the long-haul air carriers. This increase, of course, further strengthened the change in the United States fare structure; a change which still had not been fully examined by the Board.

The two dissenting members were Members Guerney and Minetti. Vice Chairman Chan Gurney wanted the Board to approve an increase of ten percent plus one dollar per one-way ticket (10% plus $1). Member G. Joseph Minetti, however, found no change in traffic and cost conditions of sufficient import to have been presented. In defense of his position, Member Minetti pointed out that rates must be related to costs.[62]

The air carriers promptly accepted the Board's offer by filing the appropriate air tariffs. In the latter part of the year, the air carriers were permitted further increases in their air passenger fares through the expedient process of removing certain discounts and promotional features. Both the round trip-discount and the free stopover and related privileges were eliminated.[63] The family-plan discount was reduced from one-half (50%) to one-third (33.3%).[64] In addition, a surcharge was imposed upon new jet services. This surcharge was apparently based upon the value-of-service concept, as opposed to costs, since it was primarily designed to make air travel on the slower propeller aircraft more financially attractive.[65]

Four years after it had instituted the second *General Passenger-Fare Investigation,* the Board arrived at its conclusions.[66] As noted previously, the original objective of the proceeding was "(1) to develop appropriate and well-defined standards as to the earnings which are required by the 12 domestic trunkline carriers for the proper development consistent with public interest; and (2) based on such standards to require or permit such overall decreases or increases in domestic fares as circumstances may warrant."[67]

While the Board found the record was inadequate to permit the fixing of the fare levels, it nevertheless concluded the same record was adequate enough to formulate standards for the regulation of air passenger fares in four basic areas. These standards are to be used (1) for assessing future rate proposals of the air carriers, and (2) to assist the Board in evaluating the reported results of the air carriers, so that the Board might determine when it should take action on its own initiative.[68]

Each of the four standards is meticulously detailed. The four areas involved (1) profit element, (2) rate base, (3) depreciation, and (4) taxes. With regard to the *profit element,* the Board decided the industry's profit element should be regulated by the conventional test of rate-of-return on investment; as opposed to the air carriers' proposed operating-ratio, or its complement, the return margin.[69] The fair and reasonable cost-of-capital, or rate-of-return, was found to be 10.25 percent for the Big Four air carriers (based on a cost of 4.5% for debt, 16% for equity, and a 50:50 debt: equity ratio), and 11.125 percent for the intermediate eight air carriers (5.5% cost for debt, 18% for equity, with a 55:45 debt:equity ratio.)[70] The *rate-base* recognized for air passenger fare regulation consists of (1) net working capital; (2) net operating property and equipment, after deductions for depreciation and overhead reserves; and (3) other used and useful assets, including equipment purchase deposits. Rules for *depreciation* charges are just as precise. Equipment life is specified as 10 years for jet and jet-prop aircraft airframes; 7 years for piston-powered aircraft airframes and engines; and 5 years for jet and jet-prop aircraft engines. In all cases, the residual value is 15 percent, subject to 5 percent of the airframes cost being included as a built-in overhaul allowance. Finally, the recognized income *tax* expense is to be based upon straight-line depreciation, rather than actual payments. The standards, therefore, are not only elaborate and particular, but very explicit; i.e., mathematically, the profit element is calculated down to one-hundred-thousands of one.

Considering the method of employing these standards, the Board found that major problems fell into two categories: (1) the degree or extent to which the air passenger fare level should be based upon the return to be anticipated over an extended period of time; and (2) the degree to which air passenger fares should be regulated on an industry-wide basis as opposed to the need of 'each' air carrier.

With regard to the length of the period to be taken into account in determining the reasonableness of fares, the Board reaffirmed its decision in the dismissal order of the original *General Passenger-Fare Investigation* that the reasonableness of the air passenger fare level depends upon the long term economic needs of the air carrier.[71] That is, the level of fares should reflect the cyclical need rather than the needs of a particular year. The degree by which short-term factors would be influential in affecting the extended-period fare level was found to be dependent upon (a) the length of time such factors are expected to remain operative, and (b) the magnitude of such short-term factors impact upon the bulk of the industry's operating results.[72]

With regard to the 'need' for each air carrier, the Board found, all other things being equal, that air passenger fare adjustments should normally be predicated upon the return for the industry as a whole. That is, in determining air passenger fare adjustments, the Board decided that consideration would be given to the degree by which the fair level meets costs, by classes of carriers; i.e., the weighted average of the relationship of yield per passenger-mile to cost per passenger-mile (including the cost of capital, or rate of return on investment).[73] The Board felt that the industry average, although not control-

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ling, is entitled to great weight because it should indicate the extent of any general fare adjustment needed to produce a reasonable return for the industry as a whole. The Board acknowledged that under such a system of industry-wide regulation some air carriers might fail to attain the standard rate-of-return, or cost-of-capital. However, the Board felt that as far as the problem of accommodating the requirements of the weak and strong air carriers was concerned, there were other more appropriate tools available to resolve these problems than adjustments in the general level of fares.

Clearly, general fare increases cannot be regarded as the panacea capable of solving the problem. There are other tools which are more appropriate for use in dealing with the less profitable carriers. First, *an over-all examination of the general passenger fare structure, an issue excluded from this proceeding, might well result in bringing the costs and revenues of individual carriers into closer alignment.* Second, as the Examiner pointed out, carriers whose needs are not met by general fare level adjustments can seek higher fares, although competitive aspects would preclude them from changing such fares except on some few noncompetitive segments (assuming, of course, that such fares are otherwise lawful). *A third tool is that of route realignments* designed to produce a more balanced competitive structure. Finally, we are authorized by Section 406 of the act to grant subsidy payments where we find that such compensation is required in the interests of commerce, the Postal service, and national defense.[74]

With regard to the other half of the fare level formula, costs and traffic, the Board found that in the absence of reliable forecasts of future operating expenses and revenues, it was impossible for the Board to determine the proper fare level.[75] However, the Board went on to state that:

If fair standards could be ascertained for representative periods which can be reasonably defined, it is clear that the Board would be able to deal with the problems of determining appropriate fare levels much more effectively. But it appears that development of such standards must await a time when the industry has reached a more stable period. Then, more work in this area by Bureau Counsel and the carriers may be productive of standards of real utility in fare regulation.[76]

Finally, the Board spoke of the requirements of the *law itself,* noting that the general policy with regard to fares and rates for the transportation of persons and property by aircraft is established in the Act of 1958.

On the one hand, it is clearly not the function of the Board to assume the role of management and substitute its judgment for that of carrier management with respect to matters which are the prerogative of management. And clearly the *AOA* case, as well as other cases cited in the Initial Decision, forecloses the Board from regulating fares on the basis of policies divorced from factual findings which the statutory provisions require. On the other hand, the Board is under statutory injunction in determining rates to consider such factors as: (1) the need in the public interest of adequate and efficient transportation of persons and property by air carrier at the lowest cost consistent with the furnishing of such service; (2) the promotion of adequate, economical, and efficient service by air carriers at reasonable charges; and (3) the need of each air carrier for revenue sufficient to enable such air carrier, under honest, economical, and efficient management, to provide adequate and efficient air carrier service.[77]

While concurring with the majority of the Board on most determinations, Member Minetti dissented on three basic issues—the amount of the rate-of-return; the computation of the investment base; and the calculation of taxes. Member Minetti went on to state that informed regulation requires that the Board explore current cost levels, in light of actual experience, in order to learn the extent to which the then considered high level was due to expensing of aircraft integration and other non-recurring causes, and secondly, in order to ascertain representative cost levels for the foreseeable future.

Effect of fares on the movement of traffic.—We have deferred decision on this issue, along with our deferral of decision on cost and load factor standards, because of the interrelation of the topics. Obviously, the effect of fares on traffic cannot be ascertained until the cost and load factor decisions, on which fares are primarily based, have been made.[78]

Thus, twenty-two years, three months, and seven days, after the Civil Aeronautics Act of 1938, had become effective, the Board established precise and detailed standards for half of the formula normally utilized in measuring the just and reasonableness of air rates, fares, and charges.

The preliminary details of the decision in the second *General Passenger-Fare Investigation* were contained in a press release issued on April 29, 1960.[79] The rate-of-return contained therein indicated that the domestic air carriers' net earnings during the previous three year period had been significantly below the announced standards. Seven air carriers, therefore, promptly filed tariff increases ranging from four percent plus one-dollar per one-way ticket (4% plus $1) to ten percent (10%). In reviewing these tariff proposals, the Board employed its new regulatory standards, as announced. Upon consideration of these matters, the Board observed that each of the tariff proposals called for an increase greater than appeared warranted; but that upon the basis of these same considerations, it had determined that it would permit a general increase of two and a half percent (2.5%) plus one dollar per one-way ticket ($1) to become effective July 1, 1960.[80] This represented the seventh consecutive increase in the general air passenger-fare level in fifteen years, and the third consecutive change in the tapered fare structure in eight years. And as of then, there still had not been a full examination into the air carriers' air passenger-fare structure, as Member Minetti noted in his concurring opinion.

We have been unable to isolate, with any degree of certainty, the factors which are influencing the present cost increases, nor do we know whether the cost trend is temporary or permanent.[81]

* * * * *

In view of the foregoing, I will now assume, for the purpose of this fare decision, that costs are more than temporarily inflated and that load factors are in no degree controllable and will not be further depressed by the fare increase granted herein. In doing so, I state my belief that resumed hearings in the GPFI, for the purpose of a full exploration and analysis of the economics of operation in the turbine era, are essential. Only with such information can we intelligently regulate rates and fares. We cannot, in the interest of the industry and the public, continue to proceed half-blind in this critical area.[82]

The resumed hearings which Member Minetti referred to as 'essential', which Member Branch had considered 'imperative' in 1942, and which Member Lee had called 'important' and Member Adams viewed as an 'expressed mandate' in 1953, never came to pass, for when the Board issued its opinion containing its findings, conclusions, and decisions, on November 25, 1960, it also terminated the second *General Passenger-Fare Investigation.*[83]

Miscellaneous changes considered in the fare structure subsequent to the general passenger fare investigation.—A second important development in 1961, was the introduction by Eastern Air Lines, on April 30, of its 'Air-Shuttle' service between Boston-New York-Washington. Every passenger is guaranteed a seat on this service, even though there is no reservation service. Meals and beverages are not served, and passengers carry their baggage to the boarding gate. Air fares were initially substantially lower than coach fares, or in other words in the category of economy fares. Subsequently, however Air-Shuttle fares were raised to a point where they exceed all propeller coach fares, as well as many propeller first-class and jet coach fares.

Despite the introduction of jet aircraft three years previously (in 1958), and the implementation of numerous promotional fares the air carriers continued to have their chronic financial problems. The air carriers themselves attributed much of their financial distress to a shift of passengers from first-class service to coach services. The air carriers contend this shift resulted in a loss of revenue without a commensurate cost savings.

To correct this situation, United Air Lines filed a new tariff on November 1, 1961, to become effective January 1, 1962. The changes proposed included the following increases: (1) jet first-class, and one dollar per one-way ticket; (2) jet and propeller coach; *day*—add five percent plus one dollar per one-way ticket, *night*—cancel; (3) propeller first-class, add approximately six percent plus one dollar per one-way ticket. In other words, United wanted to again change the fare structure by increasing the taper and varying the proportion of the increase by class of service.

Six other air carriers also notified the Board of their intention to file new air passenger tariffs. Their proposals varied considerably, at least in detail. Certain air carriers wanted to cancel various discounts and promotional fares. Nevertheless, all the air carriers appeared unanimous in their proposal to change the fare structure by decreasing the spread between first-class and coach fares. Generally, the air carriers favored increasing air coach fares approximately five percent; that is, to a level of 83 or 85 percent of first-class fares, as opposed to the prevailing 75 percentum.[84] American Airlines, a long-haul carrier, however, wanted an even greater change in the fare structure. First, it wanted to reduce first-class fares, over 1,200 miles, by five percent; second, American would have increased the corresponding coach fares by five percent.

Nevertheless, because of the deteriorating financial situation of the domestic trunkline air carriers, a bare 3-2 majority of the Board indicated their willingness to permit the industry to effect an interim blanket across-the-board increase of not more than three percent (3%) for a period of six months; subsequently, on August 1, 1962, this eighth increase in air passenger fares was extended indefinitely.

Vice Chairman Robert T. Murphy and Member Minetti were the dissenting members. They dissented on the grounds that a general increase in air passenger fares might discourage, rather than encourage, improvements in the decline in percentage utilization of available capacity then being experienced. They wanted to focus more attention on reducing what they considered to be needless over-head expenses. They felt such reduction could produce significantly lower operating costs.

By the middle of 1962, the greatly improved, and steadily increasing efficiency of the jet aircraft was beginning to be realized. Simultaneously, some of the air carriers were beginning to become aware of their need for a tremendously larger air-travel market. The net result was that the impact of competitive forces (never before believed to be effective in the regulated air carrier industry) started forcing the domestic air passenger fares *down.*

Most of the air carriers were not particularly happy with the turn of events. These

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carriers decried the price cuts; they felt they had lots of "lean" years to make up for, plus some staggering future obligations for which sound financial preparations had to be made. Most of the financial problems associated with the introduction of jets can be traced to just such lack of financial preparation by the air carriers.[85]

Continental Air Lines initiated the new competitive era by introducing a new three-class service on August 24, 1962. Subsequent to November 4, 1948, the domestic air carriers had generally provided only two classes of service: i.e., first-class and coach.[86] Continental retained the first-class service, but eliminated the coach service and introduced two new classes of service—'business-class' and 'economy coach'.

Business-class.—The new business-class was actually similar to an economy-first-class service. The passengers were seated five-abreast on jet aircraft, versus four-abreast for first-class, and such passengers received meals of a quality similar to those then being provided in the coach section. The business-class fares were 12 to 15 percent below the prevailing first-class fares and about five percent (5%) above the coach fares then in effect.

Economy-coach.—In the new economy-coach section meals were not served and the six-abreast seat spacing was tighter than on the existing coach classes. The economy-coach fares however were about twenty percent (20%) below the prevailing coach fares.

Continental was attempting to persuade the expense account traveler to up-grade his purchase of air transportation from coach to business-class. At the same time it was also trying to get the non-business traveler to go by air. The other domestic air carriers openly disagreed that this could be done terming the planned fare structure "a long step toward disaster for the industry." [87] Nevertheless these air carriers did ask the Board to approve their "defensive" air passenger fares.[88]

Introduction of middle-class service.—Unhappy with the rapidly expanding multiplicity of services United Air Lines decided to attempt to get the air carriers to return to a "one-class" system. The proposal, initially drew increasing support from those air carriers critical of the complex of coach and discount and promotional fares. These carriers felt these rates were diluting the industry's first-class revenues.[89]

Basically, United proposed a five percent (5%) more costly coach service with five-abreast seating, and service accommodations that essentially were comparable to Continental's business-class service and its own previous propeller custom coach service. Significantly, United did not offer the new service on the highly competitive Chicago-Los Angeles route, where its own business-class was substantially identical. In addition, the new one-class service would then have had to compete with the lower priced economy-coach of it and its combined competitors. The fares were permitted to become effective without a hearing.

Change in first-class fare structure.—American Airlines, on the other hand, felt that there was a strong public need for two classes of air service. Apparently American had the majorities' support, since no other domestic air carrier ever joined United in its one-class experiment. In a move to counter United's one-class service, American first tried increasing the first-class family-plan discount from 33.3 percent to 50 percent of a full fare. All the other air carriers, including United who still had first-class service, were forced by competitive necessity to match this liberalized discount.[90]

However, with this discount, first-class travel became cheaper than coach or one-class service, for a couple traveling under the family-plan. This naturally had a major impact on first-class traffic. Whereas first-class payloads had been declining for years, as coach payloads increased, first-class traffic now surged,[91] and it did so without appearing to drain traffic away from the coach section.[92] The first assumption from such evidence would normally be that the family-plan experiment demonstrated that lower air fares will attract new customers; but the air carriers apparently felt otherwise. In September 1963, most of the air carriers filed new tariffs designed to rectify the situation by reducing the family-plan discount from 50 percent to 40 percent.[93] Such a change would have eliminated the undesirable feature of granting first-class passage to a couple at a price lower than that for coach or one-class service.

United, however, filed a tariff that not only continued the 50 percent discount on first-class, but extended the family-plan to the one-class and coach services as well. While the Board was apparently tempted to adopt United's proposal, it finally voted 3–2 to suspend all the new air tariffs, and thereby retain the status quo. At the same time, the Board authorized its staff to meet once more with industry representative in an attempt to resolve the situation. The subsequent meeting on November 14, 1963, set the stage for another major revision of the U.S. domestic fare structure without an evidentiary hearing.

American Airlines continued to be deeply disturbed by the gap between its first-class fares and United's one-class fares, since apparently, like the coach services, this new service was diverting first-class traffic to a lower class of service. It wanted a "proper relationship" between the three fare levels—first-class, one-class, and coach.[94] American contended that one-class service was midway between coach and first-class service as to seating arrangements. American's eventual answer, to what had been a general air carrier complaint for the previous two years—dilution of earnings resulting from a shift of passenger traffic to a lower class of service, was a two pronged attack: (1) a radical change in the fare structure by cutting long-haul first-class fares, and (2) application of the family-plan discount (reduced to 25 percent) to all classes of service.

First-class fares were reduced on all trips over 700 miles in length on January 15, 1964, so that the gap between first-class and one-class would be identical to the differential between one-class fare and the coach fare.[95] This new formula evidently meant that for trips under 700 miles in length, the first-class fares would continue to be constructed by the usual mileage method; but for trips in excess of 700 miles, the first-class fares would be determined by a ratio of the one-class and coach fares.

The second part of American's "fare package", reduced the family-plan discount to twenty-five percent (25%) of the fare and extended the plan to both the one-class and coach services. Competing air carriers, compelled to file for similar reductions in the first-class fares in competitive markets, objected to the new fare structure.

Nevertheless, the new fare structure was permitted to go into effect on January 15, 1964, without an evidentiary hearing.

Introduction of thrift-class service.—Although the Board instituted a number of major passenger fare investigations during the period immediately following the completing of the *General Passenger-Fare Investigation*,[96] as a result of various changes in the fare structure, the Board more or less remained primarily on the sidelines letting the air carriers fight among themselves. The industry battle, after all, was driving the fare level in the direction the Board wanted it to go—*down*.[97] Stung by criticism during the hard years of the original jet transition, the Board was determined to let the air carriers chart their own course during the initial stages of the profit surge.

This situation represented a complete reversal again from that prevailing two years previously. At that time the air carriers were united in a struggle to raise air passenger fares, and the Board used its strong arm of regulation to prevent any increases. When the Board eventually, but reluctantly, approved the three percent (3%) increase, the air carriers complained that it was too little too late. Two years later, these same air carriers were moving in the opposite direction, but without that same unanimity. Three members of the Board even expressed concern that some of the air passenger fares might be dropping to an uneconomical level.[98]

Air passenger fares were now beginning to be used as competitive tools. Some air carriers were forced to adopt fares they bitterly opposed. As a result, a feeling began to develop that the new tariffs were without uniformity; that they were degenerating into a complex fare structure; and that this was turning what should be a simple task of preparing a ticket into a complicated mathematical problem. American Airlines' new tariff revision alone involved 35 pages, and included more than 300 separate provisions and restrictions affecting new rates.[99] But, underneath these differences concerning the fare structure, there still remained the basis issue.

The current fare squabble again raises an old question that has never been properly answered: will lower fares open up enough new markets to offset a drop in revenue yield per passenger. Some feel that this is a basic weakness in airline management—lack of a pricing technique, a major factor in the conduct of any business. The present tariff structure is so involved that it is virtually impossible to unravel the intertwining rates to determine exactly what yield any given seat-mile the basic airline product, is producing.[100]

The success of American's new fare structure eventually made it necessary for United Air Lines to substantially modify their 'noble' one-class service experiment. United began substituting a new three class service plan on August 9, 1964. The three classes were: first-class, standard-class, and coach. United's three class plan should not be confused with Continental's three class services, since United's lowest class (coach) is equivalent to Continental's reinstated in between class.

The new "standard-class" or middle-class service with five-abreast seating arrangement, was substantially similar to United's out-going one-class service, propeller custom coach service, and Continental's previous business-class service.[101] Consequently, standard-class fares were generally identical to the one-class fares; the exceptions, amounting to less than two percent (2%), were confined to those long-haul markets in which the first-class fares were reduced on January 15, 1964. These specific reductions were "designed to restore the standard services fare to a more realistic and equitable relationship with first-class and coach fares in the relevant markets.

The adjustments in fares that are now proposed by UAL he said "are designed to place them at 33⅓ percent level between coach and first class fares, i.e., 33⅓ percent of the difference between first class and coach fares to be added to the coach fares to produce the standard fare."

Subsequently, following their surprisingly successful low fare experiment to Hawaii, United launched on September 27, 1964, (without a C.A.B. hearing or investigation) a new high-frequency, high-density, low-priced, thrift-class, "no-frill", jet commuter service in the highly competitive California market. United had initially been forced into charging the fifth-class fares after a long and bitter battle with Pan American World Airways. United had strongly objected to the thrift plan advanced by Pan American because the sharply-reduced fares and high-

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density seating arrangements were contrary to United's traditional operating principles.[102]

Thus, by the end of 1964, the basic pattern of the present five classes of domestic air passenger service had been firmly established. These five classes of service consist generally of (1) first-class or regular service; (2) standard-class, a middle-class of service similar to business or one-class service; (3) coach service; (4) economy-class; and (5) thrift-class, which might be considered as including jet-commuter, air-bus, and similar services. All five of these services, with the exception of coach service have been established and maintained without any completed Board investigation as to the just and reasonableness of either their horizontal fare structure, or their relationship to each other (i.e., their vertical fare stucture).

Eastern fare structure.—The most recent attempt by a domestic trunkline air carrier to revise the fare structure to more equitably and reasonably relate rates at all times to costs or expenses, and thereby provide an equal opportunity for both long-haul and short-haul air carriers to earn a reasonable profit, was proffered by Eastern Air Lines. On November 10, 1964, Eastern filed a tariff revision marked to become effective on January 15, 1965. Eastern proposed a general revision of all domestic first-class and coach fares under a formula whereby each existing fare would be adjusted so as to reflect the combination of (1) a five percent (5%) *decrease*, and (2) a flat $2.50 *increase*.

Eastern's proposed change in the fare structure was "not a temporary 'general fare increase' nor a stop-gap effort to obtain more revenue." Eastern's proposal was purportedly part of a studied program to revise the basic passenger fare structure. In support of its proposal, Eastern indicated to the Board that the objective of its revised passenger fare structure was to more equitably relate fares to expenses. Eastern had concluded from its studies that its average fare yield was insufficient to cover average costs, primarily because of its extensive short-haul obligations.

Eastern asserts that the existing fare structure favors the long-haul carriers and the short-haul passengers; that both long-haul and short-haul carriers should have equal earning opportunities; and that Eastern's proposal is designed to do so.[103]

National Airlines filed a complaint with the Board requesting suspension and investigation. Mohawk Airlines filed a letter supporting the proposal. American Airlines and Trans World Airlines filed letters to point out (1) they did not endorse the proposal; (2) that such a proposal was not a mandate to the industry to make similar fare adjustments and (3) that if Eastern desired to increase its short-haul fares, *it could do so without upsetting the fare structure of the other air carriers;* i.e., reducing long-haul fares.[104] The Board decided, by a 3 to 2 vote, to dismiss the complaint filed by National because it did not state facts which warranted investigation. As a consequence, the Board again permitted a major change in the air passenger fare structure to become effective without investigation.

Vice Chairman T. Murphy and Member Minetti voted to suspend and investigate the entire proposal. Their dissent indicates they considered the economic growth situation of the air carriers in early 1965 to be favorable enough to warrant the Board adopting a new "hold-the-line" policy against any fare increases.[105]

C.A.B. Order No. E–21637 is a remarkable document because (1) the dissent of Members R. T. Murphy and Minetti clearly reveals the Board's developing concern with the possibility of excess air carrier profits as well as its future course of action six months hence (i.e., a "hold-the-line" fare policy); while (2) the order dismissing the complaint clearly indicates the Board was still not prepared to permit a time-consuming study of the passenger fare structure and would therefore probably continue to avoid any action that could lead to an investigation of the air passenger fare structure.

Although Eastern had originally depended upon industry-wide acceptance of its proposal to both increase short-haul fares and decrease long-haul fares, the other air carriers chose only to match the long-haul reduction. Eastern nevertheless finally chose to go it alone and stick to its increase in short-haul fares. At present, Eastern's short-haul fares are still higher than those of its competitors in many markets.

Fare structure changed by the board.—The abrupt surge in traffic that began in about May 1963 changed the air carriers' financial situation dramatically. The demand for commercial air transportation services multiplied enormously during the next two and a half years. Because one of the inherent economic characteristics of air carriers is their high leverage, the mushrooming traffic produced an almost immediate positive effect upon the industry's net earnings, causing the Board to become seriously concerned for the second time with the possibility of excessive air carrier profits. As the earnings position of the air carriers continued to improve throughout the latter half of 1963, 1964, and 1965, the Board began to take a series of actions in 1965 to tighten the reins on the air carriers' revenues. Domestic mail rates for example, were reduced for the first time since the inception of the present formula in 1955. The historical practice of the Post Office Department in making immediate payments to the air carriers for foreign government air mail charges was terminated.[106] A study of the air carriers' rates for Military Airlift Command traffic was scheduled by the Board looking toward a possible downward revision of such rates on July 1, 1966.[107]

In addition, the Board proposed a rule to change the rate-base recognized for air passenger fare regulation. It wanted to drop the equipment purchase deposit from the air carriers' rate-base. The equipment purchase deposit was initially recognized as an element in the rate-base by the Board's decision in the *General Passenger-Fare Investigation*, supra, 32. The proposed change came, however, at a time when the domestic air carriers were embarking on a second round of major jet aircraft orders. The effect of the change was considered to be more theoretical than actual because the order was supposed to have no direct effect on over-all fare levels until or unless there was a general ratemaking proceeding. Nevertheless, the air carriers generally still became increasingly sensitive to the Board's reaction to the abrupt surge in the profits.

In response, the Board expressed an opinion that the favorable earnings provided an opportunity to reduce fares; asserted that it would allow time for a clear pattern to form before it would consider any action that would affect fares; and maintained that the initiative for such changes should originate with the air carriers.

In view of the increasingly strong financial position of the air carriers, the Board believed it was difficult to find any justification for any kind of fare increase, and expressed its feelings in the *Increased first-class, and baggage allowance and charge case* that the present favorable earnings position of the air carriers offered an excellent opportunity for the air carriers themselves to consider various reductions in fares or alternatively, improvements in service without fare increases.[108] The Board then went on to recommend five specific areas, among others, to which it believed the air carriers should direct some consideration.

1. Development of low-cost transportation service on short-haul segments;

2. Improve the adequacy of existing coach service by:

a. Extending such service to more communities;

b. Increasing the proportion of coach seats to first-class seats in dual configuration aircraft;

3. Provide better service to smaller cities;

4. Experiment with additional economy service in high traffic density markets;

5. Re-establish the free stopover privilege abolished in 1958.[109]

Changes in the first-class and standard-fare structure.—In connection with the general package proposal to revise the baggage allowance, United Air Lines also filed a number of other traffic revisions marketed to become effective on August 1, 1965.

1. Increased first-class jet and propeller fares for distances over 700 miles by fifty cents ($0.50);

2. All first-class jet and propeller first-class fares for distances over 700 miles, which had not been reduced in January 1964, were to be *reduced* to reflect the combinations of (a) a decrease comparable to that in January 1964, plus (b) the fifty cent fare increase related to the change in baggage rules (This action by the way, also amounted to the last-step in United's complete reversal of its fare policy.);

3. All first-class fares for distances under 700 miles, were to be *increased* by fifty cents; and finally,

4. All standard-class fares for distances over 700 miles that had initially been established identical to one-class fares in August, 1964, were to be *reduced* to a level equal to the existing coach fare plus approximately one-third of the difference between the proposed jet first-class fare and the existing coach fare.[110]

No complaints were filed to any of the above proposals.

Having already rejected in the first part of its opinion that portion of the proposed change associated with the industry-wide revision of the baggage allowance (i.e., the adding of fifty cents to each first-class fare), the Board turned to United's additional proposal to expand the previously approved change in the fare structure for distances over 700 miles. Although the Board found that from the facts available there was no way to know for sure what the proposal would produce, it could see no basis for denying the reduction to other markets.[111]

Finally, in addition to the foregoing proposals, United had also routinely filed in the same tariff revision jet first-class fares in several markets for the *first time*. Approximately half of the new jet first-class fares were applicable to markets of less than 700 miles. These increases, averaging only about three percent (3%), reflected both the addition of the usual jet surcharge and the general fare increase of fifty cents per one-way ticket in connection with the baggage rule change.

The Board decided to reject these higher fares, not only with regard to the general fifty cent increase, but more importantly, as regards the addition of the jet surcharge to new jet fares at levels above existing propeller fares. The Board's decision in effect summarily established a new "hold-the-line" policy. Henceforth, higher air fares for jet aircraft would no longer be automatically approved when such aircraft were substituted for propeller aircraft on a new route segment. In other words, by suspending United's tariff, the Board itself was changing a portion of the national fare structure from a semi-value-of-service concept to a semi-cost-of-service basis. The Board justified its decision and enunciated its new fare policy in the following language:

We note from data reported to the Board that United's earnings have been increasing steadily in recent periods, even though its return is somewhat lower than that for the industry. In the absence of an adequate economic justification regarding these fare increases, which United has failed to supply, and in light of our previous discussion we conclude that these fares, to the extent that

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they are higher than existing first-class propeller fares may be unjust and unreasonable. We are accordingly suspending and will investigate the increases proposed by United and other carriers on jet or propeller equipment above the current propeller fares as these proposals constitute fare increases above the existing level of fares in the applicable markets.

Thus:

(1) The Board referred with apparent approval to the 10.5% weighted average rate of return standard established in the earlier second *General Passenger Fare Investigation* 1960 opinion:

(2) The Board again expressly recognized that fare levels must be regulated to produce a reasonable rate of return "over an extended period of time" (first and second General Passenger Fare Investigation);

(3) The Board emphasized the desirability of tariff changes of a promotional nature that would build additional traffic;

(4) The Board indicated a preference for reductions in fares and service improvements initiated by the air carriers themselves; but

(5) The Board itself initiated a major change in a portion of the national fare structure by eliminating the surcharge for new jet services.

It is unfortunate that the Board decided to merge its five major decisions into one opinion, because the Board evidently failed to communicate its new "hold-the-line" fare policy to the air carriers.[112] As a result, United almost immediately refiled the tariff on August 13, 1965, without the fifty cent increase. About the same time (August 2 and 4, 1965), United filed another routine tariff revision marked to become effective September 1 and 3, 1965, proposing to add seven new one-way jet coach fares in the California and Nevada markets. In support of its tariff proposals, United stated, among other things, that basically the new jet fares were established in accordance with the generally accepted formula used by the trunkline carriers, that its proposed jet fares were no different than other jet fares permitted by the Board until April 25, 1965; [113] that a reversal of the Board's long-established policy permitting higher fares for jet service than propeller service was not desirable at that time; and that *the establishment of new principles pertaining to jet fares should be adopted pursuant to an industry-wide proceeding exploring all problems connected therewith.*[114]

The majority of the Board, however, reaffirmed their previous decision to change the national fare structure by eliminating the surcharge on new jet services; that is, to change from a value-of-service concept to a semi-cost-of-service basis. They vindicated their position by finding that the economic conditions no longer warranted such fares in excess of propeller fares. Member Gillilland dissented and subsequently set-forth his views in C.A.B. Order No. E–22816.

To the air carriers and the public, the Board's new position represented a surprising reversal of a fare structure practice dating back not only to the introduction of jet aircraft in the winter, but also the introduction of the Stratoliners, DC–6s, Constellations, and similar aircraft in the 1940's and early fifties. The jet surcharge had become by 1965 an accepted standard feature of the domestic fare structure. Air carriers included the jet differential in their revenue projections, so that it affected both the purchase and allocation of equipment. And although the Board did state there was no longer any valid economic justifications for imposing jet surcharge on *new* jet services, the Board made no mention as to the fare differentials already in effect in many other markets, nor the disruptive effect the new fare policy would have upon the existing fare structure.

Air passenger fares are not established independently; they have an interwoven relationship to each other that is not only more complex than a spider's web, but frequently much more fragile. As a result, it was to be reasonably anticipated that a major change in only one part of the national fare structure was bound to be more than slightly disruptive.

Third general passenger fare investigation discussed.—On August 13, 1965, United Air Lines filed a letter with the Board in support of its refiling of the jet fares which had been previously suspended by the Board on July 27, 1965. Four times previously in 1943, early 1945, the winter of 1952–53, and again in 1956, the Board or the air carriers had attempted to institute an investigation into the fare structure of the domestic air carrier industry. Each time their efforts were successfully thwarted. There was no investigation, no hearing or other orderly method evolved for the development of a factual basis upon which to predicate sound principles and policy relative to the national passenger fare structure. In other words, for twenty-seven years, although many thousands of individual fare changes had been filed by the air carriers, and although at various times basic methods of constructing air fares by them had been drastically altered, the Board had never investigated the overall fare structure of the air transportation industry to determine whether the charges made for passenger services by the air carriers were in fact just and reasonable.

The President of United Airlines, George E. Keck, proffered two reasons that implied the need for such a fare proceeding in 1965–66—the haphazard fare structure itself, and the realignment of routes being caused by higher performance aircraft.

Two weeks later, in an off-the-cuff speech to the Aviation/Space Writers Association, William A. Patterson, Chairman of the Board of United Air Lines, called on the Board to stop "guessing" and institute a general passenger fare investigation.

"The greatest thing that can happen in this industry is a General Passenger Fare Investigation . . . Let's actually get into the record for the benefit of both sides some of the fundamental and basic factors in economics and marketing so that everyone can learn from them.

"Of course, the CAB might have different views, but this should not be a hearing that was designed either offensively or defensively against someone else's ideas. You will get far better decisions when there is honest conflict of thought, and I don't doubt for a minute that you can have two theories, both of them completely honest. I don't question the honesty of anyone who may be making speeches today on some of these economic questions. I say, let's have an objective hearing, and I am sure we will come up with something that may be revised from my thinking, also from the other fellow's thinking, but I think we would both gain an education from a hearing of this kind." [116]

Mr. Patterson subsequently reiterated his view in an interview with the staff members of *U.S. News & World Report.*

"Today we have a rate structure full of discounts, layers of service and other lures to attract passengers. Unfortunately, only a few of the discounts the airlines are offering are doing anything to increase air travel.

"I think the time has come for the Civil Aeronautics Board and the industry to work together on a general investigation of fares, so that we can reach agreement on the fundamental factors that go into transportation policy and good management." [117]

In rejecting the proposal of the air carriers in 1956 to expand the scope of the second *General Passenger Fare Investigation* to embrace a study of all conceivable aspects of the fare situation, the Board stated:

"As we view the case, moreover, the question is not *whether* we shall explore the structure problems raised, but *when*. Our present view is that we will first examine the general revenue situation, order appropriate percentage adjustments in fares, if necessary, and then turn to the structure problems that may remain." [118]

Thus, theoretically, the Board had committed itself on the record to holding such an investigation. Nevertheless, the Board had concluded that investigation without ever taking up the problems associated with the fare structure. As a consequence, the Board had still never investigated the overall fare structure of the air carriers to determine whether the charges being made for the carriage of persons are in fact just and reasonable.

Although the Chairman of the Board was quoted in September as having stated,

"If we reject something they want, and they want it discussed more fully in an official hearing, we will try to give it every consideration." [119]

It nevertheless subsequently became apparent that neither the Chairman, nor apparently the Board, favored a General Passenger Fare Investigation.

Nor is there any indication the Board wants a general fare investigation as called for by William A. Patterson of United Air Lines.[120]

Murphy also stressed that he favors keeping whatever action the Board takes on an "informal basis." This indicates that Murphy wants to leave the issue open to airline comment and evaluation, an atmosphere that would be difficult should the Board come out with an official order or new policy.[121]

Murphy said he did not think the current fare situation called for a general passenger fare investigation similar to the one concluded in 1960. He added that "I haven't heard any suggestion around the Board for a general fare investigation." [122]

We would like to help the industry find sensible and constructive solutions to its problems. I will be pleased if we can do much of this by informal discussions—and by agreement or mutual consent.

Perhaps it would be too much to expect to achieve "regulation by consensus." But for my part, I will be glad for us to get as large a part of our job done by consensus as we can.

No one can properly be expected to yield on vital principles. But on the other hand, the air transport industry is too important, and full of too many needs and opportunities for progress, for us to waste our time and energies on useless arguments and long drawn-out regulatory battles that we do not need to have.

I'm sure we can accomplish more by working *with* each other than by working *against* each other. And I hope that is the path we follow.[123]

The Chairman has let it be known that he does not favor long, involved hearings on every issue that arises. Such a legalistic approach, he feels generally takes more time than is necessary or justified by the results.[124]

The situation now developing also will be the first real test of the new philosophy brought to the Board by its Chairman, Charles S. Murphy, regarding industry-CAB relations. Murphy's clear preference is to settle key issues around the conference table rather than through the time-consuming formality of public hearings.

"You've got to admire Murphy's guts in approaching a thing this big by means other than the traditional public hearings", one trunkline executive said. "Whether his technique is valid depends solely on whether we can come to agreement." [125]

Apparently the majority was still not impressed by the complexity or importance of the problems which were being dismissed without consideration, because the only reference made to these issues when the ban on surcharges for new jet services was lifted,

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was contained in a press release which stated, among other things, "The CAB expects that the ensuing study will delve into all these matters and will provide the basis for long-range improvements in the fare structure." [126]

Re-establishment of surcharges for new jet services.—Just as it had done on similar occasions, the Civil Aeronautics Board again called on air carrier officials to meet with its staff; i.e., the Bureau of Economics. Two meetings were held, the first on October 5, 1965; the second on November 18 and 19, 1965. On the basis of the facts proffered at these two meetings and subsequent revision of the figures to include consideration of the "interlocking" effect, the survey of the domestic trunkline carriers showed the total loss in revenue attributable to the Board's new fare policy would be approximately $146,453,000.00 annually.[127] As a result, by the beginning of 1966 all the indications were that some of the air carriers were ready for a showdown with the Board. Eastern Airlines refiled a tariff which it had previously withdrawn. The tariff (scheduled to become effective on January 20, 1966) contained surcharges for its new jet services. Whereas Eastern and various other air carriers had previously withdrawn their tariffs once the Board had rejected their proposal, Eastern was prepared on this occasion to leave the tariff filed with the Board in suspension, thereby forcing the Board to either hold a hearing on the suspension within six months in accordance with subsection 1002(g) of the Act of 1958, or being forced by that subsection to let the tariff become effective.[128] However, by this time there was also a general feeling among the air carriers that the Board wanted to clear up the confusion in a manner that would enable it to maintain a fare ceiling, and possibly effect some formula for the gradual, orderly reduction of air fares which could be absorbed by the traffic.[129] The Board appeared, among other things, prepared to accept a tradeoff in an amount equivalent to the amount the air carriers would receive from application of the surcharge to new jet services, but the Board was leaving it to the air carriers how to arrange the fare adjustment.[130]

Just as the majority of the Board had advocated in 1948 and 1953, the Board again had directed its staff to prepare a study.[131] This two stage study, and the facts which it presented, was to provide (like the previous reports) a basis for formulating corrective action.[132]

The first stage of the study sought an immediate solution to the inequities arising from the surcharge ban. This report, which was presented to air carrier executives at a meeting between the Board and eleven domestic trunkline carriers on January 24, 1966, contained a recommended formula for reducing fares in an amount equal to potential surcharge revenues.[133] This report included a basic premise that while a ceiling on fare increases was justified, holding all future jet fares to the level of propeller fares was not a practical means of obtaining that objective.[134] The second stage of the study was to be a more detailed analysis of the over-all fare structure and the means by which it might be simplified along more definitive lines. Generally speaking, the staff anticipated that this study would involve (1) an analysis of the existing domestic fare structure, (2) an analysis of cost patterns bearing on key aspects of the basic fare structure, and (3) identification of possible fare structure improvements from the standpoint of a sound national air transportation system and the interest of the traveling public. The Bureau of Economics expected to examine: (1) the mileage taper question; (2) the relationships among the fares for the different basic classes of service; (3) geographical and other fare disparities; (4) fare construction policies and practices including fare-making mileages; (5) possible fare structure criteria; as well as (6) other related matters.[135]

After the January 24th conference, which lasted less than two hours and was attended by nine presidents and high-level representatives of two other trunklines, had been concluded with only one definitive proposal from the air carriers, the fare picture continued to be a highly confused state. The Board had only three alternative courses of action available:

1. The Board could approve the new reduced excursion fare proposal made by United Air Lines at the January 24th meeting, and permit the air carrier to reinstitute the policy of charging a moderate surcharge differential for new jet services: Provided, United and the other air carriers filed with the C.A.B. tariffs to implement such excursion fares;

2. The Board could enter upon a hearing concerning the lawfulness of the fares and provisions proposed by Eastern Airlines which had been subsequently suspended by the Board on January 19, 1966 (C.A.B. Order No. E–23131); but this would be somewhat tantamount to instituting another General Passenger Fare Investigation, and no one but United had much stomach for that course of action; or

3. The Board could do nothing by merely extending the period of suspension of the fares and provisions proposed by Eastern Airlines to July 19, 1966 (the one hundred and eighth day beyond the time when the tariff would have otherwise gone into effect) at which time the tariff would go into effect automatically by statute.

The Board chose the first alternative. As a conesquence, the Board announced that if United filed with the C.A.B. a tariff to implement its excursion fare proposal, as it was understood by the Board, the Board would be disposed to approve such a tariff (subject to consideration of complaints) and also to approve tariffs filed to institute new jet surcharges in line with the prior pattern for a period having the same expiration date as the excursion fare, but not later than April 23, 1967.[136] Similar tariffs filed by other air carriers also would be approved. The air carriers promptly accepted the Board's offer by filing the appropriate air tariffs.[137] As a result, on March 27, 1966, all jet services in the United States were again established on a semi-value-of-service concept, as opposed to some services being on a semi-cost-of-service basis, and some on a semi-value-of-service basis.

The significance of the Board's action and the air carriers' counteraction should be clearly understood. As an answer to a Board reduction of their passenger revenues, the air carriers agreed to some reductions in those revenues, but the air carriers themselves had to suggest and file the tariffs reducing passenger rates. For the eleventh time, the Board agreed to a compromise solution affecting passenger fares, without insisting on the development of a factual record in public hearings upon which to base a far-reaching decision.

In the absence of a formal proceeding, the Board could not direct approriate action to correct the inequities in the fare structure. The 1966 conference, as its predecessors, again without an evidentiary hearing or investigation in any sense, was completely ineffectual. For the eleventh time in twenty-seven years, air fare changes were made without adequate consideration and review by the Civil Aeronautics Board of the United States of America.

In January 1968, the Board's staff issued a "draft" of its long awaited second stage of the study for the stated purpose of obtaining comments and criticism from interested parties. The key element of the study turned out to be industry average regression lines indicating the relationship between existing fares and non-stop, great-circle mileages. Unit costs were also studied on a mileage basis, but as a basis for determining the direction in which the current fare structure should be adjusted, rather than as a test of reasonableness.[138]

In general, the staff found that improvements were warranted and it therefore suggested that various actions be taken to correct existing anomalies and disparities and make improvements in the existing fare structure without a general revision. Specifically, the staff recommended that (1) extreme variations (described at 8% or more) should be modified so as to achieve a greater degree of internal consistency; (2) new fares should be established within the patterns of the extisting structure; (3) carriers should publish single factor through fares in each of the own on-line markets and (4) single factor joint fares in all markets in which two or more carriers offer connecting service; (5) stopovers should be permitted at a reasonable charge; and (6) routing rules should be liberalized and restrictions generally removed. In addition, the staff felt the industry and Board should undertake further study of the fare taper and the relationship of first class and coach fares, as well as the establishment of fare structure criteria.

No attempt was made to establish whether present fares were or were not "just and reasonable", or whether these fares, jointly or severally, complied with the statutory standards of the Act of 1958. In point of fact, neither the Act nor any of its standards were even mentioned in the study. Nor was any consideration apparently given to any other ratemaking basis than mileage, although such a basis had been suggested initially by one of the carriers.

In addition, the title page contained the following notice:

"This is a staff draft which has not been approved by the Board and is not expected to be submitted by the staff to the Board for action until comments of industry and other interested persons have been submitted."

As requested, some of the airlines did forward to the staff their views, and during the interim (while awaiting further developments) continued to file their tariffs according to the customary formula. Then suddenly, without any warning or evidentiary hearing—public or private—the Board announced on July 30, 1968 that fares proposed above the industry average (rounded) should not be permitted to go into effect without an investigation. Member John G. Adams dissented.

A majority of the Board would suspend and investigate because the proposed fares are said to be above the "industry average", by which apparently is meant the so-called "norm" computed in the Fair Structure Study. Thus the majority appears to be enunciating a new policy that fares above the "norm" are unacceptable.

The "norm" is not a standard which the Board has made clear to the industry, let alone a ceiling above which no new fare is to be permitted. Any "norm" is no more than a line drawn through a series of dots representing fares above and below the line, in the preliminary Fare Structure Study.[139]

Fare structure changed.—In terms of operating earnings the financial results of 1968 were disappointing. The air carriers consequently again began to feel that the same old combination of factors again posed a threat to their profit margin; i.e., stabilized revenues, rising costs. Some upward revision in air passenger fares appeared necessary to the carriers. In light of the staff's fare structure, the generally accepted proposition that air carriers were making money on their long-haul service, and failing to meet expenses on short-haul routes had gained new credence. Therefore, to rectify this situation several air carriers filed revised tariffs during the latter part of 1968 and early 1969 using different methodologies. After analysis, the Chairman announced

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on January 13, 1969, at a meeting with the Chairman, President or other representative of 11 trunklines and 2 other carriers that the Board had concluded that none of the proposals could be approved *in toto* and that all should be suspended.

Following a general exchange of comments on various alternatives suggested by the Board and carriers at this meeting and another on January 16th, the Chairman informed the carriers that a majority of the Board would probably approve an across-the-board increase in first-class fares of $3.00 (with additional increases of $1.00 to $7.00 on certain east-west routes of 800 miles or more); plus an increase in coach fares by $2.00 under 500 miles and $1.00 in markets between 500 to 1,800 mils, etc.[140]

Once again the carriers accepted the Board's offer by filing the appropriate air tariffs, and on February 19, 1969, without the benefit of public hearings and an evidentiary record the Board dismissed the complaints of the National Air Carrier Association and Department of Defense.[141] Thus, for the twelfth time a major change in air fares had been made without the establishment of an evidentiary record. Since February 20, 1969, air passenger fares in the U.S. have been constructed upon a *variable tapered passenger-mileage basis.*

The preceding factual analysis of air carrier rate cases has clearly set forth sufficient facts to establish the complete absence of the development of any factual record as to the lawfulness of present rates, fares and charges for transportation of persons by air carriers. To paraphrase former Member Joseph P. Adams, although many thousands of individual fare changes have been filed by the air carriers during the past 31 years, and although at various times the basic method of constructing air fares by them has been drastically altered, the Board has never investigated the overall fare structure of the air transportation industry to determine whether the charges made for passenger service by the air carriers, including the applicant, are in fact "just and reasonable."

In view of the record, complainants are willing to stipulate that the rates in effect on March 1, 1968, and thereafter are related to mileage, do contain a flat amount of approximately $3.00, to $4.00 or $5.00 per published fare, and are legal, but not that said fares are lawful in the complete absence of any factual record developed through public hearings to warrant such a finding.

Therefore, it is complainants' contention that no foundation has been laid by applicants on the basis of existing fares themselves to substantiate any conclusion that the Industry Jet Coach Regression Line proffered complies with the statutory standards of the Act of 1958 and the *Air Freight Rate Investigation,* and that those present and proposed rates which do not meet these tests are unlawful.

B. Mileage

Second, the mileage used by applicants in their formula are great-circle intercity distances from *city center-to-city center.*

However, according to Part 247 of Title 14 of the Code of Federal Regulation, direct *airport-to-airport* mileage is the official mileage record of the Board which "shall be used in all instances where it shall be necessary to determine direct airport-to-airport mileage pursuant to provisions of Title IV and X of the Federal Aviation Act of 1958. . . ." Titles IV and X incorporate Sec. 404 "Rates for carriage of persons and property" and Sec. 1002.

It is complainants' contention, therefore, that the Industry Jet Coach Regression Line proffered by applicants does not comply with the Economic Regulations of the Civil Aeronautics Board, and that a rate constructed solely on this basis is unlawful.

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C. Formula

Turning to the other part of the Industry Jet Coach Regression Line, the mathematical formula used to construct the regression line, it is often desirable from a statistical viewpoint to observe and measure the association which occurs between two or more statistical series.

When two associated series are plotted graphically with one variable on the X or horizontal axis (such as distance) and the other on the Y or vertical axis (say the fare); the result is known as the "scatter diagram." If there is a definite association resulting from the plotting of the variables on the chart, the points will follow a definite line of movement or path or "trend." This resulting line or curve is known as the "line of regression."

When the relationship is perfect, it is obvious that for every given value on the X axis there would always be indicated a certain value on the Y axis. If the series are imperfectly associated, a definite value of Y will still result when a given value of X is selected; however, in accordance with the more or less imperfect association, the variation will cause the points to depart from the indicated line or curve creating a scatter. If there is a high degree of association, the scatter will be confined to a narrow path.

Finally, if the trend of the data is linear, the resulting equation will be of the type: $Y=a+bX$, which is a correlation technique for a straight line trend, commonly known as the "least-squares method." (See: A Study of Domestic Passenger Air Fare Structure, p. 15).

The principle of least squares aids in determining the line that best describes the trend of the data. The princple states that a line of best fit to a series of values is a line the sum of the squares of the deviations (the differences between the line and the actual values) about which will be a minimum. There can be only one having this qualification.

The least-squares lines for a given series may be obtained by use of a set of two of the above type equations derived mathematically. The equations may be solved simultaneously by obtaining equal values for the coefficient of one unknown, either the estimated slope *b* or the estimated intercept *a*. Once one unknown is established, the other is easy to compute by substitution. Having obtained the values for the intercept *a* and slope *b*, the formula for the line of the trend can be written.

In interpreting the equation it is necessary to state the point of origin and the units used in the enumeration of the original values. For example, the equation as finally stated for airline fares might read:

Trend of Industry Jet Day Coach Fares in the United States, March 1, 1968: $Y=\$7.21+5.67¢X$; Origin: 0 miles; Unit: dollars per fare.

The least-squares method is used extensively in economic computations for estimating secular trends (any general tendency of values in a statistical series to increase or decrease over the X axis), and for calculating the association between two or more variables for comparative purposes. It was adapted in *A Study of Domestic Passenger Air Fare Structure* "as a means of describing the relationship, on the average, between such fares and the related nonstop distance", and "to describe in a general way the fare patterns inherent in the existing domestic fare structure". (P. 11)

As noted in the previous section, domestic airline fares in the United States have, broadly speaking, been computed on uniform tapered rate per mile since April, 1952. Consequently, it is not surprising that "Use of a straight line formula, to indicate the fare-distance relationship, conforms to the general usage in the industry"; and that the Board "tested the degree of fit of a straight line to jet day coach fares and found that the straight line with a coefficient of correlation of .997 is the best fit" (p. 22). In essence, the formula is merely a mirror reflecting itself.

It should be noted, however, that the values of the intercept *a* and slope *b* in the Board's staff's study and TWA application do not agree with each other or the values generally used to compute fares. There are three general reasons:

1. A change in mileage utilized for computing the X axis from between "airport-to-airport" by way of the certificated route, to between "city center-to-city center" via the non-stop great circle route;

2. Changes in fares to round dollar amounts; and

3. Miscellaneous factors such as subjective adjustments made in fares by ratemaking personnel, mathematical problems associated with differences in the size of the statistical population, etc.

The least-squares method used to construct the Industry Jet Coach Regression Line is therefore a widely used purely mathematical procedure for computing the average between two variables or determination of a trend. According to Dr. Herbert Arkins and Dr. Raymond R. Colton in their book *Statistical Methods,* the advantages and disadvantages of the least-squares method are as follows:

Advantages

1. The method expresses trend in the form of a mathematical formula which may be easily interpreted.

2. Results obtained under the method are definite and independent of any subjective estimate on the part of the statistician.

3. The resulting equation is in convenient form of extrapolation (extension into future or past).

Disadvantages

1. The technique used is mathematical.

2. The method is based on the assumption that the data follows a trend that can be expressed by a mathematical equation.

Given these advantages and disadvantages, it is again not surprising to find that the Board's staff cautioned in its report of January 1968:

"It should be stressed, however, that the computed fares are not necessarily the 'correct' or 'ideal' fares for any city pair but merely represent a kind of average fare derived from existing fare patterns. (p. 11)

"Although it is mathematically possible to compute a fare from such a formula for any particular distance, it does not follow that such a computed fare should, in fact, be the published fare. (p. 21–22)

"Similarly, differences between the computed and published fares should not be interpreted as conclusive evidence that published fares are either too high or too low." (p. 22)

As previously observed, under the statutory standards of "just and reasonable" it is the results reached not the method employed which is controlling. Consequently, application of this method to ratemaking has to be based in part upon an assumption that the statutory tests will at all times follow a straight line trend which can be expressed by a mathematical equation. Evidence to support such a contention has not been proffered by the applicant.

On the contrary, as just noted, the results obtained under the method used are independent of any other factors including any subjective estimates on the part of the ratemaking airline. The method employed, not the result reached, is in point of fact controlling. As a consequence, the impact of formula upon the determination of rates cannot at all times be said to be just and reasonable.[142]

The point simply is a formula of the type $Y=a+bx$ is merely a convenient method of expressing or indicating the average relationship between two variables or determination

of a trend—not a method for establishing those relationships and trends.

The 4-percent test

In their letter of March 18, 1969, TW proffers, as justification for their proposed fare changes, an alleged recommendation of the Board's staff.

"As already indicated to the Board's staff during a recent meeting with them, our proposal *is consistent* with the first recommendation of the staff study of January 1968 that inconsistencies in the present fare structure be removed prior to further study leading to the development of a new structure." (Emphasis added).

The summary of cited recommendation reads as follows:

"1. The extreme variations of existing fares should be modified so as to achieve a greater degree of internal consistency within the existing structure."

The detail of the Board's staff's recommendation is set forth in the study on pages 62 through 68 under the subheading "Modification of Extreme Variations in Existing Fares", and states in part on page 66–67:

"For a start, those jet coach fares would be identified which vary by more than 8 percent from the average in either direction. These fares, 22 percent of the total, involving 186 markets, represent the more extreme variations or anomalies in the structure. . . .

"Those markets with jet coach fares more than 8 percent above the average would be selected on a coordinated basis and fare reductions sufficient to reduce the fare to within 4 percent of the norm would be proposed. Offsetting fare increases would be permitted, but not required in markets with jet coach fares varying more than 8 percent below the average, giving consideration to the effect of the fare adjustments, both up and down, on the revenue and earnings position of the carriers serving the markets involved. Recognizing that there are more competitive markets and more passengers in markets which are 8 percent or more below the average than there are in markets with fares 8 percent or more above the average, when this phase has been concluded, a number of fares will remain more than 8 percent below the average."

In other words, the first recommendation of the staff study of January 1968 used a variance of 4 percent above or below the jet coach regression line to define the zone within which fares that vary *by more than 8 percent* from the average in either direction should be brought. The Board's staff's test of extreme variation is 8 percent, not 4 percent. To this extent, therefore, applicants' proposal is not consistent with the cited recommendation.

Recommendations

In accordance with Subpart E, paragraph 302.505 of the Board's Rules of Practice in Economic Proceedings, the complainants suggest that the foregoing facts warrant:

1. (a) The Board's suspending and investigating the Trans World tariff filed March 18, 1969, and the United and Braniff tariffs filed April 4, 1969, and in addition all other pending tariff revisions, to determine whether they are unjust or unreasonable, and

(b) If the Board shall be of the opinion that such fares are unjust or unreasonable, that the Board determine and prescribe, in accordance with subsection 1002(d) of the Act of 1958, the lawful rate, fare, or charge thereafter to be demanded, charged, collected or received by applicant;

2. (a) Institution of a general rate proceeding to investigate the structure and construction of air passenger fares to achieve a sound foundation for determining whether such fare, should, or should not, be related to revenue-miles or revenue-hours traveled, or revenue-miles or revenue hours traveled plus an arbitrary charge or charges, or some other factor, in order that such rates will at all times be reasonably related to the statutory standards of the Act of 1958, and rules of ratemaking established by the board, and

(b) As a part of that investigation, to determine and prescribe the national policy regarding the duty of air carriers to establish, observe, and enforce just and reasonable individual and joint through single factor rates, fares, and charges, and just and reasonable rules, regulations, and practices relating to such rates, fares, and charges, in all markets in which service by a single carrier is authorized, or in which connecting service is needed to avoid competition in excess of that necessary to assure the sound development of an air transportation system;[143] and

3. Undertake a rulemaking procedure to amend Part 241 of Title 14 of the Code of Federal Regulation and applicable Schedules and Definitions for Purpose of this System of Accounts and Reports to require submission of revenue-hour information (e.g., available seat-hours, available ton-hours, passenger-hours flown, ton-hours flown, etc.) in order that such data will be readily available for a comprehensive and objective investigation of the fare structure.

In the absence of a comprehensive, full-scale investigation of the general air passenger fare structure the air carriers have in effect been the actual creators of not only their own ratemaking policy, but more importantly, of the national policy. As a consequence, today we have a national air passenger fare structure adapted to the vested interests, expansion plans and ambitions of the individual air carriers, rather than the vital interests of the present and future needs of the foreign and domestic commerce of the United States for an adequate and efficient air carrier system. This price policy not only does not comply with the Act of 1958, but it has led to the establishment of many unjust or unreasonable, or unduly preferential, or unduly prejudicial rates, fares, and charges.

In support of the complainants' suggestion that the Board undertakes a comprehensive rate investigation which includes consideration of a revenue-hour basis, complainants note that it has historically been the Board's stated position that "rates must at all times be reasonably related to costs." *A fortiori*, it logically follows that the basis upon which fares are constructed should be related to the basis or bases upon which costs are *incurred*.

In this regard, complainants have on file a detailed break-out of air carrier operating costs which disclosed, first, that air carriers incur operating expenses in a normal business fashion; i.e., by contract wages, salaries, hourly pay, piecework (mileage pay), rents, interest, and the purchase or rental of equipment and materials.

Second, the study reveals that the industry's traditional break-out of expenses on the basis of (a) direct aircraft operating expenses, and (b) ground and indirect operating expenses, is not identical to the generally accepted economic and accounting definitions of "fixed" and "variable" costs.

Third, that by utilizing an allocation of expenses adopted by the Board in two mail-rate cases,[144] a logical approach can be nevertheless made to identify (1) the basis upon which individual costs are incurred, and (2) the cost unit to which such expenses are best oriented.

On an unadjusted basis, the study discloses (a) that the 10 classifications of operating expenses historically used by the C.A.B. have been allocated by the Board in the cited mail-rate cases on 11 different cost bases, and that (b) the similarities between a number of these expense categories permits them to be arbitrarily reduced to four major classes as follows:

1. *Aircraft-hours flown by type of equipment,* includes aircraft-hours, total hours, stewardesses'-hours, passenger-hours, and a ratio to the total of all other costs (i.e., general and administrative costs);

2. *Weighted aircraft departures,* including a ratio to the total of all other costs;

3. *Tons enplaned,* including numbers of passengers, and a ratio of the total of all other costs; and

4. *Revenue—nonmail,* including revenue passenger-miles, and a ratio to the total of all other costs.

Using the domestic operations of U.S. domestic trunklines carriers as the basis for distributing air carrier operating expenses, the following two distributions were derived.

First, on the basis of the Board's *allocation* of operating expenses, seventy-one percent (71%) of all air carrier costs were found to be related to the number of aircraft-hours flown by type of equipment. The remaining twenty-nine percent (29%) were distributed between weighted aircraft departures and tons enplaned (17%), and revenue-nonmail (12%).

Second, thirty-nine percent (39%) of the over-all expenses were found to be *incurred* by aircraft-hours flown by type of equipment, thirteen percent (13%) by one-time purcases, and forty-eight percent (48%) were primarily assumed on a periodic calendar basis.

On the basis of this evidence, it can be reasonably concluded that an air carrier's costs are primarily incurred upon either a periodic calendar or aircraft-hour flown basis (87%). More specifically, it can be reasonably asserted that the major portion of a U.S. domestic trunkline carrier's overall operating expenses—somewhere between 39% and 71%—probably are actually *incurred* by the number of aircraft-hours flown by type of equipment.

The validity of the preceding distribution has been verified by data of four other cost studies.[145] Further, *A Study of the Domestic Passenger Air Fare Structure* also indicates a major portion of the operating costs of the airlines studied are incurred on an hourly basis.

Upon the basis of such evidence it can be reasonably concluded that to make certain air carrier charges strictly comply with the Board's ratemaking principle enunciated in the *Air Freight Rate Investigation,* such rates, fares, or charges, should be related seventy-one percent to aircraft hours flown by type of equipment, and twenty-nine percent to aircraft departure, tons enplaned, and revenue or sales—nonmail.

Fortunately, however, further investigation has revealed there is a much simpler method for relating revenues to costs. A significant amount of statistical data indicates there has always been a very high degree of mathematical correlation between overall operating expenses and those costs incurred solely on an hourly basis. That aircraft-hours flown is the cost unit to which airline operating expenses are best oriented.

If these are the facts, as the evidence set forth hereinbefore suggest, then it would appear to be prudent and equitable to establish rates, fares, and charges for air transportation in such a manner that total revenue yield per aircraft hour flown exceeds the overall operating expenses per aircraft hour flown. Hence, complainants' suggestion by way of substitution that there are sufficient facts to warrant consideration of construction of air carrier rates on revenue-hour basis.

Air transportation revenues come primarily from income produced by the sale of various air carrier services. The charges for these various services can be constructed in a number of ways. Nevertheless, regardless of how such air fares are put together, once the rate for a given service is published, it becomes a fixed amount which is normally not affected by any subsequent changes in the actual operating situation.

As a result, it is the operational factor or factors which mathematically fixes the number of air services that can be produced and the yield per individual trip, and not the method employed in constructing the fare

Footnotes at end of article.

which is the controlling factor in determining the amount of revenue an air carrier can earn. It is not the theory of ratemaking, but the operational factor or factors which regulates the yield and number of air services that counts.

Complainants have on file as part of the cost study outlined above, a revenue study which indicates, among other things, that once air carrier rates, fares, and charges are established, the operational factor which ultimately determines the yield and number of air transport services which can be produced is the elapsed block-time. Hence, regardless of the method employed to construct such fares, the basic revenue unit of air transportation is the revenue-hour.

This finding of the study has now been substantiated in part by the practical experience of the local transit lines of the United States. For approximately the last 20 years, the national association of these companies, the American Transit Association, has rendered a monthly periodic report to its members reporting therein the average "revenue per vehicle hour". Equally important, the Association has not been reporting the revenue per vehicle mile even though such statistical data is and was available.

Such evidence as this when tied together with that regarding air carrier costs seems to indicate that the fundamental cost, revenue and need units of air transportation are all related to an identical basis—and that therefore a pragmatic adjustment to the revenue-hour is required by the Act of 1958, as well as the rules of ratemaking previously adopted by the Board.

With regard to the formula set forth in Attachment I, it should be noted that an equation of this type is primarily designed for ratemaking in capacity cost industries, such as air transportation. Since the equation is a ratemaking formula, it does not ignore the judgment of the marketplace. In point of fact, as a cost-*value* oriented formula, it specifically requires the ratemaker to make such estimations.

In essence, this formula puts the air carrier's need for sufficient revenues to provide adequate and efficient air carrier service above the line, and all the other statutory factors below. In addition, because it is a ratemaking formula which incorporates subjective judgments on part of the ratemaker, it is not designed to be used with mathematical precision, but only as a guideline in evaluating fare proposals. The judgment of the air carrier's tariff department and the Board is an integral part of the formula.

Furthermore, it should be also noted that such an equation can be used on a revenue-hour or revenue-mile basis. The author of the formula merely used revenue-hours because he felt there were sufficient facts to warrant adoption of this revenue unit to insure compliance at all times with the Board's rule of ratemaking enunciated in the *Air Freight Rate Investigation*, and to achieve a greater degree of internal consistency within the fare structure itself.

One of the key factors which has historically been recognized in determining the future earning potential, unit cost-of-service, and "just and reasonableness" of a rate is load factor. The relationship between cost, price and load factor underlies the whole area of airline profitability.

The Board's staff recognized this relationship in its recent staff study:

"The foregoing data suggest that there is a critical relationship among fares, cost, volume of service, and load factor in that each factor, at once, affects and is affected by the others. It is obvious that volume of service affects load factor which in turn affects cost and fare level. It seems equally clear, however, *that the fare level affects the volume of service offered* by the several carriers in the market and that *a fare set well above cost, based on a reasonable load factor, may contribute to the operation of excessive capacity and resulting inefficient use of resources.* The data developed in this study suggest that long haul jet coach fares are quite high in relation to cost of service even at the relatively low load factors prevailing in the transcontinental markets. The latter suggest that excess capacity is being provided in these areas. *It is a reasonable inference that the high level of long haul jet coach fares at least tends to support such overscheduling which in turn creates a need for a higher fare level than would otherwise be* necessary." [146]

TW's passenger load factor between San Francisco and New York during the calendar year 1966 was 43%, and 46% in 1967. During this period, TW had approximately a third share of the market, carrying 180,395 passengers in 1966, and 234,141 passengers during 1967. [147]

As previously noted, air carrier fares are primarily based, or should be based, on cost and load factor decisions. [148] Consequently, complainants' request that in determining the just and reasonable rates requested hereinbefore, the Board take into consideration, among other things, load factor.

Finally, because (1) the Bureau of Economics has in connection with "A Study of the Domestic Passenger Air Fare Structure":

(a) noted "fares should be related to distance or time traveled . . .";

(b) demonstrated that direct cost per block hour is constant; and

(c) did receive a letter from M. Lamar Muse, President, Central Airlines, dated April 26, 1966, in connection with that study suggesting "the feasibility of substituting for the present mileage criteria of fare construction and measurement a standard time criteria based on jet aircraft speeds";

(d) but subsequently conducted all of its research other than the initial acquisition of operational data, on only a mileage basis; and

(2) in view of:

(a) Mr. Charles C. Tillinghast, Jr., President of Trans World Airlines, statement before the Board on March 17, 1969:

"It (the cost-oriented formula for fares) is moving ahead vigorously. As I said before, our people are available to your staff, and indeed they have had a number of discussions, and I even understand by fortunate coincidence that the formula that we have worked out and the formula that you have developed have a lot more similarities than they have differences. I suspect that if the only people involved here were the Board and the TWA we might come to a conclusion with considerable dispatch"; and,

(b) the intimation in TWA's letter of March 18, 1969, of many discussions between the air carrier and Board's staff relevant to applicant's filing of March 18, 1969.

There appears to be sufficient facts to warrant, for the purposes of this proceeding and subsequent hearing, the Board's staff being disqualified as an attorney for the public, or in the alternative, being classified as a hostile witness with a vested interest in support of applicant's petition.

REQUEST

In summation, it is complainants' contention that the proposed fare changes are unlawful because the formula used and the values used in the formula do not, jointly or severally, comply with the Act of 1958, the Economic Regulations of the C.A.B., and/or the rules of ratemaking previously enunciated by the Board. It is therefore complainants' request that the Board:

(1) suspend and investigate the Trans World tariff filed March 18, 1969, and the United and Braniff tariffs filed on April 4, 1969, and all other pending tariff revisions, and where it is of the opinion that the proposed or present rate is unjust or determine and prescribe the lawful rate or rates;

(2) institute a general rate proceeding to investigate the fare structure of the air carriers to determine, among other things, whether air carrier fares should be related to revenue-miles, revenue-hour, an arbitrary charge, or a combination thereof, or some other factor, and to prescribe a broad national policy with regard to the establishment of individual and joint air carrier fares; and

(3) undertake a rulemaking procedure to amend Part 241 of Title 14 of the Code of Federal Regulations and applicable Schedules, and Definitions to require submission of revenue-hour traffic data in addition to revenue-hour operations data.

FOOTNOTES

[1] Munn v. Illinois, 94 U.S. 113, 134 (1877); Federal Power Commission et al. v. Hope Natural Gas Co., 320 U.S. 593, 601 (1944).

[2] Federal Power Commission v. Natural Gas Pipeline Co. et al., 315 U.S. 575, 586 (1942).

[3] Federal Power Commission v. Hope Natural Gas Co., *Op. Cit.*, 602 and cited cases.

[4] Caves, Richard E., Air Transport and Its Regulators, Harvard University Press, Cambridge, Massachusetts (1962) p. 143.

[5] Air Passenger Tariff Discount Investigation, 3 C.A.B. 242 (1942).

[6] Cherington, Paul W., Airline Price Policy: A Study of Domestic Airline Passenger Fares, the Plimpton Press, Norwood, Mass. (1958), pp. 79–80.

[7] Moore, Armory O., Department Editor, "Allocation of Air Transportation Cost in Determining Domestic Mail, Passenger and Cargo Rates," Judicial and Regulatory Decisions, 15 J. Air L. & Com., 343 (summer 1948).

[8] Order No. 2164, dated February 27, 1943.

[9] General Passenger-Fare Investigation, 17 C.A.B. 230, 243 (1953).

[10] Gill, Frederick W. and Bates, Gilbert L., Airline Competition, Harvard University Press, Cambridge, Mass. (1949) p. 398. Dr. Bates is at present Chief, Planning, Programming & Research Division, Bureau of Economics, C.A.B.

[11] C.A.B. Orders Nos. 2302, dated June 10, 1943; 2344 dated July 7, 1943; and 5102 dated August 21, 1946.

[12] C.A.B. Order No. 2302, dated June 10, 1943.

[13] C.A.B. Orders Nos. 3350, 3351, 3352, and 3353.

[14] General Passenger-Fare Investigation, *Op. Cit.*, 243.

[15] C.A.B. Orders Nos. 3950, 3951, 3952, and 3953.

[16] General Passenger-Fare Investigation, *Op. Cit.*, 243.

[17] In addition to these fare reductions, a number of the middle and smaller sized air carriers that had not previously adopted the uniform base rate in 1943, took advantage of the widespread tariff changes in 1945 to also construct their fares upon a uniform flat passenger-mileage basis.

[18] General Passenger-Fare Investigation, *Op. Cit.*, 243.

[19] *Ibid.*, 243–244.

[20] Gill and Bates, *Op. Cit.*, p. 398.

[21] *Ibid.*, p. 400; Hawaiian Common Fares Case, 37 C.A.B. 269, 271–272 (1962).

[22] *Ibid.*, p. 401.

[23] *Ibid.*, pp. 401–402.

[24] American Air. et al., Mail Rates 14 C.A.B. 558, 561 (1951).

[25] C.A.B. Press Release 48–64, dated August 10, 1948. General Passenger-Fare Investigation, *Op. Cit.*, p. 244.

[26] Caves, Richard E., *Op. Cit.*, p. 144.

[27] Air Freight Rate Investigation, 9 C.A.B. 340, 344–345 (1948); emphasis added.

[28] Cherington, Paul W., *Op. Cit.*, p. 89.

[29] *Ibid.*

[30] *Ibid.*, p. 91.

[31] C.A.B. Press Release 49–77, September 7, 1949.

[32] C.A.B. Press Release 51–95, December 6, 1951.

[33] Cherington, aul W., *Op. Cit.*, 97.

[34] "It is almost axiomatic in air transportation that the earnings carriers derive from long-haul high density operations serve to support their marginal short-haul low density operations." Trans World Air Siesta

Sleeper-Seat Service, 27 C.A.B. 788, 792 (1958). See also Capital Air., et al. Mail Rates, 18 C.A.B. 457, 467 (1953); Capital Airlines, et al., Mail Rates, 20 C.A.B. 712 (1955).

[35] C.A.B. Order Serial No. E–6305, dated April 9, 1952, 3.

[36] *Ibid.*, 4–5.

[37] *Ibid.*, 6–7.

[38] *Ibid.*, 8–9.

[39] *Ibid.*, 10.

[40] *Ibid.*, 1–2.

[41] General Passenger-Fare Investigation, *Op Cit.*, 230.

[42] Cherington, Paul W., *Op. Cit.*, 104–105.

[43] General Passenger-Fare Investigation, *Op. Cit.*, 234–235. See also C.A.B. Economic Regulation 399.31 Rate Policy applicable to nonsubsidized carriers.

[44] *Ibid.*, 232 (*non sequitur*: Lat., It does not follow).

[45] *Ibid.*, 235–239.

[46] Cherington, Paul W., *Op. Cit.*, 106.

[47] General Passenger-Fare Investigation, *Op. Cit.*, 242–243.

[48] C.A.B. *Coach Policy for the Certified Domestic Carriers*, statement of October 5, 1953. See also, Frederick, John H., Commercial Air Transportation, Fourth Edition, Richard D. Irwin Inc., Homewood, Illinois (1955) 282.

[49] Cherington, Paul W., *Op. Cit.*, 107.

[50] C.A.B. Order Serial No. E–10279, dated May 10, 1956.

[51] Supra.

[52] General Passenger-Fare Investigation, 23 C.A.B. 803, 804–805 (1956).

[53] C.A.B. Order Serial No. E–11135, adopted March 15, 1957.

[54] Suspended Passenger-Fare Investigation, 25 C.A.B. 511 (1957), 522.

[55] *Ibid.*, 522.

[56] *Ibid.*, 538.

[57] *Ibid.*, 523.

[58] Member Gurney dissenting.

[59] Trans World Air., Interim Fare Increases, 26 C.A.B. 387, 288 (1958).

[60] *Ibid.*, 390.

[61] *Ibid.*, 392.

[62] *Ibid.*, 407.

[63] C.A.B. Order Serial No. 13066, October 27, 1958. See Rule 28—Stopover, Section III Fares and Routings—General, Local and Joint Passenger Rules Tariff No. PR–4, A.T.B. No. 19, C.A.B. No. 43, Airline Tariff Publishers, Inc., Agent, Washington, D.C.

[64] C.A.B. Order Serial No. 13066, October 27, 1958.

[65] The handling of the introduction of the surcharge for new jet services was initially subject to uncertainty.

In December 1958, National Airlines inaugurated the first domestic jet service (New York, New York to Miami, Florida) using Boeing 707 aircraft leased for the winter season from Pan American World Airways. National's original tariff provided for (1) *first-class:* a ten dollar ($10.00) surcharge on propeller first-class fares (i.e., jet $90.80, propeller $80.80); (2) *coach:* the propeller first-class fare was charged (i.e., jet $80.80, propeller $53.55). The Board subsequently suspended the jet coach fare, but not until the introductory season was past. (The proceeding was eventually dismissed without prejudice because National indicated that it did not intend to use this fare structure in the future.)

In January 1959, jet service was introduced into the transcontinental market. American Airlines apparently initially filed tariffs to implement an identical dollar amount surcharge differential on both jet coach and jet first-class. The Board approved the surcharge on new jet first-class service, but rejected the surcharge on new jet coach services. The Board's rejection was based upon a "seating-density standard"; i.e., the seating in the jet coach was substantially comparable in density to that in propeller aircraft. American, supported by several other air carriers, petitioned the Board for reconsideration. The air carriers threatened to not file tariffs containing a surcharge for new jet first-class services unless they were permitted to employ a similar surcharge for new jet coach services as well. The Board gave in, arguing that the jet coach services had a higher quality in speed and comfort that warranted a higher price; i.e., a semi-value-of-service concept.

Somewhere in the ensuing process the surcharge differential on new jet coach services was evidently increased, because according to the figures published by the C.A.B. Bureau of Economics in "Analysis of Domestic Current Fare Structure and Historical Fare Data" (1966), the surcharge on new jet coach services between New York-Chicago-Pacific Coast cities in January 1959 was equal to the surcharge differential on first-class fares *plus* $1.50.

	Chart	Prop	Jet	Differential
1st class:				
New York-Los Angeles	13	$166.25	$176.25	$10.00
Chicago-San Francisco	15	120.35	127.35	7.00
Chicago-New York	21	47.95	50.95	3.00
Coach:				
New York-Los Angeles	13	104.00	115.50	11.50
Chicago-San Francisco	15	80.05	88.55	8.50
Chicago-New York	21	35.35	39.85	4.50

The use of absolute dollar amount surcharge differential for both services naturally reduced the differential between the services percentagewise. The additional $1.50 aggravated the situation. Both methods changed the national fare structure.

See: C.A.B. Order No. E–13232, December 4, 1959; C.A.B. Order No. E–13395, January 16, 1959; C.A.B. Order No. E–13417, January 22, 1959; because none of these orders are published in C.A.B. Reports, see Caves, Richard E., *Op. Cit.*, 166–167.

[66] Our own experience in the previous investigation of fares, as well as the advice of the respondents and bureau counsel, make it abundantly clear that to satisfy our primary aim is, of itself, a major undertaking that will require at least a year to accomplish. General Passenger-Fare Investigation, 23 C.A.B. 803, 804.

[67] General Passenger-Fare Investigation, 32 C.A.B. 291, 294 (1960).

[68] *Ibid.*

[69] One reason given was that, "because a substantial portion of expenses is directly responsive to the volume of capacity offered and traffic carried, airlines are markedly able to blunt the effects of a slackening of revenue growth upon return margins by a substantial contraction of expenses. *Ibid.*, 296.

[70] For the local-service air carriers, the Board had previously found a cost of capital of 5.5% for debt, 21.35% for equity, applied to the actual debt; equity ratio, subject to a minimum floor of 9% and a maximum of 12.75%; where the investment is less than 25 cents per plane-mile, a floor of 3 cents per plane-mile is used. Rate of Return, Local-Service Investigation, 31 C.A.B. 685 (1960).

[71] C.A.B. 230, 234–235 (1953), *supra.*

[72] General Passenger-Fare Investigation, *Op. Cit.*, 328.

[73] As a second test of reasonableness, the resulting fare level should also be measured against the revenue needs of the individual air carrier and/or group of air carriers (Big Four, Middle Eight, etc.), thereby giving consideration to (1) the extent by which the fare level meets the costs of the group; (2) the relative number of passenger-miles accounted for by various groups; (3) the extent by which an air carrier deviates from the norm; (4) the effect of such deviation on the group and industry average; etc. *Ibid.*, 330.

[74] *Ibid.*, 331; emphasis added.

[75] *Ibid.*, 294, 320.

[76] *Ibid.*, 320–321.

[77] *Ibid.*, 321.

[78] *Ibid.*, 339–340.

[79] C.A.B. Press Release 60–10, dated April 29, 1960.

[80] C.A.B. Press Release 60–13, June 17, 1960, Note: in G.P.F.I., "The scope of possible orders to be issued was limited to flat percentage changes in the fares of particular carriers or groups of carriers, General Passenger Fare Investigation, *Op. Cit.* 293.

[81] Domestic Trunkline Passenger-Fare Increase, 31 C.A.B. 984, 985 (1960).

[82] *Ibid.*, 986.

[83] C.A.B. Order Serial No. E–16068, adopted November 25, 1960.

[84] On October 7, 1960, the Board had permitted the domestic trunkline air carriers to raise jet coach fares to 75 percent of the first-class jet level since the carriers had asserted a need for additional revenue and as a means to check the substantial diversion from first-class to developing on two-class jet flights. (Order No. E–15894, dated October 7, 1960.) This percentile differentiation corresponded exactly with the minimum vertical fare structure differentiation established in the Board's fourth 'Coach Policy Statement' on October 5, 1953; supra, —. See also C.A.B. Economic Regulation 399.33(d) Domestic coach policy, *fare differentials.*

[85] Henzey, William, "The Fare Muddle", *Airlift*, Vol. 27, No. 8 (January 1964) 53.

[86] In 1957 United Air Lines had offered a propeller custom coach service (its first "middle-class" service) at fares approximately three percent (3%) higher than ordinary propeller coach fares. United's proposed "DC–7 Custom Coach" is a new class of service, different from its regular coach service and materially different from its first-class service. The net effect of the proposal would be that United will offer the public three classes of service as against two at the present time. Initial Decision of the Examiner, United Custom Coach, Suspension and Investigation, 26 C.A.B. 23, 36 (1957).

[87] Ashlock, James R., "Three Competitors File Protests Over Continental Coach Fare Cuts", *Aviation Week and Space Technology*, Vol. 77, No. 7 (August 13, 1962), p. 37.

[88] The Board permitted the tariff to become effective for a limited period, initially to January 1, 1963; later extended to February 28, 1963. At the same time, the Board Instituted an investigation of such fares; Order No. E–18706, dated August 15, 1962. Also see Order No. E–18759, dated August 31, 1962, denying reconsideration. Subsequently, by Order No. E–19313, dated February 21, 1963, pending final conclusion of the investigation already ordered, the Board concluded that "these fares appear reasonably related to the cost and value of the service and thus meet the principal test of just and reasonableness."

[89] "First-Class Revenue Drop Spur Support for Single Class Service", *Aviation Week and Space Technology*, Vol. 78, No. 7 (February 18, 1963), p. 44.

[90] Henzey, William V., *Op. Cit.*, p. 55.

[91] *Ibid.*

[92] Doty, L. L., "CAB Seeks To End Domestic Fare Chaos", *Aviation Week and Space Technology*, Vol. 80, No. 2 (January 13, 1964), p. 34.

[93] *Ibid.*

[94] Henzey, William V., *Op. Cit.*, 55.

[95] American Airlines had previously, in 1961, wanted to reduce first-class fares over 1,200 miles by five percent; *Supra*, 38. Later American noted that "almost two-thirds of total airline trips are less than 700 miles; *Infra*, footnote 104.

[96] Continental Air Lines' Economy-coach fares, Family-Plan Discount, Hawaii-mainland Thrift-fares, American Airlines' First-class tariff.

[97] Doty, L. L., "CAB Seeks to End Domestic Fare Chaos"; *Op. Cit.*, 34.

[98] *Ibid.*

[99] *Ibid.*

[100] *Ibid.*

[101] Continental Air Lines eliminated busi-

ness-class service on January 27, 1964, substituting coach service in its place.

[102] Doty, L. L., "CAB Seeks to End Domestic Fare Chaos", *Op. Cit.*, 35.

[103] Passenger fares proposed by Eastern Air Lines, Inc., et al., Docket 15713, C.A.B. Order No. E–21637 (January 4, 1965) 2.

[104] "Eastern's Proposal to Revise U.S. Fare Structure Stirs Variety of Reactions", *Air Travel, Official Airline Guide*, Chicago, Illinois (January 1965) 38.

[105] Passenger fares proposed by Eastern Air Lines, et al., *Op. Cit.*, dissent, pages 1–2.

[106] United States air carriers bill the Post Office Department, and the Department in turn bills the Postal Service of the foreign nation.

[107] Gregory, William H., "Government Tightens Reins on Revenues", *Aviation Week & Space Technology*, Vol. 83, No. 8 (August 23, 1965) 38. See "MAC Contract Rate Revision to Be Set", *Aviation Week & Space Technology*, Vol. 84, No. 5 (January 31, 1966) 34.

[108] Increased first-class fares, and baggage allowance and charges, proposed by the Domestic Trunkline Carriers, Docket 16363, Order No. E–22483, dated July 27, 1965, 7.

[109] *Ibid*, 7–8.

[110] *Ibid*, 3–4.

[111] *Ibid*, 8.

[112] Ashlock, James R., "United Jet Fare Rejection Shakes Industry", *Aviation Week & Space Technology*, Vol. 83, No. 10 (September 6, 1965).

[113] Note: The Board considered the practice had continued until July 27, 1965, when it suspended several jet first-class fares proposed by United.

[114] Surcharge for new jet service, proposed by United Airlines, Inc., Docket 16457, C.A.B. Order No. E–22587, dated August 27, 1965, 1–2.

[115] *Supra.*

[116] "Mr. Patterson Sounds Off—and How!", *Air Travel, Official Airline Guide*, Chicago, Illinois (February, 1964) 22, 23.

[117] "All in One Lifetime—From 'Crates' to Super Jetliners", *U.S. News & World Report*, Vol. 60, No. 6 (February 7, 1966) 62, 64.

[118] General Passenger Fare Investigation, 23 C.A.B. 803, 805, (1956); *Supra* 26.

[119] Ashlock, James R., "CAB Chairman Pledges Firm Fare Limits", *Aviation Week & Space Technology*, New York, Vol. 83, No. 11 (September 13, 1965) 37.

[120] Ashlock, James R., "CAB Seeks Surcharge Dilemma Solution", *Aviation Week & Space Technology*, New York, Vol. 84, No. 1 (January 3, 1966) 28.

[121] "Murphy Forecasts Revised Fare Policy", *Aviation Week & Space Technology*, New York, Vol. 84, No. 2 (January 10, 1966) 37.

[122] *Ibid.*, 38.

[123] Murphy, Charles S., "Trends in Transport Regulation", address at the National Transportation Institute of the Transportation Association of America, New York City (January 12, 1966) 9–10.

[124] Ashlock, James R., "Board To Offer Option to Surcharge Ban", *Aviation Week & Space Technology*, New York, Vol. 84, No. 4 (January 24, 1966) 39.

[125] Ashlock, James R., "Threat of 1967 Fare Investigation Looms", *Aviation Week & Space Technology*, New York, Vol. 84, No. 20 (May 16, 1966) 36.

[126] C.A.B. Press Release 66–19, dated February 9, 1966, 3; *Infra; Supra.*

[127] "Carriers' Estimate of Jet Surcharge Loss", *Aviation Week & Space Technology*, New York, Vol. 84, No. 1 (January 3, 1966) 28.

[128] Fares for first-class and coach jet service proposed by Eastern Airlines, Inc., Docket 16879, C.A.B. Order No. E–23131, January 19, 1966; C.A.B. Order No. E–23461, dated April 1, 1966.

[129] Ashlock, James R., "CAB Seeks Surcharge Dilemma Solution", *Op. Cit.*, 29.

[130] Ashlock, James R., "Board To Offer Option to Surcharge Ban", *Op. Cit.*, 39.

[131] The 1953 staff study was never pursued. In 1956, the Board's Chairman (a new member) did not even know that the dismissal order for the first *General Passenger Fare Investigation* called for a staff investigation. See Caves, Richard E., *Op. Cit.*, 148.

[132] C.A.B. Press Release 66–19, dated February 9, 1966, 3.

[133] Ashlock, James R., "Board To Offer Option to Surcharge Ban", *Op. Cit.*, 40.

[134] Ashlock, James R., "CAB Seeks Surcharge Dilemma Solution", *Op. Cit.*, 28. Note also: "A difference of opinion on the issue has existed between the Board and the Bureau of Economics ever since the surcharge ban was imposed last summer. The Bureau, for example, proposed then that if the Board chose this policy, it should exempt those routes on which jet service was already established. . . . The Board rejected this suggestion."

[135] Roth, Irving, form letter, dated April 21, 1966.

[136] C.A.B. Press Release 66–19, dated February 9, 1966, 3.

[137] On February 10, 1966, United Air Lines filed a new tariff under the Title of "Discover America Excursion Fare." Basically, the principal features of United's proposed package fare are (1) a round-trip fare at 25 percent discount of a jet coach fare; (2) regular reservation; (3) one free stopover on either the going or return portion of the trip; (4) no restrictions as to age, organization, family status, etc.; (5) return trip may not commence in the same calendar week, but must be commenced within 30 days; and (6) not available during certain peak travel periods; i.e., hours, days, weeks, and months. The chairman said he was particularly interested in the expansion of packaged tours in domestic markets and greater provision of stopover privileges. (Ashlock, James R., "CAB Chairman Pledges Firm Fare Limits", *Op. Cit.*)

[138] Rates Division, Bureau of Economics, A Study of the Domestic Passenger Air Fare Structure, Civil Aeronautics Board, Washington, D.C. (January 1968) 5.

[139] Fare Addition proposed by United Air Lines, Inc., Docket 20062, C.A.B. Order Serial No. 68–7–149 (July 30, 1968), Member Adams dissenting.

[140] Report on Meetings Between the Civil Aeronautics Board and the Domestic Trunkline Carriers on Domestic Passenger Fares, Civil Aeronautics Board, Washington, D.C. (no date).

[141] Fare increase proposed by the domestic trunkline carriers, Docket 20696, 20719, C.A.B. Order Serial No. 69–2–68 (February 19, 1969); Vice Chairman Murphy and Member Minetti filed a joint statement.

[142] Even conceding *arguendo* that the total effect of such a rate order could not be said to be unjust and unreasonable, it is doubtful the airlines' managements and the Board are prepared at this time to surrender the exercise of all their powers and duties with respect to the determination of rates to any mechanical formula.

[143] Sec. 102(d), Federal Aviation Act of 1958; Bureau of Economics, A Study of the Domestic Passenger Air Fare Structure, *Op. Cit.*, 72; *Supra.*

[144] American Airlines, Inc., et al., Mail Rates, Docket No. 2849 et al., 14 C.A.B. 558, 595–599 (1951); American Airlines, Inc., et al., Domestic Trunklines, Service Mail Rates, Docket No. 6599 et al., 21 C.A.B. 8, 54–58 (1955).

[145] Air Transport Association, Exhibit 100, General Passenger Fare Investigation, C.A.B. Docket No. 8008 (1961) 11. (See also, Miller, Ronald E., Distribution of Total Operating Expenses by CAB Functional Class; Domestic Trunklines, 1956; *"Domestic Airline Efficiency."* The M.I.T. Press, Cambridge, Massachusetts (1963) 11; Treatment of Revenues and Expenses, General, "Report of Ernst & Ernst on Survey of Separation of Compensatory Mail Pay from Total Mail Payments to Domestic Airlines"; 18 J. Air L. & Com. 206, 216; Wheatcroft, Stephen, "Economics of European Air Transport," Table 14, *The Economics of European Air Transport*, Manchester University Press, Manchester, England (1956) 82; Speas, R. Dixon, "Operating-Cost Summary, Major United States Airlines, Calendar Year in Early Fifties", Table 16–4, *Technical Aspects of Air Transport Management*, McGraw-Hill Book Company, New York, (1955) p. 300.

[146] Bureau of Economics, A Study of the Domestic Passenger Air Fare Structure, *Op. Cit.*, 70; emphasis added.

[147] TWA's share of the market was 32.4% in 1966, 33.7% in 1967.

[148] *Supra.*

APPENDIX 1

ONE TYPE OF RATEMAKING FORMULA [1]

[Direct operating cost+indirect operating cost+profit element (available capacity)×(load factor)×(value adjustment) =uniform base rate (per passenger, ton or cube by class of service or equipment]

Value of service as percent of uniform base rate (net yield) (1)	Market demand as percent of traffic flow (2)	Value adjustment to uniform base rate (Col. 1 multiplied by col. 2)
106	5	5.3
100	55	55.0
75	10	7.5
66⅔	15	10.0
50	15	7.5
Value adjustment needed in base rate		85.3

Example: $\frac{\$530+\$430+\$240}{110 \text{ seats} \times 60 \text{ percent} \times 0.85}$ =$21.50 per passenger-hour

[1] Suggested by way of substitution pursuant to subpt. E, par. 302.505 of the CAB's Rule of Practice in Economic Proceedings.

Source: Hon. John E. Moss, "The CAB Staff Study of Air Fares," Congressional Record (May 9, 1968) 12689, 12694.

[Before the Civil Aeronautics Board, Washington, D.C., May 1, 1969]

COMPLAINT OF MEMBERS OF CONGRESS AND AIR TRANSPORTATION USERS WITH REQUEST FOR TARIFF SUSPENSION AND A GENERAL RATE INVESTIGATION

(In the matter of the AA tariff filed April 18, 1969, and the WAL tariff filed April 18, 1969).

Complainants request that the Board incorporate the contents of the complaint filed on April 21, 1969 into the subject filings and:

(1) suspend the tariffs;

(2) institute a general rate proceeding to investigate the fare structure of the air carriers to determine, among other things, whether air carrier fares should be related to revenue-miles, revenue-hour, an arbitrary charge, or a combination thereof, or some other factor, and to prescribe a broad national policy with regard to the establishment of individual and joint air carrier fares; and

(3) undertake a rulemaking procedure to amend Part 241 of Title 14 of the Code of Federal Regulations and applicable Schedules, and Definitions to require submission of revenue-hour traffic data in addition to revenue-hour operations data.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document and the filing of April 21 upon American Airlines, Inc. and Western Air Lines, Inc. by causing copies to be mailed to such carrier or its agent properly addressed with postage prepaid.

JOHN W. BILLETT.

[Order 69-5-28, docket 20928]

PASSENGER FARE REVISIONS PROPOSED BY AMERICAN AIRLINES, INC., BRANIFF AIRWAYS, INC., TRANS WORLD AIRLINES, INC., UNITED AIR LINES, INC., AND WESTERN AIR LINES, INC.

(Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 8th day of May 1969)

ORDER OF INVESTIGATION AND SUSPENSION

By tariff filed March 18, 1969,[1] marked to become effective May 19, 1969, Trans World Airlines, Inc. (TWA) has proposed to revise its domestic fares by (1) adjusting its jet coach fares so that all fares would fall within 4.00 percent (plus or minus) of the present industry jet coach fare norm, and (2) adjusting its jet first-class fares to maintain the existing differential between coach and first-class fares.[2]

Subsequently, by tariff revisions marked to become effective May 19, 1969, Braniff Airways, Inc. (Braniff) and United Air Lines, Inc. (United) have filed to match TWA's proposal in part. Furthermore, American Airlines, Inc. (American) has filed to match TWA's proposal, as revised, and Western Air Lines, Inc. (Western) has filed to match the fares proposed by American, TWA, and United but only in competitive markets. American, Braniff, and United, similarly to TWA, propose to adjust their jet coach fares to a level within 4.00 percent of the industry jet coach norm, as determined in the staff's study of the domestic fare structure published in January 1968, rounded and adjusted for the fare changes permitted by the Board in February of this year. These carriers also propose to make similar changes in jet first-class fares.

A complaint has been filed by the Honorable John E. Moss, M.C., (California) and 19 other Members of Congress requesting suspension and investigation of the proposals the institution of a general rate proceeding to investigate the fare structure of air carriers, and the undertaking or a rulemaking procedure to amend Part 241 of Title 14 of the Code of Federal Regulations (and applicable schedules and definitions) to require submission of traffic and operations data on a revenue-hour basis. The complaint alleges that the proposed changes are unlawful because the Passenger Fare Study formula used as a standard, and the values upon which the formula is based, do not comply with the statutory standards of the Federal Aviation Act of 1958, the Economic Regulations of the Board, and/or the rules of rate-making previously enunciated by the Board. The complaint further alleges that, contrary to the applicants' contention, their proposal is not consistent with the staff's recommendations regarding the elimination of extreme variations.

In support of their proposals, and in answer to the complaint, the carriers assert that the changes are being made to reflect desirable improvements and eliminate inequities in the present fare structure, and to generate needed additional revenue. TWA and United assert that while the fare increases permitted to become effective on February 20 and 26, 1969, provided some measure of relief, improved the relationship between fares and costs, and improved the fare differential between classes of service, they did not provide for sufficient increases in revenue. They allege that their increased revenues would be significantly less than the 3.8 percent estimated by the Board, due to the nature of their operations. TWA alleges that its proposal is consistent with the first recommendation in the staff's fare study of 1968, and that inconsistencies in the present fare structure should be removed prior to further study leading to the development of a new fare structure.

Moreover, the carriers assert that the basis for the suspension request is not that the proposed fares are *prima facie* unjust or outside the zone of reasonableness, but that the formula used in their construction, and the values used in the formula, may not comply with the Federal Aviation Act or with the Board's Rules and Regulations; that to the extent the complaint attacks the method used to construct the proposed fares, it ignores its own earlier statement that under the statutory standards of just and reasonable fares it is the result reached, not the method employed, which is controlling; and that in this regard the complaint has failed to show that the end result of the proposals contravenes the standards of the Act.

Upon consideration of the tariff proposals, the complaint and answers thereto, and other relevant matters, the Board finds that the proposals may be unjust, unreasonable, unjustly discriminatory, unduly preferential or unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the tariffs in question should be suspended pending investigation.

The Board is not opposed to elimination of extreme variations from the "norm", *per se*. However, we are not at this time prepared to conclude that the fare norm utilized by the carriers in developing their proposals is the most appropriate measure against which to make adjustments in the structure. In view of the advanced stage of the Board's informal investigation into cost oriented norms, and the expectation that an adequately tested formula may be arrived at during the time in which these proposed fares are being investigated, the Board is unwilling to permit the proposed fare changes to become effective at this time.

Aside from questions for fare structure, the tariff filings before us represent requests for an increase in revenue. Less than three months ago (February 20, 1969 and various dates thereafter), the Board permitted a general fare increase which, it was estimated, will result in additional revenues approaching 4 percent for the trunkline industry.[3] It is true that this percentage of increased revenues is an "industry average" figure; and individual carriers may find inequities in their fare structures which will warrant some increase. We note that the carriers have recently filed to place a 7-day minimum stay requirement on their Discover America excursion fares, to become effective June 1, 1969. This limitation should lessen the diversionary effect of these fares and, according to earlier estimates, would have contributed additional revenues for the trunkline carriers of some $15 million based on 1967 traffic. In all these circumstances, the Board is unable at this time to approve without investigation a further revenue increase for the trunkline industry.

In this connection, the Board is very much concerned about a problem which it considers basic to the economic state of the industry, and which cannot be solved by a series of fare increases. This problem is the presently depressed level of load factors. Load factors for the domestic trunkline carriers have been dropping steadily since 1966. The 53.0 percent passenger load factor reported for the calendar year 1968 is the lowest reported for any of the past 20 years. This trend gains added significance in light of the substantial amount of traffic that traveled at discount fares last year (in excess of 40 percent). Moreover, estimates indicate that the domestic trunk load factor will drop to even lower levels during 1969.

The carriers have not erred in their basic traffic forecasts. Both the carriers and the Board have been surprisingly accurate in traffic forecasting. But the carriers have bought equipment despite (not by reason of) traffic forecasts.

As long as the industry's load factor continues its present downward trend, and inflationary pressures persist, the carriers may find themselves in a cost-revenue squeeze despite the introduction of more efficient aircraft and the adjustment of their fares. Another significant aspect of an unnecessary increase in unused capacity is the corresponding growth in the investment base and fixed charges. On the other hand, it cannot be expected that fare increases will stimulate additional traffic. The basic solution to the industry's present financial situation would appear to lie in exercising restraint in ordering new flight equipment and in the use of its available capacity, rather than in increasing its price to the public.

Returning to the question of fare structure, the Board is of the opinion that inconsistencies arising from the lack of published joint fares are inseparable from the inconsistencies which may exist in presently published local fares. We believe that correction of both should proceed simultaneously. A significant number of passengers are today traveling in markets where one carrier service is not available, and where no joint fare is published for inter-carrier connecting service. Passengers traveling in such markets must pay a combination of local fares, each of which reflects the February increases. Fares for these passengers, therefore, reflect a compounding of increases which the formula permitted by the Board in February 1969 was not intended to reflect. The Board finds no reason for continuing such inequity.

On the basis of the foregoing, the Board is of the opinion that the proposals now before it are, if nothing else, premature. It is probable that a more appropriate measure of consistency, in the form of a cost-oriented norm, will soon be adequately tested out. And the Board believes that elimination of inconsistencies in presently published fares should be accompanied by elimination of the inconsistencies which exist by reason of the lack of a published joint single-factor fare for connecting service. We view these two facets of the fare structure as inseparable, and believe that joint fares should be published in all markets where the volume of traffic averages one or more passengers a day.

In view of the above, we deem it advisable to defer action on the complainants' request that the Board institute a general rate proceeding to investigate the fare structure of air carriers pending further informal investigation into a cost-oriented formula. Complainants also request that the Board undertake a rule making proceeding to to amend Part 241 of the Economic Regulations "to require submission of revenue-hour information (e.g., available seat-hours, available ton-hours, passenger-hours flown, ton-hours flown, etc.) in order that such data will be readily available for a comprehensive investigation of the fare structure."

At present, the carriers report over-all aircraft revenue hours for scheduled and nonscheduled services, separately, on a system basis. In addition, the Board has under consideration in a pending rulemaking proceeding proposed amendments to Part 241

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariffs C.A.B.: Nos. 101, 98, and 90.

[2] TWA also proposed to discontinue the common rating of Los Angeles and San Francisco, TWA proposed to do this by basing the new Los Angeles fares on the jet coach norm or the present fare, whichever is lower and basing the new San Francisco fares on the Los Angeles fares per mile, subject to a maximum difference of $5.00. The City of San Francisco filed a telegraphic complaint, to be followed by a formal complaint, and on April 10, TWA notified the City and the Board of its decision to cancel this portion of its proposal.

[3] Order 69-2-98, adopted February 19, 1969.

which would, *inter alia*, require certificated carriers to report monthly on a flight stage basis revenue, aircraft hours (airborne) and aircraft hours (ramp-to-ramp).[4] Such data, together with other data which would be required under the proposed rule, would provide the revenue-hour information specified by complainants on a flight segment basis. In light of the foregoing, complainants' request will be denied.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 240(a), 403 404, and 1002 thereof,

It is ordered that:

1. An investigation is instituted to determine whether the fares and provisions described in Appendix A attached hereto, and rules, regulations or practices affecting such fares and provisions, are or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto are suspended and their use deferred to and including August 16, 1969, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. Except to the extent granted herein, the complaint in Docket 20928 to the extent that it requests initiation of a rulemaking proceeding under Part 241 of Title 14, C.F.R. is hereby denied; and such complaint to the extent that it requests a general rate proceeding to investigate the fare structure of air carriers is hereby deferred;

4. The complaints of the City of San Francisco and the San Francisco Chamber of Commerce, in Docket 20880, which are related to the Los Angeles-San Francisco common fares, are dismissed;

5. This investigation be assigned for hearing before an Examiner of the Board at a time and place hereafter to be designated; and

6. A copy of this order be filed with the aforesaid tariffs and served upon American Airlines, Inc., Braniff Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc., which are made parties to this proceeding.

This order will be published in the Federal Register.

By the Civil Aeronautics Board:

MABEL MCCART,
Acting Secretary.

Members Gillilland and Adams would not have suspended or investigated these fares.

[Docket 20928]

NOTICE OF PREHEARING CONFERENCE

(Passenger fare revisions proposed by American Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.)

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on June 11, 1969, at 10:00 a.m., (eastern daylight saving time) in Room 911, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C., before Examiner Thomas P. Sheehan.

Evidence requests, proposed procedural dates, statements of issues, and statements of position shall be filed with the Examiner and on all other parties on or before June 5, 1969.

Dated at Washington, D.C., May 27, 1969.

THOMAS L. WRENN,
Chief Examiner.

(SEAL)

[4] EDR–146, September 25, 1968.

AMERICAN AIRLINES,
New York, N.Y., June 4, 1969.

Re passenger fare revisions—docket 20928.
Examiner THOMAS P. SHEEHAN,
Civil Aeronautics Board,
Washington, D.C.

DEAR MR. SHEEHAN: American has instructed its tariff agent to withdraw the fare revisions under investigation in this proceeding.

This action has been taken in order to permit consideration of the fare formulas recently develped by the Board's staff and circulated to the industry for review. American continues to believe that the revisions presently under investigation, or similar revisions, are desirable and should be promptly implemented.

In view of its withdrawal of the pending revisions, American does not plan to participate further in this proceeding.

Respectfully submitted.

GEORGE B. BERRIDGE,
JEROME S. SOWALSKY,
Attorneys for American Airlines, Inc.

TRANS WORLD AIRLINES, INC.,
Washington, D.C., June 5, 1969.

Re docket 20928.
Congressman JOHN E. MOSS,
Rayburn House Office Building,
Washington, D.C.:

Prehearing conference in the above-referenced docket has been set to be held on June 11. TWA is in the process of withdrawing the tariffs under investigation in the subject proceeding. Accordingly, it is respectfully requested that the date for a prehearing conference insofar as TWA is concerned be postponed indefinitely or until such time as the board acts in response to the tariff withdrawal.

U. V. HOFFMAN,
Assistant General Counsel.

[Docket 20928]

NOTICE OF POSTPONEMENT OF PREHEARING CONFERENCE

(Passenger fare revisions proposed by American Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.)

American Airlines, Braniff Airways, Trans World Airlines, United Air Lines, and Western Air Lines are taking action to cancel all of the proposed fare revisions which were ordered investigated in this docket. Under these circumstances notice is hereby given that the prehearing conference now assigned to be held on June 11, 1969, is hereby postponed indefinitely.

Dated at Washington, D.C., June 6, 1969.

THOMAS P. SHEEHAN,
Hearing Examiner.

I personally feel that the material shows that contrary to the view of the Board the airlines operate in very close concert. It is a real coincidence indeed, that five domestic carriers with pending tariffs which were to be investigated should suddenly decide that those tariffs be withdrawn. At the very time the CAB permitted this to take place they were sanctioning another "collusion" similar to that which took place in January. Of significance, however, was the fact that due to the exchange of correspondence which I had with the Board, a transcript was kept. That transcript from the June 16 meeting follows:

CIVIL AERONAUTICS BOARD,
Washington, D.C., June 17, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: In accordance with your request, we are enclosing a copy of the transcript of the conference of the officials of Trans World Airlines with the Civil Aeronautics Board on Monday, June 16, 1969.

Sincerely,

JOHN W. DREGGS,
Director, Community and Congressional Relations.

[Before the Civil Aeronautics Board]

CAB CONFERENCE: TRANS WORLD AIRLINES

WASHINGTON, D.C.,
June 16, 1969.

The conference convened, pursuant to notice, at 2:30 p.m., before:

John H. Crooker, Jr., Chairman.
G. Joseph Minetti, Member.
Whitney Gillilland, Member.
John G. Adams, Member.
And Staff.

Appearances:

F. C. Wiser, Jr., President, TWA.
Blaine Cooke, Senior Vice President-Marketing.
R. H. H. Wilson, Senior Director-Tariffs.
R. S. Villanueva, Director-Economic Analysis.

CONTENTS

Statement of Mr. F. C. Wiser, Jr., President of Trans World Airlines.

PROCEEDINGS

Mr. WISER. Mr. Chairman, Members of the Board and Ladies and Gentlemen:

I certainly appreciate the opportunity to visit with you this afternoon. I am going to do my best to be brief in our direct presentation in the hope that we still have adequate time for you to ask some hard questions of my colleagues who are here, who have done all the work that I am going to discuss.

I think that I should make clear we haven't come here today to talk about any specific proposals with regard to fares, certainly not any that would be addressed to any immediate problems in our industry.

I do hope, however, that we can define some concepts which we think are essential for any sound fare structure in the future.

Anytime we talk in terms of a cost base fare structure, we must recognize that the roots of such a fare structure have to be founded in a close relationship between the fares the passenger pays and the actual total cost incurred in carrying him on his journey. We spent a great deal of time in TWA in the past two years trying to establish these relationships.

A cost-oriented structure demands that the cost analysis be rigorous and be applicable on an industry-wide basis. Insofar as possible, we have used industry information for our purpose to the point where we are convinced that our approach is both feasible and practical. Obviously, however, there are some gaps in the information we have available to us as a result of the fact that we don't have individual carrier information on some aspects of this proposal.

This is why we cannot claim to be able to develop ourselves a precise cost fare structure and why it is important that if there is interest in the Board and staff, we have some coordination and help from your group.

As some of you probably know, in 1968 TWA gave a presentation on this subject and at that time we suggested that certain presumptions inherent to the present system could not be supported in a cost justified structure, particularly that all parmets of the same distance should not necessarily have the same fares and that all cities should not be treated identically.

We were of course pleased that the recent staff proposals have reflected in part the difference of operating cost of some of the cities in this country. Even more significant, however, is that this is only part of our concept.

The important thing is the recognition that the traffic density in the market vitally affects the cost of carrying passengers in the market so it is important that both factors be

recognized because to some extent they are offsetting.

The high cost of congestion and the economies of density both tend to increase with size of the cities. To ask communities to pay for congestion without passing on the benefits of density is unfair.

As you will see, other than the recognition of market density, we are not proposing any radical departure from other approaches. On the contrary, our hub approach is closely related to several suggested structures with which you are familiar. Like most of these proposals—certainly the staff proposals—our basic building blocks are terminal costs, described by the so-called A factor, and a line haul or variable cost which increases with distance and are described by a B factor.

Typically, costs are computed in relation to how the aircraft flies. In other words, in terms of the nonstop segments operated by the flight schedule. It is how we have traditionally done it, and it is done by most airlines.

On the other hand, the trip itinerary of many passengers does not represent a simple single leg that would correspond to one nonstop segment of a flight schedule. We think that in the past there has been too little recognition in fare development of the necessity of relating unit revenues to the types of costs actually incurred on the basis of how passengers actually do, in fact, travel.

(Slide.)

In order to make this concept a little clearer, this slide shows the different definitions of passenger volume as they relate to the trunk industry for the year 1967.

Probably the most normally used measure of passenger volume would be the last entry on this table, shown as Trunk O&D, 87,978,000 passengers. This, as you know, counts a passenger only once from point of origin on the trunk line system to ultimate destination.

However, as shown by the other data on this chart, there are other ways of counting passengers which may have even more relevance from a costing standpoint.

The number described as on-line, which is 97,214,000, views the passenger from origin to destination within a given carrier's route structure and therefore would count him again if he connected to another airlines.

The number described as flight—105 million—used the passenger from point of enplaning to point of deplaning on a given flight and would count him again when he connects to another flight whether on the same airline or another airline.

The number described as nonstop counts the passenger every time he takes off on a nonstop segment and therefore could count him repetitively on a multi-stop or connecting flight.

(Slide.)

We made an effort to cost out the differences of these four types of travelers and, as you can see, the nonstop passenger, which is the solid line, shows a lower cost decreasing with length of haul.

The trunk O&D passengers on the other hand shows a higher cost factor, in fact the highest on the chart in between on-line and flight passengers.

These costs are based on pure jet aircraft costs for 1967, plus provision for 10½ percent ROI. Each of these curves, I am sure, is a familiar format to you of the A plus Bx approach. These however are average cost curves and do not give us the full answer since other differences in cost exist beyond those explained by differences in length of haul. A true cost-based fare structure, one which would provide a cost justification for changes in fare level of structure, must recognize these other factors.

The most significant of these appear to be differences in costs due to differing market density and differences in terminal service cost between cities.

We will now talk about these factors and their effect on the fare structure.

Our analysis of passenger flow, necessary to the development of passenger costs on a true O&D basis, permitted us to examine the effective density on line haul costs. We believe that recognition of density and its effect on line haul costs establishes the critical dimension for developing a cost-based fare structure.

(Slide.)

For example, in this chart, you can see that the New York-Los Angeles market for 1967 has a heavy demand and is also characteristic of this demand that the market obtains nonstop service with the latest and most economic equipment.

Albany-Los Angeles is approximately the same distance, but has a market density which is only four-tenths of a percent as great, and is predominantly served by connecting service through New York. Market density, of course, largely determines the level and quality of the service offered in such a market.

Clearly then, in spite of similar nonstop distance, it costs an airline more to carry a passenger from Albany-Los Angeles than from New York-Los Angeles. Cost per mile decline with distance only if similar markets are being compared—markets with the volume necessary to allow the same level of service.

So if we wish to have an orderly structure which comprehends all markets, including those served by connections, then we must include the additional dimension of volume or traffic density in our equation, as this essentially determines the feasible level of service.

The costing technique which we have developed permits the accumulation of costs against the passenger trip as the passenger actually travels. This includes the costs of nonstop segments of multi-stop flights and connections between flights, changing equipment and class of service and moving more or less circuitously from his originating to his destination points.

We have accumulated this cost data into categories based on market volume to establish difference in cost levels related to density.

Incidentally, we have used the same market categories established by the FAA in their annual survey of station activity and used in defining terminal fare factors in the latest CAB Staff Study on fares. The differences in trip costs attributed to density are used to establish different line haul fare factors by market category.

(Slide.)

Perhaps in another way, this slide shows you how increases in density affect line haul costs. As you can see in the chart, the average is exceeded in the short low density flight in the left of the chart, and gradually decreases as density increases and this affects the line haul or B factor in our equation.

(Slide.)

This chart talks about terminal cost and shows the variation of terminal cost and therefore reflects terminal fare factors with increasing size of the cities and again, as the city grows in size, going to the right on the scale, you can see the increase in what is traditionally called the A factor and it does differ by city, and this is recognized by many people.

Incidentally, included in our A factor here for the industry we have used landing fees, those costs that are related to taxi-time and airborne delay time. We have done this and recognized this in the basic fare equation or cost equation because these things are the same for all carriers.

However, those things that are different for carriers we have recognized in the base average, those things such as individual carrier selection of airport facilities, reservation-ticket offices, ground property, and so forth, because such costs are dependent on the individual carriers' marketing philosophy, construction program, and so forth.

(Slide.)

Here is a combination of what we have been talking about. The chart on the left combining the terminal A factors and line haul B factors shows five different curves. These are representative of a total potential of fifteen equations which would cover all the city pair combinations in our analysis.

We need to only make one adjustment to the curve as it was developed in analyzing the effect of our equation on specific markets, we found that the higher mileage coefficient or B factor stabilized beyond a certain distance and that is the break in those curves, and you will notice that the low density, high fare markets continue on the same fare taper as the high density, low fare markets but starting with a higher base.

The chart on the right compares our concept with some of the recent formulas sent to us for consideration about which we will have more specific things to comment later on.

Both of these approaches used a varying slope, but there is only one, there is no little similarity between the two except that our set of equations recognizes the relationship between line haul cost and density.

I think it is important to note that the hub fare in high density markets is the lowest available fare beyond the point where the high terminal factor is an important consideration. In other words, as the distance lengthens, the high density fare is the lowest fare. In contrast, in the CAB equations, if you look at the high density fare, because it sticks with the high terminal costs, does tend to develop a higher fare for the high density markets and a lower fare for the lower density markets.

I should point out, however, that in the aggregates when we sum them together, the hub fare curves display a declining mileage coefficient just as is found in the case of the CAB equations.

In any case where we use the fare system which does not reflect the cost of light density markets, we recreate a situation where revenues are inadequate to cover the cost in those markets.

This is true generally because it becomes particularly visible when joint fares are established and prorates arrangements made. Prorates establish a base whereby the loss involved is shared. As tapers increased using a single factor equation, this changes the basis for sharing the loss to the disadvantage of the longer haul carrier.

(Slide.)

Perhaps to illustrate this a little further, we might examine a representative trip in a less dense market involving an intercarrier connection.

We will see on this chart that both carriers subsidize such a trip since they receive less than the regular fare from such a passenger. I think you can see by this chart that on the right, once the fares are prorated, the present situation from St. Louis to Grand Junction shows that both the absorption is 2.7 percent and one of the things that concerns us in that proposal aggravates this situation even more with the absorption becoming 16.7 percent.

This is absorption by both the long haul carrier and by the local service carried involved. The absorption being the same percentage for both, and of course on the lower one, a similar situation exists and the proposal aggravates the situation even more.

In other words, we take in both cases a percentage which you see before you, less than the regular fare on that leg of it, if it were sold as an individual piece of transportation.

(Slide.)

Now, we had a recent example of this in some of the increases that went into effect in February. This shows that as a result of the February increases, which in the St. Louis-Sacramento market had a through fare of $100, went to $101 that the trunk carrier carrying St. Louis to San Francisco lost.

So that our take, or the carrier's take on that went down 1.6 percent. The basic reason for that why our percentage is different than the local service carriers is that in this case their increase in their fare over that period of time was considerably greater than ours, so the prorate came out 29.5 percent ahead.

(Slide.)

If I might now summarize a little bit what I have been trying to say. We think that the hub concept has the advantage of making possible provisions for fares which reflect the different cost of serving different markets. Other techniques do not provide such a market-oriented relationship and therefore will have established fares which have unpredictable effects on service patterns, certainly on profits.

It should not be forgotten that the underlying passenger costs curve for the industry establishes a level which can be directly related to the average passenger fare level.

The hub concept, therefore, offers a basis for adjusting fares to reflect new technology, trends in overall industry productivity and changes in our supply prices such as wages, fuel, equipment, commissions, etc.

The CAB would have the option available to reflect the effect of these factors in a clear fashion consistent with the cost experience of the industry.

Today relative profitability between carriers is, as you know, subject to wide variation. This is due in part to the failure of the fare structure to reflect actual cost, particularly those related to market density and terminal operations.

With the implementation of the concept we have talked about, relative profitability will depend upon other factors, the most important of which is cost efficiency, competitive character of markets and its own ability to compete successfully.

We think the hub concept will encourage the development of new patterns of service consistent with growth in individual markets and changes in basic technology.

With these advantages in mind, if we should implement cost justified fares, we in the industry and the Board would have to consider future changes within this structure or else face other basic structural correction at a subsequent time.

We believe with this approach the basic fare structure will have stability and changes can be made in a timely and orderly manner justified by trends in underlying costs.

You probably notice that I haven't presented previous proposals regarding fares or the effect of the implementation of this concept on the total industry. The reason for this is that with all the work that we have done on this, we really only have completely finished a study based on the 1967 industry data and that data contains certain assumptions that we have made as to the characteristics of other carriers' traffic flow which obviously is not completely accurate.

At this time we are involved in running 1968 data and have about three months to go before we complete that task. However, it only seems fair to recognize the only meaningful way to implement such an approach would be through cooperation of the staff.

We spent a great deal of time and money on this, and I think it is a serious question for us as to whether we should proceed any further unless we have some encouragement from you to do so.

I think it also is obvious that the concept we have proposed is not yet developed to a point where it would be any specific help in resolving present problems. I would hope, however, that any forthcoming fare consideration would not do further violence to the cost-based concept we have developed.

As I mentioned in the beginning, I have purposely avoided discussion of many of the details of this program in order to allow you time to ask questions of the experts that I have with me. I purposely also avoided talking about something I don't understand and I have a lot of friends here who are willing to enlighten you, if you so desire.

Chairman CROOKER. Could you turn on the slide showing the cost from St. Louis to Grand Junction a moment?

On the second horizontal line of figures, you show local fares of $56 from St. Louis to Denver and $22 from Denver to Grand Junction.

Now if a person goes from St. Louis to Denver, he pays $56 if that proposal were in effect and if person B goes from Denver to Grand Junction he pays $22. I say two different people.

Mr. WISER. Yes, sir, that is correct.

Chairman CROOKER. If person C wants to go from St. Louis to Grand Junction, is there any nonstop flight presently flown between St. Louis and Grand Junction?

Mr. WISER. No.

Chairman CROOKER. But a man could buy a ticket, and if he bought one ticket, you are saying that whenever a man has to touch down, because there is no nonstop provided, the carrier should charge a higher rate?

Mr. WISER. Based on the cost of that touchdown, yes, sir, and the rehandling of the passenger.

This is not necessarily one carrier, as you understand.

Chairman CROOKER. This is a change of carrier here?

Mr. WISER. In this case, yes.

Chairman CROOKER. But other situations in which one carrier could do it but not with nonstop authority?

Mr. WISER. Yes, that is right.

Chairman CROOKER. Suppose there is a pair of points; is there, for example, nonstop service between St. Louis and Augusta?

Mr. WISER. No.

Chairman CROOKER. Imagine a place where there is some carrier that operates one nonstop flight per day from X to Y. Are you suggesting that on the onestop flights that carrier holding nonstop authority would charge more to ride the one-stop plane than the non-stop plane?

Mr. WISER. I guess I am suggesting if that is the way the passenger actually goes, the answer to the question is yes, because the cost would be consistent with that.

Maybe what you are leading up to is why doesn't he go on the nonstop and that is the density problem again.

Why isn't there a nonstop, is the density problem. One of the things I didn't dwell on but one of the things that would encourage nonstops would be if the actual fare were $78 instead of $65, it would be more incentive for nonstop than today's situation.

Chairman CROOKER. I am taking it in reverse. I am assuming that the through fare might be a proper one and maybe the segments of it ought to come down.

But since you are not talking about what is a good and proper fare structure, we won't either. My trouble is, if there is a nonstop flight at five o'clock in the afternoon, but no other nonstop flight all day long because there is not enough traffic, are you really serious in saying that a passenger willing to travel at 11:30 in the morning or 1:15 in the afternoon before the rush hour ought to pay the carrier more to travel than the man who is in a hurry at five o'clock and has worked all day and wants to travel at the peak traveling hours?

Mr. WILSON. We would not differentiate the fare by the way the person travels. The fare would be determined by the classification of the departure point and arrival point. Therefore, St. Louis is by our classification system a large hub. Grand Junction is a small hub. The fare between them is determined by factors determined by the distance and classification. The fare does not vary depending on how the passenger actually flies.

Mr. WISER. The way he flies, however, correlates the size of the cities. Large cities more direct; small cities less direct.

Mr. ADAMS. I guess you are saying if you have a one-stop restriction between Point A and B—TWA has—and is competing with United which has a nonstop, this would put you out of the market.

Mr. WISER. Yes.

Mr. ADAMS. In the case of the local service carriers who operate with many restrictions, they would be just about killed.

Mr. WISER. If they didn't meet the nonstop fare, yes.

Mr. WILSON. This would tend to help the local service carrier. Take a typical itinerary for this particular journey. TWA, St. Louis to Denver, Denver to Grand Junction by Frontier. At the present time, the Frontier would get from that $20.42, because he has to take an absorption of 2.7 percent.

Under our hub proposal, that absorption would be reduced because the fare from St. Louis to Grand Junction would be close to others.

Equally, St. Louis-Augusta, and then connection with Southern. Southern would no longer be faced with 13.5 absorption.

Mr. ADAMS. You are saying under your proposal Frontier——

Mr. WISER. This is not a reflection of our proposal.

Mr. ADAMS. I understand that, but Frontier's share would go down to $18.33?

Mr. WILSON. That is Proposal A. That is the Staff's proposal, sir, which is the one we have difficulty with.

Mr. ADAMS. Your proposal is not on there?

Mr. WISER. No, that is right.

Mr. WILSON. We didn't want to put it on as it is misleading based on 1967.

Mr. WISER. It's not current enough.

Chairman CROOKER. You have alluded to Proposal A and I had understood those were matters for discussion in an on the record meeting in July, but since it is opened up here, did you find that the fares under any such formula were in excess of what is presently being charged in any of your markets?

Mr. WILSON. In the short haul markets, that particular proposal would introduce——

Mr. WISER. I think the only reason we chose this is proposal A was consistent with one talked about last January and just representative of what I would call another approach or different approach to the problem than we are suggesting. We weren't trying to comment on it. I wish we could. If we put our 1967 data on a chart like this we would be here two hours trying to explain how come the numbers are different.

Chairman CROOKER. The short haul fares would be increased?

Mr. WILSON. Right. But the other point is that the long haul fares would in some measure be decreased without any respect to the volume of the taffic traveling in those markets and the costs would not be decreased in those markets.

Chairman CROOKER. I take it you can have thin markets either short haul or long haul?

Mr. WILSON. But the thin markets in the short haul are relatively cheap to operate because you don't have congestion problems. Thin markets in the long haul are very expensive to operate because you normally have connecting passengers and therefore all the costs of the connection.

Chairman CROOKER. The thrust of your statement today is that density in the market is a factor that should be considered along with other factors in developing long-range any sort of cost-oriented or semi-cost-oriented formula?

Mr. WISER. That is correct. It does affect the line haul calculations and it is a factor in cost, the density of the market.

Mr. ADAMS. Maybe you can't answer this question, but I am a little lost on it.

If there were a proposal B there which would be what TWA would be proposing, if carried forward, what would the figures be? How do they differ? What do you end up with?

Mr. WISER. I don't think I can tell you because I don't have the figures.

Mr. ADAMS. But you did say something about there would be less loss for local service carriers?

Mr. WISER. Yes, because his fare would be based on the cost we would find in his operation. You see, today I think one of the things we are trying to illustrate here is that whatever his costs are, and let's assume it is $21, just for assumption purposes, we start out with a through fare that is $2 less than the legitimate.

If you assume there are two legitimate fares, they already have a problem to the tune of 2.7 percent. We would hope with the calculations we would make that in many markets, again depending on the density of the cities primarily involved, both would come out to 71 or 73, the same answer, because the cost would tell you what the answer is.

Mr. ADAMS. Would your package—if a package proposal were made this way, would it end up with a net loss or net gain in the cost of transportation nation-wide, carrier-wide, industry-wide?

Mr. WILSON. You can set it as a total to come out to any level you wish it. We are talking about structure, not level.

Mr. WISER. For example, if we put in ten and a half percent return on investment and had instantaneous costs . . . the distribution would be the same, but you could put anything in that you wanted.

One of the things we talked about last week is that this proposal, this work that we have done is based largely on history. However, with a sound foundation of historical cost, it would be perfectly possible to project what you might be expecting over a longer period which is certainly one of your concerns. And grind that into the equation and see where would be the optimum point to set the fare for some time, and lend stability. Because once we had a solid foundation of the cost structure of it, which we don't have, and solid foundation of the traffic flow of the business, then you could project and it would also lend itself to small adjustment on a historical basis because the data you are getting today is better than before and could lend to fine tuning adjustment rather than waiting until the gap gets to be one of concern.

Chairman CROOKER. In an early slide you showed 87 million O&D passengers and 138 million passengers by number of hops that they make.

The extra 51 million—is that largely in the local service carrier end of the business?

Mr. WISER. No, all trunk, sir.

Mr. SIMS. Would your proposal involve a reduction in the present taper of the fare structure?

Mr. WISER. That is beyond my pay grade, I am sorry.

Mr. WILSON. No, it would not. How the taper came out would depend on how, at individual distances, the markets were weighted by density.

Our calculations based on 1967 data showed there would be increase in taper which is in accordance with your expectations.

Mr. SIMS. If you are going to reduce the absorption, the way to eliminate the absorption is to have absolutely no taper at all.

Mr. WILSON. That is one way of doing it.

Mr. SIMS. There is a way of reducing absorption without reducing taper?

Mr. WILSON. Yes, by differentiating between markets. Because when you go by connecting carrier from A to B to C, you use a different equation to get A to C fare than to get A to B and B to C fare.

Chairman CROOKER. In connection with your study so far, do you have any tentative view on the factor, the minimum figure and the maximum figure to be applied to what otherwise would be a computed fare based on density of the market?

For example, do you believe it would go from .88 to 1.14 or from .86 to 1.17? What are your theories on this?

Mr. VILLANUEVA. This is similar to the chart you saw which is highly stylized and generalized in the base presentation in which we are showing you here the variation in line haul cost which is attributed to the types of cities which are connecting.

Now understand that XX in our designation means from one very large hub to another very large hub and as a consequence the line haul cost is relatively low because of the fact that you have access to nonstop service which is relatively inexpensive, that you have access to the latest type of equipment for that market.

As you move toward the right, on your horizontal axis, you move into less and less dense markets. For instance, NN means what we call a non-hub being connected to another non-hub.

This causes variation in cost around the average cost. You can either talk about that in terms of TWA's system or the industry average—it is in the order of two cents per mile.

Now beyond a certain point, we don't have experience in our system to really describe what happens to the curve. That separated line to your right indicates that. But essentially in our own analysis, which was essentially based on the fact that we start off with segment costing, a segment costing approach, and then actually accumulate costs as the passengers move through the system, we found that there were significant differences in terms of line haul cost, depending on the density of the market, and that is essentially what we are describing here on the chart.

Chairman CROOKER. Generally, on your costs, this is a variation from roughly four cents a mile, approximately, so that underneath the average you are talking about only an 8½-percent below the norm, or if you were applying a factor to it, it would be .915.

Mr. VILLANUEVA. Yes, I understand.

Chairman CROOKER. Now, if you get to the top, leaving out two extremely high figures, the other highest one is 1.1 cent, which would be 27½ add on or apply a factor, a low density factor of 1.275 to what would otherwise be your computed fare?

Mr. VILLANUEVA. Yes.

Chairman CROOKER. So back to the question I stated so poorly, the low and high figures would be a range of factors of anywhere from .915 to .1275, roughly?

Mr. VILLANUVA. About that.

Mr. WISER. Any average based on this level.

QUESTION. You mentioned that one of the advantages is that it encourages levels beneficial to the consumer. Could you explain that?

Mr. WISER. I think I touched on it earlier. Take a market that is multi-stop. If the fare were adjusted according to the cost so that on a multi-stop trip it would be a fare that would be more attractive for nonstop service than if the fare were already set at a nonstop level, as some people talk about today.

In other words, every mile being the same, whether heavy or less dense, so the carrier would have an earlier incentive to move into the market because the break-even would be somewhat higher than today's atmosphere.

Did I answer your question? Maybe not satisfactorily but at least that is the rationale.

Chairman CROOKER. Thank you, Mr. Wiser.

Mr. WISER. Thank you, sir.

(Whereupon, at 3:15 p.m., the conference was closed.)

As a result of that meeting there was an additional exchange of correspondence and the receipt by me of the transcript of the next meeting which took place on July 22. The material follows:

JULY 7, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D..C

DEAR CONGRESSMAN MOSS: This is in response to Mr. Billett's telephone request to Mr. Dregge for the citations and precedents that permit informal discussions with air carriers on fares.

As we understand it, the context of your request is a meeting which the Board has scheduled with the domestic trunklines and local service carriers with regard to a formula approach to the passenger fare structure. You have already been furnished a copy of the letter to the carriers regarding this conference, and an accompanying staff study. You will note from the letter that the purpose of the study is to test the effect of alternative formulas on fare structure and not on fare levels, and that the formulas themselves have been prepared by the Board's staff as possible guidelines against which proposed fares might be compared. In light of the preliminary status of these fare structure proposals, the Board has made no determination as to the future procedures it might employ with respect to the development and implementation of a fare structure formula. However, at the present juncture, the matter could properly be regarded as in the nature of a step preliminary to the consideration of possible rulemaking proceedings.

The holding of conferences is well within the Board's powers under section 204(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1324). Under that provision, the Board is empowered to perform such acts and to make such procedure pursuant to and consistent with the provisions of the Act as it shall deem necessary to perform its powers and duties thereunder. Informal consultation with affected persons has always been regarded as a mainstay of rulemaking. (See, in general, *Davis, Administrative Law Treatise* (1958), Chapter 6, particularly §§ 6.01–.02). Moreover, even in matters which are required by statute to be determined only after notice and hearing, the use of informal preliminary conferences with the agency have been upheld where the agency remains free to decide the case on the basis of the record subsequently made. (*Phillips* v. *Securities and Exchange Commission,* 153 W. 2d 27 (2d Cir., 1946), cert. denied 328 U.S. 860; and see *Davis, supra,* § 4.11).

Throughout its history, the Board has utilized conferences and consultation with carriers as well as affected members of the public covering virtually all subject matters which fall within the Board's jurisdiction. The Board could not function, nor could any administrative agency, without the use of such informal procedures as an expeditious and necessary means of keeping the Board informed and of maintaining its expertise. In addition, the Board has used conferences as a means of expediting its rulemaking and adjudicatory proceedings, and as a means of settling controversies before the Board. The Board is firmly of the view that its long administrative practice is fully consistent with the law.

Sincerely,
(Signed) JOHN H. CROOKER, Jr.,
Chairman.

CONGRESS OF THE UNITED STATES,
Washington, D.C., July 14, 1969.

HON. JOHN H. CROOKER, Jr.,
Chairman, Civil Aeronautics Board,
Washington, D.C.

DEAR CHAIRMAN CROOKER: This is in response to your letter of July 7 concerning my request for citations and precedents that permit informal discussions with air carriers on fares.

Let me begin by dealing with the citations

which you list and end with a series of questions, the answers to which I wish to receive by Noon on Friday, July 18.

First, with regard to Davis, Administrative Law Treatise, that is, of course, nothing more than a textbook prepared by Professor Davis of the University of Minnesota. That is not to say that the contents are not interesting but I think you must agree that the contents are in no way binding nor in any sense a precedent. They are merely the views of the very distinguished gentleman Kenneth Culp Davis, who once honored me by serving as an advisor to my Information Subcommittee.

You refer to section 204(a) of the Federal Aviation Act of 1958, as amended. It has long been a practice of regulatory bodies to "throw in" general housekeeping statutes when specific authority cannot be found. I would suggest rather strongly, Mr. Chairman, that that is the case in this instance. I would be most happy, however, to receive from you citations where either section 204(a) or, indeed, general housekeeping statutes of other agencies have been upheld as authority for ex parte communications such as your meetings.

Your final reference is *Phillips* v. *Securities and Exchange Commission*, 153 F. 2d 27. Its germaneness escapes me. Although the conversations between the holding company and the Securities and Exchange Commission were held not subject to objection, I am sure you do not intend to draw a parallel between that request in the *Phillips* case and the very clear negotiations on fares in your own instance. I must, therefore, unless you can provide further explanation, consider the *Phillips* decision to be not on point.

No one would argue with the general objectives outlined in your final paragraph. It is when the Board or its staff in an informal proceeding goes beyond the simple task of fact gathering that the public interest and indeed the law itself is perhaps being wraped.

Because of the foregoing, I submit the following questions:

1. On April 28, 1969, twenty Members of Congress filed before the Board a petition which included a request for a general fare investigation. Action on that request was deferred. When will the Board reach a decision on that request and, do you not agree that pending such a decision discussions on fare formulas are prejudicial to reaching that decision?

2. As was requested by Mr. Billett in his telephone conversation with Mr. Dregge, I wish to be supplied on behalf of myself and my nineteen Colleagues, with *specific* citations and precedents on the question of the propriety and legality of the informal fare discussions.

3. In the conduct of the informal discussions, who appears on behalf of the public interest?

This subject is one which has, as you know, occupied my interest for a number of years. It is one which continues to grow in importance to me as well as to far more than the original nineteen co-petitioners who joined me on April 28. Less there be any question or doubt in anyone's mind, it is my intention and the intention of my Colleagues, to pursue this matter until every question is answered.

Sincerely,

JOHN E. MOSS,
Member of Congress.

CIVIL AERONAUTICS BOARD,
Washington, D.C., July 18, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: This is in response to your letter of July 14 in which you raise a series of questions regarding informal discussions with air carriers, particularly the forthcoming meeting to discuss passenger fare formulas.

Initially, it should be emphasized that, as indicated in our letter of July 7, the purpose of the forthcoming meeting is to permit the Board and its staff informally to determine the various views of the different carriers with respect to several alternative formulas which have been developed by the staff and to explore other formulas which individual carriers have evolved. The Board does not contemplate that the meeting will involve "negotiations" of fare issues. Rather, we expect merely to have a development of facts and an exchange of views. Any questions or expressions which might indicate the Board's tentative views of matters discussed would necessarily be subject to full consideration of the rights of all interested persons. A transcript providing a full record of what is said at this meeting will be available to the public, and if statements are made as to which anyone may wish to disagree or otherwise to comment, full opportunity is available to communicate views to the Board. Under these circumstances, we are convinced that the discussions will not prejudice decision on the request for a general fare investigation included in the petition of the twenty Members of Congress, to which you advert.

In its informal discussions, as well as in its formal cases and its work generally, the Board considers, and believes that it represents, the public interest within the guidelines established by the Congress in the Federal Aviation Act. We are also of the view that the use of informal discussions to obtain any exchange information and ideas is not only a legitimate procedure for preliminary investigations, but a useful step toward protecting the public interest since it helps us to make an intelligent appraisal of the nature and scope of the technical problems presented in determining rate structure and other matters. We are unaware of any case law or other prohibition against our using this procedure and, with all respect for your differing opinion, remain of the view that the precedents and citations previously mentioned in our correspondence support the propriety and legality of this action.

Finally, you inquire as to the timing of a decision on your petition for a general passenger fare investigation. We are now actively engaged in analyses of passenger fares, both from the standpoint of fare level and of fare structure. The Board believes that action on your petition should await completion and consideration of these analyses. In view of the nature and complexity of the problems involved, we would hesitate at this time to attempt to predict when we will be in a position to take appropriate action on your petition. You may be assured that the matters set forth in your petition will be given careful and thorough consideration, and that the Board will act as expeditiously as circumstances will permit.

Sincerely,

(Signed) JOHN H. CROOKER, Jr.,
Chairman.

JULY 23, 1969.

Hon. JOHN H. CROOKER, Jr.,
Chairman, Civil Aeronautics Board,
Washington, D.C.

DEAR CHAIRMAN CROOKER: This is to request that you supply to me at your earliest convenience a copy of the transcript of the meeting between the members of the Board, the staff, and the airline carriers which was held on July 22, 1969.

Sincerely,

JOHN E. MOSS,
Member of Congress.

[Civil Aeronautics Board, Washington, D.C.]

CONFERENCE: DOMESTIC CARRIERS
WASHINGTON, D.C.,
July 22, 1969.

The conference in the above-entitled matter was convened, pursuant to notice, at 3:00 p.m. before: Hon. John H. Crooker, Jr., Chairman; Hon. Whitney Gillilland, member; and Hon. John G. Adams, member.

PROCEEDINGS

Chairman CROOKER. There may have been some confusion about how the room might best be set up. Whoever the primary spokesman is for each of the trunklines, we would be pleased if you wished to come and sit in the front row, certainly in the second row if you feel you can hear better and we can hear you. No list has been furnished to the reporter so as you comment if you would first identify yourself and your company, I know it would be most helpful.

As you know, about seven weeks ago a letter was sent to the trunkline carriers regarding a possible formula approach to passenger fares. A copy of the form letter, together with the replies of the carriers, will be placed in the docket and will be available for public inspection when the transcript of today's meeting is completed and is placed in the docket.

As is evident from the letter sent by Mr. Keefer, the point under discussion is fare structure rather than fare level,—although it is obvious that any particular fare formula which might be discussed would obviously have a financial impact on the fare level of each carrier. The point I want to stress at the outset, however, is that any such impact is incidental to the point under discussion, and that the Board is not today entertaining any discussion of what size changes, if any, in the aggregate fare level should or might be authorized.

Hence, in the comments which you may make, it would seem that the relevant points are whether there should or should not be any formula approach to fares; whether the cost-oriented charge for processing a passenger, in addition to a mileage charge, should be a constant one (irrespective of the size of the city of origin and the city of destination) or,—alternatively—whether there should be some "hub concept," in which a higher charge in this category is made if the point of origin or the point of destination is a hub or major hub city.

Lately, it would be appropriate to have further expressions of views as to whether in the line-haul charge, the factor (number of cents per mile) should be a constant one or—alternatively—whether there should be a "taper," with a higher mileage charge for the first 400 to 500 miles or so, a lesser mileage charge for a certain number of miles thereafter, and a still lower charge per mile thereafter in the longer haul markets.

After any discussion of these points, and any others which may arise during this meeting which may appear to be relevant to the question of fare structure, then you gentlemen and the Board should discuss briefly one last item of business—what statement will probably be made by the Board regarding this meeting, and whether there will be any further meeting (this week, next week, or at a later time) concerning possible fare formulae.

Without attempting to exhaust a list of topics which might receive some comment, in addition to the basic questions just mentioned, there may be some of you who would wish to express an opinion on such things as:

(a) Should first class fares be based on some fixed percentage (for example, 20% or 25% or so) above economy fares?

(b) Should there be a "tolerance" up or down (for example, in the range of 4% to 5%) from any "guideline figure," which might be established under a formula?

(c) Should the carriers be permitted further experimentation in regard to promotional fares—and in this connection, has the experimentation with these fares up to this date inclined the carriers toward a conclusion that such fares are serving their purpose?

After any comments by any of the other

Board Members present, the meeting will be open for any comments which the representatives of the various carriers may care to make. Without attempting to limit the time allotted for any one of you to make a statement, I know you will appreciate the fact that we have studied the written material which has been presented within the past several days; and, therefore, except to the degree you deem necessary to throw light on your verbal remarks, no need exists for you to restate the points included in such written material.

Any comments?

Mr. GILLILLAND. No comments.

Mr. ADAMS. No.

Chairman CROOKER. I don't know whether you gentlemen have discussed or considered the order in which you care to make comments. As I recall, Mr. Keck may have been the party making an original comment here six months ago but any order you wish is all right, or the carriers can make statements alphabetically, whatever you prefer.

In the absence of a suggestion from you among the trunkline carriers, let's start alphabetically. Mr. Spater?

Mr. SPATER. I won't try to phrase these thoughts very carefully. Just thoughts that come from the top of my head.

It seems to be fairly clear and fairly widespread agreement that the inequities that result from different charges for the same distance should be removed. Start out with that as a basic concept. Of course we have been toying with this idea for 15 or 20 years. We knew these inequities existed. There has never been the proper occasion to remove them. That is number one, inequities should be removed. I am speaking now of similar distances between similar points, putting aside for the moment the question as to whether different distances taper to different hubs.

The number 2 point is that the structure should be cost "oriented". I use "oriented" in quotation marks.

We all agree there is no exact way of costing. At some point you come along and use judgment factors as to what the cost should be. The structure, however, should be related to cost. The costs are not exact and even if they could be, still there must be consideration of pricing the product out of the market, value of service considerations, so that although cost orientation is a desirable objective these other elements must be considered.

I should think that the concept of having first class a fixed percentage of coach is a good one, something in the neighborhood of 120 or 125 percent, both of which have been suggested and seem to be about in the area of reasonableness. I think whether we say it or not—*I might as well say it—the fare level is too low.* Those of us who see the daily figures of revenues and see our climbing expenses realize that.

I think the time we do adjust the fare structure we must also attempt to make a more equitable determination of the fare level. They ought to be done at the same time.

Responding to one of your questions about the experimentation of promotional fares, *We feel there should be continuation of experimental promotional fares.* We are not sure we know exactly the right combination. We keep learning more about the travel habits of people. But there are opportunities I think to maximize revenues through the promotional fares and to improve income through such fares and as long as that opportunity exists we for one would like very much to have the right to experiment further with such fares.

Chairman CROOKER. Who is the spokesman for Braniff?

Mr. ACKER. Ed Acker. Without going into great detail or any debate we would *like to stand by our comments as contained in our letter to Mr. Keefer of July 17.* Specifically we do believe terminal costs vary and that terminal charges should vary accordingly.

We strongly favor that longhaul rates should decrease because of the fact that longhaul costs decrease with distance, so rates should decrease with distance.

We would also subscribe to the fixed relationship, percentage relationship, first class fares to coach and with respect to promotional fares we feel that is a quite complicated and deep subject and would not want to get into that right here today on our part.

Chairman CROOKER. Who is the spokesman for Continental?

Mr. DAVIS. Marvin Davis. We believe that there certainly are some inequities that exist in the fare structure and we think they ought to be corrected. We don't feel, however, that it should be done by a formula for a great number of reasons which were outlined in our letter and which need not be repeated here.

We think the coach fare is certainly the basic fare in the industry and it is the fare from which all others ought to be determined. We believe that there should be a fixed relationship between coach and the other classes of service offered. *We are inclined to believe that the proper level for first class is 125 percent of coach.*

Our fares on average are very nearly at that level now though we have some above and some under and we believe, however, that they should be all at the 125 percent level.

With regard to economy service it is now priced at 85 percent of coach and we believe that is the proper level and that is where it should remain.

Promotional fares have helped in the traffic growth that we have had in recent years. We think that this is an appropriate time to review them to see whether some of them should have the discounts changed. *We feel that promotional fares should be designed to appeal to new markets and that the reduction generally has to be substantial in order to get the new traffic generation that is necessary to offset whatever revenue dilution may be inherent in them?*

We think that after a promotional fare has been in use for some period of time that it should be reviewed to see whether it is continuing to generate additional traffic or whether that fare perhaps should be adjusted upwards and then the carrier should direct its attention to still some other segment of travel which it has not been able to penetrate with the fares which it is offering.

Those, I believe, are the comments that we have that can be made at this time, Mr. Chairman.

Chairman CROOKER. Who is the spokesman for Delta?

Mr. MILLER. Tom Miller. Mr. Chairman, *we circulated our views in a letter dated July 16 addressed to Mr. Keefer, with copies to all the carriers.* I believe it would be redundant for me to expand on those comments at this time. We would be glad to answer any questions or participate in any further exchange of views, however.

Thank you.

Chairman CROOKER. There may be some questions, I think, after this first round of comments.

Mr. Hall?

Mr. HALL. I am Mr. Hall of Eastern Air Lines. *We sent to you and to most of the people here a rather large document that sets forth our views not only on the structure but also on the rationale for developing it, so I would like to make just a couple of points that I don't think have been made prior to this that we believe are fundamental to this theory.*

We believe you can determine the unit cost of a terminal. whether it be a large hub, medium or so on.

We believe you also can in fact determine the line haul cost with some accuracy.

On the other hand, the cost that is related to shorthaul flights, *if made to bear its total cost, would become so steep in the table I think that you would in fact price yourself out of both ends of the market.* Therefore, we recommend that we use a cost related formula taking into account terminal costs and taking into account some longhaul—some line haul factors but which don't necessarily load all of the costs either at the very longhaul segments or at the very shorthaul segments, but rather spread them across that part of the travel where most people are likely to be involved.

We do believe that there should be a relationship between coach fares, the basic fare, and first class fares. In our proposal, you recall, we recommended first class at 125 percent of coach. We also believe that the promotional fares should be left open for experimentation because there are markets which necessarily lend themselves to elasticity through promotional fares but that promotional fares should be considered as a deviation from the basic fare structure for specific uses in specific markets and not be made a part of the basic fare formula.

I believe that covers all of our comments.

Chairman CROOKER. Who is the spokesman for National?

Mr. BROCK. Dan Brock. We at National welcome the opportunity to exchange views. We hadn't submitted written comments because we didn't interpret Mr. Keefer's letter as indicating that it should be done. *However, we would be happy to submit written comments at a later date? Have they?*

We have been studying the various proposals and formulas that have been submitted and we think the time to study these has been short when we consider we are faced with a major revision of a historic fare structure. However, there are some glaring problems as far as we are concerned with most of the formulas presented.

The danger of overpricing the shorthaul while reducing the longhaul is one which we see. We feel that we must and should continue to serve the shorthaul markets and don't feel we should discourage shorthaul business by overpricing it.

In this instance, if we examine some of the proposals, several of them tended to present an increase which ranges in this type of bracket for shorthaul markets. For example, the Norfolk-Washington under one of the formulas submitted by the staffs consideration ranged the fare as high as $42 roundtrip. This would be plus tax. An increase of $12.00 on a $30.00 roundtrip fare. This is for a distance of approximately 150 miles. We submit that in today's situation, with high speed highways, that we are discouraging travel of that distance when we begin to overprice it. The customer will certainly consider resorting to his automobile.

On the other hand, if we consider the value received for the product of longhaul, if we compare a transcontinental New York-Los Angeles or Miami-Los Angeles trip with the substitute ground transportation which under the best conditions is five days one way or ten days roundtrip, *then we submit there is quite a difference in value in the price of the longhaul in today's jet transportation field.*

As to a point made by I believe TWA, their trends tend to be more interline transfer passengers in longhaul markets. Definitely in National's case, we have more discount passengers in the longhaul markets than in the shorthaul markets.

We further think that there are many historical differences such as the size, density and type of market that make the formula as presented so far very difficult for some of the carriers.

While we would not argue against the need for some general relationship between cost and selling price, selling prices can't be set by the cost accountants alone. Set terminal costs vary by carrier by airport and can't be arrived at at the same figure for all carriers.

For example, in our case some of our smallest volume airports result in the very high enplanement cost per passenger. Therefore, the formulas as presented could not be considered by National without a great deal of adjustment and further study.

We would like to suggest that a committee under the ATA sponsorship be established to study in detail the fare structure and the various problems which are submitted. This we feel would take the pressure off the present situation and allow the committee to study in detail a major revision for a further fare structure.

Thank you, sir.

Chairman CROOKER. Mr. Leek, will you be making——

Mr. LEEK. Mr. Caluzzi will be our spokesman.

Mr. CALLUZZI. My name is Dan Caluzzi.

We have also submitted our views to the CAB in a letter of July 16. We endorse a formula approach as we indicated in our letter. We feel it should be cost-oriented.

We also feel strongly that there should be a provision made for differences in terminals via the technique of a varying terminal charge. *Contrary to what has been said here by most airlines we also believe there is considerable room for raising shorthaul fares.* We have had some experience in raising shorthaul fares and have some data which would indicate they are a lot more elastic than might be apparent and we would like to see some increase taper by the means of increasing shorthaul fares.

As far as first class fares are concerned we definitely support the idea they should be based on coach fares and we submit at *125 percent.*

In the discount fare area it has been our experience that there are some that exist now that we feel are not in the best interests of the airlines as well as the traveling public.

As Mr. Brock already indicated, in some of the markets we share with him we have a very high percentage of our total revenues coming via discount fares. In fact on an annual basis we get about 45 percent of our revenues from some type of discount fares and that excludes night coach fares, I might add. That compares with an industry average of 31 percent and during some of our peak summer months we get up as high as 66 percent of our total revenues from various types of discount fares, so we would like to address ourselves to some means perhaps of correcting some of the areas that will not appreciably affect the primary purpose of discount fares.

Everything else I believe is contained in our letter.

Thank you.

Chairman CROOKER. Mr. Wright.

Mr. WRIGHT. R. J. Wright. We have submitted a paper to the Board and to the other carriers which contains the proposal that we believe is called for. We are principally concerned with the number of fare inequities that exist and we need to adjust those upward and downward.

Formula C happens to be the approach which seems most appropriate to us. We believe in connection with that joint through-fares should be established.

In the area of promotional fares we believe there will be an increasing use of those fares and they do represent quite a dilution of revenue to the carriers.

We would adjust Discover America discount from 25 percent to 20 percent.

We would eliminate all holiday blackouts and we would eliminate the blackout from 12:01 Monday to 0600 Monday morning.

In connection with family plan we would reduce the first accompanying member discount from 25 to 20 percent and the other accompanying members from 33 percent to 50 percent.

That is fundamentally what is contained in our paper and I would be happy to answer questions, if you wish.

Chairman CROOKER. Who is the spokesman for TWA?

Mr. BRENNER. Melvin Brenner, TWA. We have submitted a letter dated July 8 setting forth our views. Basically the main thrust of our position is we do support the idea of cost orientation to the fare structure, but we believe it very important that this cost orientation consider all elements of the cost of truly handling the passenger.

We believe that much of the discussion thus far has tended to think largely in terms of the varying cost of flying a seat mile and has not given adequate weight to the many other factors which intervene between that cost and the ultimate cost of handling the passenger.

Among these elements, one which is most important, in our opinion, is the fact that as distance increases the density of traffic tends to decrease and hence the load factor that is feasibly obtainable goes down, so to that extent the obtainable *load factor being lower on the longhaul is one of the important offsets to the taper that exists on seat mile costs.*

There are other elements as well which affect the differences between the seat mile variation and the true cost of handling a passenger. Seasonality tends to be greater on longer haul, again increasing the cost of actually handling a passenger.

Interline prorating tends to be greater, thereby reducing the yield from whatever the published fare is.

As has been pointed out by others who have had this experience, discounts generally tend to be greater. The use of discounted fares tends to be greater on longhaul, thus again modifying what one would find by just looking at seat mile variation.

These then are some of the factors which we believe have not as yet been adequately considered.

There is already, we think it important to note, substantial taper in the fare structure, *particularly after the most recent adjustments of this last February, and as we pointed out in our letter as one example, the per mile fare on a route like New York-Boston right now is 61 percent higher than the per mile fare on New York-Los Angeles.*

Some of the proposals which have been presented would actually increase that relationship to more than double. Some of them to virtually two and a half times. We think this is moving too far in the direction of increased taper. Particularly unless and until all these other factors which I have described are taken into account in these considerations.

We therefore believe that it is important to work toward a cost-oriented formula, but we think that cost-oriented formula should be one that considers all of these factors and not just a few.

We think this will take a bit more time to be sure we have gotten them adequately considered. We do believe there is an urgent need for additional revenue at this time. We therefore did present in our letter one proposal which would get that while moving moderately in the direction of more taper but not as extremely as some of the proposals thus far presented. We believe we would support and favor a fixed relationship of first class to coach. *Our preference would be 120 percent or the current relationship if that is higher.*

We believe that promotional pricing has been beneficial.

We believe the nature of our market which does consist of many different kinds of passengers is best served by a flexible pricing policy which does permanent experimentation with promotional fares and we would support continued experimentation.

That is it, Mr. Chairman.

Chairman CROOKER. Who is the spokesman for United?

Mr. BEAMISH. Ed Beamish of United. I will elaborate on just a few of the points that were made in our letter of July 10 *circulated to the Board and to the industry.*

I will first elaborate on the difficulties and problems we are having with the varying terminal charge approach or hub city approach. A complication is involved in this but typically also administration of this and the pricing structure gives us some difficulty. That is, we find it difficult to conceive of passengers moving between small cities. As an example, a notable portion of these passengers move through non-hub areas and a notable portion of them connection at hub terminals.

If we are moving toward cost-orientation these really are higher cost passengers in the sense of the number of times they are handled and in the sense of what they do in the hub area. So we really have some question that there is real cost-orientation in moving toward the variable hub type situation.

Like another carrier earlier mentioned, we also attempted to do some correlation between the formulations that were in the staff paper that was circulated as against our facility planning numbers across our system and while this was not as detailed as we would ultimately make it and didn't go into as many factors as we would ultimately hope to do, the correlation we got was 1.7 which is to say there was no correlation between the hub charges that appeared in the staff formulas and the cost we actually are running into.

One other comment in the promotional fare area and also relative to the formulation.

United does favor the formulation approach in the industry. We have seen some argument advanced that formulated approach to industry pricing would decrease the opportunity for creativity and innovation in the marketplace and we don't see that this would be the case because we should still be in the position where promotional fare departures from the basic formulation can be justified to the CAB just as they have been in the past and used for innovation and creativity in pricing as variations from base structure.

We do favor continued experimentation with promotional fares. We do look upon promotional fares as representing a product line in a sense of the word and I think we would conclude in some cases that we perhaps have not paid enough attention to the product life cycle of some of these promotional fares, that they have become an ingrained part of the structure and simply are kept on repetitive basis without adequate reevaluation of whether that life cycle may have come to an end.

Finally, in the area of taper we do share as our letter indicated, concern about the degree of pricing out of the marketplace in the taper area. But I don't think we have seen adequate evidence at all that we have reached that point in the taper structure yet and what the reaction of the customer will be in moving up toward a better cost orientation in this area. We do note that the development of the third level carriers where I guess we might in many cases say utilization of the fares or small equipment in some cases appear to be showing a relatively heavy demand for some very high tapering fares and the convenience must be worth something to the consumer in these markets.

But to some degree here also the question of elasticity becomes moot if we are literally operating below cost. It is true that many of the carriers in the industry, and we are in this fortunate area, are in a posture *where we can self-subsidize through higher profit built in longer route distances against this.*

I think we must face the fact that not all carriers are in this posture and a below cost operation in our judgment in those circumstances can't make sense.

Chairman CROOKER. I hate to interrupt with a question, but let me see if I understood what you said when you gave a 1.7 factor. That is the factor you came up with as to what the costs were at the terminals compared to what the staff of the Board had suggested?

Mr. BEAMISH. No. As against the hub charges that were indicated in the staff formulation paper that came out, and I won't quote these from memory, but varying from $6 to $12 as I recall. The correlation that we did related to facility planning cost exclusive of manpower across the system.

I think there was another gentleman earlier who mentioned in many of our small cities relative to what is going on in the way of construction the cost of boarding a passenger is significantly higher than it is elsewhere.

In attempting to run a correlation along those lines we came up with .17 as I said earlier, no correlation.

Chairman CROOKER. Who is the spokesman for Western?

Mr. ROGERS. Jim Rogers of Western.

Mr. Chairman, we endorse the formula approach and a cost-oriented formula. We express some of the same reservations that have been expressed by other carriers that we cannot have a complete cost-oriented formula.

We are also concerned that the taper not be greatly increased without serious concern about the effect on possibly pricing ourselves out of the shorthaul markets. Insofar as the terminal cost factor is concerned, Western Air Lines favors a fixed cost factor. *We don't believe the variable cost factor is a practical, desirable one for several reasons I won't elaborate on here unless there are questions.*

Insofar as the line haul charge is concerned, we favor a variable approach to this. On the first class-coach fare relationship we prefer the relationship of 125 percent of coach. Insofar as the adherence to a formula is concerned, the tolerance, we feel there should be some reasonable latitude.

We think that promotional fares have been a good thing. We think they have done a great deal for the industry. We do question however whether or not they have been properly controlled and we are concerned with the abuses that are occurring with respect to promotional fares as opposed to the intent of the application. We think that further expansion of promotional fares should be permitted but we think the limits to such expansion should be limited by more concern about the practical application of these fares for the purpose intended.

Chairman CROOKER. Do you have any questions?

Mr. GILLILLAND. No.

Chairman CROOKER. Do you have any questions?

Mr. ADAMS. The Chairman said this was open season. I have one question which has constantly puzzled me and puzzles me yet. *That is, why the domestic carriers arrived at 125 percent of coach as being the appropriate spread to arrive at for first class whereas internationally 150 percent or thereabouts seems to be the figure that the international carriers—or each of those carriers domestically who also have international routes—considered the correct fare.* How do you justify the difference between 150, which I understand from IATA cost studies is just about what they need in order to get fully compensated, how do you justify the lesser figure for domestic if it does not fully compensate for costs?

I won't ask every carrier to answer that question, or any carrier if no one wants to, but this puzzles me.

Mr. WRIGHT. I might respond to that.

With regard to attempts we made in the Pacific to get the first class fare down, we don't think there is any justification for the first class fare level in the Pacific. It is much too high in relation to economy fare. But we run into difficulty with some of the foreign carriers particularly who choose to have a small first class compartment and don't want to lower the fare.

Mr. ADAMS. You said you think it is too high in relation to the economy fares. My question goes: Is it too high in relation to cost of supplying the service, Mr. Wright?

Mr. WRIGHT. I think perhaps it may follow. I don't know that I am qualified to answer that, but I was addressing myself more to the relationship.

Mr. ADAMS. I think this is a crucial question.

I understand there have been IATA cost studies which would seem to justify the spread. *Mr. Roth knows more about this than I. We talked about this on more than one occasion. He might want to correct me. I think there have been studies that suggest that spread is more correct than the one we have domestically.*

Mr. ROTH. My recollection is that the last IATA cost report showed a spread of something like 75 percent or in that general order of magnitude, first class costs being above economy class services, generally speaking.

Mr. ADAMS. So that the 150 would be on the low level of parity instead of high.

Mr. ROTH. That is my recollection.

Mr. ADAMS. If that is correct, at least this is an assumption, why isn't the effort made to raise first class fares if one of the things the air carriers are interested in is increasing their revenues, maximizing their revenues and reducing costs?

Mr. SPATER. I would like to take that question, if I may.

I think we accept as gospel these cost figures. They are not. We know these cost figures are the result of allocations and the carriers should be interested and the Board should be interested in the carrier maximizing revenue, getting greatest revenue it can on a flight in relation to its cost, having a maximum earning power on that flight. If you have a choice between carrying a passenger in a coach configuration and getting $100 and carrying him in first class and getting $125, it would be better to do that and say my cost is $50 and I won't carry him. The differential cost, the cost of an additional meal, is not any more than the 25 percent. The only reason the cost computations come out higher is the allocation of space. It isn't the precise art.

The other point is that one of the difficulties is we have not had sufficient opportunity to experiment with fares on the high side. I would like to adopt the comments made by several gentlemen who succeeded me in discussing the proposal, that I think there is an area for further attempt at say this is the problem of allocation exactly, shorthaul versus longhaul, and I think if we knew more about what would happen when we raised the fares we could tell you whether having it 130 percent would or would not price us out of the market.

If we knew more about what would happen on the New York-Washington fare when you raised it $5.00 instead of $2.00 we would be in a better position. But we don't know very much about what happens on the high side.

I think we should be granted more opportunities to experiment with high fares and if we then price ourselves out of the market we can cut back.

You may remember I made a talk of this subject where I urged the powers that be to give us more right to experiment here. *This pricing out of the market is largely a hypothetical thing.*

I can't remember a case in the shorthaul area that we ever did that. We worried about it but we will never find out until we try it as to what the point is where we price ourselves out of the market.

Mr. BRENNER. I think Mr. Spater said much of what I was about to say. I think this does get down to the balancing of the value of service as measured by the consumer himself and what he is willing to pay. Of course I think what the industry has been going through is in fact a form of experimentation. The fare adjustments of this past February did increase the spread between first class and coach by $10 on the transcontinental length. If this now goes to 120 percent that would increase it further. One hundred twenty-five percent would increase it still further.

So this I think is evidence of the desire of the industry to experiment with this, trying to balance once again the cost of service and value of service as measured in the marketplace.

Chairman CROOKER. Any other comments?

Do you care to comment on what other airline representatives have said after you spoke?

Mr. Roth, any questions or comments that you might have?

Mr. ROTH. I think one carrier, I believe Northwest, mentioned something about paying attention to joint fares. I thought you might make reference to a paragraph in the Board tariff suspension order of May in which the Board urged that there were some unintended duplicate increases in the through-fares where through-fares or joint fares weren't published and the Board considered it desirable that when we improve the fare structure there be attention paid to joint fares as well as the individual fares.

Chairman CROOKER. Yes, and I think Mohawk, for example may have worked on a revised joint fare and routing tariff modification that would address itself to some of these questions. This may be a matter which the staff will be in touch with the carriers on in the near future.

Mr. CORBER. Robert J. Corber for Frontier Airlines.

I am here as an observer primarily. I don't know whether you wish to hear from a local service carrier.

Chairman CROOKER. Please go ahead.

Mr. CORBER. We had one problem which was related primarily to these small low density points and the shorthaul, particularly as the formula is applied with respect to the terminal elements.

The study presented here uses a terminal element formula with the cost item decreasing—rather the fare item decreasing from the large hub down to the no-hub classification *Frontier's experience of cost is just the reverse of that situation and has found that its greatest costs are incurred at the no-hub classification, at the other end of the order.* As a matter of fact, the costs are something of this magnitude, about, on a simple average per passenger basis, *$8.27*, and the no-hub classification *and the costs decreasing as it goes up* to the large hub to *$4.14*. So we have something of a problem with the terminal elements as presently set forth in the study and would urge some further review of that, particularly as it might apply to these low density shorthaul operations.

Chairman CROOKER. Are any of the other local service carriers represented?

Mr. HILL. Mr. Hill of Air West. Many of our particular expressions have already been endorsed in comments of some of the trunk carriers, but to summarize those which we are vitally concerned with is the very high taper of any one of the formulas which we have reviewed could not be overapplied to any of our shorthaul segments without pricing ourselves out of the market.

Number two, insofar as the terminal charge is concerned, the varying terminal charges as has been expressed here, also

would be somewhat impossible to apply over the years because of the changing conditions of a small to a medium or medium to a large hub.

One of the carriers also expressed another thought of ours, that in pricing a fare from a non-hub to a non-hub as an example, we may well have to carry this traffic for this market through a major hub.

Now this is not considered in these formulas and for this reason, why, if in fact any formula is adopted, our strong contention would be that such terminal charge should be a standard.

Now we must be, as a local service carrier, very vitally concerned with the shorthaul market and not allow ourselves to be strapped with a taper which is too high to provide a marketable fare as we are now being crowded by the third level carriers and we feel the February fare adjustments as they apply to our system have been adequate as has been indicated and expressed previously by others.

Mr. CALDWELL. Bill Caldwell, Mohawk Airlines.

We would like to associate ourselves generally with the comments made by Mr. Hall of Eastern. *Unlike Northeast we have seen what we believe to be some indication of pricing ourselves out of the markets after the last February fare* increase in certain of our markets which have associated with them very superb ground transportation. This is not a generalized statement of Mohawk, but it does apply to certain selected markets.

We believe the period since February is too short to make a definitive finding on this, but there are some indications. We believe there should be because of the variation in value of service we are offering, vis-a-vis service, there has to be some type of tolerance in any formula approach adopted.

We are quite concerned that we don't price ourselves out of the market since unlike the trunk carriers we don't have the ability to currently cross subsidize.

We have recommended to the Board, we have a petition on file with you for increased publication of joint fares which we feel very strongly about. We have advised you of our concern about making the tariff a living item, a living document and eliminate fixed routing and we have a special tariff provision on file with the Board.

We believe when we look at the structure that we can't merely look at point-to-point fares. That we should look at the whole tariff.

Chairman CROOKER. Thank you. Any other comments?

Mr. VESPER. Vesper of North Central.

We favor the formula approach, but we are concerned about pricing ourselves out of the shorthaul market in comparing the formulas that have been presented to date.

We also favor a fixed terminal charge and a variable line haul rate.

Chairman CROOKER. Yes, sir?

Mr. SHEER. Robert Sheer of Texas International. I regret we failed to file a statement, Mr. Chairman, with the Board, and we will file one, if permitted, after the meeting giving these following observations: We subscribe to a formula approach to fare structure.

We believe that the two-part terminal charge and line haul charge is a relatively good approach to this. We question some facets of a formula as devised, particularly the different terminal rates for different sizes of stations.

We believe that this is not necessarily uniform throughout even trunkline carriers and certainly not between trunkline and local service carriers.

We think that a standard fare or a standard terminal charge would prevent the creation of different fares for different distances in the same geographic area which presently causes us problems inasmuch as they show up on our timetables and people do know mileages and make comparisons, and they have large questions about why they end up paying more per mile between A and B than X and Y, while the distances are not materially different.

Another thing that we observe is that the '67 trunkline O&D as shown in Eastern's document indicates that the largest block of travelers were in the zero to 300 mile segment, 26 percent of the total passengers.

We think this is a logical breaking point for any line haul charge and that another one probably should occur between 300 to 500 miles.

We think lumping from zero to 499, or as Eastern recommended, from zero to 400 is too large a block and that a scale for the line haul charge ought to be applied in two segments in that area of cost.

We are concerned about bringing ourselves out of the shorthaul market only insofar as local traffic is concerned. The interstate freeways are taking traffic from us.

Part of it is induced by price consciousness. It will grow if we continue to increase shorthaul fares and we may well end up down the road carrying only connecting traffic in markets that are under 150 or perhaps 100 miles, so that we are faced with a weakening of the shorthaul base by driving the purely local traffic away with the high prices.

There were two statements filed, and if I may quote a sentence from each:

In Eastern's document they state if the general public is to continue to have effective voting choice in shorthaul markets and not be deprived of the time advantage of air travel and the benefits of single mode through service, some means must be found to make up revenue deficiencies which *result from pricing shorthaul air travel at less than the full economic cost.*

And at another point they state the high value of service of long distance jet travel and the decreasing cost per mile provided by jet efficiency allow a portion of the revenue deficiencies *incurred in short-haul markets to be underwritten by long-haul travel.*

Now, we hear the term here today of self-subsidization in terms of trunklines operating some short-haul markets, but we are without any answer in this industry yet today on how interline subsidization of short-haul can be worked out.

The present rate prorate between carriers is most inadequate, and if we are going into a fare structure we think that this has to be looked at because we can't effectively maintain short-haul service feeding to the long haul and raise the prices sufficiently to compensate ourselves.

We must get a better break of the inter line action. This is something I wanted to say because of the *eminent audience which you have here today.*

Chairman CROOKER. Thank you, sir.

Mr. COURTENAY. Ken Courtenay from Southern Airways. We, too, are concerned about the locals pricing themselves out of the shorter haul markets.

It is something we feel needs to have some further study. We are in favor of a formula approach. We don't feel it should be inflexibly applied, however.

Mr. WHITMORE. Bob Whitmore, Allegheny. We didn't supply any comment or letter. Allegheny pretty much agrees with what has just been said by the prior local carriers. We support a formula approach.

However, we are very much concerned about the flexibility that one loses in a formula approach. Like Mohawk, we think we have seen some effects of elasticity in the February fare increases. We are not sure. We are reluctant to support at this time any major change that *would just arbitrarily change fares in a market that is not considered a demand in that market but is strictly related to cost.*

We also would encourage the evaluation of the joint fare structure at the same time the formula approach is evaluated.

Thank you.

Mr. SHELLY. Al Shelly, Piedmont Airlines. We would favor a formula approach on the principle that Eastern proposes. In our particular instance we have 97 percent of our markets being non-hub markets where we are taking from one non-hub through the large hub to another non-hub. Although we are not concerned with the pricing out of the market it is getting the taper to a point that could in the future do this thing.

We would like to believe that with more flexibility in the promotional fares that even with a higher taper we could offset some of the loss of business in these real short areas, but we would support an approach similar to Eastern's.

Mr. DAVIS. Davis. With respect to the question raised by Mr. Adams having to do with the first class-coach relationship, it appears to us that the experience that the carriers have had since the advent of jet service is a reasonably good indication that first class fares are priced today just about as high as they will go.

You will all recall that at the time the jets were first put into operation we had a reasonably even split between first class and coach traffic, and since the quality of the two services is so nearly the same and the time certainly is always the same in all cases today where they travel on the same airplane, we now are in a position where we are carrying maybe 20 percent of our total traffic in first class.

We believe as I indicated earlier that first class should bear a uniform relationship, and in order to get that uniform relationship Continental proposes to file very shortly to increase those fares that are not at that level and reduce those that are, so that they all are at 25 percent.

And we think we can produce a modest amount of additional revenue by increasing the first class fares in that fashion. Again, with regard to the short haul increases, for markets of generally under 450 miles, the February increases produced raises in the fares of roughly 10 percent. Most of the formulas that we have looked at have produced another 10 percent increase in those short haul markets on an average.

In the case where you might have a particularly low fare, a fare that is considerably below the norm, and we have some, we find that our fares would be increased by as much as 25 percent adopting certain of the formulas which have been proposed today.

That is, 25 percent on top of the last 10 that was given in February, and we think that is too much. Now, perhaps those fares should come up and get closer to the norm. Maybe they are elastic enough that they can be raised to that level, but we don't believe it can be done in that short a period of time. And that is one of the reasons why we are opposed to the sharp increases in taper that most of these formulas would result in at this time.

Chairman CROOKER. Any other comments?

Gentlemen, it would be impossible really to summarize what has been said with respect to a formula approach at all. Continental is cool to a formula approach, as I understand it.

National expresses some grave doubts about a formula approach.

TWA in the writing that it submitted, expressed some doubts about it, if I interpret those comments correctly, though today TWA has suggested that a cost oriented or cost related formula approach might be desirable.

The locals generally support some formula approach.

Northwest comments related to a particular one of the six formulas included in the May 29 letter.

All of you stress, of course, the difficulty with a precise accounting approach to cost-

ing. And many of you have urged some tolerance from a norm, be it the norm we have heretofore dealt with, a historical norm, or a norm brought about by some formula approach.

Many of you commented on the matter of value of the service, where transportation of a passenger from New York to California gives him more value per mile than transportation of a passenger from New York to Philadelphia where he has some reasonable alternatives for fairly speedy travel.

I take it that on the hub charges, the majority probably favors a difference between the add-on to the line haul figure at large cities different from what it would be at non-hubs.

As far as taper is concerned, Western commented that taper about as is would seem indicated. And United expressed a question on the matter of taper.

As far as the percentage of coach fare or a first class fare, Continental, Eastern, Northeast, Western, all mentioned the 125 percent figure. TWA mentioned the 120 figure.

But there seemed to be general consensus that this should be the range. *I lean to the view that it is very difficult for Mr. Roth or any of us to come to a precise figure that first class fares should be even on a strictly cost oriented basis because how do you allocate the space used by one passenger?*

Is it the portion of the cabin space, or do you allocate to him also the space in the wings and in the cockpit and the luggage compartment and so on? *So, a good argument could be made, I think, for 125 percent relationship or 175 relationship.*

If someone would care to comment on how you have understood the general expressions here in addition to this very brief and certainly not exhaustive summary, I would be pleased to have any further observations that the Board members or anyone else might offer. It seems to me that you have in your written material *and in these comments on each other's proposals and further comments on your own and the comments we received from the local service carriers, given the Board much food for thought.*

I assure you that our consideration of this matter is one of the things uppermost in our minds, and we will be giving very detailed consideration to all these things in the immediate future.

Unless someone has a suggestion to the contrary, I don't know that fixing at this moment a date for all of us to reconvene would be in our best interests, but I would be glad to have any comments any of you might care to make on that.

Mr. BROCK. *I think that some of us have not had the opportunity to examine in detail the suggestion of all the carriers and some of the carriers have not submitted it, so we certainly would like enough time to digest these.*

In our particular case we would like to submit our written comments. *So there might be some value in a meeting at a later date?* We might get an expression from other people.

Chairman CROOKER. If any of the trunkline carriers who didn't submit written comments and any of the local service carriers who probably hadn't been directly invited to do so care to submit written comments, *may we assume you will do so within two weeks from today, inasmuch as this matter should not be delayed unduly.*

And when those comments are in, again we will probably be in touch with the people representing the companies you are representing here today.

Mr. SPATER?

Mr. SPATER. I just wondered whether it wouldn't be valuable to have a fixed date, whether four or five weeks off. It is easier for us to arrange our calendars to do that.

Also, I think if there is some kind of date we are working against, it is more likely the matter will move along.

All of us feel, I am sure, this is a matter of great importance to us and a schedule of this type I think would be helpful in an ultimate resolution of what we regard as a very serious problem in the industry.

Mr. HALL. I would endorse that.

Mr. ACKER. We would too, Mr. Chairman.

Chairman CROOKER. Let me suggest one thing, then. Customarily the Board members who are in town eat lunch together on Wednesday. It might be a little easier for us to check our own schedules at our luncheon tomorrow and the two members who are out of town can be contacted. And we will do our best to fix some further time when exchange of views might be had.

With respect to any statement, I would assume that we would say merely that in response to the May 29 letter a number of the certified carriers, the scheduled carriers, submitted responses. Some didn't and are being accorded a further period of two weeks within which to submit their responses or comments on suggestions made by other carriers after which it is probable that the discussions will be continued.

Of course, any such statement will probably reflect that a full transcript has been made and will be filed in the docket in this matter.

Yes, sir.

Mr. HILL. In connection with comments, Mr. Chairman, will those comments also include the honoring of any other additional formula or embellishment of a formula?

Chairman CROOKER. If any one of you has a formula, let me suggest—Mr. Hall, for example, had a formula. I can't quote precisely, but the first breaking point was 400 miles instead of 500 miles. Second was 1,100 miles instead of a thousand miles. The line haul charge instead of starting somewhere in the range of 5.6 or 5.8 started at 6.7 as I recall and then dropped rather sharply.

In the second category to somewhere in the range of 5.9—I could be off a fraction of a cent there. I think essentially I am talking about your formula there.

Mr. HALL. Goes down to 5.0 after 1800 miles.

Chairman CROOKER. That is in the fourth block of mileages, I believe. There has been expressed from time to time, by the gentleman from Air West, Mr. Hill, that possibly, even though there be a taper, that the differentiation in the line haul charge in four or five blocks be on a declining basis and that maybe the spread between the line haul charge in mileage block one and mileage block two might be as much as a half cent per mile.

But the second differentiation might be 4/10ths of a cent per mile. And the third 3/10ths of a cent and so on, so that your deceleration of taper still provides a taper, but you get about the same amount for transporting a passenger in the 2700 mile range as you did in the 2300, if I make my point clear.

If anybody would care to comment on that sort of approach or any other approach, certainly we want all the light we can get.

Mr. ROTH. Anything further?

Mr. HALL. No.

Chairman CROOKER. Mr. Gillilland?

Mr. GILLILLAND. No.

Chairman CROOKER. Mr. Adams?

Mr. ADAMS. No.

Chairman CROOKER. Any comments on the general nature of the statement which we probably will release in the morning then as outlined very roughly here?

(No response.)

Thank you so much, gentlemen.

(Whereupon, at 4:10 p.m., the conference was concluded.)

Upon discovering that another meeting was to be held on August 14, I requested by phone, information as to whether or not permission could be obtained to attend the meeting. The response, although dated August 14, was read to me on August 13. It and my answer, along with the transcript of the meeting, I now insert into the RECORD.

AUGUST 13, 1969.

JOHN H. CROOKER, Jr.,
Chairman, Civil Aeronautics Board,
Washington, D.C.

DEAR MR. CHAIRMAN: My request to the Executive Director this afternoon was whether or not *any person,* other than the carriers and the Board, would be permitted to attend the meeting. I personally made the inquiry because I want to underscore the fact of the interest of my office in determining whether or not it would be permitted to observe or participate in the meeting.

Your concluding paragraph, "The meeting will not be open to the public, but the Board intends to make the transcript available publicly immediately upon its receipt, quite clearly classifies the request of a Member of the Congress as being in the same category as a request from the public.

While I appreciate the availability of the transcript, I point out that the privilege of the carriers in being able to comment upon each others observations gives them a distinct advantage over the public or the public's Representatives in preparing for any future action based on the discussions which were held. At the writing of this letter, Mr. Chairman, I have not had an opportunity of viewing the transcript, and as I leave for California tomorrow, I probably will not have an opportunity to view the transcript for several days, but I am confident it will be in keeping with the previous meetings of the Board and the industry—the one in January where a transcript was not kept, and the July 22 meeting where one was kept because of the insistence of this office. Also, the transcript itself was not delivered to this office until two weeks after the meeting had been held.

I continue to regard the Boards actions as bordering on contempt of the public interest, and I shall, within a few days, write you further on this issue.

Sincerely,

JOHN E. MOSS,
Member of Congress.

CIVIL AERONAUTICS BOARD,
Washington, D.C., August 14, 1969.

HON. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: In accordance with your request to the Executive Director on the afternoon of August 13, this is to advise that the meeting the Board has scheduled for 10:00 a.m. on August 14, 1969, is a meeting with the scheduled domestic passenger air carriers operating within the 48 states and is a continuation of a similiar meeting between the Board and such carriers on July 22. Your office has previously been furnished a copy of the transcript of the July 22nd meeting and we shall furnish you with a copy of the August 14th meeting immediately after the transcript is available. As in the case of the prior meeting, the August 14th meeting is intended to discuss matters of the domestic fare structure and fare formulas rather than the fare level.

The meeting will not be open to the public, but the Board intends to make the transcript available publicly immediately upon its receipt.

Sincerely,

JOHN H. CROOKER, Jr.,
Chairman.

[Civil Aeronautics Board, Washington, D.C.]

CONFERENCE: DOMESTIC CARRIERS

WASHINGTON, D.C.,
August 14, 1969.

The conference in the above-entitled matter was convened, pursuant to notice, at 10 a.m.

Before:

Honorable John H. Crooker, Jr., Chairman.

Honorable Robert T. Murphy, Vice Chairman.
Honorable G. Joseph Minetti, Member.
Honorable Whitney Gillilland, Member.

PROCEEDINGS

Chairman CROOKER. The transcript will reflect that this is a continuation of a meeting first convened on Tuesday, July 22 and recessed that day to provide an additional opportunity for comments by carriers and for study by the Board on the matter of passenger fare structure.

I stress the matter of passenger fare structure, because that is what the July 22 meeting involved, and what this meeting involves rather than fare level.

Some comments were received from carriers since July 22 that had not theretofore been furnished to the Board and in the interim since July 22 a very major development in connection with passenger fares has occurred. This involves filings by United on or about August 1, by Eastern on or about August 7, Continental on or about August 11, and I think subsequently by two other trunk line carriers.

As you know, upon the filing of any tariff, the Board has its statutory responsibilities to perform. Under the law, a time is provided for the filing of complaints and thereafter the Board may, if it wishes, provide some opportunity for briefs, oral argument and so on.

Before getting into those matters, however, if there are any matters that were not covered by any of you gentlemen at the July 22nd meeting, we again invite any comments, not in repetition of what was said three weeks ago, but by way of new points if you care to do so in regard to fare structure.

Mr. WRIGHT. Mr. Chairman, this may not be the appropriate time, but we have been concerned since the July 22nd meeting and prior to that with the fact that the carriers, we seem to be focusing too much attention on the normal fares, without giving adequate consideration to the promotional fares.

The reason for our concern is we have no doubt that in 1970, 50 percent of our traffic will move at the promotional fare levels. That means that if we adjust the normal fares, without adequate attention to promotional fares, we have only done half the job and we may have to come back here again on the same subject.

Therefore the reason for bringing it up at this time I would hope that the carriers in their comments today will focus some attention on the matter of promotional fares, so that we can perhaps correct that problem at the same time we adjust the normal fares.

For example, youth fare could be adjusted from 50 to 60 percent in our view. And the other promotional fares in like manner

I would just like at the outset to draw attention to our concern about that matter.

Chairman CROOKER. Any other comments?

Mr. ROGERS. Mr. Chairman, Jim Rogers, Western.

We believe the Board is generally aware of this problem, has been in the past, but we would like to reemphasize that the carriers operating within California that the various estimates of the effect of the filings to date does not take the intra-California problem into account. Of the three filings that have been made to date, the three major filings, the impact upon taking California out of the estimates, the effect of this is to decrease the impact by an amount ranging from 12 to 18 percent, depending on the particular formula.

We don't think it is realistic to expect that there is going to be any quick action by the California Commission on any fare structure changes which may be made in view of the fact that they have just recently done the same thing.

Mr. CALUSSY. Dan Calussy, Northeast.

Like Mr. Wright from Northwest we would like to have the opportunity to bring up matters other than structure if it is acceptable. Namely, discount fares and related matters.

Chairman CROOKER. *Well, I don't know that we are in a position to have any discussion of what the discounts should be.*

Do I understand you are merely addressing yourself to the general principle that rather than merely looking to restructuring or revising the level of first class and economy fares you are suggesting that a careful look be taken at discounts and the general matters of discounts offered in connection with various promotional fares? Is your point the same as Mr. Wright's, that the Board and the industry ought to look at this point also?

Mr. CALUSSY. Yes, sir. We feel they are two different matters. But *it might be fruitful to open this area up for discussion, not for action, but simply to get an expression of views of how the carriers feel about this subject.*

Chairman CROOKER. *Let me ask you this question, because we are not talking here about fare level: In any of the recent filings has there been any suggestions in these filings that some of the discount fares be tightened up?*

Mr. CALUSSY. *I think American Airlines covered one area. And Northeast have previously made filings on July 18* that deal with this subject in some detail that we have since withdrawn.

None of the current filings, except for American's I believe, address themselves to this.

Mr. WRIGHT. Mr. Chairman, that is precisely the point I wanted to emphasize. *We are concerned that filings to date have not really focused on this problem. And to the extent they do not focus on it, we are only doing half the job.*

The increase in utilization of the promotional fares, whether it be reserved fare or standby, is really quite considerable. In our case they have just about tripled since 1966. If we adjust the normal fares without doing anything with the family plan and Discover America and the youth fare, that could only cause a greater conversion to these fares. We have no doubt that we would take care of only a part of the problem.

We do not address ourselves necessarily to fare level, but the relationship. We think the value of service involved in the youth standby fare today certainly calls for a 10 percent adjustment, for example. And Discover America and family plan would follow in a proper relationship.

American has, in their feeling, addressed themselves to this subject.

Chairman CROOKER. Mr. Calussy, I am not *trying to cut off anything you might want to say,* but *I think that the very general approach Mr. Wright has taken points the Board's attention to this matter and we are not talking about the level,* we are not here engaged in a discussion about whether a particular thing ought to be 50 percent or 60 percent. And I believe maybe the point has been adequately covered, that this topic should be examined along with a study of the level of normal economy fares and first class fares.

If it hasn't been adequately covered in your judgment, then address yourself to anything you want other than what the level of the discount ought to be. If it has been adequately covered, we will assume the transcript will so reflect.

Mr. CALUSSY. I think the point has been made, Mr. Chairman.

Mr. FITZGERALD. Mr. Chairman, Dick Fitzgerald, Frontier.

We have been reading the various submissions with great interest in this matter and are in sympathy with the idea of establishing a more uniform fare system. We do find, however, we have some serious problems with the various proposals.

The idea that everybody should pay the same amount of money for a mile of transportation has a great deal of logic, but we find it creates certain problems.

First of all, this break problem. For example. it costs us approximately $12 a mile to run a jet to Grand Junction, Colorado from Denver, 200 miles, and it costs us $7.77 to run that same jet to St. Louis, which is 780 miles because of the speed-distance relationship. We don't believe that that has been given proper attention in most of these filings.

A second and more basic problem is that a factor which affects our ability to provide various service levels, when you get into lower density markets, is the density of the traffic on the route itself. We can afford to charge a lower fare in a large market where we have high density than we can in certain low density markets where there just isn't that much traffic. We have, for instance, high fares to Bismarck and Minot, North Dakota from Denver and we run jets on that route and we make money on it. But if we have to establish the same fare levels on those routes as American has on a comparable route east-west, which has 10 times as much density, it is doubtful we could continue the jet service. This is this north-south-east-west problem.

The reason in my view that the north-south fares are somewhat higher is that generally over the years the north-south density has been much lower. And this density factor has been pretty much ignored, as far as I can see. This is a problem that bothers us because in many cases we are going to have to reduce our fares in low density markets if these formulas were adopted.

I don't have any answer to that, I just raise the point.

Chairman CROOKER. *Well, ignoring for a moment the matter of whether you would reduce or increase your fares because that I guess gets to the number of dollars involved, I take it your two points are, number one, for greater distances on any cost orientation it would represent a charge to the passenger of less per mile if he is going 600 or 700 miles than if he is going 200 miles.*

Mr. FITZGERALD. My point is, Mr. Chairman, that most of these proposed formulas do not recognize the extraordinary additional increased cost of running a very short segment.

Chairman CROOKER. Well, they all recognize some increase.

Mr. FITZGERALD. Not nearly enough.

Chairman CROOKER. They are not full cost allocation formulation.

I don't think any filings we have seen represents any attempt to fully allocate costs to each market and price the fares on the basis of a full allocation of cost.

Mr. FITZGERALD. Well, most of them, Mr. Chairman, break the mileage at 500 miles and the cost of operating 500 miles compared to 100 or 200 is a tremendous difference in just the direct operating expense, let alone the station expense. That is my point.

Chairman CROOKER. Mr. Wiser.

Mr. WISER. Mr. Chairman, the last time I was in this room you gentlemen will recall we discussed an approach which recognized the problem of density and cost among other things and I think we admitted at that point in time that although conceptually this was sound, that factually there was a lot of work to be done before it could become precise.

We still feel, and I think the conversation here illustrates that this is an approach that you and the other members recognize is necessary and we have not relented from that position. However—that also incidentally would relate to the establishment of discount percentages, levels, because until you know what your actual costs are, you really don't know whether the discount is in fact profitable or unprofitable.

It seems to me we are in a situation which unfortunately is becoming more critical by the moment, where it is necessary to do something and in our view, in our letters to the Board, we have relinquished our position which is a great theoretical and academic one at the moment, in recognition of the fact that we have to do something.

It seems to me that what we are talking about today is what can we do to keep ourselves alive until we can do the right thing, which I believe everybody recognizes is desirable.

I submit we are not going to resolve some of the issues Mr. Fitzgerald has discussed in time to do the proper precise thing, because this has been going on for some time.

I would also submit that the question of discount fares is academic until some level of fares is established, because there has to be a relationship to the absolute level on a percentage basis before one can establish that in fact this business is profitable or unprofitable.

Mr. MURPHY. I think that underscores the difficulty that I have had from the very beginning with the concept of accepting a mathematical formula as a standard by which to make a fair on fares. I haven't advocated necessarily the formulation of such a mathematical formula.

It would be nice if we could have one, it would be nice if we could have a formula for happiness, you know, I am not opposed to reaching for the stars. But I think what you have said pretty much bespeaks my own judgment at this point.

Of course, it is very difficult to discuss structure without getting into fare levels which we must avoid here. But it is true you can't perhaps have a meaningful concept of discounts until you know what basic fares we are talking about. But Mr. Fitzgerald's comments I think again underscore the question of costs and costs as you find them within your system, because systems differ, regions differ, densities and traffic flows and so forth differ.

I am willing to keep this dialogue going, in an effort to find perhaps a more scientific way of making fair judgments, but I find it difficult to abandon the concept of a transportation system and to think in terms of mileage blocks. Bearing in mind that your long-haul service must produce enough revenue to take care of the service that you are required to render in the short-haul markets. In other words, a true allocation of costs, assuming that cost allocation was a science, which it is not, assuming it were, you would price yourself out of the market. That is obvious right now I think in some of these markets.

The gentleman from Western referred to the problem they had with the intra-California markets. But there you have a carrier that has fixed a fare level that is operating at a profit, presumably, PSA, and yet its cost characteristics probably differ from most other scheduled airlines represented by the gentlemen sitting in this room.

But some might say, "Let us use that carrier's costs as the yardstick." Yet that would produce gross inequities on a system concept. But these are problems that I haven't resolved in my mind, I don't think we have reached the point in my judgment in our studies to find the magic formula when you say you are confronted, as many of you are, with certain practical problems at the moment.

But I wonder, has that moved you or others to more or less come to the conclusion that you must accept the formula concept in order to proceed on tariff filings?

Mr. WISER. I think that our position, speaking for TWA, is that we have to accept the thing that appears to satisfy the equity situation of the carriers and also satisfies the requirement that it would be equitable between carriers. And this is why we have supported the Eastern proposal as an example, although there are many things we could quarrel about in the concept from a practical standpoint, this is why the proposals we have seen we would accept. It is just a recognition of what you can do at this time practically.

I think the other thing I would say although you can't discuss levels specifically, one of the things I believe we all have been quite aware of is the problem that you mentioned and that is that there is some elasticity in this market. And if we go too far in certain areas, we will do more damage than good.

I think most of the proposals I have seen have paid considerable heed to that practical problem, which makes any formula—

Mr. MURPHY. How do you grind value of service into a formula? This is something I haven't been able to figure out. And you have, the longer the haul, the greater the value of the service, the lower the cost. But if you have a truly cost-oriented formula, aren't you accentuating just one element of rate making? And ignoring other elements of rate making, value of service being one. Competitive problems, marketing problems, another element.

Mr. WISER. Yes.

Mr. MURPHY. But how are we going to have a formula that ignores these other elements and it is going to do justice to the public as well as to the carriers?

Mr. CRILLY. Bill Crilly, Eastern.

Speaking to that point, in our proposal we have attempted to recognize value of service in spreading what might be the deficit of the short-haul operation. Some of proposals we have seen kind of take it all out on the extremely long-haul carrier, where you have a relatively thin market flow, compared to some of the intermediate markets where you have heavy competitive flows.

So our formula attempts to balance the equities, recognizing that is a very theoretical concept, but not take it all out on the long-haul carriers.

Mr. WISER. And a restriction really on the short haul.

Mr. ACKER. I think that is borne out by the fact that both the longest haul carriers, TWA, and the shorter haul carriers, Braniff and Eastern, supports the same formula approach. But the thing that brings us here primarily today is the fact that we are faced with a galloping inflation problem. I think it is well illustrated by the settlement over the weekends of Pan American's dispute with the Teamsters Union.

This is very significant to us, as we are involved in the same group of personnel and the same union with a contract that become open on August 1. So we have paid quite a bit of attention to that settlement.

For those who have not reviewed it completely, it calls for a 10 percent increase effective in April and a 9 percent increase effective next March. Seven percent on top of that August 7, it is compounded to a 27.2 increase.

Take that and apply it to the 4,400 people Braniff has under this contract, take into account extra holidays, pensions, dental insurance, and these things, add them in, we find that just the settlement with that one group of personnel amounts to more than the fare increase that is proposed by American. It would amount to more of a percentage increase in our cost than the cost related increase that American includes as its total operating cost. Couple this with things like fuel increases in the magnitude of 10 percent from one of our suppliers, which although they don't supply all of our fuel, amounts to a 7¼ percent increase. Other inflationary increases to employee groups, and we find we are talking about increases in cost from 12 to 15 percent on a current basis that we have no control over. This is our difficulty today.

Chairman CROOKER. Mr. Acker, without trying to have anyone on the side of government here, arbitrary or capricious, I would personally consider the last comments are irrelevant.

Mr. GILLILLAND. I think that is right.

Chairman CROOKER. I am not suggesting we strike them from the record, but let the record reflect there is a thought on the Board's part that the last comments are irrelevant and immaterial to any issue before us today.

Any other comments?

Mr. DOLANSKY. Ed Dolansky, National Airlines.

Addressing attention back again to the structure concept, obviously the industry has operated for a great many years and been motivated for a multitude of reasons to institute these wide variety of fares that are now in existence and to attempt to accelerate a program that would achieve a major restructuring of the entire fare policy, perhaps precipitated to some degree by other economic pressures might be rushing into a chaotic situation for the industry.

As the gentleman from Frontier, Mr. Fitzgerald, mentioned, we think the haul characteristics of his route system certainly is a value of service to the passenger, flying over the continental divide, going from Denver to Grand Junction, which is much greater, because he does not have surface transportation available to him, either by private automobile or public transportation anywhere near the type of facilities that are available in other sections of the country.

Consequently, this has, while on the one hand similar cost characteristics perhaps on a comparable stage length with others in Montana or Texas, it has a value factor from a passenger point of view that is not readily considered in a fare formula approach. And obviously with the general trend of the economy, inflation elements, this will not be the last opportunity that will be presented to the industry or the Board to effect meaningful restructuring without causing catastrophic consequences to any carrier subsequently.

While on the one hand in some other form, we may well have illustrated a critical need as evidenced by the material that was presented to the CAB through the ATA's material, there is an obvious need for reviewing levels in another form, nonetheless to attempt to bring this all into focus at this particular point in time may be somewhat premature because you cannot consider any particular carrier cannot consider all of the very elements that affect another carrier, be it Western in the continental market or Frontier in the Rocky Mountain region, or Northeast in the Northeast Corridor.

And as Northwest mentioned, our discount fares for the recent year ending represent some 45 percent of the total volume of business. Obviously this is a major element when you have digressed a considerable degree from the promotional concept when half of your business is now moving under promotional fares. These all have to be cranked into the restructuring.

Mr. MURPHY. Are these promotional fares more apt to occur in long-haul markets? In other words, is your yield more diluted in long haul than short haul?

Mr. DOLANSKY. Yes, sir.

Mr. MURPHY. So in effect you would be asking the short-haul passenger to assume part of the problem by paying more, let's say, the way some of these formulas work out, for the declining yields that are occurring in the markets. The value of service being higher there, you have a further value of service occurring in the dilution yields.

And yet some of these formulas would produce, because of taper—bear in mind I am not opposed to taper. I am not opposed to a genuine, sincere search for something that will be helpful to all of us. But this taper produces a decline in fares on some of the formulas, an actual fare decrease, at a time

when the short-haul passenger is going to be asked to assume a tremendous fare increase.

I think from a public relations point of view, a public interest point of view, this is the bulk of your air travelers who travel in markets under 1,000 miles, and this raises a serious question I think. Apart from economic questions it raises serious public interest questions.

Mr. CALUSSY. Mr. Vice Chairman, that certainly is true. In our transcontinental markets, about two-thirds of our passengers will move in a discount fare, system-wide about 45 percent.

Consequently, the point you are making is very relevant. With the length of haul, after a certain stage length, air travel is the only practical method of transportation and consequently the value is increased to the consumer, appreciably greater than the cost factors alone. As you get into the shortest of the shorthauls, you do have real competition coming into play and you are going to be pricing yourself out of more of these markets.

Mr. WISER. To comment on that point, I think following your line of thinking, Mr. Vice Chairman, there has been a real effort in some of these so-called formulas, I think the formulas maybe in your view are rigid, but I think there has been an effort, particularly in the Eastern formula, to address the problem you are talking about basically and recognize that you can't price yourself out of the market in the short haul, because that is not rendering the public a service, also you cannot therefore cut long-haul fares to the point where you are not able to handle the system.

My comments about equity is that I think the Eastern proposal from an industry standpoint provides the best balance of equity per carrier that we have seen. That is why we support it. It is not a rigid formula.

Mr. MURPHY. Assuming a mathematical formula were adopted as a measurement or standard by which to judge reasonableness and fairness of tariffs, how would this affect the innovation, the imagination and creation of the market functions of carriers? I mean a big flag is up in my mind, are we creating a straitjacket here for all of us? How do you depart, how do you provide for variation, how do you provide for departures from the standards that would be created and frozen into a formula?

Chairman CROOKER. Mr. Crilly is seeking to answer.

Mr. CRILLY. I would like to address myself to both of your questions.

On the latter, I think any approach must recognize there will always be room for promotional fares, be they on short-haul services or long-houl services.

And as to Mr. Wiser's point, I think we all need a basic fare before we can address ourselves to just what the promotional ratios should be to meet specific situations and these might even meet the geographic situations that Frontier is faced with, recognizing the added value of service.

So having a basic formula does not preclude any carrier in the industry offering promotional fares. We think promotional fares can answer these specific situations.

Turning to an earlier question on the effect of short haul increases, whether Eastern likes it or not, it probably has had more experience, because for about three years we operated with higher short-haul fares than several of our major competitors, who actually advertised the fare differential and we were able to find no meaningful diversion, much less any reduction in travel and subsequently the carriers who offered lower fares raised their fares to Eastern's level.

So presumably they came to the same conclusion, that there was no appreciable penalty to Eastern, as long as you are talking in short-haul fares relatively small dollar differences, even though the percentages themselves may be significant.

Mr. CALDWELL. We basically agree with Mr. Crilly. We do feel that with the February 3 increase that we have reached the point in several of our markets that if we apply the Eastern formula, we would hope that whatever authority comes out of the Board it would give the carriers latitude to determine values or at least look at it when it applies the formula.

If we are going to be tied in a straitjacket, we think it will wholly price us out of some of our short-haul markets.

We are also concerned about the inability of a short-haul carrier to subsidize from the long-haul markets the short haul. We would suggest some inter-carrier relationship on prorates as we did in our August 6 letter to be a condition of the fare structure.

Mr. MARVIN DAVIS. I would like to speak to two of the points that Mr. Murphy has raised.

First, you question whether the dilution is greater at the longer distances. Our experience in 1958 under 400-mile traffic, 52 percent of the total passengers paid the full fare and over 1,800 miles, only one-third of our total traffic paid the full fare—

Mr. GILLILLAND. What was the last figure?

Mr. MARVIN DAVIS. Over 1,800 miles, one-third paid the full fare. And as to what a mileage-oriented formula would do to innovation or changes of any type in the fare structure, we have been opposed to a mileage-oriented formula for that reason among others.

We believe that the market characteristics differ substantially, in different areas. There are some that are primarily vacation markets where the elasticity of the demand is much greater than in other markets of the same distance and perhaps even the same traffic density. And we think that those vacation-oriented markets deserve not only promotional fares, but a lower basic fare. We think that a vacation-oriented market can support a lower basic fare than a primarily business travel market. A mileage-oriented formula would not permit that type of deviation. You would be charging the same number of dollars in either of those markets, depending on the distance.

There has been some discussion also about the value of service. And we think that that is significant. We think it has to be taken into consideration. And we know of no way that it can be put into a formula.

I have I think, one very good example. We have a 320-mile market, Dallas to Midland, Texas where we have a very low fare, we are considerably under the industry average in that market, and it has gotten that way because of the type of surface competition that we have. There is a highway from Dallas to Midland that doesn't bend. People can get in their automobiles and drive that distance in something like six hours. I am charging $24 for Dallas to Midland, Texas.

I have another market, Albuquerque to Denver, that is only 14 miles farther, but I am charging $35 in that market, and that one has gotten that way for a reason too. You go over two mountain ranges to travel between Albuquerque and Denver. It is worth more to travel that distance between Albuquerque and Denver than it is to travel the same distance between Dallas and Midland.

Those are two factors, the value of service and market characteristics which we have not been able to find any way can be put into a mathematical formula.

Chairman CROOKER. Have you seen today's Daily?

Mr. MARVIN DAVIS. I have not.

Chairman CROOKER. It says, "Continental Air Lines proposed to the CAB a mileage-oriented fare increase formula."

Is this incorrect?

Mr. MARVIN DAVIS. Yes, sir, it is totally incorrect.

Mr. MURPHY. Mr. Chairman, you should know better by now.

Chairman CROOKER. Off the record. What occurred.

(Discussion off the record.)

Chairman CROOKER. We will return to the record.

Any other comments?

(No response.)

Chairman CROOKER. Gentlemen, your comments have been most informative and helpful.

You are aware of the fact that on tariffs which have been filed the effective dates, as I understand them on United's tariff and Western's tariff is proposed to be September 15, on American's tariff it is proposed to be September 27, on Continental's and Eastern's, it is proposed to be October 1.

All of the tariffs propose increased fare levels, irrespective of the approach taken in regard to structure.

In our opinion the proposed increases and alterations of the structure could have a profound effect on both the carriers and the traveling public. As you know, our rules of practice provide for the filing of complaints against tariffs. The Board of course will give full consideration to any complaints so filed respecting these tariffs. And we have afforded in connection I believe with United's filing, an additional seven days for the filing of complaints. Since their tariff subsequently filed, we might even extend that a few days.

In addition, because of the public interest in the possible effect of proposals for increases in domestic passenger fares, we have decided to hear oral argument from interested persons before determining our future course of action in this case. We won't restrict argument to specific issues, interested persons may express their views with respect to any aspects of the tariffs, certainly those that have been filed up to this time, that people may wish to bring to the Board's attention. But I think there is some interest on the part of at least some, if not all, of the Board members in possibly having arguments addressed to questions I will allude to briefly, though I think you obviously get detailed information in whatever order is issued on this.

Questions such as the following, this not being an all inclusive list:

To what extent, if any, are general passenger fare increases warranted? If so, how should these increases be structured?

To what extent, if any, should the present promotional or discount fare structure be modified?

To what extent should fares in individual markets be predicated on the cost of service?

How should costs be derived?

To what extent should value of service be considered in setting fares above or below the level at which they would be fixed on a cost-oriented basis?

And to what extent, if any, should domestic passenger fares be based on a generally uniform formula applicable to all markets, and if not based strictly thereon, to what extent should fares in tariffs filed be compared by the Board against a guideline so that the Board could readily ascertain how proposals varied up or down from a guideline formula?

In view of all these factors unless there be some change there will be held on Thursday, September 4 at 10:00 a.m. an oral argument on the question of passenger fare revisions proposed by the domestic trunk line air carriers. An order will be forthcoming in a few days. Meanwhile the Board will probably issue a press release so that the carriers and the public will know.

But the matter of phraseology on these points to which arguments might be addressed could conceivably take a few days, so this being Thursday, you won't necessarily expect to receive a copy of the order this week.

Do any Board members have any comments?

Mr. GILLILLAND. I would like to.

I was interested in the comment about the vacation fares or vacation markets and their difference in nature from other mar-

kets. The suggestion that the fares should be lower in such markets.

I am wondering to what extent the element of seasonality is involved in your comment on that? How does it relate to it?

Mr. MARVIN DAVIS. Seasonality certainly plays a part in a lot of vacation markets. Some of them are primarily wintertime markets, others primarily summertime markets. And in those cases where you have substantial peaking of traffic in one season and valleys in the other, we think it is appropriate that the fare should be reduced in the off season in order to try to fill up that valley.

In still other vacation markets are pretty even throughout the year and the seasonality does not necessarily apply. The fare might very well be the same throughout the year in a market where your traffic variation is minor.

Mr. GILLILLAND. You spoke about these fares perhaps being lower. Were you thinking that they would be lower, let's say, in a seasonally, vacation market only in the off season, or would this be a promotional venture to have them lowered generally, that is during the vacation season?

Mr. MARVIN DAVIS. No, I don't think it is necessary that they should be equal in the peak season and lower only in the off season. I think that in a market that is very heavily oriented toward vacation travel that it can support lower fares throughout the year.

Mr. GILLILLAND. Thank you.

Mr. FITZGERALD. Mr. Chairman, I would like to make one general point on our problem with these formulas.

I understand TWA's position is maybe if we don't have a formula, we will be stuck with the present fare levels, which we can't live with. I agree with that. But the problem with the formula is that the local service carriers generally, the subsidized carriers, have the duty, we think, of getting as much commercial revenue out of the market as we can get in their subsidized markets because the government is making up the differential.

There are so many varied circumstances in our system, you go from low density to high density, that it takes in our view a great deal of managerial judgment as to what that fare level should be in various markets. And this is the problem we have with an across-the-board, flat formula that says you have to charge seven cents on a route where you carry 50 people a day and you have to charge seven cents on a route where you carry 1,000 people a day. That is a basic problem that we have, that it will take away the managerial judgment in trying to decide what fare levels will produce a maximum amount of revenue that can be derived in markets which obviously are not making money.

Chairman CROOKER. Any other comments?

Mr. MURPHY. I would like to say, I think maybe I made the point, but from the very beginning I think it is fair for me to say this, that from the very beginning I haven't opposed this exercise, I have cooperated, I think that is my duty to do that. But I have had a great deal of skepticism which I have exxpressed privately within the counsels of the Board, the staff is familiar with it, my colleagues are familiar with my views, and I certainly want to cooperate in this search for a fair and just standard if we can reach it.

But I continue to harbor at this point a great deal of intellectual difficulty in trying to accept, at this point of our search, the concept that we have arrived at a mathematically, scientifically fair and equitable formula. I certainly wouldn't want to leave that impression with any of you gentlemen, that I am saying to you or anybody else that you must come and accept the concept of a mathematical formula, in order to project your tariff filings. I am only speaking for myself now.

I will certainly keep an open mind. I must keep an open mind and will on all of these matters and where I am wrong, I want to be shown where I am wrong. But certainly I am not an advocate at this point of a cost, a wholly cost-oriented formula, because that is accentuating just one element in our statute, of our rate-making elements, it seems to me.

Costs are important, I think that is the thing that makes the wheels grind, we know that, certainly it has a very, very important place in the appraisal of tariff levels.

Mr. BEAMISH. I think essentially we would agree with some of the points Vice Chairman Murphy is making. But it is our viewpoint that having some base from which to work and then be able to consider, as Mr. Crilly earlier suggested, justified exceptions to this base, which can be reviewed by the Board in proceedings, be they promotional fare approaches, and the Board knows there are other approaches that could be taken along these lines, seasonal, et cetera, to obtain these variable formulations we want, be they vacation markets where we do have specialized situations in the marketplace today, but we think there is some merit in having a base from which then to judge the promotional fare departures.

I don't think it would limit creativity nor innovation nor exceptions in proceedings before the Board.

Chairman CROOKER. Mr. Caldwell?

Mr. CALDWELL. Are we correct in assuming that at this oral argument we will be able to urge the creation of additional things we proposed in our petition?

Chairman CROOKER. Can we take that in a moment. Maybe that deserves more than a minute of extra discussion.

Mr. CALDWELL. The other thing is, will we be in a position to urge a different method of proration between long-haul and short-haul travel in oral argument?

Chairman CROOKER. You are talking about proration between two carriers?

Mr. CALDWELL. Yes.

Chairman CROOKER. Well, again, let's consider that in a moment. Let's go on the first point first.

Mr. Crilly?

Mr. CRILLY. Mr. Chairman, is it correct to assume that we can address ourselves in the oral argument to the question of what the appropriate level would be under the first point?

Chairman CROOKER. Certainly. That is the purpose of it, since we have been unable to address ourselves to that here, that will be the purpose of the oral argument and anybody who wishes to complain will be heard and the proponents of the tariff will be heard.

Mr. SHERER. As of the present date I believe it is correct to state no local service carriers filed a tariff on any of the *conceptual methods*, either the staff's formula or any other?

Chairman CROOKER. I think that is right.

Mr. SHERER. Is it correct the hearing therefore will deal solely with the tariffs on file and the complaints thereto and there will not be any significant intervention by what you might call parties that are pleasantly in agreement with a filed tariff of another carrier? In other words, is this wide open, or is it limited to complainants?

Chairman CROOKER. It is not limited to complainants, because I think proponents of the tariffs should be permitted to make their arguments just like those who might oppose the tariffs. Obviously we cannot suggest that there be no tariffs filed between now and September 4. Any that are filed will be processed.

It seems to me that with Continental's filing on a *no formula basis*, United's filing on a *fixed terminal charge* with a *flat line haul charge*, the filings of Eastern and others on a *fixed terminal charge* with *a variable line haul charge*, you have essentially three major bases to consider and I would suppose if any other carrier filed, it might well resemble the Continental filing, United filing or the Eastern filing. Somewhere there will be a cutoff as to what could properly be treated in oral argument.

I would guess whenever we get within 21 days of the 4th, which may be today or tomorrow, there would not be the statutory time for the filing of complaints prior to the oral argument and it would be procedurally almost impossible to wrap any new filing into the argument, because complainants wouldn't have exhausted the time within which they could complain.

One other thing: If, as a result of those arguments and the study that the Board has made continuously since January and will continue to make in the next three months, if there be action by the Board after September 4, and I would hope it would come immediately if not sooner after September 4, whatever the Board's decision is, then I suppose all carriers would be permitted to file on short notice for competitive reasons with any carrier whose tariff was not suspended.

I don't know that we could necessarily add here to the September 15 date, but we might enact early enough so that if, to speculate for a moment, if a tariff proposed to be effective September 15 were not suspended, it is possible that the Board's action could come early enough so that that would be known and other carriers might file.

Certainly as far as the tariffs to be effective on the 27th or October 1st are concerned, it is anticipated the Board will act well in advance of those dates.

So if any one of those is not suspended, carriers could file competitive, make competitive filings.

Does this cover everything except Mr. Caldwell's points on joint fares?

(No response.)

Chairman CROOKER. I would assume that this is a matter which a number of carriers are interested in.

As I recall it, you have sought antitrust immunity to discuss joint fares. If there be an order on that matter, I think—I think United has filed some request for antitrust immunity to discuss related questions.

Mr. BEAMISH. *Yes.*

Chairman CROOKER. *I guess about all I can say, since this is not a matter on which the Board members have reached any firm conclusion, number one, see whether there is an order in the next several days on your filing and United's filing, asking for antitrust immunity.*

Second, utilize your time in oral argument as you see fit. The Board is keenly interested in this.

I will express an individual view as the Vice Chairman did on another matter. I think it is extremely important that the short-haul carrier not lose money on its portion of transporting a person from New York to Los Angeles thence to spleunk. That is a personal view, not a Board view, and the short-haul carriers who are interested in this I guess can judge for themselves matters of how they will argue their case in the time they have.

Mr. CHALK. Mr. Chairman, would the immunity you discussed extend to overseas carriers too?

Chairman CROOKER. I didn't hear your question.

Mr. CHALK. Would the antitrust immunity extend to the overseas carriers?

Chairman CROOKER. To discuss the joint fares?

Mr. CHALK. That is correct.

Chairman CROOKER. What was your filing, Mr. Caldwell? What did you ask for?

Mr. CALDWELL. I think our filing, as I recall, was limited to domestic.

Mr. CHALK. May I make application in that event to include the overseas carriers?

Chairman CROOKER. Do you want to wait and see what order is entered on the two pending applications?

Mr. CHALK. No, I think that time is of the essence to all carriers.

Chairman CROOKER. Well, I just suppose whatever you want to file we accept it.

Anything else, gentlemen?

If not, the meeting is adjourned and we will see you on September 4.

(Whereupon, at 11:10 a.m., the Conference was adjourned.)

In the meantime, and specifically on August 1, in spite of the fact that tariffs had previously been withdrawn, United and subsequently other airlines filed for a new increase. The material beginning with my letter of August 6, and ending at this point with the filing by myself and 35 of my colleagues is self-explanatory and is inserted at this point in the RECORD:

AUGUST 6, 1969.

Hon. JOHN H. CROOKER, Jr.,
Chairman, Civil Aeronautics Board, Washington, D.C.

DEAR CHAIRMAN CROOKER: On August 1, United Air Lines filed with you certain tariff revisions which are to become effective on September 15, 1969. The last date upon which comment can be filed is August 13, 1969.

In order to allow time for the twenty Members of Congress to adequately prepare a response and comment upon the proposed tariff revision, I respectfully request an extension for filing comment until 5:00 P.M. August 20, 1969.

Sincerely,

JOHN E. MOSS,
Member of Congress.

CIVIL AERONAUTICS BOARD,
Washington, D.C., August 8, 1969.

Re: Tariff Revisions of United Air Lines, Inc., filed August 1, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: This will acknowledge your letter of August 6, 1969, requesting on behalf of 20 Members of Congress that the time for filing complaints to United Air Lines' tariff filed August 1, 1969 (posting date August 1, 1969; effective date September 15, 1969) be extended from August 13 to August 20, 1969.

At the direction of the Board the request is granted, and complaints to the above-described tariff shall be filed on or before August 20, 1969.

Sincerely yours,

THOMAS L. WRENN,
Chief Examiner.

NEWS RELEASE OF CIVIL AERONAUTICS BOARD

The Civil Aeronautics Board will hear oral argument September 4, 1969, on the proposals by a number of domestic air carriers for increases in their domestic passenger fares. The oral argument will assist the Board in its disposition of any complaints which may be filed in connection with the proposed tariffs.

To date, tariff revisions have been filed by American Airlines, Inc.; Continental Air Lines, Inc.; Eastern Air Lines, Inc.; United Air Lines, Inc., and Western Air Lines, Inc. Although the carriers take various approaches to the appropriate level and structure of domestic passenger fares, all the proposed tariffs would increase fare levels to some extent.

Some of the other trunklines have indicated they will file similar tariff proposals. The local service carriers have not advised the Board as to planned tariff changes.

The CAB met today with the trunk and local service carriers to discuss questions relating to a proposed uniform method of structuring tariffs including the question of whether such a method is feasible or desirable in the public interest. The Board pointed out that the meeting did not involve the level of fares which the public should be charged and was related only to the technical subject of whether tariffs can be properly constructed on a uniform cost-oriented formula. At the conclusion of the meeting with the carriers the Board announced its desire to hear oral argument on the tariff filings.

The CAB will issue an order in the next few days indicating the procedures by which persons desiring to present positions on the fares may participate in the oral argument before the Board. Essentially, the procedures will be that any person who desires to participate in the oral argument should file with the Board and serve on the carriers whose tariffs are involved a complaint or other statement of position on or before August 28, 1969, together with a request to the Board for leave to participate in the oral argument. Such persons will subsequently be advised of the time allotted them in which to present their argument. The CAB will reserve the right to require that persons having the same interests be represented by one spokesman.

Sections 302.500–508 of the Board's Rules of Practice specify the requirements for complaints against tariffs.

[Order 69–8–108, docket 21322]

PASSENGER-FARE REVISIONS PROPOSED BY DOMESTIC TRUNKLINES

ORDER

By tariff filed August 1, 1969, and marked to become effective September 15, 1969, United Air Lines, Inc., proposed to revise its domestic passenger fares within the 48 contiguous States. Subsequently, on August 7 and 11, 1969, Eastern Air Lines, Inc., and Continental Air Lines, Inc., respectively, also filed proposed fare revisions marked to become effective October 1, 1969. On August 13, 1969, American Airlines, Inc., proposed to revise its domestic passenger fares, effective September 27, 1969.[1] Although each of the carriers takes a different approach to the appropriate level and structure of domestic passenger fares, all the tariffs increase general fare levels. The Board is informed that other domestic trunk carriers also intend to file general fare revisions.

Pursuant to section 1002 of the Federal Aviation Act (49 USC 1482), the Board may, upon its own initiative or in the light of complaints from interested persons, (a) suspend the effectiveness of the proposed tariffs pending investigation of the reasonableness of the proposed rates, (b) permit such tariffs to take effect while it is conducting such investigation, or (c) permit the tariffs to become effective without investigation. The Board's Rules of Practice provide for the filing of complaints against tariffs requesting their suspension and/or investigation,[2] and the Board will give full consideration to all complaints so filed respecting these tariffs. Also, because of the interest of the public in the proposed increases in passenger fares, we have decided to hear oral argument from interested persons *before determining what our action should be with respect to the tariff proposals.*

In the interest of orderly procedure, we will require that any person who desires to participate in such oral argument shall file with the Board and serve upon the air carriers a complaint against increases, *or other statement of his position, on or before August 28, 1969, together with a request to the Board for leave to participate in the oral argument.* The Board will subsequently advise the persons desiring to appear of the amount of time which will be granted for argument, and reserves the right to require that various persons having common interests be represented by one or more spokesmen.

We will not restrict argument to specific issues but will permit interested persons to express their views on any aspect of the tariffs that they wish to bring to the Board's attention. However, we are particularly interested in hearing argument addressed to the following questions:

1. To what extent, if any, are passenger fare increases warranted, and how should such increases be applied?

2. To what extent, if any, should the present promotional or discount fares be modified?

3. What effect, if any, will either the proposed tariff revisions or possible changes in promotional and discount fares have upon the movement of traffic?

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 102, 204(a), 1001 and 1002 thereof,

It is ordered that:

1. On September 4, 1969, at 10:00 a.m., the Board will hear oral argument on the question of the passenger-fare revisions proposed by the domestic trunkline air carriers.

2. Interested persons who desire to participate in such oral argument shall file with the Board a complaint or statement of their position on or before August 28, 1969, together with a request for leave to present an oral argument to the Board.

This order will be published in the Federal Register.

By the Civil Aeronautics Board:

HAROLD R. SANDERSON,
Secretary.

COMPLAINTS OF MEMBERS OF CONGRESS AND AIR TRANSPORTATION USERS WITH REQUEST TO TARIFF SUSPENSION AND A GENERAL RATE INVESTIGATION, AUGUST 20, 1969

(In the matter of the tariffs filed by AA, CO, EA, and UA during the month of August 1969, before the Civil Aeronautics Board, Washington, D.C.)

By tariff filings during the month of August 1969, four airlines, American Airlines, Inc. (American), Continental Air Lines, Inc. (Continental), Eastern Air Lines, Inc (Eastern), and United Air Lines, Inc. (United), have proposed changes in the level and structure of airline passenger fares.

Three of the air carriers have proposed formulas which call for the adoption of a so-called fixed "terminal charge" per individual fare plus either a fixed or variable charge per mile. The variable rates are constructed by "cumulative mileage blocks" so that the actual rate per mile is constantly changing with distance, but not at a uniform rate. The fourth carrier puts forth no formula, requesting instead a flat increase in present fares by mileage blocks, the amount increasing $1.00 with each additional mileage block.

The three carriers advancing the formula approach do not indicate the mileage system used to compute fares. Nor do their formulas appear to take into consideration any variations other than mileage. Neither do the carriers proffer any detailed information in support of their fare proposals such as load factor, dilution, etc.

In essence, what the revisions filed by the carriers propose is:

1. A change in the level of fares;

2. A change in the structure of fares between ports and localities, and between persons and descriptions of traffic in air transportation between different ports and localities; and

3. A change in the structure of fares between persons and descriptions of traffic in air transportation between the same ports and localities.

The legal principles governing the carriers filings have been previously set forth by the Members in their complaint of April 21, 1969. To restate them here would be redundant. It is suffice to re-emphasize that the pertinent criteria established by the Congress are specified in subsections 404(a), 404(b) and 1102(e) of the Federal Aviation Act of 1958, other supplementary criteria

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[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff C.A.B. No. 101.

[2] 14 CFR 302.500–302.508.

established by the Board from time to time are outlined in various C.A.B. Economic Regulations and the General Passenger Fare Investigation, 32 C.A.B. 291 (1960).

In support of their applications the air carriers assert with regard to the issue of the level of fares, that the continued decline of earnings in relation to investment makes an increase in revenues absolutely essential. That the combined impact of declining yields, declining load factors, and spiraling inflationary increases in cost make it impossible for them to earn the allowable return established by the Board in 1960. That the money market may dry up if earnings do not improve and they may not be able to obtain new capital from the New York based insurance companies which are legally limited to earnings of 1½ times fixed charges.

As regards the fare structure, some (but not all) of the carriers declare that a rational scheme is long overdue. The greater recognition should be given the higher costs of short-haul operations.

The Members of Congress are sympathetic to the need of many air carriers, but not necessarily all, for higher earnings. After all, in the final analysis:

"It is the proven earning power and future earning potential, as opposed to the book value, which ultimately determines the feasibility of a company's capital structure, its commercial value, and its borrowing power." (Congressional Record, vol. 113, pt. 22, p. 30488.)

Likewise, complainants are aware that the downward trend in load factors is not a matter within the sole control of individual air carrier managements; that unilateral capacity controls will not in and of themselves stabilize industry load factors at a reasonable level. The Bureau of Economics has already observed at Page 70 of its staff report:

"That the fare level affects the volume of service offered by the several carriers in the market and that a fare set well above cost, based on a reasonable load factor, may contribute to the operation of excessive capacity, and resulting inefficient use of resources."

Nevertheless, even after allowing for these facts, the complainants still feel obliged to point out to the Board that the proposals made by the air carriers do not take into consideration any of the statutory standards set forth in the Act. More pragmatically, the Members believe that these fare proposals will further depress load factors and earnings; bring about even greater increases in cash costs, congestion and air pollution; and lead to more uneconomical and inefficient use of the nation's airport and airways, thereby further increasing the burden to the taxpayer and farepayer.

Thus it is complaint's contention that viewed in its entirety the results reached would be unjust and unreasonable.

Turning first to the issue of the overall reasonableness of general passenger fare level, it must be first noted that at present there are no standards for regulating passenger fares concerning load factors and cash costs. In making the 1960 General Passenger Fare Investigation decision, the Board deferred the development and application of useable load factor and cash cost Standards until "a time when the industry has reached a more stable period."

The relationship between cost, price and load factors underlies the whole area of airline profitability. Air carrier fares are primarily based, or should be based, on cost and load factor decisions, and the cash costs constitute the major portion of all operating costs, capital and non-capital.

With regard to this latter matter, the air carriers have jointly and severally produced on the record a substantial amount of sufficiently reliable evidentiary material as to the impact of recent inflationary increases on their cash costs to permit a change in the level of fares, all other things being equal. Had the Board previously established fair cash cost standards, it is clear that the Board would now be able to deal with the problem of determining an appropriate fare level more effectively.

Unfortunately, however, the Board has not yet established such standards, so at present there is no evidentiary content on the record against which to apply these measures. Plainly, therefore, the effect of the recent increases on cash costs cannot be ascertained until such costs, upon which passenger fares are primarily based, have been established on the record, for it is "the Board's policy not to permit substantive changes involving increased charges which affect significant volumes of traffic without careful review of the impact of the proposals on the public and the industry as a whole." (Order 69–6–124, June 24, 1969.)

Secondly, one of the key factors which has historically been recognized in determining revenue need, future earning potential, unit cost-of-service, and the "just and reasonableness" of rates is load factor.

As previously observed, the Board has deferred establishing load factor standards and none of the applicants have yet provided on the record any evidentary material as to the load factor (or load factors) used to construct their fare revisions. Obviously without such information the Board cannot intelligently regulate airline passenger fares.

The Members of Congress, like the Board, are very much concerned about the presently depressed level of load factors. We however disagree with United that—

"Only by assuming that the managements of *all eleven* of the trunkline carriers have acted in disregard of the profit motive can it be contended that the current load factors do not reflect reasonably attainable levels under all of the economic and operating conditions affecting the industry." (Page 6.)

Our airlines are engaged in "monopolistic competition." Under this form of competition a distinction must be drawn between the concepts of "competitive price" and "competitive profits." The monopoly element, resulting from the limited entry into the field, can produce higher rates but not greater earnings—because the competitive element tends to bring about greater costs. To quote Edward Chamberlin, "Competition, in so far as it consists of a movement of resources into the industry reduces profits to the competitive level, but leaves prices higher to a degree dependent upon the strength of the monopoly element." [1]

Complaints therefore agree with United that: "Obviously, the explanation for the lowering of load factor levels must lie in some area other than an unfounded assumption that capacity-traffic relationships lie within the absolute control of management." (Page 6.)

And that: "In considering the load factor problem is should be emphasized that a given load factor is the resultant of various elements." (Page 6.)

Complainants consequently submit that the *principal* explanation of the declining load factor problem lies in the level of the fares. That it is the level of fares which primarily determines load factor (other than those in exceptionally thin markets). And that control of the level of fares rests at this time primarily with the *Board*.

It is no industry secret that the airlines have traditionally considered business travel as their primary market. Nor that they consider this market to be price inelastic. Historically, their principal efforts to improve earnings have been in the direction of adjustments in service and selling costs, as opposed to price adjustments. "More and more is price competition evaded by turning the buyer's attention toward a trade-mark, or by competing on the basis of quality of service (or by advertising . . .).[2]

Along this line of thought, we would bring to the Board's attention the recent remarks of Mr. Donald J. Lloyd-Jones, vice president-corporate planning, American, which appeared recently in a leading nationwide financial publication, to wit:

"First of all, we cannot compete on fares. . . . Secondly, we cannot compete today on equipment types. . . . So we are forced to compete in three areas: service on the ground, service in the air and frequency of schedules to your destination. Now the last has proven to be one of the most important factors in profitability of a given carrier." (Barron's, July 28, 1969)

Thus the industry has been battling it out in the marketplace in terms of frequency, not efficiency and economy of operations—with the public picking up the bill for the difference. From management's viewpoint the choice has been logically seen as one between market share and load factors, with a large pro rata share being ultimately considered more important than high load factors or low fares as a revenue generating factor.

In other words, because the Board has vacated the establishment of load factor standards to the competitive forces of the monopolistic and semi-monopolistic markets (where price is not considered by the sellers to be a competitive factor), the fare level has become the controlling factor in regulating the load factor and resulting unit cost-of-service.

Complainants concur with the Board that:

1. As long as the industry's load factor continues its present downward trend, and inflationary pressures persist, the carriers may find themselves in a cost-revenue squeeze despite the introduction of more efficient aircraft and the adjustment of their fares. (Order 69–5–28, May 8, 1969, page 4.)

2. Another significant aspect of an unnecessary increase in unused capacity is the corresponding growth in the investment base and fixed charges. (*Ibid.*)

3. (I)t cannot be expected that fare increases will stimulate additional traffic (*Ibid.*)

4. (T)hat the traveling public should not be asked to pay for the operation of a volume of capacity which is significantly out of line with market demand. (Order 69–6–124, June 24, 1969, page 4.)

The basic solution to the industry's present financial situation would therefore appear to lie not only in the air carriers exercising restraint in ordering new flight equipment and in the use or scheduling of its available capacity, but more importantly in the regulation of the fare level by the Board in accordance with the statutory standards of the Act of 1958, supplemented by appropriate load factor, cash and capital cost guidelines.

One of the principal proposals contained in the various formula approaches is the imposition of an arbitrary flat fee or "terminal charge" in *each* fare. Passenger boarding costs have been considered to be a fast rising part of airline costs which have not always been fully reflected in fares, particularly short-haul fares.

Line-haul costs have traditionally been treated as capacity costs. Consequently, it has been generally recognized that load factors affect the level of unit line-haul costs. The higher the load factor, the lower the unit cost, and vice versa.

Terminal costs, on the other hand, have ordinarily been considered to be unit costs that varied with volume of traffic. Load

[1] Edward Chamberlin, The Theory of Monopolistic Competition, Harvard University Press, Cambridge, Mass. (1933) p. 88. Note, the more difficult it is to obtain a Certificate of Convenience and Necessity in a given market, the stronger the monopoly element.

[2] *Ibid.*, 73.

factors have not been considered as a factor in determining terminal expenses. Nevertheless, it is not the theory, but the impact of a rate order which counts.

One of the principal terminal expenses is Aircraft Servicing. Alone this item accounts for probably more than half of the terminal expenditures. Since this is a cost incurred in servicing aircraft, it naturally follows that it is a function of the number of aircraft handled. Consequently, when low load factors spread traffic over more flights, the number of departures per passenger handled increases, and the *unit aircraft servicing cost per passenger* increases.

Furthermore, when additional flights at hub stations require the acquisition of additional gate position and ground handling personnel, this cost is further increased.

Therefore, without addressing ourselves to the merit of carriers proposal, complainants merely observe that the presently depressed load factors may be temporarily inflating the level of the terminal charges *per se* to an unjust and unreasonable level.

We come now to the second major issue of the proposed fare revisions, a change in the structure of fares between ports and localities, and between persons and description of traffic in air transportation between different ports and localities.

Generally the carriers have proposed the erection of a fare structure upon the base of an average fixed terminal charge, which might be referred to as a getting-off-and-on-the-ground charge, plus a fixed or variable rate per mile. The justification for this method of ratemaking is that it will supposedly relate fares more closely to costs.

First, it should be noted that "It is generally accepted that line-haul costs are primarily determined by hours an aircraft or a passenger is in movement." (Eastern Airlines' Proposal for a Revised Fare Structure, at page 6.7.) It is also generally recognized that the aircraft hours between markets will vary in the same direction, at the same time of day, with the same type of aircraft at the same load factor. In other words, there is a varying cost between different city parts at similar mileage intervals. (Continental, at page 5.)

Second, it should be noted that longer flight-time at similar mileage intervals normally occur where there is congestion, and that such congestion usually occurs only in those markets where traffic demand (and therefore value-of-service) is higher.

As a consequence, all of the formulae approaches—even those based on an industry average jet speed curve—tend to shift a major cost burden in city pairs of similar length from those markets where the value-of-service is high to those where the value-of-service is frequently significantly lower. This is not only unfair and unlawful—because it gives an undue or unreasonable preference or advantage to the former, who generate the greater cost and are better able to reimburse the carrier for that cost, and subjects the latter who receive less service to undue and unreasonable prejudice and disadvantage—but it is also commercially unsound.

One of the leading arguments in favor of the "terminal charge" and other form of fare tapers, like the variable mileage rate, is "to give greater recognition to the higher costs of shorter haul operations."

In its staff study, the Bureau of Economics reported at page 44:

"The cost taper results from the fact that certain types of costs are the same regardless of the distance that an aircraft may travel . . . . In addition, the cost of moving an aircraft to or from cruise speed (taxiing, climb-out, and descent) does not vary significantly from one departure to another."

On the following page (45), the "Stop time block hours" element is given a value of 0.4 hours at all stage lengths.

Now it does not take an aeronautical engineer's background to reach the conclusion that aircraft on short-haul trips do not usually fly between city pairs at the same altitude as they do on long-haul trips, and that consequently the Stop-time-block-hours do vary with the length of hop. This is demonstrated in the "Tabulations Relating to Cost Finding Phase" of the C.A.B. staff study when the Block time-Stop time of long-haul, medium-haul and short-haul aircraft are compared.

Aircraft type	Block time-stop time (hours)	Percent
4-engine turbofan	0.3965	100
4-engine turbojet	.3947	100
3-engine turbofan	.3949	100
2-engine turbofan	.2709	68
F-27	.1732	44

While not conclusive, this evidence does indicate that the cost of moving an aircraft to and from cruise speed (taxiing, climb-out, descent) *does* vary significantly with distance and that consequently pending a full examination and analysis of the subject, the proposed terminal charges and variable rates per mile would subject persons and descriptions of traffic in short-haul markets to undue and unreasonable prejudice and disadvantage, while giving to longer medium and long-haul markets where the value-of-service is normally greater undue and unreasonable preference or advantage.

Finally complainants turn to the proposed changes in the structure of fares between persons and description of traffic in air transportation between the same ports and localities.

All of the carriers have proposed to revise the relationship between first class and coach fares by establishing a uniform differential with first class at a level equal to 120% or 125% of coach fares or the existing level, whichever is greater. Without passing on the merits of this proposal, complainants would merely draw to the Board's attention that these proposals do not appear to comply with C.A.B. Economic Regulation 399.33(d), Domestic coach policy, *fare differential*. Therefore, it would seem that to the extent the proposed fares do not take into consideration the standards of the Board's own Economic Regulations they would be unlawful.

With regard to the proposal to increase Youth Adult and Standby fares to 80% and 60% of the corresponding coach fare, the Members can take no position at this time without a fuller examination and analysis of the facts. However, we do feel that it should be noted in passing that charging one standby passenger or class of standby passengers with a lower boarding priority a higher rate than another, may subject that person or description of traffic in air transportation to unjust discrimination or undue or unreasonable prejudice or disadvantage.

In summation, therefore, the real point of the Member's complaint is that the airlines' proposals fail on questions of law and fact. It has long been established Board policy that the question of whether a fare is just and reasonable turns primarily on the relationship between revenues and costs. As a general rule, revenues should equal the reasonable cost of providing the service plus a fair return. The carriers, however, have not yet shown on the record that the level of their unit costs, cash costs, load factor and proposed new interrelationship of rates in the new structure would be just and reasonable, and without unjust discrimination or undue preference or prejudice.

Accordingly, in conformance with Subpart E, paragraph 302,505 of the Board's Rule of Practice in Economic Proceedings, the complainants suggest that the foregoing facts warrant:

1. (a) The Board's suspending and investigating the tariffs filed by American, Continental, Eastern, and United during the month of August 1969, and in addition all other pending tariff revisions to determine whether they are just and reasonable, and

(b) If the Board shall be of the opinion that such fares are unjust or unreasonable, that the Board determine and prescribe, in accordance with subsection 1002(d) of the Act of 1958, the lawful rate, fare or charge thereafter to be demanded, charged, collected or received by applicant;

2. (a) Institution of a general rate proceeding to investigate the structure and construction of air passenger fares to achieve a sound foundation for determining whether such fares should, or should not, be related to revenue-miles or revenue-hours traveled, or revenue-miles or revenue-hours traveled plus an arbitrary charge or charges, or some other factor, in order that such rates will at all times be reasonably related to the statutory standards of the Act of 1958, and the rules of ratemaking established by the Board.

(b) As a part of that investigation, to determine and prescribe the national policy regarding the duty of air carriers to establish, observe, and enforce just and reasonable individual and joint through single factor rates, fares, and charges, and just and reasonable rules, regulations and practices relating to such rates, fares and charges, in all markets in which service by a single carrier is authorized, or in which connecting service is needed to avoid competition in excess of that necessary to assure the sound development of an air transportation system.

The justification for these proposals have been previously set forth in the Members' complaint of April 21, 1969, which is hereby made a part of this complaint.

Respectfully submitted.

JOHN E. MOSS, RICHARD T. HANNA, HAROLD T. JOHNSON, GEORGE E. BROWN, JR., EDWARD R. ROYBAL, JOHN J. MCFALL, PHILLIP BURTON, CHARLES H. WILSON, LIONEL VAN DEERLIN, GEORGE P. MILLER, GLENN M. ANDERSON, ROBERT L. LEGGETT, CHET HOLIFIELD, JERRY L. PETTIS, DON EDWARDS, AUGUSTUS F. HAWKINS, WALTER S. BARING, JEFFREY COHELAN, B. F. SISK, WILLIAM S. MAILLIARD, Members of Congress.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon: American Airlines, Inc., Continental Air Lines, Inc., Eastern Air Lines, Inc., United Air Lines, Inc. by causing copies to be mailed to such carrier or its agent properly addressed with postage prepaid.

JOHN W. BILLETT.

AUGUST 20, 1969.

[From the Washington (D.C.) Post, Aug. 22, 1969]

AIR TICKET HIKE POSSIBLE NEXT MONTH

The Civil Aeronautics Board has indicated to the airlines they may be permitted to raise fares next month to help meet rising costs and dwindling returns.

The increase will materialize as soon as one of three proposed basic fare formulas has been worked out. It could come as early as Sept. 15 or as late as Oct. 1, the airline industry has been informed.

The nature and amount of the increase will be determined after oral argument Sept. 4 on the fare adjustment proposals now before the board from five airlines—American, Continental, Eastern, Northwest, and United.

AUGUST 25, 1969.

Hon. JOHN H. CROOKER, Jr.
Chairman, Civil Aeronautics Board, Washington, D.C.

DEAR CHAIRMAN CROOKER: The Associated Press has reported that the C.A.B. has already

assured the airlines that a basic fare increase will be granted sometime between September 15 and October 1. This in spite of the fact that oral argument has been set on fares for September 4.

Is it your impression and opinion that this report is true? If so, why is oral argument being held? If not, what do you think gave rise to this rumor?

I would appreciate receiving your individual views since I am transmitting this letter to each member of the Board.

Sincerely,

JOHN E. MOSS,
Member of Congress.

CIVIL AERONAUTICS BOARD,
Washington, September 2, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR MR. MOSS: This letter is in answer to yours of August 25, 1969 which, because of an absence from Washington, has just come to my attention.

I have now been a Member of the Board for several years and during that time have never known of an instance of advance assurance as to how a case would be decided.

Sincerely,

WHITNEY GILLILLAND.

CIVIL AERONAUTICS BOARD,
Washington, August 29, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: This is in reply to your letter of August 25, 1969 in which you refer to an Associated Press report that the CAB has already assured the airlines that a basic fare increase will be granted some time between September 15 and October 1.

Clearly, the Board has not and will not pass on the merits of the proposed fare increases until all interested persons have had a fair opportunity to present their views. Naturally, I have no way of knowing what may have given rise to the press report to which you refer, but I am aware of no facts to support it.

Sincerely yours,

G. JOSEPH MINETTI,
Member.

CIVIL AERONAUTICS BOARD,
Washington, D.C., September 2, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: I received only last Friday your letter of August 25 inquiring as to the basis for an Associated Press report that the Board has informed the airlines that a fare increase would be granted. Contrary to any such report I can assure you that neither I nor the Civil Aeronautics Board has made any decision on this matter.

As you know, a number of tariffs have been filed with the Board proposing fare increases and complaints have been filed against such tariffs. The Board has set the matter for Oral Argument on September 4 at which time it will hear both the proponents and opponents of the proposed tariffs. Until the Argument has taken place no decision has or will be made by the Board. When the decision is being made we will take full account of all relevant material submitted by the parties both orally and in writing. In this connection I will give careful attention to the helpful comments contained in the complaint filed by you and nineteen other Members of Congress in regard to the proposed tariffs.

I welcome the interest and attention you have expressed in this very important subject.

Sincerely,

ROBERT T. MURPHY,
Vice Chairman.

CIVIL AERONAUTICS BOARD,
Washington, D.C., August 29, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: This refers to your letter dated August 25 concerning air carrier fare increases. I have not seen the AP report to which you refer so cannot comment on it, nor can I speculate as to its source.

Under the law air carrier fares when filed with the Board become effective at a specified time unless the Board suspends them. Various filings are now before us seeking increases. The first of these filings has an effective date of September 15.

Oral argument is not a usual step in processing fare proposals, but because of the large number of differing filings and the widespread interest in them, in this instance the Board decided to hear arguments of interested parties before making a decision as to whether to suspend any or all of the filings or to permit some of them to go into effect.

Following the argument, the Board, in keeping with past practice, will no doubt seek to make its position known to the carriers well enough in advance of the September 15 effective date to permit those whose filings may not be approved to notify their ticket agents of any changed situation. I would expect the Board position to be made known early in the week of September 8.

I have read the applications and supporting papers as well as those items filed in opposition, but I have not yet decided what my final position will be, and will not so decide until after the argument.

Sincerely yours,

JOHN G. ADAMS.

CIVIL AERONAUTICS BOARD,
Washington, D.C., August 28, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: I have your letter dated August 25, stating that the Associated Press has reported that the CAB has already assured airlines that a basic (passenger) fare increase will be granted.

Copies of papers that are filed in matters such as these go to the offices of the individual Members. Hence, I suppose that most of the Members have read (with both care and keen interest) the documents heretofore filed, both favoring and opposing fare increases. However, there has certainly been no Board meeting held, much less a decision reached, in regard to whether the Board will permit *any* of the tariffs proposing increases to become effective.

Yours very truly,

JOHN H. CROOKER, Jr.,
Chairman.

AUGUST 26, 1969.

Hon. JOHN H. CROOKER, Jr.,
Chairman, Civil Aeronautics Board,
Washington, D.C.

DEAR MR. CHAIRMAN: Seated in my Sacramento office at this moment, I have before me a letter which would constitute a formal request for appearance before the Board on September 4, 1969, for the purpose of presenting oral arguments. The request, as drafted, would have included Mr. John W. Billett, my Legislative Assistant, and Mr. Richard W. Klabzuba, who would appear with me for the purposes of advice and consultation.

Mr. Chairman, I have determined not to sign that letter because of the disquieting tenor of press reports which indicate that the Board has made a decision. In other words, I would not appear before any agency denying me the right of impartial consideration of my views. Absent that assurance, the so-called oral arguments become farcical and meaningless. You may recall, Mr. Chairman, during your recent visit in my office you stated that the tight money frame to which I then objected could probably be regarded as being much looser and more flexible. Yes, I am informed that only on September 4 would oral argument be entertained and that the nature of the argument would be a mere presentation of views which, if they are to be sufficiently extensive and include all interested parties, could not possibly be concluded in one day.

I ask, Mr. Chairman, that this letter of protest at the apparent predisposition of this matter be made an official part of the record of "oral argument."

Because of the hurried nature of your proceedings, this is being dictated via long distance telephone with instructions to my Legislative Assistant, Mr. John W. Billett, to sign my name and to note that fact by his initials.

Sincerely,

JOHN E. MOSS,
Member of Congress.

CIVIL AERONAUTICS BOARD,
Washington, D.C., August 27, 1969.

Re: Docket No. 21326.

Hon. GEORGE P. MILLER,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MILLER: The Docket Section at the Board received on August 20, a complaint signed by you and nineteen other members of the Congress, requesting (among other things) suspension of tariffs filed by four trunkline air carriers (American, Continental, Eastern and United). The Board had announced that oral arguments would be heard in Room 1027 at the Civil Aeronautics Board, commencing at 10:00 A.M. on Thursday, September 4, from complainants and proponents—and that any complainant desiring to participate in the oral argument should so advise the Board by August 28.

Today, we have received a letter from Congressman Moss, indicating (among other things) that, in effect, he will not participate in the oral argument at that time. If you desire to present some statement, oral or written, will you please have someone in your office so notify us on either Thursday, August 28, or Friday, August 29. In this regard, it is requested that, if time for such a presentation is desired, a letter be sent or a phone call made to Mr. Thomas L. Wrenn, Chief Hearing Examiner, Civil Aeronautics Board (telephone 382–7758).

Yours very truly,

JOHN H. CROOKER, Jr.,
Chairman.

Hon. JOHN H. CROOKER, Jr.,
Chairman, Civil Aeronautics Board, Washington, D.C.

DEAR MR. CHAIRMAN: This is to acknowledge receipt of your letter of August 27th. The Board should be informed that we endorse without qualification the view expressed by our colleague, the Honorable John E. Moss in his letter to you of August 26, 1969. We ask that this telegram be made an official part of the record of the oral argument.

Sincerely,

RICHARD T. HANNA, HAROLD T. JOHNSON, GEORGE E. BROWN, Jr., EDWARD R. ROYBAL, JOHN J. MCFALL, PHILLIP BURTON, CHARLES H. WILSON, LIONEL VAN DEERLIN, GEORGE P. MILLER, GLENN M. ANDERSON, ROBERT L. LEGGETT, CHET HOLIFIELD, JERRY L. PETTIS, DON EDWARDS, AUGUSTUS F. HAWKINS, WALTER S. BARING, JEFFERY COHELAN, B. F. SISK,
Members of Congress.

NEWS RELEASE

Representative John E. Moss (D–California) has today transmitted the attached

letter to the Honorable John H. Crooker, Jr., Chairman of the Civil Aeronautics Board, and has directed copies to the other four members of the Board.

The Board currently has under consideration certain proposed changes in air fares between domestic points which have been submitted by various airlines. Moss and 19 of his colleagues filed a formal action requesting that the tariffs be suspended and that a complete general fare investigation be undertaken.

The CAB meantime scheduled oral arguments for yesterday. Moss, because of various indications pointing to the predisposition of the matter by members of the Board, informed the CAB by letter of his intention not to appear yesterday. The contents of that letter have previously been made public.

It has become standard practice when differing fare proposals are presented, for the Board, in one way or another, to offer alternate fare proposals which it would accept. In this instance, the Board issued an order outlining three alternatives which it considered it had. The purpose of the attached letter is to guarantee that the Board does not take any action outside of those three alternatives since any such action would be considered by Moss to be unlawful.

For further information, contact John Billett at 225–7163.

SEPTEMBER 5, 1969.

Hon. JOHN H. CROOKER, Jr.,
Chairman, Civil Aeronautics Board,
Washington, D.C.

DEAR MR. CHAIRMAN: In your order 69–8–108, the Board stated that pursuant to Section 1002 of the Federal Aviation Act (49 USC 1842), it may, upon its own initiative or in the light of complaints from interested persons:

(a) Suspend the effectiveness of the proposed tariffs pending investigation of the reasonableness of the proposed rates,

(b) Permit such tariffs to take effect while it is conducting such investigations, or

(c) Permit the tariffs to become effective without investigation.

In addition, the Board went on to observe that because of the public interest displayed in the August fare revisions, it had decided to take the unusual step in processing fare proposals of hearing oral arguments before determining what its action should be with respect to these tariff proposals.

As both a complainant and a Member of Congress I must therefore conclude that even though the Board did not restrict the oral presentations to any specific issues, it nevertheless did, by its act in enumerating three possible courses of action in its order, preclude any other course of action such as its usual past practice of suspending the effectiveness of the proposed tariffs and then making its position known as to other kinds of tariff proposals it would approve.

This form of ratemaking by treaty must come to an end. According to your Economic Regulation 302.506, at *any* hearing involving a change in a fare, the burden of going forward with the evidence shall be upon the person proposing such change to show that the proposed change is just and reasonable, and not otherwise unlawful; i.e., in compliance with the rules of ratemaking in the Act and the Board's Economic Regulations and Policy. If the tariff proposals do not meet this test on their face, then they should be suspended and investigated. It is not the duty of the Board to propose alternative fare proposals when the person proposing such changes cannot show that its proposed change is just and reasonable.

Sincerely,

JOHN E. MOSS,
Member of Congress.

CIVIL AERONAUTICS BOARD,
Washington, D.C., September 8, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: We are in receipt of your letter of September 5 regarding the Board's Order No. 69–8–108.

In the last paragraph of page 1 of that letter, you state that you conclude that (by enumerating three possible courses of action) the Board precluded any other course of action. Actually, our Order stated: "We will not restrict argument to specific issues but will permit interested persons to express their views on any aspect of the tariffs that they wish to bring to the Board's attention." The items "enumerated" were not "courses of action"; they were (as shown in the Order) questions with respect to which the Board Members were "particularly interested in hearing argument".

As you set forth at the bottom of page 1 of your September 5 letter, the Board's usual past practice has been to suspend "the effectiveness of the proposed tariffs" and then make "its position known as to other kinds of tariff proposals it would approve." No Board order has yet been issued subsequent to the September 4 oral argument; when an order is issued, the procedure employed may be substantially what you described at the bottom of page 1 of your letter. In other words, tariffs filed before our Order No. 69–8–108 may be approved, or the effectiveness of proposed tariffs may be suspended and the Board's position would be made known "as to other kinds of tariff proposals it would approve."

Yours very truly,

JOHN H. CROOKER, Jr.,
Chairman.

SEPTEMBER 10, 1969.

Hon. JOHN H. CROOKER, Jr.,
Chairman, Civil Aeronautics Board,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your letter of September 8 regarding my letter of September 5 and the Board's Order 69–8–108.

A "reasonable man" would have no difficulty interpreting the content of the last paragraph on page 1 of my letter of September 5. Since, however, there is doubt in your mind as to the enumerated "courses of action" to which I had reference, I will again set forth, this time verbatim, paragraph 2 of your order 68–8–108, to wit:

"Pursuant to section 1002 of the Federal Aviation Act (49 USC 1482), the Board may, upon its own initiative or in the light of complaints from interested persons, (a) suspend the effectiveness of the proposed tariffs pending investigation of the reasonableness of the proposed rates, (b) permit such tariffs to take effect while it is conducting such investigation, or (c) permit the tariffs to become effective without investigation. The Board's Rules of Practice provide for the filing of complaints against tariffs requesting their suspension and/or investigation, and the Board will give full consideration to all complaints so filed respecting these tariffs. Also, because of the interest of the public in the proposed increases in passenger fares, we have decided to hear oral argument from interested persons before determining what our action should be with respect to the tariff proposals."

The three enumerated courses of action to which I made reference are clear. These are the three courses of action, and the only courses of action, the Board set forth in its order. By your own terminology, the items listed on page 2 of the order are "questions", not courses of action.

The Board did *not* hedge on the three alternatives when it set them forth in paragraph 2. It did not use the frequently utilized phrase—"among other". You were very definite and precise. You sought the public guidance before determining which of the three courses of action to take. You took the initiative by establishing the ground rules. Now abiding by them would be the only means of acting in good faith by the Board.

In the last paragraph of your letter of September 8, you state that when the Board's order is issued, "the procedure employed may be substantially what you describe at the bottom of page 1 of your letter;" that is, the Board's usual past practice of suspending the effectiveness of the proposed tariffs and then making its position known as to other kinds of tariff proposals it would approve.

You *need not* circumnavigate the Act. Why do so? The Congress has delegated to the Board the authority to prescribe the lawful rates in subsection 1002(d). In point of fact, not only do you have that authority, but the Congress has mandated that the Board shall determine and prescribe the lawful rate if it is of the opinion that any rate is or will be unjust or unreasonable, etc.

The Members of Congress do not take lightly your inclination to tread heavily upon the statutes of this land which they have so laboriously put together, albeit in the name of the "public interest". Our national sense of fairness and justice requires compliance with these Acts. If those who have taken an oath to uphold these laws do not abide by the rules, then who shall enforce them?

You have already reduced the stature of the "oral argument" to a mere meaningless and redundant presentation of known views and opinions. You have similarly diminished the value of your own Economic Regulations by not enforcing them. Do not now further dilute the Act by attempting to sanctify permanently the policy of ratemaking by treaty.

Sincerely,

JOHN E. MOSS,
Member of Congress.

[Order 69–9–68, docket 21322]

PASSENGER FARE REVISIONS PROPOSED BY THE DOMESTIC TRUNKLINE CARRIERS

(Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of September, 1969)

ORDER OF INVESTIGATION AND SUSPENSION

By tariff revision [1] filed August 1, 1969, and marked to become effective September 15, 1969, United Air Lines, Inc. proposed to revise its domestic passenger fares within the 48 contiguous states. Subsequently, on August 7 and 11, 1969, Eastern Air Lines, Inc. and Continental Air Lines, Inc., respectively, also filed proposed fare revisions [1] marked to become effective October 1, 1969. On August 13, 1969, American Airlines, Inc. proposed to revise its domestic passenger fares [1] effective September 27, 1969. Northwest Airlines, Inc. filed proposed revisions [1] to its domestic passenger fares on August 20, 1969, with an effective date of October 4, 1969, and Braniff Airways, Inc., on August 22, 1969, filed revisions [1] to its domestic passenger fares with an effective date of October 1, 1969.

All of the tariff revisions propose increased fares, although each of the six carriers takes a different approach to the appropriate level and structure of domestic passenger fares. With the exception of Continental and United, all of the carriers propose to adjust fares in accordance with a formula based on a fixed charge per passenger plus a variable charge based on mileage. United likewise proposes a dual element formula but with a fixed mileage charge, whereas Continental proposes instead to adjust fares by a stated percentage

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Footnotes at end of article.

and/or dollar increases which may vary according to distance. All of the carriers except United propose to establish first-class fares at 125 percent of coach. United proposes a ratio of 120 percent. With regard to night coach fares, American would raise all present night coach fares by $3.00, while the other carriers would set night coach fares at a level of 75 to 85 percent of the revised jet coach fares.

Several of the carriers have proposed revisions of their domestic discount fare structure concurrently with the proposed changes in coach and first-class fares. Six carriers have proposed to reduce the Discover America discount from 25 percent to 20 percent. A number of carriers would also reduce the youth standby and children's discount from 50 to 40 percent, the youth reservation discount from 33⅓ to 20 percent, and the family fare discounts for spouses to 20 percent and for children to 33⅓ percent. The proposed fare changes heretofore described are detailed in tabular form in Appendix A of this order.

A complaint has been filed by the Honorable John E. Moss, M.C. (California), and 19 other Members of Congress requesting suspension and investigation of the proposed tariff revisions. The complainants also seek a general fare investigation to determine whether the present fare structure produces a just and reasonable fare. The complainants filed a substantially similar complaint in response to tariff revisions proposed by several of the domestic carriers in March of 1969. The Board, in ordering those tariff revisions suspended and investigated (Order 69–5–28), either disposed of or rendered moot this earlier complaint except as to the request for a general fare investigation, which was deferred pending further informal investigation by the Board's staff into a cost oriented formula for structuring fares. The complainants have incorporated, by reference, the factual justification for the earlier complaint into the instant complaint. Inasmuch as the deferred issue in the earlier complaint is included in the instant complaint, we intend our action herein to be dispositive of the open issue in the earlier complaint.

The principal contentions made by the complainants are that the Board has never established cost and load factor standards against which fares could be judged for fairness and reasonableness, and that the proposed increases should not be permitted until such standards are established and the increases weighed against those standards. The complainants further assert that the fare proposals will further depress load factors and earnings; bring about even greater increases in costs, air traffic congestion, and air pollution; lead to more uneconomical and inefficient use of the nation's airports and airways; and thereby further increase the financial burden to the taxpayers and passengers.

An answer to the complaint has been filed by American. The carrier asserts that the complaint does not set forth facts or arguments warranting a continued postponement of fare adjustments that are urgently required in light of the industry's deteriorating financial position. American alleges that the complaint fails to recognize that over the years the airlines have been able to offset the effects of inflation only by means of improved operating efficiencies, and that such an offset is no longer possible under current economic conditions; that the complainants' sole reason for opposing the fare increases is that the Board has never established standards for cash costs and load factors; and that the alleged lack of fair cash cost and load factor standards is not a valid reason for denying the proposed fare adjustments.

In response to the Board's Order, 69–8–108, setting oral argument on the general question of a fare increase, the domestic trunklines and local service carriers have filed statements of position and presented their views at the oral argument. The carriers urge that there is a pressing need for an increase in regular and promotional fares in order to meet increasing costs which are being incurred in every expense category.

Most of the domestic carriers favor the adoption of a cost-oriented formula for establishing and defining domestic normal passenger fares, provided that it produces substantial additional revenue; that it more accurately reflects the varying costs of service, and that it be administered with enough flexibility to permit deviation in market situations where justification for a departure from the formula is shown.

Several carriers while not objecting to a formula *per se*, express reservations about the formula so far considered. They feel that further analyses should be made to refine the determination of carrier costs in different types of markets, while some are concerned that value of service may not have been adequately considered particularly in connection with short-haul fares. The criticisms of the formula approach are of varying degrees and range from advocacy of greater flexibility of application to requests for fare increases that do not change the present fare structure. The major criticisms of the formula approach are: (1) that such approach is premature at the present time; (2) that it may produce serious anomalies and inequities; (3) that its actual impact is unknown and will vary depending on the carrier and the carriers' operations; (4) that in short-haul markets, it may result in unreasonable fare increases and tend to divert traffic to other modes of transportation; and (5) that it gives no consideration to other rate-making factors such as type of traffic, competition, characteristics of the market, type of travel, and so forth.

A proposal has been made by Mohawk Airlines, Inc. for revising the present method of dividing interline fares. The division of fares proposed by Mohawk is based on the formula approach for establishing coach fares and would apportion an amount to each party to the through fare equal to the fixed, or terminal, charge in the formula, whether the through fare is a joint fare or a combination of locals, with the remainder of the fare being apportioned between the parties in accordance with the normal rate prorate.

Upon consideration of the tariff proposals, the complaint and answer thereto, the statements filed prior to the oral argument and comments made thereat, and other relevant matters, the Board finds that the proposals may be unjust, unreasonable, unjustly discriminatory, unduly preferential or unduly prejudicial, or otherwise unlawful and should be investigated. The Board further concludes that the tariffs in question should be suspended pending investigation.[2]

The Board is, however, of the opinion that the carriers have adequately demonstrated a need for some additional revenue and would be disposed to grant an increase computed in accordance with the criteria set out below. Because of the many anomalies in the existing fare structure and the somewhat tenuous relationship that existing fares on occasion bear to costs of service, we have concluded that adoption of a cost-oriented fare formula would produce a substantial improvement in the domestic fare structure. We are aware that significant objections to such a formula structure have been voiced by certain carriers, particularly with regard to the inhibiting effect it would have on managerial discretion in special situations where factors other than cost should be considered. With this in mind, we propose to allow a degree of flexibility in the application of the formula. We are also especially cognizant that the value of service considerations are highly pertinent in many markets. The fare formula which we propose, while geared to costs, does in fact give substantial recognition to value of service in both long haul and short haul markets, through retention of the concept of internal subsidy, whereby long haul fares are priced above cost plus a fair return, so as to compensate for short haul fares which must be priced somewhat below fully allocated costs in order for traffic to move.

In determining the fare formula which we would accept as providing a reasonable increase in revenue for the carriers while at the same time substantially improving the domestic passenger fare structure, we have reviewed both the formulas developed by the Board's staff, and circulated to the industry for comments earlier this year, and those formulas proposed by the carriers in the recent tariff filings. We find that the formula proposed by American produces a reasonable increase in revenues and recognizes the economies inherent in long haul carriage, actually achieving a reduction from present rates on some long haul routes, as well as the value of service limitations in short haul markets. We therefore propose to accept the basic American formula subject to certain modifications as detailed in the discussion below.

Before considering the formula in detail, however, we deem it appropriate to consider the complaint heretofore described. The complaint is based in large part on the alleged failure of the Board to establish fair cash cost standards. The Board's staff has over the past three years conducted extensive studies of carrier costs as related to the fares being charged. In addition, many carriers have conducted similar studies of their own which have been available to the Board and the staff. One of the results of the staff's study was the submission of several possible fare formulas earlier this year to the industry for comments, one of the formulas being based solely on costs of service. The American formula bears a strong correlation to this latter cost formula, although it reflects what we consider a reasonable deviation for long haul and short haul routes as previously discussed and produces a higher overall level of revenues to compensate for inflationary cost increases occurring since the staff's study of costs was made.

As set forth in a subsequent portion of this order, the carriers have adequately demonstrated a significant increase in costs, which the complainants recognize. To require the carriers to continue operating at present fare levels with operating costs spiraling upward would be contrary to the statutory policy and rate-making criteria contained in the Federal Aviation Act of 1958.[3] We are of the opinion that the formula which we are proposing, while perhaps falling short of the ideal, does offer a substantial improvement over the existing structure and its adoption would be consistent with our statutory duty.

A general fare investigation as requested by complainants is by its very nature a long and complex proceeding. To leave the carriers in *status quo* while such an investigation was conducted could result in serious and permanent financial damage to some carriers, and there is no rational method available to make a fare increase, which might be granted at the conclusion of the investigation, retroactive as can be done, for example, in a mail rate investigation.[4] Nevertheless, we have decided not to dispose of the request for a general fare investigation at this time. The complainants have raised some questions for which no fully satisfactory answer presently exists, especially the question of load factor standards, and we believe there are other important questions underlying evaluation of fare structure and level, not raised by complainants, which should be given thorough review. However, notwithstanding the existence of these questions, the condition of the industry detailed herein is sufficiently serious as to require immediate fare relief. Moreover, pending our further study of these matters, the Board is unable to conclude at this time that the additional earnings which this order will provide could be achieved by the

Footnotes at end of article.

industry through other courses of action within the carriers' control.

For these reasons, we have determined to undertake an exploration, within the Board, of a number of matters relating to questions such as: what the appropriate rate of return on a carrier's investment should be; how a carrier's rate of return should be computed; should load factor standards be set and if so at what level; should there be a taper in the line haul rate and if so to what degree; what method is most appropriate for determining terminal charges; and what is the proper differential between first-class and coach fares? At the conclusion of our consideration of these matters, we should be in a better position to determine whether a fare investigation is appropriate and, if so, to channel such investigation along the most productive patterns so as to expedite completion of the proceeding within a reasonable time span. We expect to complete our consideration of the foregoing matters and thus be in a position to rule upon complainants' request for a fare investigation in December 1969. Accordingly, we will defer action on the complaint until that time.

Complainants have also challenged the appropriateness of using a line haul rate based on aircraft mileage rather than aircraft hours. In essence, the complainants take the position that aircraft transit time between city pairs where the airport at one or both is relatively congested is greater than between similarly distant city pairs where a congestion problem does not exist. Thus, it is alleged, costs are higher between the former city pair than the latter. From this they reason that the passengers flying between the congested city pair are given an undue or unreasonable preference over passengers flying between a city pair where this problem does not exist, since the former are paying a lesser percentage of the carrier's cost for their transportation than are the latter.

We are of the view that an important goal of any fare structure is a relatively great degree of uniformity throughout the system, and we recognize that some anomalies will always result from any method of determining fares in a system as complex as the domestic air transport system. Carrying complainants' reasoning to its logical end would not only result in many different fares between different city pairs similarly distant relative to one another, but could also result in many different fares between the same city pair depending upon the period of the day, day of the week, and so on. Moreover, the formula we propose would avoid difficulties such as long haul-short haul inconsistencies which might arise under a revenue hour approach. A much simpler approach, and one which would accomplish substantially the same result, would be a variable terminal charge based primarily on congestion but including other terminal variables, such as landing fees. This concept was proposed in several of the formulas developed by the staff and included in the previously referenced study which was distributed to the industry earlier this year. We have, however, decided not to support this relatively simple concept at this time because, even here, there are many unknown or unmeasurable variables which have not so far been reflected in determining the appropriate variation between terminals. Thus, we believe that the advantage to be gained from a variable terminal charge is presently too tenuous to outweigh the advantage in moving now to greater system-wide uniformity. We note, however, that this is one of the questions to be pursued in the explorations previously described.

Turning now to the actual formula which we propose to accept, coach fares will form the core of the fare structure from which all other fares will be based. We believe that the revenue increase produced by the American formula is appropriate as discussed hereinafter, and therefore adopt that formula for our model, to wit:

Fixed charge for all markets: $9.00 plus a variable charge based on mileage and in accordance with the following rates per mile (in cents) for the applicable portions of the total mileage:

Mileage blocks:	
0 to 500	6.0
501 to 1,000	5.6
1,001 to 1,500	5.2
1,501 to 2,000	5.0
Over 2,000	4.8

Use of this formula will have the desirable result of reducing slightly some long haul fares (e.g., Los Angeles-New York from $145 to $141) which have for some time been considerably in excess of costs, while at the same time producing only moderate increases in short haul fares, thus minimizing the impact on the movement of traffic in these markets.

American has proposed that city center to city center mileage be used in computing fares. However, we are of the opinion that direct airport-to-airport mileage offers a more reasonable and rational basis for computing fares and will adopt that mileage basis for our model. We recognize that there will be instances where application of a mileage basis will be inequitable or impractical, as for example, where a carrier is required by its certificate to operate via a circuitous routing. We will permit exceptions to the rule over a particular routing where good cause is shown. Further, it is not our intent to discourage common faring of cities or of airports situated about a single city; we would expect to permit common faring under the proposed formula in much the same manner as we have heretofore, provided the mileage used bears a rational relationship to the points so common rated.[5]

The Board has concluded that it would be appropriate at this time for the industry to revert to the conventional technique of rounding computed fares up or down to the nearest dollar. The technique used in recent years was designed to add slightly more taper to the fare structure, a need which is obviated by adoption of the proposed formula.

The Board proposes that first class jet fares be set at 125 percent of the coach fare derived by the above formula, except where the first class fare is today greater than 125 percent of the proposed coach fare, in which case the present fare would be retained.[6] We have selected this level since our cost studies indicate that even with this increase, the first class fares will fall well short of fully meeting the costs of providing the service. On the other hand the Board finds merit in the contention of the carriers generally that we should move gradually toward closer cost orientation in light of value of service limitations and the impact of varying ratios on the over-all economics of dual configuration aircraft. It is the Board's intention that this fare level apply only to services which are truly first class in character and quality and not in name only. We would accept night coach fares computed at 75 percent of the new coach fares.[7] For classes of service not specifically enumerated herein, we believe that maintenance of the present dollar differential from jet coach fares provides an acceptable relationship.

With respect to the various promotional fares, the Board would permit the following reduced discounts based on the coach fares derived from the above described formula:

Type of fare:	*Percent discount*
Discover America	20
Youth standby	40
Youth reservation	20
Family plan:	
Children 2 to 11	50
Children 12 to 21	33⅓

As we have previously indicated, the Board concludes that an increase in the industry's revenues is warranted. The carriers point to inflationary cost increases which have exceeded the additional revenue which they received as a result of the fare increase permitted in February. Despite that fare increase, the carrier earnings in the second quarter of 1969 were down substantially from those realized in the corresponding 1968 period. It is clear from data before the Board that payroll expenses have increased significantly since the Board permitted a fare increase to become effective last February. Labor contracts signed by a number of trunkline carriers will involve as much dollar increase in expenses as the February fare increase would yield in dollar revenue. Landing fees have risen sharply; and in the oral argument on September 4, stress was placed by Airport Operators Council, International and others on the probability of further increases. Fuel costs have escalated. Despite some progress in 1969 in alleviatng airport congestion, the problem is not solved; and delays at airports impose additional payroll and fuel costs on the carriers. Increased commission rates to travel agents for various categories of domestic ticket sales were made effective as of September 1, 1969. Every trunk carrier is firmly committed to a major capital expansion program involving both new and expensive flight equipment, and major expenditures for ground property and equipment, in order to keep pace with the requirements of the public convenience and necessity and the anticipated growth in traffic. Even if projected capital expenditures of the next several years were adjusted to reflect only the bare minimum capital improvement programs to keep pace with traffic growth, assuming restoration of improved passenger load factors, the industry is confronted with: a multi-billion-dollar requirement for additional capital funds over and above the internally generated cash flow from depreciation and reinvested earnings pursuant to conservative dividend policies. Such additional funding requirements come at the very time when interest rates are at peak levels. Taking into consideration these cost pressures on the carriers, and the marked decline in earnings and profit margin since the February increase, the Board finds that a further increase in fares at this time is necessary from the standpoint of the ratemaking standards of Section 1002(e) of the Act and the need to maintain the financial vitality of the carriers as a group.

We estimate that the fare adjustments we are prepared to accept would produce increased revenues for the trunkline industry of 7.4 percent in first-class service and 3.6 percent in coach service. Currently, about 82.6 percent of trunkline passenger miles involve travel at coach or economy fares and only about 17.4 percent at first class fares, so that (considering the traffic "mix") such basic fares will be increased by about 4.25 percent.[9] Further, we estimate that an annual increase in revenues equivalent to 2.1 percent may stem from adjustments in promotional fares. Thus, there may be a total revenue increase of approximately 6.35 percent (assuming no diversion or loss of traffic). To the extent of any such dilution, of course, the revenue increase would be less than 6.35 percent. In light of the low level of earnings realized in the most recent periods and the inflationary cost increases being experienced by the carriers, there appears to be no prospect that the fare increases approved herein will enable the industry to reach the 10.5 percent return guideline for the immediate future.[10]

The Board has concluded to permit tariff filings implementing the fare adjustments described above within the 48 contiguous states effective no earlier than October 1, 1969, provided that tariffs shall be filed on not less than 14 days' notice.

In proposing that the industry now adopt a cost-oriented formula, it is not the Board's intent that its application be so rigid as to stifle fare innovation on the part of individual

Footnotes at end of article.

carrier managements. We continue to regard healthy price competition as essential both to development of the industry and the needs of the public. Accordingly, the Board intends to consider fares produced by the formula as a "just and reasonable" ceiling, and any fare in excess of this ceiling would be viewed *prima facie* as outside the realm of justness and reasonableness and would ordinarily be suspended and ordered investigated. However, increases above the ceiling would be considered where strong, justification was shown, and upon a tariff filing providing at least 75 days' notice to permit the Board adequate time for review of the arguments in justification. This approach will also pertain in the case of filings proposing increases in any other fares which have not been specifically dealt with herein. On the other hand, fares proposed below the ceiling would continue to receive normal scrutiny by the Board, and the Board will not expect the above notice period for such filings.

On May 8, 1969, in an order suspending proposed passenger fare revisions the Board expressed the following view with respect to the situation stemming from the absence of published joint fares between numerous domestic points where passengers are now traveling in significant numbers:

". . . the Board is of the opinion that inconsistencies arising from the lack of published joint fares are inseparable from the inconsistencies which may exist in presently published local fares. We believe that correction of both should proceed simultaneously. A significant number of passengers are today traveling in markets where one-carrier service is not available, and where no joint fare is published for inter-carrier connecting service. Passengers traveling in such markets must pay a combination of local fares, each of which reflects the February increases. Fares for these passengers, therefore, reflect a compounding of increases which the formula permitted by the Board in February 1969 was not intended to reflect. The Board finds no reason for continuing such inequity" (Order 69–5–28).

Subsequently by Order 69–8–85, dated August 15, 1969, the Board granted all domestic carriers authority to discuss single-sum joint fares and open routings for such fares for a period of 90 days from the date of the order. We consider the fare structure improvements to be derived from the formula proposed herein and increased publication of joint fares are interrelated parts of an integrated whole, and the Board is not prepared to accept one without the other.

For this reason, we will require that any tariff filed implementing the proposed formula, shall contain an expiration date of January 31, 1970. In order to insure an effective tariff after that date we will also require that such tariff filing shall be accompanied by a refiling of existing fares for a proposed effective date of February 1, 1970, so as to require the filing of a new tariff subject to review by the Board before the carriers can extend the effectiveness of the new fare filings beyond January 31, 1970. We will also extend the discussion authority granted in Order 69–8–85, which presently expires November 13, 1969, to January 15, 1970.

The Board is concerned that the present division of through fares as between long haul and short haul carriers may be resulting in an inequitable distribution of revenue to the short haul carrier. Accordingly, we will amend Order 69–8–85 to include in the discussions authorized the question of division of fares between long and short haul carriers. We favor a division which is more closely oriented toward actual costs of the respective carriers involved, and believe that there may be considerable merit in the approach proposed by Mohawk, particularly in view of the fact that the formula we are proposing will not produce fares in short haul markets which will cover the fully allocated costs of such services.

We expect that a more equitable method of division will provide the short haul carriers with a significantly greater percentage benefit than will be the case with the long haul carriers, and have considered this eventuality in reaching a decision as to the level of increased revenues which we will permit. We therefore wish to make clear that in reviewing the tariffs to be filed for effectiveness on and after February 1, 1970, the Board will give great weight to the industry's conformance with the Board's findings as to the need for publication of additional joint fares at a satisfactory level, as well as to the implementation of a more satisfactory division of interline revenues that would reflect the cost and value of service considerations inherent in long haul vs. short haul pricing.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof.

It is ordered that:

1. An investigation is instituted to determine whether the fares and provisions described in Appendix D attached hereto, and rules, regulations, or practices affecting such fares and provisions, are or will be, unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful to determine and prescribe the lawful fares and provisions, and rules, regulations, and practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix D hereto are suspended and their use deferred to and including December 25, 1969, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board.

3. The request for the institution of a general rate proceeding to investigate the structure and construction of domestic passenger fares, contained in the complaint in Docket 21326, is hereby deferred. Except to the extent deferred or granted herein the complaint in Docket 21326 is denied.

4. Order 69–8–85 be amended to the extent that the period during which discussions are authorized is extended to January 15, 1970.

5. Order 69–8–85 be further amended to add to the subject matter authorized for discussion the question of the divisions of through fares between participating carriers including specifically the actual formula for allocating such divisions;

6. The investigation be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated;

7. A copy of this order wil be filed with the aforesaid tariffs and served upon American Airlines, Inc., Braniff Airways. Inc., Continental Air Lines, Inc., Eastern Air Lines, Inc., Northwest Airlines, Inc., and United Air Lines, Inc., which are made parties to this proceeding; and

8. A copy of this order will also be served upon Air West, Inc., Allegheny Airlines, Inc., Delta Air Lines, Inc., Frontier Airlines, Inc., Mohawk Airlines, Inc., National Airlines, Inc., North Central Airlines, Inc., Northeast Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., and Western Air Lines, Inc., and upon the complainants herein, which are made parties hereto.

This order will be published in the Federal Register.

By the Civil Aeronautics Board:

HAROLD R. SANDERSON,
Secretary.

Vice Chairman Murphy concurred and dissented as set forth in the attached statement.

Member Minetti concurred and dissented as set forth in his attached statement.

Member Adams also concurred and dissented as per his attached statement.

FOOTNOTES

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariffs C.A.B. Nos. 90, 98, and 101.

[2] For procedural reasons the proposed tariff revisions of United Air Lines, Inc., have been ordered suspended and investigated by separate order, 69–9–30, dated September 5, 1969.

[3] See sections 102, 404, and 1002(e) thereof.

[4] In any event section 1002(g) permits the Board to suspend tariffs for a maximum period of 180 days, and a proceeding of the scope proposed by the complainants would be impossible to complete in so short a time. In this connection, we would point out that five interim fare increases were permitted during the pendency of the *General Passenger Fare Investigation* which took some 4½ years to complete.

[5] The City of Seattle, in a statement of position at the oral argument, has requested more equitable treatment vis-a-vis Portland with respect to fares between the two cities and the midwest and southwest, contending that the present disparity in fares is not justified by the mileage differential between the two cities. We believe that application of the proposed formula will alleviate this alleged inequity.

[6] Consistent with recent Board policy, and since the carriers are well along in phasing out propeller services, we will continue to permit establishment of propeller first class fares at the jet level in those markets where the carrier offers jet first class fares. Almost all trunklines have completed phasing out propeller aircraft and the other trunklines have extremely minor propeller services in relation to over-all operations.

[7] In applying this relationship, the Board will not require reductions in existing night coach fares.

[8] With respect to the contention of Northwest Airlines that discounts on discounts should be eliminated, the Board would look with favor on tariff amendments that would eliminate these practices (such as children's 50 percent discount on Discover America excursion fares).

[9] As indicated in the footnote of Appendix B, the estimated fare increase is overstated to the extent that intrastate fares currently at depressed levels are not susceptible of immediate increase to the level of the basic formula.

[10] The diminished level of net income and rate of return experienced by the industry for the 12-month period ending March 31, 1969, as compared with the prior period, is set forth in Appendix C attached.

MURPHY, VICE CHAIRMAN, CONCURRING AND DISSENTING

While I agree that there is a need for increased revenues by some carriers to offset inflationary pressures I do not believe that the increase need be as large as the majority has approved or that the increases in the regular farces should be achieved by the application of a so-called formula.

As an interim measure I believe that an increase in regular fares of 3 percent across-the-board limited to markets over 400 miles, when combined with the reductions in the fare discounts and the 4.0 percent increase granted a few short months ago, is as much as this Board can request the traveling public to assume under the present circumstances. In my view, such an increase would provide sufficient revenue to sustain the financial health of the carriers.

I am particularly opposed to the adoption of an essentially cost-oriented fare formula. The formula produces anomalies and inequities. It ignores value of service and market elasticity. It produces drastic increases in the short haul and medium haul markets where the majority of the public travel. It decreases long haul fares where the value of service is greatest and ignores the factor of cross-

subsidization inherent in a system concept of transportation. In my judgment a great deal of further study and analysis is necessary before such a sweeping and permanent regulatory standard is adopted.

I believe that an across-the-board increase limited to markets over 400 miles would meet the immediate needs of the industry for additional revenues, would be far simpler to administer than the proposed formula and would be far more equitable to the public and the carriers than the widely varying increases contained in such a formula.

ROBERT T. MURPHY.

MINETTI, MEMBER, CONCURRING AND DISSENTING

I concur in the majority action in suspending and investigating the tariffs before the Board. In addition, I concur in the desire of the majority to modify the basis of interline rate-prorates in recognition of the fact that the long-standing basis for division of revenue between the locals and the trunks for interline long-haul passenger trips may not reflect the conditions of today or the foreseeable future.

On the other hand, I am unable to concur in accepting, without an investigation, a fare adjustment package equivalent to an increase in fare levels of over six percent, especially bearing in mind that just a little over six months ago the Board permitted a fare increase approximating four percent of the then existing level. I agree that, on the basis of reported results, the industry's earnings are deficient if measured against a rate of return guideline of 10.5 percent on investment, and therefore I would permit reasonable increase in promotional fares if the carriers believe such adjustments to be beneficial. This would be consistent with the Board's historical policy of giving carriers considerable latitude to experiment with discount fares with a view toward maximizing their revenues while offering some reductions from normal fares. Again, I would also permit increases in first class fares to 125 percent of coach fares, since the present level of first class fares does not appear to compensate the carriers for first class service on a fully allocated cost basis. However, I would go no further at this time, in the absence of an investigation.

Only last May the Board refused to sanction another fare increase. At that time, it expressed its concern about the depressed level of load factors and pointed out that "the carriers have bought equipment despite (not by reason of) traffic forecasts."[1] As stated by the Board in its May order:[2]

"As long as the industry's load factor continues its present downward trend, and inflationary pressures persist, the carriers may find themselves in a cost-revenue squeeze despite the introduction of more efficient aircraft and the adjustment of their fares. Another significant aspect of an unnecessary increase in unused capacity is the corresponding growth in the investment base and fixed charges. On the other hand, it cannot be expected that fare increases will stimulate additional traffic. *The basic solution to the industry's present financial situation would appear to lie in exercising restraint in ordering new flight equipment and in the use of its available capacity, rather than in increasing its price to the public.*" (Emphasis added.)

Although I am persuaded that the load factor problem is complex, I have not been convinced that the foregoing statement is incorrect. We have very little more information today with respect to appropriate load factor standards than at the time of our earlier pronouncement, and unlike the majority, I am reluctant to entertain a general increase in coach fares until after the question of load factor standards has been squarely faced and resolved in an intensive investigation.

[1] Order 69-5-28, May 8, 1969, p. 4.
[2] *Ibid.*

On the contrary, I fear that the increases sanctioned today may prove to be self-defeating by causing a further drag on traffic growth and by delaying the day when the Board and the industry will come to grips with the basic causes of the industry's present difficulties. Until those causes are squarely met, we face the prospect of still further load factor declines and requests for additional fare increases.

G. JOSEPH MINETTI.

ADAMS, MEMBER, CONCURRING AND DISSENTING

I do not associate myself with the concept that local service carriers may not increase first class fares to the full extent of the formula, i.e., to 125% of the computed coach fare in the market. Thus I dissociate myself from the statement: "It is the Board's intention that this fare level apply only to services which are truly first class in character and quality and not in name only."

Traditionally, local service carriers have been permitted to charge a first class fare, particularly in sparse, short haul, noncompetitive markets even if their piston equipment and limited cabin amenities do not equal service in the first class compartment of more modern transcontinental trunkline jets.

Section 399.32 of the Board's Policy Statement specifically provides:

"It is the policy of the Board to permit subsidized carriers maximum freedom to experiment, in interstate and overseas air transportation, with commercial rate changes for the purpose of maximizing revenues and thereby minimizing subsidy requirements, provided the resulting rates are not otherwise unreasonable."

It seems to me that the local service carriers must be permitted to increase their first class fares, subject to the exercise of their managerial discretion as to whether the full increase on certain short haul routes might price air transportation out of the market.

JOHN G. ADAMS.

SUMMARY OF PERTINENT ASPECTS OF DOMESTIC AIRLINE PASSENGER TARIFF FILINGS, AS OF SEPT. 2, 1969

	Jet coach								Family fares				
		Line-haul								Children			
	Terminal charge	Mileage	Rate (cents)	Jet 1st class	Discover America (R.T.)	Youth standby	Military standby	Youth and military reservation	Spouse	12 to 21	2 to 11	Children 2 to 11 yrs.	Night coach
Present discounts					25 percent	50 percent	50 percent	33⅓ percent	25 percent	50 percent	66⅔ percent	50 percent	
American	$9.00	0 to 500	[1] 6.0	125 percent of jet coach.[3]	[2]	40 percent discount.	[2]	[2]	[2]	[2]	[2]	[2]	+$3.00.
		501 to 1,000	5.6										
		1,001 to 1,500	5.2										
		1,501 to 2,000	5.0										
		Over 2,000	4.8										
Braniff	8.60	0 to 400	[1] 6.7	do	20 percent discount.	[2]	[2]	20 percent discount (youth only).	20 percent discount	33⅓ percent discount.	33⅓ percent discount.	33⅓ percent discount.	
		401 to 1,100	5.8										
		1,101 to 1,800	5.2										
		Over 1,800	5.0										
Continental (adjust existing fare to stated percent of industry norm [4]—then add $2 to $9 depending on distance in markets above 400 miles).				do	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	85 percent of jet coach.
Eastern	8.60	0 to 400	[1] 6.7	do	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	75 percent of jet coach.
		401 to 1,100	5.8										
		1,101 to 1,800	5.2										
		Over 1,800											
Northwest:													
Under 300 miles	9.00	All	6.0	125 percent of jet coach.	20 percent discount.[5]	40 percent discount.	[2]	[2]	20 percent discount.	33⅓ percent discount.	33⅓ percent discount.	33⅓ percent discount.	75 percent of jet coach.
301 miles and above	10.50	301 to 599	[1] 5.6										
		600 to 1,199	5.5										
		1,200 to 1,799	5.4										
		1,800 to 2,399	5.3										
		Over 2,400	5.2										
United	11.00	All	5.7	120 percent of jet coach.[3]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	[2]	

[1] Mileage rates applied on a cumulative basis.
[2] No change.
[3] Existing ratio is used if it is higher.
[4] Between 85 and 100 percent in markets where Continental currently provides economy service and between 92.5 and 107.5 percent in other markets.
[5] Northwest proposes to provide that children's fares will be based on 66⅔ percent of the regular jet coach fare instead of the "Discover America" fare.

DOMESTIC TRUNKLINE CARRIERS

[Percent impact on passenger revenues]

	Normal fares			Discount fares	Total
	1st class	Coach	Total		
Domestic trunk carriers:					
American	9.16	4.43	5.40	2.12	7.52
Braniff	7.51	3.89	4.59	1.51	6.10
Continental	5.93	2.33	2.87	2.25	5.12
Delta	5.10	1.89	2.44	2.13	4.57
Eastern	4.52	3.46	3.64	1.85	5.49
National	2.38	.36	.65	2.37	3.02
Northeast	2.60	1.91	1.98	2.02	4.00
Domestic trunk carriers:—Cont.					
Northwest	9.28	5.09	5.68	2.10	7.78
Trans World	7.10	3.71	4.30	2.31	6.61
United	9.37	4.03	5.07	2.13	7.20
Western	4.28	[1] 4.99	4.93	2.05	6.98
Total trunks	7.43	3.58	4.25	2.10	6.35

[1] The various estimated increased percentages are overstated to the extent that intrastate fares at depressed levels may not be subject to immediate increase (in whole or in part) because of the requirements of intrastate regulatory approval. The 4.99-percent coach increase for Western is calculated on the basis of all fares being modified in accordance with the basic formula. Because of the depressed level of certain California intrastate fares in markets of heavy traffic volume and the requirement of State Commission approval of any increase, the 4.99-percent estimated coach increase for Western is clearly overstated.

DOMESTIC OPERATIONS OF TRUNKLINE AND LOCAL SERVICE CARRIERS, NET INCOME AFTER TAXES AND RETURN ON INVESTMENT, 12-MONTH PERIODS ENDED MAR. 31, 1969, AND 1968

[Dollar amounts in thousands]

	Net income [1]		Return on investment [2] (excluding investment tax credits)	
	Mar. 31, 1969	Mar. 31, 1968	Mar. 31, 1969	Mar. 31, 1968
Domestic trunk carriers:				
American	$15,227	$46,149	5.33	6.21
Braniff	3,019	−3,362	5.65	2.14
Continental	2,884	15,292	4.68	11.53
Delta	39,189	35,647	13.89	17.05
Eastern	−20,046	9,057	.70	4.95
National	18,149	21,937	11.03	15.03
Northeast	−3,226	−4,251	−.72	−5.81
Northwest	20,386	27,155	8.58	13.39
TWA	−7,037	7,846	.08	2.93
United	28,328	54,095	4.92	6.13
Western	1,720	10,053	3.97	10.19
Total trunks	98,593	219,618	4.78	6.93
Local Service carriers:				
Air West	−$15,252	−$4,341	−29.21	−31.50
Allegheny	−6,782	−420	−0.84	4.79
Frontier	−8,061	−1,966	−4.75	1.62
Mohawk	−4,351	−306	−1.22	3.70
North Central	−1,196	1,619	3.62	7.50
Ozark	−2,065	1,383	2.54	7.34
Piedmont	−540	1,343	4.49	8.23
Southern	−279	−594	3.84	−0.77
Texas International	−1,336	−669	2.25	4.14
Total locals	−41,052	−8,934	−2.00	2.14

[1] Net income after special items (including interest expense) and income taxes.

[2] Net income (excluding interest expense) as a percent of investment, which has been adjusted to exclude equipment purchase deposits and unamortized discount and expense on debt.

APPENDIX D

TARIFF—CAB ISSUED BY AIRLINE TARIFF PUBLISHER, INC., AGENT

NO. 90

On 66th Revised Page 10–C, in Rule 4, the provisions reading "Rule 43—Children's Fares (applicable to NW only)".

All fares, provisions, and fare cancellations on the following pages (except fares, provisions, and fare cancellations applicable to or from Hilo, Honolulu, or Canadian points, and except matter specifically excluded below):

31st and 32nd Revised Pages 13.
31st and 32nd Revised Pages 14.
30th and 31st Revised Pages 15.
30th and 31st Revised Pages 16.
18th Revised Page 19.
18th Revised Page 20.
14th Revised Page 21.
12th Revised Page 24–C.
12th Revised Page 24–D.

12th and 13th Revised Pages 42 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Bowling Green).

14th and 15th Revised Pages 43 (excluding the cancellation of the fares from and to Reading).

14th and 15th Revised Pages 44 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Bowling Green).

19th and 20th Revised Pages 45 (excluding the cancellation of the fares from and to Bowling Green and Reading).

19th and 20th Revised Pages 46 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

12th and 13th Revised Pages 47 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

12th and 13th Revised Pages 48 (excluding matter marked to become effective September 23, 1969).

14th and 15th Revised Pages 49 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

14th and 15th Revised Pages 50 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

15th and 16th Revised Page 51 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

15th and 16th Revised Pages 52 (excluding the cancellation of the fares from and to reading).

17th Revised Page 53.
17th Revised Page 54.

NO. 98

All fares, provisions, and fare cancellations on the following pages (except fares, provisions, and fare cancellations applicable to or from Hilo, Honolulu, or Canadian Points, and except matter specifically excluded below):

14th and 15th Revised Pages 25.
14th and 15th Revised Pages 26.
16th and 17th Revised Pages 27.
16th and 17th Revised Pages 28.
5th and 6th Revised Pages 28–A.
5th and 6th Revised Pages 28–B.
Original Page 28–C.
1st Revised Page 28–C.
Original Page 28–D.
1st Revised Page 28–D.
14th and 15th Revised Pages 29.
14th and 15th Revised Pages 30.
14th Revised Page 30–A.
14th Revised Page 30–B.
19th Revised Page 33.
19th Revised Page 34.
19th Revised Page 35.
18th and 19th Revised Pages 36.
14th Revised Page 36–A.
14th Revised Page 36–B.
1st Revised Page 36–C.
1st Revised Page 36–D.
17th and 18th Revised Pages 41.
17th and 18th Revised Pages 42.
15th Revised Page 42–A.
15th Revised Page 42–B.

10th, 11th and 12th Revised Pages 51 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Bowling Green).

10th, 11th and 12th Revised Pages 52 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of fares from and to Bowling Green and Reading).

13th and 14th Revised Pages 53 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares and to Bowling Green and Reading).

13th and 14th Revised Pages 54 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

7th and 8th Revised Pages 55 (excluding matter marked to become effective September 23, 1969).

7th and 8th Revised Pages 56 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

9th and 10th Revised Pages 57 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

8th, 9th and 10th Revised Pages 58 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

8th and 9th Revised Pages 59 (excluding

matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

All fares, provisions, and fare cancellations on the following pages (except fares, provisions, and fare cancellations applicable to or from Hilo, Honolulu, or Canadian Points, and except matter specifically excluded below):

8th and 9th Revised Pages 60 (excluding the cancellation of the fares from and to Reading).

13th and 14th Revised Pages 61 (excluding the cancellation of the fares from and to Reading).

13th and 14th Revised Pages 62 (excluding the cancellation of the fares from and to Reading).

15th and 16th Revised Pages 63.

15th and 16th Revised Pages 64 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Bowling Green).

12th and 13th Revised Pages 64–A (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Bowling Green and Reading).

12th and 13th Revised Pages 64–B (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Bowling Green and Reading).

14th and 15th Revised Pages 64–C (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

14th and 15th Revised Pages 64–D (excluding matter marked to become effective September 23, 1969).

12th and 13th Revised Pages 64–E (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

12th and 13th Revised Pages 64–F (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

10th and 11th Revised Pages 64–G (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

10th and 11th Revised Pages 64–H (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

11th and 12th Revised Pages 64–I (excluding the cancellation of the fares from and to Reading).

10th, 11th and 12th Revised Pages 64–J (excluding the cancellation of fares from and to Reading).

14th and 15th Revised Pages 64–K (excluding the cancellation of fares from and to Reading).

14th and 15th Revised Pages 64–L.

24th Revised Page 97.

24th Revised Page 98.

11th Revised Page 98–A.

11th Revised Page 98–B.

Original Page 98–D.

NO. 101

All fares, provisions, and fare cancellations on the following pages (except fares, provisions, and fare cancellations applicable to or from Hilo, Honolulu, or Canadian points, and except matter specifically excluded below):

17th and 18th Revised Pages 59.

17th and 18th Revised Pages 60.

21st and 22nd Revised Pages 61.

21st and 22nd Revised Pages 62.

24th and 25th Revised Pages 63.

24th and 25th Revised Pages 64.

18th and 19th Revised Pages 65.

27th Revised Page 67.

27th Revised Page 68.

22nd and 23rd Revised Pages 69.

22nd and 23rd Revised Pages 70.

31st Revised Page 79.

31st Revised Page 80.

31st Revised Page 81.

31st Revised Page 82.

20th and 21st Revised Pages 102.

24th, 25th and 26th Revised Pages 103.

24th, 25th and 26th Revised Pages 104.

23rd, 24th and 25th Revised Pages 105.

23rd, 24th and 25th Revised Pages 106.

17th Revised Page 107.

17th Revised Page 108.

16th and 17th Revised Pages 136.

10th and 11th Revised Pages 137 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Bowling Green and Reading).

10th and 11th Revised Pages 138 (excluding the cancellation of the fares from and to Bowling Green and Reading).

17th and 18th Revised Pages 139 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Bowling Green and Reading).

17th and 18th Revised Pages 140.

16th, 17th and 18th Revised Pages 141 (excluding the cancellation of the fares from and to Bowling Green and Reading).

16th, 17th and 18th Revised Pages 142 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

16th and 17 Revised Pages 143 (excluding the cancellation of the fares from and to Bowling Green and Reading).

16th and 17th Revised Pages 144 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Bowling Green and Reading).

13th and 14th Revised Pages 145 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Bowling Green).

13th and 14th Revised Pages 146 (excluding the cancellation of the fares from and to Bowling Green).

11th Revised Page 147.

11th Revised Page 148.

17th and 18th Revised Pages 149 (excluding the cancellation of the fares from and to Reading).

All fares, provisions, and fare cancellations on the following pages (except fares, provisions, and fare cancellations applicable to or from Hilo, Honolulu, or Canadian Points, and except matter specifically excluded below):

17th and 18th Revised Pages 150 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

19th and 20th Revised Pages 151 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

19th and 20th Revised Pages 152.

12th Revised Page 153.

12th Revised Page 154.

14th and 15th Revised Pages 155 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

14th and 15th Revised Pages 156 (excluding the cancellation of the fares from and to Reading).

12th and 13th Revised Pages 157 (excluding the cancellation of the fares from and to Reading).

12th and 13th Revised Pages 158 (excluding matter marked to become effective September 23, 1969).

13th Revised Page 159.

13th Revised Page 160.

13th and 14th Revised Pages 161 (excluding matter marked to become effective September 23, 1969).

13th and 14th Revised Pages 162 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

12th and 13th Revised Pages 163 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

12th and 13th Revised Pages 164 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

14th and 15th Revised Pages 165 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares to and from Reading).

14th and 15th Revised Pages 166 (excluding the cancellation of the fares from and to Reading).

12th Revised Page 167.

12th Revised Page 168.

17th and 18th Revised Pages 169 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

All fares, provisions, and fare cancellations on the following pages (except fares, provisions, and fare cancellations applicable to or from Hilo, Honolulu, or Canadian Points, and except matter specifically excluded below):

17th and 18th Revised Pages 170 (excluding matter marked to become effective September 23, 1969, and excluding the cancellation of the fares from and to Reading).

18th and 19th Revised Pages 171.

19th Revised Page 172.

15th Revised Page 173.

15th Revised Page 174.

20th Revised Page 175.

20th Revised Page 176.

14th Revised Page 177.

14th Revised Page 178.

17th Revised Page 179.

17th Revised Page 180.

14th Revised Page 181.

14th Revised Page 182.

11th Revised Page 183.

11th Revised Page 184.

10th Revised Page 185.

21st Revised Page 246.

20th Revised Page 247.

20th Revised Page 248.

25th and 26th Revised Pages 251.

NO. 117

The fares and provisions on the following pages:

10th and 11th Revised Pages 25.

10th and 11th Revised Pages 26.

7th Revised Page 29.

12th, 13th and 14th Revised Pages 31 (excluding the increase in family fare for WA).

NO. 83 ISSUED BY EASTERN AIR LINES, INC.

All fares and provisions on 15th Revised Page 7 and 14th Revised Page 8.

NO. 284 ISSUED BY EASTERN AIR LINES, INC.

All fares and provisions in the tariff.

CIVIL AERONAUTICS BOARD,
Washington, D.C., September 16, 1969.

Hon. JOHN E. MOSS,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MOSS: I am in receipt of your letter of September 10. The Board has suspended the tariffs filed prior to the oral argument. A copy of the Board's Order was delivered to your office within an hour after the Order was entered.

Some of the carriers have now filed new tariffs. The general topic of passenger fares has occupied as much of the Board's time and attention during 1969 as any other subject. As you know from the "concurrences and dissents" appended to the September 12 Order, the Members have varying views about fare level and fare structure.

The incoming Chairman, Mr. Secor D. Browne (whom the President nominated last week), has as lively an interest in the subject as do the present Board Members. With his imminent participation in the Board's work, I would not attempt to express some personal viewpoint which might, in any way,

tend to limit the avenues which the new Chairman and the Board may take in the future in these respects. The date of my departure from Washington, as previously indicated to the White House, is next week; and I will deliver to the incoming new Chairman, your September 10 letter, for any more detailed reply, which he may feel is indicated.

Yours very truly,

JOHN H. CROOKER, Jr.
Chairman.

PASSENGER FARE REVISIONS PROPOSED BY THE DOMESTIC TRUNKLINE CARRIERS

[Docket 21322, 21326, before the Civil Aeronautics Board, Washington, D.C.]

Petition for Reconsideration of C.A.B. Order 69–9–68 By Members of Congress and Air Transportation users with Request for Suspension and Investigation of all Tariffs Filed Pursuant thereto.

Dated: September 22, 1969.

Comes now the Members of Congress with a petition for reconsideration of, and suspension and investigation of tariffs filed pursuant to, C.A.B. Order No. 69–8–68, adopted September 12, 1969.

By this order the Board announced it would be disposed to grant the most sweeping revision of airline passenger fares in its 31 year history. Specifically, the Board's proposal contemplates: (1) changing the fare base from first-class to day coach; (2) increasing the level of fares (for day coach, the "terminal charge" element would be increased $4 or 80% over the February 20, 1969 increases, which would be equal to a $6 or 200% increase over the January 1969 level); (3) changing the horizontal fare structure between cities by adopting a new variable charge per mile utilizing 5 mileage blocks of 500 mile intervals in place of a flat rate per mile; (4) making four changes in the vertical fare structure between classes of traffic: *a.* establish a new 25% differential between first-class and day coach fares; *b.* fixes local service propeller aircraft fares at something less than first-class fares (the percent or amount of difference is not specified); *c.* sets a 25% differential between night and day coach fares; and *d.* increases six promotional fares by 6 to 50 percent; (5) changing the method for rounding computed rates into published fares; (6) adopting a new test of the zone of reasonableness using fares produced by a new formula as the maximum rate, stating that any fares filed in excess of the new ceiling would be viewed *prima facie* as outside the realm of justness and reasonableness, and further requiring such rate increases to be filed on at least 75 days notice; (7) broadens the scope of the joint air carrier talks previously approved regarding single-sum joint rates and open routings to also encompass discussions as to the method for division of such through rates; and (8) makes the continued application of the foregoing fare changes after February 1, 1970, conditional upon the air carriers reaching an agreement substantially conforming with the Board's finding as to the need for the publication of additional joint fares and a more satisfactory division of interline revenues.

Prior to issuing the Order, and before the Members of Congress had filed their complaint of August 20th, the Board undertook, upon its own initiative, the unusual step in processing of fare proposals of setting so-called "oral argument" on the general question of a fare increase. Subsequently, the air carriers and others filed statements of position and presented their views at the "oral argument." Members of Congress, jointly and severally, refused to participate in the "oral argument" because of various indications pointing to a predisposition of the matter by members of the Board.

In ordering the "oral argument," the Board indicated it was interested in hearing views addressed to three questions: (1) to what extent was a fare increase warranted and how should it be applied, (2) to what extent should promotional fares be modified, and (3) what effect would such changes have upon the movement of traffic. Thus some, but not all, of the items in Order 69–9–68 were discussed by the air carriers and others either in their written statements or oral presentation or both. Others, however, such as the new test of reasonableness and 75 day filing notice, were never publicly considered at all by either the parties or the Board.

Turning now to the rationale of the opinion, the Members of Congress would first observe that after reviewing all the testimony, the Board initially found that all the proposals put forth, including that of American Airlines, Inc. (American), might be unlawful and therefore should be suspended and investigated. At the same time, however, the Board was of the opinion that the air carriers had demonstrated a need for additional revenue and that the formula proposed by American (which it had just held may be unlawful) would produce a reasonable increase in revenue, and accordingly adopted that proposal as its own.

We agree with the major parties that the air carriers have adequately demonstrated a significant inflationary increase in the *level* of the cost of the goods and services they must purchase to produce their product. Consequently, this is not a disputed issue. However we, and other parties at the "oral argument," do not agree with the air carrier parties as to the *amount* of quantity of goods and services which must be utilized to produce the product in an adequate, efficient and economical manner, as measured by the load factor and unit cash cost standards.

The Board claims that its proposed ratemaking formula and test of reasonableness would produce a substantial improvement in the domestic fare structure. This claim is based on the allegation that the formula and test are cost-oriented. In defense of this position the Board first observes that for the past 3 years its staff has been conducting extensive studies of air carriers costs as related to fares, and that one of the results of these studies (as well as others made available to the staff by the air carriers) was the development of several possible fare formulas. These were submitted *ex parte* to the industry for comment earlier this year. One of these formulas, it is alleged, is based solely on cost of service. The American formula, which the Board proposes to adopt as its own, is said to bear a strong correlation to a companion formula which is an adaptation of this latter formula with respect to coach fares.[1] From this the Board reasons that its proposed ratemaking formula and test of reasonableness is cost-oriented.

The various staff formulas to which the Board refers, however, have never yet been placed into the record with or without a sponsoring witness, either here or in any other case. This is an important consideration since the Bureau of Economics noted in the report from which this formula was derived that "The type of costing methodology used to develop cost applicable to passenger service affects the results obtained."[2]

More pragmatically, when the staff distributed its formulas to the industry it did not indicate that the purpose was to relate fares to costs, but instead "The purpose of this study is to examine the impact of this fare formula on carrier revenue in general and on the level of individual fares in particular."[3]

Calling the American formula cost-oriented because it bears a strong correlation to Formula F which is an adaptation of Formula E which is supposedly cost-oriented, does not make it so, any more than calling the tail of a lamb a leg makes a lamb a five legged creature (with apologies to late Abraham Lincoln and Everett McKinley Dirksen.

However, even conceding *arguendo* that the staff's formula is cost-oriented, it should be pointed out that the staff has never claimed that such costs are "just and reasonable". Nor has the staff ever claimed the formulas represent fair cash cost standards.

Moreover, it should not be overlooked that the staff was very careful in its initial report referred to above to note that "Load factors affect unit costs since many categories of cost are determined by the number of aircraft miles flown and do not change materially in relation to traffic volume." (At page 36.) In other words, the load factor standard used to develop costs applicable to passenger service affects the results obtained, and hence some load factor standard had to be used to develop the staff's and American's formula. But what is that standard? We are not told. Nor are we provided any evidence in the record, or the conclusions of fact, or findings of law, from which it can be determined whether or not the unidentified standard used is "just and reasonable". Finally, again, the staff does not claim that standard (whatever it may be) is "just and reasonable".

For these reasons, petitioners do not contend that the American formula (the staff's formula plus 4%) lacks cost and load factor standards, but instead that such standards as are contained therein are not *prima facie* "just and reasonable". After all, if those responsible for the development of that formula have purposely avoided making such contentions, on or off the record, who can? The Board itself is estopped from making such an assertion, for it has already said, "The complainants have raised some questions for which no fully satisfactory answer presently exists, especially the question of load factor standards. . . ."

On page 6, the Board criticises the revenue-hour approach. Among other things, it speculates that such a ratemaking scheme would result in different fares for city pairs of similar distance, lead to possible different fares at different times of the day or week, and might produce long and short haul inconsistencies.

No presentation was ever made for or against the revenue-hour approach either at the "oral argument" or in any of the written documents filed by the parties, including complainants. Quite the contrary, due to the potential controversy that may surround this scheme, and recognizing the limited time available during a 180 day tariff suspension, Members of Congress have always been meticulous to only advance consideration of this ratemaking approach in conjunction with a general rate hearing, rather than the suspension and investigation of specific tariffs. The Board's statements, therefore, are blatantly prejudicial to consideration of the revenue-hour approach in connection with (1) a general rate investigation and (2) the issuance of a notice of proposed rulemaking to incorporate revenue-hour data in 14 C.F.R. 241, as requested by Members of Congress.

In effect, the Board has unnecessarily sought-out and attacked this approach to ratemaking in order to give additional credence to its justification for adopting the American formula.

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[1] *Formula F.* This formula is an adaptation of Formula E with respect to coach fares. It involves a lower terminal charge, a higher line-haul rate, and produces a higher level of coach fares on the average, though not at the shorter hauls. First class fares are computed at 120 percent, or the existing ratio if greater, of coach fares. "Domestic Fare Structure—Analysis of Various Fare Formula Hypotheses," Civil Aeronautics Board, Washington (May 1969) p. 4.

[2] A Study of the Domestic Passenger Air Fare Structure, Civil Aeronautics Board. Washington (January 1968) p. 6.

[3] "Domestic Fare Structure—Analysis of Various Fare Formula Hypotheses," *Op. cit.*, p. 1.

We note in passing, however, that the representative of the National Association of Regulatory Utility Commissioners observed at the "oral argument":

"An ideal situation would exist if standard uniform fares could be published from each airport to every other domestic airport. That this is an ideal becomes apparent when it is remembered that between origin and destination there is often a choice of routes which involve different mileages and sometimes a longer mileage results in a shorter total travel time." (At page 230.) Statements of this nature seem to indicate that any predisposition in this matter at this time may be premature.

Since the Board has raised the question of possible discrimination in rates between communities, we now turn our attention to the inconsistencies arising under the Board's proposed formula. As already noted by the Board as early as last May, a significant number of passengers are today traveling in markets where one-carrier service is not available and no through fare is published for inter-carrier connecting service. Passengers traveling in these markets must pay a combination of the local fares, each of which under the Board's formula would reflect a $9.00 "terminal charge" (up 200% over last January) plus a higher line haul charge if the trip is greater than 500 miles, since the mileage rate would become variable with distance.

Such an increased tapered fare structure would of course only intensify the emphasis placed on finding the so-called "hidden city" when constructing combination fares to off-line points. The financial stakes would become much greater. It might even lead to a lower yield to the air carriers if passengers begin taking more circuitous routings to take advantage of a lower combined fare through a "hidden city." What kind of a boondoggle could this thing become?

True, it may be just a temporary situation, assuming the air carriers do reach agreement by February 1, 1970, but why should the good people of the San Jacquin Valley, the Rocky Mountains, Great Plains and Midwest, Piedmonts or Alleghenies—or any American for that matter—have to suffer such discrimination for even one day? The Board has already found there is no reason for continuing such inequities (Order 69–5–28). The public interest therefore requires that these people should not be further penalized, that such inequities must be eradicated first. The Board can give one ratemaking factor greater weight than another, but it cannot eliminate one, even temporarily.

The Board says that it has concluded an increase in industry revenue is warranted. For what purpose it does not say, although it does imply on Page 5 that this Order will provide additional earnings. The Board says there *may be* a total revenue gain of approximately 6.35%, *assuming no diversion or loss of traffic*. The board, however, does not seem altogether certain that this goal can be achieved, for it goes on to hedge by adding, "To the extent of any such dilution, of course, the revenue increase would be less than 6.35 percent."

More important, while the major justification for the proposed fare revision is the marked decline in earnings and profit margins since the February increases, and the Board is most explicit as to the possible impact of the proposed fare changes on total revenues by carriers, class of service, and discount fares, to one ten-thousandths of a percent, it proffers no data as to what effect these fares will have on air carrier earnings.

In this regard, the Members again remind the Board that the Supreme Court has said that under the statutory standard of "just and reasonable" it is the results reached not the method employed which is controlling. It is not the theory but the impact of the rate order which counts.

The Board has not established in its rate order what the effect of fares filed in accordance with the criteria set forth therein would be, upward or downward, upon air carrier earnings or the movement of traffic. In other words, the Board has not shown that viewed in its entirety its rate order would be "just and reasonable." The Board has rather abused its broad, but not unlimited, discretionary powers by acting in a totally arbitrary and capricious manner.

Historically, the Board has sought to avoid the institution of formal ratemaking proceedings because they are very lengthy undertakings. Instead it has sought to achieve its goals, whatever they were at a particular time, through informal *ex parte* contracts with the air carriers. In February it continued this traditional policy by approving for the twelfth time in 31 years a fare increase without an investigation. Its action (or inaction) did not restore financial health to the industry. It failed . . . again! If the air carriers are in financial trouble, it is in part a fault of the Board and its regulating practices. The financial community may be losing confidence in the airlines, but the people of the United States and their elected representatives, the Members of Congress, are rapidly losing confidence in the Civil Aeronautics Board.

Accordingly, the foregoing facts warrant the Board reconsidering its Order 69–9–68 and, specifically, to:

1. a. Suspend and investigate all tariffs filed pursuant to C.A.B. Order No. 69–9–68, and in addition all other pending tariff revisions to determine whether they are unjust or unreasonable, and

b. If it shall be of the opinion that such fares are unjust or unreasonable, that the Board determine and prescribe, in accordance with subsection 1002(d) of the Act of 1958, the lawful rate, fare or charge thereafter to be demanded, charged, collected or received by the air carriers;

2. Withdraw the specification that fares produced by the mathematical formula set forth in C.A.B. Order 69–9–68 will be the maximum rates considered as "just and reasonable"; and

3. Immediately institute, as a separate investigation from that set forth in paragraph 1 above, a general rate proceeding to investigate the structure and construction of domestic passenger fares as previously requested in Docket 21326.

Respectfully submitted.

JOHN E. MOSS, AUGUSTUS F. HAWKINS, LIONEL VAN DEERLIN, GLENN M. ANDERSON, JEFFERY COHELAN, CHET HOLIFIELD, CHARLES H. WILSON, HAROLD T. JOHNSON, JOHN TUNNEY, DON EDWARDS, PHILLIP BURTON, WALTER S. BARING, JOSEPH G. MINISH, JOSEPH M. McDADE, EDWARD R. ROYBAL, ROBERT L. LEGGETT, PETER W. RODINO, Jr., BERNIE SISK, GEORGE P. MILLER, THOMAS M. REES, RICHARD T. HANNA, JOHN McFALL, GEORGE E. BROWN, Jr., JAMES C. CORMAN, SPARK M. MATSUNAGA, JOHN D. DINGELL, JERRY L. PETTIS, PATSY T. MINK, JEROME R. WALDIE, CHARLES M. TEAGUE, CHARLES H. GRIFFIN, DANIEL E. BUTTON, WILLIAM T. CAHILL, THOMAS L. ASHLEY, BURT L. TALCOTT, Members of Congress.

CERTIFICATE OF SERVICE

I hereby certify that I have this date served the foregoing document upon:

American Airlines, Inc.
Braniff Airways, Inc.
Continental Air Lines, Inc.
Eastern Air Lines, Inc.
Northwest Airlines, Inc.
United Air Lines, Inc.
Air West, Inc.
Allegheny Airlines, Inc.
Delta Air Lines, Inc.
Frontier Airlines, Inc.
Mohawk Airlines, Inc.
National Airlines, Inc.
North Central Airlines, Inc.
Northeast Airlines, Inc.
Ozark Air Lines, Inc.
Piedmont Aviation, Inc.
Southern Airways, Inc.
Texas International Airlines.
Trans World Airlines, Inc.
Western Air Lines, Inc.

By causing copies to be mailed to such carrier or its agent properly addressed with postage prepaid.

JOHN W. BILLETT.

SEPTEMBER 22, 1969.

SEPTEMBER 24, 1969.

Hon. JOHN H. CROOKER, Jr.,
Chairman, Civil Aeronautics Board, Washington, D.C.

DEAR MR. CHAIRMAN: On Monday, September 22, 1969, 35 Members of Congress petitioned the Board to reconsider its Order No. 69–9–68. This petition, in part, made reference to a complaint filed by twenty Members of Congress, including myself.

Mr. Chairman, I was absent from my Washington office on the day the petition was mailed to the Board, and therefore not available to sign it. Since my interest in the case persists, especially as regards certain discriminatory pricing practices, I would appreciate it if you would have the Executive Director add my name to the list of petitioners.

Sincerely,

WILLIAM S. MAILLIARD,
Member of Congress.

And so, Mr. Speaker, the issue is far from resolved. There is a growing concern in this body about the actions as is clearly demonstrated by the increasing involvement of my colleagues. It is my intention to pursue this matter by every means available to me. In closing let me submit for the RECORD one final document. On September 22, unbeknownst to the Members of Congress in this action, National Airlines also filed for reconsideration. It is a document which beyond any question clearly points out the illogic so prevalent at the Universal Building.

I look forward to the day, Mr. Speaker, when the CAB will once again be the regulatory agency it was intended to be.

The document follows:

[Docket 21322]

PASSENGER FARE REVISIONS PROPOSED BY THE DOMESTIC TRUNKLINE CARRIERS

(Before the Civil Aeronautics Board, Washington, D.C., Sept. 22, 1969)

PETITION OF NATIONAL AIRLINES, INC., FOR RECONSIDERATION OF ORDER 69–9–68

Pursuant to the provisions of Rule 37, National Airlines, Inc. (National) requests that the Board reconsider its Order 69–9–68, served September 12, 1969, and, on such reconsideration, take the following action:

1. Rescind so much of the order as establishes a specific formula for the construction of jet day coach fares.

2. Permit an across the board increase of 5% together with the adjustments in discount fares now provided for by Order 69–9–68.

3. Proceed with the investigation of the proposals now under suspension and investigation and include in such investigation the issues of joint fares and divisions of interline revenue.

As an alternative to the above, National requests the Board to conclude that the formula which it has adopted be regarded as an interim step only, and that the Board proceed with the investigation of the suspended tariffs—(regardless of cancellations)—so that the Board-adopted Ameri-

can formula may be considered in a public and adversary hearing. In addition, National requests that the issues of joint fares and divisions of interline revenue be included in such investigation.

In support of its Petition, National respectfully states:

I. THEORETICAL FORMULAE WILL NOT CURE THE FINANCIAL PROBLEMS OF THE INDUSTRY, AN INTERIM OVERALL INCREASE WILL

A. The problem

It is easy to say that the trunkline industry, *as a whole*, requires additional revenues to offset the pressures of an inflationary economy. All members of the Board agree on that. The real question is this: How can an increase be *fairly* and *equitably* provided when the rates of return of the several trunk line carriers vary from a negative 0.72% (Northeast) to a positive 13.89% (Delta)? As we will show herein, the formula aproach, as adopted and "justified" by the Board, is no answer. The only immediate solution is to permit an interim across the board increase pending a formal investigation of various formulae.

B. The Board's answer to the industry problem is unreasonable, illogical, unfair, and inequitable

1. Unreasonable and Illogical

National takes no position, at this time, on the question of whether Order 69–9–68 is a "final order" for the purposes of Section 1006. One thing, however, is reasonably probable: the order could not withstand judicial scrutiny. We respectfully request the Board to consider the following internal contradictions:

All proposals—*including that of American*—have been suspended and set down for investigation because ". . . the Board finds that the proposals may be unjust, unreasonable, unjustly discriminatory, unduly preferential or unduly prejudical or otherwise unlawful . . ." (Order, p. 3)

Despite the foregoing conclusion[1] the Board, at page 6 of the order, states as follows:

"We believe that the revenue increase produced by the *American* formula is appropriate as discussed hereafter, and therefore *adopt that formula* for our model . . ." [Emphasis supplied].

So far, the Board has merely adopted a formula which it has already found to be unjust, unreasonable, *etc.* Not content with that oddity, the Board, at page 9, produces another:

". . . the Board intends to consider fares produced by the [American] formula as a 'just and reasonable' ceiling . . ."

Thus the circle of illogic is completed with three steps: (1) American's formula is unjust and unreasonable; (2) but the Board adopts it as its own model; and (3), *mirabile dictu*, American's formula becomes a just and reasonable ceiling.

We respectfully submit that the Board's order is lacking in basic reason and logic and cannot stand.

2. Unfair and Inequitable

In view of its unreasoned foundation, it is not surprising that the Board's formula produces unfair and inequitable results. And those results are clearly visible in Appendices B and C to the Board's order.

Appendix C shows that certain carriers are in serious loss positions, and that others are in a reasonably sound financial position. Thus, Eastern, Northeast and TWA are in trouble, whereas Delta, National and Northwest are not. What does the formula do for these carriers?

Northeast, most in need of additional revenue, is slated to receive the *second lowest* percentage increase, —4.00%. But *Northwest*, which is not in such need, receives the highest, —7.78%.

Eastern, a "need" carrier financially, will obtain a 5.49% increase, whereas *American*, in less need of additional revenue, can look to a mark-up of 7.52%.

TWA, which is in bad shape domestically, will receive a 6.61% increase, whereas its less troubled competitors, *American* and *United* will get 7.52% and 7.20% respectively.

National, a carrier in good financial condition, can hope for 3.02%. But *Delta*, in better financial condition, will get 4.57%. And

Northwest, whose financial health is as good as or better than *National's* when international operations are considered, will get 7.78%.

In short, the formula produces results which bear no relation to the relative needs of the carriers, and thus it does not comport with the rule of ratemaking set forth in Section 1002(e)(5).

C. The Board's formula recognizes cost of service only and takes no account of other statutory criteria

No one would contest that cost of service is a valid and important criterion in establishing a fare or rate. Its importance is explicit in Section 1002(e)(2). But it is not the only criterion. Others are: value of service, *i.e.*, "the inherent advantages of transportation by aircraft" (Section 1002(e)(4)); price elasticity, *i.e.*, "the effect of such rates on the movement of traffic" (Section 1002(e)(1)); and, as noted above, the need of each air carrier for revenue (Section 1002(e)(5)).

The Board's formula, however, is oriented solely to cost of service and ignores all other criteria. Thus, the lowering of longhaul fares and the raising of shorthaul fares is in relation to *costs* and not to value of service. It must surely be obvious that the inherent advantages of transportation by aircraft are vastly greater on a 2400 mile journey than on a 100 mile hop. Yet the fare for the former is slated to go down while the fare for the latter goes up.

That the Board is conscious of the defects of its formula is apparent from its determination to explore, within the Board, such matters as terminal charges and line haul taper. But mere consciousness of defects is no justification for adopting a defective formula. National therefore submits that the Board should rescind its order insofar as it establishes a formula, proceed with the investigation of the suspended tariffs, thereby automatically investigating *this* formula as well, and permit an interim uniform across-the-board increase for all carriers.

D. An across-the-board interim increase is the only way to produce immediate and equitable results.

As noted earlier, some carriers are in greater need than others. Also noted earlier is the fact the Board's formula produces, in many instances, less for those in need than for those who are not. An across-the-board increase, on an interim basis, will not remove all inequities, but it will produce less than those derived from the formula. Thus, if *all* carriers were permitted to increase their fares by 5% and adjustments be made to discount fares as now contemplated, the result would be a minimum of 5% plus whatever may be provided by the adjustments to the discount fares. We do not believe, however, that the percentage increases listed in Appendix B as being derived from such fares can be merely tacked on to the 5%. We suspect that carriers, such as National, which produce a high percentage of discount fares, will not achieve the increases set forth in Appendix B, for the reason that it is in the area of such fares that the price competition to which the Board refers at page 9 of the Order will be found.

In sum, we submit that the "5% plus" interim approach will produce far more equitable and even handed results than the 3.02% to 7.78% variance indicated by the formula. The Board should permit such an increase pending investigation of all formulae, including the Board-adopted American formula.

II. IF THE BOARD ADHERES TO ITS PRESENT APPROACH, IT SHOULD DO SO ON AN INTERIM BASIS ONLY PENDING A FORMAL INVESTIGATION

As we have pointed out above, the Board's formula is, in all major respects, the American formula which stands suspended pending investigation along with other tariffs. If such an investigation proceeds, then the propriety of the formula,—and indeed of the formula approach itself,—will be subject to scrutiny in a formal proceeding. It is likely, however, that American, which stands to receive the second highest gain, will cancel its tariff. Under normal procedures, the investigation of American's tariff would be rendered moot and would be dismissed. We submit, however, that this is not the normal case. American's formula is the Board's adopted formula. If the Board is determined to investigate *American's* formula, it must surely provide for the investigation of its *own* formula.

The formal investigation of the Board's formula is essential. As matters now stand, the tariffs become effective on October 1, 1969, but carry an expiration date of January 31, 1970. The latter date may be extended depending on the view taken by the Board of the actions of the carriers concerning joint fares and division of revenues. If the tariffs *are* extended, then the industry will have been saddled for the indefinite future with a set of principles on fair structure which have never been tested in an adversary proceeding.

Fair structure is of obvious importance. In that respect, it ranks with rate of return. A full and formal proceeding is therefore as necessary for the one as it was for the other. Indeed, such a proceeding becomes imperative when the Board itself states that it intends to give further *internal* study to the very elements which make up its formula. (Order, p. 5).

III. THE CONCLUSION THAT EXTENSIONS OF NEW TARIFFS WILL BE CONDITIONED ON ADOPTION OF JOINT FARES AND SPECIAL PRORATES IS UNLAWFUL

In the final pages of its Order, the Board has made it abundantly clear that it will look with extreme disfavor on any filing designed to extend new tariffs beyond January 31, 1970 unless the trunkline industry has essentially yielded to the Mohawk formula on joint fares and prorates. We submit that action by the Board would be unlawful, unfair and unwise.

With all respect, we must submit that the view expressed by the Board amounts to a form of regulatory coercion. While there can be no question of the Board's power to establish joint fares and prorates,[2] the statute requires that such action be taken only after notice and hearing. Here, however, the Board is saying, in effect, that unless the carriers are prepared to waive their statutory rights to a hearing, the Board will not allow an extension of new tariffs beyond January 31, 1970. We respectfully submit that such action exceeds the Board's power and is unlawful and unfair.

The course the Board is following is also unwise. It may be agreed that cross-subsidization between longhauls and shorthauls is desirable over the system of a given carrier. But to use that device to shift income between carriers is unfair and unwise. That is

[1] The conclusion is stated in statutory language without a single finding of fact made to support it. It is thus of questionable propriety. *Cf. Pan American World Airways* v. *C.A.B.*, 261 F.2d 754, 757 (D.C. Cir. 1958); *cert. denied* 359 U.S. 912.

[2] Section 1002(h) and (i).

particularly true when it is remembered that the ultra-longhaul fares received *no* increase earlier this year and are now slated to be *decreased*. If to that we add the Mohawk formula, it is obvious that the longhauls are being hit particularly hard.[3]

For the above reasons, we request that, instead of providing for further industry discussions, the Board set down the question of joint fares and divisions of interline revenues for formal proceedings. Such proceedings could be consolidated with those requested above concerning the Board's formula and those of others.

Wherefore, National Airlines, Inc. respectfully requests that the Board reconsider its Order 69–9–68 as hereinabove requested and grant National such other and further relief as may be in the public interest.

Respectfully submitted,

WILLIAM A. NELSON,
Vice President and General Counsel, National Airlines, Inc.
ANDREW T. A. MACDONALD,
DENNIS M. FLANNERY,
Wilmer, Cutler and Pickering, Attorneys for National Airlines, Inc.

CERTIFICATE OF SERVICE

I hereby certify that I have this 22nd day of *September* 1969, served copies of the foregoing Petition upon all parties known to this proceeding, properly addressed and with appropriate postage prepaid.

ANDREW T. A. MACDONALD.

FULLER E. CALLAWAY, JR.

(Mr. FLYNT asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. FLYNT. Mr. Speaker, on yesterday, Sunday, September 28, the citizens of LaGrange, Ga., paid tribute to their fellow citizen, Fuller E. Callaway, Jr., at an impressive and meaningful ceremony on the city square. The program described it as—

An Old-Fashioned Town Meeting, Planned and Staged By the People of LaGrange and Troup County, for the Purpose of Expressing Their Gratitude and Appreciation to Fuller E. Callaway, Jr.

The people of LaGrange took this opportunity to publicly express their appreciation to their friend and neighbor for his many acts of generosity and benevolence and unveiled a commemorative marker on the northeast corner of the square in his honor. The plaque reads as follows:

In honor of Fuller E. Callaway, Jr. in grateful appreciation of his many benevolences. Presented by the Citizens of LaGrange and Troup County, 1969 A.D.

Four speakers were allotted approximately 5 minutes each to recount the different aspects of the philanthropy of Mr. Callaway, his family, and his associates. Mr. James A. Daniel served as master of ceremonies. Following a prelude of organ music by Mr. Charles Mizell, Mr. Callaway's pastor, the Reverend Malcolm Cole Davis, delivered the invocation. The speakers were Dr. Bela A. Lancaster, former superintendent of LaGrange public schools, Mr. Jesse G. Maddox, deacon, Southwest LaGrange Baptist Church, Mrs. Ethel W. Kight, curriculmn director, Troup County Schools, and Mr. J. Gardner Newman, mayor, city of LaGrange. The plaque was unveiled by four of Mr. Callaway's grandchildren following which the benediction was pronounced by Rev. Roy Chatham, pastor, Hillside Christian Church, LaGrange.

Each of the four short talks clearly demonstrates the respect and affection which his fellow citizens feel toward Mr. Callaway. I wish that I had a copy of each speech which was delivered yesterday so that it could be incorporated in and made a part of these remarks. They were heartfelt expressions of deep gratitude for the many contributions which Mr. Callaway has made to the well-being of his fellow men.

One speaker expressed a sentiment which was typical of the total atmosphere of the occasion when she said:

Words are not accurate to fully express appreciation but in our heart there is a thankful song.

This ceremony was unusual because his LaGrange friends wanted to say things to him and about him while he is in life and robust health but which things are too often reserved to be said when the person of whom they are said can neither hear them nor respond.

In his response, Mr. Callaway noted the fact that his grandfather moved to LaGrange from Meriwether County in 1869, 100 years ago. His father, Fuller E. Callaway, Sr., was born 1 year later in 1870. His family has been a part of and an influence for good in the community of LaGrange, Troup County, Ga., for a full century. I include as a part of my remarks five articles which were written in connection with the spoken tribute:

AND FOR ALL OF THIS, WE SAY "THANK YOU"

(By Gardner Newman, mayor, city of LaGrange)

When one begins to consider the life of Mr. Fuller E. Callaway, Jr., and his contributions to the City of LaGrange, we cannot help but wonder what LaGrange would be without those benefits.

The physical plants, plant sites, and even services rendered by our schools would be far below the standards which we now enjoy. Most of our buildings, including physical education facilities, and our fine Administration Building on Main Street are results of Mr. Callaway's interest in our schools. Union Street and Coleman libraries are further evidence of this concern for education in our community.

The purchase of the land and now its development will make possible our beautiful new Granger Park area. This entire project, made possible by his Foundation, is an improvement in our recreational and athletic facilities which the City probably would not have been able to accomplish.

Mr. Callaway's concern has included the City's traffic and parking problems, as evidence by contributions of the Forrest Avenue Railroad Underpass, Industrial Drive extension, and downtown parking facilities.

Even the City's services in waste disposal have received his attention and benefits. The sites of the new Yellow Jacket Creek Water Pollution Control Plant, and all of the Blue John Creek plant site were donated to the City. We operate our solid waste land fill in areas made available by his interests.

Certainly one can think of no field of city responsibility in which Mr. Callaway's benefactions cannot readily be seen. We have all benefited greatly by his love for LaGrange and his many contributions which have made LaGrange a fine City.

(By Hoke Wammock, M.D., director, West Georgia Cancer Clinic)

Mr. Fuller E. Callaway, Jr., thru his interest and foresight has contributed immeasurably to the progress of medicine in our community, State and Nation. Because of his admiration, love and affection for the late Dr. Enoch Callaway he became vitally interested in the cancer problem.

Dr. Enoch Callaway was a pioneer in the field of cancer and had started a one room clinic in 1923. Under his guidance and direction space was provided in the City-County Hospital in 1937. During the war years the hospital became overcrowded, it was necessary to move the cancer clinic to a restricted area in the hospital. Thus, it became difficult to carry on the work.

Mrs. Fuller E. Callaway, Jr., had been observing this progress and struggle with interest, and realized the need for providing modern facilities. Thus, the West Georgia Cancer Clinic was chartered in 1948.

In LaGrange on July 14, 1949 a new Cancer Clinic Building was donated by the Fuller E. Callaway Foundation. This was given in recognition of the long years of work by Dr. Enoch Callaway who started the clinic in 1923 in the City-County Hospital with no more than 25 patients the entire year and, which now has grown to over 8,000 patients per year.

Mr. Callaway has been honored by the Georgia Division of the American Cancer Society for his interest and support in the detection of early cancer.

It is to Mr. Callaway that we owe a great debt of gratitude for his selfless devotion and imaginative ideas in medicine. We of the medical community salute you for your leadership and wish you good health and happiness.

(By Jesse Knight, pastor Southwest LaGrange Baptist Church)

The sincere concern of Mr. Fuller E. Callaway Jr. for the spiritual well-being of people in general—and of LaGrange in particular—is clearly seen in the assistance given to the churches through many years of close association.

Churches within the Callaway complex have been especially helped through monthly contributions to their annual budgets and one-half the cost of all major projects. These include new buildings, major repairs and maintenance, improvements, landscaping, furnishings and equipment for all church facilities and parsonages.

These beautiful buildings and grounds stand as silent but eloquent witnesses of the generous stewardship practiced by Mr. Callaway and the people themselves. More important are the intangible benefits which are even greater and cannot be enumerated in mere words or numbers. The influences set in motion by such Christian stewardship are incalculable.

Many thousands of lives have been touched and made better by the churches' educational programs and ministries, which have been enriched with the best and most modern equipment purchased by the churches with the Foundation's encouragement.

Once in awhile, some uniformed person will ask, "But doesn't this kind of thing cause the people to depend too much on the Foundation and consequently hinder their own growth in giving?" On the contrary, Mr. Callaway's benevolence has been an incentive for the church people to attempt more and accomplish more in all their local and world-wide ministries than they might have done otherwise.

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[3] It should be noted that Mohawk's proposal included a line haul charge of 5.1¢ per mile for 1800 miles or more, rather than the 5.0¢ and 4.8¢ produced by the Board. Mohawk's proposal of 5.1¢ was expressly to allow for the cost of its prorate proposal. (Letter of Mohawk, August 22, 1969, p. 2).

(By William J. Griggs, principal)

Over the years, the Negro population of LaGrange has felt Mr. Fuller E. Callaway's devotion to human welfare. Because of his generosity the Negro community enjoys the use of such very needful facilities as the Union Street Branch Library, the Old Folk Care Facility, the Maidee Smith Nursery, and the Ogletree Street Educational Center—all of which provide educational, economic and social growth for our city as well as beautification for the community proper. We point to these institutions with pride. They stand stately for us and for posterity. Through the years, others will learn of this person's generosity and will tender their thanks, for such is the reason these lines are penned.

To say "thank you" seems so little for kindnesses so numerous and generous as have been ours to enjoy, that we feel our expression of gratitude may seem limited. Yet, linguists have not given us a more befitting phrase.

Another phase of Mr. Callaway's generosity enjoyed by our community has been the awarding of scholarships to worthy graduates of East Depot High School. A number of these recipients have entered schools of higher learning and become skilled craftsmen or entered a profession. Some have returned to LaGrange to contribute to its growth and progress. This indeed, is "thank you" Mr. Callaway. There are others who are making worthy citizens and noteworthy contributions to other towns and cities. Again, Mr. Callaway, this is "thank you." These people have used the scholarships provided by you as their launching pads.

(By Waights G. Henry Jr., president, LaGrange College)

For more than two decades the enthusiastic concern of Fuller E. Callaway Jr., has resulted in facilities and buildings at LaGrange College that have had a major influence upon curriculum, program, and personnel.

Through the Fuller E. Callaway Foundation and the Callaway Foundation, Inc., gifts and grants totaling more than $2,250,000 have had a vital part in student scholarships, building construction, campus improvements, and endowment.

In 1948, a grant in the amount of $25,000 resulted in the purchase of laboratory equipment for biology, chemistry, and physics.

From this point the aid took on heavy proportions.

The Callaway Foundation, Inc., provided the construction costs of the William and Evelyn Banks Library.

The Fuller E. Callaway Foundation provided volumes to help the collection grow.

The chapel, one of the loveliest in existence, was erected next to the Library and soon will be joined by a new one million dollar science building, all three of these gifts of the Callaway Foundation, Inc.

That Foundation also provided one-third of the construction costs of the William H. Turner Jr., dormitory, the Gymnasium, and the Louise Anderson Manget building. Other gifts have resulted in increased endowment and instructional facilities.

Progress at LaGrange College is directly related to the interest and stewardship of Fuller E. Callaway Jr.

Mr. Speaker, it was my pleasure to be present on this occasion and to join with Mr. Callaway's fellow citizens in paying a justly deserved tribute to this outstanding American.

NATIONAL COMMANDER OF THE AMERICAN LEGION—J. MILTON PATRICK

(Mr. EDMONDSON (at the request of Mr. ANDERSON of California) was given permission to extend his remarks at this point in the RECORD.)

Mr. EDMONDSON. Mr. Speaker, the Oklahoma delegation in Congress today presented to our colleagues, with great pride, a distinguished American who is national commander of the American Legion, J. Milton Patrick.

The reception in the Capitol honoring Commander Patrick was the first event for him in Washington since he completed a 15-day tour of the Far East. It was an opportunity to meet both the national commander and his lovely wife, Verona, who accompanied him.

Tomorrow Commander Patrick reports to the President on his trip, and next Saturday he will report to his fellow Oklahomans at an all-day homecoming in Skiatook, Okla. It will be a major event attracting thousands of people, who are very proud that an Oklahoman is the elected leader of one of the greatest patriotic organizations in the world—the American Legion.

All roads in Oklahoma will lead to Skiatook next Saturday, for the Patrick homecoming. It will be a great day, honoring a great American.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. LANGEN (at the request of Mr. GERALD FORD), for September 30, on account of official business.

Mr. CHARLES H. WILSON (at the request of Mr. ALBERT), for today, on account of official business.

Mr. MCMILLAN, for September 30 and October 1, on account of business.

Mr. PEPPER (at the request of Mr. WOLFF), for Monday, September 29, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. TUNNEY, for 10 minutes, today; to revise and extend his remarks and include extraneous matter.

Mr. PUCINSKI, for 30 minutes, today; to revise and extend his remarks and include extraneous matter.

(The following Members (at the request of Mr. DELLENBACK); to revise and extend their remarks and include extraneous material:)

Mr. BLACKBURN, for 60 minutes, September 29

Mr. BLACKBURN, for 60 minutes October 1.

Mr. HALPERN, for 5 minutes, today.

Mr. HOGAN, for 60 minutes today.

Mr. WINN, for 10 minutes, today.

Mr. HOGAN, for 60 minutes; October 1.

(The following Members (at the request of Mr. ANDERSON of California); to revise and extend their remarks and to include extraneous matter.)

Mr. REUSS, for 60 minutes, today.

Mr. GONZALEZ, for 10 minutes, today.

Mr. TUNNEY, for 60 minutes, on September 30.

Mr. PUCINSKI, for 1 hour, on October 15.

Mr. THOMPSON of Georgia for 1 hour, on October 15.

Mr. DON H. CLAUSEN, for 1 hour, on October 15.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. HALL and to include extraneous material.

Mrs. SULLIVAN during general debate on H.R. 13369 and to include extraneous matter.

Mr. OLSEN prior to the vote on H.R. 13369.

Mr. HECHLER of West Virginia and to include extraneous material.

Mr. RANDALL in two instances and to include extraneous matter.

(The following Members (at the request of Mr. DELLENBACK) and to include extraneous matter:)

Mr. LIPSCOMB.
Mr. PELLY in three instances.
Mr. BERRY.
Mr. MCDONALD of Michigan.
Mr. ASHBROOK.
Mr. BROOMFIELD.
Mr. BOB WILSON.
Mr. MCEWEN.
Mr. NELSEN.
Mr. WYMAN in two instances.
Mr. HORTON in two instances.
Mr. DELLENBACK.
Mr. TAFT in two instances.
Mr. SPRINGER.
Mr. SCHWENGEL.
Mr. STEIGER of Wisconsin.
Mr. BROTZMAN in two instances.
Mr. FULTON of Pennsylvania in five instances.
Mr. BROCK.
Mr. LUKENS.
Mr. ANDERSON of Illinois.
Mr. CRAMER.
Mr. WHITEHURST.

(The following Members (at the request of Mr. ANDERSON of California) and to include extraneous matter:)

Mr. GIAIMO in two instances.
Mr. SCHEUER in two instances.
Mr. FRASER in two instances.
Mr. GONZALEZ in two instances.
Mr. MURPHY of New York in two instances.
Mr. SLACK.
Mr. KASTENMEIER.
Mr. GALLAGHER.
Mr. WALDIE.
Mr. BOGGS in two instances.
Mr. PUCINSKI in 10 instances.
Mr. ANDERSON of California.
Mr. PICKLE in two instances.
Mr. RARICK in three instances.
Mr. KARTH in three instances.
Mr. DINGELL in two instances.
Mr. BOLAND in two instances.
Mr. EILBERG.
Mr. HAGAN in three instances.
Mr. PURCELL.
Mr. MINISH.
Mr. DULSKI in three instances.
Mr. TAYLOR in two instances.
Mr. PATTEN in two instances.
Mr. RYAN in two instances.
Mr. EDMONDSON.
Mr. CAREY.
Mr. SIKES in two instances.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 406. An act to amend the Federal Property and Administrative Services Act of 1949 to permit the rotation of certain property whenever its remaining storage or shelf life is too short to justify its retention, and for other purposes; to the Committee on Government Operations.

S. 740. An act to establish the Cabinet Committee on Opportunities for Spanish-Speaking People, and for other purposes; to the Committee on Foreign Affairs.

S. 2210. An act to amend the Federal Property and Administrative Services Act of 1949 so as to permit donations of surplus property to public museums; to the Committee on Government Operations.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 574. An act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource developments.

ENROLLED BILL SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4152. An act to authorize appropriations for certain maritime programs of the Department of Commerce.

BILL PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval a bill of the House of the following title:

H.R. 4152. An act to authorize appropriations for certain maritime programs of the Department of Commerce.

ADJOURNMENT

Mr. ANDERSON of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 37 minutes p.m.), the House adjourned until tomorrow, Tuesday, September 30, 1969, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1185. A letter from the Comptroller General of the United States, transmitting a report on supply management for Army and Marine Corps Hawk missiles in Vietnam; to the Committee on Government Operations.

1186. A letter from the Comptroller of the Currency, Department of the Treasury, transmitting his 1968 annual report, pursuant to the provisions of section 333 of the Revised Statutes; to the Committee on Banking and Currency.

1187. The letter from the Deputy Attorney General, transmitting a draft of a proposed amendment to H.R. 12854 to provide a new code of juvenile procedure for the District of Columbia; to the Committee on the District of Columbia.

1188. A letter from the Comptroller General of the United States, transmitting a report on a review of variations in cost and performance among community action program service activities, Office of Economic Opportunity, Department of Health, Education, and Welfare; to the Committee on Education and Labor.

1189. A letter from the Chairman, National Labor Relations Board, transmitting the annual report of the Board for the fiscal year ended June 30, 1968, pursuant to the provisions of section 3(c) of the Labor Management Relations Act of 1947; to the Committee on Education and Labor.

1190. A letter from the Comptroller General of the United States, transmitting a report on savings available through consolidation of Veterans' Administration insurance field offices; to the Committee on Government Operations.

1191. A letter from the Comptroller General of the United States, transmitting a report on the need for improvements in the administration of the Veterans' Administration nursing home care program; to the Committee on Government Operations.

1192. A letter from the Secretary of the Interior, transmittting a draft of proposed legislation to improve the administration of the National Park System by the Secretary of the Interior, and to clarify the authorities applicable to the System, and for other purposes; to the Committee on Interior and Insular Affairs.

1193. A letter from the Attorney General, transmitting a draft of proposed legislation to increase criminal penalties under the Sherman Antitrust Act; to the Committee on the Judiciary.

1194. A letter from the national corporation agent, Legion of Valor of the U.S.A., Inc., transmitting the organization's annual audit for the year ended July 31, 1969, pursuant to the provisions of Public Law 224, 84th Congress; to the Committee on the Judiciary.

1195. A letter from the national secretary, Jewish War Veterans, U.S.A. National Memorial, Inc., transmitting the annual audit of the organization for the year ended March 31, 1969, pursuant to the provisions of its charter; to the Committee on the Judiciary.

1196. A letter from the Secretary of the Treasury, transmitting a report of operations by Federal departments and establishments in connection with the bonding of officers and employees under the provisions of section 14(c) of the act of August 9, 1955 (6 U.S.C. 14), for the fiscal year ended June 30, 1969; to the Committee on Post Office and Civil Service.

1197. A letter from the Special Assistant for Civil Functions, Department of the Army, transmitting a report of the Chief of Engineers on a study of streambank erosion in the United States, pursuant to the provisions of section 120 of the River and Harbor Act of 1968; to the Committee on Public Works.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[*Pursuant to the order of the House on September 25, 1969, the following report was filed on September 26, 1969.*]

Mr. RIVERS: Committee on Armed Services. H.R.14000. A bill to authorize appropriations during the fiscal year 1970 for procurement of aircraft, missiles, naval vessels, and tracked combat vehicles, research, development, test, and evaluation for the Armed Forces, and to prescribe the authorized personnel strength of the Selected Reserve of each Reserve component of the Armed Forces, and for other purposes; without amendment (Rept. No. 91–522). Referred to the Committee of the Whole House on the State of the Union.

[*Pursuant to the order of the House on September 25, 1969, the following report was filed on September 27, 1969.*]

Mr. DAWSON: Committee on Government Operations: A report entitled "Office of Economic Opportunity and the Medical Foundation of Bellaire, Ohio (Eighth Report)" (Rept. No. 91–523). Referred to the Committee of the Whole House on the State of the Union.

[*Submitted September 29, 1969.*]

Mr. PATMAN: Committee on Banking and Currency. H.R. 4293. A bill to provide for continuation of authority for regulation of exports; with amendments (Rept. No. 91–524). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROGERS of Colorado: Committee on the Judiciary. S. 2462. An act to amend the joint resolution establishing the American Revolution Bicentennial Commission; without amendment (Rept. No. 91–525). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 13696. A bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by civilian officers and employees for damage to, or loss of, personal property incident to their service; with an amendment (Rept. No. 91–534). Referred to the Committee or the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SANDMAN: Committee on the Judiciary. H.R. 1703. A bill for the relief of the Clayton County Journal and Wilber Harris; without amendment (Rept. No. 91–526). Referred to the Committee of the Whole House.

Mr. DONOHUE: Committee on the Judiciary. H.R. 3590. A bill for the relief of Timothy L. Ancrum (also known as Timmie Rogers); with an amendment (Rept. No. 91–527). Referred to the Committee of the Whole House.

Mr. HUNGATE: Committee on the Judiciary. H.R. 9591. A bill for the relief of Elgie L. Tabor; with amendments (Rept. No. 91–528). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 9906. A bill for the relief of J. Burdette Shaft and John S. and Betty Gingas; without amendment (Rept. No. 91–529). Referred to the Committee of the Whole House.

Mr. WALDIE: Committee on the Judiciary. H.R. 13183. A bill for the relief of Jimmie Kazu Uyemura and others; with amendments (Rept. No. 91–530). Referred to the Committee of the Whole House.

Mr. WALDIE: Committee on the Judiciary. H.R. 13218. A bill for the relief of Mr. and Mrs. Joseph E. Begnoche; without amendment (Rept. No. 91–531). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. House Resolution 533. Resolution to refer the bill (H.R. 3722) entitled "A bill for the relief of John S. Attinello" to the chief commissioner of the court of claims pursuant to sections 1492 and 2509 of title 28, United States Code, as amended; without amendment (Rept. No. 91–532). Referred to the Committee of the Whole House.

Mr. SMITH of New York: Committee on the Judiciary. H.R. 6402. A bill for the relief of the Sanborn Lumber Co., Inc.; without amendment (Rept. No. 91–533). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDERSON of California:

H.R.14041. A bill to amend title XVIII of the Social Security Act to provide payment for chiropractors' services under the program of supplementary medical insurance benefits for the aged; to the Committee on Ways and Means.

By Mr. ANDERSON of Illinois:

H.R. 14042. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. ANNUNZIO (for himself, Mr. CONYERS, Mr. DULSKI, Mr. HELSTOSKI, Mr. HICKS, Mr. HOWARD, Mr. MADDEN, Mr. PUCINSKI, Mr. ROGERS of Colorado, Mr. RYAN, and Mr. OLSEN):

H.R. 14043. A bill to amend title XII of the National Housing Act to provide, under the urban property protection and reinsurance program, for direct Federal insurance against losses to habitational property for which insurance is not otherwise available or is available only at excessively surcharged rates, to make crime insurance mandatory under such program, to provide assistance to homeowners to aid in reducing the causes of excessive surcharges, and for other purposes; to the Committee on Banking and Currency.

By Mr. BROOMFIELD:

H.R. 14044. A bill to restore balance in the Federal form of government in the United States; to provide both the encouragement and resources for State and local government officials to exercise leadership in solving their own problems; to achieve a better allocation of total public resources; and to provide for the sharing with State and local governments of a portion of the tax revenue received by the United States; to the Committee on Ways and Means.

By Mr. CONTE:

H.R. 14045. A bill to establish an Office of Consumer Affairs in order to provide within the Federal Government for the representation of the interests of consumers, to coordinate Federal programs and activities affecting consumers, to assure that the interests of consumers are timely presented and considered by Federal agencies, to represent the interests of consumers before Federal agencies, and to serve as a clearinghouse for consumer information; to establish a Consumer Advisory Council to oversee and evaluate Federal activities relating to consumers; to authorize the National Bureau of Standards, at the request of businesses, to conduct product standard tests, and for other purposes; to the Committee on Government Operations.

By Mr. CORMAN:

H.R. 14046. A bill to establish an Office of Consumer Affairs in order to provide within the Federal Government for the representation of the interest of consumers, to coordinate Federal programs and activities affecting consumers, to assure that the interests of consumers are timely presented and considered by Federal agencies, to represent the interests of consumers before Federal agencies, and to serve as a clearinghouse for consumer information; to establish a Consumer Advisory Council to oversee and evaluate Federal activities relating to consumers; to authorize the National Bureau of Standards, at the request of businesses, to conduct product standard tests and for other purposes; to the Committee on Government Operations.

H.R. 14047. A bill to amend the Communications Act of 1934 to provide candidates for congressional offices with certain opportunities to purchase broadcast time from television broadcasting stations; to the Committee on Interstate and Foreign Commerce.

H.R. 14048. A bill to establish within the Executive Office of the President a Council of Health Advisers in order to improve the organization of agencies within the executive branch of the Government concerned with health programs and to strengthen the coordination of health programs; to the Committee on Interstate and Foreign Commerce.

By Mr. FRASER:

H.R. 14049. A bill to improve farm income and insure adequate supplies of agricultural commodities by extending and improving certain commodity programs; to the Committee on Agriculture.

By Mr. KASTENMEIER:

H.R. 14050. A bill to amend the act entitled "an act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of international conventions, and for other purposes," approved July 5, 1946, as amended; to the Committee on the Judiciary.

By Mr. KING:

H.R. 14051. A bill to amend title 10, United States Code, to permit naval flight officers to be eligible to command certain naval activities and for other purposes; to the Committee on Armed Services.

By Mr. KUYKENDALL:

H.R. 14052. A bill to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. McMILLAN:

H.R. 14053. A bill to amend the District of Columbia Police and Firemen's Salary Act of 1958 to increase salaries, and for other purposes; to the Committee on the District of Columbia.

By Mr. MATSUNAGA:

H.R. 14054. A bill to establish a grant-in-aid program to encourage the licensing by the States of motor vehicle mechanics; to the Committee on Interstate and Foreign Commerce.

By Mr. MOORHEAD:

H.R. 14055. A bill to expedite delivery of special delivery mail, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. STAFFORD (for himself, Mr. HARVEY, Mr. HORTON, Mr. ROBISON, and Mr. SHRIVER):

H.R. 14056. A bill to amend the Military Selective Service Act of 1967; to the Committee on Armed Services.

By Mr. WATSON:

H.R. 14057. A bill to provide for the modernization of the Veterans' Administration hospital at Columbia, S.C.; to the Committee on Veterans' Affairs.

By Mr. BURTON of Utah:

H.R. 14058. A bill to regulate imports of milk and dairy products, and for other purposes; to the Committee on Ways and Means.

By Mr. CONTE:

H.R. 14059. A bill to authorize the disposal of nickel from the national stockpile; to the Committee on Armed Services.

By Mr. DANIELS of New Jersey:

H.R. 14060. A bill to amend the act of September 30, 1950, relating to Federal assistance for education in federally impacted areas, to provide such assistance to areas suffering a special burden on account of children of refugees; to the Committee on Education and Labor.

By Mr. ERLENBORN (for himself, Mr. BEALL of Maryland, Mr. BEVILL, Mr. BOLAND, Mr. BROOMFIELD, Mr. BURKE of Florida, Mr. BURTON of Utah, Mr. CASEY, Mr. DON H. CLAUSEN, Mr. DENNEY, Mr. DENT, Mr. DORN, Mr. DUNCAN, Mr. GERALD R. FORD, Mr. FOUNTAIN, Mr. FRIEDEL, Mr. GIBBONS, Mr. GRIFFIN, Mr. HARSHA, Mr. HULL, Mr. LANDRUM, Mr. LATTA, Mr. MIZE, Mr. MIZELL, and Mr. MOSS):

H.R. 14061. A bill to protect the privacy of the American home from the invasion by mail of sexually provocative material, to prohibit the use of the U.S. mails to disseminate material harmful to minors, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ERLENBORN (for himself, Mr. NICHOLS, Mr. PATTEN, Mr. ROONEY of Pennsylvania, Mr. RUPPE, Mr. SAYLOR, Mr. SPRINGER, Mr. STANTON, Mr. WAMPLER, Mr. WATKINS, and Mr. WOLD):

H.R. 14062. A bill to protect the privacy of the American home from the invasion by mail of sexually provocative material, to prohibit the use of the U.S. mails to disseminate material harmful to minors, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. HALPERN:

H.R. 14063. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit for certain amounts set aside by a taxpayer for the higher education of prospective college students in his family, and a tax credit for certain amounts otherwise paid as educational expenses to institutions of higher education; to the Committee on Ways and Means.

By Mr. HALPERN (for himself, Mr. ADDABBO, Mr. BLACKBURN, Mr. BRASCO, Mr. BUTTON, Mr. FARBSTEIN, Mr. MURPHY of New York, Mr. REID of New York, and Mr. TUNNEY):

H.R. 14064. A bill to establish a grant-in-aid program to encourage the licensing by the States of motor vehicle mechanics; to the Committee on Interstate and Foreign Commerce.

By Mr. HANNA:

H.R. 14065. A bill to authorize the Federal National Mortgage Association to purchase conventional mortgages, and for other purposes; to the Committee on Banking and Currency.

By Mr. JARMAN:

H.R. 14066. A bill to amend the Public Health Service Act to extend the program of assistance for health services for migrant agricultural workers, to provide assistance for health services for other seasonal agricultural workers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

H.R. 14067. A bill to extend the fourth-class mail rate for books and educational materials to photographic prints mailed to and from amateur photographers and nonprofit photographic exhibitions, photographic societies, and photographic print study groups; to the Committee on Post Office and Civil Service.

By Mr. OTTINGER:

H.R. 14068. A bill to protect interstate and foreign commerce by prohibiting the movement in such commerce of horses which are "sored," and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. PUCINSKI:

H.R. 14069. A bill to revise the laws relating to post offices and post roads, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. PURCELL (for himself, Mr. KASTENMEIER, Mr. TAYLOR, Mr. HANSEN of Idaho, Mr. PREYER of North Carolina, Mr. FRASER, Mr. JOHNSON of Pennsylvania, Mr. BLANTON, Mr. PUCINSKI, Mr. DORN, and Mr. FOUNTAIN):

H.R. 14070. A bill to improve farm income and insure adequate supplies of agricultural commodities by extending and improving certain commodity programs; to the Committee on Agriculture.

By Mr. ROGERS of Colorado (for himself, Mr. WALDIE, Mr. EDWARDS of Louisiana, Mr. WIGGINS, and Mr. COUGHLIN):

H.R. 14071. A bill to provide for audit of and to require disclosure of certain information concerning federally chartered corporations, and for other purposes; to the Committee on the Judiciary.

By Mr. SANDMAN:

H.R. 14072. A bill to provide for the orderly expansion of trade in manufactured products; to the Committee on Ways and Means.

By Mr. STEIGER of Wisconsin:

H.R. 14073. A bill to amend the Military Selective Service Act of 1967 to authorize modifications of the system of selecting persons for induction into the Armed Forces under this act; to the Committee on Armed Services.

By Mr. THOMSON of Wisconsin:

H.R. 14074. A bill to amend Public Law 90–484, to extend the indemnity therein provided to manufacturers of dairy products; to the Committee on Agriculture.

By Mr. QUILLEN:

H.J. Res. 914. Joint resolution to authorize the President to proclaim the month of January of each year as "National Blood Donor Month"; to the Committee on the Judiciary.

By Mr. SCHWENGEL:

H.J. Res. 915. Joint resolution authorizing the President to proclaim annually the first full week in October as "Free Enterprise Week"; to the Committee on the Judiciary.

By Mr. DICKINSON (for himself, Mr. BOGGS, Mr. GUBSER, and Mr. WILLIAMS):

H. Con. Res. 385. Concurrent resolution expressing the sense of Congress with respect to North Vietnam and the National Liberation Front of South Vietnam complying with the requirements of the Geneva Convention; to the Committee on Foreign Affairs.

By Mr. HASTINGS:

H. Con. Res. 386. Concurrent resolution urging the adoption of policies to offset the adverse effects of governmental monetary restrictions upon the housing industry; to the Committee on Ways and Means.

By Mr. MURPHY of New York:

H. Con. Res. 387. Concurrent resolution expressing the sense of the Congress that the Federal Power Commission should render a decision in the *Matter of the Application in Project Number 23–38, Consolidated Edison Company of New York, Incorporated,* to erect an electric generating station in Cornwall, N.Y., no later than 90 days after passage of this concurrent resolution; to the Committee on Interstate and Foreign Commerce.

By Mr. PELLY:

H. Con. Res. 388. Concurrent resolution expressing the sense of the Congress with respect to the revocation of the United Nations economic sanctions against Southern Rhodesia; to the Committee on Foreign Affairs.

By Mr. ROBERTS:

H. Con. Res. 389. Concurrent resolution condemning the treatment of American prisoners of war by the Government of North Vietnam and urging the President to initiate appropriate action for the purpose of insuring that American prisoners are accorded humane treatment; to the Committee on Foreign Affairs.

By Mr. MURPHY of New York:

H. Res. 559. Resolution providing for a study and investigation by the Committee on Interstate and Foreign Commerce of the procedures of the Federal Power Commission; to the Committee on Rules.

By Mr. WAGGONNER:

H. Res. 560. Resolution relating to the basic compensation of personnel of the Official Reporters of Debates of the House of Representatives; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BERRY introduced a bill (H.R. 14075), to provide for the conveyance of certain property of the United States located in Lawrence County, S. Dak., to John and Ruth Rachetto, which was referred to the Committee on Interior and Insular Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

264. By the SPEAKER: Petition of the Board of Supervisors, Glenn County, Calif., relative to the appropriation of funds for the Sacramento River Bank protection project for fiscal year 1970–71; to the Committee on Appropriations.

265. Also, petition of Ervin W. Bolen, Hazel Park, Mich., relative to redress of grievances; to the Committee on Armed Services.

266. Also, petition of Karl Calvin, Davenport, Iowa, relative to students; to the Committee on Education and Labor.

267. Also, petition of Henry Stoner, York, Pa., relative to an electronic tally system for the House of Representatives; to the Committee on House Administration.

268. Also, petition of the Congress of Micronesia, Trust Territory of the Pacific Island, relative to alteration of the present political status of the Trust Territory; to the Committee on Interior and Insular Affairs.

269. Also, petition of Honest Abe Council No. 109, Junior Order, United American Mechanics, Louisville, Ky, relative to placing the American flag in public school classrooms; to the Committee on the Judiciary.

270. Also, petition of Mrs. Lucille P. Johnson, et al., Hendersonville, N.C., relative to appointments to the U.S. Supreme Court; to the Committee on the Judiciary.

271. Also, petition of the City Council, Mentor, Ohio; relative to taxation of State and local government securities; to the Committee on Ways and Means.

SENATE—*Monday, September 29, 1969*

The Senate met at 12 o'clock noon and was called to order by the Acting President pro tempore (Mr. METCALF).

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Eternal Father, whom to know aright is life and peace, quicken our minds this day that all who serve the people in the Government of this Nation may be sensitive to Thy presence. Grant to us here, O Lord, to know that which is worth knowing, to love that which is worth loving, to praise that which pleases Thee best, to prize that which is precious to Thee, and to hate all that is evil in thine eyes; and grant us true judgment that we may search out and do only that which is well pleasing unto Thee; through Jesus Christ our Lord. Amen.

THE JOURNAL

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Friday, September 26, 1969, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the Committee on Foreign Relations.

(For nominations this day received, see the end of Senate proceedings.)

WAIVER OF CALL OF THE CALENDAR

Mr. KENNEDY. Mr. President, I ask unanimous consent that the call of the Legislative Calendar, under rule VIII, be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. KENNEDY. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. KENNEDY. Mr. President, I ask unanimous consent that all committees be authorized to meet during the session of the Senate today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.