

**CREATING A DEPARTMENT OF TRANSPORTATION**  
**(PART 1)**

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2171-8

**HEARINGS**  
**BEFORE A**  
**SUBCOMMITTEE OF THE**  
**COMMITTEE ON**  
**GOVERNMENT OPERATIONS**  
**HOUSE OF REPRESENTATIVES**  
**EIGHTY-NINTH CONGRESS**

**SECOND SESSION**

**ON**

**H.R. 13200**

**A BILL TO ESTABLISH A DEPARTMENT OF TRANSPORTATION,**  
**AND FOR OTHER PURPOSES**

*H.R. 927, 13238, 13561, 13775, 13930, 14410*

**APRIL 6, 7, 25, AND 26, 1966**

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## CREATING A DEPARTMENT OF TRANSPORTATION

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WEDNESDAY, APRIL 6, 1966

HOUSE OF REPRESENTATIVES,  
EXECUTIVE AND LEGISLATIVE  
REORGANIZATION SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D.C.*

The subcommittee met at 10 a.m., pursuant to notice, in room 2154, Rayburn Office Building, Hon. William L. Dawson (chairman of the subcommittee) presiding.

Present: Representatives William L. Dawson, Florence P. Dwyer, Chet Holifield, Henry S. Reuss, Benjamin S. Rosenthal, Edward A. Garmatz, John N. Erlenborn, and Clarence J. Brown, Jr.

Also present: Elmer W. Henderson, subcommittee counsel; James A. Lanigan, general counsel, Committee on Government Operations; Herbert Roback, assistant to Representative Holifield; and J. Philip Carlson and William H. Copenhaver, minority counsels.

Chairman DAWSON. This meeting of the subcommittee has been called to consider H.R. 13200, introduced by our colleague, Congressman Chet Holifield, to carry out a recommendation to Congress by President Lyndon B. Johnson to establish an executive Department of Transportation to become the 12th Cabinet office of the Government.

(The bill, H.R. 13200, follows:)

# H. R. 13200

**Mr. HOLIFIELD** introduced the following bill; which was referred to the Committee on Government Operations

6        SEC. 2. The Congress hereby declares that the general  
7 welfare, the economic growth and stability of the Nation  
8 and its security require the development and implementation  
9 of national transportation policies and programs conducive  
10 to the provision of fast, safe, efficient, and convenient trans-  
11 portation at the lowest cost consistent therewith and with

1 other national objectives, including the efficient utilization  
2 and conservation of the Nation's resources.

3       The Congress therefore finds that the establishment of  
4 a Department of Transportation is necessary in the public  
5 interest and to assure the coordinated, effective administra-  
6 tion of the transportation programs of the Federal Gov-  
7 ernment; to facilitate the development and improvement of  
8 coordinated transportation service, to be provided by private  
9 enterprise to the maximum extent feasible; to encourage co-  
10 operation of Federal, State, and local governments, carriers,  
11 labor, and other interested parties toward the achievement  
12 of national transportation objectives; to stimulate technologi-  
13 cal advances in transportation; to provide general leadership  
14 in the identification and solution of transportation problems;  
15 and to develop and recommend national transportation  
16 policies and programs to accomplish these objectives with  
17 full and appropriate consideration of the needs of the pub-  
18 lic, users, carriers, industry, labor, and the national defense.

19                   ESTABLISHMENT OF DEPARTMENT

20       SEC. 3. (a) There is hereby established at the seat of  
21 government an executive department to be known as the  
22 Department of Transportation (hereinafter referred to as the  
23 "Department"). There shall be at the head of the Depart-  
24 ment a Secretary of Transportation (hereinafter referred to

1 as the "Secretary"), who shall be appointed by the Presi-  
2 dent, by and with the advice and consent of the Senate.

3 (b) There shall be in the Department an Under Secre-  
4 tary, who shall be appointed by the President, by and with  
5 the advice and consent of the Senate. The Under Secretary  
6 (or, during the absence or disability of the Under Secretary,  
7 or in the event of a vacancy in the office of Under Secretary,  
8 an Assistant Secretary determined according to such order  
9 as the Secretary shall prescribe) shall act for, and exercise  
10 the powers of the Secretary, during the absence or disability  
11 of the Secretary or in the event of a vacancy in the office of  
12 Secretary. The Under Secretary shall perform such func-  
13 tions, powers, and duties as the Secretary shall prescribe  
14 from time to time.

15 (c) There shall be in the Department four Assistant  
16 Secretaries and a General Counsel, who shall be appointed  
17 by the President, by and with the advice and consent of the  
18 Senate, and who shall perform such functions, powers, and  
19 duties as the Secretary shall prescribe from time to time.

20 (d) There shall be in the Department an Assistant Sec-  
21 retary for Administration, who shall be appointed, with the  
22 approval of the President, by the Secretary under the classi-  
23 fied civil service who shall perform such functions, powers,  
24 and duties as the Secretary shall prescribe from time to time.

## 1                   GENERAL PROVISIONS

2       SEC. 4. (a) The Secretary in carrying out the pur-  
3 poses of this Act shall, among his responsibilities, exercise  
4 leadership under the direction of the President in transpor-  
5 tation matters, including those affecting the national defense  
6 and those involving national or regional emergencies; de-  
7 velop national transportation policies and programs, and  
8 make recommendations for their implementation; promote  
9 and undertake development, collection, and dissemination of  
10 technological, statistical, economic and other information  
11 relevant to domestic and international transportation; and  
12 promote and undertake research and development in and  
13 among all modes of transportation and types of transportation  
14 services and facilities.

15       (b) In exercising the functions, powers, and duties  
16 herein conferred on and transferred to the Secretary, the  
17 Secretary shall give full consideration to the need for opera-  
18 tional continuity of the functions transferred; to the need for  
19 effectiveness and safety in transportation systems, and to  
20 the needs of the national defense.

21       (c) As necessary, and when not otherwise available,  
22 the Secretary is authorized to provide for, construct, or main-  
23 tain the following for employees and their dependents sta-  
24 tioned at remote localities:

25           (1) Emergency medical services and supplies;

1           (2) Food and other subsistence supplies;

2           (3) Messing facilities;

3           (4) Motion picture equipment and film for recrea-  
4           tion and training;

5           (5) Reimbursement for food, clothing, medicine,  
6           and other supplies furnished by such employees in emer-  
7           gencies for the temporary relief of distressed persons;  
8           and

9           (6) Living and working quarters and facilities.

10          The furnishing of medical treatment under paragraph (1)  
11          and the furnishing of services and supplies under para-  
12          graphs (2) and (3) of this subsection shall be at prices  
13          reflecting reasonable value as determined by the Secretary,  
14          and the proceeds therefrom shall be credited to the appro-  
15          priation from which the expenditure was made.

16          (d) The Secretary is authorized to accept, hold, admin-  
17          ister, and utilize gifts and bequests of property, both real and  
18          personal, for the purpose of aiding or facilitating the work of  
19          the Department of Transportation. Gifts and bequests of  
20          money and the proceeds from sales of other property re-  
21          ceived as gifts or bequests shall be deposited in the Treasury  
22          in a separate fund and shall be disbursed upon order of the  
23          Secretary of Transportation. Property accepted pursuant to  
24          this provision, and the proceeds thereof, shall be used as

1 nearly as possible in accordance with the terms of the gift or  
2 bequest.

3 (e) For the purpose of Federal income, estate, and gift  
4 taxes, property accepted under section 4 (d) of this Act  
5 shall be considered as a gift or bequest to or for use of the  
6 United States.

7 (f) Upon the request of the Secretary, the Secretary of  
8 the Treasury may invest and reinvest in securities of the  
9 United States or in securities guaranteed as to principal and  
10 interest by the United States any moneys contained in the  
11 fund authorized herein. Income accruing from such secu-  
12 rities, and from any other property pursuant to section 4 (d)  
13 of this Act, shall be deposited to the credit of the fund author-  
14 ized herein, and shall be disbursed upon order of the Secre-  
15 tary of Transportation.

16 (g) The Secretary is authorized, upon the written re-  
17 quest of any person, firm, or corporation, to make special  
18 statistical studies relating to foreign and domestic transporta-  
19 tion, and other matters falling within the province of the De-  
20 partment of Transportation, to prepare from its records  
21 special statistical compilations, and to furnish transcripts of  
22 its studies, tables, and other records upon the payment of  
23 the actual cost of such work by the person, firm, or corpora-  
24 tion requesting it.

25 (h) All moneys received by the Department of Trans-



1 portation in payment of the cost of work under section 4 (g)  
2 of this Act shall be deposited in a special account to be  
3 administered under the direction of the Secretary of Trans-  
4 portation. These moneys may be used, in the discretion  
5 of the Secretary of Transportation, and notwithstanding  
6 any other provisions of law, for the ordinary expenses inci-  
7 dental to the work and/or to secure in connection there-  
8 with the special services of persons who are neither officers  
9 nor employees of the United States.

10 (i) The Secretary is authorized to appoint such ad-  
11 visory committees as shall be appropriate for the purpose  
12 of consultation with and advice to the Department in per-  
13 formance of its functions. Members of such committees  
14 shall be entitled to per diem and travel expenses as author-  
15 ized by the Administrative Expenses Act of 1946 (60  
16 Stat. 808), for all persons employed intermittently as con-  
17 sultants or experts receiving compensation on a per diem  
18 basis.

19 (j) Orders and actions of the Secretary or the National  
20 Transportation Safety Board in the exercise of functions,  
21 powers, and duties transferred under this Act shall be sub-  
22 ject to judicial review to the same extent and in the same  
23 manner as if such orders and actions had been by the agency  
24 originally exercising such functions, powers, and duties.

1       (k) In the exercise of the functions, powers, and duties  
2 transferred under this Act, the Secretary is authorized the  
3 same authority as vested in the agency originally exercising  
4 such functions, powers, and duties, and his actions in exer-  
5 cising such functions, powers, and duties shall have the same  
6 force and effect as when exercised by such agency.

7       (1) (1) Nothing in this Act or other law shall pre-  
8 clude appointment, detail, or assignment of a member on  
9 active duty of the Coast Guard to any position in the De-  
10 partment, other than Secretary, Under Secretary, and Assist-  
11 ant Secretary for Administration.

12       (2) Nothing in this Act or other law shall preclude  
13 appointment of a retired member of the Coast Guard to  
14 any position in the Department.

15       (3) The provisions of section 9 (e) (1) shall apply to  
16 persons appointed, detailed, or assigned under authority of  
17 this subsection.

18               NATIONAL TRANSPORTATION SAFETY BOARD

19       SEC. 5. (a) There is hereby established within the De-  
20 partment a National Transportation Safety Board. The  
21 Board shall exercise the functions, powers, and duties trans-  
22 ferred to the Secretary by sections 6 and 8 of this Act with  
23 regard to (1) determining the cause or probable cause of  
24 transportation accidents, and shall report the facts, condi-  
25 tions, and circumstances relating to such accidents; and (2)

1 the review on appeal of the suspension, amendment, modifi-  
2 cation, revocation, or denial of any certificate or license issued  
3 by the Secretary. In exercising these functions, powers, and  
4 duties, the Board shall be independent of the Secretary and  
5 the operating units of the Department.

6 (b) The Board shall consist of five members to be ap-  
7 pointed by the President, by and with the advice and consent  
8 of the Senate, and who shall continue in office as designated  
9 by the President at time of nomination through the last day  
10 of the first, second, third, fourth, and fifth full calendar years,  
11 respectively, following the year of enactment of this Act.  
12 Their successors shall be appointed for terms of five years,  
13 in the same manner as the members originally appointed  
14 under this Act. Members of the Board shall be appointed  
15 with due regard to their fitness for the efficient dispatch of  
16 the functions, powers, and duties vested in and imposed  
17 upon the Board. Members of the Board may be removed  
18 by the President for inefficiency, neglect of duty, or mal-  
19 feasant in office.

20 (c) Any person appointed to fill a vacancy occurring  
21 prior to the expiration of a term for which his predecessor  
22 was appointed shall serve only for the remainder of such  
23 term. Upon the expiration of his term of office, except in  
24 the case of a member removed for cause under section 5 (b) ,

1 a member shall continue to serve until his successor is ap-  
2 pointed and shall have qualified.

3 (d) The President shall designate from time to time  
4 one of the members of the Board as Chairman and one of  
5 the members as Vice Chairman, who shall act as Chairman  
6 in the absence or incapacity of the Chairman, or in the event  
7 of a vacancy in the office of the Chairman. The Chairman  
8 shall be the chief executive and administrative officer of the  
9 Board and shall exercise the responsibility of the Board with  
10 respect to (1) the appointment and supervision of personnel  
11 employed by the Board; (2) the distribution of business  
12 among the Board's personnel; and (3) the use and expendi-  
13 ture of funds. In executing and administering the functions  
14 of the Board on its behalf, the Chairman shall be governed  
15 by the general policies of the Board and by its decisions,  
16 findings, and determinations. Three of the members shall  
17 constitute a quorum of the Board.

18 (e) The Chairman of the Board shall be compensated  
19 at the rate provided for at level V of the Federal Executive  
20 Salary Act of 1964 (78 Stat. 416), as provided in section  
21 10 (d) (4) of this Act. Members of the Board shall be  
22 compensated at the rate now or hereafter established for  
23 grade 18 of the General Schedule of the Classification Act  
24 of 1949 (63 Stat. 954).

25 (f) The Board is authorized to establish such rules, reg-

1. ulations, and procedures as are necessary to the exercise of  
2. its functions.

3. (g) The Board, any member thereof, or any hearing  
4. examiner assigned to the Board shall have the same powers  
5. as are vested in the Secretary to hold hearings, sign and  
6. issue subpoenas, administer oaths, examine witnesses, and  
7. receive evidence at any place in the United States it may  
8. designate.

9. (h) Subject to the proviso in section 701 (g) of the  
10. Federal Aviation Act of 1958 (72 Stat. 731), the Board  
11. may delegate to any officer or official of the Board or, with  
12. the approval of the Secretary, to any officer or official of the  
13. Department such of its functions as it may deem appropriate.

14. (i) The Board is further authorized to make such  
15. recommendations concerning transportation safety to the Sec-  
16. retary as it may deem appropriate, including recommenda-  
17. tions for the conduct of special safety studies on matters  
18. pertaining to safety in transportation and the prevention of  
19. accidents, the initiation of accident investigations, and rules,  
20. regulations, and procedures for the conduct of accident  
21. investigations.

22. (j) Subject to the civil service and classification laws,  
23. the Board is authorized to select, appoint, employ, and fix  
24. compensation of such officers and employees, including attor-

1 neys, as shall be necessary to carry out its powers and duties  
2 under this Act.

3 (k) The Secretary shall provide to the Board financial  
4 and administrative services, the cost of which shall be paid  
5 in advance, or by reimbursement, from funds of the Board.

6 TRANSFERS TO DEPARTMENT

7 SEC. 6. (a) There are hereby transferred to and vested  
8 in the Secretary all functions, powers, and duties of the  
9 Secretary of Commerce and other officers and offices of the  
10 Department of Commerce under title 23, United States  
11 Code, relating to highways; the Federal Aid Highway Act  
12 of 1962 (76 Stat. 1145), relating to engineering and plan-  
13 ning surveys concerning highway construction programs in  
14 Alaska; the Act of July 14, 1960 (74 Stat. 526), relating  
15 to the National Driver Register Service; the Federal Aid  
16 Highway Act of 1954 (68 Stat. 70), relating to the Great  
17 River Road; the Highway Revenue Act of 1956 (70 Stat.  
18 387), relating to the highway trust fund; the Highway  
19 Beautification Act of 1965 (79 Stat. 1028); the Alaska  
20 Omnibus Act (73 Stat. 141), relating to transfers of lands,  
21 buildings, fixtures, and other property used in connection  
22 with Bureau of Public Roads activities in Alaska; Senate  
23 Joint Resolution 81 (79 Stat. 578), relating to reports of  
24 highway needs to Congress; section 525 (c) of the General  
25 Bridge Act of 1946 (60 Stat. 847), relating to the location

1 of and plans for interstate bridges; the Act of July 26, 1956  
2 (70 Stat. 669), relating to the Muscatine Bridge Commis-  
3 sion; the Act of December 21, 1944 (58 Stat. 846), relating  
4 to the City of Clinton Bridge Commission; the Act of  
5 April 12, 1941 (55 Stat. 140), relating to the White  
6 County Bridge Commission; the Act of April 27, 1962  
7 (76 Stat. 59), relating to the annual audit of bridge com-  
8 missions; the Act of September 30, 1965, relating to high-  
9 speed ground transportation (79 Stat. 893); the Urban  
10 Mass Transportation Act of 1964 (78 Stat. 302); the Act  
11 of September 7, 1957 (71 Stat. 629), and section 410 of  
12 the Federal Aviation Act of 1958 (72 Stat. 769), relating  
13 to guarantee of loans for the purchase of aircraft and air-  
14 craft equipment; title XIII, War Risk Insurance, of the  
15 Federal Aviation Act of 1958 (72 Stat. 800); the Great  
16 Lakes Pilotage Act of 1960 (74 Stat. 259); the Merchant  
17 Marine Act, 1920 (41 Stat. 988); the Merchant Marine  
18 Act, 1928 (45 Stat. 689); the Merchant Marine Act, 1936  
19 (49 Stat. 1985); the Shipping Act, 1916 (39 Stat. 728);  
20 the Merchant Ship Sales Act of 1946 (60 Stat. 41); the  
21 Maritime Academy Act of 1958 (72 Stat. 622); the Act  
22 of June 12, 1940 (54 Stat. 346), relating to assistance to  
23 maritime schools; the Act of August 30, 1964 (78 Stat.  
24 614), relating to the fishing fleet; the Act of September 14,

1 1961 (75 Stat. 514), relating to appointments to the Mer-  
2 chant Marine Academy; the Act of June 13, 1957 (71  
3 Stat. 73), to the extent it relates to operating-differential  
4 subsidies; the Act of June 12, 1951 (65 Stat. 59), relating  
5 to vessel operations revolving fund; the Act of July 24,  
6 1956 (70 Stat. 605), relating to the grant of medals and  
7 decorations for service in the United States merchant ma-  
8 rine; the Act of August 9, 1954 (68 Stat. 675), relating  
9 to emergency foreign merchant vessel acquisition and oper-  
10 ation; Reorganization Plan Numbered 21 of 1950 (64 Stat.  
11 1273); Reorganization Plan Numbered 7 of 1961 (75 Stat.  
12 840); Reorganization Plan Numbered 7 of 1949 (63 Stat.  
13 1070); and the Act of August 1, 1947 (61 Stat. 715), to  
14 the extent that it authorizes scientific and professional posi-  
15 tions which relate primarily to functions transferred by this  
16 subsection.

17 (b) (1) The Coast Guard is hereby transferred to the  
18 Department, and there are hereby transferred to and vested  
19 in the Secretary all functions, powers, and duties, relating  
20 to the Coast Guard, of the Secretary of the Treasury and of  
21 other officers and offices of the Department of the Treasury.

22 (2) Notwithstanding the transfer of the Coast Guard  
23 to the Department and the transfer to the Secretary of the  
24 functions, powers, and duties, relating to the Coast Guard,  
25 of the Secretary of the Treasury and of other officers and



1 offices of the Department of the Treasury, effected by the pro-  
2 visions of subparagraph (1) of this subsection, the Coast  
3 Guard, together with the functions, powers, and duties relat-  
4 ing thereto, shall operate as a part of the Navy, subject to the  
5 orders of the Secretary of the Navy, in time or war or when  
6 the President shall so direct, as provided in title 14, United  
7 States Code, section 3.

8 (3) Notwithstanding any other provision of this Act,  
9 the functions, powers, and duties of the General Counsel of  
10 the Department of the Treasury set out in the Uniform Code  
11 of Military Justice (10 United States Code, section 801, et  
12 seq.) are hereby transferred to and vested in the General  
13 Counsel of the Department.

14 (c) There are hereby transferred to and vested in the  
15 Secretary all functions, powers, and duties of the Federal  
16 Aviation Agency, and of the Administrator and other officers  
17 and offices thereof.

18 (d) There are hereby transferred to and vested in the  
19 Secretary all functions, powers, and duties of the Civil Aero-  
20 nautics Board, and of the Chairman, members, officers, and  
21 offices thereof under titles VI (72 Stat. 776) and VII (72  
22 Stat. 781) of the Federal Aviation Act of 1958.

23 (e) There are hereby transferred to and vested in the  
24 Secretary all functions, powers, and duties of the Interstate  
25 Commerce Commission under the Act of March 2, 1893 (27

1 Stat. 531), as amended by the Act of August 14, 1957 (71  
2 Stat. 352), the Act of March 2, 1903 (32 Stat. 943), as  
3 amended by the Act of April 11, 1958 (72 Stat. 86), and  
4 the Act of April 14, 1910 (36 Stat. 298), as amended by  
5 the Act of August 14, 1957 (71 Stat. 352), relating to  
6 safety appliances; the Act of May 30, 1908 (35 Stat. 476),  
7 relating to ash pans; the Act of February 17, 1911 (36 Stat.  
8 913), the Act of March 4, 1915 (38 Stat. 1192), the Act  
9 of June 26, 1918 (40 Stat. 616), the Act of June 7, 1924  
10 (43 Stat. 659), the Act of June 27, 1930 (46 Stat. 822),  
11 and the Act of April 22, 1940 (54 Stat. 148), the Act of  
12 May 27, 1947 (61 Stat. 120), the Act of June 25, 1948  
13 (62 Stat. 909), the Act of October 28, 1949 (63 Stat.  
14 972), the Act of August 14, 1957 (71 Stat. 352), relating  
15 to boiler inspection; Reorganization Plan Numbered 3 of  
16 1965 (79 Stat. 1320), relating to locomotive inspection;  
17 the resolution of June 30, 1906 (34 Stat. 838), relating to  
18 block signals; the Act of May 27, 1908 (35 Stat. 325), the  
19 Act of March 4, 1909 (35 Stat. 965), relating to investiga-  
20 tion and testing of appliances and inspection of mail cars;  
21 the Act of May 6, 1910 (36 Stat. 350), the Act of Septem-  
22 ber 13, 1960 (74 Stat. 903), relating to accident reports;  
23 the Act of March 4, 1907 (34 Stat. 1415), the Act of  
24 May 4, 1916 (39 Stat. 61), the Act of June 25 1948 (62  
25 Stat. 909), the Act of August 14, 1957 (71 Stat. 352),

1 relating to hours of service of employees; the Act of Feb-  
2 ruary 23, 1905 (33 Stat. 743), the Act of June 13, 1957  
3 (71 Stat. 69), relating to awards; title 18, United States  
4 Code, sections 831-835, relating to explosives and other dan-  
5 gerous articles; the Act of March 19, 1918 (40 Stat. 450),  
6 the Act of March 4, 1921 (41 Stat. 1446), and the Act of  
7 March 3, 1923 (42 Stat. 1434), as amended by the Act of  
8 June 24, 1948 (62 Stat. 646), relating to the Standard  
9 Time Act; and the following sections of the Interstate Com-  
10 merce Act (24 Stat. 379) ; sections 1 (10), 1 (11), 1 (12),  
11 1 (13), 1 (14) (a) (but not including establishment of the  
12 compensation to be paid for the use of any locomotive, car,  
13 or other vehicle not owned by the carrier using it), 1 (15),  
14 1 (16), 1 (17), 6 (8), the final sentence of 15 (4), 15 (10),  
15 and 420, relating to car service; section 25, relating to  
16 safety appliances, methods and systems; section 226, relat-  
17 ing to investigation of motor vehicle sizes and weights; sec-  
18 tion 1 (21) except to the extent that it relates to the exten-  
19 sion of line or lines of common carriers; section 204 (a) (1)  
20 and (2) to the extent that they relate to qualifications and  
21 maximum hours of service of employees and safety of opera-  
22 tion and equipment; and section 204 (a) (3), (3a), and  
23 (5), relating to safety.

24 Nothing in this subsection shall diminish the functions,

1 powers, and duties of the Interstate Commerce Commission  
2 under sections 1 (6), 206, 207, 209, 210a, 212, and 216 of  
3 the Interstate Commerce Act or under any other section of  
4 that Act not specifically referred to in the first paragraph of  
5 this subsection.

6 (f) There are hereby transferred to and vested in the  
7 Secretary all functions, powers, and duties of the Secretary  
8 of the Army and other officers and offices of the Department  
9 of the Army under section 7 of the River and Harbor Act  
10 of March 4, 1915 (38 Stat. 1053), and the Act of April 22,  
11 1940 (54 Stat. 150), relating to water vessel anchorages;  
12 section 5 of the Act of August 18, 1894 (28 Stat. 362),  
13 relating to drawbridge operating regulations; the Act of  
14 June 21, 1940 (54 Stat. 497), relating to obstructive  
15 bridges; section 4 of the Act of March 23, 1906 (34 Stat.  
16 85), section 503 of the General Bridge Act (60 Stat. 847),  
17 section 17 of the Act of June 10, 1930 (46 Stat. 552), the  
18 Act of June 27, 1930 (46 Stat. 821), and the Act of August  
19 21, 1935 (49 Stat. 670), relating to the reasonableness of  
20 tolls; the Oil Pollution Act of 1961 (75 Stat. 402), relating  
21 to the detection of oil pollution and enforcement of measures  
22 against same; and section 9 of the Act of March 3, 1899 (30  
23 Stat. 1151), the Act of March 23, 1906 (34 Stat. 84), and  
24 the General Bridge Act (60 Stat. 847), insofar as they relate

1 to the location and clearances of bridges in the navigable  
2 waters of the United States.

3 **TRANSPORTATION INVESTMENT STANDARDS**

4 **SEC. 7. (a)** The Secretary shall develop and from time  
5 to time in the light of experience revise standards and criteria  
6 consistent with national transportation policies, for the formu-  
7 lation and economic evaluation of all proposals for the invest-  
8 ment of Federal funds in transportation facilities or equip-  
9 ment, except such proposals as are concerned with (1) the  
10 acquisition of transportation facilities or equipment by Fed-  
11 eral agencies in providing transportation services for their own  
12 use; (2) an interoceanic canal located outside the contigu-  
13 ous United States; (3) defense features included at the  
14 direction of the Department of Defense in the design and con-  
15 struction of civil air, sea, and land transportation; or (4)  
16 programs of foreign assistance. The standards and criteria  
17 for economic evaluation of the transportation features of  
18 multipurpose water resource projects shall be developed by  
19 the Secretary after consultation with the Water Resources  
20 Council, and shall be compatible with the standards and  
21 criteria for economic evaluation applicable to nontransporta-  
22 tion features of such projects. The standards and criteria  
23 developed or revised pursuant to this subsection shall be

1 promulgated by the Secretary upon their approval by the  
2 President.

3 (b) Every survey, plan, or report formulated by a Fed-  
4 eral agency which includes a proposal as to which the  
5 Secretary has promulgated standards and criteria pursuant to  
6 subsection (a) shall be (1) prepared in accord with such  
7 standards and criteria and upon the basis of information  
8 furnished by the Secretary with respect to projected growth  
9 of transportation needs and traffic in the affected area, the  
10 relative efficiency of various modes of transport, the available  
11 transportation services in the area, and the general effect of  
12 the proposed investment on existing modes, and on the  
13 regional and national economy; (2) coordinated by the pro-  
14 posing agency with the Secretary and, as appropriate, with  
15 other Federal agencies, States, and local units of government  
16 for inclusion of his and their views and comments; and  
17 (3) transmitted thereafter by the proposing agency to the  
18 President for disposition in accord with law and procedures  
19 established by him.

20

## AMENDMENTS TO OTHER LAWS

21 SEC. 8. (a) Section 406 (b) of the Federal Aviation  
22 Act of 1958, as amended (72 Stat. 768), is amended by  
23 adding the following sentence at the end thereof: "In apply-  
24 ing clause (3) of this subsection, the Board shall take into  
25 consideration any standards and criteria prescribed by the

1 Secretary of Transportation, for determining the character  
2 and quality of transportation required for the commerce of  
3 the United States and the national defense."

4 (b) Section 201 of the Appalachian Regional Develop-  
5 ment Act (79 Stat. 10) is amended as follows:

6 (1) The first sentence of subsection (a) of that section  
7 is amended by striking the words "Commerce (hereafter in  
8 this section referred to as the 'Secretary')" and inserting in  
9 lieu thereof "Transportation."

10 (2) The last sentence of subsection (a) of that section  
11 is amended by inserting after the word "Secretary", the  
12 words "of Transportation".

13 (3) Subsection (b) of that section is amended by in-  
14 serting after the word "Secretary", the words "of Com-  
15 merce".

16 (4) Subsection (c) of that section is amended by strik-  
17 ing the first sentence and inserting in lieu thereof the fol-  
18 lowing sentence: "Such recommendations as are approved  
19 by the Secretary of Commerce shall be transmitted to the  
20 Secretary of Transportation for his approval."

21 (5) The second sentence of subsection (c) of that sec-  
22 tion is amended by inserting after the word "Secretary" the  
23 words "of Transportation".

24 (6) Subsection (e) of that section is amended by in-

1   serting after the word "Secretary" the words "of Transpor-  
2   tation".

3       (7) Subsection (f) of that section is amended by in-  
4   serting after the word "Secretary", the words "of Com-  
5   merce and the Secretary of Transportation". Subsection  
6   (f) of that section is further amended by striking the word  
7   "determines" and inserting in lieu thereof "determine".

8       (8) Subsection (g) of that section is amended by  
9   striking the period at the end thereof and adding the follow-  
10   ing: "to the Secretary of Commerce, who shall transfer funds  
11   to the Secretary of Transportation for administration of proj-  
12   ects approved by both Secretaries."

13       (c) Section 206 (c) of the Appalachian Regional De-  
14   velopment Act of 1965 (79 Stat. 15) is amended by insert-  
15   ing after "Interior," the words "Secretary of Transporta-  
16   tion,".

17       (d) Sections 12, 13 (1), 13 (2), 20 (except clauses  
18   (3), (4), (11), and (12) thereof), 204 (a) (except  
19   clauses 4 and 4a thereof), 204 (c), 205 (d), 205 (f), 220  
20   (except subsection (c) thereof), and 222 (except subsec-  
21   tions (b) (2) and (b) (3) thereof) of the Interstate Com-  
22   merce Act (27 Stat. 379) are amended by inserting "(Sec-  
23   retary of Transportation with respect to the establishment  
24   and enforcement of reasonable requirements with respect to  
25   qualifications and maximum hours of service of employees,



1 safety of operation and equipment, and car service)" im-  
2 mediately after "Commission" where it first occurs in each  
3 such section, and by inserting "or Secretary of Transportation  
4 as the case may be" after Commission in every other place  
5 where it occurs in each such section, except where it occurs  
6 in the proviso of section 220 (a) and the last time in section  
7 222 (h).

8 (e) Section 212 (a) of the Interstate Commerce Act (49  
9 Stat. 555) is amended by striking "of the Commission" the  
10 second, third, and fourth times those words occur.

11 (f) Section 13 (b) of the Fair Labor Standards Act of  
12 1938 (52 Stat. 1067) is amended by striking the words  
13 "Interstate Commerce Commission" and inserting in lieu  
14 thereof "Secretary of Transportation."

15 (g) Section 18 (1) of the Interstate Commerce Act  
16 (24 Stat. 386) is amended by inserting "or Secretary of  
17 Transportation with respect to the establishment and en-  
18 forcement of reasonable requirements with respect to quali-  
19 fications and maximum hours of service of employees, safety  
20 of operation and equipment, and car service" after "Com-  
21 mission" where it last occurs therein.

22 (h) The second sentence of section 3 of the Federal  
23 Explosives Act (40 Stat. 385) is amended as follows:  
24 "This Act shall not apply to explosives or ingredients which  
25 are in transit upon vessels, railroad cars, aircraft, or other

1 conveyances in conformity with statutory law or with the  
2 rules and regulations of the Secretary of Transportation."

3 ADMINISTRATIVE PROVISIONS

4 SEC. 9. (a) In addition to the authority contained in  
5 any other Act which is transferred to and vested in the  
6 Secretary, the Secretary is authorized, subject to the civil  
7 service and classification laws, to select, appoint, employ,  
8 and fix the compensation of such officers and employees, in-  
9 cluding attorneys, as are necessary to carry out the pro-  
10 visions of this Act and to prescribe their authority and  
11 duties.

12 (b) Subsection b of section 505 of the Classification  
13 Act of 1949 (63 Stat. 959), relating to the maximum  
14 number of positions authorized at any one time for grades  
15 16, 17, and 18 of the General Schedule of such Act, is  
16 further amended by striking the number "twenty-four hun-  
17 dred" and by inserting in lieu thereof "twenty-four hundred  
18 and forty-five."

19 (c) The Secretary may obtain services as authorized  
20 by section 15 of the Act of August 2, 1946 (60 Stat. 810),  
21 but at rates not to exceed \$100 per diem for individuals  
22 unless otherwise specified in an appropriation Act.

23 (d) The Secretary is authorized to provide for par-  
24 ticipation of military personnel in carrying out his functions.  
25 Members of the Army, the Navy, the Air Force, or the

1 Marine Corps may be detailed for service in the Department  
2 by the appropriate Secretary, pursuant to cooperative agree-  
3 ments with the Secretary of Transportation. Members so  
4 detailed shall not be charged against any statutory limitation  
5 on grades or strengths applicable to the military departments.

6 (e) (1) Appointment, detail, or assignment to, accept-  
7 ance of, and service in any appointive or other position in  
8 the Department under the authority of section 4 (1) and  
9 section 9 (d) shall in no way affect status, office, rank, or  
10 grade which officers or enlisted men may occupy or hold  
11 or any emolument, perquisite, right, privilege, or benefit  
12 incident to or arising out of any such status, office, rank, or  
13 grade. A person so appointed, detailed, or assigned shall  
14 not be subject to direction by or control by his armed force  
15 or any officer thereof directly or indirectly with respect to  
16 the responsibilities exercised in the position to which ap-  
17 pointed, detailed, or assigned.

18 (2) The Secretary shall report annually in writing to  
19 the appropriate committees of the Congress on personnel  
20 appointed and agreements entered into under subsection (d)  
21 of this section, including the number, rank, and positions of  
22 members of the armed services detailed pursuant thereto.

23 (f) In addition to the authority to delegate and redele-  
24 gate contained in any other Act in the exercise of the func-

1 tions transferred to or vested in the Secretary in this Act,  
2 the Secretary may delegate any of his functions, powers, and  
3 duties to such officers and employees of the Department  
4 as he may designate, may authorize such successive redele-  
5 gations of such functions, powers, and duties as he may deem  
6 desirable, and may make such rules and regulations as may  
7 be necessary to carry out his functions, powers, and duties.

8 (g) The personnel, assets, liabilities, contracts, prop-  
9 erty, records, and unexpended balances of appropriations,  
10 authorizations, allocations, and other funds employed, held,  
11 used, arising from, available or to be made available, of the  
12 Federal Aviation Agency, and of the head and other officers  
13 and offices thereof, are hereby transferred to the Secretary.

14 (h) So much of the personnel, assets, liabilities, con-  
15 tracts, property, records, and unexpended balances of ap-  
16 propriations, authorizations, allocations, and other funds  
17 employed, held, used, arising from, available or to be made  
18 available in connection with the functions, powers, and duties  
19 transferred by sections 6 (except section 6 (c) ) and 8 (d) ,  
20 (e) , (f) , and (g) of this Act as the Director of the Bureau  
21 of the Budget shall determine shall be transferred to the  
22 Secretary.

23 (i) The transfer of personnel pursuant to subsections  
24 (e) and (f) of this section shall be without reduction in clas-  
25 sification and compensation, except that this requirement

1 shall not operate after one year from the date such transfers  
2 are made.

3 (j) Any offices and any agency heretofore established  
4 by law, all the functions, powers, and duties of which are  
5 transferred pursuant to this Act shall lapse: *Provided, how-*  
6 *ever, That this sentence shall not apply to the Coast Guard:*  
7 *And provided further, That any person holding a position*  
8 *compensated in accordance with the Federal Executive Sal-*  
9 *ary Schedule who, without a break in service, is appointed*  
10 *in the Department to a position having duties comparable to*  
11 *those performed at the effective date of this Act shall con-*  
12 *tinue to be compensated at not less than the rate provided*  
13 *for such level for the duration of his service in such position.*

14 (k) The Secretary is authorized to establish a working  
15 capital fund, to be available without fiscal year limitation,  
16 for expenses necessary for the maintenance and operation of  
17 such common administrative services as he shall find to be  
18 desirable in the interest of economy and efficiency in the De-  
19 partment, including such services as a central supply service  
20 for stationery and other supplies and equipment for which  
21 adequate stocks may be maintained to meet in whole or in  
22 part the requirements of the Department and its agencies;  
23 central messenger, mail, telephone, and other communica-  
24 tions services; office space, central services for document re-  
25 production, and for graphics and visual aids; and a central

1 library service. The capital of the fund shall consist of the  
2 fair and reasonable value of such stocks of supplies, equip-  
3 ment, and other assets and inventories on order as the Sec-  
4 retary may transfer to the fund, less the related liabilities and  
5 unpaid obligations, together with any appropriations made  
6 for the purpose of providing capital, which appropriations  
7 are hereby authorized. Such funds shall be reimbursed from  
8 available funds of agencies and offices in the Department,  
9 or from other sources, for supplies and services at rates which  
10 will approximate the expense of operation, including the ac-  
11 crual of annual leave and the depreciation of equipment. The  
12 fund shall also be credited with receipts from sale or exchange  
13 of property and receipts in payment for loss or damage  
14 to property owned by the fund.

15 (1) The Secretary shall cause a seal of office to be  
16 made for the Department of such device as he shall approve,  
17 and judicial notice shall be taken of such seal.

18 CONFORMING AMENDMENTS TO OTHER LAWS

19 SEC. 10. (a) Section 19 (d) (1) of title 3, United States  
20 Code, is hereby amended by striking out the period at the  
21 end thereof and inserting a comma and the following: "Sec-  
22 retary of Transportation."

23 (b) Section 158 of the Revised Statutes (5 U.S.C. 1)  
24 is amended by adding at the end thereof:

25 "Twelfth. The Department of Transportation."

1 (c) The amendment made by subsection (b) of this  
2 section shall not be construed to make applicable to the  
3 Department any provision of law inconsistent with this Act.

4 (d) Section 303 of the Federal Executive Salary Act  
5 of 1964 (78 Stat. 416) is amended as follows:

6 (1) subsection (a) of that section is amended by adding  
7 at the end thereof the following:

8 “(11) Secretary of Housing and Urban Development.

9 “(12) Secretary of Transportation.”

10 (2) subsection (c) of that section is amended by strik-  
11 ing “(6) Under Secretary of Commerce for Transportation”  
12 and inserting in lieu thereof “(6) Under Secretary of Trans-  
13 portation”.

14 (3) subsection (d) of that section is amended by add-  
15 ing the following:

16 “(22a) Assistant Secretaries, Department of Transpor-  
17 tation (4)”.

18 “(47a) General Counsel, Department of Transporta-  
19 tion”.

20 (4) subsection (e) of that section is amended by add-  
21 ing the following:

22 “(27a) Assistant Secretary for Administration, Depart-  
23 ment of Transportation”.

24 “(101) Chairman, National Transportation Safety  
25 Board, Department of Transportation”.

1 (5) subsection (f) of that section is amended by strik-  
2 ing out "thirty" and inserting in lieu thereof "thirty-nine."

3 (6) Immediately following subsection (g) of that sec-  
4 tion, the following new subsection is added:

5 "(h) The President is further authorized to place one  
6 position in level III."

7 (e) Subsections (b) (7), (d) (2), and (e) (12),  
8 (13), (14), (76), (82), and (89) of section 303 of the  
9 Federal Executive Salary Act of 1964 (78 Stat. 416) are  
10 repealed, subject to the provisions of section 9 of the Depart-  
11 ment of Transportation Act.

12 (f) The Act of August 1, 1956 (70 Stat. 897), is  
13 amended by striking the words "Secretary of Commerce"  
14 where they appear therein and inserting in lieu thereof  
15 "Secretary of Transportation."

16 (g) Title 18, United States Code, section 1020 is  
17 amended by striking the words "Secretary of Commerce"  
18 where they appear therein and inserting in lieu thereof "Sec-  
19 retary of Transportation."

20 (h) Subsection (1) of section 801, title 10, United  
21 States Code, is amended by striking out "the General Coun-  
22 sel of the Department of the Treasury" and inserting in lieu  
23 thereof "the General Counsel of the Department of Trans-  
24 portation."



1

## ANNUAL REPORT

2

SEC. 11. The Secretary shall, as soon as practicable after  
3 the end of each fiscal year, make a report in writing to the  
4 President for submission to the Congress on the activities of  
5 the Department during the preceding fiscal year.

6

## SAVINGS PROVISIONS

7

SEC. 12. (a) All orders, determinations, rules, regula-  
8 tions, permits, contracts, certificates, licenses, and privileges  
9 which have been issued, made, granted, or allowed to be-  
10 come effective by any department or agency, functions of  
11 which are transferred by this Act, or by any court of com-  
12 petent jurisdiction, or under any provision of law repealed  
13 or amended by this Act, or in the exercise of duties, powers,  
14 or functions which, under this Act are vested in the Secre-  
15 tary, and which are in effect at the time this section takes  
16 effect, shall continue in effect according to their terms until  
17 modified, terminated, superseded, set aside, or repealed by  
18 the Secretary, or by any court of competent jurisdiction, or  
19 by operation of law.

20

(b) The provisions of this Act shall not affect any pro-  
21 ceedings pending at the time this section takes effect before  
22 any department, agency, or component thereof, functions of  
23 which are transferred by this Act; but any such proceedings  
24 involved in such transfer shall be continued before the De-

1 partment of Transportation, orders therein issued, appeals  
2 therefrom taken, and payments made pursuant to such  
3 orders, as if this Act had not been enacted; and orders  
4 issued in any such proceedings shall continue in effect until  
5 modified, terminated, superseded, or repealed by the Secre-  
6 tary or by operation of law.

7 (c) The provisions of this Act shall not affect suits  
8 commenced prior to the date on which this section takes  
9 effect; and all such suits shall be continued by the Depart-  
10 ment of Transportation, proceedings therein had, appeals  
11 therein taken, and judgments therein rendered, in the same  
12 manner and effect as if this Act had not been enacted. No  
13 suit, action, or other proceeding commenced by or against  
14 any officer in his official capacity of any department or  
15 agency, functions of which are transferred by this Act, shall  
16 abate by reason of the enactment of this Act. No cause of  
17 action by or against any department or agency, functions  
18 of which are transferred by this Act, or by or against any  
19 officer thereof in his official capacity shall abate by reason  
20 of the enactment of this Act. Causes of actions, suits, actions  
21 or other proceedings may be asserted by or against the  
22 United States or such official of the Department as may  
23 be appropriate and, in any litigation pending when this  
24 section takes effect, the court may at any time, on its own

1 motion or that of any party, enter an order which will  
2 give effect to the provisions of this section.

3 (d) With respect to any function, power, or duty trans-  
4 ferred by this Act and exercised hereafter, reference in any  
5 other Federal law to any department or agency, officer or  
6 office so transferred or functions of which are so transferred  
7 shall be deemed to mean the Secretary.

8 **SEPARABILITY**

9 **SEC. 13.** If any provision of this Act or the application  
10 thereof to any person or circumstances is held invalid, the  
11 remainder of this Act, and the application of such provision  
12 to other persons or circumstances shall not be affected  
13 thereby.

14 **CODIFICATION**

15 **SEC. 14.** The Secretary is directed to submit to the  
16 Congress within two years from the effective date of this  
17 Act, a codification of all laws that contain the powers, duties,  
18 and functions transferred to and vested in the Secretary of  
19 the Department by this Act.

20 **EFFECTIVE DATE**

21 **SEC. 15.** The President and the Secretary are authorized  
22 to nominate and appoint any of the officers provided for in  
23 sections 3 and 5 of this Act, as provided in such sections, at  
24 any time after the date of enactment of this Act. Such

1 officers shall be compensated from the date they first take  
2 office, in accordance with sections 5 and 10 of this Act.  
3 Such compensation and related expenses of their offices shall  
4 be paid from funds available for the functions to be trans-  
5 ferred to the Department pursuant to this Act. All other  
6 provisions of this Act shall take effect ninety days after the  
7 Secretary first takes office, or on such prior date after en-  
8 actment of this Act as the President shall prescribe and  
9 publish in the Federal Register.

(The message of the President of the United States follows:)

89TH CONGRESS } HOUSE OF REPRESENTATIVES { DOCUMENT  
2d Session } No. 399

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PROPOSED DEPARTMENT OF TRANSPORTATION

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A PROPOSAL FOR A CABINET-LEVEL DEPARTMENT OF TRANSPORTATION CONSOLIDATING VARIOUS EXISTING TRANSPORTATION AGENCIES

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MARCH 2, 1966.—Referred to the Committee on the Whole House on the State of the Union and ordered to be printed .

*To the Congress of the United States:*

Two centuries ago the American Nation came into being. Thirteen sparsely populated colonies, strung out along the Atlantic seaboard for 1,300 miles, joined their separate wills in a common endeavor.

Three bonds united them.

There was the cultural bond of a single language.

There was the moral bond of a thirst for liberty and democratic government.

There was the physical bond of a few roads and rivers, by which the citizens of the colonies engaged in peaceful commerce.

Two centuries later the language is the same. The thirst for liberty and democracy endures.

The physical bond—that tenuous skein of rough trails and primitive roads—has become a powerful network on which the prosperity and convenience of our society depend.

In a nation that spans a continent, transportation is the web of union.

### THE GROWTH OF OUR TRANSPORTATION SYSTEM

It is not necessary to look back to the 1760's to chronicle the astonishing growth of American transportation.

Twenty years ago there were 31 million motor vehicles in the United States. Today there are 90 million. By 1975 there will be nearly 120 million.

Twenty years ago there were 1.5 million miles of paved roads and streets in the United States. Today this figure has almost doubled.

Twenty years ago there were 38,000 private and commercial aircraft. Today there are more than 97,000.

Twenty years ago commercial airlines flew 209 million miles. Last year they flew 1 billion miles.

Twenty-five years ago American transportation moved 619 billion ton-miles of cargo. In 1964, 1.5 trillion ton-miles were moved.

The manufacturing of transportation equipment has kept pace. It has tripled since 1947. Last year \$4.5 billion was spent for new transportation plant and equipment.

Transportation is one of America's largest employers. There are—

737,000 railroad employees;

270,000 local and interurban workers;

230,000 in air transport; and

almost a million men and women in motor transport and storage.

Together with pipeline and water transportation employees, the total number of men and women who earn their livelihoods by moving people and goods is well over 2½ million.

The Federal Government supports or regulates almost every means of transportation. Last year alone, more than \$5 billion in Federal funds were invested in transportation—in highway construction, in river and harbor development, in airway operation and airport construction, in maritime subsidies. The Government owns 1,500 of the Nation's 2,500 oceangoing cargo vessels.

Our transportation system—the descendant of the horse-drawn coaches and sailing ships of colonial times—accounts for \$1 in every \$6 in the American economy. In 1965, that amounted to \$120 billion—a sum greater than the gross national product of this Nation in 1940.

### SHORTCOMINGS OF OUR SYSTEM

Vital as it is, mammoth and complex as it has become, the American transportation system is not good enough.

It is not good enough when it offers nearly a mile of street or road for every square mile of land—and yet provides no relief from time-consuming, frustrating, and wasteful congestion.

It is not good enough when it produces sleek and efficient jet aircraft—and yet cannot move passengers to and from airports in the time it takes those aircraft to fly hundreds of miles.

It is not good enough when it builds superhighways for supercharged automobiles—and yet cannot find a way to prevent 50,000 highway deaths this year.

It is not good enough when public and private investors pour \$15 million into a large, high-speed ship—only to watch it remain idle in port for days before it is loaded.

It is not good enough when it lays out new freeways to serve new cities and suburbs—and carelessly scars the irreplaceable countryside.

It is not good enough when it adheres to custom for its own sake—and ignores opportunities to serve our people more economically and efficiently.

It is not good enough if it responds to the needs of an earlier America—and does not help us expand our trade and distribute the fruits of our land throughout the world.

### WHY WE HAVE FALLEN SHORT

Our transportation system has not emerged from a single drawing board, on which the needs and capacities of our economy were all charted. It could not have done so, for it grew along with the country itself—now restlessly expanding, now consolidating, as opportunity grew bright or dim.

Thus investment and service innovations responded to special needs. Research and development were sporadic, sometimes inconsistent, and largely oriented toward the promotion of a particular means of transportation.

*As a result, America today lacks a coordinated transportation system that permits travelers and goods to move conveniently and efficiently from one means of transportation to another, using the best characteristics of each.*

Both people and goods are compelled to conform to the system as it is, despite the inconvenience and expense of—

- aging and often obsolete transportation plant and equipment;
- networks chiefly designed to serve a rural society;

- services long outstripped by our growing economy and population, by changes in land use, by new concepts in industrial plant location, warehousing, and distribution;

- the failure to take full advantage of new technologies developed elsewhere in the economy; and

- programs and policies which impede private initiative and dull incentives for innovation.

The result is waste—of human and economic resources and of the taxpayer's dollar.

We have abided this waste too long.

We must not permit it to continue.

We have too much at stake in the quality and economy of our transportation system. If the growth of our transport industries merely keeps pace with our current national economic growth, the demand for transportation will more than double in the next 20 years.

But even that is too conservative an estimate. Passenger transportation is growing much faster than our gross national product—reflecting the desires of an affluent people with ever-increasing incomes.

### PRIVATE AND PUBLIC RESPONSIBILITY

The United States is the only major nation in the world that relies primarily upon privately owned and operated transportation.

That national policy has served us well. It must be continued.

But private ownership has been made feasible only by the use of publicly granted authority and the investment of public resources—

by the construction of locks, dams, and channels on our rivers and inland waterways;  
by the development of a vast highway network;  
by the construction and operation of airports and airways;  
by the development of ports and harbors;  
by direct financial support to the merchant marine;  
by grants of eminent domain authority;  
by capital equipment grants and demonstration projects for mass transit; and

in years past, by grants of public land to assist the railroads.

Enlightened government has served as a full partner with private enterprise in meeting America's urgent need for mobility.

That partnership must now be strengthened with all the means that creative federalism can provide. The costs of a transportation paralysis in the years ahead are too severe. The rewards of an efficient system are too great. We cannot afford the luxury of drift—or proceed with "business as usual."

We must secure for all our travelers and shippers the full advantages of modern science and technology.

We must acquire the reliable information we need for intelligent decisions.

We must clear away the institutional and political barriers which impede adaptation and change.

We must promote the efforts of private industry to give the American consumer more and better service for his transportation dollar.

We must coordinate the executive functions of our transportation agencies in a single coherent instrument of government. Thus policy guidance and support for each means of transportation will strengthen the national economy as a whole.

### A DEPARTMENT OF TRANSPORTATION

*I urge the Congress to establish a Cabinet-level Department of Transportation.*

I recommend that this Department bring together almost 100,000 employees and almost \$6 billion of Federal funds now devoted to transportation.

I urge the creation of such a Department to serve the growing demands of this great Nation, to satisfy the needs of our expanding industry and to fulfill the right of our taxpayers to maximum efficiency and frugality in Government operations.

In so doing, I follow the recommendations of many outstanding Americans.

In 1936, a select committee of the U.S. Senate recommended a Department of Transportation, or, in the alternative, the consolidation of all transportation programs in the Department of Commerce.

In 1949, the Hoover Commission Task Force on Transportation recommended a Department of Transportation.

In 1961 President Eisenhower recommended such a Department in his budget message.

In 1961 a special study group of the Senate Committee on Commerce recommended that all promotional and safety programs of the Federal Government be concentrated in a Department of Transportation.



Many distinguished Members of Congress have offered bills to create the Department. Private citizens, the Nation's leading experts in the field, have made the same recommendation to me.

It is time to act on these recommendations.

### SCOPE OF THE DEPARTMENT

I propose that the following agencies and functions be consolidated in the Department of Transportation:

1. *The Office of the Under Secretary of Commerce for Transportation*, and its policy, program, emergency transportation and research staffs.

2. *The Bureau of Public Roads and the Federal-aid highway program it administers.*

3. *The Federal Aviation Agency*, with its functions in aviation safety, promotion, and investment, will be transferred in its entirety to the new Department. It will continue to carry out these functions in the new Department.

4. *The Coast Guard*, whose principal peacetime activities relate to transportation and marine safety. The Coast Guard will be transferred as a unit from the Treasury Department. As in the past, the Coast Guard will operate as part of the Navy in time of war.

5. *The Maritime Administration*, with its construction and operating subsidy programs.

6. *The safety functions of the Civil Aeronautics Board*, the responsibility for investigating and determining the probable cause of aircraft accidents and its appellate functions related to safety.

7. *The safety functions and car service functions of the Interstate Commerce Commission*, principally the inspection and enforcement of safety regulations for railroads, motor carriers, and pipelines, and the distribution of rail car supply in times of shortage.

8. *The Great Lakes Pilotage Administration, the St. Lawrence Seaway Development Corporation, the Alaska Railroad, and certain minor transportation-related activities of other agencies.*

As this list indicates, I am recommending the consolidation into the Department of those Federal agencies whose primary functions are transportation promotion and safety.

### NATIONAL TRANSPORTATION SAFETY BOARD

No function of the new Department—no responsibility of its Secretary—will be more important than safety. We must insure the safety of our citizens as they travel on our land, in our skies, and over our waters.

*I recommend that there be created under the Secretary of Transportation a National Transportation Safety Board independent of the operating units of the Department.*

The sole function of this Board will be the safety of our travelers. It will review investigations of accidents to seek their causes. It will determine compliance with safety standards. It will examine the adequacy of the safety standards themselves. It will assume safety functions transferred from the ICC and the CAB.

I consider the functions of this Board so important that I am requesting authority from the Congress to name five Presidential appointees as its members.

## RELATION TO OTHER GOVERNMENT ACTIVITIES

The activities of several departments and agencies affect transportation promotion and safety. Sound management requires that an appropriate and intimate relationship be established between those activities and the new Department of Transportation.

1. *The subsidy functions of the Civil Aeronautics Board.*—Aviation subsidies—now provided only for local airline service—clearly promote our domestic transportation system. But subsidy awards are an integral part of the process of authorizing air carrier service. This is a regulatory function.

Therefore the airline subsidy program should remain in the Civil Aeronautics Board. The Secretary of Transportation, however, will develop principles and criteria which the Board will take into consideration in its proceedings. In this way the subsidy program will be coordinated with overall national transportation policy.

2. *The navigation program of the Corps of Engineers.*—The Corps of Engineers—through its construction of locks and harbor facilities and its channel deepening and riverbank protection work—makes a major contribution to water transportation. The Department of Transportation should not assume the responsibility for that construction, but its Secretary should be involved in the planning of water transportation projects.

With the approval of the President, the Secretary of Transportation should also issue standards and criteria for the economic evaluation of Federal transportation investments generally. In the case of transportation features of multipurpose water projects, he should do so after consulting with the Water Resources Council.

3. *International aviation.*—The Secretary of Transportation should provide leadership within the executive branch in formulating long-range policy for international aviation. While foreign policy aspects of international aviation are the responsibility of the Secretary of State, the Secretary of Transportation should insure that our international aviation policies are consistent with overall national transportation policy.

Subject to policy determinations by the President, the Civil Aeronautics Board regulates international aviation routes and fares as they affect the United States. This function has far-reaching effects on our foreign policy, our balance of payments, and the vitality of American aviation. The Secretary of Transportation should participate in Civil Aeronautics Board proceedings that involve international aviation policy.

4. *Urban transportation.*—The Departments of Transportation and Housing and Urban Development must cooperate in decisions affecting urban transportation.

The future of urban transportation—the safety, convenience, and indeed the livelihood of its users—depends upon wide-scale, rational planning. If the Federal Government is to contribute to that planning, it must speak with a coherent voice.

The Department of Housing and Urban Development bears the principal responsibility for a unified Federal approach to urban problems. Yet it cannot perform this task without the counsel, support, and cooperation of the Department of Transportation.

I shall ask the two Secretaries to recommend to me, within a year after the creation of the new Department, the means and procedures

by which this cooperation can best be achieved—not only in principle, but in practical effect.

### ROLE OF THE DEPARTMENT

The Department of Transportation will—  
 coordinate the principal existing programs that promote transportation in America;  
 bring new technology to a total transportation system, by promoting research and development in cooperation with private industry;  
 improve safety in every means of transportation;  
 encourage private enterprise to take full and prompt advantage of new technological opportunities;  
 encourage high-quality, low-cost service to the public;  
 conduct systems analyses and planning, to strengthen the weakest parts of today's system; and  
 develop investment criteria and standards, and analytical techniques to assist all levels of government and industry in their transportation investments.

### THE INTERSTATE COMMERCE COMMISSION

The Cabinet-level Department I recommend will not alter the economic regulatory functions of the Interstate Commerce Commission, the Civil Aeronautics Board, or the Federal Maritime Commission.

I do recommend, however, a change in the manner of selecting the Chairman of the Interstate Commerce Commission.

Today, the Chairman of this vital Commission—alone among the Federal regulatory agencies—is selected, not by the President, but by annual rotation among the 11 Commissioners.

This is not sound management practice in an agency whose influence on our rail, highway, waterway, and pipeline industries is so far reaching.

The ICC bears the demanding and challenging responsibility to keep Federal regulation attuned to the needs and opportunities of a dynamic industry. Its jurisdiction extends to 18,000 transport companies. It handles 7,000 cases each year. No private corporation of such size and importance would change its chief executive officer once each year.

*I sha'll shortly submit to the Congress a reorganization plan to give the President authority to designate the Chairman of the Interstate Commerce Commission from among its members, and to strengthen his executive functions.*

### SAFETY

105,000 Americans died in accidents last year.  
*More than half were killed in transportation, or in recreation accidents related to transportation.*

49,000 deaths involved motor vehicles.

1,300 involved aircraft.

1,500 involved ships and boats.

2,300 involved railroads.

Millions of Americans were injured in transportation accidents—the overwhelming majority involving automobiles.

Each means of transportation has developed safety programs of varying effectiveness. Yet we lack a comprehensive program keyed to a total transportation system.

Proven safety techniques in one means have not always been adapted in others.

Last year the highway death toll set a new record. The prediction for this year is that more than 50,000 persons will die on our streets and highways—more than 50,000 useful and promising lives will be lost, and as many families stung by grief.

*The toll of Americans killed in this way since the introduction of the automobile is truly unbelievable. It is 1.5 million—more than all the combat deaths suffered in all our wars.*

No other necessity of modern life has brought more convenience to the American people—or more tragedy—than the automobile.

### WHY WE ARE FAILING

The carnage on the highways must be arrested.

As I said some weeks ago, we must replace suicide with sanity and anarchy with safety.

The weaknesses of our present highway safety program must be corrected:

Our knowledge of causes is grossly inadequate. Expert opinion is frequently contradictory and confusing.

Existing safety programs are widely dispersed. Government and private efforts proceed separately, without effective coordination.

There is no clear assignment of responsibility of the Federal level.

The allocation of our resources to highway safety is inadequate.

Neither private industry nor Government officials concerned with automotive transportation have made safety first among their priorities. Yet we know that expensive freeways, powerful engines, and smooth exteriors will not stop the massacre on our roads.

### WHAT CAN BE DONE

State and local resources are insufficient to bring about swift reductions in the highway death rate. The Federal Government must provide additional resources. Existing programs must be expanded. Pioneer work must begin in neglected areas.

Federal highway safety responsibilities should be incorporated into the Department of Transportation, in a total transportation safety program.

I have already set in motion a number of steps under existing law:

1. *To strengthen the Federal role*, I am assigning responsibility for coordinating Federal highway safety programs to the Secretary of Commerce. I am directing the Secretary to establish a major highway safety unit within his Department. This unit will ultimately be transferred to the Department of Transportation. The President's Committee on Traffic Safety will be reorganized, strengthened, and supported entirely by Federal funds. The Interdepartmental High-

way Safety Board will be reconstituted and the Secretary's role strengthened.

2. *To give greater support to our safety programs.*—I am requesting increased funds for research, accident data collection, improved emergency medical service, driver education and testing, and traffic control technology.

I have also asked the Secretary of Commerce to evaluate systematically the resources allocated to traffic safety, to insure that we are receiving the maximum benefits from our present efforts.

3. *To improve driving conditions.*—I have ordered that high priority be given to our efforts to build safety features into the Federal-aid highway network.

4. *To save those who are injured.*—I have directed the Secretary of Health, Education, and Welfare, in cooperation with the Secretary of Commerce, immediately to initiate projects to demonstrate techniques for more effective emergency care and transportation. He will work in full cooperation with State, local, and private officials.

5. *To help us better understand the causes of highway accidents.*—I have asked the Secretary of Commerce to establish accident investigation teams, who will bring us new understanding of highway accidents and their causes.

6. *To make Government vehicles safer.*—I have asked the Administrator of General Services, in cooperation with the Secretary of Commerce, to begin a detailed study of the additional vehicle safety features that should be added to the Federal fleet.

#### THE TRAFFIC SAFETY ACT OF 1966

More—much more—remains to be done. The people of America deserve an aggressive highway safety program.

I believe that the Congress—the same Congress which last year gave the Secretary of Commerce broad authority to set uniform standards for State highway safety programs—will join in our efforts to bring that program into being.

*I urge the Congress to enact the Traffic Safety Act of 1966.*

*I urge greater support for State highway safety programs.*

*I urge the creation of a national highway research and test facility.*

*To begin, I recommend a \$700 million, 6-year program.*

The three components of this program are as critically important as the problems they address.

*First, Federal grants to the States for highway safety will be increased.*—With these funds, a comprehensive highway safety program can be developed by each State under standards approved by the Secretary of Commerce. Included will be measures such as driver education and licensing, advanced traffic control techniques, regular vehicle safety inspections, and police and emergency medical services.

*Second, automobile safety performance will be improved.*—Proper design and engineering can make our cars safer. Vehicles sold in interstate commerce must be designed and equipped for maximum safety. Safe performance design standards must be met in tomorrow's cars.

*I recommend that the Secretary of Commerce be given authority to determine the necessary safety performance criteria for all vehicles and their components.*

If, after a 2-year period, the Secretary finds that adequate voluntary standards are not satisfactory, he would be authorized to prescribe nationwide mandatory safety standards. He would be also authorized to prohibit the sale in interstate commerce of new vehicles and their components which failed to meet those standards.

*Third, the Federal Government's highway safety research efforts will be expanded.*

*I recommend construction of a national highway safety research and test center.*

Funds are needed to support research and testing in many disciplines related to highway safety. The public interest demands a better understanding of the human, highway, and vehicle factors which cause death and injury. We must develop more effective counter-measures and objective standards to guide our national programs. Special accident teams should be organized, accurate data collection should be enlarged on a national basis, and fellowship grants and research support should be made available to attract the best minds and talents of our Nation to this urgent work.

This new highway safety program would be transferred to the Secretary of Transportation upon the creation of the new Department.

Congress has not hesitated to establish rigorous safety standards for other means of transportation when circumstances demanded them.

Today's highway death toll calls for an equally vigorous and effective expression of concern for our millions of car-owning families. For unless we avert this slaughter, one out of every two Americans will one day be killed or seriously injured on our highways.

#### SAFETY STANDARDS FOR MOTOR VEHICLE TIRES

*I urge the Congress to act speedily and favorably on S. 2669, a bill establishing safety standards for motor vehicle tires sold or shipped in interstate commerce.*

Most tires sold to American drivers are produced and properly tested by reputable companies. Nevertheless, evidence has shown that increasing numbers of inferior tires are being sold to unwitting customers throughout the country. The dangers such tires hold for high-speed automobiles and their occupants is obvious.

S. 2669 provides that the Secretary of Commerce shall establish, and publish in the Federal Register, interim minimum safety standards for tires. The Secretary would be required to review these standards 2 years from the enactment of the bill, and to revise them where necessary. A research and development program under his direction would improve the minimum standards for new tires, and develop such standards for retreaded tires.

Our driving public deserves the prompt passage of S. 2669, and the protection it will afford them from accidents caused by tire failures.

#### SAFETY AT SEA

Last year 90 men and women lost their lives when the cruise ship *Yarmouth Castle* burned and sank in the calm waters of the Caribbean.

The *Yarmouth Castle* was exempt from U.S. safety standards—partially because of its "grandfather rights" under law. It was built before 1937.

We cannot allow the lives of our citizens to depend upon the year in which a ship was built.

The Coast Guard is presently completing its investigation of the *Yarmouth Castle* disaster. The Maritime Administration has already finished its investigation of financial responsibility.

Later in this session—when our inquiries are accomplished and our findings reported—we will submit to the Congress, legislation to improve safety measures and guarantees of financial responsibility on the part of owners and operators of passenger-carrying vessels sailing from our ports.

#### AIR ACCIDENT COMPENSATION

The United States has declared its intention to withdraw from the Warsaw Convention. Under this pact, the financial liability of a member nation's airline is limited to \$8,300 for a passenger's death.

Discussions are underway in the International Civil Aviation Organization to increase this liability for passengers flying anywhere in the world. We have expressed our opinion that the limit of liability should be raised to \$100,000.

#### RESEARCH AND DEVELOPMENT

Today the United States ranks as the world's leader in technology.

Despite this—and despite the importance of transportation in the competition for international trade—exclusive of national security and space, the Federal Government spends less than 1 percent of its total research and development budget for transportation.

Under our system of government, private enterprise bears the primary responsibility for research and development in the transportation field.

But the Government can help. It can plan and fashion research and development for a total transportation system which is beyond the responsibility or capability of private industry.

Through government-sponsored research and development we can—

- fully understand the complex relationships among the components of a total transportation system;

- provide comprehensive and reliable data for both private and public decisions;

- identify areas of transportation which can be exploited by private industry to provide safer and more efficient services to the public;

- build the basis for a more efficient use of public resources;

- provide the technological base needed to assure adequate domestic and international transportation in times of emergency; and

- help make significant advances in every phase of transport—in aircraft, in oceangoing ships, in swifter rail service, in safer vehicles.

#### SUPERSONIC TRANSPORT AIRCRAFT

The United States is preeminent in the field of aircraft design and manufacture.

We intend to maintain that leadership.

*As I said in my state of the Union message, I am proposing a program to construct and flight test a new 2,000-mile-per-hour supersonic aircraft. Our supersonic transport must be reliable and safe for the passenger. It must be profitable for both the airlines and the manufacturers. Its operating performance must be superior to any comparable aircraft.*

*It must be introduced into the market in a timely manner.*

*We have underway an intensive research and design program on the supersonic transport, supported by appropriations of \$231 million.*

*The design competition for this aircraft and its engines is intense and resourceful.*

*I am requesting \$200 million in fiscal year 1967 appropriations to initiate the prototype phase of the supersonic transport. My request includes funds for the completion of design competition, expanded economic and sonic boom studies, and the start of prototype construction.*

*We hope to conduct first flight tests of the supersonic transport by 1970, and to introduce it into commercial service by 1974.*

#### AIRCRAFT NOISE

The jet age has brought progress and prosperity to our air transportation system. Modern jets can carry passengers and freight across a continent at speeds close to that of sound.

Yet this progress has created special problems of its own. Aircraft noise is a growing source of annoyance and concern to the thousands of citizens who live near many of our large airports. As more of our airports begin to accommodate jets and as the volume of air travel expands, the problem will take on added dimension.

There are no simple or swift solutions. But it is clear that we must embark now on a concerted effort to alleviate the problems of aircraft noise. To this end, I am today directing the President's science adviser to work with the Administrators of the Federal Aviation Agency and National Aeronautics and Space Administration, and the Secretaries of Commerce and of Housing and Urban Development, to frame an action program to attack this problem.

I am asking this group to—

- study the development of noise standards and the compatible uses of land near airports;

- consult with local communities and industry; and

- recommend legislative or administrative actions needed to move ahead in this area.

#### ADVANCED OCEAN VESSEL CONCEPTS

After years of U.S. leadership, maritime technology in other countries has caught up with and, in some instances, surpassed our own.

The U.S. merchant marine suffers in world competition because it bears much higher costs than its competitors. This can be offset in some measure by technological improvements.

The Department of Defense recently launched the fast deployment logistics ship program. This concept introduces to the maritime field the same systems approach that has proven so successful in other defense and aerospace programs.



To achieve comparable improvements throughout the maritime industry, I am directing the Secretary of Commerce, with the Secretary of Defense, the President's scientific adviser, and the Atomic Energy Commission, to conduct a study of advanced vessel concepts.

The work of this team will include:

- Research, development, and planning of high-speed, large-capacity ships, devoted primarily to transporting preloaded containers of varying types between the major ports in the world.

- Research on an oceangoing surface effects vessel capable of skimming over the water at speeds more than 100 knots.

- Continued exploration of the application of nuclear propulsion to merchant marine ships.

Our private shipyards should continue to serve the needs of the country. They can become more productive and competitive through research and development and through standardization of ship construction. With a new Department of Transportation, we will increase our efforts to bring a modern, efficient merchant marine fleet to this Nation.

#### ADVANCED LAND TRANSPORT

Last year Congress took a long step toward advanced land transportation by enacting the high-speed ground transportation research and development program. This program will be continued at the most rapid pace consistent with sound management of the research effort.

Similar vision and imagination can be applied to highway transport.

Segments of the interstate highway network already in operation are the most efficient, productive roads ever built anywhere in the world. Motor vehicles move at higher rates of speed, more safely, and in greater number per lane than on conventional roads. Transportation costs are reduced, and less land area is needed for this volume of traffic.

With the network about half completed after 10 years, it is apparent that interstate highways, as well as other roads and streets, can become even more productive and safe.

Accordingly, I am directing the Secretary of Commerce to—

- investigate means for providing guidance and control mechanisms to increase the capacity and improve the safety of our highway network;

- conduct research into the means of improving traffic flow—particularly in our cities—so we can make better use of our existing roads and streets; and

- investigate the potential of separate roadways for various classes of vehicles, with emphasis on improving mass transportation service.

#### SYSTEMS RESEARCH

Some of our brightest opportunities in research and development lie in the less obvious and often neglected parts of our transportation system.

We spend billions for constructing new highways, but comparatively little for traffic control devices.

We spend millions for fast jet aircraft—but little on the traveler's problem of getting to and from the airport.

We have mounted a sizable government-industry program to expand exports, yet we allow a mountain of redtape paperwork negate our efforts. Worldwide, a total of 810 forms are required to cover all types of cargo imported and exported. In this country alone, as many as 43 separate forms are used in one export shipment. Eighty separate forms may be needed to process some imports. This is paperwork run wild.

I am directing the Secretaries of Treasury and Commerce and the Attorney General to attack these problems, through the use of effective systems research programs. And I have directed them to eliminate immediately every unnecessary element of redtape that inhibits our import and export programs.

### TRANSPORTATION FOR AMERICA

The Founding Fathers rode by stage to Philadelphia to take part in the Constitutional Convention. They could not have anticipated the immense complexity—or the problems—of transportation in our day.

Yet they, too, recognized the vital national interest in commerce between the States. The early Congresses expressed that interest even more directly, by supporting the development of road and waterway systems.

Most important, the Founding Fathers gave us a flexible system of government. Cities, States, and the Federal Government can join together—and in many cases work with private enterprise—in partnerships of creative federalism to solve our most complex problems.

For the very size of our transportation requirements—rising step by step with the growth of our population and industry—demands that we respond with new institutions, new programs of research, new efforts to make our vehicles safe, as well as swift.

Modern transportation can be the rapid conduit of economic growth—or a bottleneck.

It can bring jobs and loved ones and recreation closer to every family—or it can bring instead sudden and purposeless death.

It can improve every man's standard of living—or multiply the cost of all he buys.

It can be a convenience, a pleasure, the passport to new horizons of the mind and spirit—or it can frustrate and impede and delay.

The choice is ours to make.

We build the cars, the trains, the planes, the ships, the roads, and the airports. We can, if we will, plan their safe and efficient use in the decades ahead to improve the quality of life for all Americans.

The program I have outlined in this message is the first step toward that goal.

I urge its prompt enactment by the Congress.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *March 2, 1966.*

Chairman DAWSON. The Secretary of the new Department will "exercise leadership under the direction of the President in transportation matters, including those affecting the national defense and those involving national or regional emergencies; develop national transportation policies and programs, and make recommendations for their implementation; promote and undertake development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation; and promote and undertake research and development in and among all modes of transportation and types of transportation services and facilities."

Our sessions of today and Thursday will hear officials of the principal departments and agencies affected by the new Department. At a future time we will hear representatives from the transportation industry.

The subcommittee is pleased to have with us today the Secretary of Commerce in whose Department many of our present transportation functions are centered, and the Director of the Bureau of the Budget.

Each member has received a memorandum summarizing the principal provisions of the bill and a briefing book of background material. Your folder contains the President's message on transportation and other documents.

Our first witness will be Mr. Charles Schultze, the Director of the Bureau of the Budget.

Mr. Holifield, the author of the bill is present, and would like to make a statement at this time.

Mr. HOLIFIELD. If the Director will bear with me just a minute, I would like to express my appreciation to the chairman for calling hearings on H.R. 13200, a bill for establishing a Department of Transportation.

Your distinguished record, Mr. Chairman, and our committee's reputation for a sound and thorough examination of the executive branch reorganization matters assures that this bill will receive the careful detailed attention that it deserves. As a committee, we appreciate the importance of creating a new executive department.

I do not think anybody can say that this proposal to establish a Department of Transportation is a hastily conceived notion. The fact of the matter is that the idea is not a new one. It has been before the Congress in one form or another 17 times in the past 92 years. Even of more importance to our committee, which under your leadership has pursued greater economy and efficiency in Government operations, a Department of Transportation is not being proposed in order to add to our Federal bureaucracy. On the contrary, the bill will reduce the number of separate agencies dealing with transportation. As you know, there are some 35 different agencies now in this field. On this point, it is worth recalling the words of the Hoover Commission on which I had the privilege of working. During consideration on the floor of the House of the Department of Housing and Urban Development last year, our distinguished colleague on this committee, the gentleman from Florida, Mr. Fascell, cited the following language from the Hoover task force report:

Legislative history since 1913 revealed a reluctance to create a new executive department, and a disposition to establish many other types of administrative

agencies. This tendency should be reversed in the interests of administrative efficiency. We believe that the Federal Government should now proceed to organize most if not all of its administrative activities within executive departments.

In addition to considering this proposal from the point of view of how it would contribute to a more integrated and coordinated Government promotion of transportation, we ought to know how this new department will aid the public, the users of our transportation system. We should know clearly how this new department relates to the needs of the public in the moving of goods and people from one place to another quickly, efficiently, and economically. I am confident that we will not lose sight of that aim as we proceed with our consideration of this bill.

The public is not only interested in a better Government administration, but is also urgently in need of a modern, truly responsive transportation system. Our Government exists not to serve itself, nor to serve individual interests, but to serve the public. We hope that as we go forward in this bill, that we will explore every facet of it, because we know that we must make a record in order that we have the information for those other Members of Congress who cannot attend these meetings.

So I hope that the witnesses will be responsive and will explain in detail.

As far as I am personally concerned, I am willing to give as much time as possible to this task, because I realize the importance to our Nation of this proposal to create a new Department of Transportation.

Thank you, Mr. Chairman.

Chairman DAWSON. Our first witness, Mr. Schultze.

#### STATEMENT OF HON. CHARLES L. SCHULTZE, DIRECTOR, BUREAU OF THE BUDGET

Mr. SCHULTZE. Thank you, Mr. Chairman, members of the committee. It is a privilege to appear before you to speak on behalf of H.R. 13200, a bill to establish a Department of Transportation.

The President's recommendations:

In his transportation message of March 2, 1966, President Johnson requested the Congress to establish a Cabinet-level Department of Transportation. The President called for actions to insure more and better service for the consumers' transportation dollar and for coordination of the executive functions of our transportation agencies in a single coherent instrument of government.

To reach these goals, we must modernize and streamline executive branch organization. Today, transportation responsibilities are widely diffused throughout the Government. The lack of central leadership significantly handicaps the development of unified transportation policies and a fully effective execution of Federal transportation programs.

The idea of a Department of Transportation is not a new one. As early as 1874 a proposal for a Bureau of Transportation was introduced in the Congress. Through the years many Congressmen and other distinguished individuals and interested groups have proposed bringing together the diverse transportation activities of the Federal Government.

In recent years, a task force of the 1949 Hoover Commission recommended a Department of Transportation. The Commission itself recommended combining the Government's major transportation activities, although within a Department of Commerce and Transportation. In 1961, President Eisenhower, in his final budget message, recommended creating a Department. Also, in that year a special study group of the Senate Committee on Commerce made the same recommendation.

If we look behind these recommendations, we find certain common and compelling factors which have led to the conclusion that a Department of Transportation is both a desirable and a necessary step.

Transportation is a key factor in economic growth and national security. Transportation touches every citizen. Some 20 percent of our gross national product is directly or indirectly linked with the transportation industry. About 14 percent of total civilian employment is in transportation. Nearly 18 cents of every tax dollar is contributed from transportation sources. The Government itself spends billions of dollars on various modes of transportation.

Despite this vital role of transportation in the Nation's welfare and security, present organizational arrangements constitute a major barrier to the development of sound and consistent national transportation policies. Transportation responsibilities within the Federal Government have been fragmented among many agencies. Under current conditions we have no satisfactory means for developing national transportation policy. What we have is a separate policy for each mode of transportation. Unlike other areas of national concern, the President and the Congress cannot look to a single official with Cabinet status for the development of coordinated and consistent transportation policies.

The need for a coordinated approach to our national transportation system stems from several considerations. In the first place, unless the needs of each mode of transportation are evaluated within the context of the Nation's overall transportation requirements, we may produce serious imbalance in our transportation system. Undue emphasis may be placed on certain modes, while others may be neglected. Existing and projected Federal programs involve large investments in different transport modes. For example, this year we expect to spend \$5 billion on our highway system, \$879 million for aviation, and \$740 million for our merchant marine including the Coast Guard. Each mode of transportation performs a vital function in our economy. We must begin to make more explicit evaluations of the benefits of investments in the different modes upon the transportation system of the Nation as a whole. This cannot be done when responsibility for the individual elements is scattered through many departments and agencies.

Secondly, the technological and social changes of recent years have dramatically underscored the importance of interrelationships among the different modes of transportation. The several modes are in healthy competition among themselves. But they also complement and support each other—and this aspect grows daily more important. We spend 2 hours to fly halfway across the continent, and an equal amount of time to get to and from the airport. The development of supersonic transports will sharpen this problem even further. Our

rail, sea, and highway transportation systems have become increasingly interrelated by the development of "piggyback" truck-rail and truck-barge technology. In the megalopolis which now stretches along New England and Middle Atlantic coast, the rapidly growing needs for air, highway, and rail passenger transportation will be met too late and too expensively unless we analyze and plan for all three together, understand their relationships, and utilize the advantages of each.

These interrelationships will grow more rather than less complex in the years ahead. It would make little sense to confront this growing interdependence by continuing the fragmentation of authority and responsibility for national transportation policy in a number of separate Federal establishments.

A third basic reason for focusing responsibility for transportation in a single department stems from considerations of transport safety. Creation of the new Department will strengthen the Government's safety programs for all forms of transportation. Last year over 49,000 people were killed in motor vehicle accidents, 1,300 in aircraft accidents, 1,500 in ship and boat accidents, and some 2,300 in accidents involving railroads. Millions were injured in transportation accidents, principally in those involving motor vehicles. Property damage and man-hours lost in automobile accidents alone are estimated at several billion dollars.

The fearful toll must be reduced. For the first time, under the proposed legislation, a single Cabinet officer will be responsible for a comprehensive attack on transportation safety problems. This will insure the necessary top level Government attention to this critical problem.

As the President stressed in his transportation message:

Each means of transportation has developed safety programs of varying effectiveness, yet we lack a comprehensive program keyed to a total transportation system. Proven safety techniques in one means have not always been adapted in others.

Within a single department, however, the interchange of safety research results between transportation fields will be much easier and more complete. Research in air safety, for example, may well produce findings of use for those working in automobile safety research.

As a further example, the proposed bill would transfer to the Department the Interstate Commerce Commission's motor carrier safety activities affecting some 120,000 carriers operating close to 2 million motor vehicles. At the same time, the Department will be responsible for the new highway safety programs proposed by the President. As a result of the transfer, motor carrier safety activities will benefit directly from the research results and experience developed by the Department. With the new Department the Secretary will have the authority and resources to make a determined attack upon one of the Nation's most menacing problems—automobile accidents.

In addition to providing a clear departmental focus for transportation safety responsibility, the proposed legislation would establish a National Transportation Safety Board. Under several statutes the Federal Government has the responsibility for determining the cause or probable cause of specific accidents. The most important of these relate to aircraft, although similar findings are made by the Coast Guard and the ICC. Under the bill now before the committee, these

functions would be exercised by the proposed National Transportation Safety Board. The Board will consist of five members appointed by the President, with Senate confirmation. As a result of the Board's findings, made on an impartial and independent basis, necessary accident prevention actions can be taken.

With transportation safety responsibility concentrated in the new Department, it will be possible for the first time to move toward an effective allocation of resources so as to obtain the greatest return in safety for each dollar expended.

In addition to the improved coordination of Government activities and strengthened safety programs, there are other important reasons for the creation of a new Department of Transportation. Among these are—

(1) A single Government voice: For the first time, the various segments of the transportation industry will be provided with a single authoritative source of information and policy advice on national transportation needs and objectives, and on the role which the Government hopes the industry will fulfill in meeting the transportation needs of the economy.

(2) Identification of solutions to transportation problems: At the present time, significant information gaps make it difficult or impossible to estimate the full impact of the Government's policies and programs. For example, the impact of any substantial change in the rules of ratemaking, upon carriers, shippers and the general public can only be surmised. Detailed studies are needed as a basis for making constructive recommendations on regulatory and other aspects of transportation policy. Again, large information gaps exist in demographic and economic data for metropolitan areas and for subregions such as the northeast corridor without which comprehensive analysis of transportation problems in such areas is impossible. In the absence of such studies, judgments as to appropriate public investments, and any necessary changes in law and administrative procedures, can be made only on a conjectural basis.

It seems probable that systematic information collection by the Department will be able to fill many of these gaps. Coordinated research and analysis directed toward identification of alternative solutions can make a major contribution to modernizing the Nation's transportation system.

(3) Coordination and reorientation of research and development activities: Federal programs for research and development in transportation are characterized by large differences in effectiveness, reflecting differences in funding, and in the number and caliber of personnel engaged. The great differences in effort on various types of transportation research can be seen by the fact that we are spending over \$40 million annually on highway research and planning but only \$11 billion on highway safety research and only \$10 on mass transit research of which almost all goes into tests and demonstrations of available technology. Once again, a comprehensive overview of research and development should help to identify promising research areas and produce significant improvements in the allocation of research funds. In addition, the effectiveness of channels of communication available

to bring research findings to the attention of industry and to bring the needs of industry to research agencies will be expanded and improved.

What are the characteristics of a department? No exact criteria have ever been prescribed for determining when departmental status is merited. The Congress generally has applied certain pragmatic tests in considering proposals to establish new executive departments. These tests have related primarily to the permanence, size, scope, inter-relatedness, and, above all, to the national significance of the programs to be administered by the proposed Department. Departmental status has been given to those agencies which (1) administer a wide range of programs directed toward a common purpose of national importance and (2) are concerned with policies and programs requiring frequent and positive Presidential direction and representation at the highest levels of government.

I think that there can be no doubt that the Federal Government's transportation programs meet these tests. The programs to be carried out by the new Department are of national significance and represent a major element in the budget of the Federal Government. Clearly, many of the issues concerning the nature and scope of our national transportation system require careful review and deliberation by the President, acting on the information and recommendations of a Cabinet-level officer.

The magnitude of our transportation programs is clearly shown by the fact that the new Department would be among the largest in the Government with over 94,000 civilian and military employees and a budget of over \$6 billion. I believe that the President, the Congress, and the public will be better served if leadership over disparate transportation programs now scattered throughout the executive branch is clearly vested in a single individual of Cabinet rank.

I know that committee members are keenly interested in the costs which may result from the establishment of the new Department. There is no doubt that there will be additional costs associated with organizing at the departmental level to insure that the Secretary can effectively administer his responsibilities. The creation of a competent staff to enable the Secretary to act on problems common to more than one form of transportation is a necessity if the benefits of bringing agencies together into a Department are to be realized.

The development of the required staff to exercise the necessary departmental oversight and to provide support functions may result in additional costs of some \$5 million. These costs are estimated before taking account of the savings which can be provided to the Nation and to the Federal Government through the new Department. They are equal to less than one-tenth of 1 percent of the cost of Federal transportation programs.

The savings which the new Department can achieve are of two kinds. First, the Department can provide more effective Federal programs through better planning, research, coordination, and execution. Each Federal transportation dollar should, therefore, get more results. The Nation's shippers and travelers will realize savings through an improved transportation system.

Second, in addition to these expected long-range-program benefits, there are a number of possible specific short-run management savings



which will more than offset added costs. The bringing together of a number of separate agencies provides an opportunity for combining a wide range of administrative and service elements such as printing, personnel management, space, property management, payroll, and automatic data processing facilities. Existing resources can be combined in varying degrees on a departmental basis to serve constituent agencies of the new Department.

As an example, the elements of the Department presently own or lease over 40 computers. There should be possibilities for immediate economies through sharing computer time. The prospects for long-time savings through coordinated or consolidated computer operations are excellent. A computerized departmental payroll system alone would probably save significant sums.

Some program support activities also seem to offer fruitful areas for coordination and savings. Aircraft maintenance is one possible example. FAA currently operates a fleet of 110 aircraft while the Coast Guard has 160. The total aircraft maintenance cost for both agencies exceeds \$38 million per year. While the use of similar types of planes between FAA and Coast Guard aircraft fleets is not great at the present time, there are considerable potential savings in terms of mutual support and better utilization of facilities.

There will be many opportunities for more effective use of expensive equipment and scarce skilled manpower in the research and development area. For example, Bureau of Public Roads capability in materials analysis may support FAA work in the design of airport runways.

FAA's substantial investment in electronic equipment used in developing navigation aids may be useful to Coast Guard in their work on navigation.

Human factors medical research now being carried out by FAA should have substantial applicability in highway safety.

FAA special medical research facilities which include underutilized capacity, can be used in cooperation with other elements of the Department, especially in highway safety.

At this time it is too early to be able to specify the amounts of such savings. However, it is clear that the opportunities for specific economies are significant.

In brief, the Department will save money for shippers and travelers through more effective programs and for the taxpayer through more efficient management of the Federal Government's transportation activities.

I would like to turn to the bill itself and discuss its main features, as well as outlining the organizational framework necessary to meet the objectives mentioned earlier.

Section 2 of the bill sets forth the finding of the Congress that a Department of Transportation is necessary and spells out the major purposes of the new Department.

The Department would be headed by a Secretary who would be appointed by the President with the advice and consent of the Senate, as would an Under Secretary, four Assistant Secretaries, and a General Counsel. An Assistant Secretary for Administration would be appointed by the Secretary with the approval of the President.

The Secretary would be given authority to appoint the heads of component organizations and other officers and employees of the Department.

In section 4, the Secretary is given appropriate administrative authority to enable him to carry out effectively his responsibilities for administering the Department.

The proposed legislation transfers to and vests in the Secretary of Transportation—

All of the transportation functions of the Secretary of Commerce, including those carried out by the Bureau of Public Roads, the Maritime Administration, and the Office of the Under Secretary for Transportation.

The functions of the Secretary of the Treasury with respect to the Coast Guard.

The functions of the Federal Aviation Agency.

The safety functions of the Civil Aeronautics Board.

The motor carrier safety, rail safety, and car service functions of the Interstate Commerce Commission.

Certain anchorage, bridge, and toll functions of the Corps of Engineers.

There are two additional agencies—the Alaska Railroad and the St. Lawrence Seaway Development Corporation—which are not mentioned in the bill but which will be transferred to the supervision and direction of the Secretary by Executive order after creation of the Department. By virtue of these transfers, we will have for the first time brought together in a single agency the bulk of the Government's transportation programs.

This pattern of organization conforms to that which Congress has approved in a series of reorganizations plans affecting several departments and, most recently, in the creation of the Department of Housing and Urban Development.

The fundamental organizational principle embodied in these actions was stated by the first Hoover Commission :

Under the President, the heads of departments must hold full responsibility for the conduct of their departments. There must be a clear line of authority reaching down through every step of the organization and no subordinate should have authority independent from that of his superior.

Action to transfer authorities to the heads of executive departments has previously been taken by reorganization plan or law with respect to the Departments of State, Treasury, Interior, Agriculture, Commerce, Labor, Justice, Post Office, Defense, and Housing and Urban Development. In this way the Congress has wisely assured that in each of these vital areas of national policy there is one person whom both the President and Congress may hold accountable for the effective execution of Federal programs.

All of the agencies whose functions are transferred in their entirety to the Secretary will lapse when the Department is created, with the exception of the Coast Guard. The Coast Guard will retain the identical status it now has in the Treasury Department. It will be transferred as a legal entity since it is a military service and because of the statutory provisions for Presidential transfer of the Coast Guard as a unit to the Navy in time of emergency or war. The Secretary of

Transportation, however, will have all of the authority over the Coast Guard now exercised by the Secretary of the Treasury, under provisions of statute and Reorganization Plan No. 26 of 1950.

It is important to note that section 4(b) of the bill requires the Secretary of Transportation to give full consideration to the needs of operational continuity in carrying out his functions. In the light of this requirement existing agencies such as the Federal Aviation Agency, the Bureau of Public Roads, and the Maritime Administration will, upon the establishment of the new Department, immediately be reconstituted much along their present lines as primary organizational units.

As a corollary of vesting authority in the Secretary, he needs broad discretion in organizing and directing the Department. The bill would enable the Secretary to work out the most effective organizational structure for administering the varied but interrelated transportation programs of the Department. Moreover, as new technology appears and the Nation's complex transportation system develops, the Secretary will be able to make appropriate organizational changes.

The personnel, funds, and other resources now available in connection with the transferred functions would be transferred to the new Department. Employees would be protected for a period of 1 year from any downgrading which might result from this transfer. Individuals now holding executive salary level positions who are appointed to similar positions in the Department will continue to be compensated at not less than their current rate.

Section 5 of the bill establishes within the Department a five-member National Transportation Safety Board. The Safety Board will carry out a most vital function, that of making findings of the cause or probable cause of significant transportation accidents where the several existing Federal statutes require such findings.

In carrying out its functions, the Board will be independent of the Secretary and of the operating units of the Department. The structure of the Board is designed to insure the utmost objectivity in determining why accidents have happened. A high degree of independence is essential so that all possible accident causes are fully evaluated—including those which might be the result of actions, rules, or standards of the Department of Transportation itself.

The ultimate objective of the Board is to translate findings of accident cause into means for accident prevention. To help achieve this goal the Board is authorized to make recommendations concerning transportation safety to the Secretary, including recommendations for the conduct of special safety studies, the initiation of accident investigations, and rules, regulations, and procedures for the conduct of accident investigations.

An additional function of the Board will be that of reviewing on appeal the suspension, amendment, modification, revocation, or denial of certificates or licenses issued by the Secretary to airmen and mariners.

In order that the Board members be of the highest caliber and have the required degree of independence, the bill provides for Presidential appointment of Board members with the advice and consent of the Senate. Members will be appointed for 5-year terms.

Throughout our history Federal investment in transportation facilities, often on a massive scale, has been a feature of American life. Investment of public funds in transportation should aim at providing safe, efficient, and high quality transportation service to the American people, taking into account the effects of investment on other aspects of national life—for example, urban development. But to be most effective in promoting economic growth and prosperity, investment proposals should be evaluated on a consistent basis. Different kinds of transportation both compete with and complement each other. They all form a vital part of the Nation's complex transportation system. Investment in each cannot be judged in isolation from the overall picture.

Under present arrangements, however, there are no common standards for evaluating public investment in the light of the national transportation system. Nor are there common standards for weighing the effect of transportation investment on other areas of public policy.

To help remedy these deficiencies, section 7 of the bill authorizes the Secretary to develop, subject to Presidential approval, standards and criteria to be used in the formulation and economic evaluation of all proposals for the investment of Federal funds for transportation facilities or equipment, with certain enumerated exceptions.

The standards and criteria for economic evaluation of the transportation features of multipurpose water resource projects to be used by the executive branch in formulating proposals for the Congress would be developed by the Secretary after consultation with the Water Resources Council. They would be compatible with the standards and criteria for economic evaluation applicable to nontransportation features of such projects, and would be promulgated after approval by the President.

This feature of the act extends to transportation investments the same kind of procedures which are currently used on water resources projects. It was modeled on the concepts of the Water Resources Planning Act. It provides for the application of consistent standards to the formulation of executive branch proposals to the Congress for transportation investments just as S. 97 standards consistently are applied to the development of water resource proposals by the several Federal departments and agencies. Section 7 of the bill now before the committee calls for interagency consultation. Moreover, since standards are to be promulgated only after approval by the President, the bill insures, in effect, that each interested agency has an opportunity to have its contribution to the formulation of standards considered.

The standards called for in section 7 are not in the form of detailed rules and regulations. Rather, these are to be broad criteria for evaluating project proposals—what types of benefits are to be considered, what costs are to be taken into account, what noneconomic social advantages are to be weighed, and the like.

With the authority granted by the bill, work on the development of meaningful standards can be undertaken. The Government can make a beginning on the consistent evaluation of transportation projects with a view to identifying unmet national needs and the most effective

way of meeting them. The importance of this program will grow as both private industry and Government increase investments in transportation facilities.

One amendment concerned with airline subsidy payments is particularly significant and is related to the role of the Secretary in developing economic criteria and standards. The determination of airline subsidy payments is closely tied to the economic regulation of the airlines and should properly remain a function of the Civil Aeronautics Board. However, the Secretary of Transportation has an important function in developing economic standards and criteria affecting transportation programs. The Department's standards and criteria should be a factor in evaluating the value of such subsidy payments to the Nation's transportation system. Therefore, section 8(a) of the bill requires that the Board "take into consideration" the standards and criteria prescribed by the Secretary. This adds an important element to those which currently must be considered by the Civil Aeronautics Board in fixing and determining subsidy compensation.

I would like to stress that creation of the new Department in no way modifies or alters the basic laws applicable to the programs administered by the affected agencies. Moreover, there will be no break in the continuity of these programs.

It would be useful to mention briefly some areas which are not affected by the bill. The bill, except for the transfer of safety functions, does not change existing relationships with the regulatory agencies. The agencies will continue to carry out their economic regulatory functions, as is currently the case. The transfer of safety functions should actually enhance the work of these agencies since agency members will be free to concentrate entirely on economic regulation. This should be a significant help in meeting the steadily expanding caseload of the affected regulatory commissions.

The Corps of Engineers, except for the transfer of a small number of minor functions, is not affected. Because of the multipurpose nature of many corps projects, it is neither feasible nor desirable to transfer responsibility to the Department of Transportation for corps construction projects. However, the corps, as well as other agencies, will be able to benefit from the increased capacity of the New Department to provide economic data and standards to be used in evaluating corps projects.

The bill does not change existing functions in the urban transportation area. In his transportation message, the President noted that—

The future of urban transportation—the safety, convenience, and indeed the livelihood of its users—depends upon wide-scale national planning. If the Federal Government is to contribute to that planning, it must speak with a coherent voice.

Urban planning, transportation research, and transportation investment form a closely interwoven complex which cannot easily be unraveled. It is clear that these interrelated functions in urban transportation must be identified and analyzed before organizational decisions are made.

In order to insure that the Government's voice is, indeed, coherent, the President will ask the Secretary of Transportation and the Secre-

tary of Housing and Urban Development to make a careful study of appropriate functions to be carried out by each of the departments. This study will be completed within a year and recommendations for any needed organizational changes will then be proposed.

We cannot hope to meet satisfactorily the transportation challenge facing this Nation with an organizational structure geared in part to the problems of the 1950's, the 1940's, or even the 1900's and even earlier years. The proposed legislation represents an attempt to rationalize the organization of the Federal Government which has grown through the years by fits and starts. It attempts to meet the challenge of today and the years ahead by, for the first time, allowing the President and the Congress to look to a single agency head with Cabinet status for developing effective transportation policies and carrying them out across the broad range of the Government's transportation responsibilities.

Establishment of the Department will emphasize the importance of transportation to the Nation's economy and the well-being of its people. The bill does not make significant changes in existing programs. Rather, it is intended solely to develop an appropriate administrative instrument for the formulation and execution of well-balanced national transportation policies and programs.

In his transportation message, the President stressed the urgent need to create "a single coherent instrument of Government." The appropriate form for such an instrument is a Cabinet-level executive department. This is what is proposed for the approval of the Congress.

We urge early and favorable action on this legislation.

Chairman DAWSON. Mr. Holifield?

Mr. HOLIFIELD. Mr. Chairman, members of the committee, I believe that in order to have a full presentation of this matter, that if it meets with the approval of the chairman that we have the Secretary of Commerce give his statement now, and then have both the Director of the Budget, his staff, and the Secretary, before us, as we pursue the questioning period—if that meets with the approval of the chairman.

Chairman DAWSON. I think that is a good plan, to get the whole matter before the committee.

First I will call on Mrs. Dwyer.

Mrs. DWYER. Mr. Chairman, this is a great pleasure for me, because the Secretary comes from my home district in New Jersey.

We miss you very much back home, but our loss is the administration's gain. I am very happy to welcome you to the Government Operations Committee, Mr. Secretary.

**STATEMENT OF HON. JOHN T. CONNOR, SECRETARY OF COMMERCE;  
ACCOMPANIED BY HON. ALAN BOYD, UNDER SECRETARY OF  
COMMERCE FOR TRANSPORTATION**

Secretary CONNOR. Thank you very much, Mrs. Dwyer.

Mr. Chairman, members of the committee, inasmuch as my statement emphasizes many of the points in the statement read by Mr. Schultze, in the interests of saving time for the committee, I suggest that I file the full statement, and just summarize some of the main points, if that meets with your approval, Mr. Chairman.

Chairman DAWSON. Without objection, that will be done.  
(The prepared statement of Mr. Connor follows:)

PREPARED STATEMENT OF JOHN T. CONNOR, SECRETARY OF COMMERCE

Mr. Chairman, I appreciate this opportunity to appear before your committee to testify in support of H.R. 13200, the administration bill for the creation of a new Cabinet-level Department of Transportation.

It is a tradition in our national life that the emergence of great social forces in our society be recognized in the creation of new departments of Government. This was true most recently when the Congress created the Department of Housing and Urban Development in recognition of the predominantly urban character of our society. It was true in 1953, when the creation of the Department of Health, Education, and Welfare became a response to our Government's concern with social welfare. Earlier, in 1947, the creation of the Department of Defense resulted from the universal recognition of the role of our country as leader of free world defense. Even earlier than that, the emergence of business as we know it today impelled the creation of the Department of Commerce and Labor in 1903, while the Nation's special concern for the status and activities of the working man led to the separation of labor functions from Commerce and the establishment of the Department of Labor in 1913.

Transportation has emerged today as a social force equal to those which have led to the creation of major departments of Government earlier in the 20th century. It has made possible a universal personal mobility which is transforming the nature of our society. It has created a national market for our industries, thereby increasing production efficiency and raising our standards of living. Transportation is the foundation of great industries supplying its vehicles, facilities, and supplies; it is a basis for great challenges in public administration due to its requirements for highways, airways, waterways, and good transportation facilities.

Total private investment in transportation is 10 percent of all privately owned assets in the Nation. Public investment in transportation is about \$15 billion annually.

The magnitudes involved in transportation are great. The past rates of growth are phenomenal and will continue. We have 90 million motor vehicles today in place of fewer than 40 million in 1946. They operate over three and a quarter million miles of road, of which 900,000 miles are eligible for Federal aid. Our 100,000 aircraft use 230,000 miles of the Federal airways system. Our 17,000 barges and 4,000 towboats use 25,000 miles of improved inland waterways.

Our total transportation bill, public and private, is \$125 billion and increasing yearly. Total intercity passenger-miles are at the rate of 900 billion annually and will at least double in 20 years. Freight ton-miles now equal 1.6 trillion, and 20 more years should bring at least a doubling of this figure.

These magnitudes are related in a direct way to our national economy. Our gross national product was \$675 billion in 1965 and may well be over \$725 billion this year. In the very near future we shall experience our first \$1 trillion year in terms of the size of the gross national product. This kind of an economy will bring about a greater demand for transportation and a greater challenge to public policy to meet the developing needs.

This collection of activities and investments known as transportation is becoming increasingly more complex, more decisive from the standpoint of the social and economic life of the Nation, and more in need of full-time research and development as an element of conscious national policy.

In my position of Secretary of Commerce, I can especially appreciate the significance of these facts. Transportation is such a vast entity that it requires the full time and attention of a major policy making official. In my opinion, it is unrealistic to think of pulling together the scattered transportation functions into the Department of Commerce and therefore the only way of achieving the worthy objective of common management of transportation functions within the Federal Government is the establishment of a completely new Department of Transportation.

Realizing the interest and concern of the Congress in any new department of Government, I shall emphasize the factors and forces which have led the President to recommend the creation of a Department of Transportation. The Department of Transportation will emphasize promotion and development. It will be principally a developmental agency. It will not deal with economic regulation

and will not include any of the economic regulatory functions of the Interstate Commerce Commission, Civil Aeronautics Board, and the Federal Maritime Commission.

Of course, the interest in a Department of Transportation is not new. As President Johnson pointed out in his message, official recommendations for such a department were made as early as 1936 by a Senate Select Committee on Government Organization. In 1949, the task force of the first Hoover Commission made such a similar recommendation, but the Hoover Commission itself recommended a consolidation of promotional activities in transportation in the Department of Commerce. This recommendation was essentially carried out in the early 1950's, but unfortunately the results that were hoped for and expected have not materialized. The steps that were taken have left us short of our goal.

In the past 16 years we have seen the needs for transportation development grow at a tremendous rate and the responsibilities for managing the Government programs has clearly become a job requiring the full-time attention of a Cabinet official.

Today, we are in a better position to understand the need for a Department of Transportation. We have extensive experience in official efforts to form a developmental policy for transportation, and can see the need for strengthened administration more clearly than in the past. We can also see more clearly the emerging shape of future transportation needs and problems.

Promotion and development are emphasized in line with President Johnson's concern with economic growth of this country. Projected economic growth will require transportation policies and programs which will transcend those which we have now. Our economy has experienced a growth of 4½ percent annually in recent years. We expect to maintain that rate in the years ahead. This will generate transportation problems far beyond the capacity of our present system. When we add to this factor the dynamic changes which we can anticipate in technology, along with other elements of social change, a fundamental rethinking of our transportation policies and programs is essential. Policy leadership must be combined with administrative reorganization if the great social force inherent in modern transportation is to benefit the Nation in the future.

We can see the developmental character of the Department of Transportation when we look at the agencies and programs which are to be included. The programs, enumerated in the order listed by the President in his transportation message, are the present elements of the Office of the Under Secretary of Commerce for Transportation; the Bureau of Public Roads, concerned with highway development; the Federal Aviation Agency, concerned with aviation safety, promotion, and investment; the Coast Guard, concerned with marine safety and navigation; the Maritime Administration, responsible for developing a U.S.-flag merchant marine; the safety functions of the Civil Aeronautics Board and Interstate Commerce Commission, dealing with aviation, railroad, motor carrier, and pipeline safety; the car service functions of the Interstate Commerce Commission; and the Great Lakes Pilotage Administration. The St. Lawrence Seaway Development Corporation and the Alaska Railroad will be transferred to the new Department by Executive order.

Approximately 95,000 civil and military employees will be included in this great Department.

The new Department will bring together many agencies and programs. But it will in no sense be a mere catchall for the wide variety of governmental activities associated with transportation. It will be a department with a firm central responsibility: to shape the transportation programs into policies of the Nation to support our continued growth and development.

At this time, I would like to discuss some of the outstanding problems which will call for a high degree of substantive knowledge in the field of transportation. New problems are emerging with respect to systems for personal transportation, for freight transportation coordination, safety in transportation, new research and development opportunities, and the need for environmental controls associated with transportation.

Let us turn for a minute to the issue of personal mobility. Our country has rapidly become an urban society. Higher standards of living and more intensive economic activity have greatly increased the need of individuals to move rapidly from place to place in large numbers. Government, in the future, will be greatly concerned with the development of systematic approaches to this problem including the possibilities of new systems of transportation. We see this need emerging today in such programs as our current study of the post-1972 highway



program needs, our current project for the study of high-speed ground transportation, and in the program of the Department of Housing and Urban Development to support demonstration projects which show promise in urban mass transportation. Interest in the technical and academic communities is growing. All of these activities should be fostered and guided through high-level departmental leadership so that personal transportation needs will keep pace with the dynamic growth of our Nation.

We know that the movement of goods in this country generally keeps pace with overall economic growth. Freight transportation has been dynamic due to the growth of freight traffic on highways, airways, and waterways in competition with the railroads. The railroads, in turn, have responded to this challenge with innovations in service, technology, and management outlook. Present-day trailer on flatcar movements and container service are examples of coordinated movements. In the future, we may expect to see a much greater interest in coordinated transportation.

A more systematic growth of coordination is now possible through the application of systems research, some of it pioneered in our own Department of Commerce research program. With the transportation growth over the next 20 years, this development will bring need for strong leadership at the Federal level to attain the full benefits of coordination.

Greater safety in transportation is an issue requiring increased attention at the highest levels of our Federal Government. The President's constructive program for highway safety is an example of the kind of program which requires the attention of a Cabinet official concerned solely with transportation matters.

Safety will be one of the most important responsibilities of the Department of Transportation. Safety is appropriately placed in an operating department because of its close relationship to programs of transport promotion and because safety itself is an operating function. The Federal Aviation Agency and the Bureau of Public Roads have important safety responsibilities. Highway safety responsibility will be increased by the President's far-reaching program in this field. The Coast Guard is responsible for safety in all water transportation. The safety investigation functions of the Civil Aeronautics Board are recommended for transfer to the Department of Transportation, along with the motor and rail safety functions of the ICC.

A key provision in the new safety administration program for the Department of Transportation is the creation of a National Transportation Safety Board. This Board will be vested with the responsibility for determining cause or probable cause of transportation accidents. It will function independently of the operating agencies of the Department of Transportation. The five members will be appointed by the President and will not be removable during their 5-year terms of office except for cause.

Determination of causes of accidents requires independence from operating agencies, because the negligence of a Federal operating agency may be a possible cause of an accident. The Transportation Safety Board will be able to evaluate objectively the performance of a Government operating agency with respect to accidents.

By creating the National Transportation Safety Board the Government will concentrate attention on safety in a body to which no other functions will be assigned. It will also develop a much higher degree of expertise, and will have the added advantage of freeing those involved in safety from the responsibility of discharging other functions that demand their time and attention.

This is not to say that safety today is not receiving the conscientious attention of officials and personnel of existing operating and regulatory agencies. In the case of the regulatory agencies, their officials must share concern with safety with their detailed interest in economic regulation. Safety can no longer be incidental to other work. The toll in life and economic waste is too great to deny this area of responsibility the full time and attention it deserves. We recognize, too, the outstanding performance and dedication of the safety workers in the Coast Guard, the ICC, and the CAB. The Department of Transportation will certainly be organized to preserve the substance of their work and their esprit de corps.

The organization of a National Transportation Safety Board will, for the first time, bring responsibility for safety in all modes of transportation within the purview of a single body. It follows that this body should be included in a Department of Transportation; otherwise the benefits of such a unified approach cannot be achieved.

Transportation research and development requires new ideas and new resources. We have examples of this in the current program to develop a supersonic air transport. Many new concepts of transportation can be developed from the resources of science and technology. Full-time leadership will be necessary to sustain interest and activity if transportation in the future is to derive the maximum benefit from modern technology.

The environment is affected by transportation and in turn has its influence on transportation policy. Coordination of transportation development with regional planning, particularly in metropolitan areas, involves important inter-governmental relationships with other Federal agencies, with State and local officials, and with leading industries. Transportation will not be effective in any of these environmental and general planning problems without increased policy leadership. A Cabinet Department of Transportation is the obvious way of providing this resource.

Certain transportation programs of a promotional nature will not be included in the Department of Transportation. The major exclusions are the rivers and harbors functions of the Corps of Engineers, and the mass transportation functions of the Department of Housing and Urban Development.

The rivers and harbors functions are so intimately related to the multiple-purpose water resource responsibilities of the Corps of Engineers that program effectiveness would not be served by separating them. However, the Department of Transportation will cooperate with the Corps of Engineers so that its planning factors for navigation projects include recognition of overall transportation policies.

The mass transportation functions in the Department of Housing and Urban Development are relatively new, having been authorized in the Urban Mass Transportation Act of 1964. Moreover, the Department of Housing and Urban Development is also a new Department which must be given an opportunity to perfect its organization and program. Obviously, the new Department of Transportation will have to work closely with HUD, for urban transportation problems are among the most urgent facing us. The President contemplates that these two Departments will cooperate in providing for the transportation needs of cities. He has requested that within 1 year after the creation of the Department of Transportation, the Secretary of Transportation and the Secretary of Housing and Urban Development report to him their joint recommendation on the most effective means for a cooperative approach to urban transportation.

In summary, I have sketched the overall need for a Department of Transportation and outlined the program objectives which it must seek to achieve. The President is recommending a creative agency, one that is greatly needed now, and will be needed more in the future. It is not a collection of loose programs; it is not merely a new and enlarged bureaucracy; and it is not an agency to interfere with the business of transportation. It is a department with a purpose—one that will build the transportation system we will need for the future expansion of our Nation. Its leadership will be needed to coordinate transportation programs with other national objectives, and to enlist the support of business, labor, and the general public in this essential part of the national program.

Transportation is a paramount social force in our Nation today. Its opportunities will not be realized completely unless we give it a voice in our Government's highest councils. I say this based on the experience and the conviction of one who has had the responsibility—along with other responsibilities—for a large share of the Government's transportation programs.

Mr. Chairman, the prompt enactment of this legislation by the Congress will improve the overall management of the Government and give recognition to a great area of national policy. It is urgently needed if we are to be in a position to meet the future transportation needs of the Nation.

Secretary CONNOR. Mr. Chairman, it is traditional in our national life that the emergence of great social forces in our society be recognized in the creation of new departments of Government. This was true most recently when the Congress created the Department of Housing and Urban Development in recognition of the predominantly urban character of our society. It was true in 1953, when the creation of the Department of Health, Education, and Welfare became a

response to our Government's concern with social welfare. Earlier, in 1947, the creation of the Department of Defense resulted from the universal recognition of the role of our country as leader of free world defense. Even earlier than that, the emergence of business as we know it today impelled the creation of the Department of Commerce and Labor in 1903, while the Nation's special concern for the status and activities of the workingman led to the separation of labor functions from Commerce and the establishment of the Department of Labor in 1913.

Transportation has emerged today as a social force equal to those which have led to the creation of major departments of Government earlier in the 20th century. It has made possible a universal personal mobility which is transforming the nature of our society. It has created a national market for our industries, thereby increasing production efficiency and raising our standards of living. Transportation is the foundation of great industries supplying its vehicles, facilities, and supplies; it is a basis for great challenges in public administration due to its requirements for highways, airways, waterways, and good transportation facilities.

Total private investment in transportation is 10 percent of all privately owned assets in the Nation. Public investment in transportation is about \$15 billion annually.

The magnitudes involved in transportation are great. The past rates of growth are phenomenal and will continue. We have 90 million motor vehicles today in place of fewer than 40 million in 1946. They operate over  $3\frac{1}{4}$  million miles of road, of which 900,000 miles are eligible for Federal aid. Our 100,000 aircraft use 230,000 miles of the Federal airways system. Our 17,000 barges and 4,000 towboats use 25,000 miles of improved inland waterways.

Our total transportation bill, public and private, is \$125 billion and increasing yearly. Total intercity passenger miles are at the rate of 900 billion annually and will at least double in 20 years. Freight ton miles now equal 1.6 trillion, and 20 more years should bring at least a doubling of this figure.

These magnitudes are related in a direct way to our national economy. Our gross national product was \$675 billion in 1965 and may well be over \$725 billion this year. In the very near future we shall experience our first \$1 trillion year in terms of the size of the gross national product. This kind of an economy will bring about a greater demand for transportation and a greater challenge to public policy to meet the developing needs.

This collection of activities and investments known as transportation is becoming increasingly more complex, more decisive from the standpoint of the social and economic life of the Nation, and more in need of full-time research and development as an element of conscious national policy.

In my position of Secretary of Commerce, I can especially appreciate the significance of these facts. Transportation is such a vast entity that it requires the full time and attention of a major policymaking official. In my opinion, it is unrealistic to think of pulling together the scattered transportation functions into the Department of Commerce and therefore the only way of achieving the worthy objec-

tive of common management of transportation functions within the Federal Government is the establishment of a completely new Department of Transportation.

Realizing the interest and concern of the Congress in any new department of government, I shall emphasize the factors and forces which have led the President to recommend the creation of a Department of Transportation. The Department of Transportation will emphasize promotion and development. It will be principally a developmental agency. It will not deal with economic regulation and will not include any of the economic regulatory functions of the Interstate Commerce Commission, Civil Aeronautics Board, and the Federal Maritime Commission.

Of course the interest in a Department of Transportation is not new. As President Johnson pointed out in his message, official recommendations for such a department were made as early as 1936 by a Senate Select Committee on Government organization. In 1949, a task force of the first Hoover Commission made such a similar recommendation, but the Hoover Commission itself recommended a consolidation of promotional activities in transportation in the Department of Commerce. This recommendation was essentially carried out in the early 1950's, but unfortunately the results that were hoped for and expected have not materialized. The steps that were taken have left us short of our goal.

One of the primary purposes is to bring about greater concentration and systematic approaches to the whole transportation problem.

In addition, safety will be one of the most important responsibilities of this Department of Transportation, and my statement indicates the important ways in which the safety function in the entire transportation field will be emphasized.

A key provision in the new safety administration program for the Department of Transportation is the creation of a National Transportation Safety Board. We think that this will be an effective way of bringing about safety improvements throughout this field, particularly in light of the new emphasis on automobile and highway safety that has been proposed by the President in the administration—in the legislation now before the Congress.

Transportation research and development will also be emphasized, and these activities require new ideas and new resources.

We have examples of this in the current program to develop a supersonic air transport. But many new concepts of transportation can be developed from the resources of science and technology. Full-time leadership will be necessary to sustain interest and activity if transportation in the future is to derive the maximum benefit from modern technology.

In summary, Mr. Chairman, I have sketched the overall need for a Department of Transportation and outlined the program objectives which it must seek to achieve.

The President is recommending a creative agency, one that is greatly needed now and will be needed more in the future.

It is not a collection of loose programs; it is not merely a new and enlarged bureaucracy, and it is not an agency to interfere with the business of transportation.

It is a Department with a purpose, one that will build a transportation system we will need for the future expansion of our Nation. Its leadership will be needed to coordinate transportation programs with other national objectives, and to enlist the support of business, labor, and the general public in this essential part of the national program.

Transportation is a paramount social force in our Nation today. Its opportunities will not be realized completely unless we give it a voice in our Government's highest councils. I say this based on the experience and the conviction of one who has had the responsibility, along with other responsibilities, for a large share of the Government's transportation programs.

Mr. Chairman, the prompt enactment of this legislation by the Congress will improve the overall management of the Government and give recognition to a great area of national policy. It is urgently needed if we are to be in a position to meet the future transportation needs of the Nation.

Thank you, sir.

Chairman DAWSON. Mr. Holifield?

Mr. HOLIFIELD. Thank you, Mr. Secretary, for your statement.

I suppose that Under Secretary Boyd will be before us later for an analysis of the bill and questions on the different sections. Is that right?

Secretary CONNOR. Yes, sir. He should be here by now. He apparently has been detained. But he will be here shortly.

Mr. HOLIFIELD. It would not be my intention now to go through the bill section by section. I would think that we would have to have the presentation of the proponents and the opponents, and then we will be in a better position to go through it section by section. So that will probably come at some later hearing.

Secretary CONNOR. Mr. Holifield, Mr. Boyd will be available at any time, at your convenience.

Mr. HOLIFIELD. There are a few general questions, however—if Mr. Schultze will come forward and sit with the Secretary at this time—that I would like to ask.

I would like to ask how the lines of authority running from the Secretary and Assistant Secretaries of the new Department to the line agencies will be different than at present.

Secretary CONNOR. Well, Mr. Chairman, the present situation within the Department of Commerce, which is one part of it, is that the Under Secretary of Commerce for Transportation has certain authorities that were delineated in the reorganization plan establishing that Office in the fifties when some centralization of transportation responsibilities within the Department of Commerce was achieved.

In addition, there are two line organizations within the Department of Commerce that carry out some operating responsibilities.

Within the Office of the Under Secretary itself, there is authority and responsibility for transportation research and planning activities, and as an example of that type of activity, the high-speed ground transportation program is now going forward under authorization and appropriations from the Congress.

The line agencies, however, to which I referred, are the Bureau of Public Roads and the Maritime Administration. Each of those agen-

cies has an official designated by the President with the approval of the Senate and certain of the functions of those agencies are spelled out in the legislation creating these programs.

In this proposed bill, greater authority would be vested in the Secretary of Transportation, his office, compared with the authority now vested in the Secretary of Commerce over these activities.

Mr. HOLIFIELD. Why would that be a wider grant of authority? Would it stem from the statutes creating the line agencies that are not in the Department of Commerce?

Secretary CONNOR. Those functions of those agencies that are already established by legislation would be transferred to the Secretary of Transportation, rather than continue to be——

Mr. HOLIFIELD. Therefore, his authority will increase, because the statutory authority of different agencies would be vested in him?

Secretary CONNOR. Yes, sir. The agencies would not be statutory entities under H.R. 13200.

This reflects a conviction that this Office should be a strong Secretary of Transportation.

If I may refer, just a minute, to some personal experience, I was Special Assistant to Secretary Forrestal just about 20 years ago when the Department of Defense was under consideration, and at that time there were two schools of thought. The arguments on behalf of each school were fully aired and debated.

One school of thought said that the Secretary of Defense should be a weak office, and that very great responsibility and authority should be vested in the Secretaries of Army, Navy and Air Force, and in many of the existing bureaus.

The other school of thought was along the lines that the Secretary of Defense should be a very strong official, and with great flexibility and with the authority that would be commensurate with the responsibilities that he had.

In the initial legislation, a weak Secretary of Defense was provided for. I had the privilege of coming back to Government on a temporary basis in the summer of 1949 to work with Secretary Forrestal, and we reviewed this situation.

At that time legislation had been passed, a few months earlier, giving greater authority to the position of Secretary of Defense.

Mr. Forrestal, at that time, in reviewing the situation, said that it had been a great mistake on his part for not putting in or advocating the kind of authority that was needed to carry out the responsibility. It was embarrassing for him later to have to request that kind of strengthening from the Congress. But it was done—and I think we see the results today in the work of the Department of Defense.

Now, in this situation, the proposal is to create a strong Secretary of Transportation who would have the authority commensurate with the responsibility.

Mr. HOLIFIELD. And that authority would be used to coordinate the different functions of transportation now provided by statute, so that there would be less duplication and overlapping and less confusion in the transportation field?

Secretary CONNOR. Yes, sir, Mr. Holifield.

I think Director Schultze should talk now about the philosophy, and also about some of the effects on the other departments and agencies affected by this proposal.

Mr. HOLIFIELD. Mr. Schultze?

Mr. SCHULTZE. One of the points of your question, Mr. Holifield, was the relationship of the component units of the new Department to the Assistant Secretaries and the Secretary.

This specific relationship is not, of course, spelled out in the bill, because the bill does not establish the internal structure of the Department—except for specifying the number of Assistant Secretaries, the Transportation Safety Board, and the like.

As you know, this is a basic principle that we have attempted to follow whenever possible.

However, our general line of present thinking is fairly strong that when the Department is organized—and, of course, the new Secretary would have a major voice in this—but our present line of thinking is that the component operating units would report directly to the Secretary. The Secretary—and I think this is one of the major points Secretary Conner was indicating—would have direct control and authority, and his assistant secretaries would be used more as staff for cross-cutting problems, like research, safety, or something like this, rather than being in the line between the Secretary and the operating units.

Again, I want to stress that, (a) this is not spelled out in the bill, as I don't believe it should be, and (b) the incumbent designated Secretary of Transportation will obviously want to have a word in this. This is our line of thinking.

Mr. HOLIFIELD. The bringing together of these functions, based as they are on statutes, into one organization does not affect the statutory functions of the separate agencies from the standpoint of their—

Mr. SCHULTZE. That is correct. What can or cannot be done under existing law is not changed.

Mr. HOLIFIELD. And if as a result of the study, which I understand will be made once the framework—and I understand this bill is setting up the framework of a department—once that study is made, such changes as can be made administratively are authorized to be made; is that right?

Mr. SCHULTZE. That is correct.

Mr. HOLIFIELD. But if there are proposals to change it from a statutory standpoint, then that would be a matter of separate and independent legislation by the Congress?

Mr. SCHULTZE. Correct.

Mr. HOLIFIELD. And, therefore, it would go through the regular order of amendment of statutes.

Mr. SCHULTZE. Precisely correct, Mr. Holifield.

Mr. HOLIFIELD. I wanted this to be very plain, because some uninformed letters have been written and uninformed opinions expressed that this was going to tear down and nullify and repeal certain statutory functions and responsibilities and duties which are now based on existing statutes.

Mr. SCHULTZE. Statutory responsibilities and duties of the executive branch are not changed by this reorganization proposal.

Mr. HOLIFIELD. Now, can I ask this question: Will policy planning and problem analysis receive prominent attention and staffing in the new Department?

Mr. SCHULTZE. I hesitate to say any one thing is the most important thing in a department, but certainly this is one of the most important.

Mr. HOLIFIELD. Isn't it basic to making any changes or to effecting any kind of additions that you do study the area of problems which now exist, and adopt policy to include those situations which you feel can be made more efficient and economical?

Mr. SCHULTZE. Precisely, Mr. Holifield.

The point of bringing together disparate elements is to enable a single Cabinet-level official, through appropriate policy planning, program evaluation, to make recommendations and to make changes such as are necessary. Where statutory changes are necessary, he can make recommendations, through the President to the Congress.

Mr. HOLIFIELD. Would, for instance, legislation pertaining to the Coast Guard, any change in statutory function—would that go to the Merchant Marine Committee of the House and the Senate?

Mr. SCHULTZE. Mr. Holifield, I would presume so. I hesitate to indicate where the Congress might assign responsibility for considering legislation. That is obviously up to the Congress.

Mr. HOLIFIELD. The point that I am trying to bring out—and I want to state it clearly for the record—that this does not destroy any of the committee jurisdiction of the Merchant Marine Committee or the Interstate and Foreign Commerce Committee, or the Public Works Committee, or any other committee that is now involved in transportation.

Mr. SCHULTZE. In no way does the bill do that—in no way.

Mr. HOLIFIELD. This is important to be understood, because there has been some fear expressed that the standing committees of jurisdiction in the House may lose control over that area of jurisdiction which they now have. And I want this answer very plain on the record, that the setting up of this Department does not at this time constitute any deleting of present committee jurisdiction from the standing committees of the House that have jurisdiction over the respective parts of the transportation problem of our Nation.

Mr. SCHULTZE. There is nothing before this committee now in creating a Department of Transportation which would do that.

Mr. HOLIFIELD. Now, one of the briefing books indicates that the assistant secretaries will be appointed by the Secretary subject to Presidential approval. But the bill says that they are to be appointed by the President.

Now, is there a difference there, or is there a connection between the two?

Mr. SCHULTZE. Well, I better look at the bill to make sure, Mr. Holifield. The Assistant Secretary for Administration, as is generally the case, would not have Senate confirmation, but all the other assistant secretaries would. This is provided in the bill. If the briefing book said the opposite, the briefing book must be wrong.

In other words, if the briefing book said the Assistant Secretaries would be appointed by the President without Senate confirmation—then the briefing book is wrong.

Mr. HOLIFIELD. Is there precedent for the provision in section 3(g) authorizing the Department to make special statistical studies upon request of private people or organizations?



Mr. SCHULTZE. The Census Bureau, for example, does it all the time.

New, I am sure there are other agencies which do it. But I know that the Census Bureau does it.

Mr. HOLIFIELD. I believe that is 4(g) instead of 3(g).

Secretary CONNOR. There are other precedents, Mr. Holifield, and we will be glad to furnish the citations.

Mr. SCHULTZE. FAA does it, Census does it, and we will be glad to get any other precedents that now exist.

Mr. HOLIFIELD. It is page 6 of the bill, 4(g).

And you will furnish that information to the committee?

Mr. SCHULTZE. Yes, sir.

(The information referred to appears as app. 2 on p. 322.)

Mr. HOLIFIELD. The bill says that the National Safety Transportation Board will determine the causes of accidents, but the backup material indicates that the legwork of investigation will be done by elements of the Department.

Now, does this detract from the aim of independence for the Board, or are we speaking of the National Safety Transportation Board having the power to require the different parts of the Department to do the legwork?

Mr. SCHULTZE. First, the National Transportation Safety Board can require that work be done for it by different units in the Department. The specific internal organization for the actual accident investigations, upon which the National Transportation Safety Board makes its recommendations, are not yet firmed up.

The key point, I think, to make on this, Mr. Holifield, is that we would intend, quite firmly, to insure that the arrangements for accident investigation are such that they do not detract from the independence of the investigators.

Now, whether they should be actually attached to the National Transportation Safety Board or handled as a separate unit within the Department is something that quite frankly we have not been able to determine.

Mr. HOLIFIELD. This is a matter that requires further study for decision.

Mr. SCHULTZE. That is correct. But the key point is internal organizational arrangements will be made to insure that where there is a possibility of conflict of interest in the sense of investigating one's own rules and regulations, that there will be independence.

Mr. HOLIFIELD. Do all the functions and powers of the Secretary of Commerce with respect to the Mass Transportation Act of 1964 go over to the new Department?

Secretary CONNOR. Just those now vested in the Secretary of Commerce would go to the Secretary of Transportation. There would be no change under this proposed legislation in the authority now vested in the Department of Housing and Urban Development. But as the bill provides, this whole area of urban mass transportation, under the direction of the President, would be subject to an intensive study by the Secretaries of HUD and Transportation, and recommendations made within a year.

Mr. REUSS. Will the gentleman yield?

In this connection I inquire about the vital field of urban transportation which, as Director Schultze's testimony pointed out, has been somewhat of an orphan in terms of research and development, at least on the comparatively massive scale that has been expended in other fields of transportation. The amendment proposed to the administration's housing bill which is now before the House Committee on Banking and Currency would direct the Secretary of Housing and Urban Development, in consultation with the Secretary of Commerce, and with the Secretary of Transportation, if this new Cabinet-level agency is set up, to report back to Congress in approximately a year with a new research, development, and demonstration program, for whole new systems of urban transport designed to move people about our metropolitan areas, quickly, safely, without polluting the atmosphere, and in a way that will contribute to good city planning. And this proposed 5-year breakthrough program would be directed to take into account technological, economic, governmental, and all other aspects.

My question is this: In the light of the provision of H.R. 13200 that urban transport will basically remain in the Department of HUD, and that HUD and the new Transportation Department are directed within a year of enactment to make a recommendation for the ultimate lodgment of urban transportation—in the light of that, do you foresee any difficulties or delays in asking HUD to proceed with readying up that research and development survey?

Mr. SCHULTZE. Not only do I not believe as a matter of fact, that the passage of your amendment—which I believe the administration has already indicated we have no objection to, and in fact support—would conflict with the study and believe it would make it easier. It would require the Department of HUD and the Department of Transportation to focus very specifically upon certain substantive problems which I think will clearly help them in the study they are directed to make with respect to the original arrangements.

Not only won't it hurt, but I think it will actually help.

Mr. REUSS. You would agree that the fact that the ultimate lodgment of urban transportation cannot be decided now, in view of the fact that HUD has just been set up, and it is merely proposed to set up the Department of Transportation—you would agree that that uncertainty is no reason for delay in formulating the kind of programs that will make the same breakthrough, hopefully, in urban transport as we are making in manned flight and in a Boston-Washington high-speed railway.

Mr. SCHULTZE. As I said, I would agree that there is nothing here that we are now considering—the creation of the new Department, and the study of the relationship between HUD and the new Department—which would interfere with in any way with the study that your amendment calls for. As a matter of fact, my own view is your study may help somewhat in untangling some of these relationships.

Chairman DAWSON. Mrs. Dwyer wishes to ask a question.

Mrs. DWYER. Will the gentleman yield?

In light of your questioning, I would like to ask Mr. Schultze—why should Congress be called upon to create a new Department before this study is made, since mass transportation in urban areas probably is

the most difficult problem in the field of transportation facing the Nation today?

Mr. SCHULTZE. Well, if I may, Mrs. Dwyer, point out a number of things.

In the first place, the Department, even without any change in the current responsibilities for urban mass transit, will pull together programs annually amounting to some \$6 billion, in the areas of aviation, maritime, rail, truck, and the like, with some 95,000 employees—major programs now scattered throughout the Government, posing major problems, and requiring, we believe, for better solution single central authority.

Secondly—the Department will, as a matter of fact, make a major step forward in tackling these problems, even though, quite frankly, we have to admit, we have not yet solved the precise relationships between this Department and HUD. And the reason we have not is that if you look at it, there is a very complicated intertwining of responsibilities and problems.

On the one hand, it is clear that transportation has a major impact for good or for ill, depending on how it is handled, on urban development, and hence transportation matters cannot be considered in isolation from urban planning, urban development, and the like.

Conversely, responsibility for urban development, et cetera, cannot be considered in isolation from the transportation factors in terms of their linkage with intercity and interstate transportation and the like.

Technologically, it is very difficult to pull them apart, because technologically some of the changes that you might want to make in the area of urban mass transit specifically relate to the urban planning problem, whereas others really relate very closely to, for example, the research now being carried on on high-speed ground transport.

So we believe that the Department can and will pull together the major segments of transportation responsibility outside of economic regulation. But we also believe that in order to solve the problem of responsibility in the area of urban development we need a good solid year of study. We hope that this is one of the major things that the Secretary of Transportation and the Secretary of HUD will be able to give their attention to during that year.

So we quite admit we don't have an answer to this yet. We don't think, however, that there is any reason to postpone creation of a department just because out of 10 problems 1 of them we have not solved yet.

Mrs. DWYER. Well, isn't there a relationship between highways and urban development?

Mr. SCHULTZE. Agreed.

Mrs. DWYER. And airports?

Mr. SCHULTZE. There is a relationship; yes, ma'am, there is.

Mrs. DWYER. Suppose there is a conflict in this study. Shouldn't we hold up this bill until those conflicts are resolved, and from the standpoint of economy, shouldn't mass transportation really be—

Mr. SCHULTZE. By holding up the bill, you are not any closer to a solution of these problems, and you postpone the solution to other problems. It seems to me you clearly don't create any greater inefficiencies or conflicts because we are going to study it for a year.

And, on the other hand, there are other areas in which the urban problem is not at issue, where we believe the new Department will create efficiencies. So we don't see any gain from holding up the Department—that would maintain the existing inefficiencies, and would not contribute in and of itself to the solution of the remaining inefficiencies.

Mrs. DWYER. But aren't we legislating, then, with uncertainty?

Mr. SCHULTZE. Well, with respect to complete certainty, you are correct. However, with respect to transferring functions between departments, the Congress again will have a crack at it through a reorganization plan, if it should be determined this is necessary. So it doesn't take it away from the Congress.

What it really says is we will be back to you with recommendations if it turns out they are necessary after a year.

But I would again plead that postponement will hold up the solution of a large number of problems, and won't itself contribute—postponement won't itself contribute to the solution of the problem we are asking for a year to take a crack at.

Mrs. DWYER. What large problem do you have at the present time?

Mr. SCHULTZE. Well, the kind of problems that were discussed in my testimony and the Secretary's testimony.

They are not problems which you can easily pin down and give a nice easy answer to. There are no easy answers.

But, for example, one problem is that major investments in different modes of transportation are looked at separately without a single policy, quite apart from the urban problem. Another is a question of safety responsibility being carried out on a fragmented basis throughout the Federal Government. There is a lot of safety expertise and safety research, that could be pulled together in a new department.

These are important problems, where a single Cabinet-level Department of Transportation, with a Secretary with responsibility for all of them, can essentially take the best from each—in the case of research, for example, on safety—and get both a more efficient and more effective safety program. Safety is, Lord knows, tremendously important. We think the Department can really make a contribution in this area by being able to take a look at safety across the board. This is an important one we don't think should be postponed.

Granted it has been postponed for many years, and you might ask "what is 1 more year?" But that could be said of any proposal, I presume.

Mrs. DWYER. Is the Coast Guard doing a good job at the present time?

Mr. SCHULTZE. The Coast Guard is doing a good job at the present time.

Mrs. DWYER. ICC?

Mr. SCHULTZE. ICC is doing a good job.

Mrs. DWYER. CAB?

Mr. SCHULTZE. CAB is doing a good job.

The fact that a good job is being done in all of these doesn't mean we cannot do a better job if we put a number of these functions together.

Mrs. DWYER. Could you place in the record just how you could do a better job in the three agencies I just mentioned?

Mr. SCHULTZE. One particular case is safety in the ICC, CAB, and Maritime Coast Guard.

Safety is a key point. We believe by putting them all in one department, the expertise of one can more easily be made available to the others. They are in some cases facing common problems.

For example, materials research, research on materials and how it affects safety, on human factors and how it affects safety—all of these relate one way or the other to the functions of some of these departments, and we believe as an example, that by pulling them together you will get a better research program.

Mrs. DWYER. Thank you, Mr. Schultze.

I yield back my time to Mr. Reuss.

Mr. HOLIFIELD. Mr. Director—on page 18, section 6(f) there is quite a number of statutes affected in transfers of functions, powers, and duties of the Secretary of the Army and the Corps of Engineers.

Now, if you have a memorandum on that that you could provide for the record, we would like to have some detail on that. Of course the Corps of Engineers is quite an important agency to a lot of Members of the Congress, where the corps works considerably in their districts. If you would like to comment on it at this time, summarize the type of functions and powers that are transferred, and explain then in more detail with a memorandum for the record at this point, we will accept it either way.

Mr. SCHULTZE. We have available, Mr. Holifield, and either have or shortly will send to the committee, not only for that section, but for all of those lengthy statutory references, specific indication of what they refer to and what they mean.

Mr. HOLIFIELD. That will provide us detailed explanation of all statutes or parts of statutes repealed by this legislation.

Mr. SCHULTZE. Transferred—well, basically, transferred rather than repealed.

Mr. HOLIFIELD. Transferred rather than repealed.

Mr. SCHULTZE. Correct. I think I might just, for the committee's information—

Mr. HOLIFIELD. When we get this bill to the floor somebody is going to ask what does this do to various things—and we are going to have to have detailed explanations.

Mr. SCHULTZE. We will have that for you immediately.

(The information referred to appears on p. 313 of the appendix.)

Mr. HOLIFIELD. Now, does section 7 apply to Corps projects?

Mr. SCHULTZE. Yes, sir—navigation features, transportation features.

Mr. HOLIFIELD. Will you provide us with a memorandum on that, and examples for section 7?

Mr. SCHULTZE. Yes, sir.

Mr. HOLIFIELD. I understand there was quite a bit of questioning on that in the Senate committee, and some concern expressed at that time with regard to that area being an area that might be controlled through recommendations on Federal investment programs in that area, even more so than can be done by the Budget Bureau at this time. Would you please address yourself to that point?

Mr. SCHULTZE. I would like at the moment——

Mr. HOLIFIELD. And, of course, the concern of reclamation projects where the Army Corps of Engineers are detailed certain responsibilities.

Mr. SCHULTZE. We have under preparation a fairly detailed memorandum on this. I would like to point out right now, if I could, that section 7 basically is modeled after the existing provisions for the establishment of standards and criteria on water resources projects. What this really does, is to provide for the establishment of such standards with respect to transportation, providing for consultation with agencies involved in water resources, for approval by the President. This means in effect that any agency interested can get into the act in terms of making its recommendations. It is, as I say, very closely modeled on what now exists for water resource projects.

Finally, it refers to standards and criteria—not detailed rules and regulations.

So it is quite consistent with present practices, and we will have a detailed memorandum on it for you.

(The memorandum appears as app. 3 on p. 323.)

Mr. BROWN. How long have the water resource projects standards been established?

Mr. SCHULTZE. There are two parts to an answer to that.

First, the existing actual criteria and standards used are those printed in Senate Document No. 97, which resulted from a review by an ad hoc water resources council of the various agencies concerned in 1961. Those specific standards, therefore, have been approved since 1962.

The ad hoc water resources council was made into a statutory council by provision of the Water Resources Planning Act passed last year, and the language in section 7, while it is not identical, because of a different problem, is more or less modeled after that concept.

Mr. BROWN. And how effective has this been?

Mr. SCHULTZE. Well, let me give you a little history on this.

And I hope I may be able to correct some of my dates for the record.

Up until the 1930's, there was no consistent set of standards for evaluation of water resources projects. There were some improvements made in the mid-1930's. Immediately after the war, in, I think, about 1947, a set of standards were issued.

Now, these, I might remind you, are standards to be used by the executive branch in making proposals to the Congress. They are internal to the executive branch for making proposals in the Congress.

In 1950, on the basis of some substantial consultation among the agencies involved, the so-called green book was published, which codified and pulled together these standards, I think you can say that was the first time there were consistent standards.

Further improvements were made—we believe the most up to date set of those—in S. 97, and finally the Water Resources Council now is charged with the responsibility and the duty of improving those and making modifications, recommending them to the President for purposes of executive branch submission of proposals.

So it is essentially a long story of progress over a long period of time in getting consistent standards. And we want to take advantage of that history and that progress in the area of transportation.

Mr. BROWN. But this section was modeled after a section——

Mr. SCHULTZE. Basically. I don't want to say it is word for word, because it is not. But the basic idea is taking a major area of investment responsibility, establishing standards and criteria for executive branch proposals, providing for consultation with other interested agencies—in this case providing that the standards have to be compatible with water resource standards—and finally providing for approval by the President.

Mr. BROWN. Thank you.

Mr. HOLIFIELD. Some concern has been expressed with regard to the power given the Secretary in section 7(a). Let me just refer to page 19, where it mentions an interoceanic canal located outside the contiguous United States. Now, would the power of the Secretary be advisory in nature on this, a recommending power, or would it be a policy decision power?

Mr. SCHULTZE. No. If you look back a few lines, this says, "except for such proposals," and in the case of the interoceanic canal, the Panama Canal study which is already well along—this is an exception.

Mr. HOLIFIELD. I see—all those are exceptions.

Mr. SCHULTZE. One, two, three, four, are exceptions.

Mr. HOLIFIELD (reading) :

The standards of criteria for economic evaluation of the transportation features of the multipurpose water resource projects shall be developed by the Secretary after consultation with the Water Resources Council, and shall be compatible with standards and criteria for economic evaluation applicable to nontransportation features of such projects.

Now, what does that refer to? Does that refer to the relative degree of benefit that might occur, let us say, a reclamation project?

Mr. SCHULTZE. In the first place, Mr. Holifield——

Mr. HOLIFIELD. You know the ratio of benefits on a reclamation project is a very important thing.

Now, will the Secretary be in a position to recommend those standards, or to enforce those standards?

Mr. SCHULTZE. In the first place, the Secretary of Transportation would have basically nothing to say about reclamation standards, for example, for irrigation projects.

Mr. HOLIFIELD. These are nontransportation features of such projects—water resources—and it is talking about the Water Resources Council.

Mr. SCHULTZE. It says that the standards and criteria promulgated by the Secretary for transportation projects, insofar as they affect navigation features of multipurpose projects, shall be compatible with the standards used in the nontransportation features of such multipurpose projects.

Mr. HOLIFIELD. So it doesn't change the present relation of benefits to the cost?

Mr. SCHULTZE. Correct.

Mr. HOLIFIELD. But it says that the same type of standards now used shall be applied to these other projects.

Mr. SCHULTZE. That is right. For example, where you have a multi-purpose project with navigation in it, and when the Secretary issues criteria for transportation investments, that insofar as they refer to navigation, they have to be compatible with the nontransportation features.

Now, in determining what is compatibility, this clearly has to be worked out by the Secretary with the Water Resources Council which is responsible for those other standards.

Mr. HOLIFIELD. And then the criteria—standards of criteria would be approved by the President before it went into effect.

Mr. SCHULTZE. That is correct. And, again, remember, Mr. Holifield—these refer to the standards to be used within the Federal Government, to make proposals to the Congress for investments. So, again, the Congress, in terms of the specific projects, either through the authorization project process, where they are authorized explicitly project by project, or through the budget process, has a chance to pass on them again.

Mr. HOLIFIELD. I won't go into this any further at this time. Eventually we are going to have to go through this section by section, and I suppose you will have people assigned to do that. I don't think it is necessary to have your level particularly explain that in detail.

Mr. SCHULTZE. They know a lot more about it than I do.

Mr. HOLIFIELD. I would like to ask as to the effect this would have—this Department of Transportation would have on assuming immediate responsibility in the administering of a wartime transportation policy connected with defense.

How would that come into play? Would that be under the direction of the President, under wartime powers?

Secretary CONNOR. Mr. Holifield, that responsibility for emergency transportation falls under Under Secretary of Commerce Alan Boyd, and if he may answer it.

Mr. HOLIFIELD. Mr. Boyd, will you respond to that question?

Mr. BOYD. Yes, sir, I will try to.

The Office of Emergency Transportation is primarily a planning organization.

There is nothing in the act which will change the current relationship between the Office of Emergency Transportation, the Office of Emergency Planning, and the Department of Defense, as well as the transportation regulatory agencies.

It is hoped that the Office of Emergency Transportation will be provided with some additional resources.

Mr. HOLIFIELD. But this does not place the Department of Defense in wartime under the Secretary of Transportation?

Mr. BOYD. No, sir.

Mr. HOLIFIELD. Mr. Chairman, that is all at this time.

Chairman DAWSON. Mrs. Dwyer?

Mrs. DWYER. No questions, Mr. Chairman.

Chairman DAWSON. Mr. Reuss?

Mr. REUSS. No questions.

Chairman DAWSON. Mr. Erlenborn?

Mr. ERLBORN. First, of all, Mr. Schultze, I made the comment before in this subcommittee, and I think I should again—now that



you are heading the Budget Bureau, I want to compliment you on using both sides of the paper when you prepare your statement for the committee. I pointed out before that the General Accounting Office doesn't follow this procedure, so I think the Bureau of the Budget is doing a better job of economizing. And I am glad to see under your stewardship you are continuing this policy.

Mr. SCHULTZE. Thank you, Mr. Erlenborn.

Mr. ERLBORN. It occurs to me, in the many matters that have come before this subcommittee, that this administration is vitally interested in and taking a good deal of activity in the field of reorganizing the executive branch.

But it seems to be done on a piecemeal basis.

Now, for instance, we enacted last year the Water Quality Act of 1965 and created a new agency to enforce the act. Now this agency is being transferred to another department.

The Community Relations Service which was created in 1964 is now to be transferred to another department.

The new Department of Housing and Urban Development was created last year. Now the question arises as to whether the transportation responsibilities should remain where they are or be transferred to this new Department of Transportation.

In light of these questions, and the rapid transfer of agencies from one department to another, don't you think it would be wise to have an overall plan prepared by, say, another Hoover Commission as to the reorganization of our executive branch?

Mr. SCHULTZE. Basically, no, Mr. Erlenborn.

First, it is, of course, clear that essentially we are asking for some changes in a few institutions which were just recently created. I would like to point out in both cases, although I cannot hold myself out to be an expert in either, that circumstances have changed.

In the case of the Community Relations Service—and I don't want to probe too deeply into it because I am not quite prepared—basically the passage of substantial additional civil rights legislation changed circumstances such that it clearly appeared to us that it would be better to establish it in the Department of Justice. Particularly passage of the last civil rights legislation.

In the case of the Department of Housing and Urban Development and the Department of Transportation, they both, we believe, needed doing for a long time. It took a very large amount of study which went into this particular departmental proposal. Proposals have been kicking around for some time, and actually we have been working on it for some time.

This is not to say that we are going to be perfect. As in the case of Housing and Urban Development and the Department of Transportation, this is not to say that over the next decade there may not be some other reorganizations affecting these departments.

I don't believe that getting at this in one fell swoop would give to anybody greater wisdom than going at it as we have attempted to do by major problem areas, because circumstances do change. Having tried to take a look at everything all at once, sometimes you will miss a lot of things that you would not miss if you concentrate your energies on taking major problem by major problem.

Now, admittedly, by doing it that way, we think your energies are concentrated greater on the problem at hand, but you may miss some nooks and crannies you want to clear up later.

But I don't think trying to take the Federal Government and going at it in one fell swoop, proposing everything all at once, would really be practical before the Congress in terms of trying to get it through, and by the time you get it through, you would have to go back and change some of the original recommendations you made earlier.

I just don't think it would be practical, Mr. Erlenborn.

Mr. ERLENBORN. Do you feel that the former Hoover Commissions were impractical?

Mr. SCHULTZE. No, sir, I don't. But if I recall—I am not a historian of the Hoover Commissions—but a large number of their recommendations had to be put into effect over a good period of time, and in turn there were significant changes made in some of those recommendations, and finally a large number of them were never carried out, in many cases for good and proper reasons.

I don't want to be against taking a look at Government reorganization as a whole. We have tried to do it. As a matter of fact, within the executive branch this year we asked every department and agency to take a very careful look at its own problems, and to submit to us reorganization proposals, out of which we screened a number—we in the sense of the Budget Bureau, the President, the White House—and have sent a number up. So we are looking at it on the whole. But to have a massive study with a major set of reorganization proposals all at once in terms of creating two, three, four new departments in 1 year, or something like this, I just don't think would be practical.

Mr. ERLENBORN. I think the question arises as to who does and who should participate in making these decisions as to executive reorganization.

At the present time what is your procedure for developing reorganization proposals, either through substantive legislation or reorganization plans submitted by the President? Who participates in making these decisions? Is there any participation, for instance, by Congress, or is this solely the prerogative of the executive branch? Is there any opportunity for people outside of Government to participate in these plans?

Mr. SCHULTZE. Well, let me comment, and then perhaps Secretary Connor will want to comment on his specific Department.

First, as you are obviously aware, what we have here are proposals by the executive branch to the Congress, so that this is not a case of unilateral action by the executive branch. We are making a proposal to the Congress, discussing it with the Congress, both formally in these hearings, and informally in staff discussions, so that in that first instance, obviously there is joint participation in this.

Secondly, you will recall with respect to a number of reorganization proposals that I came up before this full committee on a kind of an off the record, general informal session to discuss them.

Thirdly, each of the reorganization proposals that are presented this year have benefited from substantial consultation, conversations, analyses, and studies involving all of the interested people within

the executive branch. In many cases, the specific proposals themselves came to light from internal executive branch recommendations. In other cases, as in the case of the Department of Transportation, they resulted from proposals made over a number of years by all three types of groups—independent outside groups, committees of Congress, the Doyle report, for example, in 1961, and internal executive branch suggestions.

It is difficult for me to put my finger and say there is one specific route by which an idea is born. It is the recognition of a problem. It may come to light gradually, very often does come to light gradually. You will find it in terms of congressional resolutions or a bill introduced in the Congress which may languish for years. You will find it in terms of an executive branch internal proposal, which gradually picks up steam.

We have consulted in all of these cases informally, with the Congress, members of the committees involved, within the executive branch, and with members of interested groups, informally. And we are now in the process of presenting formally to the Congress a recommendation, and discussing that both formally and informally.

It just is not one nice simple procedure by which all of these come to light.

Mr. ERLNBORN. Within the executive department, this is your agency, the Bureau of the Budget, which has the unique function of pulling all of these thoughts together, and coming out with the proposal that is given the stamp of approval of the administration.

Mr. SCHULTZE. In terms of making recommendations to the President, we are the ones who pull it together, get interested agency views, make recommendations to the President, that is correct.

Mr. ERLNBORN. How about the actual drafting of the reorganization plan, or in this case the bills presented? Is this one within your agency, or some other agency?

Mr. SCHULTZE. Neither.

In general, on a big one like this, it is done cooperatively—and I literally mean cooperatively, with the agencies involved. We literally sit down with them and work this out section by section. So it is not a kind of unilateral act in which we say, fellows, this is going to be it.

We work it out cooperatively—very heavily with Secretary Connor and Under Secretary Boyd—there was a cooperative venture all the way through on this one.

Mr. ERLNBORN. Who, for instance, is the actual draftsman of the bill we have before us?

Mr. SCHULTZE. In terms of one name? Literally, it was so cooperative I cannot tell you. It was done under the chairmanship of Budget Bureau-headed committee, and my own recollection would be the Department of Commerce probably had the largest input in terms of drafting in this. But it was a cooperative thing.

Would that be about accurate?

Secretary CONNOR. Yes, I think so. Just to amplify one point, Mr. Erlborn. As this transportation study specifically proceeded toward the end of last year, we did have the opportunity to discuss some of the aspects of this reorganization proposal with outside representatives of the various transportation business organizations, modes of

transportation, and with the shippers who would be involved—just so that we did have a good cross section of opinion from those in private life whose activities would be affected by what was done to make sure that we were on the right track.

Mr. ERLNBORN. By the time you come here with the proposal, of course, you present pretty much of a united front. But I should imagine in your discussions leading to the drafting of the plan or the bill, there must be some differences of opinion among the departments and agencies as to actually what should be done. There are some policy decisions that must be made, and I am certain there is a difference of opinion existing before that policy decision is made.

Do you think the Congress might do well to have these various opinions presented or only the one unified policy decision that ultimately results in the plan?

Mr. SCHULTZE. Well, you pose, of course, a very difficult problem.

Basically, this is not a proposal of the Budget Bureau or the Department of Commerce. This is a proposal of the President of the United States to the Congress.

Clearly when you go into an enterprise like this, you start out with a number of divisions of opinion.

On the other hand, we honestly believe that by extensive, and I mean extensive, discussions throughout—internally throughout the Government and outside, we have gotten to a situation in which as far as I know all of the agencies who are involved are in agreement with this basic bill.

For example, the so-called controversial section 7, with respect to standards and criteria, was developed in the closest collaboration with the Corps of Engineers, who at no stage opposed this, and were exceedingly forthcoming and believe it is a good section. You can ask them that yourself.

Mr. ERLNBORN. Substantially you are saying that the agencies involved were invited to come, reason together, and once they did they all agreed?

Mr. SCHULTZE. I literally mean that. You start out here, and some people give, some don't, and you move together, and by the time we finish, it is literally a pretty united front.

Mr. ERLNBORN. I recall the balance of that quotation—but not literally enough to put it into the record—but I invite the attention of those who may not have read the whole quotation from the Bible to read the following few lines which may shed some light on how we come to such unanimity of opinion.

Mr. HOLIFIELD. Will the gentleman yield?

Mr. ERLNBORN. I would be happy to yield.

Mr. HOLIFIELD. Isn't it true that this is the normal process in a democratic society? We do the same thing on the floor of the House every day. I have been here 24 years, and I can remember but very few bills that I endorsed in my own mind a hundred percent. I had to take something in the bill that I didn't like in order to get a lot of things maybe that I did like.

And so this is the normal process of development, the give and take of a democratic society. And it takes place in the executive branch, I am sure, the same as it does here on Capitol Hill.

Mr. ERLNBORN. I agree with the gentleman. I think the unique difference is that we make a record of the differences of our opinion and they are available. My point here is that it might be valuable to the Congress if we would have a record made of the differences that might have existed prior to the coming and reasoning together.

Mr. HOLIFIELD. I find the ultimate result confusing enough without going into the background. And I would suppose that those people that do have differences with the bill, during the course of our hearings, will come before us—not necessarily the ones from the executive branch—but I think the people interested in this bill, and who are opposed to the bill, will undoubtedly have the best of advice in presenting their opposition to it. That is where we will get the other side.

Mr. BROWN. I think perhaps Mr. Erlenborn is trying to put his finger on the subtle difference between reasoning together in a democratic society and a great democratic society.

Mr. ERLNBORN. If the gentleman had a question I will be happy to yield to him at this point, before passing on to some other questions.

Mr. BROWN. With reference to the point being pursued by Mr. Erlenborn, I would like to ask Mr. Schultze if there were consultations with persons within the new Housing and Urban Development Department with reference to this rather thorny problem of the subtle differences between mass, urban, and interurban transport, and on the point Mrs. Dwyer made as to just where these lines can be drawn.

Mr. SCHULTZE. Yes, sir; both with staff members and with the Secretary himself.

Mr. BROWN. And the conclusion of this was that it would take at least another year to figure out between Housing and Urban Development and Transportation, just where these lines should be drawn?

Mr. SCHULTZE. That is correct.

Mr. BROWN. But the conclusion was also that they were anxious to go ahead and have this Transportation Department set up now?

Mr. SCHULTZE. Yes, sir. I don't know whether I can describe Secretary Weaver's state of mind as anxious, but basically, if you will give me room for difference in adjectives, yes, he fully supports the bill.

Mr. BROWN. With reference to drawing legislation, did you also consult with the other governmental agencies involved in each case—CAB, ICC, and all the rest?

Mr. SCHULTZE. In each case.

Mr. BROWN. And you found no substantial difference of opinion in any of these agencies with reference to this particular piece of legislation?

Mr. SCHULTZE. Each of these agencies, to the best of my knowledge, Mr. Brown—and you can, of course, ask them as they appear—supports the bill: that is correct.

Mr. BROWN. Thank you.

Mr. ERLNBORN. Now, in line with the question that Mr. Brown just asked, I am curious about the reasoning that went into the decision that the regulatory agencies would not be included in this new Department. I can understand a very practical objection to this. But, on the other hand, I think that what the regulatory agencies decide,

and their overall policies, have a great impact on what happens in the field of transportation. Differential rates, mergers, and so forth. And I wonder what was the thinking of your committee or your group that decided not to include the regulatory agencies?

Mr. SCHULTZE. Let me comment briefly, and then perhaps Secretary Connor will want to comment.

Essentially, these agencies perform quasi-judicial type functions in setting rates and regulations subject to court review vitally affecting various transport modes.

It is clear they have, as you indicated, a major impact on the economy in general, and on the transportation system in general.

With the Department of Transportation pulling together all of the various transportation activities, promotion, investment, safety—of the Federal Government, there is a possibility of getting before these agencies the views of the executive branch on these matters in a consistent and coherent manner, so that the Department does have a role to play here in presenting before the agencies the national economic implications of various suggested changes.

Let me give you two examples: One, the interagency merger committee, which existed before the Department, will be maintained under the Department—this is an internal committee which made recommendations.

Secondly, the bill itself provides that the Civil Aeronautics Board shall take into account the recommendations of the Secretary of Transportation with respect to subsidies to airlines.

So on the one hand, by leaving the regulators out, you do preserve the independence of these quasi-judicial functions, while, at the same time, by having a central point within the executive dealing with matters of national transportation policy, there is a possibility of getting before these agencies the coherent, consistent view of the executive branch on matters coming before them.

Now, it seems to us that given the very complex situation that does exist—it seems to us this is the best solution to what is inherently admittedly a very difficult problem.

Secretary CONNOR. Mr. Erlenborn, Mr. Boyd formerly was Chairman of the CAB before coming to his present position, and he has given this matter a lot of thought and has a lot of experience.

Mr. BOYD. I think the points that Mr. Schultze just made are quite pertinent here.

If you look at this in the context of the policy of the Federal Government—first of all, the basic policy is established by the Congress, and it relates to the promotional aspects of transportation policy in the executive branch, and the regulatory aspects in terms of the independent regulatory agencies.

As I understand history, the economic regulatory function has historically been a legislative function. The earliest recorded records, I think, have to do with the British Parliament in the regulation of toll roads and tollhouses. And this was adopted by the U.S. Government—this type of jurisdiction was adopted as a legislative proposition, both Federal and State.

In terms of what the Department will be doing and should be doing, I think a distinction should be made from the regulatory agencies.

For example, the Congress has adopted several different transportation policies. The Federal Aviation Act has an aviation transportation policy. The Interstate Commerce Act has what is called a national transportation policy. There is no relation between these two, and yet there can be conflicts.

Now, one of the functions of the Department of Transportation will be to participate in cases where these two policies come into conflict, and try to point out the policy considerations that are involved. In terms of policy development, however, and promotion it really is not a function of the executive branch of the Government, to be concerned—to use a hypothetical example—whether District of Columbia Truck Lines or Yellow Transit Co. is given a franchise to operate the common carriage between Kansas City and Denver, Colo. What the Government is interested in, from a promotional point of view is that there be an adequate transportation system, and the decisions on who receives the awards in these cases is based on a public record, a quasi-judicial procedure, which historically has not been the function of the executive branch of the Government.

I hope I am being responsive.

Mr. ERLNBORN. What is the rationale behind putting the Maritime agency within the Department and leaving CAB outside of the Department?

Mr. SCHULTZE. It seems to me that in this case the—you have to have a background for this.

The Federal Maritime Commission, as you realize, stays outside the Department, and there is the Federal Maritime Commission and the Maritime Administration.

In the case of the CAB and its economic regulatory functions—subsidy relationships—this cannot be pulled apart from the continuing workload of the CAB in awarding specific routes to specific carriers.

Now, it is true, in the case of the Maritime Administration this same thing happens, except in practice I don't think there has been a new trade route in—how many years, Alan?

Mr. BOYD. I don't think since the Merchant Marine Act of 1936.

Mr. SCHULTZE. In other words, the idea of a new route between one place and the other place does not become part of the function of awarding a subsidy for practical purposes, even though in theory this is possible. And, hence, from a practical standpoint, the effect of the relationship between subsidies and route awards is substantial, quasi-judicial, and the like in the case of the CAB, but not in practice the same thing in the case of the Maritime Administration, and hence, we did make this distinction.

Mr. ERLNBORN. Where would this new Department be housed physically? Are we talking about the necessity of building another structure to house the Department, or has this decision been made?

Mr. SCHULTZE. As far as I know, no—to the best of my knowledge.

Mr. ERLNBORN. No decision has been made?

Mr. SCHULTZE. No. I must confess that in the many problems we have considered, I don't really think space has been one of them, although I understand the very largest part of them can be housed with some rearrangements in the building now occupied by FAA. But please don't consider that any commitment. It is, quite frankly, some-

thing we have not given a lot of thought to. But we see no need for a new building just because you have a new department.

Mr. ERLNBORN. Throughout the hearings we have had on reorganization problems, we are always confronted with the arguments that only so many people can have the ear of the President at any one time. That is why we have to have clear lines of authority, and only a limited number of people at the top.

We seem now to be entering into an era of proliferation of new departments. And aren't we putting a new burden on the President? He is going to have, if this goes through, in a very short time two new Cabinet heads, two new people in his Cabinet, seeking his ear on policy questions.

Mr. SCHULTZE. I can answer this way: In the first place, right now, if the President wants to consider matters of safety, he has to go to a number of people. This he will no longer have to do. So, granted there is a new department, but on transportation matters, with the new Department the President can go to one person instead of four, five, or six.

Obviously, the President's policy formulation is going to be made, I think, a lot more efficient and effective because of that very fact: that there is one person to whom both he and the Congress can look for this.

So, sure, you are creating a new department. But, as a matter of fact, in terms of this area of transportation, it is going to reduce rather than increase the burden on the President.

If he wants something with respect to transportation policy in general, there is nowhere he can go now. If he wants safety in transportation in general, there is nowhere he can go to any one person.

This is clearly going to make it better.

In the case of HUD, it is not that he has another person—rather he has elevated to a Cabinet level in this case Mr. Weaver who was head of HHFA before, with some additional functions.

Mr. ERLNBORN. Do you have any policy determination as to what the maximum efficient number of departments would be in overall planning?

Mr. SCHULTZE. No, sir; I don't believe there is any such thing as setting a number for all time and saying this is it.

Mr. ERLNBORN. I have no further questions.

Chairman DAWSON. Mr. Rosenthal?

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. Schultze, a subject I have been very much interested in is the matter of aircraft noise abatement, and any research that might go into that field. Now, a month ago the President did, in his transportation message, suggest that for the first time the Federal Government was going to invest some money in research in this field—an area that I think we have been rather sluggish on.

Is this new Department going to be concerned with that matter?

Mr. SCHULTZE. I think Mr. Boyd could handle that better than I could.

Mr. BOYD. Yes, sir; it would be, because already, and for some time, the Federal Aviation Agency has been investing resources in the study of noise and noise abatement. In his transportation message, the President directed that the Director of the Office of Science and Tech-



nology, Mr. Hornig, undertake the development of an interagency effort in this area, which will provide for a concentration of effort that includes the Department of Commerce at the present time, the Federal Aviation Agency, the Department of Defense, and the National Academy of Sciences, which has been doing the bulk of the work, handling the bulk of the work for the FAA in this noise abatement area.

The Department will be involved through its operating entities in noise abatement.

Mr. ROSENTHAL. This is what confuses me.

To what extent will this Department play a role in that effort?

Mr. BOYD. It will play a major role in the effort because the noise abatement is related to transportation.

Mr. ROSENTHAL. This is what I would think. But still your answer to the first question was that four other agencies would have similar responsibility, and that would be expressed across these areas of responsibility.

Mr. BOYD. Well, it is not something that is limited to the Department of Transportation, because our military airfields for example, and military aircraft are being criticized in some areas of the country because of the noise that is being created.

So it is a matter that goes beyond the purely transportation function, and many people have expressed the opinion that noise has some effect on the health and well-being of the citizenry, which makes it a legitimate area in my judgment for the Department of Health, Education, and Welfare to be involved.

But the President has made it clear that Dr. Hornig has the responsibility for correlating these efforts at the present time.

Mr. ROSENTHAL. You see, the way I see the presentation here today is that this agency is very much concerned with the SST, in developing aircraft transportation systems throughout the Nation. At the same time there are four other agencies, and you now suggest a fifth one, HEW, that are concerned with noise abatement, because it does affect the health and welfare of our citizenry.

I, for one, would like to see this under one roof somewhere, where someone is charged with the responsibility of meeting this, in my judgment, very serious problem.

Mr. SCHULTZE. May I make one comment on that point, Mr. Rosenthal?

Even after we get a reorganization of a Department of Transportation, there are bound to be many problems affecting transportation which cannot be handled by one department alone. This is in the nature of government—that there are many problems which even in the best of all possible organizations, cut across many departments.

What the President has done in this case is, recognizing that fact, recognizing that the military are involved, that there are some human factors research involved in this, in the case of HEW, he has given the responsibility to a person in his own Executive Office, namely Mr. Hornig—this is very heavily a scientific problem—and asked him to take the lead in coordinating.

I am not sure that satisfies your point, but it is impossible in an area like noise abatement, where the military are involved, and there are other complications, to say that only one department should play a role

in this, because the problem by its very nature, and with the best organization in the world cannot solely be handled by one department. So in cases like this the President picks somebody out, in this case Mr. Hornig, quite appropriately, and says, "You are the man I am looking to for this—you get the people together, you get the research going, and you come back to me with proposals."

Mr. BOYD. Let me elaborate on this a little bit.

It is not a simple problem, Mr. Rosenthal.

Part of it is an engineering problem, having to do with the propulsion systems in aircraft.

Part of it is what I would call a horticultural problem. You may notice out at Dulles Airport, for example—and this is true throughout the country—that thousands and thousands of trees are being planted which have some capability of blanketing the noise.

Part of it is a flight technique problem, which is clearly within the purview of the FAA.

Part of it is in aerodynamic design.

There is no single answer. We are not structured in the Government, and I doubt that any government will ever be structured so that somebody has got the capability to go across all of these areas, as well as the human factors areas, in one department. It just doesn't work that way.

And there is not that kind of expertise or competency in any one function of the Government.

Mr. ROSENTHAL. I disagree with much of what you say, but I don't think it is fair to impose upon the time of the committee to review all of the remedies you have suggested. I have been to all these aircraft manufacturing plants. Much can be done that hasn't been done. Much of the problem is the lack of adequate financing.

Airplane companies that have existing equipment certainly are not going to turn that equipment back when they have not yet recouped their capital expenditure even though they know that new methods would help alleviate the problem. In other words, adding a fanjet has often reduced aircraft noise. The 727 was a much quieter aircraft than its predecessor, because somebody thought that at the same time as you manufacture the plane, if you coordinate your efforts with the engine manufacturer, you can produce a quiet plane. For the first time someone has taken responsibility.

Now, you say it is Dr. Hornig.

I want to know—is he the man in Government that I can turn to when my constituents in Queens County, living near La Guardia Airport, complain of this problem?

Mr. BOYD. Since he is not here, we will volunteer.

Mr. ROSENTHAL. Mr. Schultze, just one last question.

Do you know whether any specific funds have been provided to Dr. Hornig to look into this matter—how much money the Federal Government is willing to spend to help solve the situation?

Mr. SCHULTZE. I don't know the answer to that. I can try to get you something for the record on that. I just don't know the answer to that.

(The information referred to appears as app. 4 on p. 329.)

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Chairman DAWSON. Mr. Brown.

Mr. BROWN. Mr. Schultze, I would like to start with a couple of questions with reference to section 7 of this act, and particularly section 7(b) and then a little bit on 8(a).

Section 7, as you indicated, is patterned after the provisions of the Water Resources Act, which was just put into effect a year ago, and has not really, I think, had much of a chance to function.

In section 7 it says—section 7(b)—

Every survey, plan, or report formulated by a Federal agency which includes a proposal as to which Secretary has promulgated standards and criteria pursuant to subsection (a), shall be prepared in accord with such standards and criteria, and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of transportation, the available transportation services in the area, and the general effect on the proposed investment on existing modes, and on the regional and national economy.

Now, in your comments earlier, you suggested that this would be used to coordinate major investments in various methods of transportation.

Is this correct?

Mr. SCHULTZE. What you have read, the word "coordinate" does not so much apply to. What it is, is that the Secretary of Transportation will have the responsibility, among other things, of providing the necessary statistics, data, and economic analysis of transportation in various parts of the country.

Right now, for example, the Corps of Engineers has allocated, I believe, \$187,000, to the Under Secretary of Transportation for the provision of such economic data. This is admittedly something that is new. But this is to get the expertise in the area of transportation needs and statistics fed into it, so that reports and valuations can be done most efficiently, and be based upon the best possible data and evaluation possible with respect to the transportation traffic growth and similar aspects of it.

Mr. BROWN. In other words, when you say in this section that the Secretary shall promulgate standards and criteria, you really mean just providing information.

Mr. SCHULTZE. No. If you read—there are two parts to this. If you read section 7(b)—

Mr. BROWN. That's what I am referring to.

Mr. SCHULTZE. The first part of that is that every survey, plan, or report formulated by the Federal agency having a proposal subject to those standards and criteria shall, first, receive information from the Secretary with respect to the transportation aspects, and second, be coordinated by the appropriate agency with the Secretary.

In other words, this provides for consultation essentially with the Secretary on these matters.

So the first part of that says what survey, plan, or report we are talking about—namely, those subject to the standards and criteria. Those reports, surveys, or plans shall be provided—the agency making them up—shall be provided information by the Secretary, and secondly the agency making the proposal, say the Corps of Engineers, shall consult and coordinate with the Secretary with respect to the transportation features.

Mr. BROWN. I think the language is a little stronger than that, isn't it? It says that these shall be prepared in accord with the standards and criteria.

Mr. SCHULTZE. You are quite correct, sir.

Mr. BROWN. In other words, this is really pretty strong stuff, isn't it, and gives the Secretary of Transportation the right to make a decision to encourage by setting criteria and standards air transportation over rail transportation, or vice versa?

Mr. SCHULTZE. We don't believe so, sir.

In the first place you will note, A, that these standards and criteria are promulgated by the Secretary after approval by the President, which as you know in effect means after consultation with all other agencies.

Mr. BROWN. And he is an appointee of the President.

Mr. SCHULTZE. That is correct. As you know, in effect, approval by the President obviously means that when other agencies have different views, these are brought forward.

Mr. BROWN. What other agencies are you talking about?

Mr. SCHULTZE. For example, in the case of transportation features of the water resource projects, the Corps of Engineers and the Water Resources Council itself would be involved.

Mr. BROWN. But back to my specific question. Rail transportation over air transportation or vice versa—won't both of these agencies be under the Secretary of Transportation?

Mr. SCHULTZE. Of course, Mr. Brown, what I think you are saying is that a Secretary of Transportation, with or without this section, could favor one mode over the other. I think the same thing could be said about the executive branch as a whole—that we should not have any investments because the executive branch might favor one mode over the other. But the whole point of a Department is to give a Secretary appointed by the President, subject to confirmation by the Senate—

Mr. BROWN. But this is the problem we are into. We now have separate regulatory agencies which are independent of the executive branch of the Government, except their members are appointed by the President with the advice and consent of the Senate, and the Congress has some supervisory control through legislation over these regulatory agencies.

Mr. SCHULTZE. Correct.

In the first place, we are not pulling the regulatories in. Secondly, what is involved here are reports by the executive branch to the Congress, proposals for investment, either in terms of authorizing something new or within existing authorizations or making budgetary proposals.

So this is a proposal by the Executive to the Congress. We are not pulling the regulatories in. This section therefore refers to the establishment of some kind of consistent, broad criteria and standards under which to formulate investment proposals—just as we do in the case of the water resources. We have all the agencies involved following those criteria in the submission of reports and plans and authorization requests to the Congress.

Mr. BROWN. And you then see no difference between what this sets up and what the situation is now. In other words, the Secretary of Transportation would not have the opportunity to favor one type of transportation over another?

Mr. SCHULTZE. No, sir. What I am saying is that this particular section would have the Secretary establish broad, consistent standards and criteria. Now, what you, as I understand it, are saying is that the Secretary could favor one mode over the other.

Mr. BROWN. Through these standards, through the criteria which he sets up, through these plans and surveys and reports which would be formulated by the various agencies, over which he would have authority.

Mr. SCHULTZE. The whole point of this one, though, is to have standards and criteria which would make that very difficult, because the Secretary has to promulgate, with the approval of the President, standards and criteria.

Now, without this section, insofar as what is in the Department alone is concerned, presumably the Secretary would and will make decisions with respect to investment proposals to the Congress.

So in that sense he could favor one over the other, just as the executive branch could now.

Mr. BROWN. You are talking about the investment of Federal funds.

Mr. SCHULTZE. That is correct. That is all we are talking about. All I am saying is that this section provides the promulgation with the approval of the President of standards and criteria to be used in the formulation of proposals to the Congress—either budgetary or authorization. And it seems to me that, far from encouraging the inequitable support of one mode relative to the other, it makes it much less likely this would happen, and is much more likely to insure an even-ended, consistent treatment—just as in the case of the water resource standards—

Mr. BROWN. Consistent treatment from whom?

Mr. SCHULTZE. In terms of the proposals that the Executive makes to the Congress. The whole point of having a department is to take a look at the transportation system as a whole—

Mr. BROWN. This I presume would be fair and equitable under a consensus system similar to the consensus under which this very legislation was arrived at.

Mr. SCHULTZE. That's true. I would say a better analogy is the consensus that is reached with respect to the water resources projects among the agencies involved—primarily, not solely—Interior, Agriculture, and the corps. Sure there are conflicts. But basically, by having such a set of standards and criteria in the water resources area, we get a more uniform and even treatment and a better identification of national needs.

Mr. BROWN. Is there any opportunity under this section for the Secretary of Transportation to determine what is uneconomic from a business or an investment standpoint with reference to private business or the Federal Government?

Mr. SCHULTZE. Well, in the first place there is nothing in here with respect to that in terms of private business.

In the second place, the Secretary has no veto power over the proposals of other agencies.

Mr. BROWN. If I may pick up one phrase, it says, "and the general effect of the proposed investment on existing modes and on the regional and national economy."

Now, does that influence investments of private business or not?

Mr. SCHULTZE. All right. We are getting, I think, a little bit into semantics.

Mr. BROWN. Semantics are what makes legislation, and this is what I am trying to clarify, Mr. Schultze, in my mind so I can make some kind of decision with reference to my vote in this committee and such influence as I may have over any other members on whether this is a good department to establish now or not.

Mr. SCHULTZE. All I meant about the point on semantics, Mr. Brown, was that when I said that these standards don't apply to private investment, I did not mean of course that Federal investment cannot affect private investment. This again is the whole point of having that phrase in here—the general effect of the proposed investment on existing modes. That's the effect of Federal investment on existing modes.

I quite agree with you that obviously it does affect private investment. That is why we put it in.

But what I do want to stress is that of course this obviously does not apply to private investment projects. That's my point.

Mr. BROWN. Let me ask a question in that connection.

The establishment of safety standards affects private investment.

Mr. SCHULTZE. That is correct.

Mr. BROWN. Let me go back, if I may, to the Secretary of Commerce's comment about a strong Secretary of Transportation. I think I properly quote that phrase—a strong Secretary.

Secretary CONNOR. Yes, Mr. Brown.

Mr. BROWN. Comparable to the Secretary of Defense.

Secretary CONNOR. In different fields. But the idea is that the Secretary of Transportation would have authority that is needed to carry out the responsibilities in these various modes of transportation to the extent that the Federal Government has programs; yes, sir.

Mr. BROWN. To establish the location and type of transportation which would best serve the interests of the country.

Secretary CONNOR. To make recommendations to the President, and through the President to the Congress, as to the expenditure of funds for these Federal programs that are authorized by Congress, and in the proportion that seems desirable in the national interest.

Mr. BROWN. I have some difficulty squaring this, then, with the continuing independence of these agencies, such as the Bureau of Public Roads and its relationship to the States on the use of Federal-State funds on highway development work.

Secretary CONNOR. Well, the statutory authority of the Bureau of Public Roads in this field of highway construction would not be changed by this, and that authority would come to the Secretary of Transportation. But the basic concept, as you are pointing out, is that the highway construction in the interstate program and the other Federal aid programs would be within the responsibility of the State, and supported by the Federal Government through grants, and this would not be changed.

Mr. BROWN. Say that again—your last phrase.

Secretary CONNOR. The basic concept of having the Federal aid highway programs be carried out by the States with the assistance of the Federal funds through grants in aid would not be changed.

Mr. BROWN. But the decisions would inure to the Secretary of Transportation, is that correct?

Secretary CONNOR. To the extent that authority is already given under existing statutes in this highway program it would inure to the Secretary of Transportation; yes, sir.

Mr. BROWN. Well, then, what are we changing by the establishment of this Department, and what do you mean by a strong Secretary of Transportation?

Secretary CONNOR. One change would be in the international organization and management of this new Department of Transportation over what the existing situation is.

At the present time the Federal Highway Administrator is a Presidential appointee with all the prerogatives that go with that. In this proposed legislation, the head of the Federal highway program would be an official within the Department of Transportation appointed by the Secretary.

Mr. BROWN. And his decisionmaking functions would reside in the Secretary of Transportation.

Secretary CONNOR. Yes—with the expectation that the Secretary of Transportation would delegate to the Federal highway official, by whatever title he has, the responsibility and authority in this field. He would be a line official.

Mr. BROWN. This goes back to the independence of some of these agencies.

Secretary CONNOR. Oh, yes. On the administrative agencies that are being transferred, the legal responsibilities would reside in the Secretary of Transportation, they wouldn't be separate statutory agencies and that was the basis for my statement that this would be a strong official.

Mr. BROWN. Well, let me then push this thought just a little bit further in relation to the colloquy you had with Mr. Holifield—am I correct in reading into that that the Secretary would reassign functions within his Transportation Department? In other words, as long as the functions are reposed in an agency by a legislative act of Congress, the Secretary could reassign those functions within his Department, isn't that correct?

Secretary CONNOR. Yes, Mr. Brown. I think my statement was that this decision would not enlarge upon the statutory functions that already reside in the various Federal agencies, but there could be reassignment by the Secretary if this legislation is passed.

Mr. BROWN. In effect, you could then sort of blur the Bureau of Public Roads and lose its image within the new Department of Transportation.

Secretary CONNOR. I think one of the main purposes is to enable the more efficient organization and administration of these transportation programs that are already authorized by law. Just what is meant by blurring I am not sure. But there would be the opportunity for the Secretary to bring about efficiencies and better management as time goes on.

Mr. BROWN. In other words, as long as the legislative authority has been given by Congress, and it is included in the Secretary of Transportation's Department, then the Secretary of Transportation has the right to reorganize the operation and the functions of those agencies so long as he does not fundamentally change the existing function that Congress gave him the right to perform.

Secretary CONNOR. That is true—subject to the limitations that are in the proposed bill.

Mr. BROWN. I would like to go back to Mr. Schultze, then, on this point, again in the colloquy with Mr. Holifield where the indication was given that the rules of the House of Representatives, relating to the jurisdiction of the committees of the House of Representatives, are not changed.

In your response to Mr. Holifield's question you said that they are not changed now.

Now, is there any significance to the "now"? Is there any thought that these will be changed in the future?

Mr. SCHULTZE. There is no significance in my use of the term "now." The only reason I may have appeared a little reluctant is for me to say what the Congress will or will not do. But, there is nothing here that changes that. I know of nothing that would change it—no significance whatsoever to that.

Might I make one point with respect to your colloquy just a moment ago with the Secretary in terms of the powers of the Department of Transportation.

It's my understanding that now, for example, the basic authorities in the public interstate and ABC system are vested in the Secretary of Commerce. So what this does is transfer the powers of the Secretary of Commerce to the Secretary of Transportation.

Mr. BROWN. Perhaps I should ask Secretary Boyd for a response to this inquiry of mine.

I am not fully sure I understand the distinction between mass transit and urban transit and the various kinds of transportation which are going to be defined between the new Transportation Department proposed and the Housing and Urban Development Department.

Can you advise me what two or three different kinds of transportation we are talking about here and what is the distinction?

Mr. BOYD. I would be glad to give it a whirl, Mr. Brown. This is an area where you can get differences of opinion, I think.

Mass transit is a generic term which is used to describe modes of transportation, altogether passenger transportation, as I understand it, which moves large volumes of people.

Urban transit is a phrase that is used to describe transportation, public transportation, that is, buses, subways, et cetera, which forms a system in and around urban areas. Interurban transportation is used interchangeably with intercity transportation, and it pertains to the movement of both goods and people by public means of transportation between different geographic areas.

Mr. ERLBORN. Will the gentleman yield?

Mr. BROWN. Yes—although I want to come back to this point.

Mr. ERLBORN. I am just interested in this area, because of my past experience, having been a member of the Illinois Transportation



Commission, I am vitally interested in transportation in the Chicago land area.

We really defined in that area two separate transportation systems: Rapid transit, known as the CTA, and commuter transportation, which is an intercity transportation.

Now, under this proposal, would we be involved in an urban transportation matter if the issue is moving people from the suburbs of Chicago into the Loop area? Would we go to the Department of Transportation or HUD? This is an intercity transportation problem, and yet it is in the metropolitan area, and is really a mass transit problem.

Mr. BOYD. My understanding of this situation is that what you are talking about at the present time would come under HUD—that it is an urban transit matter. I would define urban transit geographically to include the city center as well as the suburbs and some of the bedroom communities. I don't think it's possible to have a definite statement on this because of the different characteristics of the different major metropolitan areas of the United States. But in your area I think Willmette, for example, would be in the area which is under the jurisdiction of HUD.

Mr. ERLNBORN. Where is this spelled out? Where will we be able to go to get a really definitive answer in the language of the statute? Is it spelled out in this bill?

Mr. BOYD. No, sir. That's the purpose of this study which the President has indicated he would require, so that there can be some clear-cut understandings of who stands where and who does what, so that then the public will be in a position to know where to go and not get run around Robin Hood's barn trying to find out who can do something for their problem.

Mr. ERLNBORN. Let me state it this way, then. It appears to me that this question remains in limbo for at least another year until the decision is made. For the next year people with problems of mass transit in an urban area just won't know where to go.

Mr. BOYD. No, sir; absolutely not. There is no question but what this is in HUD. The only question that is involved, that would have any impact there, is whether or not this function would stay in HUD.

Mr. ERLNBORN. Thank you for yielding.

Mr. BROWN. What we are debating here is whether or not to move the transportation area from Commerce to HUD, then.

Mr. BOYD. I don't believe we have been inclined to look at it that way, Mr. Brown.

Mr. BROWN. I am sure that you have not.

Mr. Erlenborn has confused me further by throwing in rapid transit, commuter transit. I would like to just ask whether the northeast corridor is mass transit, urban transit, or interurban.

Mr. BOYD. It is interurban transit.

Mr. BROWN. But not mass transit.

Mr. BOYD. Yes. Mass transit is not geographically limited. The northeast corridor—are you talking about the physical area?

Mr. BROWN. The proposed northeast corridor transportation system, high-speed transport between Washington and Boston.

Mr. BOYD. Well, that would involve, I would say, mass transit. I think most rail passenger service, through service on major trunk-

lines between major cities of medium distances would be clearly mass transit.

Mr. BROWN. You do have a heavily populated area in between here and Boston.

Mr. BOYD. That is right.

Mr. BROWN. This leads me to suggest that we are dealing with a megalopolis between Washington and Boston, and whether it should be under Housing and Urban Development or whether—

Mr. BOYD. I don't think there is any question about that. I say I don't think there is any question, and I don't.

Mr. BROWN. Which way are you reading it?

Mr. BOYD. Because of the fact that you are dealing with different political subdivisions which have limited relationships, if any—whereas the HUD effort, as I understand it, deals with a city center, and its outlying environs, to try to provide for some sort of land use planning, which includes transportation, to maintain the viability of the city as such, and to make it possible for the people who live and work either in the city or in the suburbs to live with some sense of dignity and comfort.

Mr. BROWN. I would enjoy pushing this further, but I don't want to intrude—

Mr. BOYD. Let me elaborate a little bit here, Mr. Brown. The high-speed ground transportation program has a major purpose, in terms of the dollars to be spent, what we call hardware research, which goes into extending the state of the art in types of transportation, in types of equipment, that can be utilized which will not necessarily be related to the northeast corridor at all.

We don't know what the results of this research will be. But we feel that ultimately it will be as important to freight movement as it will be to passenger movements.

We feel that the bulk of our findings will relate to movement between San Francisco and Los Angeles, Portland, and Spokane, and places like that, to the same extent it will in the northeast corridor, but they will not have the same requirements in those areas at this time to move people that the northeast corridor has.

Mr. BROWN. It would be the ambition of the Department of Transportation to coordinate this research, is that what you are saying?

Mr. BOYD. No, sir. That is being done right now in the Department of Commerce. That whole program is in the Department of Commerce at the present time.

Mr. BROWN. Is this going to be left in Commerce, this kind of coordination?

Mr. BOYD. The high-speed program will be transferred. I'll tell you the kind of research that will be coordinated. There is a great deal of interest today in what is called the railroad car shortage, and there are many differences of opinion as to what is the shortage, and what caused it.

The Federal Aviation Agency in Atlantic City has spent hundreds of millions of dollars developing systems for identifying aircraft. There is no question in my mind that if we can plug in on the research which is being done and has been done by FAA, we could develop some leads to the kind of identification methods that can be used for railroad cars, so that we will know just exactly what is the magnitude

of the car shortage, which will lead us then to devising methods which can be utilized by the railroads toward eliminating the railroad car shortage.

I cannot prove this. But I am convinced that this is possible, and this is the type and kind of research that needs to be coordinated.

Another quick example—the FAA is responsible for the Federal aid to airport program, and this involves standards and criteria, if you will pardon the expression, on runway construction and ramps. The Bureau of Public Roads has a tremendous effort going on standards and criteria of construction materials, stress, and things of that nature, for highways. These efforts can be coordinated through a department.

Mr. BROWN. Can they be coordinated now?

Mr. BOYD. No, sir. I think we could say we will try, and we will try. There is no effort to be independent. But people have got to be concerned with what their major interest is. The FAA has a major interest in aviation, the Bureau of Public Roads has a major interest in highways. People tend to be modally oriented as long as they are operating in a modal function. There has to be some coordination at some level. We don't have that. With all the good will in the world, this does not tend to work out without somebody having the power to say, "Gentlemen, this is the way it will be."

Mr. BROWN. In other words, somebody with some authority, and in effect we get back to Secretary of Commerce Connor's comment—a strong Secretary of Transportation.

Mr. BOYD. Yes, sir. The President of the United States has the authority today to do exactly what I have been talking about, but he also has some other problems which seem to him to be of more importance. This is going to continue. What we are talking about here is putting this authority the President has at some level where it can be utilized.

Mr. BROWN. But this authority will be utilized in a fair and equitable way between various modes of transportation by the new Secretary of Transportation, I am sure.

May I go back to Mr. Schultze—and this is my final question, Mr. Chairman. Are we not reorganizing our Government to orient it to consumer society rather than in the operating way in which we had it organized some years ago. In other words, we have created a Health, Education, and Welfare Department, which I presume in some future day may be split into three distinct departments. We have Housing and Urban Development, and now we are going to have Transportation. We have recently had a reorganization plan which would include under one activity. Water. I presume some future date we can have a Department of Food and a Department of Clothing—rather than Agriculture, Interior, Commerce, Labor, and that type of organization which we had formerly.

Is there a trend in this direction, do you feel?

Mr. SCHULTZE. My short answer—and I don't want to appear to be short—is, "No." But that is not an unreasoned no.

In the first place, the Department of Transportation affects the American people, both in their capacity as consumers, and in their

capacity as producers—as producers of transportation, and indirectly as consumers of transportation, through shipment of goods, and directly through movement as passengers.

Certainly we have never conceived the creation of a Department of Transportation in terms of organizing the Government around consumer categories.

To be quite honest with you, I had never thought of it before, until you brought it up.

It is true, of course, that HEW in one sense is highly consumer oriented. But in turn, here, perhaps to a lesser extent than in the case of transportation—again it affects the American people both as consumer and as producer, and I give you as the most pertinent illustration, the Food and Drug Administration. Obviously, on the one hand it is consumer protection, but it also deals very heavily, of course, with producers.

Mr. BROWN. So there is, and probably always be, some difficulty in getting under one roof, or into one department, things that do not affect other departments.

Mr. SCHULTZE. Correct. I would fully agree. That is quite correct.

Chairman DAWSON. Mr. Rosenthal has a question that will take a second.

Mr. ROSENTHAL. Mr. Schultze, I am considering the wisdom of offering an amendment when the committee reports out this bill, presumably to create an aircraft noise abatement service, and I wonder if between now and tomorrow morning you could be in touch with General McKee of the FAA, and ask him merely to consider his thought on this subject so we can discuss it tomorrow.

Mr. SCHULTZE. I will.

Chairman DAWSON. We stand adjourned until tomorrow morning when these hearings will be continued—at that time other Government witnesses will be heard.

(Whereupon, at 12:40 p.m., the hearing was adjourned until 10 a.m., Thursday, April 7, 1966.)

# CREATING A DEPARTMENT OF TRANSPORTATION

THURSDAY, APRIL 7, 1966

HOUSE OF REPRESENTATIVES,  
EXECUTIVE AND LEGISLATIVE  
REORGANIZATION SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D.C.*

The subcommittee met at 10:10 a.m., in room 2154, Rayburn Office Building, Hon. Chet Holifield (acting chairman) presiding.

Present: Representatives Chet Holifield, Henry S. Reuss, Benjamin S. Rosenthal, John N. Erlenborn, and Clarence J. Brown, Jr.

Also present: Elmer W. Henderson, subcommittee counsel; James A. Lanigan, general counsel, Committee on Government Operations; Herbert Roback, assistant to Congressman Holifield; J. Philip Carlson, and William H. Copenhaver, minority counsels.

Mr. HOLIFIELD. The committee will be in order. Our first witness this morning is Lt. Gen. William F. Cassidy, Corps of Engineers. General Cassidy.

## STATEMENT OF LT. GEN. WILLIAM F. CASSIDY, CHIEF OF ENGINEERS, CORPS OF ENGINEERS, U.S. ARMY

General CASSIDY. I am Lt. Gen. William F. Cassidy, Chief of Engineers, U.S. Army. The statement I am about to present expresses the views of the Department of the Army, as well as those of the Corps of Engineers.

The Department of the Army has given very careful consideration to H.R. 13200 and has concluded that the establishment of a Department of Transportation would be in the national interest. Hence, we favor the enactment of legislation that would achieve the objectives of H.R. 13200. While in the main the bill would affect other departments of the Government, insofar as it affects the Department of the Army it has our full support.

The major impact of H.R. 13200 on the programs of the Department of the Army would be its effects upon the civil works program of the Corps of Engineers.

Section 6(f) of the bill would transfer to the proposed Department of Transportation certain responsibilities for regulating and protecting transportation by water which are now discharged by the Corps of Engineers. Section 7 would require the Secretary of Transportation to promulgate standards and criteria "for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment." This section would also

provide for cooperation and coordination between the Department of the Army and the Department of Transportation.

The regulatory functions that would be transferred to the new Department under section 6(f) include the authority to regulate the location of vessels at anchor, to prescribe drawbridge operating regulations, to require alteration of existing bridges considered to be unreasonably obstructive to navigation, to review and determine reasonableness of tolls charged for crossing bridges, to administer the act for the prevention of the pollution of the sea by oil, and to control the location and clearances of bridges over navigable waters. These are considered to be proper functions of the contemplated Department of Transportation and their transfer would be in accord with accepted tenets of good organization and administrative management.

As indicated previously, section 7 would require that studies of waterways, harbors, and other navigation projects by the Corps of Engineers be made in accordance with economic standards and criteria established by the Secretary of Transportation. The reports by which potential navigation projects are placed before the Congress would continue to be prepared by the Corps of Engineers.

To insure coordination between the economic standards and criteria promulgated by the Secretary of Transportation, and the policies and procedures governing Federal water resource development programs, H.R. 13200 would require the Secretary to consult with the Water Resources Council recently established under the Water Resources Planning Act of 1965. This provision is made in recognition of the fact that the Water Resources Council now has the authority to promulgate economic standards for all Federal agencies involved in the planning of water resource developments. Since navigation projects are not only additions to the Nation's transportation system, but are also important water resource developments, it is evident that the Secretary of Transportation and the Water Resources Council would have to promulgate consistent standards. The fact that both the Water Resources Planning Act and H.R. 13200 call for Presidential approval of proposed economic standards would, we believe, insure adequate coordination between transportation policies and water resources development policies.

Section 7 would also enable the Department of Transportation to provide the Corps of Engineers with information, such as projections of transportation needs, for use in its studies of prospective navigation projects. This is consistent with, and is a desirable extension of, the present arrangement which the Corps of Engineers has with the Office of the Under Secretary for Transportation in the Department of Commerce. The fiscal year 1967 civil works budget includes \$187,000 for funding data collection and analysis activities to be performed for the Army under this arrangement, and this function would be transferred to the new Department by H.R. 13200. We believe it would be logical to make the Department of Transportation the focal point for the development of projections of regional transportation needs, and of other economic background data relevant to navigation and other Federal transportation projects. The Corps of Engineers would, of course, welcome the assistance of the new Department in this regard.

During the Senate hearings on this legislation, particular interest was expressed in the intent of the language which would authorize the

Secretary of Transportation to promulgate "standards and criteria" for navigation projects that are planned and carried out by the Corps of Engineers. It seemed desirable, therefore, to consult with other interested elements of the executive branch in developing an interpretation of section 7 of H.R. 13200. The results of these consultations may be summarized as follows:

(1) The term "standards and criteria" as used in H.R. 13200 is the equivalent of the term "standards" as used in the Presidential standards promulgated by President Kennedy in 1962 and subsequently printed as Senate Document No. 97, 87th Congress. The "standards and criteria" promulgated by the Secretary of Transportation are, therefore, expected to provide the basic economic guidance to be applied by any agency planning and evaluating a project which would provide transportation services.

(2) The promulgation of the "standards" of Senate Document No. 97 did not change the present assignments of responsibilities among the Federal agencies for the evaluation of projects or the preparation of reports. The use of the term "standards and criteria" as used in H.R. 13200 would have no different effect on such assignments than did the use of the term "standards" in Senate Document No. 97. In other words, the enactment of the bill would not shift to the Department of Transportation the responsibility now assigned the Department of the Army for the evaluation and reporting of navigation projects. At no place in the bill is there language which would transfer to the new Department responsibility for evaluating or reporting upon water resource development projects.

(3) The enactment of section 7 would change the procedure by which Corps of Engineers reports on navigation projects are handled in the following respects only:

(a) The Department of Transportation would provide for use by the corps certain basic data on transportation which is now provided by the Department of Commerce, or obtained directly by the corps. This is inconsistent with the present procedure under which the Corps of Engineers requests other agencies to make certain specialized studies for its use. A few examples are: The Bureau of Reclamation is asked to investigate opportunities for including irrigation components in corps projects; the Department of Health, Education, and Welfare makes studies upon which we base our recommendations on water supply; and the Fish and Wildlife Service studies the impact of contemplated projects upon the fish and wildlife resource.

(b) The Department of Transportation could be called upon by the corps to provide special transportation data which are now obtained from private consultants or the Department of Commerce.

(c) In evaluating a plan for development the corps would utilize the "standards and criteria" promulgated by the Secretary of Transportation and approved by the President. These must, as indicated previously, be in consonance with the more general standards issued by the President on the recommendation of the Water Resources Council.

(d) After the report of the corps is completed the Department of Transportation would be asked to review it and to submit

formal comments. Under present statutes all affected agencies are afforded an opportunity to review and comment. The proposed legislation would give the Department of Transportation no special status in this regard.

A division of detailed responsibilities between the Department of the Army and the Department of Transportation cannot, of course, be worked out until the latter Department has been established and we have had an opportunity to explore with the appropriate officials thereof the exact services they will be able and willing to provide. It seems obvious, however, that the division of labor will ordinarily be based upon the simple rule that any particular type of work will be done by that department best prepared to undertake it. This rule is already followed by the corps. As I have already indicated, we call upon specializing agencies like the Bureau of Reclamation to make studies which we could not make without duplicating expertise already available in other agencies.

Under H.R. 13200 the Corps of Engineers would continue to be responsible for preparing the reports and recommendations which it submits to Congress under existing legislative directives. There has, of course, been no question of any change in the responsibility for engineering design, the construction of projects, or the operation and maintenance of those projects. These responsibilities would obviously remain with the Corps of Engineers.

The opportunity afforded the Department of the Army to express its views in support of this important legislative proposal is greatly appreciated.

Mr. HOLIFIELD. General, your statement is fairly short, but it is very concise and accurate in regard to your understanding of any change in function that might reflect upon the corps' present duties. And incidentally, I think it answers some of the questions which were asked by Members of the other body during the hearings over there. Did you testify over there, by the way?

General CASSIDY. I did not, sir.

Mr. HOLIFIELD. But you are aware of the testimony, I am sure, after reading your report.

General CASSIDY. Yes.

Mr. HOLIFIELD. Mr. Rosenthal?

Mr. ROSENTHAL. No questions.

Mr. HOLIFIELD. Mr. Erlenborn?

Mr. ERLBORN. General, presently in determining whether a project should be approved, you have certain standards and criteria that you follow, don't you?

General CASSIDY. Yes, sir.

Mr. ERLBORN. This is usually referred to as the cost-benefit ratio?

General CASSIDY. Yes, sir, this is the final analysis.

Mr. ERLBORN. What is wrong with this system? How is this going to be handled better under the proposed Department?

General CASSIDY. The standards for evaluation have changed over the years from time to time, since the "green book" resulted from the first effort made to achieve interagency coordination on standards. This would not necessarily mean that the standards changed in any way. It would just give the responsibility for establishing certain



standards to the new Department for making changes as they come up in future or for recommending changes, really.

Mr. ERLNBORN. Who establishes the standards now?

General CASSIDY. In the past, it has been by interagency agreement. These are the ones printed in Senate Document 97.

Mr. ERLNBORN. These standards have been applicable to water transportation projects?

General CASSIDY. Yes, sir.

Mr. ERLNBORN. Do you feel that under the Department of Transportation, there will now be standards that might have other elements involved, that is, choosing between the desirability of rail transportation over water transportation, maybe putting an emphasis on one type of transportation greater than that put on another? In other words, your standards now are applicable to just water transportation projects, but the Department of Transportation will look at these projects with a broader view, being charged with all modes of transportation, not just one?

General CASSIDY. Yes, sir.

Mr. ERLNBORN. Do you feel that the standards will change as a result of developing standards relating to other modes of transportation?

General CASSIDY. Not necessarily, sir. They must take a broader view than has been taken before, but at the same time, the standards must be established in cooperation with the standards established by the Water Resources Council and must be approved by the President.

Mr. ERLNBORN. From the transportation viewpoint, however, do you think the Department of Transportation could put an emphasis on one type of transportation over another?

General CASSIDY. It could.

Mr. ERLNBORN. In fact, this might logically be its function, to determine which type of transportation should receive more attention or investment by the Federal Government?

General CASSIDY. As I gather, one of the first functions of the new Department would be to establish a national transportation policy. This will be one of the most difficult tasks facing it. Within that policy, its job would be to judge fairly across the board and the standards would then be tied to such judgment and such policy.

Mr. ERLNBORN. Do you think that the very fact that this will be done, might generate some opposition to this bill from those who might be interested in one mode of transportation that they feel may suffer as a result of a policy favoring another mode?

General CASSIDY. I think some opposition might develop, sir.

Mr. ERLNBORN. One other question. In your statement, you state that "At no place in the bill is there language which would transfer to the new Department responsibility for evaluating on or reporting upon water resources development projects."

Actually the Department in establishing the standards and criteria and with the right to review your proposed projects in the light of these standards and criteria would be evaluating, wouldn't they?

General CASSIDY. To answer the first part, the information we would obtain from the new Department and the standards and criteria are primarily to the determination of benefits. The determination of the costs of the projects, since they are tied to the engineering features

and operating features would still be determined by the corps, and the comparison of benefits to cost would still lie with the corps. Of course, that becomes a rather mechanical function at that particular time. The recommendations then of the report would lie with the corps.

In accordance with statutes, we do pass the reports to Interior; Health, Education, and Welfare, and they comment. The comments are included with the report. They do not change the report, they are included with the report and forwarded to the Congress for action; so that the Congress sees our reports and sees the comments of the other agencies on the report. It is for its action.

Mr. ERLNBORN. So in other words, it will really be a dual responsibility for evaluating, your responsibility for evaluating, and then the Department will evaluate your evaluation and comment upon it.

General CASSIDY. They will comment upon it, yes, sir.

Mr. ERLNBORN. No further questions. Thank you.

Mr. HOLIFIELD. Mr. Lanigan.

Mr. LANIGAN. The point I want to make is that your testimony indicated that the purpose of the section was to achieve coordination of the Department of Transportation and the Corps of Engineers in connection with Federal investment in transportation facilities, but the Corps of Engineers is interested only in a certain segment of the Nation's transportation facilities equipment. I was wondering whether the purpose of this section is perhaps narrower than the language that was actually used in drafting it?

General CASSIDY. I was not a party to the drafting, sir, so I don't know the full purpose. All I can state are the effects of the bill as presently written.

Mr. LANIGAN. As it affects the Corps of Engineers?

General CASSIDY. As it affects the Corps of Engineers.

Mr. LANIGAN. So your testimony, authoritatively, at least, does not go into what effect it might have on other transportation projects of the Government?

General CASSIDY. That is correct, sir.

Mr. LANIGAN. What do you regard as an investment of Federal funds in a transportation facility? Is that intended to cover only capital investments or investments of such things as research and development projects dealing with transportation?

General CASSIDY. Under the procedures that are now used, the investment in any particular project is separate for that particular project. In the overall civil works appropriation each year, there are funds for research and development in the various areas in which we work. So that yes, there is a responsibility for research and development, but it is not funded against any particular project.

Mr. LANIGAN. So you would regard those as expenditures for research and development rather than investment?

General CASSIDY. Yes; we look at the particular project, as an overall investment by the Federal Government in the total projects.

Mr. LANIGAN. Now in the case of a multipurpose water resource project, there is frequently a problem involved as to what part of the overall costs of the project should be allocated to various functions, such as flood control, power, reclamation, and navigation. How

would this section affect the determinations on the allocation of costs to the various uses of the project?

General CASSIDY. The distribution of costs in a multipurpose project is made against the benefits; so you determine the benefits for flood control, navigation, water supply, and the joint cost—which is the total cost minus all separable costs—is divided in proportion to benefits. Since only the joint costs is thus apportioned, and since for the navigation component the joint costs is usually small relative to the separable cost, the effect of section 7 on the cost allocated to navigation would ordinarily be small. However, if the navigation component were to be found uneconomic, and dropped from the project, the allocations to other purposes could be increased.

Mr. LANIGAN. Could the standards and criteria developed by the Secretary include standards and criteria for determining the allocation of costs to transportation, that is, would it give him a chance to say this is how you should allocate transportation costs or navigation costs, as contrasted with all of the other features of the projects?

General CASSIDY. No, sir, I think that judgement lies with the Department of the Army.

Mr. LANIGAN. And you believe that this section would not change that?

General CASSIDY. I don't see how it would change it.

Mr. HOLIFIELD. Mr. Roback?

Mr. ROBACK. Do you have any reservations about section 7? If necessary, the chairman will put you under oath.

General CASSIDY. I am not worried about that, sir, I am just thinking of the phrasing.

Section 7, as written, requires the standards and criteria to be determined in coordination with the standards and criteria of the Water Resources Council.

Mr. ROBACK. Water Resources Council jurisdiction runs to water resources problems and not transportation as such?

General CASSIDY. Which includes then water transportation. So the two sets of standards and criteria must be approved in coordination. And, of course, they both must be approved by the President, and I see no real difficulty in this procedure. This is where the question usually comes up. We have two agencies establishing standards and criteria for the same purpose, really. But the President is the determining agent in both cases.

Mr. ROBACK. It would be up to the President to eliminate duplication or conflict.

General CASSIDY. If there is a conflict.

Mr. ROBACK. So far as the Army Engineer Corps is concerned, outside of your concern about the conflicting interest, how is the corps affected? You have, you say, responsibility for evaluating navigation projects. That would be exclusive as well as multipurpose responsibility, isn't that right?

General CASSIDY. This is correct.

Mr. ROBACK. Under what authority do you evaluate a navigation project, under a specific act?

General CASSIDY. Under specific acts and, of course, we only make a study when directed to make that study by the Congress.

Mr. ROBACK. Congress gives you a directive in the way of authorizing legislation and funds to make a study?

General CASSIDY. That is correct.

Mr. ROBACK. That study comes back to the Congress?

General CASSIDY. Yes, sir.

Mr. ROBACK. How would the provisions of section 7 or any other provision of this bill affect that process?

General CASSIDY. As we formulate the project and as we evaluate it, we would use the data furnished us by the various agencies of Government, including the new Department of Transportation, and in the economic evaluation of the project we would use the standards and criteria established by the Water Resources Council and the standards and criteria established by the new Department of Transportation. We would then follow these criteria, because they are approved by the President, and are directive to us.

Mr. HOLIFIELD. If counsel will yield. At the present time, you operate under standards and criteria?

General CASSIDY. Yes, sir.

Mr. HOLIFIELD. Which have been set up by the policymaking committees of the Congress and in consonance with the administrative implementation, is that not so?

General CASSIDY. That is correct.

Mr. HOLIFIELD. Now, in the future, you will proceed exactly the same as you have in the past, following standards and criteria?

General CASSIDY. Yes, sir.

Mr. HOLIFIELD. The difference that might obtain in the standards and criteria would be that established by coordination of the Secretary of Transportation and the Water Resources Council, is that right?

General CASSIDY. That is correct.

Mr. HOLIFIELD. And if there happened to be a conflict between the two, that would be sent to the President for resolution?

General CASSIDY. Yes, sir. This is correct, since he must approve all of these.

Mr. HOLIFIELD. And, therefore, as far as your operational function is concerned, at the present time, it is under standards and criteria, and in the future it would be under standards and criteria. The only difference that I can detect is that there would be an input from the Secretary of Transportation, which is now, of course, not in existence. Is that right?

General CASSIDY. That is correct.

Mr. HOLIFIELD. Now, under the Water Resources Council, certain statutory provisions and responsibilities and duties were set forth, and this had the approval of the Congress and the approval of the President. And they would have complete freedom of input into this coordination, would they not?

General CASSIDY. That is correct, sir.

Mr. HOLIFIELD. So as far as you are concerned, you are carrying out your statutory duties as set forth in the statutes and also in the rules and regulations pertaining thereto at the present time, and you would be doing the same thing in the future?

General CASSIDY. We are following the directives of the President with respect to standards and criteria, and we would continue to do that.

Mr. HOLIFIELD. Because such standards as you would operate under in the future as in the past, must of necessity be approved by the President?

General CASSIDY. That is correct, that is in the act.

Mr. HOLIFIELD. May I just continue?

The advantage then in the establishment of the standards and criteria in the future would come from a wider and broader scope of input because the Secretary of Transportation would not only be concerned with the function of the Corps of Engineers, but he would be concerned with the functions of all the other modes of transportation, and if the purpose of the act is valid, the purpose of the act would be to allow a broader scope of judgment to apply on the setting up of criteria and standards. Is that your understanding?

General CASSIDY. This is the way I see it.

Mr. HOLIFIELD. Go ahead.

Mr. ROBACK. General Cassidy, how would you operate under section 7 in a given case? Can you give us an example?

General CASSIDY. Generally, our criteria and standards are very broad. I would believe that we would have something as we now have—Senate Document 97 is good—but this is just a publication of the standards which were approved by the President. And we are not looking behind that document, or looking behind the Presidential directive to see which department proposed a particular standard because as you develop these things, this is by coordination between departments. And even the standards proposed by the Water Resources Council will be those developed in coordination with the departments involved.

Mr. ROBACK. Everybody has to follow some guide or standard or criterion in making evaluation. It isn't done in an arbitrary way.

The question is, suppose there is a big navigation project which requires large capital investment. You have a directive from the Congress to evaluate it. Now it is conceivable that you might have an evaluation which would be different from that of the Secretary of Transportation and if so, which one would prevail?

General CASSIDY. It is not conceivable, sir, if we are thinking of criteria and standards, because the criteria and standards have the approval of the President and the Department of the Army functions under Presidential directives. We would follow those criteria and standards.

There could be a difference of opinion between the Department of Transportation and ours with respect to the recommendations or with respect to particular features, but I couldn't see that there would be—

Mr. ROBACK. Let us say, General, that you recommended that \$200 million be proposed in the first 3 years for construction, and the Secretary of Transportation thought that ought to be more like \$50 million, let us say. After all you are using the same criteria, but you are differing on the time that could be usefully employed at that rate of investment.

General CASSIDY. This is an area in which he could comment, but it is not an area covered by the criteria and standards. This goes into the budgeting, and the recommendations on the engineering side, as to the most economic way in which we could construct a project and use the money. So while he would comment, we could disagree with

him: but this is not a part of the criteria and standards we are talking about in section 7.

Mr. HOLIFIELD. The real control would go back to the authorization of Congress for a specific project. The function of the Bureau of the Budget in its overall application for all authorization requests, and finally the appropriation by the Congress of the funds itself, would it not?

General CASSIDY. Yes. The Bureau of the Budget would listen to both of us. It would make its recommendation. The President makes his recommendation to Congress and the Congress decides the rate.

Mr. HOLIFIELD. Right, so the function, I mean the basic underlying authority would not be changed as far as the final decision is made. The recommendations might be changed some, and the action of the Budget Bureau might reflect upwards or downwards the amounts asked, but the final decision would be in the hands of the authorizing committee of the Congress that had jurisdiction over the particular project and, of course, to be followed by the final act of appropriation. Is that not so?

General CASSIDY. The appropriations committees, yes, sir.

Mr. ERLBORN. Would the gentleman yield?

Mr. HOLIFIELD. Yes.

Mr. ERLBORN. We are really getting down to saying that the Corps of Engineers or the Department of Transportation can merely make some judgment and make recommendations to Congress, but the final, really the final judgment has to be made by the Congress in appropriating the money, is that right?

General CASSIDY. This is correct.

Mr. ERLBORN. And if the Congress and the President want a project to dredge a river in Texas to make an inland port down there and they appropriate the money, they are going to have an inland port in Texas, whether it fits the standards of the new Department or not. Is that right?

General CASSIDY. If the money is appropriated, we then have a directive to proceed with the work.

Mr. ERLBORN. And you will proceed with the work.

General CASSIDY. We proceed with the work.

Mr. ERLBORN. Thank you.

Mr. HOLIFIELD. You refer to section 6(f) of the bill in your statement. Now at the present time, as I understand it, the Engineer Corps has the authority to:

\* \* \* regulate the location of vessels at anchor, to prescribe drawbridge operating regulations, to require alteration of existing bridges considered to be unreasonably obstructive to navigation, to review and determine reasonableness of tolls charged for crossing bridges, to administer the act for the prevention of the pollution of the sea by oil, and to control the location and clearances of bridges over navigable waters.

Are these functions at the present time of the Corps of Engineers?

General CASSIDY. These are all functions of the corps, sir.

Mr. HOLIFIELD. Now, these will be transferred to the new Department?

General CASSIDY. Yes, sir.

Mr. HOLIFIELD. And they can either be directed by the new Department, according to its policy decisions, back to you or to another body, is that so?

General CASSIDY. They would be the full responsibility of the new Department of Transportation to be assigned wherever they desired. But it would generally be within the Department. They would not necessarily assign them to another department.

Mr. HOLIFIELD. That is right. They could either retain those functions, or if there was some part they felt the Corps of Engineers could do because of its other duties better than another agency of Government, it is entirely possible that they would designate you as the operating agency?

General CASSIDY. Yes, they could ask; this would be by agreement between the two departments, where we would function for them on a reimbursable basis, generally.

Mr. HOLIFIELD. Now, first, let me ask you, what is your main civil responsibility in the Corps of Engineers?

General CASSIDY. The primary responsibility is the investigation of projects proposed by the Congress, directed to us by the Congress, the evaluation of those projects, these are for navigation, flood control, multipurpose development of the Nation's water resources.

We recommend those projects which appear to us to be feasible and beneficial and after authorization and appropriation of funds by the Congress, we proceed with the construction and the operation and maintenance of those projects.

Mr. HOLIFIELD. So these outlined duties or present functions that are being transferred would be considered by the Army Corps of Engineers as ancillary or much less important than your main objectives?

General CASSIDY. This bill does not touch our primary function at all.

Mr. HOLIFIELD. Well, a direct answer to my question would be, "Yes." These functions that are being transferred to the Secretary of Transportation are minor functions of the Army Corps of Engineers and are more in the nature of operational maintenance and inspection and that type of thing rather than your primary purpose to plan, estimate, and construct major projects.

General CASSIDY. Yes, sir. These are minor functions concerned primarily with navigation itself, rather than with the project.

Mr. HOLIFIELD. That is right. So it is ancillary and secondary or tertiary in nature?

General CASSIDY. Yes, sir.

Mr. HOLIFIELD. You brought out quite clearly the meaning of standards and criteria, in H.R. 13200, "is the equivalent of the term 'standards' as used in the Presidential Standards promulgated by President Kennedy in 1962 and subsequently printed as Senate Document No. 97, 87th Congress."

And you attach no importance to the addition of the word "criteria" to the word "standards" as far as purpose and meaning is concerned?

General CASSIDY. I think this was just classic phrasing. The words are always used together, "standards and criteria," and it means no more than the word "standard."

Mr. HOLIFIELD. Now the standards and criteria which will be promulgated by the Secretary of Transportation will have the input of all agencies concerned in a particular area of transportation, and it will present to the President and to the Congress an agreed-upon set of standards and criteria by all agencies concerned?

General CASSIDY. Not necessarily agreed upon, but at least they coordinate it.

Mr. HOLIFIELD. Coordinated; there may be some differences of opinion as always in our society, where men meeting together try to negotiate a common meeting ground.

General CASSIDY. This is correct.

Mr. HOLIFIELD. But this at least will provide a coordinated consideration of the problem with all of the facets of the problem considered.

General CASSIDY. I feel that everybody will have an opportunity to speak his piece, then the new Department of Transportation would formulate its criteria and standards and would recommend approval to the President.

Mr. HOLIFIELD. Now is it or is it not true that under the present arrangements, with the transportation functions scattered in various areas of Government, that there is the lack of coordination and that there are at times conflicting policies which obtain between the different areas of function?

General CASSIDY. Not quite that way, sir. The present policies and standards are the result of interagency agreement, primarily of the agencies concerned with water resource development. There has not entered into this picture—because we are concerned only with water resource development—any deep consideration for the other fields of transportation. We are not involved with those.

Mr. HOLIFIELD. That is right, but nevertheless, it might very well be that conflicts occur under the situation that now exists between different methods of transportation, such as the placement of a bridge over a river, which would be of vital importance to a railroad, and it might conflict with the needs of navigation at that point.

Now as I understand it, of course, there is an interchange of discussion undoubtedly at the present time between two agencies that might be involved in that, but the two agencies involved in that or the two methods of transportation involved in that consideration were under one Secretary, it would give that Secretary an overriding function of coordination and resolution of the problem which does not exist at the present time.

General CASSIDY. That is correct, sir.

Mr. BROWN. Mr. Chairman, could I ask a question at this point?

Mr. HOLIFIELD. Mr. Brown.

Mr. BROWN. How are these conflicts resolved now?

General CASSIDY. In the case of, say, highway bridges—

Mr. BROWN. Methods.

General CASSIDY. We consult with the Bureau of Roads to work out with them the cost of the bridge alteration; the cost to highway transportation of certain heights of bridges then we work out the cost to navigation and try to compare these to find a proper solution.

The answer at present lies with the Corps of Engineers under the statute mentioned here in section 6. We make the determination. The determination, of course, can be changed by the Congress.

Mr. BROWN. Are you suggesting then that these conflicts in methods of transportation are resolved economically?

General CASSIDY. This is our attempt, sir.



Mr. BROWN. Rather than by fiat by the Secretary of Commerce?

General CASSIDY. In arriving at a decision, the economic factors must be considered. This is your comparative set of factors.

Mr. BROWN. Thank you, sir.

Mr. HOLIFIELD. Mr. Brown, if you have further questions, I yield.

Mr. BROWN. No, go ahead. I will take my turn.

Mr. ROBACK. General, what was the need to promulgate Senate Document No. 97?

General CASSIDY. I don't know why it was published.

Mr. ROBACK. What statutory requirements are put upon you to follow any standards or any given standards?

General CASSIDY. I know of no statutory requirements.

Mr. ROBACK. When the Congress authorizes you to make feasibility studies of a navigation project—

General CASSIDY. They just ask us to generally, nowadays, since we have made studies of most of the waterways of the United States. We have a simple resolution of a committee asking us to review a previous report.

Mr. ROBACK. To review a report and to do what, make recommendations?

General CASSIDY. Make recommendations.

Mr. ROBACK. On what, economic or technical feasibility?

General CASSIDY. The need for improvement of the waterway for a certain purpose.

Mr. ROBACK. Now, then, do you follow standards in making evaluations which are laid down by the President?

General CASSIDY. Yes, sir. These have been developed over a period of years. The first set of standards were established by agreement between the various agencies concerned, the old "green book." This has finally evolved to where we have a set of standards approved by the President and, of course, these are a directive to us; to all the executive agencies.

Mr. ROBACK. Does the Water Resources Planning Act require that you follow any standards?

General CASSIDY. No, sir; it doesn't refer to us directly. It provides that the Water Resources Council will establish standards and that these shall be approved by the President, but the minute they are approved by the President, they are directive on the executive agency. This is an order to us.

Mr. ROBACK. Does the pending bill provide a statutory requirement for standards not now prescribed by statute?

General CASSIDY. No, sir; it simply authorizes the new Secretary of Transportation to promulgate standards and criteria for this purpose with the approval of the President.

Mr. ROBACK. So the gist of your testimony is that the new Department is going to be a service agency to you, rather than you a service agency to them. Is that the sense of your testimony?

General CASSIDY. No, sir; we are independent agencies, but we expect to use their expertise in certain fields.

Mr. ROBACK. So you are going to draw upon their expertise?

General CASSIDY. We draw on Commerce now, we draw on Interior, we draw on Health, Education, and Welfare; where they have the knowledge, we go to them for that knowledge.

Mr. ROBACK. In other words, you are going to ask them to do something for you rather than they ask you to do something for them?

General CASSIDY. They also have that authority, where we have the expertise, they can ask us for the assistance.

Mr. ROBACK. It would be a two-way street.

General CASSIDY. Yes, sir.

Mr. ROBACK. As far as prescribing, determining whether this or that improvement is going to be made in a river, is that going to be your responsibility or the Secretary's?

General CASSIDY. That is the Congress.

Mr. ROBACK. Congress' responsibility, regardless of what the Secretary determines?

General CASSIDY. Yes.

Mr. ROBACK. So you regard section 7 only as a recommendatory provision to the Congress?

General CASSIDY. Yes, sir; these reports must go to the Congress. They have the comments of the agencies; that is all.

Mr. ROBACK. The chairman of the Commerce Committee in the other body in his testimony favored a recommendatory effect to section 7. Is that what your understanding of section 7 is; namely, a recommendatory function of the Secretary?

General CASSIDY. I believe that is what it is.

Mr. ROBACK. That is your understanding?

General CASSIDY. Yes.

Mr. ROBACK. What about the requirements on page 20 of the bill, relating to plans or reports formulated by Federal agencies—and incidentally, I don't know whether "Federal agency" is defined in this bill, but I assume you are covered by it.

Now does this section lay upon you—this is section 7(b)—does this lay upon you any obligation that you do not now have?

General CASSIDY. No, sir; the present statutes require us to obtain the comments of the affected Federal agencies, so we do obtain these comments right now, and they are forwarded with our reports.

Mr. ROBACK. Suppose you were interested in navigation for certain reasons which do not include the projected growth of transportation needs in the affected areas. Maybe there are some other reasons. Now, under this bill, are you obligated to make a finding which you didn't have to do before?

General CASSIDY. No, sir. We are not obligated to make any other finding. We go ahead with our report, make our determination, our recommendation, and send the report to the other Federal agencies. They comment. We bind that with the report and send it in.

Mr. ROBACK. What about the relative efficiency of the various modes? You are in the navigation business, not engaged in the truck driving business, at least the corps isn't, and you might be understandably partial to the development of the river.

Now, if the Secretary of Transportation says that it is better to improve the highways, is that controlling as far as your recommendation to Congress goes?

General CASSIDY. No, sir; that just goes along with the report of the Department of the Army, if he wanted to make such a recommendation. That is a recommendation to the Congress.

Mr. ROBACK. Would you append his recommendation to your big fat book?

General CASSIDY. Yes, sir.

Mr. ROBACK. It would be in the appendix?

General CASSIDY. Yes, sir.

Mr. ROBACK. Do you have any idea or understanding as to whether the process of authorization and appropriation by Congress would be changed by anything required in this bill, so far as you agency is concerned?

General CASSIDY. No, sir.

Mr. ROBACK. Will you answer for the record, please?

General CASSIDY. No, sir.

Mr. ROBACK. Thank you.

Mr. Chairman, that is all.

Mr. HOLIFIELD. Mr. Rosenthal?

Mr. ROSENTHAL. I have no questions.

Mr. BROWN. General, to pursue the line of questioning, where it says that surveys, plans, and reports shall be prepared in accord with such standards and criteria and upon the basis of information furnished by the Secretary with respect to growth, and so forth and so on, do you feel definitely that you would be able to provide your own recommendation even when it might conflict with that provided by the Secretary of Transportation?

General CASSIDY. We could provide our own judgment, sir, we would consider the information that would be furnished and provide our own recommendations. What we get from the Secretary of Commerce now, new Secretary of Transportation, are data and projections. These are projections of growth, projections of movements of traffic: from this, either the Department of Transportation or the corps will have to determine what tonnages would move by the new mode of transportation, by the new waterway. We must determine the benefits to the shippers and to the Nation, of such movements, and then compare that with the costs which were worked up by the Corps of Engineers. So, within this procedure, there is a constant working back and forth between the agencies, but, primarily, they give us the basic data and the judgments from which we finally formulate and make our recommendations.

Mr. BROWN. Does the experience and judgment of the Corps of Engineers ever conflict with the data provided to you by the Department of Commerce?

General CASSIDY. No, sir. The types of data we are getting from the Department of Commerce, at the present time, are primarily economic projections, and in this area they are more expert than we. We take their projections.

Mr. BROWN. And you never have any reason to feel that these projections are not accurate or, from your experience—

General CASSIDY. Not to my knowledge, sir.

Mr. BROWN. Would you envision the new Secretary of Transportation then to be a strong Secretary or a weak Secretary, as departmental secretaries go in the United States?

General CASSIDY. That is quite a question, sir. There has been a need—there appears to me to have been a need for a coordinated trans-

portation policy for the United States. And here he has a tremendous task facing him. But, whether you would class him in establishing such a policy, as a strong or weak Secretary, I could not say.

Mr. BROWN. You would, however, consider him to be a policymaker?

General CASSIDY. Yes, sir.

Mr. BROWN. And deeply involved in policy, not just providing a service to other agencies?

General CASSIDY. It appears to me that his basic function is the establishment of policy.

Mr. BROWN. Have you had a chance to study the bill sufficiently to see whether or not it spells out how the Secretary shall go about setting his standards and criteria?

General CASSIDY. I don't believe the bill specifies how he shall go about establishing these. It just gives him the authority to establish them.

Mr. BROWN. Let me pursue this question of the separation about the money to do the job and the standards and criteria by which the job should be done. If we are talking about standards and criteria and, leaving out the authorization for the funds to actually do the job, could you give me a pecking order regarding whose views will prevail between the Congress and the President and Water Resources Council and the Department of Commerce and Corps of Engineers?

General CASSIDY. When we talk of standards and criteria as specified in this act, we are talking about standards established in accordance with economic principles by which the benefits of the project to the Nation will be judged. And this is used in the preparation of the survey report, which has been asked for by the Congress. So we are in the judgment area of coming up to a recommendation by the Corps of Engineers through the Secretary of the Army to the Congress of whether or not this project should be built. And the criteria and standards are in the economic side in the evaluation of that project leading to our recommendations. That survey report goes to the Congress and then it is authorized by the Congress, or not authorized by the Congress. Following its authorization, the subject of appropriations comes up for its construction.

Mr. BROWN. I just want to stick, if we can, with the standards and criteria.

The Corps of Engineers puts together the estimate of the cost of the work to be done with the economic benefits to be derived from that work for the country. Now, in the future, under this bill, I presume the Corps of Engineers will continue to provide the information because of their expertise with reference to cost of the project?

General CASSIDY. Yes, sir.

Mr. BROWN. Who will provide the data with reference to the benefits to be derived by the country?

General CASSIDY. With respect to transportation, it would be the new Department of Transportation.

Mr. BROWN. Who will present the final project to the Congress?

General CASSIDY. The Corps of Engineers.

Mr. BROWN. Which will take the benefits from the Department of Transportation?

General CASSIDY. Yes, sir.

Mr. BROWN. In other words, you will not then be making judgment determinations in the future on benefits to be derived from the projects?

General CASSIDY. There will be a judgment area there in which there will be considerable discussion. When we come down to just exactly what the benefits are: We are following certain standards and criteria. Now, we are talking about other areas than that of standards and criteria. What are the benefits? And this also gets into a judgment area, so that, while we will look to them to provide the basic information, we still will have some area for discussion and agreement or disagreement in that field.

Mr. BROWN. I am trying to get to the point of where there is disagreement, where the discussion stops being friendly and where the benefits, as determined by one department or agency, may contrast with the benefits, as determined by another department or agency?

General CASSIDY. This, then, becomes a responsibility of the Corps of Engineers to make the determination, because it is our report going forward to the Congress.

Mr. BROWN. To the Secretary of the Army?

General CASSIDY. Yes, sir.

Mr. BROWN. Based on information provided by the Secretary of Transportation. I presume that your report would include the suggestions from the Secretary of Transportation, but you would make the overriding decisions and would supply the reasons for them?

General CASSIDY. Yes, sir, and understand the procedures—when we have made our recommendations and the report is finalized, it goes to the Secretary for his comments, and this is included then with our report when it is sent to the Congress. So you have the full views of the Secretary on what we recommend.

Mr. BROWN. This, then, in effect, gives the Secretary of the Army the opportunity to override the decisions made by the Chief of the Corps of Engineers?

General CASSIDY. He has that authority.

Mr. BROWN. Now?

Mr. HOLIFIELD. Will the gentleman yield at this point? But is it not true that your report nevertheless, your judgment, goes to the Congress?

General CASSIDY. This is correct.

Mr. HOLIFIELD. And no one can prevent, under the statutes, your report, whether it is accepted or overridden, from coming to the appropriate committee of Congress for evaluation as to whether the Secretary was right in overriding or approving it?

General CASSIDY. I sign the reports, sir, as I believe it, and he forwards it.

Mr. HOLIFIELD. That report is available to the Congress, whether it is accepted or rejected by the Secretary of the Army or the Secretary of Transportation?

General CASSIDY. Yes, sir.

Mr. HOLIFIELD. Is that right?

General CASSIDY. That is right.

Mr. BROWN. I would like to pursue that point just a minute because I guess we are getting into an area of authorization and ap-

propriation. What happens to the report after the Secretary of the Army handles it? Does it go to the Bureau of the Budget?

General CASSIDY. Yes, sir; it is forwarded to the Bureau of the Budget for their comments with respect to the program of the President. This comes back again to the Secretary as a letter comment of the Bureau of the Budget. And then all of this is forwarded with the survey report to the Public Works Committees of the House and Senate.

Mr. BROWN. Are there instances where a project, recommended by the Corps of Engineers, and approved by the Secretary of Army, has been vetoed by the Bureau of the Budget or by the President?

General CASSIDY. Yes, sir; this has happened in the past.

Mr. BROWN. Does it happen as a regular matter of course, or does it occur infrequently?

General CASSIDY. It is very seldom that there is a definite turn down from that area, although, very often there are comments, as to when it should come into the picture.

Mr. BROWN. In other words, if you recommend something for inclusion in the 1967 fiscal year budget, it is likely to stay in the budget—

General CASSIDY. Not quite that way, sir. Our recommendations leading to authorization doesn't give any year. It just recommends that this project be approved. The Bureau can comment that while it appears to be a favorable project, it doesn't believe it should be built now—something of that sort—rather than a specific year. This comes into the budgeting, which is something else, you see.

Mr. BROWN. But it is apparent to the Public Works Committee that this project was recommended?

General CASSIDY. Yes, sir.

Mr. BROWN. Now as I understand it, if I can go back, we have the Public Works Committee of the Congress deciding what will be funded after the President and the Bureau of the Budget, have reviewed what the Secretary of the Army has presented, based on recommendations from the Corps of Engineers, which includes certain data from the Secretary of Transportation. Now, is that the same way that it is done now with reference to the Secretary of Commerce, substituting him then for the Secretary of Transportation?

General CASSIDY. Substituting the Secretary of Commerce.

Mr. BROWN. Secretary of Commerce?

General CASSIDY. Yes.

Mr. BROWN. In other words, Secretary of Commerce's position will be substituted by the Secretary of Transportation?

General CASSIDY. One moment, sir, please. As a routine matter we have the Secretary of Commerce's comments on all navigation projects, sir.

Mr. BROWN. So that we really have the Secretary of Transportation substituting for the Secretary of Commerce in this general pecking order that we have established here on standards and criteria and the funding of projects?

General CASSIDY. Yes, sir.

Mr. HOLIFIELD. Mr. Copenhaver has some questions he would like to ask.

Mr. COPENHAVER. General Cassidy, is it not possible that this bill, particularly title VII, could constitute a downgrading of the Corps of Engineers in this field? As I understand it, you have a two-prong fork, which is cost benefit. Again, is it not the Corps of Engineers which determines one-half of that formula, the benefit formula, albeit, you receive information from the Department of Commerce and elsewhere?

General CASSIDY. No, sir; I don't see it that way. There have been; let's take other examples. In the field of irrigation, we go to the Department of the Interior, the Bureau of Reclamation, and ask them for the needs and the benefits. In the field of low-flow regulation, water pollution, we go to Health, Education, and Welfare and ask them for the information and for the benefits. In the areas of fish and wildlife, we do the same things.

Now, here has been one of the areas of greatest disagreement in the past, but more and more we accept fully the benefits given to us by the experts. So I think that in this—

Mr. COPENHAVER. But there are no statutory requirements, Mr. Roback pointed out, that you have to accept them, and in accepting them you are simply in the area of water transportation, in a sense, water resources.

Now here you are not going to be given the authority, perhaps rightly so, there is certainly a great deal of value in an overall policy, but you are not going to be given the choice in section 7 to exempt or not exempt the benefit proposal, because you must take the benefits in accordance with the statutory criteria set down by the Secretary of Transportation, who has an intermodal responsibility. And that secondly, I refer you to subsection 3 of section 7(b), which if I read it correctly, says that you must transmit your report for disposition by the President, which could be interpreted that before it ever comes to Congress you will have to receive final approval through the President.

General CASSIDY. What page is that on, sir?

Mr. COPENHAVER. Page 20.

General CASSIDY. The procedure now is for the reports to be transmitted to the Congress by the Secretary of the Army with all of the comments of the various agencies. This last clause would be subject to some legal interpretation—

transmitted thereafter by the proposing agency to the President for disposition in accordance with law and procedures established by him.

The present law says—

transmitted to the Congress by the Secretary of the Army.

Mr. HOLIFIELD. I think we ought to clarify this a little bit. If Mr. Copenhaver will yield, in accordance with law the President is not going to set up procedures contrary to the law established by the Congress. Now the question is: Does the law at this time require the Army Engineers to send the report to the Congress?

General CASSIDY. It is transmitted by the Secretary of the Army to the Congress, the report of the Chief of Engineers is transmitted by the Secretary of the Army to the Congress.

Mr. HOLIFIELD. Now, do you believe that the change proposed in this statute could overrule that particular statute?

General CASSIDY. I don't believe I am competent to make that judgment, sir.

Mr. HOLIFIELD. We will investigate this very thoroughly.

Mr. COPENHAVER. Is it not logical that, in accordance with law and procedures established, if this bill is going to have that effect, it must give some teeth to the Secretary of Transportation, who is going to take in all aspects of transportation, all modes of transportation?

Now if that is not the case, then it isn't desirable, I think, to just create a shell of a department. Therefore, if a proposal were made by the Corps of Engineers, which although somewhat in accord with the standards and criteria, because of its cost-benefit ratio, may be inconsistent with overall transportation policies developed by the Secretary of Transportation, no proposal would go forward. This procedure is established under section 7(b), that no proposal would go forward, if it was not in accordance therewith.

General CASSIDY. I don't read it that way.

Mr. COPENHAVER. So he could dispose by putting it aside.

General CASSIDY. In accordance with laws and procedures. This is where I say I am not competent to judge what would happen there.

Mr. ROBACK. Is it your testimony you are not quite certain as to whether the procedures you follow are going to be changed? There is an area of uncertainty, is that what you are saying?

General CASSIDY. Under that clause, I am not certain.

Mr. ROBACK. Do you think that you could profitably review this and submit from the Secretary or your Judge Advocate or whoever does this kind of reviewing, some opinion on this matter?

General CASSIDY. Yes, sir; we can review it.

Mr. ROBACK. I think it might be desirable and helpful, since questions were directed toward the procedures, to explain how you deal with the Congress and the review and coordinating agencies in a navigation project. Give us kind of a rundown so it will be clear as to how these procedures work.

Can you submit a memorandum on that?

General CASSIDY. I can submit a memorandum of what we understand by this.

(The memorandum referred to follows:)

#### INTERPRETATION OF ITEM 3, SUBSECTION 7(b)

The language in question reads as follows: "Every \* \* \* report \* \* \* shall be \* \* \* (3) transmitted \* \* \* by the proposing agency to the President for disposition in accord with law and procedures established by him."

This language was incorporated in the bill because the task force which drafted it anticipated that agencies other than the corps would prepare reports involving transportation, and since for certain of these agencies reporting procedures have not been established by statute, it might be necessary for the President to establish such procedures. It is not the intent of the bill that procedures established by the President would supplant, or modify, the present statutory requirement that reports prepared by the Corps of Engineers shall be submitted to Congress by the Secretary of the Army. Since 1943, all reports of the corps have been submitted to the Bureau of the Budget for review as required by Executive Order 9384. This submission would satisfy the requirement of section 7 that the report be "transmitted \* \* \* to the President." The views of the Bureau of the Budget



are set out in a letter which the Secretary of the Army forwards to the Congress along with the report. This procedure would not be changed by enactment of the quoted language.

**Mr. ROBACK.** I had raised two questions. One was with respect to your understanding as to whether the procedures would be changed by this provision, that Mr. Copenhaver was addressing himself to, and the other one related to an explanatory memorandum of how you get a project evaluated and authorized, the kinds of procedural activities—that is, reviews, coordination, and so forth—that are required in your normal course of business.

**General CASSIDY.** Yes, sir.

(The information referred to follows:)

#### STEPS LEADING TO AUTHORIZATION OF A WATERWAY PROJECT

The main steps in the procedure by which a waterway project is brought into being are outlined below:

1. Local interests request their representatives in the Congress to arrange for a study.
2. Congress authorizes the study.
3. District engineer of the Corps of Engineers makes an appraisal of the problem, holding public hearings when necessary.
4. If projects appear favorable the corps requests funds for the study.
5. Congress provides funds for study.
6. District engineer takes preliminary steps by holding public hearings, obtaining views of State and Federal agencies, preparing a plan of study and obtaining assistance of other agencies.
7. District engineer formulates plan by consideration of alternatives and by adjusting to maximum benefits; in accordance with standards established by the Water Resources Council and approved by the President.
8. District engineer makes economic evaluation of his final plan.
9. District engineer prepares his report and recommendations.
10. Interested agencies review the report at field level and submit comments to the district engineer.
11. District engineer prepares his final report.
12. District engineer holds public hearing to present his findings to local interests and others.
13. District engineer submits his report.
14. Board of engineers for rivers and harbors reviews report as required by law; holding public hearing when necessary.
15. Chief of Engineers prepares his report.
16. Chief's report is reviewed at Washington level by all interested Federal agencies.
17. Chief prepares final report and submits to the Secretary of the Army.
18. Secretary of the Army prepares his report.
19. Bureau of the Budget reviews the report for the President, and submits comments.
20. Report is submitted to Congress by the Secretary of the Army with the views of the interested agencies including those of the Bureau of the Budget.

**Mr. BROWN.** General, in the development of the standards and criteria and the funding of the program that might be recommended by the Corps of Engineers, we left out one criteria of consultation, and that is the Water Resources Council. Where do they fit into that picture?

**General CASSIDY.** The Water Resources Council under the act formulates standards and criteria for water resources development, broadly speaking. And since navigation is a part of water resources development, as this act spells out, there must be coordination between the Department of Transportation and the Water Resources Council.

Again, approval in each case is by the President, so any area of disagreement would be settled in the process reaching approval of the President.

Mr. BROWN. What does the Water Resources Council take into consideration besides the engineering feasibility and the economic beneficialty of the project which you may propose and are now making those two determinations on?

General CASSIDY. These are the essentials that they take into consideration: The economics of the project.

Mr. BROWN. Just the economics of the project?

General CASSIDY. The Water Resources Council has just been established. It is still being formed. It has the power to expand into many fields or into many other areas not yet touched, so it could establish procedures going beyond standards and criteria. We have always applied a set of economic standards and criteria. It could establish other procedures or other factors to be used in the judgment of the project, that is what it is for.

Mr. BROWN. Such as?

General CASSIDY. I could visualize where they might consider standard of channel dimensions, standards of protection from a flood; 50 percent, or 90 percent, of the standard project flood: they might be giving the various agencies certain factors to be used in the judgment of projects.

Mr. BROWN. And this is an area now determined by whom?

General CASSIDY. Now, by the Corps of Engineers.

Mr. BROWN. In other words, the Water Resources Council, which is new, and not complete in its development and evolution, would you think that is correct?

General CASSIDY. Yes, sir.

Mr. BROWN. Is in the process of acquiring some of the functions of the Corps of Engineers at present?

General CASSIDY. No, sir; not some of the functions. They——

Mr. BROWN. Judgments?

General CASSIDY. Some of the factors under which judgments can be made, in other words, we have created an agency which is to guide water resources development in this Nation. The authorities of the various agencies have not changed, but a directive agency has been put above them.

Mr. BROWN. In other words, the Water Resources Council comes above the Corps of Engineers to help establish standards and criteria in various ways, some of which we are not sure about yet?

General CASSIDY. That is correct, sir.

Mr. BROWN. And the Secretary of Transportation will be above the Water Resources Council?

General CASSIDY. No, sir.

Mr. BROWN. Collateral to it?

General CASSIDY. Collateral to it, I believe, because the Water Resources Council consists of the Secretary of Interior, Army, Health, Education, and Welfare, and Agriculture.

Mr. BROWN. The Secretary of Transportation then will contribute other standards in addition to the Water Resources Council?

General CASSIDY. As spelled out in this act; yes, sir; in coordination with the Water Resources Council.

Mr. ERLNBORN. Will the gentleman yield for one brief question?  
Mr. BROWN. Yes.

Mr. ERLNBORN. Do you think it might be desirable to add the Water Resources Council to the Secretary of Transportation, so he might have a part in establishing the criteria of that agency, coordinated with the criteria of his Department?

General CASSIDY. I believe this was considered by the task force working on this bill, but he just has one narrow area in water resources development, and a very broad area outside it, where the other agencies have more direct interests in water resource development.

Mr. ERLNBORN. So a judgment was made after considering this, that the Secretary of Transportation would not be a logical member of the Water Resources Council?

General CASSIDY. This is what I understand, sir.

Mr. BROWN. And Water Resources Council would in no way be subordinate to the Secretary of Transportation?

General CASSIDY. I don't know that—as you state the question there—that ever came up.

Mr. BROWN. Let's put it another way, that the Water Resources Council would be independent of the Secretary of Transportation?

General CASSIDY. Yes, sir; the Water Resources Council reports to the President.

Mr. BROWN. And you see nothing in section 7(b) which would put the Secretary of Transportation in any position of authority over the Water Resources Council with reference to standards and criteria?

General CASSIDY. This is correct, sir.

Mr. BROWN. General, I ask to what extent the Corps of Engineers or you were consulted in the preparation of this bill?

General CASSIDY. We were asked to comment. The counsel of the Department of the Army, Mr. Fitt, worked with the task force in the drafting of this bill and consulted with my office continually in that process.

Mr. BROWN. Over what period of time, sir?

General CASSIDY. About 3 weeks.

Mr. BROWN. Prior to the introduction of the bill or could you place that 3 weeks in terms of time?

General CASSIDY. Prior to the announcements by the President with respect to the bill.

Mr. BROWN. You mean the President's speech to the Congress on the subject?

General CASSIDY. Yes, sir.

Mr. BROWN. May I ask if the bill was in draft form when the Corps of Engineers was called in for discussions?

General CASSIDY. Yes, sir.

Mr. BROWN. It was in draft form?

General CASSIDY. Yes, sir.

Mr. BROWN. Did the Corps of Engineers contribute to any substantial changes made in the bill?

General CASSIDY. I am not familiar with the initial drafts of the bill, Mr. Fitt was working on them. We gave him——

Mr. HOLIFIELD. General, Mr. Fitt can answer that question if he is present.

General CASSIDY. Mr. Fitt is not present.

Mr. BROWN. Could we have a notation?

Mr. HOLIFIELD. Will you have him give us an answer to this question of Mr. Brown's?

General CASSIDY. Yes, sir.

(The requested information is as follows:)

PARTICIPATION OF THE CORPS OF ENGINEERS IN THE DEVELOPMENT OF H.R. 13200

A Presidential task force drafted the bill which was subsequently introduced as H.R. 13200. The General Counsel of the Department of the Army served on that task force, which held its first meeting on January 21, 1966. On the following morning the General Counsel informed the Chief of Engineers and requested his assistance in defining the relationship of the proposed new Department to the civil works navigation activities of the Corps of Engineers. On Monday January 24, 1966, the General Counsel met with the Acting Chief of Engineers to discuss his recommendations, and that evening drafted the language which ultimately became subsequently 6(f) and section 7 of H.R. 13200. The draft was coordinated with the Chief of Engineers on January 25. While there were several technical and perfecting amendments made later on, there were no substantive changes to the first draft prepared on January 24. All later changes and the bill itself were coordinated with the Chief of Engineers. All recommendations by the corps for change in the bill were incorporated therein.

Mr. HOLIFIELD. Thank you.

Mr. BROWN. That completes the questions I have.

Mr. ROBACK. I want to raise one more point which probably should have been raised with the earlier witnesses and may have to come up again. I would like to have the observation of General Cassidy. When you evaluate a project, do you send a team out to field and hold local hearings to get the views of the people involved, do you not?

General CASSIDY. Yes, sir.

Mr. ROBACK. And the general idea here is to get a cross section of the views of people whose economic welfare might be affected?

General CASSIDY. Yes.

Mr. ROBACK. And does this hearing process extend up to decisions in Washington or is that wholly in the field?

General CASSIDY. Generally, this is just in the field. When the project is first funded, so that we can go to work on it, it is first authorized then it is funded. When it is first funded, the first thing we do is have a public hearing to see what the people in the area really want, what they are talking about. At various stages during the development of the project, of the project plan, we keep informed and usually there is a public hearing when the project is fully formulated to tell them what we are thinking about and get their views at that time.

Mr. ROBACK. And later on you prepare a final report?

General CASSIDY. Yes, sir.

Mr. ROBACK. But I notice in the act which created the Water Resources Council there is a provision for hearings. And I assume that the Council is entitled to hold hearings and even put people under oath. The purpose for that is to be able to get views of various regions and economic interests affected because, obviously, decisions which they may make or recommendations which they may make to the Congress would affect the economic welfare and livelihood of regions, occupations, and industries.

Now, if there is a corollary authority on the part of the Secretary of Transportation to formulate standards and criteria analogous to the

authority invested in the Council, would it be appropriate, would it be necessary for the Secretary to provide for some kind of hearing procedure since the decision, the criteria which he makes can affect the economic destiny of occupations, regions, and industries?

General CASSIDY. The public hearings that we have, are concerned with a particular region. In the formulation of criteria and standards, we sometimes use consultants, and we sometimes talk with individuals. In the past, of course, this has been an interagency procedure. I don't think we have reached the point where we would want to hold a public hearing on establishing economic criteria and standards.

Mr. ROBACK. You don't think it would be appropriate at this level to hold a public hearing?

General CASSIDY. No, sir; I do not.

Mr. BROWN. Will the gentleman yield?

Mr. ROBACK. Yes.

Mr. BROWN. General, on page 19, the sentence which begins on line 16.

General CASSIDY. This is page 19 of the act?

Mr. BROWN. Page 19, sentence which begins on line 16 of the act. It reads as follows:

The standards and criteria for economic evaluation of the transportation features of the multipurpose water resource projects shall be developed by the Secretary after consultation with the Water Resources Council, and shall be compatible with the standards and criteria for economic evaluation applicable to nontransportation features of such projects.

Is that the way you see it then?

General CASSIDY. I don't see the connection between the public hearings and the economic standards and criteria. The public hearing is held with respect to a particular project so that the people concerned with it can come in and tell the Council, or tell whoever is holding the hearing, what their views are on the project. The criteria and standards are the rules under which we evaluate projects and are usually formulated in consultation, say, within the professional group.

Mr. BROWN. What we are getting at here is how the economic standards, which you have been determining in consultation with the Secretary of Commerce—and you will now be determining in consultation with the Secretary of Transportation, are going to be set in light of the involvement of the Water Resources Council, Secretary of Transportation, and the Corps of Engineers?

I am trying to determine just what the order is and I gather from this, that the Water Resources Council meets, has public hearings, and so forth, and makes its general evaluation, which then, according to this sentence, goes to the Secretary of Transportation, and using what he has from the Water Resources Council, as a part of his decision, he sets economic evaluation on the project and turns this over to the Corps of Engineers for combination with their evaluation of the engineering feasibility of the project.

General CASSIDY. Not quite, sir. Remember, the Water Resources Council has a permanent staff. That staff will be working with the Department of the Interior, Department of Army, Corps of Engineers, Department of Agriculture, Department of Commerce, Department of Transportation, in writing down what they consider to be the proper criteria for economic evaluation of the projects, line by line, just what

we should do in making our judgments. This would be coordinated with the Department of Transportation for their input to the same thing, because they would be doing the same thing, publishing a set of criteria for economic evaluation and navigation projects.

These both go up for approval by the President. When the President approves them, it is directive on me to use them.

Mr. BROWN. You mean the criteria set would go to the President before they come to the Corps of Engineers and then when they come back to the Corps of Engineers for combination with the feasibility studies—

General CASSIDY. These are just standards under which we work. These are not data; these are not projections. These are just standards; that is, economic standards. Such standards are promulgated by the Secretary, approved by the President and we use these in making our judgments.

Mr. BROWN. These would be generalized standards for all projects or different—

General CASSIDY. For all projects.

Mr. BROWN. Which could establish that moving a ton of freight by rail versus moving it by water has a certain economic effect or economic—

General CASSIDY. No, sir; it will be whether we will take direct benefits, indirect benefits, primary benefits, secondary benefits, these are just the rules under which we will operate. Then you get to the figures, the data. These are inputs by various agencies—or determined on our own—such as just what the cost of moving a ton by rail is, against the cost of moving a ton by barge, and what the difference is.

Mr. BROWN. And in all projects, the standards and criteria are the same?

General CASSIDY. Yes, sir.

Mr. BROWN. Thank you.

Mr. HOLIFIELD. May I say with regard to that language, General, as I understand it, it works in an orderly way. The Water Resources Council is composed of this broad board that you have described with members from the different agencies, and they set up standards and criteria for evaluation, which are applicable to the nontransportation features of the project. That is the first order of business?

General CASSIDY. Yes.

Mr. HOLIFIELD. Now, the Secretary of Transportation comes along and he is under a mandate, as outlined in line 20, that the standards and criteria for economic evaluation of the transportation features of the multipurpose water resource project shall be compatible with those criteria and standards already set up by the Water Resources Council, not so that he can override them, but, they shall be compatible with the nontransportation features of the projects as already decided upon by the Council. Once having passed that particular point of coordination and compatibility with the overall purpose of the multipurpose project, the standards and criteria that have been developed or devised pursuant to this subsection shall be promulgated by the Secretary of Transportation after the approval by the President. Is that your understanding?

General CASSIDY. That is my understanding, sir.

Mr. HOLIFIELD. Not being a lawyer, I am completely free to render a legal opinion at any time.

General CASSIDY. I duck those, sir. [Laughter.]

Mr. HOLIFIELD. Well, I hope that is the order, because as I see it, the Secretary of Transportation should have no right to come in to an overall, multipurpose project and upset it by any type of antagonistic evaluation and superimpose his will upon the broad will of the Water Resources Council, which goes much further.

General CASSIDY. Yes, sir.

Mr. HOLIFIELD. Mr. Reuss?

Mr. REUSS. Thank you, Your Honor, I have no questions.

Mr. HOLIFIELD. Any further questions?

Thank you very much, General Cassidy. You have been exposed to the inquiring mind of the committee.

General CASSIDY. Thank you.

Mr. HOLIFIELD. I think we might have time to hear the Honorable Charles S. Murphy, Chairman of the Civil Aeronautics Board. Come forward, if he is in the room.

Mr. Murphy, you have a statement, I believe?

**STATEMENT OF HON. CHARLES S. MURPHY, CHAIRMAN OF THE  
CIVIL AERONAUTICS BOARD; ACCOMPANIED BY JOSEPH GOLD-  
MAN, GENERAL COUNSEL; AND BOB ALLEN, DIRECTOR OF THE  
BUREAU OF SAFETY**

Mr. MURPHY. Yes, sir; not very long.

Mr. HOLIFIELD. Go ahead, Mr. Murphy.

Mr. MURPHY. I am accompanied by Mr. Joseph Goldman, the General Counsel of the Civil Aeronautics Board, and by Mr. Bob Allen, the Director of the Bureau of Safety. And they are available to help me with any questions that the committee might have.

We appreciate this opportunity to present our views on such an important measure as H.R. 13200, implementing the President's recommendation that a Cabinet-level Department of Transportation be established.

As you know, H.R. 13200 preserves the independent status of the Civil Aeronautics Board and does not alter its economic regulatory functions. However, the safety functions of the Board under titles VI and VII of the Federal Aviation Act of 1958 would be transferred to the Secretary of Transportation in the new Department.

Prior to presenting the Board's views on the transfer of the safety functions, I believe that it would be helpful to review rather briefly the responsibilities which the Board has in this area and how it has discharged them.

In general, the Board's function under title VI is to provide independent de novo review of actions of the Administrator of the Federal Aviation Agency in denying, suspending, or revoking safety licenses. As you know, there are various licenses issued by the Administrator which are a condition precedent to engaging in aeronautical activities. These include airman certificates (covering medical as well as technical qualifications) which are required of pilots, mechanics, dispatchers, tower operators, and the like; airworthiness certificates and type

certificates covering the aircraft itself, as well as engines, and propellers; air carrier operating certificates covering those engaged in common carriage by air (for example, the scheduled airlines); and air agency ratings issued to such facilities as flight schools and repair stations. The Administrator is empowered to issue, and thereafter amend, suspend, or revoke any such license whenever he determines that safety in air commerce so requires.

Under section 602, the Board, upon petition of an airman, sits as an independent tribunal to review the Administration's action in cases in which he has refused to issue or renew an airman certificate. The Board's function under 609 comes into play upon appeal of a licenseholder when the Administrator amends, suspends, or revokes a license. Unlike section 602, which is concerned solely with airman certificates, section 609 is concerned with all of the various safety licenses, and the cases coming before the Board involve both questions of qualification and disciplinary action by the Administrator for alleged violations of the safety regulations. The Board's function, however, is the same as under section 602. Under both sections, a full evidentiary hearing is required, and the Board makes its own independent determination as to the qualifications of the licensee or whether violations have in fact occurred. In addition, the Board determines whether the sanction imposed by the Administrator is appropriate.

The Board's caseload under these two sections has been substantial. Indeed, for the past 4 years, five hearing examiners have been assigned to these cases exclusively. In fiscal 1963, there were 143 new cases filed (36 under sec. 602, and 107 under sec. 609). While the number filed in fiscal 1964 dropped to 108, the figure rose to 153 in fiscal 1965. This represents an increase of better than 40 percent in 1965 over 1964.

The Board's accident investigation and prevention functions under title VII include responsibility for investigating all accidents involving civil aircraft, determining the probable cause of such accidents, making recommendations thereon to the Administrator of the Federal Aviation Agency designed to prevent similar accidents, making such reports public as may be deemed by it to be in the public interest, and conducting special studies and investigations to reduce accidents. The Board is given broad powers with respect to the conduct of safety investigations, hearings, and studies, including the power to examine and test aircraft, components, and property aboard any aircraft involved in an accident, and to perform autopsies on the remains of deceased persons aboard such aircraft.

The CAB's Bureau of Safety has the staff responsibility for investigating accidents and helping the Board to determine their probable cause, and for recommending ways and means to prevent accidents. Currently, the Bureau has 176 employees, accounting for 21 percent of the Board's employees and 26 percent of its budget, with 69 employees being located in 10 field offices throughout the continental United States. Except for administrative personnel, the Bureau's employees are made up of pilots and technicians skilled in all segments of aeronautical technology.

For the purpose of organizing and conducting investigations, aviation mishaps are divided into two categories. The first category is



centered around those catastrophic accidents which require a large force to investigate, and are of widespread public and official concern. Accidents in this category, for the most part, involve air carriers and are investigated by teams of technical specialists operating under the direction of Board specialists. These accident investigation teams are composed of experts in the many specialized aeronautical fields involved, and include representatives of the carrier, crewmembers' organizations, the manufacturer, and the Federal Aviation agency. The work of a team at an accident site may take a week or a month, and may involve use of aeronautical, medical, and metallurgical laboratories and testing.

Furthermore, although there is no requirement in the Federal Aviation Act of 1958 that a public hearing be held in connection with the investigation of an aircraft accident, a public hearing is generally held with respect to major air carrier accidents. The hearing is conducted by an inquiry panel, with a Board member usually presiding, and is in the nature of an investigation rather than an adversary proceeding. The principal reason for holding the hearing is to make a complete record of all known facts pertaining to the accident and surrounding circumstances and conditions.

Following the hearing, the Board issues a detailed report setting forth the circumstances of the accident, and its conclusions and recommendations concerning it. Quite frequently, the information developed in such an investigation forms the basis for recommendations designed to prevent similar accidents.

The second category of accidents investigated usually involves aircraft utilized in general aviation activities as opposed to air carrier operations. This secondary category is further subdivided into those accidents involving aircraft of less than 12,500 pounds gross takeoff weight and those involving larger aircraft, and in terms of fatal and nonfatal accidents. Pursuant to section 701(f) of the act, the Board has requested the Federal Aviation Agency to investigate significant nonfatal accidents involving fixed-wing aircraft of less than 12,500 pounds and to provide the Board with a report of this investigation. The form of this report is prescribed by the Board.

All accidents in this category involving fatalities are investigated by the Board's experts working out of the 10 field offices located throughout the country. The Board also requires reports of accidents to be submitted by the aircraft operators irrespective of whether the accident merits a field investigation by either agency, and all of these sources of information are utilized in determining the probable cause of accidents. In this connection, it may be noted that, although the statute empowers the Board to request the Federal Aviation Agency to conduct investigations on its behalf, it expressly precludes (sec. 701 (f) and (g)) any participation by the Administrator in the official determination of probable cause of the accident. In all cases without exception, the Board determines and publishes the probable cause.

The following statistics will give you some idea of the scope of the workload of the Bureau of Safety during the fiscal year 1965. The safety staff conducted 993 investigations and analyzed 5,014 investigative reports. There were 92 accidents involving air carrier aircraft, of which 11 involved fatalities, and approximately 5,100 accidents in

general aviation, with 513 involving fatalities. Eleven aircraft accident reports, contained detailed findings and analyses technically explaining the probable cause of the accident, were issued, together with 6,887 accident summary reports containing a brief description of the accident, statistical data, and probable cause. The Board submitted 61 safety recommendations to the Federal Aviation Agency.

Mr. Chairman, we have here some examples of the kind of accident reports that the Board issues and we will be very happy to submit them to the committee for such usefulness as they might have. I think perhaps they are too lengthy to justify burdening the record, but the committee might like to examine them.

Mr. HOLIFIELD. Without question, they will be received for use by the committee.

Mr. MURPHY. The Board is particularly proud of the performance of its safety staff. Aside from the fact that a heavy workload has been discharged with promptness and dispatch, we believe that public confidence has been instilled in the Board's findings with respect to aircraft accidents. Moreover, the Board's techniques and procedures in this field have served as a model for numerous foreign countries, and, we believe, have resulted in establishing the Board as the leading authority on the determination of probable cause in aircraft accidents.

Nevertheless, we also recognize the potential benefits of a coordinated safety program for the various modes of transportation. Indeed, the staff of safety experts to be transferred from the Board to the new Department would bring with them special skills and experience that might serve as a catalyst for developing new and improved techniques for safety investigation in other modes of transportation. The Board supports, therefore, the President's recommendation in this respect, although we will be saddened by the departure of our colleagues on the Board's safety staff.

The importance of the benefits that could flow from making the know-how of our air safety investigators available with respect to other modes of transportation is suggested by the remarkable record of safety in the air. Travel by air is incredibly safe in relationship to the inherently greater risks involved in flight as compared with travel on the surface. This is shown by the compilations relating to transportation accident death rates published by the National Safety Council.

For the period 1961 to 1964, the death rate per 100 million passenger miles in scheduled domestic air transportation was 0.16, which was slightly below the 0.17 rate for bus transportation, and slightly above the 0.09 rate for the railroads.

The passenger car fatality rate, including taxicab, was 2.3 per 100 million passenger miles, many times that of the other modes of transportation.

The President's message also highlighted the need for more effective measures for safety in surface transportation and the contrast between the number of deaths attributable to surface and aviation accidents. He pointed out that 54,100 Americans were killed during 1965 in transportation accidents, and that 52,800 of these died in accidents involving surface modes of transportation. Only 1,300 of the deaths were attributable to aircraft accidents.

Thus, proven safety techniques in one means of transportation have potential benefit if they can be applied to all the various modes. It would be inappropriate for me to discuss the internal organization of the new Department. However, it should be possible in some way to make aircraft accident investigative techniques available across the board. Indeed, the CAB only recently provided assistance to the Atomic Energy Commission in adapting aircraft accident investigative techniques to the investigation of an explosion and fire which occurred in the Cambridge Electronic Accelerator Experimental Hall at Harvard University.

According to the AEC, participation and guidance by the Board's experts constituted a significant contribution to effective investigation of the accident. We would hope that this would be the kind of skill and experience which the safety experts of the Board might bring in the development of new and improved techniques for the investigation of accidents in other modes of transportation.

As I stated earlier, the bill does not alter the economic regulatory functions of the Board. Indeed, the only change to be made in the economic provisions of the Federal Aviation Act relative to the CAB is an amendment to section 406(b) (3), the subsidy provision. This amendment would provide that, in administering the subsidy program, the Board shall take into consideration the standards and criteria prescribed by the Secretary of Transportation for determining the character and quality of transportation required for the commerce of the United States and the national defense.

This provision would not impair in any manner the Board's independence in subsidy matters since the Board would not be bound by the Secretary's standards. Rather, the amendment embodies the established principle that a regulatory agency such as the Board should give weight to the views of other governmental components having responsibility in related areas.

The principal reason for its inclusion is to insure that the Board's subsidy program would be administered with due regard for overall national transportation policy.

In this connection, the Board agrees with the President that the payment of subsidies—now being provided primarily for local airline services—should be left with it.

The subsidy program in our view is inseparable from the basic economic regulatory system. Subsidies are not granted in isolation, but rather are awarded to support operations over specified routes. Route awards in turn are based in part on the subsidy implications. They are awarded in the hope that those operations which are not immediately self-sufficient will become so with the passage of time, and that a carrier's need for subsidy will decline from year to year.

Furthermore, the Board frequently makes adjustments in the existing route structure designed to strengthen the weaker carriers and to reduce or eliminate their dependence upon subsidy. Other phases of the regulatory process also are involved in that rates, mergers and the like have an inevitable impact upon the subsidy in direct proportion to their impact upon the general economic well-being of the carriers.

In conclusion, the Board supports the enactment of H.R. 13200. The establishment of the new Department of Transportation will not

make any radical changes in the aviation part of the transportation spectrum. It happens that air transportation is in very good shape, and the President's recommendations will help to keep it that way.

That, Mr. Chairman, concludes my prepared statement.

Mr. HOLIFIELD. Thank you, Mr. Murphy, for your presentation.

At this time we will adjourn for lunch and reconvene at 1:30. At that time I hope you can be here so——

Mr. MURPHY. Mr. Chairman, I am sorry. It is not possible for me to come back this afternoon. I will be glad to come on another day, but I have a longstanding commitment for this afternoon and I must ask you to let me keep it.

Mr. HOLIFIELD. I think that we will have to ask you to come back then, Mr. Murphy. It is the noon hour and some of the members have noon engagements with constituents. You know this is campaign year.

Mr. MURPHY. I will be glad to come back——

Mr. HOLIFIELD. Our first duty is to our constituents to insure our return, so that they can continue to have the valuable services we are rendering them. We respect your engagement, too.

Mr. MURPHY. I will come back on whatever day is convenient.

Mr. HOLIFIELD. All right, we will have to ask you to come back then.

Mr. MURPHY. All right.

Mr. HOLIFIELD. Thank you very much.

The meeting is adjourned until 1:30.

(Whereupon, at 12 noon, the subcommittee was recessed, to reconvene at 1:30 p.m., this same day.)

#### AFTERNOON SESSION

Mr. HOLIFIELD. The committee will be in order.

The first witness will be Hon. William F. McKee, Administrator, Federal Aviation Agency, which will be transferred under the act to the Department of Transportation.

You may proceed with your statement, Mr. McKee.

#### **STATEMENT OF HON. WILLIAM F. McKEE, ADMINISTRATOR, FEDERAL AVIATION AGENCY; ACCOMPANIED BY ALAN L. DEAN, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION; AND NATHANIEL H. GOODRICH, GENERAL COUNSEL**

Mr. McKEE. Mr. Chairman, first I would like to say that I have with me here today Mr. Alan Dean, who is the Associate Administrator for Administration in the Agency, and Mr. Nathaniel Goodrich, who is our General Counsel.

It might be of interest to the committee to know that both of these gentlemen were on the President's task force that worked on this bill.

Mr. Chairman, I appreciate the opportunity to appear before you today to support the creation of a Department of Transportation.

My testimony this afternoon is intended primarily to advise this committee on matters in this legislation that relate to the functions and mission of the Federal Aviation Agency.

For this reason, I will not undertake to restate the general reasons in favor of the creation of the Department. I do want to assure the

committee, however, that I subscribe to them and agree with the need for creating a Department of Transportation, and support H.R. 13200.

We in FAA view aviation as part of a total transportation system. We believe it should not and cannot be treated in isolation from other modes. Its proper long-range development and the administration of its current programs can only benefit from coordination with other forms of transportation and integration to the extent feasible into a comprehensive national transportation system.

The legislation before you will make it possible for aviation, as one of many forms of transportation, to receive Cabinet level consideration. FAA believes that the creation of the Department will result in increased efficiency of transportation programs. It will make possible the coordination of research and development, planning, and most important, service to the public. Government organizations in the field of transportation can be streamlined and coordinated best if they are first brought together. The expenditure of Government funds will be managed with greater knowledge when the competing demands of the various modes of transportation can be compared under the direction of a Secretary whose responsibility includes them all.

One of the outstanding features of a department will be the increased emphasis on safety in all forms of transportation. We are all too aware of the increasing toll of human life in transportation accidents. Each of the agencies to be included in the Department has pursued its individual safety programs conscientiously and diligently. The FAA is pleased to note that the accident rate in aviation has been lowered significantly in recent years. Coordinated attention to safety will provide a broader basis of knowledge to maintain this progress. We will be in a better position to learn from the experience in other forms of transportation and to share our knowledge with them.

The Department will provide for a better level of ability to match total intercity transportation capacity to demand. Overexpansion and imbalance between modes of transportation will be avoided.

As the cost of providing public services increases, aviation will face increasing competition for public moneys. The total demands of all forms of transportation have reached considerable magnitude. The very size of the sums involved justifies the decision to coordinate Government programs that require the expenditure of increasing amounts of public money. This is not to suggest necessarily that drastic reductions will be achieved. The significant point is that the demand for expenditures continues to grow at an ever-increasing pace.

Our goal is to apply increasingly scarce moneys where they are needed, and to the extent they are needed in the future, under a better system of control and with a better understanding of the impact of the various transportation systems on each other. Thus, even if total transportation program expenditures increase in the future, there will be more certainty that decisions on spending are made in light of some overall knowledge of comparative needs and benefits in the various modes of transportation.

The total net increase, therefore, is likely to be less under coordinated direction. In this way, we can assure the Nation a maximum return on its investment in all transportation systems.

More explicit and more consistent standards will be available when the programming of Federal expenditure for transportation is in the hands of a single official with executive responsibility. The relative importance of the various modes of transportation will be brought into sharper focus to the extent that they are brought closer together under unified analysis and assessment.

From my long experience in the Department of Defense, I can assure you that transportation is a vital lifeline in the Nation's defense preparedness. Coordinated direction will provide invaluable defense readiness advantages.

The bill does not make any major change in FAA's answerability as a systems operator when accidents occur. The Federal Aviation Act provides that the Civil Aeronautics Board, an agency independent of the FAA, will conduct accident investigations and determine the probable cause of accidents. CAB investigates all air carrier accidents and all fatal small plane accidents. While reserving the right to determine cause, CAB has delegated to the FAA the investigation of nonfatal accidents involving aircraft under 12,500 pounds. Title VII of the Federal Aviation Act provides for FAA participation in accident investigations conducted by the CAB.

Under the bill, the investigators now in the CAB Bureau of Safety will continue in their new home in the Department to exercise the statutory authority in the Federal Aviation Act to conduct accident investigations independently of the FAA. Determination of probable cause will be made by the National Transportation Safety Board, which the bill creates as an independent statutory agency.

The CAB also acts as an appeals body in appeals from Agency orders in actions taken as a result of violations of safety regulations. The Agency will continue to be subject to such appellate review in the National Transportation Safety Board.

We have a very fine organization in the FAA, with which I can truly say I am proud to be associated. It is a very efficiently run organization. Its people are completely dedicated to its major tasks of safety and service. They have a very acute awareness of the public interest in the promotion and development of aviation to serve the Nation's defense and economic needs. The Agency plays a very vital role in relation to the defense needs of the country. It operates a common system of air traffic control for use by both military and civilian aircraft. It is almost entirely civilian in its work force (we have fewer than 100 military personnel on duty), yet it is completely responsive to the needs of our country's military services.

With my background of service as Administrator and in the armed services, I have naturally looked very carefully at all the implications of transferring the Federal Aviation Agency to a Department of Transportation. The FAA was involved in the preparatory discussions virtually from their outset. A task force was established by the President to look into everything that should be considered in submitting this legislation. The Agency was represented on the task force, which included representatives of the other major agencies that will become part of the Department. We had every opportunity to explore ways in which we believe the Agency's operations might be

affected and to insure that they will continue with the same high degree of efficiency and dedication that they have had until now. I am convinced this bill will make that possible and therefore support the bill.

In bringing together the Coast Guard and the Federal Aviation Agency, the Department will provide a common environment and stimulus for two agencies that are similar in size and method of organization and operation, over and above their community of interest in serving complementary modes of transportation. FAA for example has a very vital defense-related role, evidenced by the outstanding Executive order of the President which provides the basis for its transfer to the armed services in the event of war or national emergency. Even in peacetime, a major portion of FAA activity serves the requirements of the aviation elements of the Nation's armed services. In sharing this common relationship to defense needs in war and peace, the FAA and the Coast Guard have an additional incentive to collaborate effectively in the framework of a Department of Transportation.

All of us in FAA understand the need for a better Government operation in the field of transportation. Thus, as public servants, we subscribe to the manner in which this bill makes possible the coordination of transportation services and programs. We regard the establishment of the Department as promoting transportation, not as demoting aviation, and see long-range benefits to aviation as well as to other modes of transportation in the coordinated direction that a department provides.

FAA will continue as an aviation component of the Department of Transportation. Its officials and employees are shielded against adverse effects upon their grades or compensation. The integrity of its functions and operations are emphasized by the provisions of section 4(b) of the bill. This statutory mandate plus the legislative history being made before your committee will provide adequate guidelines for a future Secretary. We have every faith and expectation that the Secretary nominated by the President and confirmed by the Senate will recognize the manner in which this bill contemplates a continued active direction of the aviation activities that FAA has conducted until now.

Thank you.

Mr. HOLIFIELD. Mr. Reuss?

Mr. REUSS. No questions.

Mr. HOLIFIELD. Mr. Erlenborn?

Mr. ERLNBORN. General McKee, as I understand, your agency, among other things, is the licensing agency for pilots and aircraft?

Mr. McKEE. That is correct.

Mr. ERLNBORN. And in administering this, you can and do revoke licenses and in other words, there is appellate procedure that presently goes to the CAB, is that correct?

Mr. McKEE. We can withdraw certificates, suspend them, or take other actions, that can be appealed to the CAB.

Mr. ERLNBORN. Under this proposed creation of the new Department of Transportation, would the appellate procedure change? Do I understand it would go to the National Safety Board?

Mr. McKEE. Go to the National Safety Board?

Mr. ERLNBORN. Rather than to—

Mr. McKEE. The National Transportation Safety Board would be correct.

Mr. ERLNBORN. Rather than to CAB?

Mr. McKEE. That is correct.

Mr. ERLNBORN. So the CAB is losing its appellate jurisdiction in this area?

Mr. McKEE. That is correct.

Mr. ERLNBORN. Now, I understand your agency will be transferred as a whole, all of the functions of your agency will go to the new Department, is that right?

Mr. McKEE. That is right.

Mr. ERLNBORN. Do you anticipate it will maintain somewhat of an independent status?

Mr. McKEE. No; not an independent status, Mr. Erlenborn. That is not contemplated. Nevertheless, it is contemplated that the FAA will maintain its operational integrity, and that is recognized by section 4(b) of the act.

I don't think there is anyone in the administration who doesn't completely agree that looking at the mission of FAA, that its operational integrity shouldn't be maintained as such.

Mr. ERLNBORN. In other words, it will be a separate agency, not independent—

Mr. McKEE. Not independent, under the Secretary of the Department of Transportation.

Mr. ERLNBORN. But will still be known as the Federal Aviation—

Mr. McKEE. Whether it will be known as the Federal Aviation Agency or Federal Aviation Administration, I don't think that has been decided but I don't think it makes much difference one way or the other.

Mr. ERLNBORN. I understand, when you are transferring and combining several different agencies into one group and Department, the necessity of maintaining those employees who are in certain grades and not jeopardizing their position. It would be hopeful that savings would be realized in the new Department. Would you anticipate that some time in the future, after the present employees have retired or left the service for one reason or another, that there might be, through the economies that are possible, by the combination—

Mr. McKEE. I think economies are possible, because when you bring all of the different agencies and functions in the Department of Transportation, then you can start to consolidate overhead. For example, one tremendous area is in the ADP, automatic data processing, where you can get more utilization out of your computers, for example on payrolls, also many other areas.

I think we can make considerable savings in maintenance. I think you can make considerable savings in general service support, like supply, handling of mail, and many other areas that come under the administrative field.

Mr. ERLNBORN. I am not fully familiar with the history of the FAA, but was it not at one time, it or some predecessor agency, part of the Department of Commerce?



Mr. McKEE. At one time when it was known as the Civil Aeronautics Administration, it was under the Department of Commerce.

Mr. ERLNBORN. Do you know what the rationale was in removing it from Commerce and making it an independent agency?

Mr. McKEE. I think Mr. Dean was there at the time. I was not, so I'm not as well acquainted with the rationale behind it.

Mr. ERLNBORN. Could you answer?

Mr. DEAN. Mr. Erlenborn, as a result of some studies made in 1954 through 1958, it was concluded that there was not sufficiently concentrated authority in any single official to handle the growing aviation functions of the Government. As a practical matter, the Civil Aeronautics Administration did not have anything like the authority or responsibility that the FAA has today.

It was then concluded that in the absence of a Department of Transportation, the Federal Aviation Agency should be created. Certain functions were moved from Defense, certain from CAB, certain from the Department of Commerce, and certain from the President's Assistant for Aviation Facilities Planning. This was the origin and the purpose of the FAA.

Mr. ERLNBORN. As I understand it, another of the functions of your agency is air traffic control, is that correct?

Mr. McKEE. That is one of the major functions.

Mr. ERLNBORN. And also airport development and research as to airport design?

Mr. McKEE. That is correct.

Mr. ERLNBORN. As an independent agency, you make a determination, I presume, annually and probably projected even more than on an annual basis, as to how much you need for these functions to improve air traffic control or for research and development of airports and so forth, and you make this as an independent agency and probably competing for the dollars that are available in the total budget.

Do you feel that now as part of a new Department, you, as the head of this agency, presuming that you would continue to head it when it is merged in the Department, would have less say as to how much would be available for air traffic control and for airport development?

Mr. McKEE. On the contrary, I might have more to say, because I have a Secretary up there fighting with me, and for me. Now I fight by myself over in the Bureau of the Budget, with all of these other competing elements in the area, so there would be two of us fighting instead of one of us.

Mr. ERLNBORN. Do you feel there would be any conflict possible with you and the head of the Department, the Cabinet officer, since he would have to make a determination as to where the task dollars for transportation would be spent, whether the emphasis should be put on rail, water, or air?

Your interest, of course, is going to be air. His is going to be more of an overall interest and he is going to have to make a determination of priority.

Mr. McKEE. We have the same thing today over in the Bureau of the Budget, so I see no more problems in an organization of this type than we have today. You also have that problem, because there is never enough to go around, and everybody always wants more than

they are going to get, and everybody is going to fight as hard as they can to get as much as they can, so——

Mr. ERLNBORN. You are only going to change the battleground to make it within the Department instead of within the Bureau of the Budget? Or maybe create two battlegrounds?

Mr. McKEE. I wouldn't call it a battleground, because that is a way of government both in Federal Governments, State governments, and city governments, and also in industry. That goes on all the time.

Mr. ERLNBORN. As I understand it, one of the things that is hailed about this Department is the fact that we are going to combine all of our safety functions in the new Department. Do you think that there is a real close relationship between air safety, water safety, highway safety, and the other elements?

Mr. McKEE. Well, in a matter of philosophy, yes. Of course, aviation safety, obviously, is quite a bit different from highway safety and from maritime safety. On the other hand, many of the fundamental principles of safety are applicable in any mode of transportation: structures, metallurgy, for example, many of the things we are doing down at the Aeronautical Center right now in the safety function are quite applicable to the problem of highway safety.

As a matter of fact, some of the ideas that are being used in the highway safety program come from us, so you have a feed between the various elements, and if you had a new idea in aviation safety, it might well be picked up and be directed by the Secretary to be used in highway safety or maritime safety.

Mr. ERLNBORN. As I understand in the presentation that Mr. Schultze made to the Senate, there was one sentence he deleted in his presentation to us, and it had to do with the composition of the National Transportation Safety Board in it. In the Senate presentation he said that he expected this would be a small unit without too much manpower and that the functions would be carried on in other elements of the Department.

I don't know if you are familiar with this, but what is your concept of the function of the Safety Board as proposed here? Will it combine all of these safety features?

Mr. McKEE. I understand that Mr. Schultze, yesterday, before this committee, made the statement that while the investigative function as such, as opposed to determining the probable cause of an accident, would not be in the National Transportation Safety Board, but somewhere else in the Department, but that a final determination has not been made as to where it would be.

As to the functions of the Federal Aviation Agency, we can operate either way. It has been our method of operation that first, let me say, we are very much involved very deeply in the safety function every day in all of our elements because it is one of our primary missions and primary charges.

But with respect to the investigative function, that has been done separately and independently by the CAB. As we understand it, regardless of where it goes in the Department of Transportation, it will still be done separately and independently from the FAA and we subscribe to that principle.

Mr. ERLNBORN. Is this spelled out in the proposed act or is this merely an understanding that the task force that developed this did it among themselves?

Mr. DEAN. Mr. Erlenborn, the location of accident investigation per se is not spelled out in the act. It is a function of the Secretary, for which he will provide.

And as Mr. Schultze pointed out, this is a very delicate thing, involving many methods and many traditions in the various modes of transportation. It is still under careful study.

Mr. ERLNBORN. Turning to something that has captured the imagination of many people, the development of the supersonic transport, are you involved in this proposal?

Mr. McKEE. We are responsible for the development of the supersonic transport.

Mr. ERLNBORN. Do you feel that you would be still as deeply involved in the development of this as just a constituent agency of the Department or merged into the new Department?

Mr. McKEE. I know of no thought to change the present location of the Office of Supersonic Transport Development and I don't think this Department of Transportation would have any significant effect except maybe to help us out some in some of the problems we have.

Mr. ERLNBORN. The Cabinet officer heading that Department would in effect have veto power over this, if he should care to exercise it, would he not?

Mr. McKEE. Yes, I presume he would. On the other hand, in view of the nature of the supersonic transport program and the tremendous interest shown in the program by the President, I don't think any Secretary of Transportation would be exercising very many veto powers that would halt the progress of the project. I can't imagine any.

Mr. ERLNBORN. The reason I ask this question, I think there is a related development of new manned bomber systems that has been long the intention of Congress, I think, but in effect, though the funds were allocated, were appropriated, the Secretary of Defense decided that it was not desirable, and so veto power can be exercised even over the wishes of Congress if the Secretary wishes not to expend the funds. He doesn't have to.

Am I correct in this?

Mr. McKEE. Well, I think it is really the Secretary's responsibility to carry out the will of the President. Of course, if the President decided he didn't want to have a supersonic transport program, the Secretary would be in pretty good shape to veto it, but if the President of the United States has made a determination that the administration should go forward with the supersonic transport program, no Secretary is going to veto the program, for sure.

Mr. ERLNBORN. In other words, the Secretary would be in about the same position as you are presently, if the President instructs—

Mr. McKEE. He is responsible and wants this to happen. He has the same responsibility for pushing the program forward as I have now as Administrator of the FAA.

Mr. ERLNBORN. Do you think that one of the principal values of the creation of this new Department is to get priorities as to in what modes of transportation we should invest our Federal funds?

Mr. McKEE. That is certainly one of the functions and, of course, as has been brought out here in rather lengthy testimony, it is to pull all of the various modes of transportation and policies affecting those modes together into a coherent whole for the benefit of the public.

Mr. ERLNBORN. I have no further questions.

Mr. HOLIFIELD. Mr. Rosenthal?

Mr. ROSENTHAL. Thank you, Mr. Chairman.

General McKee, I represent the area immediately adjacent to La Guardia Airport and somewhat within a stone's throw to Kennedy Airport. Noise abatement has been one of the deep concerns of mine as well as a problem of large numbers of our constituents, and we have been deeply concerned about what can be done to solve the problem.

Quite frankly I have been of a mind that the Federal Government hasn't done enough with as much force as they ought to. And pursuing this concern, I intend to offer an amendment to the committee, and if unsuccessful in the committee, probably on the floor, to create an aircraft noise abatement service to be added to your Department within the new Department, to have the following responsibilities:

To conduct research and investigations as may be necessary to accomplish the following purposes:

(a) To develop a workable measuring system for correlating the intensity and quality of aircraft noise with the distress of the people on the ground caused by such noise.

(b) To develop quieter aircraft through research and development in the field of airframe and powerplant design in the field of vertical takeoff and landing of equipment for aircraft.

(c) To develop a comprehensive body of knowledge concerning methods and devices for aircraft noise abatement including but not limited to mechanical devices such as noise suppression devices to aircraft engines, and ground baffle systems, procedural techniques applied to air traffic control systems such as preferential runway systems and greater ascent and descent angles for aircraft, and administrative procedures for aircraft noise abatement to local zoning regulations in airport site selections.

(d) To consolidate and coordinate current research data from all sources relating to aircraft noise abatement.

Now I know that your Agency has been concerned with many of these things and has moved forward at a pace something less than, in my judgment, is desirable. I am also aware that you have spent some money on this. If my memory serves me correctly, maybe a million and a half dollars last year, or something in that area.

I am also aware of the fact that there are some who believe the state-of-the-art has not advanced sufficiently so that real accomplishment can be made in this field. But my layman-like judgment is that if we spent a good deal more money and had we directed a vigorous research effort in the field, much more could be accomplished.

I would like to bring to your attention—I am getting up to the question in a rather round-about way—to bring your attention to an editorial that appeared in the Long Island Daily Press on March 21, 1966, entitled "Federal Control Over Jet Noise," and it begins as follows:

President Johnson, who set up a special panel last October to study the jet plane noise problem now has that panel report. The experts representing Government, industry, and various scientific groups, now put the problem squarely in the lap of the Federal Government. Noise abatement will never be obtained unless Washington finds and poses a solution.

It goes on as follows:

The President is expected to name another group to seek an answer to the riddle, particularly for New York City, Chicago, and Los Angeles. This is good news as far as it goes. But meaningful action may still be many years away. The new panel is expected to assess the scope of the noise problem as far ahead as 1975. A program like that does sound a bit like the Supreme Court's famous order to desegregate with "deliberate speed."

There are about 750 airports served by jets at this moment. The Federal Aviation Agency thinks there may be 300 or 400 such airports in 3 or 4 years. Certainly deliberate speed is better than none, but the real imperative is for haste. The problem grows by the hour and we cannot dally over it for years.

I wonder if you would comment on my statement?

Mr. McKEE. With regard, Mr. Rosenthal, to your last statement about we can't afford to dally on this for years, I couldn't agree more and I want to assure you that we are not dallying. As a matter of fact I signed an order last evening establishing a noise-abatement staff within the FAA Headquarters. I spend about as much time on the noise problem and noise abatement problem as almost any other problem I have had in the FAA since I have been there.

You may be assured I am never allowed to forget it because you, along with a great many others, and also a lot of other people, good friends I have all over the country, remind me of the problem every day.

I appreciate the problem, it is a serious problem. But while there is a very heavy responsibility here on the part of the Federal Government, I would like to state, as I have said in a number of speeches around the country, that this problem is going to get solved with the hard work of the Federal Government, the hard work of industry—and industry is very much involved here—the hard work on the part of the airlines, and with hard work on the part of every community in this country.

Our overall planning has been poor in this area.

Mr. ROSENTHAL. Whose planning has been poor?

Mr. McKEE. Our overall planning, on the part of the communities, on the part also of the Federal Government, and I will take the blame there, so far as I have been in the Federal Aviation Agency, I think we could have done more than we did, and I can assure you that I am charging full speed ahead to do exactly what you are talking about.

I would like to read here, to get this perspective:

The President's message to Congress on transportation recognizes the problem of aircraft noise and proposes a very high level approach in a search for solution. The President has indicated he is asking his adviser on science and technology, Dr. Hornig, to bring together the FAA, NASA, Department of Housing and Urban Development, Department of Commerce, to frame an action program. The President asked the group to study development of noise standards and compatible use of land near airports, to consult with local communities and industry and recommend legislative or administrative actions needed to move ahead in this area.

We are already working on this. We are working up an overall program. I say we are doing a lot of work on it in FAA, and that is the reason I set up this noise abatement staff. We are working with NASA, Housing and Urban Development, and with Commerce, particularly Dr. Hornig. We will propose an overall program for the approval of the President.

If that requires legislation, we will come to Congress with appropriate legislation. So, to sum it up, Mr. Rosenthal, we are moving ahead and we are not dillydallying at all. I am personally putting a tremendous amount of effort in this.

Now one of the areas that I have been working on very hard of late is with industry, because after all if you can stop—you will never stop the noise—but if you can curtail the noise and make the noise at least reasonable, the best place is at the source and that is the airplane that makes the noise.

We are making some real progress in that area, and I am pleased with the progress that is being made. I have talked personally to the president of the General Electric Co., no later than a week ago, within the last 2 weeks. I have talked to the president of United Aircraft on this problem. I think they understand the seriousness of the problem.

The airlines are getting around to a point now where they are taking noise into consideration in buying their airplanes, so as to keep the noise levels down.

I think that people are beginning to realize that at some airports in the country, if the noise levels exceed noise levels that we have today, they probably are not going to be permitted to operate. So we propose to attack this problem by industry working with the local communities, working with the agencies of the Federal Government that have the responsibility. NASA is spending, as you probably know, quite a large sum of money in this area as well as the FAA. So there is an overall consolidated attack on the problem.

I understand the problem, I am sympathetic to it and you may be assured that I am going to give it my all-out effort.

Mr. ROSENTHAL. Thank you very much.

Now let me see if I can bring it back to some relevancy to this bill. We have been told that one of the theories about reorganization is to narrow areas of responsibility, to zero in with one man who can assume charge of a function and not to dissipate efforts over four and five different agencies in the Federal Government. This, I think, has been the thrust of Mr. Schultze's general presentations.

Now we are told for the first time that the President has appointed a committee under Dr. Hornig, which has no real appropriation, as far as I know, and which has no real authority, as far as I know, and that Committee is going to consist of individuals such as yourself and half a dozen others.

The reason I suggest that I am going to offer this amendment is that I think that you fellows are well equipped to help us out with the problem. I think you have a commitment to a solution to the problem, and I am perfectly willing to put this problem right in your lap, provided we give you sufficient funds and sufficient congressional impetus to do something about it. And I think that the idea of another Commission to study the thing, which has been going on now for 10 years, is really delaying it beyond 1975, and it would seem to me that the most effective answer to the problem is to create this noise abatement service, put it under your jurisdiction and give you sufficient funds to go ahead and solve the problem.

Could you disagree with that?

Mr. McKEE. I doubt very much that this should be set up under the statute. I would think that with responsibilities that the Secretary of the Department of Transportation will have in the overall area, that he would come up to the Congress and propose such legislation as he thought necessary in order to solve the problem. Because actually, there is authority at present, maybe not enough money, but there is authority at present to attack the problem and really, this group of Dr. Hornig's is not set up for the purpose of a long, drawn out study.

As you say, studies have been made. We know what the noise problem is. But rather, it is a program of action to get at it, not to string it out and study it.

As a matter of fact, we are taking a lot of action right now in the FAA.

Mr. ROSENTHAL. Wouldn't an Administrator, such as yourself in the FAA, provide more action than another study commission such as Dr. Hornig's?

Mr. McKEE. I am already doing it.

Mr. ROSENTHAL. And yet you are doing it with a minimum amount of funds available to help solve the problem.

Mr. McKEE. Actually the solution to this problem is really not going to come about by the expenditure of a great deal more funds. It is not so much the funds. There are severe technical problems that have to be solved, but here again, industry comes in, and I have pointed out to industry that they have a real responsibility. After all, they have large research and development funds. They have to sell their engines to the airframe manufacturers who in turn have to sell them to the airlines.

Now, it is incumbent upon them to build an engine and the airframe manufacturer to build an airplane that is reasonably acceptable to the public. And so they have a real incentive, and I can assure you now that both the airframe manufacturers and the engine manufacturers are spending significant sums of their own on this problem and my guess is that they are going to spend a significant amount more.

Mr. ROSENTHAL. But you haven't established any rules or standards that they have to meet. They are just shooting in the dark on these expenditures. They don't have to produce an engine or combination aircraft and engine to meet a certain standard.

Mr. McKEE. We have given them a rule and standards that they have to meet as a regulation which says you cannot fly that airplane if you exceed such and such a standard. But we have pointed out to them what the standards are. Now we have done this in supersonic transport. For the supersonic transport we have laid down specific standards which will not be exceeded. The air manufacturer and engine manufacturers understand this.

Now, if you come up here in competition and you have two engines, from an operational standpoint they are pretty near even, but if one has a significantly better noise characteristic than the other, he is in a highly favorable position and they know this.

Now this is going to start happening down the line, and as new engines come out, people begin to recognize this.

Mr. ROSENTHAL. I think we are getting a little off the track and perhaps taxing the chairman's patience just a drop, but I do think it is extremely relevant to this bill that if Congress had occasionally taken the initiative in narrowing fields of responsibility, we ought to do it, and it seems to me if resolving this very difficult problem—I acknowledge completely it is a difficult problem—that it ought to be in the hands of an administrator rather than another study commission.

Rather than impose on the committee, I am going to submit this proposal to you in writing and hope perhaps that by the time the committee has to mark up the bill that maybe you will see fit to support the amendment.

Mr. McKEE. I will be very happy to comment on your proposed amendments.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. HOLIFIELD. Thank you.

Mr. BROWN?

Mr. BROWN. General McKee, could you assess the air service in our country compared to that of other nations as to safety, individual comfort of passengers, or efficiency of the system generally, routes, airports, schedules, and its readiness for national defense in emergencies?

Mr. McKEE. That is a pretty big order, Mr. Brown.

Mr. BROWN. Can you give me a comparative idea? Do we rank high or low—

Mr. McKEE. I don't like to make comparisons when you get in the international scene. I do feel very strongly—and I think the facts support my statement—that the United States is certainly the leader, the No. 1 leader throughout the world in civil aviation, without any question, and I don't think very many people will argue that point, both in terms of equipment, in terms of safety, in terms of air traffic control, and most any other area that you wish to mention.

Mr. BROWN. Passenger-miles?

Mr. McKEE. Obviously, I think we are flying more passenger-miles than any other country. Passenger comfort—foreign airlines, as far as passenger comforts are concerned, they offer just as much as we do. But we are certainly the leaders in the world in civil aviation without question.

Mr. BROWN. The amount of service offered in terms of location of airports and the routing of commercial airlines?

Mr. McKEE. I would say "Yes."

Mr. BROWN. To what extent—

Mr. McKEE. I might add, Mr. Brown, we propose to keep it that way.

Mr. BROWN. Yes, sir; that is why we are here, I think.

Mr. McKEE. And you coming from your area, where I spent 9 years, out of Wright Patterson Air Force Base, I don't need to tell you that we are certainly No. 1 in the field of military aviation. That is where most of it started, you know.

Mr. BROWN. Yes, sir; I am aware of that, and I am made aware of it frequently. I am sure that we are all anxious to keep it at that status in the world and this is the reason for my beginning my questioning with this inquiry. Are most of the commercial airlines in the country



more taxpayers than they are tax users, could you give me an assessment on this?

Mr. McKEE. I don't quite follow on your question, Mr. Brown.

Mr. BROWN. Are most of the commercial airlines in the country operating now on a profitmaking basis rather than a tax-supported basis?

Mr. McKEE. Yes, sure; all of the major airlines are, they are all making a profit and all paying sizable taxes.

Mr. BROWN. I would like to make some comments on your opening remarks and inquire with reference to this act, how some of the suggestions made will be accomplished. You suggest—and I quote now:

The Department will provide for a better level of ability to match total intercity transportation capacity to demand overexpansion and imbalance between modes of transportation will be avoided.

When you say "modes of transportation" you are talking about air service versus rail service?

Mr. McKEE. We are talking about all modes of transportation, either highway, rail, or air.

Mr. BROWN. My inquiry has to do with how the Department will be better able to match total intercity transportation capacities to demand. Will this be regulated by the new Transportation Department in some way?

Mr. McKEE. I wouldn't use the word "regulations," but if the Secretary of Transportation is charged with the overall coordination of transportation and has the authority to carry this out, he should certainly be able to get some coordinated planning in these various modes of transportation to be sure that we have the overall best system we can get.

Mr. BROWN. This would be planning with reference to its application to aviation, to routing, to the location of the airports?

Mr. McKEE. Certainly, you can tie in the location of airports, access roads, the relationship to highways, you also obviously would be in the business of city-to-city air transportation, transportation either by rapid surface, for example, from the center of Washington to Friendship, or to Dulles, whether you would do it by rapid surface transportation or by V/STOL, by helicopter, or how, and all of these problems of that kind are involved here.

Mr. BROWN. How is this being done at present? You mentioned Dulles and Washington International and Friendship, how is the coordination being achieved in a developing area such as this, so as to serve the maximum number of people and the most effective operation of the airlines?

Mr. McKEE. No, it is not.

Mr. BROWN. It is not being done at all, there is no overall planning with reference to location of airports?

Mr. McKEE. Well, the airports are already located. We have the airports, they were located years, years, and years ago.

Mr. BROWN. Dulles?

Mr. McKEE. Dulles a number of years ago, started and selected years ago, before I had anything to do with this. So I don't think the location of airports, so far as the Washington area is concerned,

enters into it. But the problem that you do have, looking at the Washington area, which I think is important, is the provision of rapid transportation from downtown Washington, or Washington area out to Friendship and to Dulles as a convenience and service to the public.

Mr. BROWN. Let's talk about Dulles for a minute. How was the location of Dulles achieved or arrived at?

Mr. McKEE. I wasn't there at the time. As you know, I have only been in the Federal Aviation Agency since last July, but were you there at the time?

Mr. DEAN. Yes, Mr. Brown. The Congress and the executive branch had, since 1950, been concerned with the location of the jet airport serving the Washington metropolitan area. Initially some land was purchased near Burke, Va.

Mr. BROWN. By whom?

Mr. DEAN. By the Civil Aeronautics Administration using congressional appropriation. Unfortunately, there was disagreement within the Congress and the executive branch and no construction was initiated at the Burke site. Finally, the Congress asked the President in 1958 to make a final site selection and appropriated the initial money. This was done by Gen. Elwood Quesada, who was then special assistant to the President. He employed a special study group of consultants, who assisted him. He made recommendations favoring the so-called Chantilly site as best serving the needs of the area, and avoiding special air traffic control problems. That was approved by the President and the Congress then gave the funds to build Dulles International Airport with construction starting almost immediately.

Mr. BROWN. Do you feel this has been a good choice?

Mr. McKEE. I would like to answer that. As you look over the country today and you see what is going on at airports like New York, Chicago, and whatnot, I would say that if we were sitting here 10 years from now, or long before then, you will find that the selection of Dulles as a site was a very excellent one. And I think Washington is very fortunate in having the capability, looking at the rapid growth of air travel, to handle a great deal more air travel as between Friendship, Washington National, and Dulles than we have today.

As you know, the passenger traffic in this country, on a conservative basis, is scheduled to at least double by 1975. Some people think it will triple.

Mr. BROWN. As I understand, decision was made recently to keep jet travel at Washington International?

Mr. McKEE. No, the decision was to open Washington National to short-haul traffic, to help serve Ohio.

Mr. BROWN. Short-haul jet traffic?

Mr. McKEE. Yes.

Mr. BROWN. Yes, sir; I am anxious to move—

Mr. McKEE. This is important to Columbus, Dayton, Cincinnati, as you know.

Mr. BROWN. I am interested in the possibility of a regional airport to serve those three communities. In what way will this Transportation Act speed such a decision and help determine whether or not such decision will be a valid one?

Mr. McKEE. I don't think the Transportation Act per se is going to speed that decision. I have talked to a number of the people from Cincinnati and Dayton on this particular subject, and have told them they would have to come up with an overall plan before we could decide how much we could help them. You know, as a policy we have long been in favor wherever it is practical, to have regional airports as opposed to having an airport in one town here, with commercial operations and 20 miles away, having another one. We would far rather see one airport serve both communities, where it is practicable to do so, because then we can have one overhead, one tower, one navigation system, and you can concentrate your available funds which are always limited, to having a much better airport.

Mr. BROWN. But these decisions, from your remarks, I would infer would better be made by the local communities involved?

Mr. McKEE. They have to come from the local communities, because in the Federal Airport Act, we are authorized with the funds we have to provide, where it is justified, as you know, matching funds, but the impetus, for example, on the regional airport you are talking about will have to come from the great State of Ohio.

Mr. BROWN. What encouragement for broadening the scope—I regret taking the time of the committee but this matter is of interest to me and my district.

Mr. HOLIFIELD. The chairman is always patient.

Mr. BROWN. How do we encourage the inclusion, for instance, of three communities versus two, or should it be two rather than three? Do you have some familiarity with the area out there? As you know, Dayton, Cincinnati, and Columbus, are three rather sizable communities within a matter of an hour or an hour and a half of each other at maximum, by interstate highway. Where should this decision best be made as to whether or not a regional airport should serve one community or two communities or three communities?

Mr. McKEE. Well, they have a small problem out there of getting Columbus, Dayton, and Cincinnati to all sit down and get together and agree that they want one regional airport. And if Columbus and Dayton and Cincinnati get together and agree, they can do what they did down in Fort Worth and Dallas. As you know, they had an airport at Dallas and one at Fort Worth for many years, and only recently they reached an agreement to build a regional airport, I must say they are being very wise, that will serve both communities. And they are building their airport looking over the next 15 or 20 years, a very wise move. As a matter of fact, they are building, buying 10,000 extra acres of land, looking at Mr. Rosenthal's question, around the airport, so you won't have these noise problems. They won't have any noise abatement problems. And then they will sell this land off to industry, which won't have the noise problem and get all their money back and pay for the 10,000 acres they are going to build the airfield on, real sharp, those people down in Texas.

Mr. BROWN. It is the custom today to compare everything to what is being done in Texas.

Is there anything in this Transportation Act which will encourage such valid decisions, as I gather is your opinion, as were made in Texas?

Mr. McKEE. The present Federal Aviation Act, which is a very good

one, is designed to promote and encourage aviation, the improvement of airports, that same directive, on the part of the Congress, I am sure will be charged to the Secretary of Transportation.

Mr. BROWN. How will it be accomplished? This is my question?

Mr. McKEE. The transfer of the present authority that exists in the Federal Aviation Act to the Secretary of Transportation, who will probably in turn, a lot of these he will turn around and delegate to the Administrator of the Federal Aviation Administration.

Mr. BROWN. There is authority in the present Aviation Act to encourage this kind of thing?

Mr. McKEE. Yes, sir.

Mr. BROWN. In what way?

Mr. McKEE. It states specifically that the Administrator is charged with encouraging and fostering and promoting civil aviation, general aviation, and military aviation, and will give the requirements of each due consideration, sections 103 and 305, Federal Aviation Act, 1958.

Mr. BROWN. I am glad he is charged with encouraging. My question is, How does he do this? What is the actual procedure by which this is done?

Mr. McKEE. We have a national airport, so-called national airport plan, which we are required to produce under the—it is called Federal Airport Act, and this Federal Airport Act is not disturbed by the proposed legislation in front of you, except it will become the responsibility of the Secretary of Transportation.

Mr. BROWN. This provides encouragement and so forth?

Mr. McKEE. Further than that, I don't know in how many years, but certainly in the last few years, our Federal aid to airport funds have been in the neighborhood of \$75 million, which we use to improve airports, build new airports, on the basis of an apportionment formula to the States, providing a part of the funds from local communities, and the Federal Government providing 50 percent of it.

Mr. BROWN. This area of influence is really a financial matter. In other words, if you tend to think as we do with reference to where the airport should go, the funds may be forthcoming, but if you don't, we will have to wait a while before we see whether or not we can help you out financially. Is this the answer you are giving?

Mr. McKEE. No; I told some of your friends out there, if they really become serious about this regional airport, that the Federal Aviation Agency would be very pleased to help them out in terms of selecting a site, because we have the experts in terms of air navigation, in terms of approaches to airports, and many other facets that go into building an airport, so that the people out there wouldn't make mistakes that might later on be very costly to correct.

Mr. BROWN. If you felt the site was invalid——

Mr. McKEE. If we felt the site was invalid, particularly from a safety standpoint, we would just tell them flatly we wouldn't give them any help.

Mr. BROWN. You wouldn't support them financially?

Mr. McKEE. I can't imagine those people being that stupid.

Mr. BROWN. I was trying to think of the people in Ohio who are certainly as smart as the people from Texas.

Mr. McKEE. I agree. I was there 9 years.

Mr. BROWN. It is just the possibility of how a local decision becomes a decision made at the FAA level, and how, as a result of this, this decision will be brought to the level of the Transportation Department. And I would like to get to one specific sentence in here, which disturbs me because of the words you used:

Our goal is to apply increasingly scarce moneys where they are needed and to the extent they are needed in the future under a better system of control, and with a better understanding of the impact of the various transportation systems on each other.

Now, the word that bothers me obviously is "control" because I am concerned about whether or not any future regional airport which will be built in Ohio or anywhere else in the United States is going to be controlled by the new Transportation Department, or whether or not we will still have a part of the decision at the local level?

Mr. McKEE. There will be no difference, Mr. Brown, from the way it operates today. I can't see any possible difference from the way it operates today.

Mr. BROWN. I have no further questions, Mr. Chairman.

Mr. HOLIFIELD. Mr. Copenhaver.

Mr. COPENHAVER. General, in your statement, you say:

The integrity of the functions of the FAA and its operations will not be undermined, will not be adversely affected.

And you cite section 4(b) of the bill. In that regard, turning to section 4(b), it says:

In exercising the functions, powers, and duties herein conferred, transferred to the Secretary, the Secretary shall give full consideration to the need for operational continuity of the functions transferred—

And so forth. Am I right in assuming that does not spell out in the language which your statement seems to suggest that it is mandatory upon the Secretary to maintain the FAA in its present autonomous fashion?

Mr. McKEE. It is not mandatory that the Secretary of Transportation maintain the FAA exactly as it is today. The object of this particular section 4(b) was to—and the reason for it being in the bill—was to enjoin any future Secretary of Transportation concerning the importance of the operational integrity of the FAA. That doesn't mean that he could not make some organizational changes, but nevertheless, the FAA is an organization that operates 7 days a week, 24 hours a day, operating towers, airports, operating traffic control centers, operating flight service stations, navigation aids, and communications, and this was to point out in the law the importance of this operation in maintaining the integrity of the operation.

Mr. COPENHAVER. There is no requirement in the law for that, is that correct? You are making a supposition, is that not correct?

Mr. McKEE. I wouldn't say that the law was mandatory, but I think it is quite clear. Certainly again, any Secretary of Transportation, working for the President of the United States, looking at the tremendous importance of commercial aviation today is not going to wade in and throw this operation into chaos because nobody can be that stupid.

Mr. COPENHAVER. Again, to follow up on your statement, would you agree that the status of the FAA will be downgraded, if this bill is

established? You are yourself, as the Administrator, appointed now by the President. Is that correct?

Mr. McKEE. Yes.

Mr. COPENHAVER. Will your successor be appointed by the President after the creation of this new act?

Mr. McKEE. Not under this bill, no.

Mr. COPENHAVER. At this time, do you appear personally before Congress seeking authorization for appropriations?

Mr. McKEE. I do.

Mr. COPENHAVER. After the establishment of this act, would your successor appear before Congress?

Mr. McKEE. I would expect to appear before Congress on all significant matters pertaining to—if I remain Administrator—pertaining to the Federal Aviation Agency. I would think that on major issues, looking at the responsibility of the Secretary of Transportation, that he would want to appear before the appropriate committees of Congress and I would expect that the appropriate committees of Congress would want him to appear, but when they got down to the operating and detailed functions of the Agency, my guess would be, and this is what I would do if I were Secretary, would be to turn it over to the Administrator for the Federal Aviation Agency.

This is the way it works right now in the Defense Department as you know.

Mr. COPENHAVER. If this act is enacted, is there any assurance that there will be an Administrator of the FAA?

Mr. McKEE. I don't know for sure, there is no mandate in here, but obviously, you are going to have to have somebody run the FAA regardless of what you call him.

Mr. COPENHAVER. Is it not a fact that according to the way the bill reads, there will be established under the Secretary, four Assistant Secretaries, who will have functional as opposed to modal authority?

Mr. McKEE. There are five Assistant Secretaries. I think the concept is that these Assistant Secretaries will be operating in a staff capacity as opposed to a line capacity.

Mr. COPENHAVER. Therefore, one for research, and one for planning, and something like that?

Mr. McKEE. I don't know what their titles will be, but probably they will take normal organizational functions.

Mr. COPENHAVER. And it is therefore conceivable, instead of Administrator or person heading the section for aviation, there would be an Assistant Secretary who would appear before the appropriate congressional committees seeking authorization. Is that a logical assumption?

Mr. McKEE. No; I think that is not.

Mr. COPENHAVER. I don't want to pursue this any further, but I wonder if we could draw attention to a situation regarding the Coast Guard located in the Treasury.

At a time in the past, Congress enacted legislation requiring that the Coast Guard itself, instead of the Treasury Department, appear before the appropriate congressional committee to seek capital authorization for the Coast Guard. After that law was passed, the Coast Guard began receiving greater capital authorizations.

I want to leave you with the thought that this may be a similar case, but in reverse, with regard to aviation.

Mr. McKEE. I can't comment on that.

Mr. HOLIFIELD. Do you have any questions?

Mr. LANIGAN. Yes, one of the witnesses indicated that there might be some advantages in having the Bureau of Public Roads and the Federal Aviation Agency in the new Department. Do you see any advantages and, if so, what would they be?

Mr. McKEE. In a separate department?

Mr. LANIGAN. In the Department of Transportation, because the Bureau of Public Roads is going into the Department of Transportation as well as the Federal Aviation Agency?

Mr. McKEE. I certainly can't see any advantage of picking out the Federal Aviation Agency and the Bureau of Public Roads and setting them out here by themselves in another agency.

Mr. LANIGAN. I mean, they are being put into this Department of Transportation along with all of the other agencies. There was some indication that some economies in research into certain structures could be effected by having the two agencies in the same Department.

Mr. McKEE. I think there would be considerable advantage in terms of research and development and in various areas; also in terms of working with Bureau of Public Roads on access roads to airports and their location, and this sort of thing, and setting standards. There are many areas where they can work together to a common advantage.

Mr. LANIGAN. Is it your understanding that the organization that is now under discussion for the new Department, that the Aviation Bureau or Federal Aviation Agency, whatever it is called within the Department, would be under an official who reports directly to the Secretary?

Mr. McKEE. No; it is now contemplated that whoever heads the Federal Aviation Agency or whatever it is to be called, would report directly to the Secretary of Transportation.

Mr. LANIGAN. You say it is now contemplated that he will, or not contemplated?

Mr. McKEE. It is contemplated that he will report directly to the Secretary.

Mr. LANIGAN. Thank you.

Mr. ROBACK. Mr. Administrator, is your Agency the largest agency that is transferred?

Mr. McKEE. In manpower, yes. We have today 43,200 people.

Mr. ROBACK. I didn't quite hear you. Say that again.

Mr. McKEE. 43,200 people. This is the largest element.

Mr. ROBACK. When a department is formed, frequently one constituent agency is larger than the others and in a sense is a core agency. Would you consider your Agency is a core agency?

Mr. McKEE. I wouldn't call it core agency, but obviously looking at the size of the Agency and its functions, I am sure it will be important in assisting the Secretary of Transportation in forming his organization and getting it started.

As you know, the Coast Guard is almost as large. The Coast Guard is 39,000.

Mr. ROBACK. Well, the Coast Guard, under the bill, is transferred as an entity, an organizational entity, and the understanding that we got of the rationale was that in time of war the President might

want to or would assign the Coast Guard to the Navy, as has been done in the past.

Now under the Federal Aviation Act the President is given the emergency authority to transfer the Federal Aviation Agency to the Department of Defense. Why wouldn't the same rationale obtain, if that is the rationale?

Mr. McKEE. Well, I think you have to look at the history of the Coast Guard and its particular function and the fact that it is a uniformed service, and I am sure that was taken into consideration. But as far as the functions and duties of the Federal Aviation Agency in time of war, there is nothing in this present proposed legislation to prohibit that.

As a matter of fact the Executive order of the President, which is taken under the present Federal Aviation Agency Act, prescribes that this can be done in time of emergency and I do not see that this would be affected in any way.

Mr. ROBACK. The problem may be only a formal problem, but it is that the functions of your Agency are to be transferred and once they get transferred the Agency dies as an entity. Therefore, the functions are redistributable by the Secretary, in which case in time of war the President would have an option as to which functions relating to Federal Aviation he would transfer to the Defense Department, which no longer is an entity that would be transferrable.

Mr. McKEE. The way the act reads, while this is a possibility, as I pointed out before, we have a critical operation going on here in terms of running the air space, and it is inconceivable to me that anybody is going to take that organization and take its functions and split it out among half a dozen different agencies and go back to the dark ages.

Mr. ROBACK. I am not arguing that anything like that be done. What I am asking you is, what happens to the President's authority under the Federal Aviation Act of 1958 to transfer your Agency to Defense in case of war?

Mr. McKEE. No change.

Mr. ROBACK. No change. But there is no entity.

Mr. McKEE. Either agency or administration or whatever it is called.

Mr. GOODRICH. If I could supplement what the Administrator mentioned, the Federal Aviation Act remains in full force and effect when this bill becomes law and all of the responsibilities under it simply are transferred to and vested in the Secretary. None of those responsibilities spelled out in the act are lost. The Secretary simply assumes the primary responsibility for giving effect to them. Therefore, the answerability of the Administrator becomes the answerability of the Secretary in time of war, and any support that is needed for the armed services would be provided by the Secretary pursuant to the Executive order that is in effect, which remains in effect also.

Mr. ROBACK. I am going to restate the question.

What functions of the new Department of Transportation will the President be authorized to transfer to Defense in case of war?

Mr. GOODRICH. He would be authorized to transfer those functions of the new Department that will be received from the Federal Aviation Agency and that are described in those sections of the Federal



Aviation Act authorizing agency functions today in the field of aviation traffic control, air space utilization, and defense preparedness.

Mr. ROBACK. So that would be a matter of going back to the original composition of the Agency?

Mr. GOODRICH. That would be a matter of going back to provisions of Federal Aviation Act which remain in full force and effect. They are not repealed by the adoption of this bill, except insofar as they create certain officials in the Department. I should say, except insofar as they create certain officials in the Agency.

Mr. ROBACK. Some things do get dropped out, however. For example, a question was raised about confirmation of the Administrator. He is no longer a Presidential appointee, is no longer confirmed by the Senate by virtue of the transfer and he falls out. That is, there isn't a specific provision needed because in a sense the Administrator is gone.

Mr. GOODRICH. That is true, except insofar as your question relates to the substantive authority and responsibility of the personnel of the Agency, either in the Federal Aviation Act, Federal Airport Act, or any of the other acts that confer authority on the Agency. All of those responsibilities and authorities are transferred to the Secretary of Transportation and he becomes completely responsible to perform them.

Let me put it in a slightly different way. This bill does not change any laws conferring authority and responsibility to perform certain work in the Federal Aviation Agency. That responsibility continues in the Department of Transportation.

Mr. ROBACK. One of the obligations put upon the Administrator under the act, and which presumably would be carried over, is to consult the Department of Defense on a variety of matters. Isn't that so, General? You have an obligation, statutory obligation to consult?

Mr. McKEE. That is true.

Mr. ROBACK. And that statutory obligation gets carried over. The question then is, to what extent does the Secretary of Transportation have an obligation to consult with the Secretary of Defense by statute? Is it only in respect of these functions and not in respect of any other number of functions?

Mr. McKEE. He certainly is obligated to consult with the Secretary of Defense on the same functions that are now spelled out in the 1958 Federal Aviation Agency Act that would be mandatory under this bill. Obviously he might redelegate these to whoever heads the Federal Aviation Agency, but as a Secretary, in addition, while it is not spelled out specifically in the act I don't think, certainly he would have an obligation to consult with the Secretary of Defense on any matters of mutual concern and there will be many.

Mr. ROBACK. The question has been raised, it was raised in the other body, for example, that perhaps there ought to be a statutory obligation for the Secretary to consult with the Secretary of Defense.

Now, regardless of the merit in that, the only point I am making is that under this transfer, there is a particular and not a general statutory obligation to consult, particular in the sense that it refers to Federal Aviation matters, not necessarily to any other matters, as a matter of statute. Do you follow me?

Mr. McKEE. Yes.

Mr. ROBACK (to another witness). Do you want to comment?

Mr. GOODRICH. The only thing I would like to say is that all of the obligations on the Administrator in the Federal Aviation Act becomes the obligations of the Secretary. The Secretary in addition will pick up obligations described in the laws affecting other agencies transferred to the Department of Transportation. None of these obligations are lost by this transfer.

Mr. ROBACK. Now General McKee, you have an obligation under the act to foster the development of air commerce, do you not?

Mr. McKEE. Right.

Mr. ROBACK. And one of the areas of air commerce that requires a certain amount of attention and fostering, for example, is air cargo, right?

Mr. McKEE. Right.

Mr. ROBACK. Now under the transferred responsibilities, in what sense would the energy and application that is required to keep this industry flourishing or even surviving be affected?

Mr. McKEE. I don't think it will be affected in any degree whatsoever, except you would still have, as I pointed out, an organization under the Secretary charged with, really, with all of these functions. The Secretary would be charged with the functions. The only difference would be that in this area, in addition to whoever is heading up the Federal Aviation Agency, or administration or whatever it is called, he should have, and I am sure would have, the support of the Secretary of Transportation at the Cabinet level to help him out.

Mr. ROBACK. Obviously the Secretary can't do all of the promoting, for all modes, because this is the problem that the new organization is designed to in some way to adjust and coordinate? Are you going to be in the situation where the tortoise and the hare will be evened out?

Mr. McKEE. No.

Mr. ROBACK. You don't consider that this transfer is going to interfere in any way with your responsibilities of fostering air commerce?

Mr. McKEE. No.

Mr. HOLIFIELD. The purpose of the bill, of course, is, if you read the declaration of purpose—it certainly states the purpose in a very complete way, it seems to me, and it moves toward facilitating the development and improvement and coordinated transportation service to be provided by private enterprise to the maximum extent available.

I assume that is what you are doing now?

Mr. McKEE. That is correct.

Mr. HOLIFIELD. Does that answer your question?

Mr. ROBACK. One more question, Mr. Chairman.

With regard to your rather extensive research responsibilities, General McKee, do you anticipate that those research responsibilities might be redistributed?

Mr. McKEE. No; I do not. Actually, there is a misconception here. The Federal Aviation Agency really does not have extensive research responsibilities. We do a great deal more in the development field and the test and evaluation field than we do in the research field.

The basic research in aeronautics, as you know, is largely done in the National Aeronautics and Space Administration.

Mr. ROBACK. Offhand, is there any reason why the NASA responsibilities of transportation should not be in the new Department?

Mr. McKEE. Yes; there is a very good reason. As you may know, I spent a year, after my retirement as Vice Chief of Staff in the Air Force, at the National Aeronautics and Space Administration, and when you look at their organization, and the intertwining relationships in research between aeronautics and space and communications, to remove the aeronautics part of this research from NASA, I think, would be a grave mistake. I think we would lose a lot by so doing, because the talent, and they have a great deal of talent in NASA, there is a lot of exchange between the scientists and engineers working in the space field, the aeronautics field, and each contribute to the other.

They also have extensive facilities, as you know, and to try to split these facilities up, and say the facilities that support the aeronautics effort go over to a Department of Transportation, and the facilities that support the space effort would remain with NASA, would be almost an impossible job. It would only cause chaos, in my opinion.

Mr. ROBACK. How do you come into section 7?

Mr. McKEE. As the chairman said early this morning, he wasn't a lawyer, and I am certainly not a lawyer, so I can confuse the issue without any problem at all. But to me, it looks very simple. I don't see that section 7 has any significant impact on the FAA. We have a grant-aid program in terms of Federal aid to airports. I don't think that is affected by the section 7. However, I have with me, a distinguished lawyer, Mr. Goodrich, and I will look to see—

Mr. ROBACK. I will let him illuminate the record.

Mr. GOODRICH. The application of section 7 to FAA activities would appear to concern perhaps the amount of moneys that are devoted to transportation facilities, such as aids to navigation, and other general program activities, but it would have no relationship to the national airport plan authorized by the Federal Airport Act which underlies the grant-in-aid program for aids.

Mr. ROBACK. Grant-in-aids don't come within that criteria?

Mr. GOODRICH. It is our understanding they do not.

Mr. ROBACK. Understanding in what sense? Is this your impression or your hope or is this a legal decision that was rendered by the Attorney General, or what?

Mr. GOODRICH. No, there has been no legal opinion on it, but the grant-in-aid programs are separately authorized by the Congress, and that is the basis of our understanding.

Mr. ROBACK. And grant programs have their own criteria set forth in the governing statutes?

Mr. GOODRICH. Yes, sir.

Mr. ROBACK. What are you left with, then, as far as section 7 is concerned? Are there any investments left which have any competitive impact, that is to say, on other modes?

Mr. GOODRICH. No, the only investments that are left that might have competitive impact are the facilities that are established for the air navigation system of the country.

Mr. ROBACK. Competitive with whom?

Mr. GOODRICH. With other modes, not within aviation, certainly.

Mr. ROBACK. You mean that if you wanted to put new kinds of black boxes in the plane in connection with air safety or navigation or something, that this would be a factor to evaluate as against truck transportation?

Mr. GOODRICH. No, sir; because those are investments made by the industry and not by the agency. Actually, the section as we understand it tends to apply to the investments made by other agencies than the Department of Transportation, and that is the basis of our feeling that it will have relatively little impact on the type of work done in the FAA.

Mr. ROBACK. You are not particularly concerned with this section?

Mr. GOODRICH. No, sir; we are not.

Mr. ROBACK. Let me ask you just one more question. What functions do you know in advance are going to be redistributed? For example, are any functions in the field of accident investigation or safety going to be transferred to the new Board?

Mr. GOODRICH. Not from the FAA.

Mr. ROBACK. Not from the FAA.

Do you have any responsibilities in accident investigation?

Mr. GOODRICH. Yes; we do. We participate with the Civil Aeronautics Board in the investigation of accidents. While they are charged under the law with the determination of the cause, and with the investigation, we are also charged with participating with them and also, the CAB, under the law, has the authority to delegate to us certain accident investigations and we perform today most of the nonfatal accident investigations for light airplanes; that is, airplanes under 12,500 pounds.

So the change from the CAB to the Department of Transportation of certain functions, I don't think, will affect our operations to any significant degree whatever.

Mr. ROBACK. Well, to some extent, you perform as a staff for the Civil Aeronautics Board?

Mr. GOODRICH. No.

Mr. ROBACK. You do under delegation?

Mr. McKEE. We participate in the investigation. Now the reason for participation—and it was a pretty wise decision—is in the course of investigation, sometimes these investigations are very lengthy. Factors are brought out concerning the accident where action on the part of FAA needs to be taken immediately, and this almost always occurs. We do not like to wait until the final accident investigation report and probable cause is determined before we take action because sometimes this takes months. If at any time it becomes clear to us that a change should be made in an airplane, a change should be made in procedure, changes should be made in training, we want to get that with the speed of light, so we can institute that change right away.

Mr. ROBACK. You have both an independent and a request performance, do you not, in the accident field? That is to say, under certain conditions the Board can ask you to service them in this field?

Mr. McKEE. Yes; we do.

Mr. ROBACK. And in other respects, you have an independent authority?

Mr. McKEE. That is true.

Mr. ROBACK. Now in the transfer, you anticipate that your accident investigation functions will not be affected. Now, what is the responsibility, as you understand it, of the National Transportation Safety Board, whatever it is called, in the Department?

Mr. McKEE. As I understand it, the National Transportation Safety Board is going to be charged as a semijudicial body to determine the causes of accidents, and in addition—I think I am right—to be charged with the appellate review on appeals.

Mr. ROBACK. They are in a sense going to carry over the present relationships which are somewhat confused and which include both appellate and independent accident investigative functions on the part of the Board. You are a staff of the Board and also independent investigator. The Board reviews your work and also investigations on its own, and all those relationships would be carried over pretty much as is, except the CAB functions would reside in the new Board?

Mr. McKEE. That is basically correct.

Mr. HOLIFIELD. You will report to the new Board in place of the CAB?

Mr. McKEE. Yes, sir.

Mr. HOLIFIELD. Mr. Brown?

Mr. BROWN. I just want to briefly clear up another point along the line of questioning I was on before. The encouragement of private aviation, individually owned aircraft versus commercial aviation, comes under your purview, doesn't it, General McKee?

Mr. McKEE. That is correct.

Mr. BROWN. Do these decisions which you make which relate to commercial aviation run into conflict with private aviation?

Mr. McKEE. Obviously, when you look at general aviation and look at commercial aviation—and certainly their interests are somewhat different—you do occasionally run into conflict, and when you do run into conflict, you try to reach a decision that is in the best interest of the public as a whole.

We have many different interests in the aviation field, as you know.

Mr. BROWN. There are areas which are also under your control which encourage one or another of these, such as licensing, or safety regulation, or grants-in-aid for airports—

Mr. McKEE. All of those factors enter into it.

Mr. BROWN. To the degree they are more restrictive or less restrictive in one field than another?

Mr. McKEE. Well, I wouldn't use the term "restrictive." The first one you used was more explanatory. You do run into conflicts, because you only have so much resources available to you in this area, and you try to allocate these resources again in the best interest of the public as a whole.

Now, general aviation may say that they feel that they should have more of our resources and effort, and on the other hand, sometimes the commercial carriers feel that they should have priority.

Mr. BROWN. The standards for licensing are a means of control of the—

Mr. McKEE. As far as the standards for licensing are concerned, we don't have any problem because we have specific standards for commercial pilots, which, of course, are much higher than for standards for general aviation, so we have no conflict there.

Mr. BROWN. The safety requirements are an economic factor?

Mr. McKEE. I don't consider safety requirements as an economic factor as such. I consider safety requirements strictly from a point

of view of safety. Obviously there are economic factors, if you don't have any accidents and you don't destroy airplanes, and if you don't destroy property, and you don't have to pay off claims, there is a tremendous economic factor involved. But, our safety efforts are designed for safety of the traveling public.

Mr. BROWN. And for individual pilot?

Mr. McKEE. And individual pilot.

Mr. BROWN. And these influence economic factors as they relate to the purchase and operation of an airplane?

Mr. McKEE. Surely; yes.

Mr. BROWN. And grants-in-aid to airports, the decision as to where they will be made, what kind of field or what kind of airport influence the development of commercial or private aviation, jets, international travel service, local travel?

Mr. McKEE. Sure.

Mr. BROWN. These decisions in the new Transportation Department will still be made by FAA, and whoever sits in your relative position within the Transportation Department?

Mr. McKEE. That is the general concept, as I understand it, and I am sure that any Secretary of Transportation with all of the problems with which he will be confronted will delegate decisions of this kind to the head of the agency.

Mr. BROWN. But he will have the ultimate control over the tack these decisions take?

Mr. McKEE. Yes.

Mr. BROWN. You envision that your relationship with the Congress with reference to the encouragement of private aviation versus commercial aviation and so forth will still exist?

Mr. McKEE. I would think so, yes, Mr. Brown.

Mr. HOLIFIELD. Thank you, General McKee, and your associates. We appreciate your appearance here today and you have added to our record, I think, in a valuable way.

Mr. McKEE. Thank you, Mr. Chairman, delighted to be here.

Mr. HOLIFIELD. You are excused at this time.

We will ask Admiral Shields to please come forward. Admiral Shields is Assistant Commandant of the Coast Guard, which is being transferred as a unit in the new Department of Transportation under the bill. Proceed, Admiral.

**STATEMENT OF VICE ADM. WILLIAM D. SHIELDS, ASSISTANT  
COMMANDANT OF THE U.S. COAST GUARD; ACCOMPANIED BY  
REAR ADM. MARK A. WHALEN, SPECIAL ASSISTANT TO THE  
CHIEF OF STAFF**

Admiral SHIELDS. Mr. Chairman, I am Vice Adm. William D. Shields, Assistant Commandant of the Coast Guard. This is Rear Adm. Mark A. Whalen, Special Assistant to the Chief of Staff, who has been working on this Department of Transportation legislation. The Commandant, Admiral Roland, regrets that he cannot be present today due to the fact that he is not in the country at this time.

The Coast Guard's principal mission areas are search and rescue, maritime safety, military readiness, law enforcement, and oceanography. The Coast Guard is the Nation's principal maritime safety

agency. One of the major objectives in establishing the Department of Transportation is to improve safety in all modes of transportation. Bringing together the various governmental agencies concerned with all aspects of transportation will result in achieving greater safety.

When we were first consulted on the establishment of a Department of Transportation our reaction was one of regret in leaving the Treasury Department, under which we have served since the founding of our service in 1790. A close association has evolved with various Treasury Bureaus as we have worked in supporting their missions. We will miss this relationship but our experience in cooperation with other Government agencies outside of Treasury will permit us to continue effective support of these missions within the framework of the new Department.

We favor the establishment of the new Department, and the continuing operation of the Coast Guard as a legal entity and armed force within the Department of Transportation. In the drafting of the bill now before this committee, we stressed the necessity of continuing the Coast Guard's integral status because it is an armed force, and immediately becomes a part of the Navy upon a declaration of war or when the President so directs. Section 6(b) continues this necessary and important status of the Coast Guard, and respects the President's intent in this matter.

In recent years, with the support of the Executive and Congress, funds have been appropriated to implement long-range programs to replace obsolete and inefficient Coast Guard facilities and equipment. I am confident that these modernization programs will continue in the new Department.

In carrying out the Coast Guard's statutory missions, many of our operational procedures and functions parallel those of some of the other agencies which will be included in the new Department. Although we already have excellent liaison and working relationships with those agencies, I firmly believe that cooperation would be further enhanced if we were all in one Department and that the end product would be better service to the public in the transportation field.

Moreover, I know the Coast Guard can add expertise to the Department of Transportation in various departmental functions, in addition to being one of the largest components within it. In the field of maritime safety, the United States, acting through the Coast Guard, has established the highest standards in the world. As the responsible U.S. agency in this field, we will continue our efforts to bring international standards up to ours. The Coast Guard will bring into the new Department extensive experience in implementing the new planning, programing, and budgeting system.

Inclusion in the Department of Transportation would be advantageous to us because:

- (1) The Coast Guard will be a part of an executive department whose sole objective is in an area in which we operate continually, that is, transportation and transportation safety.

- (2) The Coast Guard will be in the mainstream of development of national transportation policy.

- (3) Coast Guard prestige at international conferences dealing with transportation will be enhanced by our being an integral part of the Department of Transportation.

(4) The resulting closer relationships with other elements in the Department of Transportation will improve our capabilities.

(5) Coast Guard personnel would serve in positions in the Department of Transportation at high levels of policymaking and administration.

If this legislation is enacted, the Coast Guard will be a dynamic, productive element in the new Department and will further the President's program to achieve safe, efficient, fast, and convenient transportation. The traditional high quality performance of the Coast Guard developed in 176 years of service to country and humanity will be continued in the new Department. I urge you to give favorable consideration to this bill.

Thank you.

Mr. HOLIFIELD. Thank you, Admiral.

Mr. Erlenborn.

Mr. ERLNBORN. I take it, Admiral, that it isn't stated as such in your statement, but the initial reaction of the Coast Guard may not have been one of great joy about this proposed transfer, but you became convinced?

Admiral SHIELDS. As I said, sir, we have been a part of the Department of the Treasury so long, it is rather in our blood, and of course, any breaking of such bonds did cause us considerable concern.

Our main concern I think was that if we did go, we considered it very important that we remain as an entity, primarily because of the requirement for us to go into the Navy in time of war or when the President so directed.

Mr. ERLNBORN. Actually you have ties in several different directions as an armed service in the defense of our country in time of war, and you have very strong ties with the Department of Defense.

Admiral SHIELDS. That is correct.

Mr. ERLNBORN. And particularly the Navy.

Admiral SHIELDS. That is correct.

Mr. ERLNBORN. You also have a law enforcement aspect, which I presume is the reason you were attached to Treasury?

Admiral SHIELDS. The original Coast Guard was a revenue service that was established by Alexander Hamilton in 1790 as a law enforcement agency.

Mr. ERLNBORN. And besides this, one of your functions is to act as sort of a traffic policeman on the waters?

Admiral SHIELDS. Anchorages, movement of traffic, our aids to navigation, for example, our lighthouses, and buoys are the highways of the seas.

Mr. ERLNBORN. I suppose it is because of these functions that you serve that they decided to put you in the Department of Transportation. Do you have some relationship to transportation on the water because of your law enforcement and regulatory functions in this area?

Admiral SHIELDS. In merchant marine safety also, that is one of our big functions that would have to do with transportation; yes, sir.

Mr. ERLNBORN. I suppose with any agency, there is a question as to where it properly belongs, and it isn't always a clear-cut decision as to whether a particular agency belongs in this department



or the other. There are always overlapping functions and so forth, so it is difficult to determine which is the proper department for an agency, such as a service like yours, to be located in.

Therefore, I think it is important to know the percentages of your time and appropriations that are spent in these various activities. Can you help me with a rough breakdown?

Admiral SHIELDS. Our budget for the coming year is in the neighborhood of \$822 million. Under our search and rescue function, the amount would be approximately \$94 million.

Under aids to navigation, around \$70 million.

Law enforcement, \$28 million—excuse me, \$24.8 million.

Military readiness, \$18 million.

Oceanography, meteorology, and ice-breaking, around \$28 million.

Merchant marine safety, \$12 million.

And supporting facilities, around \$70 million.

I have this. I will be glad to give it to the reporter.

Mr. ERLNBORN. I think the reporter got it already. It seems to me your readiness to answer that question may have led you to respond to me by saying, "I'm glad you asked that question." You seemed quite prepared to answer that.

Admiral SHIELDS. I hope I will be as ready on the rest of them.

Mr. ERLNBORN. I appreciate your answer. I think the figures—I didn't write them down, but as I heard you read them off—would indicate that the majority of your funds are spent in safety and in traffic regulation and very likely, this might have influenced the decision to put you in the transportation agency. It seems as though this might have been a good decision.

Admiral SHIELDS. These figures I gave you are for operating. We have another appropriation which is called acquisition, construction, and improvement, and that would be over and above the amounts I have given you. These are strictly for operational aspects.

Mr. ERLNBORN. I think the operating budget is the one that would be more pertinent and relative here.

Admiral SHIELDS. Yes.

Mr. ERLNBORN. Thank you very much. I have no more questions.

Mr. HOLIFIELD. Mr. Brown?

Mr. BROWN. With reference to military functions performed by the Coast Guard, these are primarily wartime functions, are they not?

Admiral SHIELDS. One of our primary duties is military readiness to function in time of war, so that we have to prepare ourselves in time of peace to be able to take over those functions and such activities as antisubmarine warfare and such duties as our 26 patrol boats are now doing in Vietnam.

These patrol boats were particularly built and their men trained for coastal surveillance, as for search and rescue and law enforcement purposes along the coast of the United States. The work that they are doing for the Navy under Navy operational control in Vietnam, is the same kind of work that they were trained to do, so they have this double purpose of both peacetime service and preparing for a war-time activity which they are doing now over there.

Mr. BROWN. I must admit, Admiral, I always wondered why the Coast Guard was not an adjunct of the Department of Defense, rather than Treasury Department.

Admiral SHIELDS. I think one of the prime reasons is because, as I mentioned, it started out as a revenue service under Alexander Hamilton. It always has participated in all of the wars in which the United States has been engaged in, as an entity, as the Coast Guard, and it is just some more equipment that the Navy has available to meet its operational needs in time of war.

And I think some of our functions, as far as the public is concerned, are more acceptable if they are under a civilian department rather than under a military department.

Mr. BROWN. Do you feel that a continuation of this association, which began at the time and birth of our Nation, with the Treasury Department is more one of tradition than practicality?

Admiral SHIELDS. I think it may be a little bit of both, sir. I think there has been considerable talk from time to time about moving the Coast Guard, but it always happens we so far have stayed in the Treasury.

Mr. BROWN. To what other agencies has moving the Coast Guard been suggested?

Admiral SHIELDS. One of the Hoover Commission reports, I think, and some other reports, as I understand it, the first thought about a Department of Transportation goes back to something like 1873, so it isn't completely new, and at all of these various times, there has been talk about the Coast Guard moving.

Mr. BROWN. But in most of these cases thoughts of moving it has been in reference to Department of Transportation or to some aspect of merchant marine activity?

Admiral SHIELDS. Yes, sir; that is my understanding.

Mr. BROWN. Do you envision under the new Department of Transportation any change of functions under the Coast Guard?

Admiral SHIELDS. No, sir; I do not. I feel myself, from reading the legislation and from the things that are in it and our discussions, that as far as the day-to-day operation of the Coast Guard, the day-to-day contact the Coast Guard has with the public, they will never notice the difference.

Mr. BROWN. And the present associations that you have with the Treasury Department will be less effective by this move?

Admiral SHIELDS. I don't think they will be any less effective, they will probably have to be executed by agreements between the two departments, rather than us now going directly to our Assistant Secretary.

But I think these things can be worked out so that if any of the Treasury agencies need help or cooperation that Coast Guard facilities can offer, we will certainly be there to give them that on very short notice.

Mr. BROWN. This is a relatively small portion of the function which the Coast Guard now performs?

Admiral SHIELDS. Yes, sir.

Mr. BROWN. Could you assess the amount of your total activity that is involved in direct association with the Treasury Department?

Admiral SHIELDS. No, sir; I don't think that has ever been broken out. I will look it up; and, if it is, I will submit it for the record. (The information referred to is as follows:)

TREASURY DEPARTMENT,  
UNITED STATES COAST GUARD,  
Washington, D.C., April 13, 1966.

MEMORANDUM TO STAFF DIRECTOR, HOUSE COMMITTEE ON GOVERNMENT OPERATIONS

From : U.S. Coast Guard congressional liaison officer.

Subject: Hearings held on H.R. 13200, April 7, 1966; submission of material for the record as requested.

1. On page 265, line 5, the submission of material for the record was requested by Congressman C. J. Brown. The Coast Guard was advised, subsequent to the hearings, that in addition to information concerning Coast Guard operational activities in direct association with the Treasury Department, as requested by Congressman Brown, information was also desired as regards Coast Guard activities in direct association with all department and agencies of the Federal Government. The following information is submitted:

*A. Operational activities in direct association with the Treasury Department*

1. Furnishing water transportation to personnel of the Bureau of Customs in connection with the enforcement of customs laws and regulations.
2. Furnishing air transportation, as available, to personnel of the Alcohol Tax Unit in the location of illicit stills.
3. Cooperation with the agents of the Bureau of Narcotics in connection with the inspecting of vessels for possible smuggling of narcotic drugs.
4. On occasion, cooperation with the Secret Service in providing protection for the President and members of his family, as authorized by law.

Coast Guard records do not indicate the percentage of total Coast Guard activities expended for the above cooperative activities other than the greatest single activity, that is, cooperation with the Bureau of Customs. This activity results in 6,780 boat hours annually, at an approximate cost of \$417,915.

*B. Operational activities in direct association with other departments and agencies of the Federal Government*

1. Assistance to the Immigration and Naturalization Service in its inspection and enforcement function regarding illegal entry of aliens.
2. Cooperation with the Department of Health, Education, and Welfare in providing water transportation for Public Health Service personnel in carrying out quarantine rules and regulations.
3. Cooperation with Department of the Interior in making annual visits to U.S. possessions in the Pacific Ocean, i.e., Howland, Baker, Enderburg, and Jarvis Islands. Coast Guard vessels make annual visits to these islands and furnish to the Department of the Interior reports and photographs after each visit.
4. Cooperation with the Post Office Department by utilizing Coast Guard facilities and personnel to assist in transportation of mail deliveries during emergency conditions.
5. Cooperation with the Weather Bureau in the collection and dissemination of marine intelligence and exhibiting warning displays along the seacoasts and inland waterways.
6. Participation and cooperation in the national oceanographic program, including membership on Interagency Committee on Oceanography.
7. Cooperation with the Fish and Wildlife Service by carrying out all marine enforcement of the conservation laws, with the exception of the north Pacific area.
8. Cooperation with the State Department in enforcement of neutrality laws, and enforcement of international fishing treaties.
9. Cooperation with the National Aeronautics and Space Administration by participation in the astronaut recovery programs and water transportation of space vehicles.
10. Cooperation with the Department of the Army by marking for the protection of the navigators sunken vessels or similar obstructions on navigable waters of the United States.

11. Cooperation with the St. Lawrence Seaway Development Corp. by supervisions of aids to navigation on those waters.

12. The man-hours spent in the cooperative activities listed above as well as those spent in the general day-to-day cooperation with all Federal departments, stemming from an existent Coast Guard capability, cannot be specifically listed.

W. L. MORRISON,  
*Captain, U.S. Coast Guard.*

Mr. BROWN. I would appreciate it.

I have no further questions, Mr. Chairman.

Mr. HOLIFIELD. Thank you very much, Admiral Shields.

Just a minute, Mr. Lanigan has a question.

Mr. LANIGAN. Are you presently an officer in the Department of the Treasury?

Admiral SHIELDS. All Coast Guard officers are customs officers.

Mr. LANIGAN. Then, 6(b) (1) of the bill which transfers the Coast Guard to the new Department also transfers to the Secretary of the new Department, all powers and duties relating to the Coast Guard of the Secretary of the Treasury and of other officers and offices of the Department of the Treasury.

So your functions will be, when the transfer has taken place, will be centered in the Secretary of the Department of Transportation, is that correct, and you will anticipate that your functions will then be redelegated to you as they are now delegated by the Secretary of Treasury?

Admiral SHIELDS. I think we can consider that we would be deputized as customs officers, if you might want to call it that.

Mr. ROBACK. You will remain?

Admiral SHIELDS. We anticipate no change in our functions at all, because we are transferred as a whole and our duties and responsibilities go with us.

Mr. LANIGAN. Further on, it says:

The National Transportation Safety Board shall exercise the functions, powers, and duties transferred to the Secretary by sections 6 and 8 of this act with regard to (1) determining the cause or probable cause of transportation accidents, and shall report the facts, conditions, and circumstances relating to such accidents.

Will you say that the National Transportation Safety Board would not have any function relating to marine accidents in light of this language?

Admiral SHIELDS. We would expect that we would continue the investigative functions which we have now. This Board would probably be the top appeal board, who would sit on final actions on these investigations and probably also on final actions, just as General McKee indicated, on licenses, and permits and things like that, for seamen, for merchant marine officers and in that capacity.

Mr. LANIGAN. You anticipate that the basic investigational work will continue to be done by the Coast Guard.

Admiral SHIELDS. That is correct.

Mr. LANIGAN. And you anticipate that will be done under section 3(a), under which Board will authorize and delegate to other agencies and departments, accident investigation functions.

Admiral WHALEN. Which section?

Mr. LANIGAN. Page 11, line 3.

Admiral WHALEN. Mr. Lanigan, would you repeat your question, please, sir?

Mr. LANIGAN. The point I was making is that section 5 provides that all of the functions relating to the determining of the cause or probable cause of transportation accidents shall be in the National Transportation Safety Board.

Now I was trying to find out how pieces of that can get to the Coast Guard, how some of that authority can get to the Coast Guard so that you can carry out your current accident investigation functions?

Admiral WHALEN. I would like to try to answer that if I may, sir.

We feel that we carry over that authority with us. As far as the NTSB is concerned, there wouldn't be any delegation of authority to the Coast Guard to conduct their accident investigation procedures as they are now. As we interpret this, they would determine the causes and would act on appeals, and could, of course, oversee and review the investigations, but actually, we feel in going in as the entity as we are, with all of the authority being transferred—that it is—that we would continue our current setup.

Mr. LANIGAN. I wonder if you could supply for the committee record, an example of one or two concrete examples of how you envision the relationship between the Transportation Safety Board and how the Coast Guard would operate in the new Department, not now, but I mean for the record for insertion at this point.

Admiral WHALEN. Yes, sir; and in addition as far as our existing procedures are concerned also.

(The requested information is included in app. 5 on p. 329.)

Mr. LANIGAN. Thank you.

Mr. HOLIFIELD. Thank you very much, gentlemen.

Just a minute, we have another question.

Mr. Roback?

Mr. ROBACK. Is there any question in your mind, Admiral that these functions with regard to safety are transferred to the Board and re-delegated?

Admiral WHALEN. No, sir; there is no question in our mind on that.

Mr. ROBACK. There is no question that these functions are transferred from the Coast Guard to the Safety Board?

Admiral SHIELDS. Well, as we understand the statute, sir, the NTSB, does not have the investigative end of it.

Mr. ROBACK. The bill says the Board shall determine the cause of probable cause of transportation accidents. Do you consider that an appellate function?

Admiral WHALEN. Do I consider that what?

Mr. ROBACK. Do you consider that an appellate function, determining the cause or probable cause?

Admiral WHALEN. As I understand it, the investigative procedure per se would be conducted by us, that the statute as it stands, would not set up the investigative procedure within the Board. And as I mentioned before, sir, the Board would act on appeal, that is written in the law.

Mr. ROBACK. Point out to me the provision of the law you understand constitutes the Transportation Safety Board as appellate body. I mean, show me where you read the language that makes it an appellate body?

Admiral SHIELDS. The way we understand it is that the investigative functions do not go to the Safety Board. The Board acts on records of the investigation.

Mr. ROBACK. You mean that the Board is going to act on the administrative record of the investigation in the same sense as a court would act on administrative or examiner's hearing, is that your understanding? We don't want to ask you to make off-the-cuff interpretations here. If you don't understand it, just tell the committee that you would like to examine it a little more closely, but—

Mr. HOLIFIELD. Submit a memorandum on it. It seems that the section does give you investigative power in one area, and review on appeal of certain things such as the modification, revocation, or denial of any certificate or license, but they are separate functions, and apparently one is an operative function and the other is appellate function.

Mr. ROBACK. Mr. Chairman, if it is not out of order, I would like to request, also, that General McKee review the testimony and submit a similar memorandum, because his testimony on accident functions, as I heard it, doesn't seem to comport fully with provisions of the bill as I understand them.

Mr. HOLIFIELD. I am also informed by my staff that the testimony of the Budget Bureau representative was a little obscure on this, so we will ask the staff to contact these different witnesses, and I am notifying you at this time, Admiral Shields, to prepare a memorandum on this point, and we will see if there is confusion. We may perhaps have amendment to resolve this.

(The requested information is included in app. 5 on p. 329.)

Mr. ROBACK. One more question. Are you affected in any way by section 7?

Admiral SHIELDS. We don't think we are affected in any way by that section; no, sir.

Mr. HOLIFIELD. Thank you for the third time, sir.

Admiral SHIELDS. Thank you, sir.

Mr. HOLIFIELD. Mr. Charles M. Haar, Assistant Secretary for Metropolitan Development of the Department of Housing and Urban Development.

All right, Mr. Haar.

**STATEMENT OF CHARLES M. HAAR, ASSISTANT SECRETARY FOR METROPOLITAN DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; ACCOMPANIED BY VICTOR FISCHER, DIRECTOR, OFFICE OF METROPOLITAN DEVELOPMENT; DAVID SPECK, HEAD OF THE LEGAL STAFF, OFFICE OF TRANSPORTATION; AND RICHARD BRYANT, OFFICE OF GENERAL COUNSEL**

Mr. HAAR. Mr. Chairman and members of the committee, I am appearing here, on behalf of Secretary Weaver, to present the views of the Department of Housing and Urban Development in support of H.R. 13200, the administration-recommended bill to establish a Department of Transportation.

With me are Victor Fischer, Director of our Office of Metropolitan Development; David Speck, head of the legal staff of our Office of Transportation; and Richard Bryant, from our Office of General Counsel.

Our interest in this bill comes from the special importance of transportation to the development of our present highly urbanized society, which depends upon the efficient, safe movement of people and products among its towns and cities. Federal assistance and leadership have always been of great importance to the development of our national transportation system.

Increasingly, however, we believe that it has become clear that this assistance and leadership in the field of intercity transportation could be better exercised through one department than through a number of separate agencies. The proposed new Department of Transportation offers promise of more effective administration of both Federal and federally assisted transportation programs in this field.

The Department of Housing and Urban Development is also interested in this bill because of the specific program responsibilities which Congress has given us with respect to comprehensive urban planning and urban mass transportation.

Under the "section 701" program the Department assists metropolitan and other urban areas to engage in comprehensive urban planning. Such planning takes into account and coordinates all aspects of urban development, including as a key element, urban transportation.

It would be impossible to engage in such planning without cognizance of the transportation factor. Urban transportation systems both shape and are shaped by other aspects of urban development. For example, a new highway or transit line can determine where people live and work, and can greatly affect both local property values and the need for investments in other public facilities. At the same time, existing population patterns must be served by good transportation facilities, and existing development greatly affects both the feasibility and cost of various types of transportation.

An even more complex relationship exists in those situations where transportation and particular land uses are alternatives to one another. For example, a residential area can be constructed adjacent to an employment center, or at a distance, but with a rail line or freeway between the two areas. For a locality planning its future growth, the construction of transportation here is simply one possibility among various plans.

Among the responsibilities transferred to the new Secretary of Transportation would be assistance for highway planning, in connection with the Federal-aid highway program, and airport planning, in connection with the Federal airport program. We have already established close and generally effective working relationships with the Bureau of Public Roads and the Federal Aviation Agency with respect to these planning programs as they affect urban areas. For example, in over 80 metropolitan areas local planning projects have been jointly financed and supervised by us and BPR in order to assure maximum coordination of highway planning and comprehensive planning.

However, formation of the new Department will provide an excellent opportunity to establish even closer and more effective relationships among various types of transportation planning and between them and comprehensive urban planning. More attention needs

to be paid, for example, to planning to avoid the "transportation gap" which now sometimes exists in getting to and from airports.

Our other area of direct transportation program responsibility is the urban mass transportation program, which we administer under the Urban Mass Transportation Act of 1964. This program provides grants to help localities obtain facilities and equipment which are needed for effective mass transit systems but which cannot be financed through revenues. The program also provides funds for research and for grants for projects which develop and demonstrate ways of improving mass transportation equipment and techniques.

Mass transit, whether by bus, subway, or rail commuter line, is, of course, very closely related both to private automobile transportation and to various forms of intercity transportation. Indeed, there is general agreement that a city's transportation needs can effectively be served only through a balanced and interdependent system using all types of transportation to best advantage. It is established Federal policy to require planning for such a balanced transportation system as a prerequisite to Federal assistance for both highway and mass transportation projects.

When the mass transportation program was first established in 1961, it was decided that in spite of the need for close coordination between that program and other Federal transportation programs—particularly the highway program—there was an even more crucial need for close coordination with urban development programs and policies. The Congress made this decision in 1961, again in 1964 when it continued and expanded the program, and again in 1965 when it incorporated the program in those to be administered by the new Department of Housing and Urban Development. In reporting the bill to establish that Department, the Senate Committee on Government Operations added specific reference to mass transportation as properly within the jurisdiction of the Department of Housing and Urban Development. The committee report states as follows:

The problems of urban mass transportation are, of course, an integral part of overall community development problems. More so than in the case of many other forms of community facilities, the location of highways, bus lines, subway lines, and commuter railroad branches often determines the pattern of urban growth. In recognition of this fact, the committee thought it helpful to make specific reference in the "declaration of purpose" to the encouragement of the solution of problems of urban mass transportation.

The Department of Transportation bill does not itself change these present arrangements in the field of urban transportation. It does not modify the authority, with respect to urban areas, of any of the programs transferred to the new Secretary, nor propose any transfer of functions to or from the Department of Housing and Urban Development.

Possible changes are, instead, deferred to future consideration. The President specified in his transportation message that upon the establishment of the new Department he would ask the two Secretaries to consult with each other and to recommend to him, within a year, the best means and procedures for cooperating in decisions affecting urban transportation.

The Department of Housing and Urban Development concurs fully in this approach. The problems involved are complex as well as im-



portant and merit careful study. Also, both departments would be able to consider these various interdepartmental problems most effectively only after having completed their own reorganizations and program coordination.

When I testified last week on the Department of Transportation bill before the Senate, some members indicated they thought the urban mass transportation program should immediately be transferred to the new Department. I most emphatically believe that no decisions should be made in this area until the two Secretaries have had an opportunity, as proposed by the President, thoroughly to consider all of the various problems involved in the relationships between their two departments.

It is evident that the mass transportation program has vital relationships with Federal highway programs and policies—though, for example, joint use of rights-of-way for highways and transit lines in urban areas. This, however, merely defines a part of the problem; it does not solve it. Urban highways themselves have such great effect upon urban land use and development that an excellent case could be made for increased responsibility being placed in our department for at least some aspects of Federal highway programs and policies.

In fact, the Federal highway programs and the mass transit program are only examples of a general need to work out new arrangements which will better serve the responsibilities of both of the departments. I am sure that we can do this, and I am looking forward to the opportunity to do so which passage of the Department of Transportation bill will provide.

Mr. Chairman, this completes my prepared testimony. I and my associates will be happy to attempt to answer any questions which you or your committee members may have.

Mr. HOLIFIELD. Thank you, Mr. Haar.

The Chair wishes that we would solve all of the problems of the world in one fell swoop, but it has been my experience in 24 years in the Congress that we can't do everything at once and we have to take things that are practical a part at a time, come back later and amend bills and change them and unfortunately we don't have the factor of infallibility and prophesy as to how things will work out. I think in the case of a new department, when they have not set their organizations up, that it is much better to wait until the organization is set up and you get the functions so that you can really consider some of these basic problems which are very complicated.

The Chair feels this: while I am in favor of the principle of eventually bringing this under the Transportation Department—unless there are real reasons why it should not be considered that way, I am in favor of the principle—I recognize the complications and certainly a year's delay on doing this particular thing might be well used to study the complications. I assure you this committee will still be in existence, and by that time, maybe we will know a little bit more about this problem too.

Mr. Erlenborn?

Mr. ERLENBORN. Mr. Haar, let me just ask you a couple of questions to get some basic information.

First of all, the Department of Housing and Urban Development is fairly new, having just been created last year. How long have you been with the Department?

Mr. HAAR. I have been here since February 2.

Mr. ERLBORN. Of this year?

Mr. HAAR. Yes.

Mr. ERLBORN. I don't recall the date the Department became active as a Department. Is that the date it was activated?

Mr. HAAR. The bill creating the Department was passed in September of 1965, but it came into being in January and is still in the process of being organized.

Mr. ERLBORN. Have you been with HHFA prior to that?

Mr. HAAR. No, sir; I have not.

Mr. ERLBORN. Could you tell me the extent of the involvement of Housing and Urban Development in the mass transportation field?

Mr. HAAR. Yes, sir. It is involved by reason of the 701 planning program, which is the general planning program which aids small communities under 50,000 and metropolitan areas to plan their land uses. One of the components which 701 requires is transportation planning, so the Department gives grants-in-aid to communities for their transportation planning, which includes highway and freeways as well as the mass transportation components.

It also undertakes assistance—planning and design—under its 702 program, which aids the design and engineering of public facilities. Larger facilities such as mass transit components, are included in this category.

In addition, it has three programs under the Urban Mass Transportation Act, one in the form of loans, the second in the form of capital grants for equipment and for modernization of facilities. These grants can be up to 66⅔ percent of the total cost when the expenditure is pursuant to a metropolitan comprehensive plan. The third aspect is the demonstration program where the Department has authority to make grants to develop, test and demonstrate new facilities, equipment, techniques and methods. The object is to see what we can learn and what the local people can do to improve their transportation situation.

Mr. ERLBORN. As I understand it, you are involved in this Mass Transportation Act of 1964 in rail transportation, highway transportation. Are your funds used for highway development?

Mr. HAAR. They are used in the sense that we have made grants for buses and bus transportation which, in turn, use the highways, and in the sense that the 701 program, which is a planning program for the metropolitan areas helps relate highway development to other land uses.

Mr. ERLBORN. Are you involved in any aspect of air transportation?

Mr. HAAR. Well, we are involved in it in the sense of transportation to and from the airport if it occurs within a metropolitan area or a city. We are also involved in that the 701 program requires that the local authorities and the Department cooperate with the FAA so that the airports can be fitted into the overall transportation network.

Mr. ERLBORN. When we get into this area I think we sometimes have trouble with definitions. Mass transportation, as I understand it, deals with the movement of large numbers of people as opposed to one man in a car. Whether this be done by rail, by bus, or some other means. And here we are talking about urban mass transportation.

Would this not include also, as far as rails are concerned, two types—rapid transit, which is a nonscheduled frequent service, and commuter service, which, on the other hand, is a scheduled and not quite as frequent service?

Mr. HAAR. Yes, sir.

Mr. ERLNBORN. The rapid transit ordinarily is within one city whereas your commuter service would involve intercity transportation in a metropolitan area. Now are you involved in that aspect, the commuter transportation?

Mr. HAAR. Yes, sir; we are. We have made grants to commuter railroads in Massachusetts and elsewhere under the capital grant program.

We are also assisting demonstration programs in this area. For example, we have made a grant of almost \$925,000 for a project testing the applicability of gasoline turbine engines to commuter railroads.

Mr. ERLNBORN. I always hate to ask questions that are of a rather local or parochial nature, but for my own information, in my area—I come from the Chicago area—we used to have a facility known as the Chicago, Aurora & Elgin Railroad, which was a commuter line, intercity or interurban electric line, which no longer operates.

Now, if it was of interest to the people in our community to reactivate some sort of mass transportation facility on the right-of-way of this old railroad, where would we go for help? Would we go to the Department of Transportation, as contemplated by this bill, or would we go to the Department of Housing and Urban Development, or could we shop around and find help from one or the other?

Mr. HAAR. You sound like a man with much experience on this. I think that at the present time you would be coming to the Department of Housing and Urban Development, and this would be the case, too, after the passage of this bill. The bill does nothing to affect the present functions. There would be a later study to see how this whole problem of urban transportation can best be allocated between the two Departments.

Mr. ERLNBORN. What I am really getting to is where is it spelled out in the law, or is it spelled out very clearly, the limits of your authority and the authority of the Department of Transportation? Are you limited to the city, so many miles from the city, or particular programs in that area? Could you get involved in transportation, say, between Chicago and Milwaukee or Chicago and Des Moines, Iowa? Where are the limits?

Mr. HAAR. The limits, as defined in the Urban Mass Transportation Act are that we can assist an area which includes a municipality or other built-up place which is appropriate for a public transportation system.

Mr. ERLNBORN. How do you define metropolitan area, standard metropolitan statistical areas defined by the Census Bureau? Would it include, for instance, Gary, Ind., as part of Metropolitan Chicago?

You see my problem. Let me put this clearly. My problem is: I am wondering how we are going to determine, if we are going to separate transportation functions, how we are going to determine which agency or which department has the authority in these areas.

It occurred to me when I first read this bill that it is a strange thing, in recognizing transportation as a unique problem in our country, requiring planning, locating representation in high councils of our Government, to slough off a part of this and say all transportation except this. Now transportation in the urban areas belongs to some other department.

I am trying to find some justification for this.

Mr. HAAR. Coming from the background that I do, with more familiarity with the impact of transportation on other land uses and the patterns of city units and the whole question of efficient and orderly growth of metropolitan areas, which is a function of my Department, urban mass transportation, it seems to me, has more contacts with the problem of efficient and orderly growth than it does with interstate and intercity transportation systems.

Now, this is only natural from my perspective. I would assume that somebody from the Department of Commerce, who would be more familiar with the technology, or the physical aspects of transportation, would think it more appropriate that the function go to the new Department of Transportation. I think that the precise purpose of this 1-year study which the President is recommending is that we come together with our past histories and experiences and develop what is the most appropriate allocation.

This is a difficult question. There is no getting away from that. Mass transportation has many contacts—with housing, with relocation, with people, with the esthetic of the city, with employment, all of which are the type of matters as to which the Department of Housing and Urban Development has been charged by the Congress.

On the other hand, it has a tie-in with interstate transportation, it has a tie-in with the technology and the safety measures which are dealt with in this bill.

Mr. ERLBORN. How about the safety measures now? Will safety in urban mass transportation be the responsibility of HUD or will it be in the new Department of Transportation?

Mr. HAAR. I don't think I could anticipate the outcome of the study.

Mr. ERLBORN. Under the proposed bill before us?

Mr. HAAR. Under the proposal, the present arrangements would continue as they are.

Mr. ERLBORN. That would be safety in urban mass transit would be your responsibility, and safety in other transportation would be in the new Department?

Mr. HAAR. That is my understanding, sir.

Mr. ERLBORN. Do you think there is any particular expertise that has been developed in HUD in the field of urban transit safety?

Mr. HAAR. I think there have been some applications of this to urban mass transit under the capital grants program. There have been some engineering skills, some scientific skills that have developed in order to appraise the applications for capital grants for certain types of equipment which involve safety.

Mr. ERLBORN. Wouldn't you say that the location of highways, circumferential highways such as we have here in the Washington metropolitan area, has at least as great or possibly a greater influence on urban development than rail or bus transportation?

Mr. HAAR. I certainly agree with you that the highway network and freeways have a great impact on where industry locates, on where people live, and on the whole metropolitan area. I understand, too, that the purpose of this study is to see what portions of this program properly belong to a department that concerns itself with the common end and objectives of the efficient and orderly growth of the metropolitan area, and what parts of that function of building and planning and operating highways belong to the proposed Department of Transportation.

Mr. ERLBORN. In other words, do I understand you correctly, that, as a result of this 1-year study, it may be determined that part of the functions of the Bureau of Public Roads ought to be transferred to HUD?

Mr. HAAR. Again I can't anticipate what the outcome of the study might be, but this would be one of the subjects to be examined.

Mr. ERLBORN. This could be one of the outcomes within the scope of the proposed study?

Mr. HAAR. It could be, as could other modifications. It could be that certain elements require coordination of both departments and that certain other activities are best done by one department rather than the other.

I think that this is the reason for the study. As the experts have looked at it, there is no black-and-white response that we should keep it all in our department, or all in the other. It is because there must be the kind of solution which takes into account the different factors, the contending values, that this study has been recommended by the President.

Mr. ERLBORN. We were talking a little while ago about the definition of a metropolitan area. I don't know that we have this really tied down. How about the so-called megalopolis of the northeastern coastline here? Would this come within the purview of HUD or the new Department of Transportation?

Mr. HAAR. Well, I think that again this would be a matter for study. I think if you look at that megalopolis—

Mr. ERLBORN. Before the study is made, where would it be?

Mr. HAAR. At the present time the northeast corridor study?

Mr. ERLBORN. That is one aspect?

Mr. HAAR. That is an aspect which would be for the Under Secretary of Transportation in the Department of Commerce. The other aspects, the metropolitan areas within this whole framework going from Boston to Washington, are dealt with by State and local governments, by metropolitan area planning commissions, by metropolitan-regional transportation operating companies. And, to the extent of our 701 or 702 programs and in that we have made many other grants under the Urban Mass Transportation Act of 1964, we are operating there. These operations would continue.

Mr. ERLBORN. Since your principal functions in the field of transportation come under the act of 1964, as I understand it—or is my understanding correct?

Mr. HAAR. Yes, sir.

Mr. ERLBORN. From the technical viewpoint, would it be difficult to bodily remove these responsibilities and move them into the new Department of Transportation?

Mr. HAAR. You are talking simply of a mechanical job of striking out one word and putting in a new name and so forth?

Mr. ERLNBORN. Yes, sir.

Mr. HAAR. I assume it could be done.

Mr. ERLNBORN. From a legislative viewpoint, it would be rather simple; merely have a simple amendment to the act of 1964.

Mr. HAAR. Yes, sir. I suppose it could be. But that would be a mechanical approach; it would not deal with the problems underlying it.

Mr. ERLNBORN. As your department is structured do you have certain personnel devoting their time to functions specified in the act of 1964?

Mr. HAAR. Yes, sir.

Mr. ERLNBORN. So they could bodily be removed and transferred to another department?

Mr. HAAR. I assume some could. The jobs of other personnel encompass functions in addition to those relating to transportation, and these would be difficult to allocate. There are others who deal with the whole problem, and relate it to relocation, or to property values which are affected by transportation, and who deal with local governments, with mayors, with counties. These people are experienced in dealing and talking with and finding common solutions with local people. They act in transportation, they also act in housing, they act in urban renewal and other areas. It would be a difficult job to move them.

Again, some financial people deal not only with mass transportation but also with other kinds of specialties, such as bond issues and evaluating the financial capabilities of local people.

Mr. ERLNBORN. If the Congress should determine that the functions you perform under the act of 1964 would better be housed in the new Department of Transportation, and then a study be conducted, do you think there would be any great disadvantages to this?

Mr. HAAR. Yes, sir; I think there would be.

Mr. ERLNBORN. In other words, you tend to think it should be in HUD?

Mr. HAAR. I think that it is so complicated a question—because it has contacts with transportation, with land development, with housing, with States and cities, and residential areas, with the manner in which housing is going to be related to industry and to jobs—that a full study is necessary to resolve these questions as to who is the most expert and as to which common objectives predominate. I am sure that it is on the basis of common purposes that the departments are being organized.

Mr. ERLNBORN. I have no further questions.

Mr. HOLIFIELD. I would comment at this time that, as to the purpose of setting up the Department of Transportation, when the Congress finds it necessary to encourage the cooperation of Federal, State, and local governments in these problems and to provide general leadership in the identification and solution of transportation problems, it would bring into one place an official Cabinet-level department that could study the problem of the megalopolis of the northeastern coast. There would be a common meeting ground for Federal, State, city, and county officials who are interested in the subject to come together to

identify, first, the problem in all of its ramifications, and then to see if a solution were available, transferring the whole job to one department or segregating it according to the practical needs of our rapidly growing society. So it would seem to me that we are not making all of the decisions for all time when we establish this Department of Transportation. We are providing a vehicle with a wide scope of authority; not an unlimited scope but a wide scope of authority to look at the whole problem of transportation and to act as a coordinating body to identify and bring up a solution to these problems.

This, it would seem to me, is the greatest reason at this time why this should be done, because at present we have uncoordinated transportation policies as between cities, maybe adjoining each other as far as their boundaries are concerned, or only divided by a small area of nonmunicipal topography.

So I would believe that a study of this terribly complicated problem would be more possible under a Department of Transportation than it would be under the limited scope of Housing and Urban Development or on the separate scope of the Department of Commerce.

Mr. HAAR. I agree that it would be helpful to have a Department of Transportation as a copartner in exploring this difficult problem. But I think that if you look, for instance, Mr. Chairman, at the transportation origin and destination studies of the various nuclei within the northeast corridor you will find that 95 to 96 percent of all trips are within a particular metropolitan area.

It would seem to me, too, that this transportation within these nuclei determines the urban development, determines the shape of a city, determines where the capital and the mortgage money will go, where the housing will go, where the industry will go. Often the solution to what looks like a transportation problem has nothing to do with further investments in transportation.

There may be alternative investments, such as different ways of housing, different ways of clustering subdivisions, different ways of placing airports, for instance, which would call for the expertise and training that have been developed by this Department of Housing and Urban Development.

Mr. HOLIFIELD. I agree that transportation is just one aspect of service for the people.

Mr. HAAR. Yes, sir.

Mr. HOLIFIELD. And it has to be coordinated with the other services. I certainly agree with you that no Department of Transportation should be set up that would be so strong that it would violate the needs of a metropolitan area. I don't think it will be allowed by the Congress or be allowed by the local cities.

It is a complicated subject.

Mr. HAAR. It is a complicated subject.

Mr. HOLIFIELD. And simple solutions do not come immediately.

Mr. HAAR. Yes, sir.

Mr. HOLIFIELD. Mr. Brown?

Mr. BROWN. Before the sound system was turned up you mentioned the size of cities served, and I missed, about housing and urban development.

Mr. HAAR. I think I was talking about the 701 program, about the grants-in-aid for planning. I was saying that under 701 the Depart-

ment services communities under 50,000, and to this has been added the category of States and metropolitan planning bodies and agencies.

Mr. BROWN. Does that leave anybody that you don't serve in this way?

Mr. HAAR. Large cities.

Mr. BROWN. The large cities are excluded?

Mr. HAAR. From the grants and authorization under 701, except with respect to metropolitan area planning. They have their other planning programs under the community renewal program, the GNRP, and urban renewal program.

Mr. BROWN. So, in fact, the Housing and Urban Development Department serves all communities of all sizes?

Mr. HAAR. Yes, sir.

Mr. BROWN. What is the area involved, the conceptual area involved in urban development? Are you dealing with only large metropolitan centers in this area or are you dealing with smaller communities, or are you dealing with the development of metropolitan areas into rural territory?

Mr. HAAR. In terms of defining metropolitan development, I think we are dealing with a framework within which there are both the central city and the suburban systems, suburban areas. We generally follow the standard metropolitan statistical area, as defined by the Department of Commerce, the Bureau of Census. This requires a central city of at least 50,000 and includes the built-up or expanding suburbs which are economically and socially related to the central city.

Mr. BROWN. And if you have another central city of 50,000 a few miles away with a little rural area in between, 20 or 30 or 40 miles of rural area, then is that rural area involved in your thinking?

Mr. HAAR. It is involved to the extent that it interrelates with the other portions, as often it does. The two cities could be within one metropolitan area.

Mr. BROWN. And if you decide in this community of central cities that you are going to put an airport in the middle of it, in the rural area, how does this relate to your thinking in housing and urban development as to the effect this would have on these communities?

Mr. HAAR. Where this would go would be a question of local zoning law or of local subdivision control law. To the extent that grants for these programs have been made conditional by the Congress upon areawide, comprehensive planning, the question would be whether the local plan had conceived of this airport and its impact on other land uses, and made provision for it, whether this was in accordance with their arrangement beforehand.

Mr. BROWN. As you see the function of Housing and Urban Development, are you involved in this kind of a situation?

Mr. HAAR. We are involved in that any 701 program grant which has been made to a metropolitan agency will have provided for planning with respect to that airport. Also under title I of the proposed Urban Development Act of 1966 we would provide for supplemental grants in the case of a facility such as an airport, if it is in accordance with sound, comprehensive metropolitanwide planning, but that is not within our authorization as yet. It is, however, within our thinking, to answer your question, sir.



Mr. BROWN. in other words, you would want to become involved in the location of an airport to serve a metropolitan area?

Mr. HAAR. Of course, this is for local determination, for a primary determination by the locality or the FAA, whichever is in charge.

Mr. BROWN. But you do become involved if you give them additional planning grants?

Mr. HAAR. Yes, sir; we do to that extent. Also, we are involved in seeing how it would interrelate with the other components of land use, like the mass transportation elements which we do administer, and how it fits into the overall areawide planning for the different facilities and the different land uses.

Mr. BROWN. Now, in order to plan this airport that I have in mind—and I want to get a little assistance from Housing and Urban Development—do you have any interest in where it might plan this?

Mr. HAAR. The local governments may have planned beforehand without knowing that you were going to want to put that airport in that immediate spot. Once you have reached the design element, the land purchase aspect, and have already acquired your land and have obtained your financing, if it is a private airport, or have obtained it through the public mechanism of eminent domain and orthodox financing—which is your situation, sir?

Mr. BROWN. I am on the city council, or commission, or whatever it is, and I want to put an airport out here that will serve a couple of communities, and I would like to get a little assistance from Housing and Urban Development to help me finance the study of where this airport ought to be and so forth with reference to good urban development.

Mr. HAAR. As part of the 701 grant, which you would be applying for in order to do a metropolitan study of the best land use, you would determine the best location for this airport, whether there would be need for it, and how it would fit in with the means of getting out there. Assuming you meet the other requirements of section 701, of course, you would be eligible to study that problem among the other problems that it relates to.

Mr. BROWN. Could you give me any competent advice as to where that airport ought to be?

Mr. HAAR. We don't do that. We give the funding to the local metropolitan agency, which then hires its consultants and its advisers. The object is to give the locality the financing which enables it to get that type of expert advice. It then makes up its own mind, of course, as to where it wishes to locate the airport.

Mr. BROWN. In other words, you give me the money to make the plan, but you don't care where I put it?

Mr. HAAR. We certainly care where you put it, but we don't look into the substance of the plans or tell you that this is an improper plan or improper choice if you have gone through the proper rules for your decisionmaking. If you have gone through whatever is required to have the plan adopted locally, if you have done the studies and if you have reached the conclusion on a reasonable basis that you want the airport here, then, even if in some superior wisdom we might think it ought to go elsewhere, we do not interfere.

Mr. BROWN. Who determines whether or not my choice has been made on a reasonable basis?

Mr. HAAR. We don't even do it in terms of a substantive decision on the plan as long as you have gone through the procedural steps which indicate that you have considered the factors which the Congress and the regulations lay out for doing 701 metropolitan planning.

Mr. BROWN. In other words, I get my grant and you leave me free to make my conclusion from that point on, so that you are not directly involved with where this airport should be?

Mr. HAAR. Mr. Fischer, do you want to answer that?

Mr. FISCHER. I would like to add a little bit to Secretary Haar's explanation.

The grants are made to the metropolitan planning agency or regional planning agency that may be interested in studying the locational needs of the airport. We do have coordinating arrangements made with the various Federal agencies to assure that when assistance is being rendered under the 701 planning program for facilities that they may have to eventually finance, that the planning that is done at the local level is done in coordination with that particular Federal agency. This is true, for instance, for hospitals.

If we finance the preparation of a hospital plan, we will call for coordination with the State department of health and with the U.S. Public Health Service, as may be appropriate.

In the case of airports we have arrangements with the FAA for airport systems planning which provide that we provide assistance for financing, and the FAA provides technical assistance to the given community. We will require that these coordinating arrangements be made with FAA.

As Secretary Haar says, we will not be the ones who will tell the community your airport needs to be there or it should be over there. But there are built-in coordinating arrangements that we hope we will result in the proper decisions.

Mr. BROWN. In other words, you encourage me to go to FAA and get my information from FAA?

Mr. FISCHER. That is correct.

Mr. HAAR. Do you have any direct dealings between HUD and FAA on this type of thing?

Mr. FISCHER. Yes, sir; we do. We have direct dealings on planning, on airport noise, and various other aspects of urban development ramifications of airport locations and planning.

Mr. BROWN. I know Mr. Rosenthal would be pleased you brought up airport noise.

In doing this, does the Secretary of Housing and Urban Development deal directly with the Director of FAA?

Mr. FISCHER. With the Administrator, yes, sir.

Mr. HAAR. I think there is Regional Circular No. 598, which is a special circular, Mr. Brown, that outlines the measures of coordination between the Federal Aviation Agency and the Department of Housing and Urban Development.

Mr. BROWN. Do you feel it would be easier to deal with the FAA, for instance, or with the Bureau of Public Roads and the other agencies which are suggested for the Transportation Department?

Mr. HAAR. Yes, sir; I think so.

Mr. BROWN. The studies to be made by HUD and the proposed Transportation Department of the areas of separation here between the responsibility of HUD and the Transportation Department in terms of mass transit, interurban transit, northeast corridor and so forth, is to take a year?

Mr. HAAR. Yes, sir.

Mr. BROWN. Is there a budget for this?

Mr. HAAR. Not that I know of, sir. I assume there will be funds for that.

Mr. BROWN. Do you know how these funds will be provided? Is there to be a supplemental appropriation for this purpose?

Mr. HAAR. I am told that there will be funds. For example, part of the administrative funds, at the direction of the President, might be made available for this study.

Mr. BROWN. Do you know what the extent of personnel involvement in this study will be?

Mr. HAAR. No, sir.

Mr. BROWN. Or where they would come from?

Mr. HAAR. No. I assume they would come by appointment of the two Secretaries, appointing them from their respective departments to analyze this problem.

Mr. BROWN. Is there any timetable for this study other than the fact, from what you say, that they have to start some time after the Transportation Department is established?

Mr. HAAR. It will have to start after the Department is established and be completed within 1 year thereafter.

Mr. BROWN. Do you know if this is an urgent problem?

Mr. HAAR. Yes, sir, I do.

Mr. BROWN. More urgent than the location of airports generally, or planning of interstate highway programs?

Mr. HAAR. No. I think they all are urgent problems. I don't think they conflict with each other, if that is the tenor of your question.

We do have coordinating mechanisms going on in the latter two areas. We do have agreements with the Bureau of Public Roads with respect to the two, and we can continue operating until these decisions are made at the end of 1 year.

Mr. BROWN. But this study should be limited to mass transport and not to airports or highways; is this right?

Mr. HAAR. I do not think it is limited with respect to highways. The whole question of urban mass transportation deals also with the freeways, and also deals with the kind of planning and coordination that is necessary with respect to highways in addition to problems of mass transit facilities like the subways, buses or commuter trains.

So, we will cover the whole field of the different ways of transportation within the city, and the metropolitan area, including highways, and mass transit.

Mr. BROWN. Airports?

Mr. HAAR. Airports would be a significant component of that, too, as they relate to cities and metropolitan areas.

Mr. BROWN. We were talking about this study, and it is going to be developed over the next year?

Mr. HAAR. With respect to airports, I don't know if that has been thought through. There is a present coordination, as Mr. Fischer

pointed out, and I think there is a sense that this is a satisfactory way of dealing with the problem.

Mr. BROWN. You feel that the mass transportation department should come first before the study?

Mr. HAAR. I think it will be helpful to have these different agencies together and to have the Department, organizing itself to discharge the functions set forth by the President, in the practical aspect as well as in the theoretical aspect.

Mr. BROWN. Thank you very much, Mr. Chairman.

Mr. HOLIFIELD. Mr. Henderson.

Mr. HENDERSON. Mr. Haar, do you find anything suggestive in the President's directive for this study that expresses or implies to you that you delay or suspend any of the programs that are now conducted in the field of mass transportation?

Mr. HAAR. No, sir; I do not.

Mr. HENDERSON. And, even if this new Department is set up, you would find nothing to cause you to do that during that 1-year period?

Mr. HAAR. That is correct.

Mr. HENDERSON. You would keep going full steam ahead while the study is being conducted?

Mr. HAAR. We certainly would.

Mr. BROWN. Or does that mean going ahead with the development on mass transportation and study it later?

Mr. HAAR. No. It means going ahead with both aspects. It means going ahead with the programs with which the Congress has charged us, and going ahead with the study as well.

Mr. BROWN. The study will start now then, without the Transportation Department.

Mr. HAAR. The study would start upon the formation of the Transportation Department.

Mr. ROBACK. Mr. Haar, in relation to section 7, I notice that mass transportation is not excepted from the obligation of the Secretary of Transportation to develop criteria or standards. How do you relate that to your responsibilities?

Mr. HAAR. As I understand from the Bureau of the Budget and from legal counsel here, section 7 does not cover urban mass transportation. We are excepted from the provisions of that section.

Mr. ROBACK. You are excepted even though it is not specified?

Mr. HAAR. Even though it is not specified I believe, on the interpretation given you earlier, that section 7(b) and 7(a) as well, applies to Federal funds, not to grants-in-aid.

Mr. HOLIFIELD. Thank you very much, sir. We will see you back in 1 year with the results.

Mr. HAAR. One year from the date of the formation of the Department of Transportation, sir.

Mr. HOLIFIELD. You are excused. Thank you very much.

We welcome Rear Adm. John Harlee, Chairman, Federal Maritime Commission.

I wonder if we can accept your statement in full, due to the lateness of the hour, and you summarize it, Admiral?

**STATEMENT OF JOHN HARLEE, CHAIRMAN, FEDERAL MARITIME COMMISSION**

Mr. HARLEE. Yes, sir. I would be glad to do that.  
(The prepared statement of Mr. Harlee follows:)

PREPARED STATEMENT OF REAR ADM. JOHN HARLEE, U.S. NAVY (RETIRED),  
CHAIRMAN, FEDERAL MARITIME COMMISSION

Mr. Chairman, gentlemen, the Federal Maritime Commission is grateful for the opportunity to appear before the House Committee on Government Operations.

My job is made easy by the fact that the Federal Maritime Commission met as a body in March and, after careful consideration, on March 22, 1966, announced unanimous endorsement of President Lyndon B. Johnson's proposal for the establishment of a Cabinet-level Department of Transportation.

This action of the Commission gave unequivocal support to the President's call to Congress for "a unified national transportation policy for all modes of transportation."

We favor a unified Cabinet-level transportation office which will facilitate new technology and insure a strong, safe, efficient, and fully integrated transportation system that must and will respond to the needs of the rapidly growing United States and free world economies.

I should like permission to put into the record this unanimous expression of support by the Federal Maritime Commission for the President's transportation bill.

Prior to 1961, both promotional and regulatory functions were vested in the Maritime Administration of the Department of Commerce. As a result of Reorganization Plan No. 7, effective August 12, 1961, all regulatory functions were transferred to an independent agency, the Federal Maritime Commission; all promotional functions were retained in the Maritime Administration.

Therefore, the Federal Maritime Commission has jurisdiction over rates and practices of foreign and American-flag carriers as well as terminal operators and freight forwarders in the foreign and domestic offshore commerce. The Maritime Administration has responsibility, under the Secretary of Commerce, for the determination and award of operating and construction subsidies, research and development activities, programs affecting the size and character of our merchant marine, the requirements for appropriations to support subsidy and related programs, the operation of our maritime academies, and the implementation of promotional programs such as the "ship American" program.

The present members of the Federal Maritime Commission are Vice Chairman John S. Patterson, of Illinois, James V. Day, of Maine, Ashton O. Barrett, of Mississippi, George H. Hearn, of New York, and myself as Chairman.

Gentlemen, I have been engaged in military and civilian logistical and transportation problems for a lifetime.

It is my desire to state, and to state unequivocally, that the United States of America is heading for chaos in the air, on land, and sea, unless we move to unify our transportation complex and then take steps to find sound answers for the problems that beset the various segments of U.S. transportation. The Federal Maritime Commission acted to support the President's transportation proposals because, like every American citizen, they have been unable to escape the consequences of our present transportation tanglement.

Perhaps in no other field have technological advances been so rapid as in the transportation field. These advances have been phenomenal and have not been confined to a single mode of transportation. We have seen the development of the jet and supersonic aircraft, the atomic submarine and atomic-powered merchant marine ships, the development of super highways, and the planning for unique rapid transit systems. It follows that good sense dictates the establishment of a single transportation agency to facilitate the adoption of technological innovations in one mode of transportation by other modes of transportation. This can best be illustrated by the adoption of containerization in the various

modes of transportation. Containers first were developed and utilized by our trucking lines, thereafter the railroads developed special equipment, piggyback cars for long hauls, and within the last several years we have seen the development of ships designed expressly for container movements.

Necessarily and essentially related to the development of efficient low cost container movement is the need to (1) provide for standard size containers which would enable interchange between modes of transportation; (2) provide roads, highways, and railroad beds of sufficient size and weight-bearing capacity to accommodate container movements; and (3) provide adequate container movement equipment and terminal and storage facilities.

The integration of the container program to intermodel transportation would have been more rapid and greater economies more easily achieved, had this program been under the direction and coordination of a single Federal Transportation Department.

In other areas, too, I believe that a Department of Transportation will be conducive to assuring a fast, safe, efficient, economical, and coordinated national transportation system.

A Department of Transportation will provide the means and furnish the impetus to the simplification of shipping documents for utilization in one mode of transportation, adaptation to other modes of transportation or for intermodel transportation of passenger and freight thus achieving sizable economies to shippers and carriers.

It is my firm belief that a single Federal Transportation Department will motivate the adoption of proven efficiencies in one form of transportation by other modes of transportation. For example, (1) a computerized system for the ready location and utilization of equipment to meet traffic demands; and (2) an automated system for passenger reservations and arrangements not only with respect to movements by a single mode of transportation but with respect to movements of passengers utilizing several modes of transportation to reach their ultimate destination.

Further, it is my opinion that a single transportation agency will provide for development of more efficient ports and terminal facilities in this country. These functions are now performed by the separate facilities of the Maritime Administration and the Corps of Engineers. While the proposed bill does not transfer the functions of the Corps of Engineers to the new Department, placement of this overall transportation responsibility in a single department will provide for more effective planning of the construction of roads to service ports and terminals, including local and service roads between such ports and main arterial highways which would become a responsibility of that one department.

A Federal Transportation Department will reduce the multiplicity of reports and statistics by the various segments making up the total transportation system. With respect to oceanborne transportation carriers are now required to prepare separate reports and furnish separate statistics to the Maritime Administration, to the Bureau of Census, and to the Corps of Engineers. Also, certain statistics are required to be reported to the Panama Canal Company. A transportation department might well integrate all of this requested information into a single report which would meet the need of all of these agencies and avoid unnecessary requirements. I would hope that this would be a high priority item for the new Department for it would be a great benefit to our domestic and international trade.

A Department of Transportation will enable a single Government authority to provide the direction and leadership essential to assuring maximum safety for passengers and freight. Such a department can and will achieve the establishment and administration of Federal safety requirements and the adaptation of adequate safety features.

When we have dozens of Government agencies spending billions of dollars yearly in the transportation area, it is simply good management—and, therefore, good government—to bring this program under one agency, to assure that it is well done with maximum dispatch and minimum cost.

Our present divided, subdivided, and splintered transportation approaches are not only deleterious to our necessary civilian activities; they are a peril to our Nation's capacity to defend itself in this modern age should such defense become a necessity.

We need, as we approach the year 2000, a transportation system capable of meeting the challenges of the future. It must possess the large total capacity needed to meet the greatest possible emergency. It must have psychological,

educational and military readiness to adapt, either to the needs of peace and growth or to the needs of defense and protection.

Gentlemen, we are in a nuclear and space age. In the past our country was fortunate in having time to build up its military and industrial might when our existence as a nation was challenged. In a possible future emergency, time for preparation will almost certainly be nonexistent.

If, for no other reason, the demands of defense, safety and technological progress demand that a beginning be made on a national approach to the complexities of American transportation.

As the committee knows, proposals for a Department of Transportation have had bipartisan support in the past. President Eisenhower recommended the creation of such a department in his final budget message. President Johnson's bill has the fullest possible conscientious support of myself and every member of the Federal Maritime Commission.

[For release Mar. 22, 1968]

#### FEDERAL MARITIME COMMISSION, WASHINGTON, D.C.

##### COMMISSION ENDORSES PRESIDENT JOHNSON'S TRANSPORTATION PLAN

The Federal Maritime Commission has unanimously endorsed President Lyndon B. Johnson's proposal for the establishment of a Cabinet Department of Transportation, it was announced today by Adm. John Harlee, Federal Maritime Commission Chairman.

The announcement favoring the President's transportation proposals received the endorsement of Vice Chairman John S. Patterson, Commissioner Ashton C. Barrett, Commissioner James V. Day, and Commissioner George H. Hearn.

Chairman Harlee said:

"The Federal Maritime Commission announced its support of President Johnson's proposal for a unified Department of Transportation under a Cabinet officer because it is convinced, with the President, that this is the sole path toward possible solution of the myriad problems which beset the transportation complex of the United States."

(Text of the announcement of the Federal Maritime Commission is attached:)

The President's proposed transportation bill has approval of the Federal Maritime Commission.

The Chairman and Commissioners of the Federal Maritime Commission announced today unanimous approval of President Johnson's proposals to Congress for the establishment of a Department of Transportation at Cabinet level to develop a unified national transportation policy for all modes of transportation which will facilitate new technology and insure a strong, safe, efficient, and fully integrated transportation system that must and will respond to the needs of our rapidly growing economy.

JOHN HARLEE,

*Chairman.*

JOHN S. PATTERSON,

*Vice Chairman.*

ASHTON C. BARRETT,

*Commissioner.*

JAMES V. DAY,

*Commissioner.*

GEORGE H. HEARN,

*Commissioner.*

Mr. HARLEE. The Federal Maritime Commission unanimously—which means, of course, bipartisanly and unequivocally—supports President Johnson's proposal for a Department of Transportation.

Even though we ourselves are not affected as an economic, regulatory agency and an arm of Congress, we have seen so much room for improvement in transportation that we believe there can be no doubt that this proposal will effect much of this improvement.

Mr. HOLIFIELD. Mr. Erlenborn.

**Mr. ERLNBORN.** Admiral, maybe you can enlighten me as to the functions of the Maritime Commission?

**Mr. HARLLEE.** I will be glad to, Congressman.

The Maritime Commission is in a rather unique position among the agencies you are considering. Recently the promotional functions with relation to maritime matters and regulatory functions were split, by Reorganization Plan No. 7 on August 4, 1961. You have a problem in retaining under Congress through the ICC, the CAB, and the Federal Maritime Commission, the economic regulatory functions. At the same time, I think that most people believe that the promotional and safety functions can be coordinated perhaps in a different manner.

The functions of the Federal Maritime Commission are to regulate the rates and practices of some 400 carriers in our foreign commerce, some 80 carriers in our domestic, off-shore commerce, which pertains to Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands; some 400 freight terminals, and 900 ocean freight forwarders. And it is in the operations of these ocean freight terminals and the ocean freight forwarders that we see much of the problem which we think the Department of Transportation would move to solve.

If I may, Congressman, I should say that the Maritime Administration of the Department of Commerce is charged with the promotion, the direct promotion, of the American merchant marine through some third of a billion dollars a year of construction and operating differential subsidy; care of the 1,600 ships of the reserve fleet; about \$7 million in research and redevelopment funds; the training of officers at the U.S. Merchant Marine Academy at Kings Point; partial subsidization of the State academies; low-cost title XI mortgages; and administration of much of the cargo preference traffic.

In other words, the Maritime Administration promotes the American merchant marine. We regulate the ocean trade and commerce of the United States, which is carried mostly by foreign ships. But we regulate it in the interest of the general public, of which the merchant marine is only one segment.

**Mr. ERLNBORN.** So that the functions, other than the regulatory functions that used to reside in the Commission, have been divorced from the Commission and are now in the administration, and only those functions will go to the new Department?

**Mr. HARLLEE.** Yes, sir. And that is why you have a very clean-cut situation here.

**Mr. ERLNBORN.** Your divorce was effected sometime ago; is that correct?

**Mr. HARLLEE.** Yes, sir; it was.

**Mr. ERLNBORN.** No further questions.

**Mr. HOLIFIELD.** Mr. Brown?

**Mr. BROWN.** The regulatory functions of your agency and the Coast Guard, are they in any way compatible?

**Mr. HARLLEE.** No. The Coast Guard has a different set of functions. They relate to safety, and, as Admiral Shields brought up, you might say traffic in the sense of law enforcement, aids to navigation, preparation for military service. But we have an economic-regulatory function that relates to rates and services which affect the American economy in a completely different way from the Coast Guard.



Mr. BROWN. The effect that this regulation has on the American economy, where does it come from? Is it from other American merchant services, other merchant marine services?

Mr. HARLEE. The problem is twofold, Congressman Brown. There is a problem of having a healthy enough American merchant marine, and you probably are familiar with some of the problems that exist in that connection.

Secondly, there is a problem of the steamship conferences which are international cartels, comprised mostly of foreign steamship lines. These conferences band together to fix rates and determine services. This, of course, is in conflict with the Sherman Anti-Trust Act, the Clayton Act and the whole basic philosophy of competition in America.

But it was determined by three different congressional investigations, the first of which was from 1912 to 1916, that such rate fixing was necessary to prevent chaotic rate wars, since different countries have tremendously different costs of operating ships.

So there were destructive and cutthroat rate wars which led to sanctioning of these trusts or cartels, but only if supervised by a Federal Government agency, and that agency is the Federal Maritime Commission.

So it is our function to see that these conferences, although they are necessary for the reason that I outlined, operate in the public interest and do not result in discriminatory freight rates or poor service.

Mr. BROWN. In other words—

Mr. HARLEE. Excuse me. I must say that relates to the foreign commerce. But in the domestic offshore commerce we have a direct public-utility-type control of rates. In the foreign commerce it is a more indirect and complex control which consists mainly in seeing that there is some competition outside of the conferences. Some competition is allowed to exist, to act as an inhibitor. That is an indirect control.

In the domestic offshore commerce we have a direct-contact control like a city's public utility commission, and, as a result thereof, our actions are vital. They are economic life and death to 3 million people in Puerto Rico, a quarter of a million in Alaska, and a half million in Hawaii because, although people go there by airplane, things go there by ships.

Mr. BROWN. Well, this brings me to the question I was going to raise.

Is the problem of the U.S. merchant marine one primarily of competition with other merchant marine activities or is it a problem of modes of transportation within our own domestic economy?

Mr. HARLEE. The problem in the foreign commerce is very clearly competition with foreign merchant marines which have much lower costs, which the Congress has attempted to equalize with what they call differential subsidies in the operating and construction field.

In the case of the domestic merchant marine, I have been talking about the domestic offshore merchant marine which we regulate. But there is another small merchant marine, the coastal and intercoastal merchant marine. That is regulated by my good friend Jack Bush and his ICC, and there you have the competition between the railroads and the trucks, on the one hand, and the steamships, intercoastal and coastal, on the other hand.

Mr. BROWN. So, your concern is not necessarily intermodal competition?

Mr. HARLLEE. Our jurisdiction is not, but our concern as American citizens and as people with a special window on this situation is great, Congressman, because we see what happens, for example, in ocean freight terminals, and the congestion in some cities. We see what happens to foreign freight forwarders who are routing traffic through different modes, and we see the problems that accrue.

We don't have direct control over those matters in solving them, but we do see them.

Mr. BROWN. So, there would be no conflict of interest, as it were, by a Secretary of Transportation with reference to the U.S. merchant marine, and your interests in foreign shipping?

Mr. HARLLEE. The answer is no.

Mr. BROWN. As there might be a conflict in his effort to promote rail versus air over highway versus rail?

Mr. HARLLEE. The answer is clearly no, Congressman.

Mr. BROWN. And your reaction then is one that you feel this would upgrade the attention given to the U.S. merchant marine at the Cabinet level?

Mr. HARLLEE. Yes, sir; because we can't help but observe the state of health, the state of improvement or deterioration of the American merchant marine as we regulate it, even though not directly. We indirectly help it by regulation, we believe, but we observe these things and we can't help but think it would be improved by higher level attention and by the Department of Transportation.

Mr. BROWN. And the importance of the U.S. merchant marine is not only economic but defense utilization as well?

Mr. HARLLEE. Yes, sir. It is the fourth arm of defense. It is vital in case of a war, as I think is proven out in Vietnam.

Mr. BROWN. Without the establishment of a separate Department of Transportation, you don't feel that the merchant marine would progress too satisfactorily, or it would not progress from the standpoint it is now?

Mr. HARLLEE. Most people think that it has sort of retrogressed. Actually, although a great many people have done the best they can about this, I am confident that the Department of Transportation would militate toward an improved situation in higher level attention to the merchant marine, and in balancing the need for a merchant marine against the other modes of transportation, although I must emphasize again, Congressman, that our job is trade and commerce and regulation in the interest of the general public of foreign lines as well as our own. Nevertheless, we do think it would help the American merchant marine to be in a higher level position, as they would be in the Department of Transportation.

Mr. BROWN. Because it would get the attention of the President better? And that is a question.

Mr. HARLLEE. Yes, sir.

Mr. BROWN. Could you give me any thought as to whether or not the merchant marine has generally been declining, or have we just had a sick merchant marine for many, many years?

Mr. HARLLEE. Well, I think you have to look at the merchant marine, Congressman, not as a homogeneous whole but in about four

different segments. There is one segment, the subsidized lines, the cargo liners which handle general cargo, which is the valuable cargo, about 83 percent of our cargo by value which has been able to hold its own fairly well, carrying about 35 percent of that type of cargo. It, of course, has had the subsidies I spoke of, and has carried a good deal of Government cargo, averaging around 35 percent of its cargo.

This program, very wisely enacted by the Congress in the 1936 Merchant Marine Act, has resulted in a somewhat healthy condition for that part of the merchant marine; healthy, that is, if the present Government aid is continued. But, naturally, it would be well if the Government aid could be reduced rather than increased.

The tramp ships, however, which are a different type of ship, the tankers, bulk carriers, and domestic offshore merchant marine, are in a different situation. They have declined. They have declined to the point where, as far as our total cargo is concerned, only 9 percent by tonnage is carried by American-flag ships.

Mr. BROWN. Has the attention that you have received come primarily from the administrative level or legislative level in the past?

Mr. HARLEE. I don't quite know what you mean by attention.

Mr. BROWN. You are indicating that the merchant marine is in some state of decline.

Mr. HARLEE. I am indicating that most segments of it are, yes, sir, and that the other segment needs gradual increasing. The one that is in health needs gradually increasing Government aid, and, of course, I think that this administration desires to see all industries need decreasing Government aid instead of increasing Government aid.

Mr. BROWN. Is that because of administrative inattention to the status of the merchant marine or legislative inattention to the status of the merchant marine?

Mr. HARLEE. It is a combination of factors that are not easy to identify, Congressman. They are highly controversial and, I think, can best be spoken to by the people who have direct responsibility: Secretary Connor, Under Secretary Boyd, Maritime Administrator Nicholas Johnson. I know that they have focused a tremendous amount of attention on it. But the solutions to these problems are highly controversial.

The attention that was focused on it resulted in an interagency maritime task force report in which 11 different units of the Government participated, which was mostly controversial and rejected by most of the steamship industry. This was followed by a Maritime Advisory Committee report, comprised of Secretary Connor, Secretary of Labor, and other representatives of the public, labor, and management, which made different recommendations.

It is my understanding that the President has this matter under study with his closest advisers, and will evolve a recommended solution to it and present it to the Congress when he has had an opportunity to do so.

This Department of Transportation bill, as I am sure you know, has been worked on for about 2 years, and it is the culmination of a lot of thought. It is not hasty. And, by the same token, the proposals of the administration for solution to the merchant marine problems will be the result of a great deal of thought and considera-

tion of the problems that I have named, and that insofar as possible, will be mutually acceptable to the parties concerned.

Mr. BROWN. Will the merchant marine, as a result of being placed in the Department of Transportation, stand closer to the President than it does now?

Mr. HARLLEE. Yes, Congressman.

Mr. BROWN. In what way?

Mr. HARLLEE. Because it would be directly under a Secretary of Transportation.

Mr. BROWN. And now?

Mr. HARLLEE. Now it is under a Secretary of Commerce, under the Secretary of Commerce and an Under Secretary of Commerce for Transportation. In other words, two echelons would be skipped.

Mr. BROWN. Two echelons higher?

Mr. HARLLEE. Yes, sir.

Of course, there are Assistant Secretaries in this bill, but, as I am sure you know, these Secretaries don't have line responsibilities. They are staff responsibilities, as I think you mentioned—research and development, planning, and that type of staff responsibility. So, it would be two echelons higher.

Mr. BROWN. Do you have any knowledge of what the reaction to this bill is in the maritime industry and the unions serving the merchant marine?

Mr. HARLLEE. Yes, Congressman; I have knowledge, and, if you wish, I will speak to it. But I think it rather important that you would have representatives of those industries speak directly rather than have it filtered through myself.

Mr. HOLIFIELD. We will have all of them.

Mr. BROWN. I just wanted a brief reaction.

Mr. HARLLEE. I can give you a brief reaction!

Mr. HOLIFIELD. We will have industry witnesses, all of them, including the people in the maritime, come in and testify.

Mr. HARLLEE. Yes, sir. I don't mean to be equivocal. But it may be better to get it direct.

Mr. BROWN. Thank you.

Mr. HOLIFIELD. Mr. Roback?

Mr. ROBACK. Admiral Harllee, Chairman Murphy of CAB testified this morning and he said:

The subsidy program in our view is inseparable from the basic economic regulatory system.

In the case of the Maritime Administration, subsidy functions are going over to the new Department. Do you have any observations on that difference of approach?

Mr. HARLLEE. Yes, sir; I do. I believe that Under Secretary Boyd, Alan Boyd, who was Chairman of the CAB for several years, did speak to that problem fairly clearly, and I would concur with the remarks that he made.

I think the difference is very marked. I must again emphasize, we have no connection with subsidy, but I will talk about it anyway.

The CAB allows airlines to utilize certain routes, and there is an inextricable connection between the granting of subsidies to these local

and new airlines and the granting to them of rights to operate. Now that type of connection does not exist in the maritime subsidy field in the same manner. There is a different situation completely. It is different in the sense that the Maritime Administration does not grant and deny certificates of convenience and necessity.

Mr. ROBACK. In the case of the Maritime Administration, the Secretary of Transportation will be setting standards and criteria for his own administration, whereas in the case of other subsidy arrangements he will be doing it for an outside regulatory agency?

Mr. HARLEE. Yes, sir; but in the—you mean the case of the CAB would be doing it for an outside regulatory agency?

Mr. ROBACK. In the sense they would retain subsidy responsibility.

Mr. HARLEE. Yes, sir.

Mr. ROBACK. I want to be sure I understand the difference.

Mr. HARLEE. My understanding is that it will be a matter of general policy guidance as far as the CAB subsidy is concerned, rather than exact determination.

Mr. ROBACK. Under which responsibility, under this transfer, do you understand that the subsidy function of the Maritime Administration will be administered? By the Secretary of Transportation? Or will he set guidelines similarly for, you might say, his own agency as he would for an outside agency?

Mr. HARLEE. He would set guidelines for his own agency similar to those he would for outside, but he would clearly have the authority to make the final decision if that were necessary.

Mr. ROBACK. That is all.

Mr. HOLIFIELD. Admiral Harlee, I noticed in your statement that you said that—

It is my desire to state, and state unequivocally, that the United States of America is heading for chaos in the air, on land, and on the sea unless we move to unify our transportation complex and then take steps to find sound answers for the problems that beset the various segments of U.S. transportation.

I think that is an absolutely true statement, and I am wondering how many people in the United States realize that in the whole course of our history from the adoption of our Constitution to the present time we have accumulated 195 million people in the United States, and the population experts estimate that in the year 2000, which is only 34 years from now, we will have 362 million. That is a fantastic figure of additional people, and the impact that is going to be made upon our transportation system, our highway system, well, every facet of our society, is almost unbelievable when you think it is going to hit us within the next 35-year period.

Mr. HARLEE. Well, that is exactly why I made that statement, Mr. Chairman. I think you have a chaotic condition over in India now due to a population explosion and a lack of birth control, and I think you are going to have the same kind of transportation explosion in this country, as you have indicated, in the next 35 years, which will lead to the chaotic conditions.

Mr. HOLIFIELD. We are building highways out in California now as fast as we can build them, and it is estimated in the next 20 years we are going to jump from 18 to 31 million people in California. Now

there is evidence that it is going to happen the same way on the eastern seaboard here. So, if we don't go about solving these problems the best we can, in my opinion we are going to have just what you say—chaos in the air, on land, and on the sea.

Mr. ERLNBORN. Mr. Chairman.

Mr. HOLIFIELD. Yes, sir.

Mr. ERLNBORN. In that regard I think I can report to you that over last weekend one of the representatives of the Post Office reported that the Post Office has made a study as to the problems that they face in the future, and their studies show that under the present growth of the use of post offices, rate of growth of our country and present procedures, by the year 4000 every man, woman, and child in the country will be employed by the Post Office. [Laughter.]

Mr. HOLIFIELD. Thank you very much for your testimony.

We will resume after the recess with testimony to be heard from two witnesses we were not able to completely hear, Mr. Murphy and Mr. Bush. They will be our leadoff witnesses, and then we will have the industry witnesses that are planning to testify on this bill.

Thank you very much.

Gentlemen, the meeting is adjourned.

(Whereupon, at 4:54 p.m., the subcommittee adjourned, subject to call of the Chair.)

## CREATING A DEPARTMENT OF TRANSPORTATION

MONDAY, APRIL 25, 1966

HOUSE OF REPRESENTATIVES,  
EXECUTIVE AND LEGISLATIVE  
REORGANIZATION SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D.C.*

The subcommittee met at 10 a.m., in room 2154, Rayburn Office Building, Hon. Chet Holifield (acting chairman) presiding.

Present: Congressmen Chet Holifield, Benjamin S. Rosenthal, and John N. Erlenborn.

Also present: Elmer W. Henderson, subcommittee counsel; James A. Lanigan, general counsel, Committee on Government Operations; Herbert Roback, assistant to Congressman Holifield; and J. Philip Carlson and William H. Copenhaver, minority counsels.

Mr. HOLIFIELD. The committee will be in order.

This morning we continue our hearings on H.R. 13200, a bill to create a Department of Transportation. The bill was recommended to the Congress by President Johnson.

In our previous sessions we have heard from officials representing most of the existing departments and agencies affected by the measure. Others will be heard later.

Today our witnesses are from the transportation industry. Our first witness is Mr. F. A. Mechling, of the American Waterways Operators, Inc.

Will you please come forward, sir, and take the witness chair, and bring your associate with you, and we will proceed.

**STATEMENT OF F. A. MECHLING, EXECUTIVE VICE PRESIDENT, A. L. MECHLING BARGE LINES, INC., JOLIET, ILL.; ACCOMPANIED BY BRAXTON CARR, PRESIDENT, THE AMERICAN WATERWAYS OPERATORS, INC.**

Mr. MECHLING. Thank you, Mr. Chairman and members of the committee. I have with me this morning on my left Mr. Braxton Carr, president of the American Waterways.

My name is F. A. Mechling. I am executive vice president of A. L. Mechling Barge Lines, Inc., of Joliet, Ill. I am appearing before this committee representing the American Waterways Operators, Inc., a trade association whose members operate towboats, tugboats, and barges on the inland waterways throughout the United States and in offshore service and companies engaged in related activities such as shipbuilding, terminal operations, and other service operations. The

majority of our members perform transportation service in the operation of towing vessels and barges.

We have within the membership of AWO all three types of domestic water carriers who perform service within the United States, that is, regular route common carriers certificated by the Interstate Commerce Commission; carriers who engage in unregulated bulk commodity trade, both dry and liquid; and private carriers.

My own company is a regular route common carrier with operating rights on the Mississippi River system and the Gulf Intracoastal Waterway.

The shallow-draft domestic water carriers transport approximately 14.5 percent of the Nation's tonnage. There is a total of approximately 1,700 companies engaged in such trade. They operate 8,865 towboats and tugs and 17,000 barges. The industry employs 80,000 men aboard its vessels. We have 25,380 miles of inland navigation channels serving 38 States. Tugs and barges also perform coastwise service.

The barge and towing vessel industry has been a growth industry in the United States since its resurgence following World War II. At the end of that war our industry was transporting about 8.1 percent of total tonnage, and as I mentioned earlier is now carrying about 14.5 percent.

As is the case with every other mode of transportation affected by the proposal under consideration, the barge and towing vessel industry has a vital stake in the legislation under consideration to establish a Cabinet-level Department of Transportation.

Federal policies, which have been in effect for many years and which are now in effect with respect to transportation, have provided an opportunity for our industry, as well as all the other modes of transportation, to grow and to improve their services.

This growth has been the result of the wise judgment of Congress. It has fostered by law the inherent advantages of water transportation through a long series of legislative actions. This began with a public works program for the improvement and construction of multi-purpose water resource projects.

This program has been in progress since 1824 through the Corps of Engineers when Congress authorized the President to have surveys, plans, and estimates made of roads and canals which he deemed of national importance from the commercial or military point of view or for the transportation of mail. To carry out this project he was authorized to use the services of officers of the Corps of Engineers.

Since the initial acts of 1824 authorizing improvements and appropriating funds, virtually every succeeding Congress has passed one or more acts providing for maintenance and improvement of rivers and harbors.

Beginning in 1824 and continuing for 40 years we built a network of navigation channels, and this enabled the Nation to put a fleet of vessels to work for transportation which served the country well until the Civil War, when the railroads came along and swept the waters clean.

The Congress began to realize at the turn of the century that the Nation needed domestic internal water transportation and began a series of acts that brought this mode back to preeminence.



In 1912 Congress passed the Panama Canal Act, which prohibited railroads from owning or operating water carriers through the Panama Canal or elsewhere in domestic trade, except in cases where they could prove to the Interstate Commerce Commission that such ownership and control would not adversely affect the public interest.

The purpose of this act, I am sure, is obvious. By control of water carriers the railroads were able to diminish their importance, and they did so. This act was put to the test in the application by the Illinois Central and the Southern Pacific Railroads to acquire a major bargeline on the Mississippi River in 1959. This application was denied.

The next significant step that the Congress took was the Transportation Act of 1920, which declared the intention by Congress to promote, encourage, and develop water transportation. Four years later the Inland Waterways Corp. was incorporated by Congress as a pioneering bargeline to demonstrate the transportation capabilities of modern towboats and barges.

Since that corporation was formed it has since been sold to private enterprise and is now operating successfully.

Historians generally date the beginnings of modern inland water carrier operations at about this period.

For the recent past year, 1965, 468 million tons of cargo were shipped over this vast inland waterways system second to none in the world.

In 1940 Congress recognized the importance of the contribution that inland water transportation was making to the economy by including in the national transportation policy statement, direction to the Interstate Commerce Commission, and I quote:

It is hereby declared to be the national transportation policy of the Congress to provide for fair and impartial regulation of all modes of transportation subject to the provisions of this act, so administered as to recognize and preserve the inherent advantages of each; to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers;

and so on.

These and other significant milestones have permitted the slow but solid growth of the carrying capacities on our inland waterways, permitting it to provide a major portion of our country's transportation needs.

The economic value, plus the unlimited ability to expand the carrying capacity on our network of inland waterways serving all major cities, is a precious possession to be preserved and perpetuated in the public interest.

Numerous suggestions have been made over the years to Congress to tamper with established legislative acts which underlie our transportation policy. Most of the suggestions have been rejected because they made no contribution to the growth potential.

We are, of course, interested in any improvement in Federal interests in transportation which in turn will enhance the opportunities of the transportation industry to render better and more economical services.

We realize this is the aim and the purpose of the President's proposal to create a Department of Transportation. We support the ob-

jective, but we have serious doubts about some provisions of the legislation to establish a Department of Transportation.

I am chairman of the Legislative Committee of the American Waterways Operators, Inc., a director of the association, chairman of its education committee, and in 1964 served as chairman of the board of directors.

My company is a charter member of the association which was organized in 1944, and I have participated actively in the formulation of its policies with respect to legislative matters such as this and from time to time in the presentation of testimony to congressional committees on behalf of the association for over 10 years.

It has always been my purpose and it is equally true of the purpose of other members, directors, and officers of the association to try always to approach legislation such as this which affects our industry in a constructive fashion.

With this purpose in mind the association's legislative committee under my chairmanship met in Washington, D.C., March 80, to examine the Department of Transportation proposal and to develop recommendations to be made to the association's board of directors for a course of action to be taken.

At the meeting of our legislative committee we had before us, in addition to the legislation itself, President Johnson's message on transportation of March 2, 1966, as well as several section-by-section analyses and interpretations.

The Honorable Alan S. Boyd, Under Secretary of Commerce for Transportation, spent over an hour with the committee in a frank discussion of the several provisions of the legislation which directly affect barge and towing vessel industry operations. His work with the committee was helpful.

The recommendations of our legislative committee were placed before the association's board of directors in a special meeting in Washington, D.C., on April 7.

I might mention that the 37-man board of directors is made up of executives of towboat and tugboat operating companies, shipyards, terminals, and fleet companies from throughout the United States.

The board of directors at its meeting on April 7 unanimously adopted the following resolution:

The American Waterways Operators, Inc., favors in general the creation of a Department of Transportation, provided:

(1) The legislation is amended to provide for appointment by the President of an Assistant Secretary representing each mode of transportation within the Department;

(2) Section 7 of the legislation is amended so as to have the Congress retain directly or through the Water Resource Council final authority for determination of standards and criteria for investment of Federal funds in water resource improvement projects.

(3) Legislative history is established or the legislation is amended to insure that the Coast Guard will retain final authority for merchant marine safety functions.

(4) Legislative history is established to show that the intent of the Congress is that the Secretary of Transportation in the exercise of his authority to determine clearances in bridges crossing navigable waterways will not create any undue hazard to or burden upon commercial navigation; and

(5) Legislative history is established to clarify other details of the legislation that may directly affect water carrier operations.

Having in mind that the mission of the Department of Transportation is to promote the transportation industry of the United States through research and through the formulation and recommendation of Federal policies, and to perform safety services for the industry, we believe that this mission can best be accomplished by having an Assistant Secretary of Transportation charged with the direct responsibility to work with each individual mode.

Each mode has its own individual characteristics and each mode we believe must have its own advocate, its own promoter, its own service official at a high level within the Department if the Department is going to accomplish its mission successfully.

With respect to item (2) of our resolution dealing with section 7 of the legislation, a great deal of doubt exists as to what this means.

Even the administration witnesses who have appeared before the committee to explain the purposes of the bill have failed to clarify this section.

We are interested in one thing: to see that the relationship between the Congress and the Corps of Engineers is preserved with respect to water resource improvements, including improvements for navigation.

This has been a workable relationship. It has resulted in our building the finest inland navigation system in the world. It provides a proper system of checks and balances between Congress, as the agency authorizing water resource improvement, and the Corps of Engineers as the agency responsible for planning, constructing, and operating the projects.

We have grave doubts about any legislation which would disrupt this orderly, successful relationship between the Congress and the Corps of Engineers.

Specifically we are concerned about the language in section 7(b) that confers on the Secretary the responsibility to determine—

standards and criteria and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of transport, the available transportation services in the area, and the general effect of the proposed investment on existing modes, and on the regional and national economy.

We believe that section 7 can be interpreted and used by the Secretary of Transportation to interpose the decision of his Department between the Corps of Engineers and the Congress in such a fashion as to preclude Congress from exercising its prerogatives to determine the practicality, feasibility, and desirability of making water resource improvements for navigation.

We believe that it is not in the public interest to have Congress relinquish its authority to the executive branch in this respect.

Congress should retain final review and determination of the economic evaluation of water resource improvement projects, either through direct relationship with the Corps of Engineers or through the Water Resources Council, which was established under the Water Resources Planning Act of 1965.

The Secretary of Transportation can, if Congress desires, be given a voice in the determination of standards and criteria by the Water Resources Council. This can be done by amending Public Law 89-80

which created the Water Resources Council, to make the Secretary of Transportation a member of that Council in addition to the presently authorized members, who are the Secretary of the Interior, Secretary of Agriculture, Secretary of the Army, Secretary of Health, Education, and Welfare, and the Chairman of the Federal Power Commission.

If I may depart from the statement for a moment, I would like to emphasize that our industry, over a number of years, dating back to the establishment of the 1940 act, in 1947, in decisions before the Supreme Court, that were rendered, declaring to the Interstate Commerce Commission that the water carriers, through their low-cost services, had an inherent advantage to be preserved, and therefore the Commission had no authority under the law to do anything to diminish this inherent advantage, as it affected other modes and this is what we are concerned with primarily here.

Now, with respect to the transfer of the U.S. Coast Guard to the new Department of Transportation, we raise only one objection. That has to do with whether the Coast Guard will retain final responsibility for its merchant marine safety functions.

The Coast Guard has a long and commendable history of developing and administering regulations which have helped make the inland merchant marine one of the safest modes of transportation that we have.

The Coast Guard has done so by working closely with the industry to develop its regulations governing the safety of personnel, the safety of equipment, and the safety of cargoes, including some very highly dangerous cargoes which are transported daily.

We do not want to see the Coast Guard's safety responsibilities in this respect made subject to substantive review by an agency which has no background of experience simply for the sake of departmental organization.

We do not read section 5(a), which establishes a National Transportation Safety Board, as meaning that the Coast Guard's merchant marine safety functions would be subject to such review. But we believe that in the interest of orderly procedures legislative history should be established to show that this is not the intention of the law.

For example, we do not understand the meaning contained in section 5(a) that the National Transportation Safety Board—

shall exercise the functions, powers and duties transferred to the Secretary by sections 6 and 8 of this act with regard to: (1) Determining the cause or probable cause of transportation accidents, and shall report the facts, conditions, and circumstances relating to such accidents; and (2) the review on appeal of the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary.

This can be interpreted, we believe, to subject the decisions of the Coast Guard to final review by either the Secretary of Transportation or by the National Transportation Safety Board. This we believe to be undesirable in the interests of merchant marine safety, which in the final analysis is public safety.

Further, with respect to the provision concerning certificates, we do not understand that the proposed law empowers the Secretary of

Transportation to issue certificates. If our understanding is correct, then the Secretary should not be empowered to review, modify, amend, suspend or revoke such certificates.

With respect to point (4) of our resolution, we firmly believe that legislation history needs to be established to show that it is not the intent of the Congress to have the Secretary of Transportation exercise authority to determine clearance in bridges crossing navigable waterways so as to create any undue hazard or burden upon commercial navigation.

It would be desirable and consistent with what we believe to be the intention and purpose of Congress to have the legislative history on the Department of Transportation Act show that the Secretary, in the exercise of this authority, will be guided by the language of the bill now pending before Congress, S. 2488, which was introduced on September 1, 1965, by Senator Stuart Symington (for himself and Senator Edward V. Long, of Missouri), which reads as follows:

(d) Notwithstanding any other provision of law the Secretary of the Army shall not approve, under this or any other act, the plans for any bridge construction, reconstruction, or alteration over any navigable river or waterway connecting with the sea, which would have the effect of reducing the least bridge clearance provided for vessels moving between any point on such river or waterways and the sea, except that in any case where: (1) Such plans are for the construction of a new bridge and there is no other bridge between such bridge and the sea, and (2) the next bridge above the site for such new bridge provides unusually high clearance because of the terrain or other special circumstances, the Secretary may reduce the clearance which would be required under the provisions of this subsection by any amount which he deems to be unnecessary clearance.

We have a dynamic national transportation system; this is no accident. The maintenance of a competitive atmosphere with broad guidelines laid down by Congress has created a national system second to none in the world.

The shipping public has a wide selection of combinations of services at its fingertips. Some people express concern about excess capacity of transportation facilities. In hearings on this subject, concern is expressed of lack of enough facilities to handle the traffic load of this country in the future.

We strongly feel that the success of our industry, brought about under private enterprise, has unlimited capacity to expand and carry the heavy loads of the future. We also strongly feel that this will be accomplished by relying upon Congress to continue to establish the ground rules as in the past.

We do not feel that the concentration of policymaking power should be centered in one department.

To study and research the inherent capabilities of each of the modes making up our national transportation network, to promote the expansion and effectiveness of such inherent capabilities, to determine the causes and cures of accidents and to make appropriate recommendations to Congress with respect to all of these matters would be a desirable goal for a Department of Transportation.

But to control or allocate what mode should carry the traffic, the decision as to what facilities should or should not be built, would be ruinous to the healthy growth of a strong transportation system by rail, water, air, truck, and pipeline, and might very well bring us to a chaotic situation.

We urge your careful consideration of the points we have raised for clarification by amendment or through legislative history in determining the scope of authority of a new Department of Transportation should have.

Mr. Chairman and members of the committee, we thank you for hearing us this morning to present our concern about this bill.

Mr. HOLIFIELD. Thank you, Mr. Mechling, for your statement.

Mr. Rosenthal?

Mr. ROSENTHAL. I have no questions, Mr. Chairman.

Mr. HOLIFIELD. Mr. Lanigan?

Mr. LANIGAN. I just have one question. In your statement you say:

Specifically we are concerned about the language in section 7(b) that confers on the Secretary the responsibility to determine "standards and criteria and upon the basis of information furnished by the Secretary \* \* \*."

Actually, section 7(b) provides that any agency which is constructing a project which falls within the criteria established by the Secretary under section 7(a) has to plan that in accordance with the standards and criteria and upon the basis of information furnished by the Secretary of Transportation.

I couldn't quite make out what you meant by the Secretary, on the second line of that paragraph.

Mr. MECHLING. Well, you mean referring to the Secretary of Transportation, the Secretary of the Department of Transportation?

Mr. LANIGAN. There is a little confusion, but I think I see what you mean. Section 7(a) gives the Secretary of the Department of Transportation the authority to determine the standards and section 7(b) requires that any other agency which is planning or building such a project has to conform to those standards and to accept the information supplied by the Secretary of Transportation with respect to the items mentioned there, such as the expected growth of the various means of transportation and the economies of the various modes of transportation. I think we can straighten that out. I think this particular paragraph was not quite clear and I wanted to get that in the record.

Mr. MECHLING. We are referring both back to 7(a) and to 7(b), as you say. They tie together.

Mr. LANIGAN. In your first recommendation, you, I take it, want to earmark each of the four Assistant Secretaries provided for by the bill for particular types of transportation. One, I take, as you envision it, one would be for aviation, one for water, perhaps inland water, and one would be for motor transportation and one for rail transportation.

Now the testimony that was given by the administration witnesses to the committee indicated that they envisioned the four Assistant Secretaries as being staff officers, who would advise the Secretary across the board on various functions, such as safety, and other functions that they were concerned with, and that the modes of transportation would be represented by divisions within the Department which

would be headed by a top level, either level 3, 4, or 5 executive, civil service executive, who would report directly to the Secretary.

Now would you ask that there be, say, eight Assistant Secretaries, four to handle matter across the board and four others for the four principal modes of transportation?

Mr. MECHLING. No, it was our feeling there should be an Under Secretary for each mode, not trying to say duplicate or double up on the Under Secretaries. You left out pipeline, which is also an important segment of transportation in the country.

Mr. LANIGAN. What would be the assistant—would you name the Assistant Secretaries you think should be established?

Mr. MECHLING. The ones I would name would be primarily the ones I mentioned in my statement, where we mention each mode and then toward the end of the statement we picked up the various modes concerned, rail, water, highway, air, and pipeline. So we feel the promotional efforts ought to be made by someone who is familiar with the activities of each mode. That if you have one over all modes, we feel the ability to appraise the inherent advantages of a single mode might be sort of overloaded or overburdened, in trying to cover a vast area of several modes. There ought to be coordination, of course.

Mr. LANIGAN. If you have five Assistant Secretaries, one for each mode, then—

Mr. MECHLING. One for each mode.

Mr. LANIGAN. Yes. That would be five Assistant Secretaries, one for each mode, then what mechanism would you establish in the Department for coordinating and planning among those modes? Would that take additional Under Secretaries, over these Assistant Secretaries?

Mr. MECHLING. We figure the Under Secretary would report directly to the Secretary.

Mr. LANIGAN. So you feel the Under Secretary and the Secretary, would be the ones who coordinate these activities.

Mr. MECHLING. That is correct.

Mr. LANIGAN. Thank you.

Mr. HOLIFIELD. Mr. Erlenborn?

Mr. ERLNBORN. First of all, Mr. Mechling, I apologize for not being here for the presentation of your statement, but I do have a copy and I will read it over carefully. I understand the basic thought you wanted to put across is contained on page 7, the provisos upon which your organization would favor the adoption of this bill. Is this correct?

Mr. MECHLING. That is correct; yes, sir.

Mr. ERLNBORN. I know you have contributed to these hearings and I thank you very much.

Mr. HOLIFIELD. Mr. Roback?

Mr. ROBACK. In several places you question the authority of the Secretary. And it is not clear what you envisage would be the case when the Secretary might have a difference of opinion with let us say the head of the Coast Guard or the engineers who have responsibilities for determining bridge clearance. Is there any question in your mind that bridge clearance authority reposes in the Secretary in this bill?

Mr. MECHLING. Well, there is some concern that he would have some control or authority over bridge clearances and we have in the past

had the problem of the controversy between the Bureau of Public Roads and the Corps of Engineers in the establishment of bridge clearances and the navigation clearances. Over a longer period of time we have established by hearings with the Corps of Engineers and hearings in which the water carriers have participated in, trying to maintain a minimum level of clearances.

Mr. ROBACK. I understand about the history of that. What I am asking you is do you understand this bridge clearance authority would repose in the Secretary under the bill?

Mr. MECHLING. Yes, we understand he would have more control.

Mr. ROBACK. You are recommending that he not have that authority, is that right?

Mr. MECHLING. This is correct; yes, sir.

Mr. ROBACK. How do you propose, if there is a difference of opinion, I mean if there is an issue, a conflict in position, do you think the Corps of Engineers should have the final authority, not the Secretary?

Mr. MECHLING. This is why we are suggesting the provisions that are contained in the bill that is before Congress, to try to spell out the bridge clearance problem. So it would be a clear-cut understanding of what the minimum clearances should be for navigation clearances.

Mr. ROBACK. If you take every one of the situations in which the authority of the Secretary is qualified by the authority of component agencies, it is obvious the Secretary wouldn't be able to run the Department. Isn't that so?

Mr. MECHLING. We are trying to continue to place this control not in the hands of the Department, but in the hands of the Corps of Engineers and the Congress.

Mr. ROBACK. You conceive of the Department as sort of a fellow who presides over the top, without any authority to really run it? Is that your concept?

Mr. MECHLING. Basically, yes.

Mr. ROBACK. In other words, you have a kind of a minimum approach to a Department, somewhat analogous, perhaps, to the Defense Department back in 1946 or 1947, so that it might take a number of years to develop a kind of authority which the Secretary of Defense developed by additional legislation and by extending and clarifying his specific authority.

At this stage of the game, you wouldn't want to do that.

Mr. MECHLING. No.

Mr. ROBACK. This could be not only with respect to bridge clearance, but it would be true in such matters as for example the role of the engineers in water projects, that is the transportation features of water projects, and in the safety provisions of maritime safety provisions that now reside in the Coast Guard.

Mr. MECHLING. This is correct.

Mr. ROBACK. You wouldn't want the Secretary or even the Transportation Board that would be set up under the act, to be in a position to overrule the Coast Guard determination.

Mr. MECHLING. That is correct, that is our position, sir.

Mr. HOLIFIELD. Mr. Mechling, I think you have made it very plain that you are for the Transportation Department, but it precludes making anything like a department, with streamlining the authority



in the Secretary and with the power to coordinate between the different methods of transportation in the United States. You are for the shadow but not the substance of a Department of Transportation? You want to retain the status quo, you want no changes, no, as you say, tampering with the legislation which now exists?

Mr. MECHLING. Not exactly, Mr. Chairman. You mentioned the word "coordination." We are definitely for the research and the study and promotion of coordination that could come about under such a department.

Mr. HOLIFIELD. But, of course, there can't be any coordination, unless there is the power to direct coordination. The transfer of four entities or five or six into this one department without transferring also the power to resolve differences would be a nullity and would be completely fruitless, as far as establishing a department is concerned.

Mr. MECHLING. Well, certainly the authority to participate and to recommend and to suggest ought to be helpful in this whole area of developing a coordinated system. We don't have a completely coordinated system now, I am sure it could be much better coordinated to a greater degree than it is today, between the various modes. And certainly the activity that the Department would have in this area would be constructive and helpful.

Mr. HOLIFIELD. Well, you mentioned that the suggestion has been made over the years to Congress to tamper with established legislative acts which underlie our transportation policy. Do you think we have a national transportation policy at this time?

Mr. MECHLING. We do have, recited in the 1940 act, there was a national transportation policy expressed.

Mr. HOLIFIELD. That was 26 years ago that that was passed, and the conditions have changed in our country tremendously in the growth of the population and the multitude of problems in transportation that have occurred.

In many places railroads have been discontinued, in some cases shiplines have been discontinued. The airline industry has taken over a great deal of the passenger transportation. We are facing a completely different situation today than we faced in 1940.

Mr. MECHLING. Mr. Chairman, some of the proposals that have been made, that I briefly referred to in my statement, that have concerned us, have been proposals that have been promoted or inspired through the administrative branch of the Government. Many of these proposals that were rejected by Congress had to deal with things that we feel would be detrimental to the interests and the life of the water carriers. I am speaking specifically of proposals in the past and continued proposals to permit common ownership of transportation facilities in this country.

We feel that eliminating the competition and permitting common ownership, for example, would be detrimental in the long run to promoting a sound transportation system. And there are many others dealing with the rules of ratemaking and other proposals that have been before Congress, the effort to eliminate minimum rate control over the railroads, so they could quote on a marginal cost-price basis any rate they choose to quote, without any control.

Mr. HOLIFIELD. Now you are getting into a field, Mr. Mechling, that is not covered by this Transportation Department legislation at all. This doesn't go into ratemaking and that type of thing. That is left exactly like it is at the present time.

Mr. MECHLING. But the control in one department might eventually—one thing led to another, until the control of ratemaking or the promotion of regulations—

Mr. HOLIFIELD. Now I think I understand. You are afraid of things that are not contained in the legislation, you are afraid of a succession of steps which might occur that might bring about a condition that you wouldn't like?

Mr. MECHLING. By vesting the power in one Cabinet level department; yes, sir.

Mr. HOLIFIELD. But is it not true that Congress will retain its control over any change in statutory duties which have already been enacted, that the committees that are specifically concerned with aviation and shipping and railroads and trucking and so forth will still retain jurisdiction. They will still retain the power of authorization, the power of amending legislation, and funding of the different modes of transportation. The same committees will retain the same power which they have today, and will be able to exercise the will of Congress just the same as they are today. Isn't that true?

Mr. MECHLING. Mr. Chairman, the main objective, the main thrust of our testimony is to make it abundantly clear through legislative history or otherwise that this would prevail, the Congress would prevail, that they would not transfer any of the authority or power that you just described to any agency which would through that establishment gain any ability to control or revise or amend the ground rules. This is precisely one of the things we are concerned about, Mr. Chairman.

Mr. HOLIFIELD. You are speaking then in the field of regulations rather than change of statutory power?

Mr. MECHLING. Yes, because by the mere control over the safety functions for example, one of the things that concerns us, is a bill before Congress today concerning a proposal by the Coast Guard to control the inspection, the manning of vessels, so they would then have, say, authority and control to tell us how many people, how many persons are needed aboard a towboat to operate it safely in their opinion. And we think this is something, this kind of power and control should not be placed in the hands of a governmental agency to do this.

We think between Congress and the public, this control should be placed.

Mr. HOLIFIELD. It is in the hands of a governmental agency now. If it is in the hands of the Coast Guard, that is a governmental agency.

Mr. MECHLING. The Coast Guard has no authority to prescribe the size of crews on board vessels on its inland river system.

Mr. HOLIFIELD. Do you think somebody somewhere should have?

Mr. MECHLING. We do not. We think this should reside in the ability of the management of the companies that are concerned about what they think are safe crews. We are under the economic pressure of determining from a safety standpoint what we should have for minimum crews. We don't think there should be a galleyboy just for the

sake of having a galleyboy, when we have an automatic dishwasher for example, nor should we get into the crew problem that the railroads have had, over the traincrews.

We think this would be detrimental to the public interest in the long run and the economic value of our industry would suffer if this type of control were placed in the hands of a department.

Mr. HOLIFIELD. Of course you are envisaging a type of control which has never been testified by administration witnesses that they have in mind. Congress has interested itself in safety laws for the various modes of transportation. It is no strange subject to the Congress. In railroads and aviation, this has been a concern of the Congress heretofore and I assume will continue to be as long as the public uses public methods of transportation. I can't quite understand your fear that you will be ordered to put on a galleyboy when you have a dishwasher.

If unreasonable regulations are imposed upon you, I am sure you would go immediately to the committee of Congress which has jurisdiction over that particular mode of transportation. You would make your complaints known and there is no doubt in my mind that the committee would call in the Secretary of Transportation or whichever Government official that was responsible for those regulations and require a substantiation of the reason. I am sure, if the substantiation of the reason was not satisfactory, that Congress is not powerless to change the situation.

Mr. MECHLING. That is very true, and that is exactly the way we do it today and, as I say, I just brought this in for example, Mr. Chairman.

Mr. HOLIFIELD. If this was detracting from the power of Congress, to supervise the administration, I think I would certainly be opposed to the bill myself. But what the Congress is looking for is coordination and the bill's section to give the power to coordinate such coordination would inevitably come to the respective committee for approval or disapproval in one form or another.

Mr. MECHLING. Very good.

Mr. HOLIFIELD. So I think your fears possibly are the fears that everyone has when the status quo is changed. If there is any attempt to change the status quo, there is an immediate alarm by those people who are comfortable with the modes of the present. They would rather endure the ills of the present than face the fancied ills of the future.

Your testimony, as I said, seems to be completely against the basic thought of establishing a Department of Transportation unless it is weakened in such a way that everything will proceed just the way it does now.

Mr. MECHLING. No; I don't think that is exactly true, Mr. Chairman.

Mr. HOLIFIELD. Now isn't it true? I don't want to be unfair to you. I think you have made it abundantly plain in your testimony. And I would ask you to, if you would, to provide for the committee a series of amendments to the basic act which you would like to have passed. I am sure your association has capable counsel, and I would like to have you prepare specific amendments that you would like to have the committee consider. Will you do that?

**Mr. MECHLING.** Yes, sir. Thank you, Mr. Chairman. I do appreciate your comments about the retention of control of these various matters in the hands of Congress. Your words and expressions on that are comforting to us: that Congress will retain the right to exercise these controls through the respective committees of Congress.

**Mr. HOLIFIELD.** You mention the fact that you participated actively in the formulation of the policies with respect to legislative matters and from time to time you have appeared before congressional committees on behalf of the association for over 10 years. So the changing of legislation as time goes on is certainly nothing new or alarming. You undoubtedly have testified for some legislation and you have testified against some legislation. Certainly it is not tampering with legislation for Congress to amend legislation, to improve it, is it?

**Mr. MECHLING.** No. It is the suggestion that if legislation were passed—and thank God for Congress—if it hadn't been for Congress, certain legislation that was proposed, if passed, you would have an extinct water carrier industry today.

**Mr. HOLIFIELD.** The very fact that Congress has considered the legislation and has requested it, I think, is an indication of the responsibility of Congress and certainly that responsibility will not be lessened in the future. We as Members of Congress must look at the overall picture of the Nation. We can't confine our attention just to barge-line transportation. We also have other heavy transportation problems in the fields of aviation and railroading and trucking and so forth. And we do try to give our attention to these different modes and have in the past and I am sure will in the future. This is an attempt to put the responsibility for all these modes of transportation, because we are dealing with a common item, in one department, where a responsible head for the transportation for the people of the United States of goods and persons will be given continuous consideration just as we have done in all of the other departments of Government—Agriculture, Commerce, and other departments of the Government—where we have found it necessary, because of the importance of the subject matter to place it in the department and to have an organizational structure which led to wide consideration of all of the problems, suggestions as to how they can be limited, final coordination to prevent their being conflicting decisions made in different segments of the same subject matter, and evaluation of their impact upon the people. And this is the same situation here.

We are trying to do the same thing here: to have one man responsible to the Congress, who will come up to the respective committees and say, "This is why we are doing this, because it relates to other factors." Then at that time the committee of jurisdiction will exercise its judgment in the future as it has in the past.

**Mr. MECHLING.** We appreciate that, sir, and we did not mean to infer we felt our industry was a privileged industry, sir, in this field, but we do feel the ground rules, which have worked out, which have been subject to change—and we are not status quo seekers, so to speak, we are for improvement, and change, and development in the overall public interest, and how we best fit in this cog in the wheel, and we would like to continue to present our case in that interest.

Mr. HOLIFIELD. Well, you present the specific amendments in line with your testimony or such amendments as you feel will accomplish your purpose and the committee will consider them when it comes the proper time.

Mr. Erlenborn?

Mr. ERLNBORN. I thank the chairman for yielding.

Mr. Mechling, I think the fears you have expressed have some basis, certainly. It occurs to me and the others, when we first examined the proposition of a Department of Transportation, that any department that would have complete control over the direction the transportation systems would take in the future would not be completely effective unless it had the regulatory bodies also housed within the Department.

It seems obvious if one mode of transportation is to be favored over another in the matter of national purpose that this can best be done or can only completely be done if the regulatory bodies are also involved in this decision. It seems impossible to promote one mode of transportation over another unless the body that determines the differential rates or more favorable rates to one mode of transportation than to another is also involved in this decisionmaking. It seems to me the draftsmen of this particular legislative proposal have taken a very practical thing into consideration, that they probably couldn't pass the bill if they provided that the regulatory bodies would also be merged into the new Department.

However, in theory, if we were going to have a completely strong Department of Transportation, and a strong Secretary, to determine national policies and to fully implement them, it would have been proposed that the regulatory bodies be merged into this Department of Transportation. And I think the fears you express are the very fears that all modes of transportation would have if the proposition before us included the merger of the regulatory agencies. Don't you agree?

Mr. MECHLING. I agree; yes, sir. Thank you.

Mr. COPENHAVER. Mr. Mechling, in your statement you made reference to the Water Resources Planning Act and, the Water Resources Council. I believe it has been mentioned that section 7 was somewhat modeled after that act. In light of your testimony, though, is it not correct that there is a significant difference between the theory behind the Water Resources Planning Act and the theory in section 7 of this Transportation Department Act? Because in the Water Resources Planning Act there was created a Council composed of four—I believe four or five department and agency heads, plus any additional heads which might be invited to participate from time to time—and they were to establish standards and criteria for the effective and proper or orderly development of water resources.

Under the proposed Department of Transportation, you are going to merge the various independent or semi-independent agencies of transportation into one department, so that instead of having an independent highway, maritime, airline, or other agency with equal interest, participating to develop standards, you are going to delegate those to one overall department head and therefore wind up perhaps with a concentration in one mode of transportation over another.

In other words, you are not going to have the same equal participation under section 7 of the Department of Transportation Act as you do under the Water Resources Council. Is that correct, in your interpretation?

Mr. MECHLING. One of the things that concerns us with respect to this particular subject is that the water resource development activities are multipurpose, where in your airways may be just for a single purpose, and that the problem of making a decision in a vacuum. That it is not advisable under certain criteria to put a set of locks in, a dam structure, where a river has been approved for flood control or many other reasons, and then have some different standards of criteria that are not coordinated or examined in concert with the overall purpose of the multipurpose projects, would leave navigation projects out in left field in this consideration, and in many ways the criteria could be established by the authority and control of the Department of Transportation or the Secretary of the Department, in such a way that you would never have another navigation improvement in this country.

May I ask, Mr. Counsel, if Mr. Carr can comment?

Mr. COPENHAVER. Go ahead.

Mr. CARR. I think the crux of this, Counsel, is that there seems to us to be a difference when you start evaluating the possibilities of Federal investment in water resources improvement projects on one hand and Federal investment in highways and airways on the other hand, because, essentially, your investment in highways and airways is for pure transportation.

On the other hand, of the many, many projects that have been built in this country which provide navigation channels over the last 160 years, very, very few of them were built solely as navigation projects, although the Congress authorized most of them as navigation projects, the funds were appropriated for navigation purposes, but there was much more to them than just that. And what we are saying in this statement is that we don't believe that Federal investment for transportation by water should be considered in a vacuum solely as investment for transportation, but should be considered in concert with all of the other purposes for which these improvements are made.

Mr. COPENHAVER. I think maybe, sir, you may have missed the import of my question. What I was driving at is, returning to the testimony which Mr. Mechling pointed out, that there ought to be retained the identity of the various modes of transportation in the new Department of Transportation, I was trying to compare that, at his suggestion, to the theory behind the creation of the water resources council.

In other words, you will still have various modes of transportation represented, but the Secretary of Transportation could devise standards and criteria which would benefit railroads over water transportation or airlines over road transportation.

Now, if you have maintained, in the Department, your Assistant Secretaries responsible for the different modes of transportation, they would be in a position, a better position, if I understand what you are trying to say, to put forward their position and therefore when the standards and criteria are developed, there will be an equality of interest in devising the standards and criteria which may not exist

to the same extent if you develop the Assistant Secretaries on Research, Planning, et cetera. Is that correct?

Mr. CARR. I don't think we are talking about doing away with the four Under Secretaries for staff purposes that have been proposed, actually. I think we are talking about additional ones. But I think your point is well taken.

Mr. COPENHAVER. Not to take too much time, but you are harking back to what I said before. There has been a statement that section 7 of the act is drawn from the Water Resources Planning Act, and there is a similarity there. My point is there is not a clear similarity, because you preserve separate identities on the Water Resources Council, which you do not maintain in the Department of Transportation.

The other question I have, could Mr. Mechling give us some indications of where he thinks there are drawbacks or failures in the proper protection or advancement of transportation today and how he believes that these would be corrected through the creation of a new Department of Transportation?

Mr. MECHLING. Well, it would come back in many ways to the judgment or the decisionmaking process that would be undertaken and how they would be presented. In many of these cases, if you were to determine navigation projects, determine the feasibility of it, on the effect of an existing mode, as I have said earlier, and this would be the end of further improvement in water resources for navigation, because by decision of establishing a criteria that this would affect an existing mode would be automatic, if, say, you only had a mule train moving traffic and you improved the waterway, this would affect the traffic of the mule train. So we are concerned about placing in the hands of one person the authority and power to prescribe.

Mr. COPENHAVER. Let me reiterate my question. In what way do you believe there are deficiencies today in transportation? Do you have knowledge about other deficiencies in other modes of transportation? Or in water transportation? Which should be improved upon and which could be improved upon if there was created a new Department of Transportation?

Mr. MECHLING. Well, sir, I think it always comes back to the coordination of services. There is one area where direct attention could be given to coordinating the services. I was reminded that we are not getting into a pricing and regulation situation here. But coordination of services, encouragement of coordination, in many ways the existing facilities could be better used in the public interest.

Mr. HENDERSON. Just one question: Mr. Mechling, when you file your proposed amendments, would you kindly file also an accompanying statement with them, advising us as to just what you think the effect of those amendments would be? We sometimes get into different interpretations of language.

And then, could you suggest a time when you might be able to do that?

Mr. MECHLING. Is 10 days all right?

Mr. HENDERSON. All right.

(The information appears as app. 6 on p. 339.)

Mr. ROSENTHAL (presiding). Thank you very much.

Mr. ROSENTHAL. Our next witness will be Mr. Frederick B. Lee, Director National Pilots Association.

**STATEMENT OF FREDERICK B. LEE, DIRECTOR, NATIONAL PILOTS ASSOCIATION; ACCOMPANIED BY DAVID H. SCOTT, EXECUTIVE VICE PRESIDENT, NATIONAL PILOTS ASSOCIATION**

Mr. LEE. Mr. Chairman, I would like to introduce Mr. David H. Scott, who is executive vice president of the National Pilots Association.

Mr. Chairman, my name is Frederick B. Lee and I appear here as a director of the National Pilots Association.

This association includes in its membership all grades of pilot competency ranging from students to air transport rated pilots. Our membership also includes airline pilots and military pilots who fly civil aircraft. For the most part our membership is interested in personal and business flying, commonly referred to as general aviation.

The National Pilots Association is strictly a noncommercial and nonprofit organization. Its officers are elected each year through ballots sent to every member, and except for our professional staff here in Washington, they serve without compensation. NPA is primarily interested in aviation education to the extent of serving all elements of general aviation and particularly those who wish to retain or upgrade their proficiency in being safe and skillful airplane pilots.

From the study of H.R. 13200, the briefings we have had on the proposed Department of Transportation and from what we have read in the press, it is our understanding that the proposed department would hope to achieve these two main goals of:

(1) Better coordination of transportation policy within the Federal Government.

(2) More economical operations by the various groups that deal with all forms of national transportation.

We have no doubt that there are compelling reasons to consolidate the many agencies and bureaus dealing with the various aspects of ground transportation. The same remarks also hold for the numerous organizations within the Federal Government that are concerned with inland and intercoastal waterway transportation.

As far as air transportation is concerned, we believe the problems of aviation are so unique and extraordinary that it is essential that there be a separate agency of the Federal Government to deal with this industry that is changing so rapidly.

I have some experience with the former agency that dealt with aviation, the Civil Aeronautics Administration, when it was a unit within the Department of Commerce. My overriding difficulty as Administrator of Civil Aeronautics was in obtaining sufficient funds to provide for the rapidly expanding needs of civil aviation and for the safety of both civil and military flight operations.

Exhibit A of this statement shows a graph of appropriations for civil aviation within the Department of Commerce and extending up through the years of the Federal Aviation Agency.

(Exhibit A follows:)

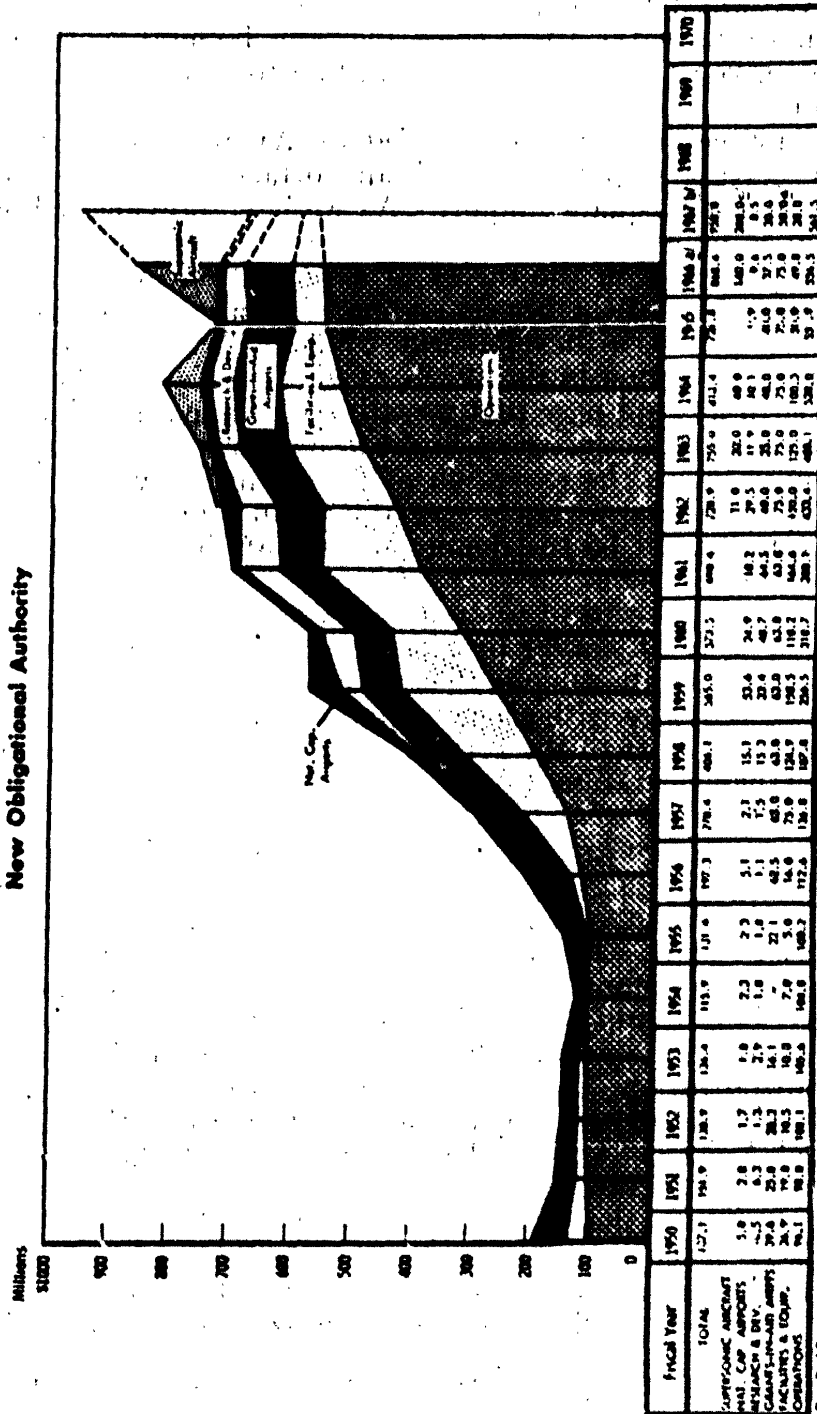


## EXHIBIT A

Federal Aviation Agency

## APPROPRIATIONS HISTORY

New Obligational Authority

Updated By: BU  
Source: BU-10Prepared  
Updated  
AS OF:  
3/1/86  
3/1/86

Source: Data compiled by the FAA, based on data submitted by the FAA to the House of Representatives, Committee on Transportation and Infrastructure, Subcommittee on Aviation, for the FY 1971 budget request. The data is presented in millions of dollars.

1/ FY 1960 based on appropriations available in FY 1960 for FY 1960. 2/ FY 1961 based on appropriations available in FY 1961 for FY 1961. 3/ FY 1962 based on appropriations available in FY 1962 for FY 1962. 4/ FY 1963 based on appropriations available in FY 1963 for FY 1963. 5/ FY 1964 based on appropriations available in FY 1964 for FY 1964. 6/ FY 1965 based on appropriations available in FY 1965 for FY 1965. 7/ FY 1966 based on appropriations available in FY 1966 for FY 1966. 8/ FY 1967 based on appropriations available in FY 1967 for FY 1967. 9/ FY 1968 based on appropriations available in FY 1968 for FY 1968. 10/ FY 1969 based on appropriations available in FY 1969 for FY 1969. 11/ FY 1970 based on appropriations available in FY 1970 for FY 1970.

Mr. LEE. When Congress wisely provided for a separate Federal Aviation Agency in 1958 this new organization was provided with resources which enabled it to plan for a modern air traffic control system and for other programs essential to the safety and to the development of civil aviation within the United States.

You will note that in the years prior to 1956, the year an independent FAA was proposed, the CAA never received more than \$151.9 million, while in the years since 1958 the Federal Aviation Agency has been given from \$565 to \$868 million to provide for its necessary functions.

It is our feeling that once the Federal Aviation Agency is absorbed within a larger Department of Transportation, aviation would again suffer from inadequate support. As we have previously hinted, civil aviation is going through vast changes during the coming decade. We are presently in the throes of a revolution in air traffic control with the advent of the beacon system. We are in the midst of supersonic transportation development which will revolutionize long-distance transportation in the 1970's. General aviation alone is expanding at such a rapid pace that we will see personal and business flying account for the majority of aircraft movements at every airport in the country with the exception of purely military fields and two or three international airports specializing in long-range flights. General aviation will be the dominant user of the airspace and the air traffic control system.

The existing forms of ground and water transportation have nothing in the way of similar problems. They are all operating and will continue to operate vehicles that are already highly developed. Their problems are more with efficient administration, safety and labor relationships rather than the further development of revolutionary vehicles and their operation.

The operations of the Federal Aviation Agency are also unique in that the air traffic control system used by the military services is also operated by this Agency. In time of a national emergency the operations of the Federal Aviation Agency are transferred to the Department of Defense. There is now an elaborate mechanism in the FAA which can be instantly responsive to Department of Defense requirements. This would become impossible if the present FAA functions were diluted and intermingled with other activities in the Department of Transportation. We believe that it is easier to correlate the common problems of the Department of Defense with an independent Federal Aviation Agency than to operate with the many facets of a Department of Transportation.

In addition to the problems that the Civil Aeronautics Administration faced when it was a part of the Department of Commerce may we cite the present plight of the Weather Bureau as an example of how service can suffer when a specialized organization is absorbed within a large department.

Although the Weather Bureau has been transferred to a larger agency, the Environmental Scientific Service Administration, and this group within the Department of Commerce, the weather service for general aviation continues to deteriorate in quality and is failing to keep pace with the expanding needs of general aviation. The lack of funding for the Weather Bureau personnel has made it necessary for

the flight service stations of the Federal Aviation Agency to take over the task of distribution of weather information to pilots. Flight service station personnel have been given weather indoctrination courses, but they are not meteorologists and can do little more than read weather reports to the pilots. When the weather is unusual or changing rapidly, experienced pilots need to talk directly to trained meteorologists. Until the Weather Bureau is given sufficient funds to employ and train more meteorologists in support of general aviation comparable to that provided for air carriers we believe that general aviation will be seriously inhibited in reaching its full growth potential. The National Pilots Association has advocated for several years the creation of a Weather Bureau independent of the Department of Commerce. We again reiterate our beliefs that such an agency should be established rather than consolidated within another large department.

Last spring we were told by the administration that it was difficult to find a proper Administrator for the Federal Aviation Agency. If it was difficult to find a civilian to head up the Federal Aviation Agency in 1965, it will be even more difficult to find an independent minded Administrator to serve within the confines of a large department subject to the supervision of a Secretary of Transportation. The job of being the head of an independent agency that reports only to the President of the United States carries not only prestige and authority, but also economic benefits.

One of the aims of the new Department of Transportation is to correlate the policies of all transportation functions of the Federal Government. If the regulator functions of the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission remain outside the Department of Transportation, we do not see how effective control and policymaking over all transportation in the United States can be achieved.

Incidentally, we note that the present duties of the Under Secretary of Commerce for Transportation provide for "the development of overall transportation policy within the executive branch of the Government, including the mobilization aspects."

Perhaps the solution for this problem of a uniform transportation policy lies merely in the exercise of powers already given to the Under Secretary of Commerce for Transportation.

The proposed legislation provides for the creation of a National Transportation Safety Board to investigate and report on causes of accidents and review on appeal of the suspension, amendment, modification, revocation or denial of certificates or licenses issued by the Secretary of Transportation.

Even though the five members of the Board are appointed independently by the President, we feel that it is unwise to have such a Board with its power to review of certificate action operating within the Department. We do not feel it is proper that any board, no matter what mechanism was used to insure its "independence," could ever be wholly objective in an accident investigation in which their department or agency was involved.

The separation of the accident investigation functions under the CAB is, in our opinion, one of the reasons for the outstanding safety record of U.S. aviation. There are obvious areas of potential expo-

sure to this situation, incidents due to inadequate ATC handling—separation, aerial collision, et cetera—incompetent certification of aircraft, engines, airmen, et cetera—inadequate or deficient regulations, et cetera. The basic policy is that no one agency can be wholly objective in its evaluation or investigation of another component of the same department. We have found no clearer statement of this point than that made by your distinguished colleague, Senator A. S. Mike Monroney, of Oklahoma, who said:

The transfer of the accident investigating function of the CAB and its responsibility for determining probable cause of aircraft accidents under title VII of the Federal Aviation Act is another feature of S. 3010—

the companion bill to H.R. 13200—

which is unwise. The CAB has the finest and the most skilled team of accident investigators in the world, who perform a highly specialized task. Aviation safety problems have little relationship to safety problems of other modes of transportation. Aviation accident investigations require skills seldom related to railroad, automobile, or maritime accidents. I think that those personnel in the Government who are given the responsibility for investigating these other types of accidents could learn a great deal from the CAB about methods and techniques of accident investigation. I am sure the Board would cooperate in making such information and training available; for example, at the Aeronautical Center in Oklahoma City, the CAB and the FAA have a joint accident investigation school.

It is absolutely essential to air safety, however, to continue the accident investigation and probable cause determination functions in the CAB if we are to maintain the high level of skill and expertness which the CAB Bureau of Safety now has.

We recommend that such a board should be completely independent of the Department whose actions it is to review. Only in this way can it have the impartial judgment on the Department's actions.

In summary, the National Pilots Association feels that there is a need for the coordination of surface transportation policy in the executive branch of the Federal Government. But we feel this can be accomplished by simpler means than the creation of a huge Department of Transportation. We would not oppose the consolidation of many bureaus and agencies dealing with ground and/or water transportation, but we feel that aviation with its unique problems of growth and rapid technological change should be a separate agency with the Administrator reporting directly to the President of the United States.

May I express our sincere appreciation for being given this opportunity to express our views before your distinguished committee.

Mr. ROSENTHAL. You are aware, of course, that General McKee testified in support of the bill?

Mr. LEE. Yes.

Mr. ROSENTHAL. Mr. Erlénborn?

Mr. ERLÉNBERN. I notice in your statement you state there are two things the Department, or the establishment of this Department would hope to accomplish. One is better coordination of transportation policy, and the second, more economical operations of the various groups that deal with the forms of our national transportation.

Don't you think there is also a third objective of this Department, and that is the establishment of a national policy relating to transportation as well as the coordination of that policy?

Mr. LEE. Yes. I would take that amendment, yes, sir.

Mr. ERLNBORN. I think you also suggested later in your statement that the establishment and coordination of such a policy is somewhat difficult to achieve if the regulatory bodies are not involved in this establishment and coordination as part of the new Department?

Mr. LEE. That is very correct, but the ratemaking, the route powers of the various agencies are perhaps the predominant economic factor in transportation in this country.

Mr. ERLNBORN. What the regulatory agencies do certainly can favor one mode of transportation over another, and what they do can help to advance one mode of transportation more than another, is that correct?

Mr. LEE. Yes, sir.

Mr. ERLNBORN. Bearing this in mind, how would you feel about the merger of all transportation regulatory agencies, including air transportation, in the new Department? Do you think this would be desirable?

Mr. LEE. Well, Mr. Erlenborn, as the National Pilots Association, naturally we don't have the problem of certificated air carriers. So this would be a problem which would only impinge indirectly on our form of aviation.

I do think, as you stated when the previous witness was at the table, that this was left out in order to get a bill that would pass I think that was a very cogent statement, and any attempt to merge these functions would run into very severe opposition.

Mr. ERLNBORN. It could be the kiss of death?

Mr. LEE. Yes, sir.

Mr. ERLNBORN. Do you feel that we can have a true formulation of national policy and coordination or implementation of this national policy relating to transportation generally if we don't involve all modes of transportation? In other words, don't we have a decision to make as a nation as to how to invest the dollars that we have available for promoting transportation, a decision to make as between ground and air transportation, between air transportation and water transportation? We can't have a policy as to the investment of our funds for promotion or improvements of transportation that doesn't coordinate among all of the various modes of transportation, can we?

Mr. LEE. Well, I think when you are considering such vastly different forms of transportation as we have, say comparing waterways and aviation, that it is very difficult to coordinate them strictly by dollar figures.

I think everyone agrees we are just on the threshold of some tremendous developments in aviation, not only through the larger new transports that will bring down rates, but the supersonic transport and maybe 10 years from now the hypersonic transport, which would be at mach 10. We are dealing with a form of transportation that has entirely different connotations from any surface transportation.

Mr. ERLNBORN. But at the same time these great advances are approaching in the field of air transportation we may also have the investment of national tax dollars in the improvement of other modes of transportation such as the demonstration rail project in the northeast corridor, the possibility of hydrofoil craft, hover-craft in water and ground transportation. Doesn't the executive department working

with Congress have to make a determination as to which of these improvements we will proceed with first, or which one will get the emphasis or whether we can move ahead in all of these fields at the same time?

Mr. LEE. Yes. I think the Bureau of the Budget and the executive branch and the Congress all have a responsibility in this respect.

I think we can show by history that coordination within one department, which may be biased in favor of surface transportation, can result in an absolute curtailment of the technological and scientific growth of aviation. That is our fear. It isn't a fear which I think is unbiased, not based on history. We have seen it in the past. We see it at the present time with the Weather Bureau. We are not just talking about a pipedream. This was an actuality in the past.

You see, the Department of Commerce, prior to 1955, did have many transportation responsibilities, as it has now; the Under Secretary for Transportation had a general policy responsibility, the Maritime Administration was and is there, the Public Roads Administration was and is there. And at that time the Civil Aeronautics Administration was there.

You can just see by the budget figures, which are symbolic of the general attitude, that aviation was held down. This resulted in a serious compromise of air safety and serious holding back of aviation growth.

Mr. ERLNBORN. I was also interested in your statement concerning the Weather Bureau, and the apparent inadequate funding that they presently have.

Now the change you referred to, the merger with the Environmental Science Services Administration is quite new, is it not? That was accomplished last year through a reorganization plan?

Mr. LEE. That is correct.

Mr. ERLNBORN. Is it your impression that just in this short period of time, since that merger was effected last year, that the services of the Weather Bureau, as they affect general aviation, have deteriorated?

Mr. LEE. I wouldn't say deteriorated, Mr. Erlenborn. I say they have not improved. The level of funding is about the same as it was before.

Mr. ERLNBORN. I have no further questions. I guess I am acting chairman at the moment. Mr. Henderson?

Mr. HENDERSON. Mr. Lee, do you have any statistics you could furnish us on the growth of general aviation, and some projections for its future?

Mr. LEE. Yes, we can. I will be glad to furnish them.  
(The information referred to is as follows:)

*Total active pilot certificates*

1953.....	257, 778	1959.....	354, 365
1954.....	300, 053	1960.....	359, 875
1955.....	349, 729	1961.....	348, 062
1956.....	298, 076	1962.....	352, 860
1957.....	259, 567	1963.....	365, 971
1958.....	309, 212	1964.....	378, 700

*Active U.S. aircraft*

Year	Airlines	General aviation	Total	Year	Airlines	General aviation	Total
1954.....	1,615	53,890	55,505	1962.....	2,221	80,632	82,853
1955.....	1,606	57,388	58,994	1963.....	2,166	84,121	86,287
1956.....	1,642	58,790	60,432	1964.....	2,179	85,088	87,267
1957.....	1,802	62,866	64,668	1965.....	2,050	86,750	88,800
1958.....	1,864	65,289	67,153	1966.....	2,055	91,600	93,655
1959.....	1,879	67,839	69,718	1967.....	2,010	94,440	96,450
1960.....	2,020	68,727	70,747	1968.....	1,990	97,300	99,290
1961.....	2,211	76,549	78,760	1969.....	1,955	100,150	102,105

<sup>1</sup> Estimated.

*Total aircraft operations at F.A.A.-operated airport traffic control towers*

(In thousands)

Year	General aviation	Air carrier	Year	General aviation	Air carrier
1953.....	7,719	11,173	1959.....	15,008	18,357
1954.....	8,015	12,064	1960.....	14,827	17,993
1955.....	8,541	13,418	1961.....	15,528	18,232
1956.....	10,021	15,009	1962.....	17,867	19,203
1957.....	12,128	17,070	1963.....	19,921	20,715
1958.....	14,033	17,940			

Mr. HENDERSON. We would be glad to have those. Then just one question along the line of Mr. Erlenborn's last questions relating to ESSA. That has only recently been set up. I wonder if it is fair to make a judgment about the Weather Bureau functions just yet, or should it be given a little more time to work out whatever problems the Weather Bureau is having?

Mr. LEE. Well, the Department of Commerce and the Environmental Sciences Services Administration have had the chance to submit one budget. And it doesn't contain the type of increase for meteorologists that we think is demanded to serve aviation.

However, naturally we are hoping for better things in the future. But it is only a short time, and possibly things will work out.

Mr. HENDERSON. Thank you.

Mr. ROBACK. Mr. Lee, is the purport of your testimony that you are opposed to the Department of Transportation, but if it were decided to set it up, you would just as leave see the Federal Aviation Agency outside of it? Is that the sense of it?

Mr. LEE. Yes. We think it is absolutely essential the Federal Aviation Agency remain as it is at present.

Mr. ROBACK. Excuse me, I couldn't hear you.

Mr. LEE. That the Federal Aviation Agency remain as it is at present, reporting directly to the President.

Mr. ROBACK. In the event such a Department were set up, don't you think the Federal Aviation Agency would be disadvantaged by being outside it?

Mr. LEE. No. I think it would be disadvantaged by being inside it, as past history has shown.

Mr. ROBACK. You think departmental status, Cabinet-level department, confers no advantage?

Mr. LEE. Theoretically, it might, but the trouble is here you have a history of aviation being downgraded when it is in a department with other transportation agencies.

Mr. ROBACK. Why would one suppose that the largest single component of the Department which would be the Federal Aviation Agency would be overwhelmed by the lesser components?

Mr. LEE. Well, it might be the largest in terms of personnel, but as far as the economic status of aviation, it naturally does not compare in size with highway transportation or with rail transportation.

Mr. ROBACK. You feel that the general aviation has been well treated and fully considered in the aviation activities of the Federal Government?

Mr. LEE. On the whole; yes, sir.

Mr. ROBACK. Do you think general aviation might be in some way prejudiced by grants as proposed in this legislation?

Mr. LEE. Yes, I think all aviation would, and general aviation in particular.

Mr. ROBACK. But as far as, I mean if FAA were left outside of this bill, you wouldn't specifically be opposed to it otherwise?

Mr. LEE. No. I am just dealing with the FAA functions.

Mr. ROBACK. You just want it to be left out, the FAA to be left out?

Mr. LEE. We want the FAA to be left the way it is right now.

Mr. ROSENTHAL. How many members are there in your association?

Mr. LEE. About 4,500.

Mr. ROSENTHAL. Thank you very much for your testimony.

The next witness is Clifford P. Burton, executive director of the Air Traffic Control Association.

#### **STATEMENT OF CLIFFORD P. BURTON, EXECUTIVE DIRECTOR, AIR TRAFFIC CONTROL ASSOCIATION**

Mr. BURTON. Thank you very much Mr. Chairman. We appreciate very much the opportunity to be here today to testify. This was a last-minute request on my part to Mr. Henderson, and we rushed through our testimony on Friday, and are here today to present it.

My name is Clifford P. Burton, and I hold the position of executive director of the Air Traffic Control Association.

In brief, this association of some 4,000 members is an independent nonprofit professional organization dedicated to advancement in the science of air traffic control. Although composed principally of persons employed by the Federal Aviation Agency and actively engaged in the control of air traffic, its membership also includes pilots, private aircraft owners and operators, aviation industry organizations, engineers and manufacturers. The association is also an affiliate member of the International Federation of Air Traffic Control Associations.

On June 5, 1958, I testified before the Aviation Subcommittee of the Senate Committee on Interstate and Foreign Commerce in support of the Federal Aviation Act of 1958. Supporting me on that testimony was a former Chairman of the Civil Aeronautics Board, Mr. Oswald Ryan, then general counsel of the Air Traffic Control Association.

The thrust of our testimony on that date was to support the removal of the impotent Civil Aeronautics Administration from the basement



of the Commerce Department and raise it to a position of stature where it could get something done. Shortly following my testimony on June 5, 1958, I returned to private industry. I joined the Federal Aviation Agency in 1960—I retired on December 30 of last year from the position of Deputy Director of the Air Traffic Service. On January 18 of this year, I accepted a position as executive director of the Air Traffic Control Association. During the intervening period between my tour as the first executive director and the present date, I have observed with great satisfaction the fruits of our efforts in helping to launch the Federal Aviation Agency and have witnessed great progress in the development of a better and safer air traffic control system.

It is very doubtful, Mr. Chairman, if the progress achieved in the last 6 or 7 years would have been accomplished had the Civil Aeronautics Administration remained in the basement of the Commerce Department. Members of this association are vitally concerned lest we now return the FAA to the basement or the subbasement of some other department.

There can be no doubt that the stature and prestige, and thus the effectiveness of CAA was enhanced when it became FAA. The Administrator as the President's personal aviation adviser has direct access to the highest levels of Government and the White House. Under the proposed arrangement this could not possibly continue but would move the Administrator down one notch at least, and his entire Agency down several.

This association does not disagree with the need for better coordination in the development of a national transportation system, but we do disagree that the establishment of a Department of Transportation is the most effective way to achieve this objective.

In our view the establishment of a Department of Transportation would engulf the FAA and several other effective agencies in an unwieldy administrative hodgepodge in which bureaucracy would thrive and progress and aviation suffer. Despite the purpose and intent of the bill and the fine language which indicates a degree of autonomy on the part of certain agencies, the fact remains that the FAA Administrator will no longer be his own boss—he will be just as he was in the Department of Commerce, under a Secretary, Deputy Secretaries, and Assistant Secretaries, who will have responsibilities and background other than aviation safety—and the result will be exactly the same.

When this situation existed previously, the effectiveness of the Agency became so impaired that the Congress felt impelled to remove the CAA from its then controlling department. Why should the Congress deliberately recreate that crisis? No matter how you slice it, each component of the Department will be effected by the lowest common denominator. The same common denominator could well be reflected in the safety record of aviation unless the present rate of progress in the development of a national aviation system continues unhampered.

There exists today a healthy competitive spirit and rivalry between surface and air transportation. What better stimulation to progress can be devised? Certainly no one would suggest combining Ford, General Motors and Chrysler or Boeing and Douglas. In fact, it

might be illegal. Why propose in Government a colossus of approximately 100,000 Government employees in one department when we would prevent a similar combination in industry. The leveling process inherent in one department regulating all forms of transportation would be detrimental, in our view, to this competitive spirit.

Mr. Chairman, following the midair collision over the Grand Canyon in 1956, there was a great public hue and cry for action. The Congress provided that action by establishing the Federal Aviation Agency. That act, and we think properly, defined the functions of the Civil Aeronautics Board as an independent investigating agency rather than have this function performed by the Federal Aviation Agency. The proposed bill we are discussing here states in section 5(a) "There is hereby established within the Department a National Transportation Safety Board." This contravenes the present and established and long held philosophy in Government and industry that the agency which establishes aviation policy, makes aviation rules and regulations, which operates an air traffic system, which sets the standards for air worthiness of aircraft, which examines the proficiencies and qualifications of airmen, which acts as the enforcer of its own rules and regulations, and which also assumes the role of judge—should not be permitted to be its own investigator when accidents occur.

Despite the language on page 9 which reads "in exercising these functions, powers, and duties, the Board shall be independent of the Secretary and the operating units of the Department," we do not consider a Board to be independent when its finances, and personnel, are subject to the Department policies and departmental control.

While this particular defect in the bill could be readily corrected, it does not change the viewpoint of this association that the creation of a colossus such as this envisioned in the form of a Department of Transportation, would not be in the best interest of the country.

The comparative achievements of the Civil Aeronautics Administration since it was lifted out of the basement of the Commerce Department and renamed the Federal Aviation Agency have been extraordinary. This Agency, working closely with the Civil Aeronautics Board, has achieved a safety record unparalleled in history and it is getting better each year. It is an old axiom, "when something is working, let it alone."

Mr. Chairman, if there is a deficiency in the development and implementation of national transportation policies and programs conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith, as stated in the bill, why not strengthen the office of the Under Secretary of Commerce for Transportation rather than weaken and subordinate those agencies which are now making contributions to a more efficient transportation system.

Mr. Chairman, my mail on this subject has been heavy—not one single voice in this association has been raised in favor of the proposed Department. In short, Mr. Chairman, we oppose the establishment of a Department of Transportation as envisaged by this bill.

Thank you.

Mr. ROSENTHAL. Thank you, Mr. Burton. I might say it is refreshing to have your position stated quite clearly in simple terms. You are opposed to this bill?

Mr. BURTON. Yes, sir.

Mr. ROSENTHAL. Pursuing that for a moment, in your statement you say:

This association does not disagree with the need for better coordination in the development of a national transportation system.

And you go on to say:

But we do disagree with the establishment of a Department of Transportation as the most effective way to achieve this objective.

How would you achieve your stated objective, which I am sure we all agree with, fulfilling the need for better coordination in the development of a national transportation system?

Mr. BURTON. That would be as I stated in the last paragraph of the statement, that we strengthen the office of the Under Secretary of Commerce for Transportation and do it on a coordinated basis.

Mr. ROSENTHAL. You think this would be sufficient to meet the needs of developing a better national transportation system?

Mr. BURTON. In our view; yes.

Mr. ROSENTHAL. Mr. Erlenborn?

Mr. ERLBORN. I was interested, Mr. Burton, in your continuing reference to the location of the CAA in the basement of the Commerce Department. Do you mean this physically or as the organizational structure?

Mr. BURTON. The organizational structure, sir. It is a figure of speech.

Mr. ERLBORN. It would appear your position is quite clear, that as far as air transportation is concerned, you feel the Department of Transportation would in no way improve air transportation or air safety. Is that correct?

Mr. BURTON. I think Mr. Lee stated it quite clearly, when he said air transportation was unique in itself, and if there would be a change in the Federal Aviation Act, we would support a Department of Air Transportation, raise its stature rather than lower it.

Mr. ERLBORN. At what level of our governmental organizational structure, do you think we can best resolve the question as to where we invest our national tax dollars for improvement of transportation and make the decision as to whether it should be supersonic transport or high-speed rail transportation, or better water transportation? Just where do we make this decision?

Mr. BURTON. I think at the moment the Budget Bureau is doing a pretty good job on that, by examining very carefully, having witnesses appear, when the budgets go forward.

Mr. ERLBORN. Do you think it is valuable or helpful to have each mode of the national transportation represented independently before the Budget Bureau, rather than to have all of these decisions made at some lower level and then the coordinated policy stated by the department head?

Mr. BURTON. In a sense, if I answered that for ground transportation, I would be speaking for them. I am speaking here only insofar as air transportation is concerned, which is a very, very large segment of it. And as Mr. Lee pointed out, it is unique in itself.

So I would hesitate to indicate whether or not each one of the others should necessarily be independent.

Mr. ERLBORN. I have no further questions.

Mr. ROSENTHAL. Mr. Roback?

Mr. ROBACK. Mr. Burton, you appreciate, do you not, that establishing a Department at the Cabinet level in the Government of the United States is a rare event in our history; do you appreciate that?

Mr. BURTON. I didn't quite get the question, sir.

Mr. ROBACK. In all of our history, since 1789 or whatever, we have only had about a dozen Departments created.

Mr. BURTON. That is right.

Mr. ROBACK. So, presumably, when one sets up a Department, one does not do it lightly, or fortuitously or for transient reasons; is that not so?

Mr. BURTON. Yes, I believe so.

Mr. ROBACK. Is it not the case when Departments are set up, the sponsors and advocates of the Department consider that they are taking those functions of government and giving them a special high status in the structure of the Government?

Mr. BURTON. I think that is true in some instances, but not in all instances.

Mr. ROBACK. Will you explain to the committee then how it is that every function that would go into this Department would be lowered, when the general idea of the Department is to elevate the status of those functions? If all functions were lowered, how would you get an increase in status or stature?

Mr. BURTON. I think it would be a leveling process, which I stated in my statement and I refer back to the history when the CAA was under the Department of Commerce.

Mr. ROBACK. You think transportation would be lowered in public esteem and in appropriations and in governmental administration by being a Department, rather than in different agencies as now?

Mr. BURTON. I think there would be a tendency to stifle competition in transportation. I think this competition is very healthy.

Mr. ROBACK. Would you argue that let us say we ought to have three separate Departments in the military, because of the competition being useful?

Mr. BURTON. I would argue that, yes.

Mr. ROBACK. You would argue that similarly?

Mr. BURTON. Yes.

Mr. ROSENTHAL. Thank you very much, Mr. Burton.

Our next scheduled witness was to be Mr. Charles Ruby, of the Airline Pilots Association, but due to personal and family reasons, he is unable to be with us.

Our next witness therefore will be Mr. William K. Lawton, executive director, National Business Aircraft Association.

#### STATEMENT OF WILLIAM K. LAWTON, EXECUTIVE DIRECTOR, NATIONAL BUSINESS AIRCRAFT ASSOCIATION

Mr. ROSENTHAL. May I ask your cooperation, sir, in view of the fact we have only 15 minutes remaining, and you have a rather lengthy statement, I would suggest we could insert your statement in the record and perhaps you could bring out the highlights that you think are most important and should be brought to the attention of the members of the committee.

Mr. LAWTON. Mr. Chairman, I will be glad to cooperate.  
(The prepared statement of Mr. Lawton follows:)

PREPARED STATEMENT OF WILLIAM K. LAWTON, EXECUTIVE DIRECTOR,  
NATIONAL BUSINESS AIRCRAFT ASSOCIATION

National Business Aircraft Association, Inc. (NBAA), is a nonprofit and independent aviation organization composed of companies owning and operating business-use aircraft. It was founded in 1947 as the Corporation Aircraft Owners Association and is incorporated under the laws of the State of New York.

NBAA is organized to represent the aviation interests of those persons, companies, corporations, or other forms of business enterprise who own and operate aircraft as a normal part of their business or industry and to those engaged in supporting the operation, servicing, and manufacture of business aircraft.

Among the fields in which NBAA is active are improvements in airways and airports, better weather service, expansion in communications and air navigation facilities, higher standards of airport services, improved aircraft parts distribution, equitable tax rulings for business aircraft operations, greater recognition of the airplane as a necessary tool in modern business and industry, better air traffic control procedures, professional status for qualified business pilots, aircraft designed to meet the special requirements of business flying, and the constant improvement of safety standards affecting all phases of business aviation.

NBAA's national headquarters are in Washington, D.C.

The business aircraft fleet includes more than 25,000 aircraft. Many of the companies operating these aircraft are engaged in the direct support of the Defense Department as suppliers and maintainers.

Mr. Chairman, this association wishes to thank the chairman and members of this subcommittee for the opportunity to express the views of this association on behalf of the many hundreds of companies operating professionally flown, business-use aircraft.

These aircraft, numbering in the thousands, provide safe, modern transportation and communications capability for all types of business and industrial organizations. The numbers of these aircraft increase daily and they range in size and type from small, single-engine, piston aircraft to 550-mile-per-hour turbojets. We speak for these companies owning these aircraft as it relates to the companies' business aviation interests.

After reviewing and analyzing the President's message on transportation calling for establishment of a new Cabinet post and a Department of Transportation—and after serious study of House bill 18200 which proposes to create the Department and its Secretary—this association makes these comments, and these recommendations:

(1) We view the transportation problems which have been cited as the reasons for establishment of a Department of Transportation only as good causes for the executive department to establish a better and greater degree of coordination among the many governmental agencies controlling transportation. We do not believe that the radical realignments and massive transfers of authority which are proposed are the only way of accomplishing the missions. We urge that this coordinating, these executive department control needs may be better solved by reaffirming, reorientating, and slightly expanding the stated purposes, activities, personnel, and organization of the present office of the Under Secretary of Commerce for Transportation.

The U.S. Government Organization Manual describes this office in this manner:

"The Under Secretary of Commerce for Transportation now serves as the Secretary of Commerce's principal assistant on transportation policy within the Department and helps to establish and maintain the Department's position with respect to the establishment of an integrated transportation program for the Department and the development of overall transportation policy within the executive branch of the Government including the mobilization aspects.

"He has responsibility for coordination of interdepartmental transportation decisionmaking in assigned areas, and responsibility for policy-level research in such areas as Federal investment in transportation, improvements in intermodal and intramodal practices affecting the public interest, and suggestions for additions or changes in Federal legislation.

"He exercises policy direction over the Maritime Administration; the Bureau of Public Roads, the Office of Emergency Transportation, and the Great Lakes Pilotage Administration."

It is our present view that instead of a gigantic department, envisioned in House bill 13200, that the same administrative end results could be as well achieved through further emphasis on the role of the Under Secretary of Commerce for Transportation.

Surely this administrative redefinition could bring into focus the expressed and basic wishes of the executive branch which are "to coordinate the principal existing programs that promote transportation in America."

And, this coordination can be done—we add—without an approximate initial \$6 million additional cost to the taxpayer.

The role of the new Department, as described in the President's message calls for bringing new technology to a total transportation system. We believe that this can be done without the necessity of a new Cabinet post and a new Department. It can be accomplished under a revitalized Under Secretary of Commerce for Transportation.

The task of improving safety in transportation, is now and has been in effect for years in aviation, rail, and maritime areas. The strengthening of highway safety can be accomplished—and we urge that it should—through the new highway safety programs sponsored by the President. These, we feel, should remain under the jurisdiction of the Secretary of Commerce.

In essence, we do not presently believe that the sought for creation of a new Cabinet post and department is necessary and is the only solution of the coordination problems which the President has outlined.

(2) Examination of House bill 13200 in the area of aviation safety and in the area of continuity of presently available quasi-judicial appeal procedures concerning revocations, amendments, suspensions, or modifications of certificates and licenses—indicates a most alarming and serious divergence from historic and congressionally approved practices in these two fields.

In this committee's further considerations of House bill 13200 we urge that your most serious attentions be directed toward section 5(a), section 6(d), and section 7.

Section 5(a) proposes that a National Transportation Safety Board be established within (note within) the Department of Transportation. This Board would "exercise the functions transferred to the Secretary by this Act with regard to the determination of cause or probable cause of transportation accidents and with regard to the review of appeal of the suspension, alteration, modification, revocation, or denial of any certificate or license issued by the Secretary." It is anticipated that the Board would establish criteria specifying the types of cases it will consider or review so as to exclude cases of limited impact on the transportation industry, personnel employed therein, and the public.

We ask, at this point, who will handle the cases of "limited impact"?

The Board, the bill states, would be "Independent of the Secretary and of the operating units of the Department."

However, it should be noted that the actual investigation of aviation accidents would be under the direct supervision and control of the Department of Transportation. Only the determination of cause or probable cause would rest with the "Independent" Safety Board.

We call to your attention Section 6: Transfers to Department, of the bill and particularly to section (d): "There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Civil Aeronautics Board, and of the Chairman, officers, and offices thereof under titles VI (72 Stat. 776) and VII (72 Stat. 781) of the Federal Aviation Act of 1958."

Title VII of the act of 1958 is entitled "Aircraft Accident Investigation."

Section 701 states:

"(a) It shall be the duty of the Board to—

"(1) Make rules and regulations governing notification and reporting of accidents involving civil aircraft;

"(2) Investigate such accidents and report the facts, conditions, and circumstances relating to each accident and the probable cause thereof;

"(3) Make such recommendations to the Administrator as, in its opinion, will tend to prevent similar accidents in the future;

"(4) Make such reports public in such form and manner as may be deemed by it to be in the public interest; and

"(5) Ascertain what will best tend to reduce or eliminate the possibility of, or recurrence of, accidents by conducting special studies and investigations on matters pertaining to safety in air navigation and the prevention of accidents."

The proposals contained in section 6(d) therefore contravene the presently established and long-held congressional philosophy that the agency which establishes aviation policy, makes aviation rules and regulations, which operate an air traffic control system, which sets the standards for airworthiness of aircraft; which examines the proficiencies and qualifications of airmen, which acts as the enforcer of its own rules and regulations and which also assumes the role of judge—should not be permitted to be its own investigator when accidents occur.

When this division of powers was considered in 1958—at the time the present Federal Aviation Agency Act was being discussed—it was clearly established in both Houses of Congress that the FAA could not and should not be allowed to investigate aviation accidents. This role was then and is today delegated to the Civil Aeronautics Board.

Yet, under section 6(d) the Secretary of Transportation—under whom the entire FAA and the CAB's safety functions are to be combined—would be permitted to make and control the investigation of aviation accidents which could be the product of his own Department's negligence.

Further, the bill's claim that the Safety Board would be "independent" of the operating units of the Department does not eliminate control by the Secretary of the Board's reports, activities, scope of investigation (which is hinted at in section 5), its personnel, and its finances.

An independent safety board is not "independent" when it is established "within" a Department and subject to its domination or control.

Section 5 which establishes a National Transportation Safety Board should be removed from the scope of this proposed act and, if a Department of Transportation is established, the Safety Board should be collaterally created as an independent office with complete accident investigation authority to determine causes or probable causes of accidents and to otherwise carry out the present authorities of the Civil Aeronautics Board relating to accident investigation as listed now in title VII of the Federal Aviation Act. Section 6(d) of the bill should be amended to eliminate references to title VII.

The subject of review on appeal as covered in section 5(a)(2) of the bill needs close review and revision by this committee.

At the present time section 609 of the Federal Aviation Act of 1958 provides that the Administrator of the FAA may (for cause) issue an order amending, modifying, suspending, or revoking, in whole or in part, any type of certificate, production certificate, airworthiness certificate, airman certificate, air carrier operating certificate, air navigation facility certificate, or air agency certificate.

Section 609 further provides that any person whose certificate is affected by such an order of the Administrator under this section may appeal the Administrator's order to the Civil Aeronautics Board and the Board may, after notice and hearing, amend, modify, or reverse the Administrator's order if it finds that safety in air commerce or air transportation and the public interest do not require affirmation of the Administrator's order.

Section 609 continues—"In the conduct of its hearings the Civil Aeronautics Board shall not be bound by findings of fact of the Administrator. The filing of an appeal with the Board shall stay the effectiveness of the Administrator's order unless the Administrator advises the Board that an emergency exists and safety in air commerce or air transportation requires immediate effectiveness of his order, in which event the order shall remain effective and the Board shall finally dispose of the appeal within 60 days after being so advised by the Administrator. The person substantially affected by the Board's order may obtain judicial review of said order under the provisions of section 1006, and the Administrator shall be made a party to such proceedings."

When these provisions of the present Federal Aviation Act of 1958 are translated into the proposed Department of Transportation functions it is found that the Secretary will have all the powers of the FAA Administrator for issuance of certificates and licenses. He will have all the powers to suspend or otherwise act on these certificates and licenses; and the Secretary will head the Department within which is the National Transportation Safety Board and (under 5(a)(2)) is the body to whom all reviews on appeal are to be made concerning suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary.



While the Board is made "independent" of the Secretary by the bills' statement that "In exercising these functions, powers, and duties, the Board shall be independent of the Secretary, and the operating units of the Department" we feel appeals would actually be directed to the same jury which passed the original sentence.

We call to the subcommittee's attention that section 5(k) provides that "The Secretary shall provide to the Board financial and administrative services, the cost of which shall be paid in advance or by reimbursement from funds of the Board." Another interlocking of the "independent" Board with the Secretary is found in section 5(h) which permits the Board to delegate, with approval of the Secretary, to any officer or official of the Department such of its functions as it may deem appropriate.

Although each one of these ties or interfaces between Secretary and Board, in itself, may not be derogatory to the intents of Congress, surely—when the cumulative impact of these various ties is considered there can be little doubt of the lack of independence of this supposed "independent" Board "within" the Department.

Again, this association urges that as the subcommittee and the Congress continue into their examinations of the proposed House bill 13200 that the committee and the Congress vigorously assert that any accident investigating body and any quasi-judicial appeal or review function must and shall be completely divorced from any semblance of direct or indirect control exercised by any other governmental agencies or departments. An accident investigating body and any appeal function body must have the status of an independent office.

Section 7 of the proposed bill creates some serious problems to the continued effective advancement of general aviation.

First, in section 7(a) the Secretary would be responsible for "the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment \* \* \*."

Then, it is further stated in section 7(b) that "every survey plan or report formulated by a Federal agency which includes a proposal as to which the Secretary has promulgated standards and criteria pursuant to subsection (a) shall be prepared in accord with such standards and criteria and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of transport, the available transportation services in the area and the general effect of the proposed investment on existing modes and on the regional and national economy \* \* \*."

These proposals—if past history is any indication of the future—will have a deleterious effect on the largest part of the civil aviation community (the privately owned general aviation fleet) and on the continuity of its progress which is essential to many facets of the economy of this country.

We point out that the needs and requirements of the commercial airlines (the smallest numerical segment of civil aircraft inventory) have, until most recently dominated the thoughts, actions, and considerations of the governmental agencies handling civil aviation affairs. It has not been until the past few years, when FAA originated an Office of General Aviation Affairs, that the requirements, impacts, and capabilities of the private and business aircraft owner and operator have come into governmental recognition.

We foresee in this proposed Department of Transportation a regression from the recently arrived status. We foresee a return to serious aviation considerations only of air carrier needs placed against other forms of common carriage.

We do not believe that a Secretary of Transportation can—any more than did the Secretary of Commerce when he had jurisdiction over the OAA—simultaneously and effectively weigh the "relative efficiencies of various modes of transportation" and their "general effects on the regional and national economy" and make accurate "estimates of the general effects of the proposed (Federal) investments on existing (and competing) modes" without reference to and control over routes and rates of the common carrier entities. Yet, this is not advocated in the bill.

Some of these proposed functions concerning recommendations for Federal investment or expenditures in transportation are closely allied to functions of the Bureau of the Budget, yet we have not noticed any inclusion of parts of the Bureau of the Budget into the Department of Transportation.

We cannot avoid observing the status of private transportation in some countries which have departments of transportation. We look at their status in



terms of the prevalence of privately owned automobiles and their highway systems; from the viewpoint of privately owned watercraft used for pleasure and sport and the facilities they have for their use; and we observe the status of their private aviation and the regulations and facilities under which they operate.

We are not favorably impressed, even when their relative gross national products and geographies are considered.

No country in the world has the vast civil aviation fleet or facilities which now operate in the United States—more than 97,000 active aircraft, of which 2,100 are airline owned and operated—more than 9,000 airports available. We have developed a vast private general aviation fleet of 95,000 aircraft without major dependence on Federal subsidies. Nor do we have nationalized airlines or railroads.

We respectfully call to the attention of this subcommittee and to Members of Congress that the business flying segment of the general aviation fleet is now being used in direct and indirect support of the Department of Defense and the national defense interests by providing safe and swift transportation for all echelons of civil management engaged in production, distribution, and maintenance of material to and for all branches of the armed services. The general aviation fleet is now being enlisted in a federally sponsored, State-directed State and regional defense airlift (SARDA) plan which will use these privately owned aircraft in times of local disaster or national emergency. This tremendous privately owned fleet of aircraft is a national transportation asset with its readiness as a major air transportation reservoir in times of national defense emergency. These aircraft can, in an emergency, provide a great part of the passenger seat and cargo requirements when some of the Nation's airline aircraft are drafted, as is planned, into military service. At a time when air movement of essential civilians and military becomes paramount, this general aviation fleet could, if not restricted, be a major artery in civil air transportation.

The recognition of this vital air transportation reserve fleet by Government has come about slowly. We are fearful of its future under a reorganizational hurly-burly accompanying new Department control and supervision. We are fearful that this taxpaying, unsubsidized national air transportation fleet will be lost to the Nation at a time when the Nation is bolstering its defense structure.

We do not feel that the solutions to our many aviation problems will be expedited by the submergence of the Federal Aviation Agency within, or by transfer of the safety and appeal functions of the CAB, to a Department of Transportation.

We believe that there are some portions of the bill which are very worthy of serious consideration and eventual enactment. These provisions relate mainly to highway safety areas.

We believe, further, if serious consideration is to continue to be given to a better coordinated transportation policy that this consideration must include evaluation and control of the route and rate structures of the various common carriers. This type of economic evaluation and control is completely avoided in the present bill and thereby limits, in our opinion, the true effectiveness of any proposal to implement an effective, coordinated national transportation policy.

We do not endorse the provisions of House bill 13200. We oppose its passage, unless those sections are eliminated which allow a National Transportation Safety Board to be placed in anything but a truly independent office status and with the entire accident investigating and appeal functions resting within it rather than in the Department of Transportation.

Thank you.

Mr. LAWTON. We wish to thank the chairman for this opportunity to express our views. And in compiling them, we view that the transportation problems which have been cited as the reason for the establishment of a Department of Transportation as valid, but we think they can be done better, and under an existing organizational setup, and we refer to the Office of the Under Secretary of Commerce for Transportation.

In making this point, we admit that a coordination of transportation policy seems to be desirable. We do not view this radical establishment of a new Department at Cabinet level necessary to establish this

coordination. And we point out that the official job description of the Under Secretary for Transportation fits exactly what the President cited as a reason for the Department's establishment; that is, coordination.

We view that the role of this new Department can be done without the necessity of the Cabinet post. We point out that the task of improving safety in transportation is now and has been in effect for years in the aviation, rail, and maritime areas. And we do agree there remains a great deal of work to be done in highway safety. We endorse the bills already introduced, and which have been favorably acted upon, according to my understanding. These should be a function under the Secretary of Commerce, where the bills now propose they rest, until a Department of Transportation might be established.

We point out that the Transportation Safety Board, which is included in the bill, is not independent. It is dependent in many ways, as we point out here, on the Secretary of Transportation. When you view the functions of this alleged independent Safety Board, you find that its independence is not truly an independence. We tie this in by citing the proposed bill and what these functions would be regarding personnel and financial controls.

Getting into a more serious aspect of the proposed bill, the bill clearly states that the function of accident investigation will be that of the Secretary of Transportation and not, as has been alleged, that of an independent—which is not independent—Safety Board.

Mr. ROSENTHAL. If I might ask you a question at this point: Does the fact impress you at all, that five members of the Board are to be appointed by the President, with the advice and consent of the Senate and can only be removed by the President on charges of malfeasance in office or such similar charges?

Mr. LAWTON. Mr. Chairman, I am impressed greatly by this fact. But they are charged only with the determination of probable cause, not of accident investigation. In other words, this could mean that these gentlemen would be handed a package of facts derived by the Department of Transportation, and it would say "Based upon our facts as we give them to you, you carry out your function." And I think we don't have to draw pictures as to the possibilities there.

Mr. ROSENTHAL. I doubt that that is the case. Assuming it is not, I would assume any Board member would have to have investigators under their direction so they could tell them what they would like to have investigated. Assume that is the case. Could that soften your opposition?

Mr. LAWTON. It would, but it is not the case. I call your attention to section 6 of the proposed bill, "Transfers to the Department." Section (d) of section 6 says "There are hereby transferred to and invested in the Secretary all functions, powers, and duties of the CAB." And when you get down into title VII, Aircraft Accident Investigation, section 701 states what the duty of the Board is, and part II is investigation of accidents. There is no doubt in anyone's mind who examines the way this bill is written that the accident investigation functions will be under, as Mr. Burton pointed out, under the aegis of those who run the aviation industry.

And Mr. Burton outlined it very carefully when he said the agency which establishes aviation policy, makes aviation rules and regulations,

which operates the air traffic control system, which sets the standards for air worthiness, which examines the proficiencies and qualifications of airmen, which acts as the enforcer of its own rules and regulations, which also assumes the role of judge, should not be permitted to be its own investigator, when accidents occur. And that is exactly what this bill provides for. And we object strenuously, as I believe everyone else in the aviation industry has, both general and business aviation, which I have the pleasure of speaking for.

We also point out that this independent Safety Board, even with the controls the chairman has pointed out, is not independent, when there is this transfer of personnel, finances, and functions.

We further point out that the subject of review on appeal, as covered in section 5(a) of the bill, needs closer review and revision. At the present time, section 809 provides that the Administrator may amend, modify, suspend, or revoke any type of certificate. And this includes production certificates, air worthiness certificates, airmen's certificates, air carrier operators' certificates. These present functions of appeal, when the Administrator, having some basis for his action, does make a decision which let us say is contrary or revokes a certificate, now allows the person or agency acted upon to go to the CAB and by a process de novo, as the lawyers call it, is established without reference to the Administrator's findings and the Board is not bound by the Administrator's findings.

But here, under this proposal, under this type of situation, the only appeal authority goes back to the very man who passed the original sentence. And we don't think this is healthy, because there is no real appeal established. It goes right back to the same person, the Secretary of Transportation, which has made the first ruling on appeal.

We do not think that is conducive to the carrying out of the full governmental process or judicial process. We feel too that the economic impact of the bill proposed here would result only in considerations for aviation which are obvious and would relate only to commercial air carrier transportation.

It is our feeling based upon past history that general aviation and the business aviation fleet would be the tail of the air carrier kite when it came to establishment of funds for airports, air traffic control, and the supporting services.

We foresee in this proposed Department of Transportation a regression from the recently arrived status for general aviation, the largest operators of aircraft in the world, not just in the United States. Ninety-five thousand active aircraft will be tied to the tail of 2,100 airline aircraft because of the past economic impacts that the air carriers have on our transportation system.

There is no provision here, that we see, for careful regard of general aviation. Nor do we see any, may I add, on behalf of private boat owners. Again, many of their interests will be tied into those of commercial waterway operators.

We do not believe that this is a healthy situation. I would like to read this part, because I believe it is vitally important to the welfare of the country.

We cannot avoid observing the status of private transportation in some countries which have departments of transportation. We look at their status in terms of the prevalence of privately owned auto-

mobiles and their highway systems; from the viewpoint of privately owned watercraft used for pleasure and sport and the facilities they have for their use; and we observe the status of their private aviation and the regulations and facilities under which they operate. We are not favorably impressed even when their relative gross national products and geographies are considered.

No country in the world has the vast civil aviation fleet or facilities which now operate in the United States—more than 97,000 active aircraft of which 2,100 are airline owned and operated—more than 9,000 airports available. We have developed a vast private general aviation fleet of 95,000 aircraft without major dependence on Federal subsidies. Nor do we have nationalized airlines or railroads.

Gentlemen, I wish you would contemplate this present status that we have, with free competition and enterprise, that established the transportation network, air, land, and sea, which no other country in the world has.

We respectfully call the attention of this committee and the Members of Congress to the fact that business flying is now being used in direct and indirect support of the Department of Defense. We point out that the general aviation fleet is being counted upon in times of local disaster or national emergency. We cannot afford to downgrade the progress that these aircraft have made under the Federal Aviation Agency.

We believe that many of the solutions to our problems will not be expedited by the submergence of FAA within the Department of Transportation.

We believe that serious consideration should continue to be given to a better coordinated transportation policy, that this consideration must include evaluation and control of the route and rate structures of the various common carriers. We cannot conceive that a transportation policy can be established and made effective without an examination of routes and rates. And we think this is a distinct failure in the proposed bill.

This type of economic evaluation and control is completely avoided in the present bill. We do not endorse the provisions of H.R. 13200 and we oppose its passage, unless those sections are eliminated which allow a National Transportation Safety Board to be placed at anything but a truly independent office status and with the entire accident investigations and appeal functions resting within it, rather than the Department of Transportation.

We do believe that there is an existing mechanism within the Government which has been established, to do the very job upon which this bill is predicated. And we urge the committee to look at this present status of the Department of Commerce, the Under Secretary of Transportation, and see if we cannot solve these problems that the President has based this bill on, coordination, because this is the reason that the Under Secretary's office has long been established.

We think by implementing it, realining it, strengthening it, the job that needs to be done can be done there, without a tremendous organizational upset that will occur.

Thank you.

MR. ROSENTHAL. Thank you very, very much, Mr. Lawton. Your objection to the bill is considerably broader than that which is stated on

page 12. You indicate you would withdraw your opposition to the bill if the National Transportation Safety Board were truly an independent office. Actually your objection is much broader than that, isn't it?

Mr. LAWTON. You are quite correct, Mr. Chairman. We are faced here with trying to do our best to guide the Members of Congress and your committee. We do not think that the action is necessary, as the bill proposes. And knowing that vast and powerful pressures that are being exerted on behalf of this bill, the pressures placed on you gentlemen directly and indirectly, we feel if we can establish a degree of withdrawal of opposition, and come to a final hard line, that you will understand what our basic last ditch of resistance comes to.

Mr. ROSENTHAL. Let me say this, on behalf of myself, I haven't noticed any particular pressure in any direction whatsoever. The subcommittee is considering this bill in a very calm and cool manner and I am sure we will spend a good deal of time on it. I merely wanted to get your position clear in my mind. Even if we were to seriously substantially amend section 5(a), the Safety Board thing, you would still be opposed to the bill. Is that right?

Mr. LAWTON. Yes, sir; we think it can be done under the existing Secretary of Commerce.

Mr. ROSENTHAL. Just following that a moment—you think that coordination of national transportation policy is a good thing, but the way to achieve it is by strengthening and broadening the powers of the Under Secretary of Commerce?

Mr. LAWTON. Yes, sir.

Mr. ROSENTHAL. I don't quite follow the next step. We are willing to go one step beyond that. We are willing to take that Under Secretary, virtually, and make him a Cabinet officer and give him even more power and more responsibility and more money.

Why isn't that a good idea?

Mr. LAWTON. Because this would place another layer between the Congress and the executive department and the users. It would revert back to the situation we had in aviation when the Civil Aeronautics Authority was under the Department of Commerce, where today the Weather Bureau has been further submerged by being put into ESSA instead of being directly under the Department of Commerce.

Every time, it appears to us, that this additional layer of coordination, whatever you want to call it, is placed, that the agency and those who depend upon it suffer, particularly in the appropriations areas.

Mr. ROSENTHAL. What we are doing here, what this bill proposes to do is to elevate the status of the man you want to strengthen. And you seem to be opposed to that.

Mr. LAWTON. No, sir; we are not. We believe the FAA should remain intact and separate. We think that all existing agencies could remain intact. We don't see them being put under the direct management, administrative, and appropriations control of a Department of Transportation. We think they would suffer. They have suffered in the past.

Mr. ROSENTHAL. Even if that Department, since it has a Cabinet office, would have a stronger voice in pleading with the President, the

Bureau of the Budget for funds, you don't think that would be an improvement?

Mr. LAWTON. No, sir; I do not. I can tell you what has happened and I think you gentlemen are familiar with it. You are familiar with the budgetary process whereby a unit of Government goes through the various layers within their own department to get a budget. This again is handed to the next in line, in this case it might be, talking of the days of the CAA, the Department of Commerce. These budgetary needs and requests were balanced against others in the Department of Commerce. The Department of Commerce came up with a budget, a proposal. This went to the Bureau of the Budget. Again, this was placed against other departments. And finally, through a system with which you are familiar, of long and hard struggle, they are permitted to present a budget to Congress. But you gentlemen do not usually know, unless adroit questioning brings it out, what the actual needs, what the actual proposals of the agency originally were. I have gone through this many times with the Weather Bureau. And we have found various measures of relief. You gentlemen are familiar with the facts, when you ask the man, the head of a bureau "Do you have enough money?" or "Does this budget represent your total needs," you know full well what the answer will be, or else you are going to help him find a job a couple of months later.

Mr. ROSENTHAL. My own judgment is that agencies ought to have to struggle to get funds. I also don't think it is a fair comparison to compare the climate of public acceptance of aviation 10 and 15 years ago with what it is today. I think times have changed. I think the aviation agencies do well because times have changed, not alone because of the structure in Government.

Mr. Erlenborn?

Mr. ERLBORN. I have no questions, Mr. Chairman.

Mr. ROSENTHAL. Mr. Roback?

Mr. ROBACK. What would happen to Government if you applied this logic to every department? How many agencies would improve themselves by being out from under?

Mr. LAWTON. This is an excellent argumentative technique, this is known as *reductio ad absurdum*.

Mr. ROBACK. The argument is absurd, and maybe the opposite is also.

Mr. LAWTON. No, this is an effective technique—

Mr. ROBACK. You are interested in the Weather Bureau, so you want it as a separate department; you are interested in aviation, so you want it as a separate department.

Mr. LAWTON. I did not so state.

Mr. ROBACK. You are a maritime small boat operator, and you would want the Coast Guard to be a separate department perhaps, or whatever other agency would be involved.

You understand where it cuts across the issue, it is understandable you would want to have an agency as a self-contained entity, but from the standpoint of those who have to worry about all of the agencies of Government, the same conclusions would not necessarily follow. You understand that?

Mr. LAWTON. I understand that, and I agree with you to the point we believe it can be done with the existing mechanisms. We don't believe, in our view, a tremendous new Cabinet status is necessary for a job of coordination. And that is the sole reason that has been offered by the executive branch, that of coordination.

And to put the regulatory, or quasi regulatory agencies—I am talking about regulations from the standpoint of operating procedures—under this umbrella for coordination purposes, doesn't make sense.

Mr. ROBACK. Your organization, as far as Federal aid and investment goes, in a sense is one of the least involved agencies? That is, you don't depend on Federal subsidies for your business operation?

Mr. LAWTON. Only to the extent we use the Federal airways and airports, which are beneficiaries of Federal aid. Not subsidy, no.

Mr. ROBACK. But in terms of Federal investment in a basic development of a mode or in terms of supporting the mode, you are not involved.

Mr. LAWTON. We are to the extent that we need airports, we need airway facilities, good air traffic control system, because we use them. We also pay taxes to support them.

Mr. ROSENTHAL. Mr. Copenhaver?

Mr. COPENHAVER. Mr. Lawton, when the FAA was the CAA and located in the Department of Commerce, did the Administrator of the CAA come before Congress himself to seek appropriations and authorization for funds?

Mr. LAWTON. It is my understanding that the Administrator appeared before the Department of Commerce, supported by his staff, and made their case, which is similar to other Government agencies.

Mr. COPENHAVER. So Congress would have his views on the record as to the needs?

Mr. LAWTON. Commerce would have them; yes, sir.

Mr. COPENHAVER. No, Congress. The question was could the Administrator of CAA come before Congress? Congress, not Commerce.

Mr. LAWTON. Yes. The CAA Administrator appeared before the Appropriations Committees of Congress.

Mr. COPENHAVER. Thank you.

Mr. ROSENTHAL. Thank you very, very much, Mr. Lawton.

The committee stands in recess until 10 a.m. tomorrow.

(Thereupon, at 12:08 p.m. the hearing was adjourned, to reconvene at 10 a.m., Tuesday, April 26, 1966.)

## CREATING A DEPARTMENT OF TRANSPORTATION

TUESDAY, APRIL 26, 1938

HOUSE OF REPRESENTATIVES,  
EXECUTIVE AND LEGISLATIVE  
REORGANIZATION SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D.C.*

The subcommittee met at 10:15 a.m., in room 2154, Rayburn Office Building, Hon. Chet Holifield (acting chairman) presiding.

Present: Chairman William L. Dawson, Congressman Benjamin S. Rosenthal, John N. Erlenborn, and Clarence J. Brown, Jr.

Also present: Elmer W. Henderson, subcommittee counsel; James A. Lanigan, general counsel, Committee on Government Operations; Herbert Roback, assistant to Congressman Holifield; and William H. Copenhaver, minority counsel.

Mr. HOLIFIELD. The committee will be in order.

This morning we continue our hearings on H.R. 13200, a bill to create a Department of Transportation.

Our first witness will be the Honorable George Fallon, chairman of the Committee on Public Works.

Congressman Fallon, we welcome you to the witness chair. We know that you are more accustomed to sitting in the chairman's chair than you are the witness chair and we are happy to have you.

Mr. FALLON. I am more comfortable up there, too. [Laughter.]

### STATEMENT OF HON. GEORGE H. FALLON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND, AND CHAIRMAN, COMMITTEE ON PUBLIC WORKS

Mr. FALLON. Mr. Chairman, I appreciate very much the opportunity of appearing before your committee this morning.

Mr. HOLIFIELD. Excuse me. Did you have any copies of your testimony?

Mr. FALLON. Yes. I have one, Mr. Chairman.

Mr. HOLIFIELD. Proceed.

Mr. FALLON. Mr. Chairman, I repeat, I appreciate the opportunity of appearing before your committee this morning to express my views as chairman of the Committee on Public Works on pending legislation, H.R. 13200, which establishes a Department of Transportation. And I believe there is a need to channel, coordinate, and harmonize the present many scattered facets of our transportation program and policy into one executive body and to give this program the proper and full-scale recognition it deserves. I support this legislation but



with certain clarifications and with a proposed amendment that I will explain in my testimony.

As chairman of the Committee on Public Works I am certainly vitally interested in anything affecting transportation. In the Committee on Public Works we cover the major portion of the transportation field, including the Federal-aid highway program which is under our jurisdiction at the present time and is handled by the Department of Commerce in the Bureau of Public Roads.

In addition, we have jurisdiction of the programs of the Corps of Engineers, including its rivers and harbors functions. Both the operations of the Federal Bureau of Public Roads and the Corps of Engineers are tremendously affected by H.R. 13200.

At the outset, might I state that the major portion of the funds to be transferred under this program to the new Department of Transportation are within the jurisdiction of the Committee on Public Works. This includes more than \$4 billion annually for our great Federal-aid highway program and a substantial sum for rivers and harbors projects which are usually authorized on a biennial basis in an omnibus river and harbor bill.

May I address my remarks first to the operation of the highway program and the Federal Bureau of Public Roads. Throughout the entire existence of our great Federal-aid highway program the Bureau of Public Roads has worked closely with the State highway departments. Over the years, there has been a most effective cooperation on a State and Federal relationship within this great highway program. It is my hope and desire that this cooperation between the several States and the Federal Bureau of Public Roads will continue. Thus I strongly recommend, if and when legislation is reported by this subcommittee, that proper emphasis will be given under the bill to the position of the Bureau of Public Roads so that they may maintain this much-needed independence of operation in their relationship with the States in the full-scale development of our highway program.

Section 2 of this legislation contains a broad declaration of purpose, looking to, among other things, the development and recommendation of national transportation policies and programs to accomplish the objectives of this act.

Section 4(a) directs the Secretary of Transportation in carrying out the purposes of the act, to exercise leadership in transportation matters including those affecting the national defense, national and regional emergencies, and the development of national transportation policies and programs. In my opinion, a tremendous authority and a most responsible one is given to the Secretary of Transportation under these two sections of H.R. 13200.

Let us consider the authority given to the Secretary under section 2 and section 4 and their relationship to section 7 of the bill which covers transportation investment standards.

This language seems to be a substantive change in the law under its operation. If enacted as now written, the Secretary of Transportation would have the authority to control all projects involving Federal funds in the field of transportation including, among others, highways and waterways. If, as I emphasize once again, as read in conjunction with section 2 and section 4, it appears that the Secretary would have the authority, among other things with respect to highways, to approve

or disapprove their construction without regard to any of the policy declarations presently contained in the Federal-Aid Highways Act or title 23 of the United States Code.

Under the language of subsection (b) of section 7, this control is further strengthened by the fact that all the information upon which agency recommendations are to be made would be under the control of the Secretary of Transportation. This appears to be a clear transfer to the head of an agency of authority that rightfully should be vested and contained in congressional committee control.

The unique evaluation of projects should be determined by the Congress and the proper committees thereof after recommendations of the proper agencies of the Government and all interested organizations and individuals. The final determination of these economic values should not be placed in the hands of any one individual or agency of the Government. It should remain where it is at the present time, with the Congress.

Let us consider the highway trust fund, one of the programs with which I am most familiar. It is a unique operation and one that, since its inception and from that day forward, the Congress has consistently kept inviolate and on which it has gone on record in fighting any attempt in any way to use its funds for other purposes except for that for which it was originally intended, the construction of our Federal highway program. This fund is in reality a pact between the Federal Government and the Nation's highway users. These are not Federal funds in the normal sense of general revenue funds which are used for general governmental purposes. As section 7 is now drafted I believe strongly that the Secretary, if he so desired, could transfer these funds from the highway trust fund for other purposes. I strongly oppose anything of this nature.

I believe that there must be a specific modification of section 7 that I have been discussing, and I would propose a subsection 7(a) amendment which would read as follows—

Mr. ROSENTHAL. If I may ask a question at this point, Mr. Fallon, is this an amendment to be included in the transfer of funds from the highway trust fund for any other transportation purposes?

Mr. FALLON. This amendment protects the status of the trust fund as it now is.

On page 19, line 5, after the word "experience" strike out the word "revise" and substitute in lieu thereof "recommend to the Congress."

On page 19, line 6, after the word "for" insert "consideration in." These changes would prevent unwarranted assignment of authority to the Secretary of Commerce in section 7(a) of the proposed Department of Transportation Act and it would read as follows:

The Secretary shall develop and from time to time in the light of experience recommend to the Congress standards and criteria consistent with national transportation policies, for consideration in the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment \* \* \*.

And further, in line 17, page 19, of the proposed bill, the word "recommended" should be inserted before "for economic evaluation" for the same reasons I stated above. With the above changes the last sentence in section 7(a), beginning on line 22 on page 19, becomes unnecessary and it should be stricken.

Under the revised language it would then be proper for the Secretary of Transportation to study the Nation's transport requirements and to present the Congress with findings of these studies. Such studies could be useful sources of information and be of help to the Congress in making final decisions.

The recommended amendments to section 7(a) would result in the Secretary of Transportation having adequate authority to properly serve in an advisory capacity to the Congress for the purposes of recommending policy and to assist in the determination of levels and areas of Federal expenditures in transportation.

With this authority as specified there ceases to be any need for the authority specified in section 7(b) and this subsection should be eliminated in its entirety.

May I conclude by saying that with the proposals I have made and the amendments I suggested, I would support this legislation. May I reiterate my earnest desire that the position of the Federal Bureau of Public Roads may be maintained in its transfer to this Department of Transportation, that the highway trust fund remain inviolate, and that section 7 be amended as I have suggested.

Thank you very much, Mr. Chairman, for this opportunity to appear before you.

Mr. HOLIFIELD. Thank you very much, Mr. Fallon, for your testimony. Your position as chairman of the Public Works Committee makes your testimony very valuable to this committee and we will study this amendment and we will certainly give it full consideration. We realize that your tremendous background in this field is far superior to that of the acting chairman of this committee and any suggestion that you make will certainly be given every consideration. We will, after studying the amendment, certainly take the matter up with you again if you will permit us to.

Mr. FALLON. Mr. Chairman, may I again say to you and the members of the committee, thank you for giving me your time this morning.

Mr. HOLIFIELD. May I yield at this time to Mr. Erlenborn.

Mr. ERLNBORN. Congressman Fallon, as I understand, one of the points you make here is that you believe the Bureau of Public Roads should, though merged into the new Department, maintain an independence, is that correct?

Mr. FALLON. It should be independent so that the relationship between the Bureau of Public Roads and the State highway officials remain in the same position that they have been over the years, and the relationship not be diluted in any way.

Mr. ERLNBORN. How would this be effectuated? I mean in what sort of language could we put in this bill that would guarantee this sort of independence?

Mr. FALLON. Well, the only language that we can put in the bill is the language that would protect the trust fund. There should be language in the report, stating that the relationship between the State agencies and this Federal agency continue as it does at present.

Mr. ERLNBORN. Now, don't you feel that though it may not be within the scope of the activities of your committee that the Federal Aviation Agency also has somewhat of a unique relationship with

the users of airways, and that they should have control of such matters?

Mr. FALLON. No; I don't think there is any relationship quite like the relationship between the user and the highway trust fund. The highway trust fund was set up, the money was earmarked, there were additional taxes, and all taxes were to remain in the trust fund and only be used for highway construction, no other. The authorization of funds to the States is a contract authority, so that it only is appropriated by the Appropriations Committee because this money is due the States under law. The contract authority is extended into before the appropriation.

Mr. ERLBORN. Do you feel that maintaining this independence of the highway trust fund is consistent with the overall purpose of having a strong Secretary of Transportation to establish national policy as to the improvement or the direction in which our transportation system in this country should take? In other words, won't the Secretary's hands be tied in this area?

Mr. FALLON. Oh, no; no more than it is now the Secretary of Commerce.

Mr. ERLBORN. I realize no more than it is now, but isn't the purpose of this bill to change the situation from what it is now?

Mr. FALLON. Well, I don't know that you could improve the conditions that you are operating under now by any other method or any other Secretary. This relationship and the history of the relationship—I think you had testimony here from the State highway officials—is a unique one. It has never been marred or interrupted at any time and they have done a tremendous job with this relationship. And it seems to me if you dilute it or change it in any way that I would be fearful that you would retard this operation and maybe cause a great degree of interruption and that you wouldn't get the dollar value that you are getting today.

Mr. ERLBORN. Well, then your feeling is that the present situation is good and cannot be improved upon, is that right?

Mr. FALLON. That is right.

Mr. ERLBORN. It occurs to me that the purpose for the creation of the Department of Transportation is to correct some deficiencies that are now existing. If our present system is good and can't be improved upon, what value is there to the creation of the Department of Transportation?

Mr. FALLON. Well, if you are transferring all modes and methods of transportation under one head, it is just that maybe this incorporation of all of them under one head might serve to save funds. It might be better managed. But at the same time, what I am insisting on is that this Federal-State highway relationship is unique and it is working now. I have never seen a relationship between the Federal Government and the States work any better for the benefit of the public than this relationship, and that is the thing that I wouldn't want to see disturbed.

Mr. ERLBORN. As I understand it, one of your fears is that section 7(b) of this bill would give the Secretary of the New Department of Transportation authority which presently belongs to Congress and the committee of Congress to make decisions as to our highway programs?

Mr. FALLON. That is right.

Mr. ERLENBORN. Do you feel that section 7(b) would also give the Secretary authority that belongs to other committees of Congress in other areas of transportation?

Mr. FALLON. Well, I think that would be for the other committees to decide.

Mr. ERLENBORN. But certainly the language of section 7(b) isn't limited to the highway user or to the highway program, whatever broad authority is given to the Secretary. It affects the committee of which you are chairman, and it would also affect other committees who have jurisdiction over other areas of transportation.

Mr. FALLON. I don't think there is any other committee that has a trust fund that would be transferred to the Secretary. My main purpose is to protect the trust fund so that no money can be transferred by the Secretary to any other mode of transportation after we have already made a commitment to the user. Now, we have this money that belongs to the user. The user has put it up in a trust fund. They haven't gotten all the highways yet but they are getting them each day and they are paying for them ahead of time. So that when the program is completed, it will be paid for. And if you divert any of that money, we are not keeping our commitment and our promise to the highway user.

Mr. ERLENBORN. Is there any specific language in section 7 that you feel repeals the language in the existing law that makes this trust fund inviolate?

Mr. FALLON. Well, the language which I submitted, a copy of it to the chairman, was drawn by our legal counsel, and if there is any way that we can—here he is now. Just so he comes at the right time it's all right.

Mr. SULLIVAN. Mr. Erlenborn, in reference to the question you asked Chairman Fallon, which has to do with section 7 of this proposed legislation, sir, the chairman believes that section (b), as drafted now, when read with section (a), would indeed give the Secretary that authority insofar as any type of project is concerned, including I might add, sir, not only the highway trust fund but just as important, the navigation projects that are considered by the committee as well, sir.

Mr. ERLENBORN. The navigation projects, you mean those that are approved or established by the Corps of Engineers?

Mr. SULLIVAN. That is right, sir.

Mr. ERLENBORN. And do you feel that this language in 7(b) gives authority to the Secretary to invade the trust funds, to spend those trust funds for any purpose other than what is now established by law?

Mr. SULLIVAN. When you read the entire section 7, and you read that in conjunction with section 2 and section 4 of this legislation, which indeed gives the Secretary the necessary broad powers, you tie that all together, I believe my answer would be "Yes, it does."

Mr. ERLENBORN. And would your answer be the same as far as water projects are concerned? Do you think this gives the Secretary authority that now rests in your committee, as far as the navigation projects approved by the Corps of Engineers?

Mr. SULLIVAN. Definitely, yes, because he would be formulating the criteria, and the establishment of the economic evaluation of the projects lies with the committees of Congress and the Congress itself, sir.

Mr. ERLBORN. And is it your feeling and the chairman's feeling that this is just as bad in the area of navigation in the Corps of Engineers as it is in the Bureau of Public Roads and the highway trust fund?

Mr. SULLIVAN. I would say, yes, sir.

Mr. ERLBORN. Thank you.

Mr. HOLIFIELD. If I may ask this question of the witness: Would you take the position that this bill has contradictory statutory language for the use of highway funds?

Mr. SULLIVAN. Yes, sir.

Mr. HOLIFIELD. In what way does it do that? As I read sections (a) and (b), it authorizes the Secretary to promulgate standards and at the bottom of the page: "standards and criteria developed or revised subsequent to this subsection shall be promulgated by the Secretary upon their approval by the President."

On line 19 on page 20 it says: "transmitted thereafter by the proposing agency to the President for disposition in accord with law and procedures established by him."

Is it your feeling that this would give the authority to annul existing statutes?

Mr. SULLIVAN. I believe it could be interpreted that way; yes, sir.

Mr. HOLIFIELD. Without reference to the Congress of these criteria or standards.

Mr. SULLIVAN. That is right, sir. This is difficult, this particular point, as I read this section, but I think it is subject to that interpretation. I think it places everything in a sense regarding criteria, regardless of what type of transportation project you are talking about, in the hands of a single individual or single agency, that in some cases it extends that power in such a way that it would defeat the purposes of the existing law.

Mr. HOLIFIELD. Do you believe that it transfers to the Secretary powers which are not at the present time held by the administrators of the agencies? Or is this a transfer over to the Secretary of the same powers they have at the present time?

Mr. FALLON. I think what it does, Mr. Chairman, is that the Secretary of Commerce now has no right to use, no power to use the money for other than for which it was intended under the law now. Under this bill, it seems to me that the Secretary of Transportation would have the right to say that this money should go in any form of transportation.

Mr. HOLIFIELD. Well, this is not my understanding. But certainly this is a point that we are going to ask the Government witnesses to clear up, because I think any Member of Congress would be jealous of the prerogatives of the purpose of Congress in designating these funds for certain purposes, and certainly we will have to have a clarification of that point. I did not read it in that way. But nevertheless, if it can be interpreted in two ways, as it apparently can be, it should be clarified and we should know exactly what is meant by the language involved.

Mr. FALLON. Congress has been able to protect this fund and throw off several attacks to get some of the money out of it over a period of years, and I think we should exercise the authority.

Mr. HOLIFIELD. The point is you don't want funds that have been earmarked by Congress for both purposes to be used to build harbors, or money for harbors turned over to the roadbuilding fund, you object to that on principle?

Mr. FALLON. Either that, or we don't want it to be used for transportation of any other form, either.

Mr. HOLIFIELD. The basic statutes I believe would control that. But nevertheless I think this is worthy of consideration in that we do not disturb, unwittingly certainly, the statutes that now exist. The Appropriations Committee is the second line of defense the Congress has against any kind of conversion contrary to the basic statutes.

Mr. Dawson, do you have any questions?

Chairman DAWSON. No.

Mr. HOLIFIELD. Any further questions, Mr. Erlenborn?

Mr. ERLBORN. I do have one further question I would like to ask Mr. Fallon or counsel. Under the present arrangement for navigation projects, we have the cost/benefit ratio. Isn't that correct?

Mr. FALLON. Yes.

Mr. ERLBORN. And this is established by the Corps of Engineers and they make a report to the committee, showing the cost/benefit ratio.

Mr. FALLON. That is correct.

Mr. ERLBORN. And on the basis of this a determination is made as to whether the project is feasible or not. Is that correct?

Mr. FALLON. That is correct.

Mr. ERLBORN. Do you feel that this section 7, together with the other sections of this bill, would give the Secretary the authority to establish the standards that would affect the cost/benefit ratio? In other words, you take away from the Corps of Engineers the authority to establish this cost/benefit ratio?

Mr. FALLON. That is our interpretation.

Mr. ERLBORN. And do you think that this is also an undesirable effect of this bill?

Mr. FALLON. Very much so.

Mr. ERLBORN. You would rather this stayed with the Corps of Engineers, the present system is working well?

Mr. FALLON. And the recommendations come directly to Congress.

Mr. ERLBORN. You also feel that there is authority given to the Secretary of Transportation under this bill to ignore the wishes of Congress in any way, and that if Congress appropriates money for a project that does not fit the standards and criteria established by the Secretary, that he could then refuse to expend the funds on that project?

Mr. FALLON. I couldn't say on that.

Mr. ERLBORN. Well, I would draw this parallel. At the present time I think we have, and we have for some years, had a dispute between the Congress and the Secretary of Defense as to certain projects for the development of manned bombers. As I understand it, Congress from time to time has appropriated funds for this purpose and the Secretary of Defense has not expended these funds. Don't

you feel that the Secretary of Transportation could likewise refuse or fail to expend the funds that are appropriated by Congress for transportation projects?

Mr. FALLON. He could, yes.

Mr. HOLIFIELD. Will the gentleman yield?

Mr. ERLNBORN. Yes.

Mr. HOLIFIELD. Of course, this goes to the inherent constitutional powers of the President, which might be exercised by any Secretary of any agency of the Government and which, to this date, the Congress has found no means to cope with, I might say. [Laughter.]

This is nothing unique, because it comes as a division of constitutional power and, while we can appropriate, we cannot mandate the President to expend, and this is a sore point with a good many people. But nevertheless it would be no different than it now obtains in other departments, Cabinet department levels. Is that not right?

Mr. FALLON. That is right.

Mr. HOLIFIELD. Mr. Brown?

Mr. BROWN. No.

Mr. HOLIFIELD. Thank you very much. We will certainly take into full consideration your testimony and your amendment, Mr. Fallon.

Mr. FALLON. Thank you, sir.

Mr. Cramer?

**STATEMENT OF HON. WILLIAM C. CRAMER, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF FLORIDA, AND RANKING  
MINORITY MEMBER, COMMITTEE ON PUBLIC WORKS**

Mr. CRAMER. Thank you, Mr. Chairman, and I would like for the record to introduce, also to be available to answer questions, Mr. Clifton Enfield, who is minority counsel for the Public Works Committee and former General Counsel for the Bureau of Public Roads under President Eisenhower, and Bob May, who served in the capacity of Assistant Counsel under President Eisenhower, who are authorities as much as anyone in this country, I believe, on this subject.

Mr. HOLIFIELD. We are very happy to have your associates and you before us this morning.

Mr. CRAMER. And I am sure they will correct me if I say anything that is not consistent with their experience or the law.

Let me comment, if I may, Mr. Chairman, before I get into my prepared statement, on two or three of the questions asked, because I think they get to the heart of the question and the problem involved.

At the outset, I say that generally the idea of coordinated transportation planning has merit, obviously. The question is, how do you accomplish it and what do you destroy in accomplishing it, if anything? What should be protected against, so as not to destroy on going programs presently underway, many of which are tremendously successful. And I don't think there is a program in this Nation more successful than the Federal highway program. There is now \$4 billion out of the trust fund going into that program. The highway user fee concept has been accepted by the public.

Mr. HOLIFIELD. Of course, if that was done, if I may say, it would be contrary to the stated declaration of purpose in section 2. The purpose of the bill would be for the purpose of improving and making



more efficient and coordinating and not for the purpose of destroying these programs which I agree with the witness are proceeding in many instances very well.

Mr. CRAMER. And I have no quarrel with the stated objectives.

Mr. HOLIFIELD. And you do not believe that the President would appoint a Secretary that would go in and deliberately do this sort of thing, of destroying the purpose of making a more efficient transportation system in the United States, and of defining what a national transportation policy should be. Certainly he would be in real trouble if he tried to contravene the will of Congress.

Mr. CRAMER. Mr. Chairman, I would be the last to suggest bad faith on the part of anyone. But I would suggest that those who drafted this legislation, and I don't think that the bureaucrats who do the drafting have knowledge that is not subject to review by the Congress. My objective is to present some constructive suggestions relating to problems as I see them concerning the highway program, and rivers and harbors authorization program, because I feel that the way the language is drafted, particularly in section 7, let alone the delegation of all power under all of title 23 to the Secretary, under section 6, has any result other than to substantially change the concept of the present program and the authority that presently exists.

Now, let me say that, No. 1, I am going to make three recommendations, basically, that I think demonstrate the reservations that I have and the questions in my mind. And I don't think there is any question but what the way it is drafted, these reservations are justified.

No. 1. The proposal that I am making is that the Bureau of Public Roads Administrator's position be preserved, specifically, by legislation. Now at the present time, as I understand it, the Administrator of the Bureau of Public Roads, appointed by the President and confirmed by Congress, presently holds a level V position under the Executive Salary Act. The Assistant Secretaries, I am sure this committee knows, hold a level IV. I have felt for some time that actually the Administrator of the Bureau of Public Roads should be in a position comparable to an Under Secretary, level III.

Mr. HOLIFIELD. If I understand it, this principle that you advocate would, I suppose, apply to the other agencies that are transferring into the Department of Transportation as well as to the Public Roads?

Mr. CRAMER. I would have no objection to that if they are major agencies.

Mr. HOLIFIELD. If they are major agencies and if they are put in to the President and confirmed by the Senate?

Mr. CRAMER. Right. Because I think the status of the Administrator, and of course Congress has confirmed this relating to water pollution and many other programs, the status of the person in charge largely determines what policies shall be carried out and who will have something to say about it.

Now, if the Administrator of Public Roads has to go through an Assistant Secretary, which he would, which could easily happen under this proposed legislation, then you go from the Administrator to the Assistant Secretary to the Under Secretary to the Secretary, and you could destroy your effective existing State-Federal relationships, which largely came into play because the Administrator can make these de-

cisions after consulting with the Secretary and report back to the States, and you don't get an indefinite delay.

Mr. HOLIFIELD. In other words, you would want this Senate approved Administrator to report directly to the Secretary?

Mr. CRAMER. Correct, and be appointed by the President.

Mr. HOLIFIELD. And you feel that this would be a safeguard as to his independence of action in implementing the statutes for which Congress appropriates the money?

Mr. CRAMER. It would, Mr. Chairman, and I think it is essential that this \$4 billion a year program not be buried in other transportation programs. That is essential. Frankly, I don't think any Member of Congress would not want to make certain, and be completely in accord with the objective of having nationwide transportation policies, that we preserve the existing highway program, the existing Federal-State relationships, particularly when our Interstate Highway System program is now 50 percent completed, and is so successful.

Mr. HOLIFIELD. Well, now, may I ask you for information on the record at least, if the Administrator of Public Roads at this time is a man that is appointed by the President and confirmed by the Senate?

Mr. CRAMER. That is correct. He is, Mr. Chairman.

Mr. HOLIFIELD. And he reports direct to the Secretary of Commerce at this time?

Mr. CRAMER. Well, it's a matter of departmental determination at the present time. Under President Eisenhower the then existing Administrator reported directly to the Secretary. At the present time I understand the Bureau of Public Roads Administrator first reports to the Under Secretary for Transportation and then to the Secretary. But under this present setup, you are elevating the Under Secretary to the position of a Secretary and the Administrator should report directly to the Secretary. I think otherwise the delay is going to be too high a penalty to pay.

Mr. HOLIFIELD. Well, as I understand the arrangement of the bill at the present time, the Assistant Secretaries are not line officers but staff officers?

Mr. CRAMER. Right.

Mr. HOLIFIELD. And therefore there would be, even under the present arrangement, there would be no necessity for them going through the staff officers?

Mr. CRAMER. Well, I think that setting it up as it has been proposed clearly indicates the intention on the part of the administration that those who make policy decisions rather than staff decisions should have a higher position than the staff Assistant Secretary. Therefore, I think that the Administrator should be level III.

Mr. HOLIFIELD. Possibly an amendment to the bill in this instance, the person in charge of the public roads program would report to the Under Secretary rather than the Secretary. Is that not true? The way the bill is arranged?

Mr. CRAMER. Well, the bill provides for an Under Secretary but it does not suggest what authority the Under Secretary shall have as compared to the Assistant Secretaries or the Secretary himself. I want to see the Administrator of the Bureau of Public Roads put in a position grade which is equal to the Under Secretary so that he reports

directly to the Secretary in consultation with the Under Secretary, but not as a subordinate.

Mr. HOLIFIELD. I think the record is clear.

Mr. CRAMER. And I think this is essential if this program is going to go forward, and that would not in any way prevent proper coordination.

Let me say, secondly, that there should be, as the chairman has suggested, very clear language written into this legislation that the highway trust fund shall remain inviolate. I am very apprehensive, and I think I have grounds well founded for it, that the long-range concept relating to transportation, and the long-range hopes of some, is that highways should be downgraded, and that subways, for instance, should be upgraded. There are numerous other conflicting problems relating to transportation, including the thought that the highway trust fund is really something that could be diverted at a future date at the present level of income for other transportation purposes.

Well, if this is true this violates the highway user concept. I think language should be put in the bill, as suggested by the chairman, to clearly say what Congress' intent is. I think the weakness in the legislation is it doesn't clearly say what Congress intends.

If you read section 6, which transfers all the authority relating to the highway trust fund, and I specifically call your attention to line 17, page 12, you will not find any reservation about the complete transfer of all powers relating to funds. "There are hereby transferred to and vested in the Secretary all functions, powers, and duties of the Secretary of Commerce and other officers and offices of the Department of Commerce"—which means Bureau of Public Roads—"under title 23, United States Code, relating to highways." And on line 17, functions relating to the Highway Revenue Act of 1956, as well as title 23, are transferred.

Mr. HOLIFIELD. But it doesn't give him any more power.

Mr. CRAMER. Oh, yes. Now we will get to this point.

Mr. HOLIFIELD. That now exists?

Mr. CRAMER. Or, yes, it does, Mr. Chairman, and that is the point I make next.

Section 7 (a) and (b), now there is no question but what the Secretary under those sections could refuse to spend money out of the trust fund for any of the purposes that Congress provides under title 23, which is, I might add, a concept that has never been exercised in the field of highways.

Mr. HOLIFIELD. But could the Secretary of Commerce also exercise that same authority today if he wished?

Mr. CRAMER. If he were invited to do so by the language similar to that in section 7. I say that under section 7 he is invited to do so.

Mr. HOLIFIELD. Or if he were directed to do so by the President, under the same principle that we have discussed here this morning?

Mr. CRAMER. There is no question about that, Mr. Chairman, but I say section 7 invites such withdrawal of highway programing.

Mr. HOLIFIELD. As we talked about before, that is a matter of interpretation because section 7 does not authorize transfers from the highway fund, and I can understand your fear is as to the ambiguity

of the statute rather than to any affirmative authority to do this, is it not?

Mr. CRAMER. Well, the present Highway Code, title 23, directs that when highway funds are authorized by direction by the Congress they shall be apportioned to the States according to the formula set out by Congress.

Mr. HOLIFIELD. But again—

Mr. CRAMER. And the objective of that is to guarantee the States in their long-range planning, which is essential if this program is going to work, so that they will know a year from now what money is available to be spent, and they will know from congressional authorizations what to plan for in the future.

Mr. HOLIFIELD. And is it your opinion that the transfer of the existing functions and powers to the Secretary of Transportation changes this statute?

Mr. CRAMER. I will say that I think it does, yes, Mr. Chairman. In addition to that, the States under present law—now this is perhaps peculiar to the highway program and I want to be sure the committee understands it—as the chairman has indicated Federal highway laws provide contract authority, where the States can go ahead and obligate and set up the spending of funds prior to appropriation by the Congress. And that is a rather unique thing.

Mr. HOLIFIELD. And is it your thinking that this is changed by the transfer of existing functions to the Secretary?

Mr. CRAMER. Under 7(b) there is no question in my mind but what the Secretary, No. 1, can promulgate standards and criteria and, No. 2—and I hope this is fully understood—that after standards and criteria are promulgated by the Secretary—

Mr. HOLIFIELD. And approved by the President.

Mr. CRAMER. That is right.

Mr. HOLIFIELD. And approved by the President.

Mr. CRAMER. Then you come back to the Secretary again, not to the Administrator of the Bureau of Public Roads, not to the States, but you come back to the Secretary again to do what? You couldn't have broader authority than this. Authority is now vested, No. 1, in the Corps of Engineers and, No. 2, in the Bureau of Public Roads. But under the bill you will have reports prepared in accord with standards and criteria and upon the basis of information furnished by the Secretary, not the Bureau, not the Corps of Engineers.

I am reading on page 20, line 8, of 7(b) of the bill.

On the basis of his information, and his standards and criteria. This is judging afterward whether it fits into the standards and criteria, and whether it should be done.

Now, can you imagine how our program in highways is going to be hampered if every new program is going to be subject to these new factfinding situations by the Secretary? No. 1: "upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in an affected area."

No. 2, "the relative efficiency of various modes of transport." No. 3, "the available transportation services in the area." No. 4, "the general effect of the proposed investment on existing modes and on the regional and national economy."

Now, every single highway project is going to be subject to this kind of review by the Secretary. And if it is fully exercised by the Secretary, and I assume it would be if Congress so directs, then there could be interminable delay relating to project-by-project approval, and we sure see it here in the District of Columbia where the highway system is in effect being gutted because of an argument between those who are concerned about esthetics on the one hand—and I am not trying to judge it one way or another—and those who believe that it is essential to have adequate highways that are now authorized to the tune of some \$300 million. Money that will be lost if it isn't used by 1972 or 1973. Now, you are going to inject the Secretary into all of these very difficult review questions.

Mr. HOLIFIELD. I think that before we leave that we should read lines 17, 18, and 19.

Mr. CRAMER. I was going on down to it.

Mr. HOLIFIELD. Which does say, "transmitted thereafter by the proposing agency to the President for disposition in accord with law and the procedures established by him." So if that language was left out, I would share the gentleman's fears, because it is plainly the controlling factor. It could not be contrary to law that now exists, the statutes that now exist. I want to clarify my point which needs to be clarified. I respect the gentleman's long tenure on Public Works and I say this sincerely, that his testimony is going to be of great value to the committee. But I think we should not read out of the language something which causes us to be fearful and incorporate a plain mandate in the language.

Mr. CRAMER. Well, I am reading down and I haven't quite got there. Mr. Chairman, I intended to comment on that sentence as well because, as I say, the last thing in the world I want to do is in any way misinterpret or mislead this committee. I am trying to be constructive and helpful.

Mr. HOLIFIELD. I realize that and the Chair certainly doesn't believe the gentleman is trying to mislead. It is a matter of interpretation of language. And we want it very clear that on any point the witnesses bring up, the people who are testifying for the Government will be called back to this committee to answer the point.

The Chair does not have enough confidence in his own ability to believe that his answer is necessarily right. It is my interpretation of it, as I think it is yours, but I think we have to clarify these points and I hope you will proceed.

Mr. CRAMER. Well, let me go on with the last sentence.

Mr. HOLIFIELD. Yes.

Mr. CRAMER. The last clause, which was my next area of comment. But let me point out before I leave the criteria, and the standards, that the Secretary may make findings relating to, if he wishes to exercise it, each and every project. Now, this doesn't only mean highways. It means rivers and harbors, all public works projects involving transportation proposals. Such projects would be subject to a further review, based on these findings of fact, not by the Corps of Army Engineers that now make those findings, not by the Bureau of Public Roads that now makes those findings, but by the Secretary who will do all this under the language as drafted.

Now, let's get down to the question raised by the distinguished chairman. Lines 17 to 19, page 20. Standards and criteria promulgated pursuant to subsection (a) shall be "transmitted thereafter by the proposing agency to the President for disposition in accord with law and procedures established by him."

Now, it is worded very interestingly. I assume that no one has suggested that the President shall determine what the law shall be. But instead he shall determine the procedures pursuant to the law.

Mr. HOLIFIELD. I would think so, and I would agree with the gentleman that that should be clarified.

Mr. CRAMER. It could be read either way. So, in effect, the President is thus injected into all these decisions. And, in my opinion, the President shouldn't be involved in the decisions as to where a highway should be located, or whether a certain project should go forward, and whether or not it is subject not only to the criteria standards but also to these findings of fact made by the Secretary.

So, in effect, the President, as I see it, will not only be making findings on matters that he really doesn't have time to do, but which should be vested in the Secretary and in the Bureau of Public Roads and in the Corps of Army Engineers, as it is today.

Second, it appears to me that the President, as this is drafted, would largely be taking over, and I say this advisedly, a function now exercised by the Congress. Now, there is the nub, there is the rub, there is the problem in the way section 7 is drafted, as I see it. You not only have the Secretary injecting himself into the function now exercised by the Congress, but you have the President as well. And the amendment I am going to propose, which is an amendment also supported by Mr. Fallon, would make it perfectly clear that Congress remains in this picture, not only from an appropriations standpoint, Mr. Chairman, because after all, the appropriations out of the trust fund is automatic, but also on the question of criteria, standards, and facts, relating the project.

Mr. HOLIFIELD. May I ask this question? Does the Administrator of Public Roads at this time refer back to the committee of Congress for approval of projects which he has approved pursuant to law?

Mr. CRAMER. Well, we review from an authorization standpoint, all rivers and harbors projects, watershed projects, public buildings and grounds, each and every such proposed public works project, and we go into not only the criteria and standards, but also whether they are being properly applied. We do not review each individual highway construction project.

Mr. HOLIFIELD. Do you, prior to the initiation of the works?

Mr. CRAMER. Prior. We have to authorize them before they can be initiated and reviewed.

Mr. HOLIFIELD. I understand that. But you would do the same thing under the present law. You would authorize projects under the present law. I am talking about a review subsequent to authorization of the project. And I would assume that your committee, which as I understand it is not interfered with from a statutory standpoint, would continue to function the same as it functions now in requiring projects to be submitted to it and the procedures and criteria by which the project would be implemented and that at a point you would authorize it.

I know I handle it this way in the Joint Committee on Atomic Energy. Every project has to be thoroughly justified and we have to have testimony as to how they are to proceed, and then we proceed to authorize. And I assume that this same procedure would be followed under the Department of Defense as it is now followed under the Public Roads.

Mr. CRAMER. Well, Mr. Chairman, you put your finger on what the problem is. As I read section 7, that is not necessarily so. Now, to get the thing into focus, let me read my recommended language, which is designed to make certain Congress remains in the picture of reviewing standards, criteria, and their application, which section 7 would seemingly turn over to the executive branch of the Government.

Mr. ERLNBORN. On that point I would like to ask a question. At the present time, when the Bureau of Public Roads formulates a plan or prepares a survey regarding the Federal Aid Highway System, is this submitted to the President, or is it submitted to the committee of Congress?

Mr. CRAMER. Well, at the present time it goes to the Administrator of the Bureau of Public Roads and to the Secretary of Commerce.

Mr. ERLNBORN. And then to the committee?

Mr. CRAMER. Not on highways; no. We authorized the mileage, under the 1956 act, of the Interstate System. We authorize funds for the primary and secondary highway systems every 2 years. As a matter of fact, we are holding hearings on that now. We come into the picture at the authorizing stage and review then any and all aspects of the program.

In addition to that, we do set up general criteria and standards and review them constantly. In addition to that we review them through the Highway Investigating Subcommittee constantly.

Mr. ERLNBORN. My point is this: at any point in this process, are the surveys, the plans, and the reports of the Bureau of Public Roads transmitted to the President?

Mr. CRAMER. Only in extremely unusual circumstances.

Mr. ERLNBORN. All right. Then, second, when the Corps of Engineers renders a report with the cost-benefit ratio, is this presently transmitted to the President?

Mr. CRAMER. The President doesn't know anything about most of them, in my opinion. It is done at a departmental level. He has no reason to. He can't get involved in all these projects.

Mr. ERLNBORN. Rightly so. Now, under section 7(b), isn't it true that every survey, plan, or report formulated by any Federal agency that is involved in the standards and criteria established by the Secretary of Transportation will be transmitted to the President?

Now, before this committee we have heard time after time about the burden that has already been placed upon our President and how we should relieve the President of this burden, and isn't it a fact that 7(b) is going to impose upon the President the burden of reviewing every survey, every plan, and every report formulated by every agency of the Federal Government involved in transportation?

Mr. CRAMER. Well, my answer would be "Yes," because I think the language speaks for itself.

Mr. ERLNBORN. And isn't this a ridiculous result, that we should burden the President with reviewing everything?

Mr. CRAMER. I think it is an impossible burden, with the time he has to spend now on South Vietnam and these other major issues facing our Nation. He can't get involved in every transportation public works project. On page 20, "Transmitted thereafter," it says, "by the proposing agency to the President for disposition in accord with law and procedures established by him." So he or his office would be involved and it is a carte blanche delegation to the President of considerable authority now exercised either by other agencies or by the Congress.

Mr. ERLNBORN. Does the gentleman have any idea of the total number of surveys, plans, and reports formulated in 1 year by the various agencies of the Federal Government, that by this section would be required to be reviewed by the President?

Mr. CRAMER. Well, there are \$4 billion worth of highway projects per year. Hundreds of projects. Hundreds, thousands of controversies relating to location, relating to comparative cost, relating to priority of construction, relating to all sorts of questions that are reviewed administratively now by the Bureau of Public Roads and by the Secretary of Commerce. There are hundreds of projects on watershed development. These only refer to transportation projects. Rivers and harbors, that involves transportation. There are hundreds of those that are carried on, on an annual basis, many of which are carried on now by the Corps of Engineers without Congress ever seeing it. As a matter of fact last year we authorized the Corps of Engineers to undertake projects estimated to cost less than \$10 million without congressional approval except by the committees on public works. Below \$1 million projects don't even have to come to the committees.

Mr. ERLNBORN. It would occur to me that the Congress, with the staff help that we have, could not possibly review every survey, plan, and report in the field of transportation formulated by the various agencies. And certainly the Executive Office of the President is in no way equipped to fulfill the burden that would be put upon them by this section. Would the gentleman agree?

Mr. CRAMER. Yes. It just isn't possible for the Office of the Executive, the Chief Executive, to carry this added responsibility in my opinion, which is now carried by the agencies involved or by the Congress.

Mr. HOLIFIELD. Well, let me, if I may, ask you at this point if you believe that each proposal for a project has to be approved by the President or the criteria, plans and surveys which are based on the criteria, that if you think the language actually provides for individual scrutiny by the President of each plan. Then of course I agree with you, if this is true, that this would put a tremendous burden upon the President. Either that or he would automatically sign it, in which it would be in form and not in substance in the name of the President.

Mr. CRAMER. Well, it opens the door for every member of Congress, for instance, that gets bludgeoned on the local level or State level by diverse interests, to take the issue to the President. It is an open invitation to lay these on the desk of the President and force him



to make these decisions individually as President, decisions now made by either the Secretary or the Administrator or the Corps of Army Engineers, and reviewed by Congress.

Mr. HOLIFIELD. Do you think that this refers to individual projects?

Mr. CRAMER. That is a good question, Mr. Chairman.

Mr. HOLIFIELD. Rather than to criteria which project proposals are set up?

Mr. CRAMER. It is a good question, and I again refer to the language of the bill, page 20, line 3. It speaks for itself. "Every survey, plan or report formulated by a Federal agency \* \* \*." When the Bureau of Public Roads is in the process of making a survey concerning a highway it has to be approved by the President. Whenever, even when we are in the process of surveying a need for a highway project, it has to be submitted to the President.

Mr. ERLBORN. I think it is clear that section 7(a) provides that the President shall approve the standards and criteria and section 7(b) requires that the President approve every survey, plan, and report. So that in answer to the chairman's question, it isn't limited just to the approval of the criteria, standards of criteria, but every small report, survey, no matter how minor it may be.

Mr. BROWN. Will the gentleman yield?

Mr. CRAMER. I would like to add, Mr. Chairman, if I may at this point, that lines 22 and 23 on page 19 and lines 1 and 2 on page 20, require that the standards and criteria developed and revised pursuant to subsection 7(a) shall be promulgated by the Secretary upon approval by the President. Where does the Congress come into this picture? Congress is setting those criteria today. This is a complete carte blanche delegation to the President to not only set the standards and criteria, but then in applying them, make certain other findings of fact, and then the final determination shall be made by the executive. Where is the Congress?

Mr. BROWN. Mr. Chairman.

Mr. HOLIFIELD. Mr. Brown?

Mr. BROWN. If in fact we transfer this authority to the President, as suggested by the language of this legislation, Mr. Cramer, who do you think will be making these decisions?

Mr. CRAMER. Well, I suppose the President will appoint someone who is supposed to have all knowing and all capability in the Office of the Presidency, to make these decisions and make recommendations to him concerning them, and the results are going to be additional delay. The President has to finally review them. And you will have somebody that the President hires making these basic decisions rather than the department heads who are authorities, like the Administrator of Public Roads, or the Corps of Army Engineers, who have spent their lifetime on these subject matters. So whoever the President might desire to hire to screen these problems, is a fellow who is going to be making the decision, not the Congress, not the Administrator, who are now capable of doing so. And I call your attention, further, to the fact that the Corps of Army Engineers is now under the jurisdiction of the Department of Defense.

Mr. BROWN. Or in fact, even the Secretary of Transportation.

Mr. CRAMER. Yes.

Mr. BROWN. In other words, it will be some lesser White House official in the executive branch who will be very difficult to get at, either as an elected official or as a Member of Congress or an appointed official like the Secretary who is responsible.

Mr. CRAMER. Exactly. You will have a third party making a decision who has no responsibility to anyone except the President himself. And we may not even know who he is. He will be another assistant to the President, and that is all Congress will have to say about it. And you try to get a hold of him sometime. [Laughter.]

Mr. CRAMER. You know how to get the Secretary. You know how to get the Administrator of the Bureau of Public Roads. You know how to get the Corps of Army Engineers.

Mr. BROWN. But the Secretary will pass the burden to the President, who in turn will pass the burden on to somebody else.

Mr. CRAMER. Mr. X.

Mr. BROWN. Mr. X will be making the decisions of the Secretary and the Secretary behind the President.

Mr. CRAMER. Yes. Well, Mr. Chairman, I was going to suggest language modifying 7(a). Frankly, I think 7(a) ought to be stricken. For the basic reason that, and I think the objective of it is obvious, it is intended to give the Secretary and the President absolute and complete control over all types of transportation, all funds relating to transportation for all time in the future. And I am personally convinced that, as I mentioned before, this \$4 billion a year highway trust fund, that will be going up to around \$5 billion before long, is just a pretty big fund up for grabs if we let it be that way. And there are plenty trying to grab out of it now. Beautification, to the tune of \$1.6 billion for interstate highways only over a 5-year period. Safety, to the tune of \$700 million, over a 5-year period, taken from construction. They want to take away the airline gasoline tax, \$75 million over that period. They want to take forest highways and public lands highways to the tune of \$325 million out of the trust fund. Now the cost of these highways comes out of the general fund. Raids are being proposed all over, and believe me, Mr. Chairman, it is a job for the Congress under the present circumstances to protect that highway user fund concept in order to do the job in building highways.

Now, what is going to happen if the highway trust fund is submerged in this Department of Transportation? It is up for grabs. And the pressure will be on, in my opinion, the pressure will be on, if there isn't authority to do it now, to divert these funds for other transportation purposes in the future and to downgrade highway transportation as compared to other modes.

Mr. BROWN. Mr. Cramer, that is the danger of this section. What is the size of the highway trust fund annual budget compared to the public works budget determined by Congress?

Mr. CRAMER. The authorization now for trust fund expenditures, as I mentioned earlier, is about \$4 billion a year. Public works, meaning rivers, harbors, flood control, multiple-purpose projects, runs a little over \$1 billion a year. That entire package, or a good portion of it, would be subject to this new section 7.

Mr. BROWN. The highway trust fund actually is four and a half to five times the public works budget to be approved by Congress this year.

Mr. CRAMER. That is correct. And the point is well taken. Four-fifths of the total budget of this new Department will be out of the highway trust fund.

Mr. BROWN. So this provides a sizable amount of money for someone to get their hands on and divert it to other kinds of uses and it could have a great impact. By using those highway trust funds in some way other than the way Congress intended them to be used.

Mr. CRAMER. I would clearly foresee in the future that this highway trust fund would become as soon as they could possibly sell it, a transportation trust fund to be used for all purposes solely at the discretion of the Secretary.

Mr. BROWN. For Mr. X in the executive branch.

Mr. CRAMER. Well, reviewed by Mr. X in the White House.

Mr. HOLIFIELD. Well, of course you are foreseeing a change in status which is not involved in this bill.

Mr. CRAMER. Well, 7(a) sets the stage for the pressure in my opinion.

Mr. HOLIFIELD. That is a matter of opinion.

Mr. CRAMER. That is my opinion, Mr. Chairman.

Mr. ERLBORN. Will the gentleman agree that if the Secretary of the Department of Transportation sets standards and criteria to the effect that only half of the funds available for transportation should be spent on highways rather than four-fifths, that then, under 7(a) and 7(b), only half of the funds available for transportation rather than four-fifths would be spent for highways.

Mr. CRAMER. Precisely.

Mr. ERLBORN. This is the very authority given to the Secretary, isn't it?

Mr. HOLIFIELD. Let's keep the record clear.

Mr. CRAMER. He could, as the chairman suggests, refuse to spend the money.

Mr. HOLIFIELD. Let's keep the record clear. That would have to be changed by submission to Congress under the authorization and appropriation process.

Mr. CRAMER. Unless the Secretary—

Mr. HOLIFIELD. He could be stopped by the Congress if any such wild scheme were proposed.

Mr. CRAMER. The Secretary, as you say, Mr. Chairman, could still refuse to spend the money in order to get his program through.

Mr. HOLIFIELD. No. But the Congress could refuse to authorize and appropriate the funds for such diversion.

Mr. CRAMER. And then you have a stalemate but your highways aren't being built. I don't want to see us invite a stalemate.

Mr. HOLIFIELD. Neither the witness nor the Chair believes that a stalemate of that type would be involved.

Mr. CRAMER. It may be true, but I think if we see the possibility we ought to prevent it.

Mr. ERLBORN. Would it also be true under section 7 that, the Secretary set standards and criteria that only half of the funds available should be spent for highways, that then proposals that violated these standards and criteria never would even find their way to Congress because this sets the roadblock that they would have to go

through the Secretary and through the Executive Office of the President before Congress even ever saw these plans, and these projects?

Mr. CRAMER. The gentleman is absolutely correct. And when we are considering rivers and harbors projects that is vital, because we don't even see them until a report is submitted to Congress, and we seldom even consider them unless the report is favorable: 1-to-1 cost/benefit ratio. That is the way these projects are handled.

Now, if they don't submit a report, or if the report is adverse, we are pretty much out of the picture. If they don't submit one we are not in the picture at all. So this bill would give the Secretary the *carte blanche* authority to set his standards to, in effect, not authorize, or propose for authorization, projects which don't meet his criteria and standards. The problem is, we don't get a chance to review those criteria and standards under the language of section 7. And then, of course, the further step is that after he makes the standards, he makes findings of fact in applying the standards under 7(b). Findings of fact, from line 6 to line 13 on page 20.

He not only sets the criteria and standards, but then he goes over it again with information that he furnishes himself. He doesn't have the Bureau of Public Roads furnish it. He doesn't have the Corps of Engineers furnish it. He furnishes it himself and then makes his own finding. Talk about lifting himself by his bootstrap, you are setting up a bureaucratic maze here you will never get to the bottom of.

He is going to say, "these are my findings based upon my facts and my criteria." How are you ever going to get to the bottom of that maze? You are never going to do it. These are the findings of fact, based upon information furnished by the Secretary. He shall make these findings:

No. 1. The projected growth of transportation needs and traffic in affected area;

No. 2. The relative efficiency of various modes of transport;

No. 3. The available transportation services in the area; and

No. 4. The general effect of the proposed investment on existing modes and on the regional and national economy.

What broad, undefined, almost impossible to circumscribe, findings of fact those are. The Secretary could use any excuse in the book to turn down a project, even if it met the criteria. And I say that would be wrong of the Congress. If it wants to set up criteria, it should set them up and direct the Secretary to follow them. And then, if the Secretary wants to make changes, let him come in and advise the Congress. And let the Congress confirm his findings or change them if it sees fit. Now, that gets to the heart of my proposed amendment, Mr. Chairman.

Mr. HOLIFIELD. Well, before you get to that, it plainly says after going through all the above, that the views, the same surveys, plans, and reports, shall be submitted with the views of other Federal agencies, States and local units of government for inclusion with his and their views and comments.

So it would not be a sole submission by the Secretary of his views, and his information.

But it would be a coordination of his views and his information with other Federal agencies, States, and local units of government.

Mr. CRAMER. I didn't mean to suggest States and local governments are not going to be consulted. I am saying Congress isn't going to be consulted.

Mr. HOLIFIELD. I am talking about inclusion of views, not consultation, of Federal agencies, other Federal agencies that might be involved. If you say it was a highway going over a river, and if the Corps of Engineers said we don't want that highway to go over a height of 14 feet, we want it 16 feet for the purpose of navigation, and if the States had views that we don't want the bridge at all to go over that particular place, we want it somewhere else, and if local units of government had a right to comment about it, all of these views would be put together, as I understand the language.

Mr. CRAMER. Well, that is very interesting. It is very interesting language, Mr. Chairman.

Let me raise a couple of questions concerning it. Frankly, I don't know the answer to these questions. It says that promulgated standards and criteria pursuant to section 7(b) shall be coordinated by the proposing agency with the Secretary and other Federal, State, and local agencies as appropriate. What does that mean? Who says whether it is appropriate? Congress isn't saying what is appropriate. The Secretary will say what is appropriate. So he is right back in the picture. He says that certain information is appropriate and certain other information isn't.

Mr. HOLIFIELD. Well, that is the proposing agency.

Mr. CRAMER. Well, it says "as appropriate."

Mr. HOLIFIELD. By the proposing agency. In this instance it was the Bureau of Public Roads. It would seem like to me that they would have to submit, as they do now, their consultative information of Federal agencies, States, and local governments, because that is the way a project is put together. Isn't it through consultation with the local governments affected?

Mr. CRAMER. Well, the decision made today is by the Bureau.

Mr. HOLIFIELD. Yes. But after consultation with the local, city, or State that is involved in a coordinated project. Is that not true?

Mr. CRAMER. Yes.

Mr. HOLIFIELD. Well----

Mr. CRAMER. And I am not arguing that point.

Mr. HOLIFIELD. And the same prevails today?

Mr. CRAMER. Except that, under the bill, where there is information submitted, it is determined first whether it is "appropriate," and whether it is appropriate is determined by whether or not it is within the standards and criteria of the Secretary or within the findings of fact of the Secretary. So you are right back, lifting yourself with your bootstraps again.

Mr. BROWN. Mr. Chairman, don't we also face the problem that the Federal Government frequently speaks with one voice? Subordinates often argue with their superiors and if the Secretary of Transportation is in a position to set standards and criteria, where there is a conflict between the Bureau of Public Roads and the Corps of Engineers--the Corps of Engineers is going to submit in all likelihood to what the Secretary of Transportation establishes as his criteria, based on his facts. Is he not? Is that not true?

Mr. CRAMER. Well, the bill would require them to do that. Every one of the surveys would have to be pursuant to the section 7 criteria.

Mr. BROWN. And if they spoke out in objection, they better watch out?

Mr. CRAMER. They better watch out or they will get their funds cut off. I wanted to get to the point of my amendment, Mr. Chairman, the amendment that I am preparing.

Mr. HOLIFIELD. Yes.

Mr. CRAMER. Which, I understand, has the support of the chairman of the Committee on Public Works and he submitted it in similar language, but didn't read the amendment or indicate exactly what it did. The amendment is as follows:

On page 19, strike out lines 4 through 8, and to the comma on line 9, and insert in lieu thereof the following: "The Secretary shall develop and from time to time in the light of experience recommend to the Congress standards and criteria consistent with national transportation policies, for consideration in the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities and equipment."

On page 19, line 16, after the word, "criteria," insert, "recommended."

The last sentence of subsection (a) and all of subsection (b) are then entirely unnecessary and should be stricken, so that it will read as follows:

The Secretary shall develop and, from time to time, in the light of experience, recommend to Congress standards and criteria consistent with the national transportation policy to the consideration of formulation of the economic evaluation of all proposals for the investment of Federal funds for transportation facilities or equipment \* \* \*.

And then you go down to your exceptions. I would like to call your attention to line 15, page 19, defense features included at the direction of the Department of Defense in the design and construction of land transportation. Well, this is a defense program. Interstate and defense highway program. It is so designated by Congress. These decisions, under present law, are made by the Administrator of the Bureau of Public Roads after consultation with the Secretary of Defense as relates to defense needs. This authority is specifically taken away from the Administrator and vested in the Department of Defense by this language. I don't think this committee wants to do that, but that is the effect of it.

Interestingly enough, I might add, they take out foreign assistance programs, so, in effect, we have a national transportation policy in America and refuse to apply it to any other country. That doesn't make much sense either, in my mind.

Now, let's go down to lines 20 and 21 and see what our problems are, as I see them, Mr. Chairman, on page 19. After consultation with Water Resources Council, which, incidentally, is just barely getting underway, and we now have another layer of cake on top of our already three or four layers of authority relating to water resource programs. We now have the Secretary making decisions concerning transportation that deal with water resources. Who is going to make the final decision? Congress said last year that Water Resources Council should make the decision concerning transportation in water programs.

Now, we say we didn't mean what we said. The Secretary is going to make it and the President is going to make the final decision, and

Congress is not going to be consulted. "Shall be compatible," on line 20, "with the standards and criteria for economic evaluation applicable to nontransportation features of such projects."

Well, what happens? Which is the tail and which is the dog? Which controls which? Are transportation criteria to be also applied to all other features of the project? Which is to control? It says specifically that, "The standards and criteria for economic evaluation applicable to nontransportation features of such projects."

That doesn't make sense. The criteria for nontransportation features are entirely separate and considered separately and are separate increments that are fed into the cost-benefit ratio.

Now, this says that they have to be consistent, so the Secretary, in effect, if I read it correctly, or it could be subject to that interpretation, in setting transportation policies, will be setting criteria standard policies relating to all other aspects of the multiple-purpose projects.

Mr. HOLIFIELD. Does—don't you believe that those should be taken into consideration? Don't you think that they should be taken into consideration? Do you want the transportation system to do violence to the other programs?

Mr. CRAMER. Oh, no.

Mr. HOLIFIELD. Which the Congress has authorized?

Mr. CRAMER. We are talking about, Mr. Chairman—if you will read again line 16 and 17, we are not talking about that. We are talking about, "economic evaluation," which is the information fed into the cost-benefit ratio. And that information is necessarily separable—(1) transportation, (2) public or private power, whichever it may be.

Mr. HOLIFIELD. Separate as far as consideration is concerned?

Mr. CRAMER. And, three, flood control.

This is no reason why it shouldn't be considered compatible as to the construction of the project, certainly as to the planning of the project, certainly. But, as to evaluating its merits, that is, cost-benefit ratio, they are necessarily separable. Always you want transportation economic criteria controlling other questions that it is not related to. I wish the committee would give consideration to that possible construction, because I think it is definitely there.

Mr. BROWN. Or the other way around. Is that not right?

Mr. CRAMER. Or the other way around. The other aspect could possibly control the transportation policy, as it is worded.

Mr. HOLIFIELD. You want the transportation policy to be completely oblivious of other programs that would be affected by it?

Mr. CRAMER. No. I say the way it is worded, Mr. Chairman, that the standard and criteria for economic evaluation shall be compatible with the standards and criteria for economic evaluation application to nontransportation features of such projects.

Mr. HOLIFIELD. I will agree with you that you can put a different interpretation on the word, compatible. But I think you can quibble over the meaning of words and assume that an administrator is going to use a word like compatible to destroy programs. How can you write language asking the Secretary to take into consideration the economic evaluation? That doesn't necessarily mean that the economic evaluation of a multiple-purpose project or a Water Resources Council recommendation should control, but certainly take it into consideration as a prudent thing.

Mr. CRAMER. Well, Mr. Chairman, let me say that economic evaluation is a technical term. It doesn't have to do with the engineering or whether or not it is compatible to have a flood control dam on a river that is used for navigation. That is not the compatibility we are talking about. We are talking about compatibility of the standards and criteria in determining the economic evaluation, meaning, is it 1-to-1 cost-benefit ratio?

Now, there is no compatibility between the flood control aspects, the power aspects, and the navigation aspects, as it relates to feeding those three elements into the cost-benefit ratio. They are treated separately. They always have been. But when it comes to construction, it has to be done in a way to make all three compatible. This is cost-benefit economic-evaluation compatibility and it doesn't make sense.

Mr. HOLIFIELD. Well, then, it would depend upon what the Water Resources Council said in their consultation; wouldn't it?

Mr. CRAMER. It says the standard and criteria for economic evaluation shall be compatible. There is no discretion there. It is mandatory. Shall be compatible. And I say that is dangerous language.

Mr. ERLNBORN. Will the gentleman yield?

Mr. HOLIFIELD. Yes.

Mr. ERLNBORN. There is no like language in the law that establishes the Water Resources Council that they shall make their standards and criteria compatible with the Department of Transportation standards and criteria. So it would appear to make the Water Resources Council supreme in this area, would it not?

Mr. CRAMER. Yes. And you would have——

Mr. ERLNBORN. Because the Department of Transportation would have to conform or be compatible with their standards and criteria. But there is no like responsibility on the Water Resources Council.

Mr. CRAMER. And you have the further problem of water pollution control as a new increment they are going to start feeding into these projects, fish and wildlife. But, on a separable basis.

Now you are saying, no, we aren't going to do that. They all have to be compatible with the criteria for transportation. It just doesn't make sense.

Mr. BROWN. Mr. Cramer, do I understand your point here is that if a recreation usage for some water resource is being considered, that it is possible, under the language of this part you have read here, that that recreation usage could influence the economic evaluation of some transportation decision with reference to that water area? Is that correct?

Mr. CRAMER. As I read it, it is mandatory for the standard and criteria for economic evaluation in multiple-purpose projects to be compatible with the standards and criteria for economic evaluation applicable to nontransportation projects.

Mr. BROWN. In other words, if there appears to be a need for recreation in that area, you could make a transportation decision, on the basis of a recreation need alone?

Mr. CRAMER. The way it is worded, it would be either way. As I say, which is the tail and which is the dog? And why set them up on this basis when today they are judged separately? It doesn't make sense at all. And I think I see what they are trying to do. They



want transportation to have priority over other considerations as it relates to economic evaluation.

Now I am sure a lot of wildlife people aren't going to like that interpretation. A lot of water conservation people aren't going to like it. A lot of public power people aren't going to like it. Frankly, it is my opinion that, if this section 7 remains in its present form, particularly this aspect of it, and if the Secretary sets criteria that have the principal objective of a nationwide transportation policy program, which this bill directs the Secretary to do, and the Secretary would have absolute power over these projects, not only highways but rivers and harbors, that there are going to be numerous projects that, under present law and policies, are economically feasible and are approved by Congress, and many that have been approved that will be subject to review under this, that are going down the drain and are not going to be approved under the new standards, if you put transportation superior to other considerations.

Mr. BROWN. In other words, the Secretary of Transportation would have the power to move the dam upstream, if that is where he wanted the road to go.

Mr. CRAMER. If he thought transportation was being the primary consideration that justified it; yes.

Mr. HOLIFIELD. And if he didn't want it to be compatible.

Mr. CRAMER. Well, it says, "after consultation with the Water Resources Council." He will talk to them.

Mr. HOLIFIELD. That is right. And as I say, if he decided that the Water Resources Council's recommendations were untenable, that he wanted to ignore them, why, theoretically he could go ahead. He would ignore the admonition here that it should be compatible?

Mr. CRAMER. Again I say that compatibility from a usage and engineering standpoint is desirable. And I would be the last to suggest otherwise. I vote that way on all these projects. But, when you are talking about compatibility relating to cost-benefit ratio and economic criteria and evaluation, it is an entirely different matter.

Mr. HOLIFIELD. I assure the witness we will pursue this with the administration to give them an opportunity to clarify this as to their purpose, and also as to the language.

Mr. CRAMER. Well, Mr. Chairman, I would like to have the opportunity of filing my comments and answers and my complete statement. I think we have covered the basis of it.

Mr. HOLIFIELD. Would you like to have it included in its entirety in your testimony?

Mr. CRAMER. I would, Mr. Chairman.

Mr. HOLIFIELD. It will be accepted.

(The documents referred to above follow:)

PREPARED STATEMENT OF HON. WILLIAM C. CRAMER, OF FLORIDA, RANKING MINORITY MEMBER, COMMITTEE ON PUBLIC WORKS

The rapid and efficient transportation of goods and people is absolutely essential to our economy and well-being. Since each mode of transportation supplements the other, all Federal transportation programs must be fully coordinated. However, I have serious doubts as to whether H.R. 13200, as written, will result in the kind of coordinated transportation programs we must have.

I have three major reservations concerning the bill:

First, there is considerable doubt in my mind as to just what the proposed Department of Transportation can accomplish that could not be accomplished by the existing transportation agencies and officials.

Second, I am greatly troubled as to what the status of existing agencies, such as the Bureau of Public Roads and the Federal Aviation Agency, would be within the new Department.

Third, the authority of the Secretary under section 7 of the bill to promulgate standards and criteria applicable to "all proposals for the investment of Federal funds for transportation facilities or equipment" is an enormous power, which would infringe upon the responsibilities of the Congress, and could result in the development of transportation programs on the basis of theoretical planning concepts rather than actual, practical, transportation needs.

From an analysis of the proposed legislation it appears that the new Department's major functions would be to gather information, conduct research, and issue general standards and guidelines. The Federal Aviation Agency, the Bureau of Public Roads, the Maritime Commission, and other agencies are already doing this, under policies and directives enacted by the Congress. There is nothing in the bill to indicate how these functions could be performed more satisfactorily by being centralized in a new Federal department.

In addition to this, many vital transportation functions will not be transferred to the proposed Department. Regulatory functions would remain with other agencies, outside the Department of Transportation. Mass transit functions now located in the Department of Housing and Urban Development would remain with that Department, and this seems very inconsistent with the stated purpose of the bill.

The availability of efficient mass transit facilities has a direct effect upon other modes of transportation, particularly highways. If we are to have a truly coordinated Federal transportation program, it would seem obvious that we should have coordinated responsibility for highway and mass transit programs.

There may well be a need to refine and realign the role of the Federal Government in the field of transportation. But I doubt that simply creating a new bureaucracy will accomplish this—at least not under the provisions of H.R. 13200.

Before the Congress enacts legislation establishing a new Department of Transportation, I believe the administration should be required to furnish complete details as to why certain functions would not be transferred to the Department; exactly how the Department will be organized; how it will perform its functions; and most important, what benefits in terms of efficiency, economy, and coordination will be gained by the proposed reorganization.

Let me turn now to the status of existing agencies, such as the Bureau of Public Roads and the Federal Aviation Agency, within the new Department. Under the terms of the bill these agencies will not only lose their independence or semi-independence, but will be denied a major voice at the policy levels of the Government.

The Federal Aviation Agency, the Bureau of Public Roads, and the Federal Maritime Administration all have heads appointed by the President and subject to Senate confirmation. Will this continue to be the case after their transfer to the new Department?

Section 9(j) of the bill, in effect, abolishes agencies whose functions would be transferred to the new Department. Section 10(e) would delete from the Federal Executive Salary Act of 1964 the positions of the Federal Highway Administrator, the Chairman of the Federal Maritime Commission, and the Administrator and several other officials of the Federal Aviation Agency.

Mr. Chairman, when the Congress enacted the Federal-Aid Highway Act of 1956, it recognized the fact that the importance and scope of the accelerated highway program was such that it should be administered by a top official. Accordingly, the Congress enacted Public Law 84-968, which provided for the appointment by the President, with the advice and consent of the Senate, of a Federal Highway Administrator who would receive compensation at the rate prescribed for Assistant Secretaries. The intent of this enactment was to place the head of the Bureau of Public Roads in such a position that he could deal directly with the Cabinet-level Secretary of Commerce.

The importance of the Federal-aid highway program has not diminished but has increased. The interstate highway program is about halfway completed, and this is certainly no time to downgrade the position of the Federal Highway

Administrator—to reduce his effectiveness by subordinating him to other officials having differing responsibilities and viewpoints.

Mr. Chairman, I strongly urge the committee to recognize the importance of this, and to amend section 3(c) of the bill to specifically require that there be a Federal Highway Administrator within the new Department, at a salary level at least level IV, and preferably level III, as well as the four Assistant Secretaries and the General Counsel now provided for in that section.

Section 7 of H.R. 13200, relating to transportation investment standards and criteria, concerns me a great deal. The language of the bill is broad and sweeping, and contains practically no guidelines or limitations upon the nature of the standards or criteria to be promulgated by the Secretary. It would appear, however, that the Secretary would be given authority with respect to highways, for example, to approve or disapprove their construction without reference to any of the policy declarations presently contained in title 23, United States Code.

Section 7(a) would require the Secretary to develop standards and criteria "for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment." Section 7(b) would require that every survey, plan, or report formulated by a Federal agency concerning transportation be prepared in accord with such standards and criteria and upon the basis of certain information furnished by the Secretary.

At best, this could result in the Congress being deprived of full and complete information regarding transportation recommendations. At worst, it could remove from Congress the authority it now exercises in connection with the authorization of construction projects of all kinds, if they bore any relationship to transportation. All decisionmaking would be delegated to the executive branch, and Congress would be removed from the position it has held as the authorizing institution for so many years.

While Congress would retain its right to change the law, committees of Congress now charged with responsibilities in the area of waterway, airway, and highway authorizations would be effectively barred from further contact with such projects.

This problem is made more acute by the fact that the present agencies charged with the responsibility of particular transportation programs would lose their identity, as I discussed earlier.

In the absence of strong supporters of particular modes of transportation, there is a real danger that in an effort to attain some theoretical objective of coordinated transportation programs, some essential modes of transportation may well be neglected.

A transportation program based upon averages or statistical data or some theoretical planning concept may well result in a mediocre transportation system, unable to meet the needs and desires of large parts of the public and unable to cope with unusual or emergency conditions.

I am also gravely concerned about the effect the Secretary's standards and criteria may have on the planning and construction of multipurpose water development projects by the Corps of Engineers. We can no longer afford the luxury of single-purpose development of our rivers. It is essential that the manmade structures placed in our streams serve more than one purpose.

For example, a dam and reservoir on a stream catches the floodwaters and stores them for future use. Initially, it not only prevents or reduces flood damage, but it also prevents erosion of the streambank and subsequent deposition of that silt on far more urban properties downstream. The controlled release of this water later serves one or more of the following purposes: navigation, water quality control, water supply, and power generation.

The water in the reservoir not only creates the power head for the generation of electricity, but it enhances the fish and wildlife values of the area and affords abundant water-based recreational opportunities. These functions and purposes are all interrelated. If one of these interrelated functions was eliminated as a result of unrealistic criteria that would be established by a Department of Transportation, the loss of navigation benefits would result in an increased cost allocation to the remaining purposes. This would make all the remaining functions less attractive financially and, possibly, uneconomical.

Navigation often is a key factor in the development of a comprehensive plan, since there are no other alternatives that limit the navigation benefits for the purpose of cost allocation. It is apparent, therefore, that the standards and criteria for the evaluation of navigation benefits by the Secretary of Transpor-

tation would have an important effect on the future development of our water resources.

Section 8 of article I of the Constitution vests the Congress with the responsibility of regulating commerce among the several States, and, obviously, the criteria and standards applying to transportation programs are an important aspect of interstate commerce.

I strongly believe that final authority for determination of standards and criteria for investment of Federal funds in transportation programs, including specifically water resource improvement projects which may involve navigation and transportation aspects, should be retained by the Congress.

Also, I am concerned about the possibility that H.R. 13200 might be interpreted to give the Secretary of Transportation the right to divert funds authorized by Congress for one program or project to a different program or project—perhaps even those which have never been authorized by Congress.

I am particularly troubled by the possibility of diverting revenues from the highway trust fund to finance other modes of transportation. The highway trust fund is supported by fees charged the highway users, and I would strongly oppose any provision or interpretation which could result in diversion of trust fund receipts to other uses.

If the bill is interpreted to permit the Secretary to divert funds from one program or project to another, the only review which would be maintained would be that of the appropriation committees of the House and Senate, but, as indicated before, the committee which formerly exercised substantive jurisdiction could possibly be foreclosed from exercising their expert knowledge in the field.

I do not believe that I am placing a strained interpretation upon the possible effect of the bill. The bill would authorize the Secretary to promulgate standards and criteria for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment.

A "Department of Transportation Briefing Book" contains a section discussing this proposition, and includes the following language: "A beginning can thus be made on the comparative evaluation of transportation projects \* \* \* with a view to identifying those warranting support and establishing priorities for approval programs in the order of their overall merit."

The responsibility of identifying transportation projects warranting support and for establishing priorities for approval programs in the order of their overall merit is clearly that of the Congress and not of the executive branch.

I would urge that H.R. 13200 be amended to make it clear that these responsibilities remain with the Congress, and that the Secretary of Transportation will not have authority to divert funds from one program to another without being authorized to do so by a congressional enactment of a bill considered and reported by the appropriate legislative committee of the Congress.

To accomplish this, Mr. Chairman, I strongly urge that the bill be amended along the lines suggested by the respected chairman of the Committee on Public Works, Mr. Fallon. The amendment is as follows:

Page 19 of H.R. 13200, strike out lines 4 through 8, and to the comma, on line 9, and insert in lieu thereof the following:

"Sec. 7. The Secretary shall develop and from time to time in the light of experience recommend to the Congress standards and criteria consistent with national transportation policies, for consideration in the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment."

Page 19, line 16, after the word "criteria" insert "recommended."

With these amendments, the last sentence of subsection (a) and all of subsection (b) become entirely unnecessary, and these should be stricken from the bill.

Mr. Chairman, I thank you very much for the opportunity to express my views on this important bill.

Mr. BROWN. I would like to ask one further question with relationship to the language in lines 17 and 19, on page No. 20.

Mr. HOLIFIELD. Yes.

Mr. BROWN. Where a reference is made in those lines to, "in accordance with law," isn't it possible that this could be interpreted to mean

in accordance with this law and not necessarily to existing law? The lines to which I refer?

Mr. CRAMER. I have it, line 18. I think it is a possible interpretation, particular if you read it in conjunction with section 6 and with section 9, relating to administrative procedures, it is quite clear that any and all functions now administered under any and all laws is now vested in the Secretary. So the law you are talking about could be this bill, not the old law.

Mr. BROWN. And doesn't that underscore his right to divert highway trust funds?

Mr. CRAMER. In my opinion, yes. That is a possible construction, and, of course, the majority on the committee concurs in that possible construction, because the disposition in accordance with law is not existing law but law as of the time this becomes an act or the law. And this will be the law. This section 7 will be the law. It supercedes title 23. It supercedes present law relating to authorized projects.

When you are talking about the law on page 20, line 18, you are talking about sections 7 (a) and (b). That supercedes previous law.

Mr. HOLIFIELD. If that was not intended in this act, the gentleman certainly would not say that the law does not comprehend all law on the subject.

Mr. CRAMER. Well, if what the chairman's intention—this is the latest expression of the law, and, if what the chairman suggests is the intention, then it should be clarified so that it is in accordance with law presently in existence at the time of the enactment of this legislation.

Mr. HOLIFIELD. Well, certainly it does not preclude this law, but it does not exclude other statutes which are mandatory.

Mr. CRAMER. The latest law on the books is the one that controls, if it supercedes previous law, and section 7 (a) and (b) supercede all previous law, including this.

Mr. BROWN. If the language in those two lines is—

Mr. HOLIFIELD. It is a modification under law but it does not supercede all the law on another subject.

Mr. CRAMER. Well, it is a modification.

Mr. HOLIFIELD. To the extent that it does modify a law, or a series of law, the Chair would agree that it is a modification.

Now, we haven't established, yet, the degree of modification, but it certainly doesn't nullify law extraneous to the modification contained in 7(a).

Mr. CRAMER. Correct. And I hope my testimony has helped demonstrate the extent of the modification under 7 (a) and (b).

You couldn't imagine a greater modification, without actually going back and repealing every existing act. You couldn't imagine broader discretionary authority than is given in section 7 (a) and (b), in my opinion.

I thank the committee very much for its courtesy.

Mr. HOLIFIELD. Thank you, gentlemen, for your testimony. It will be considered very carefully and the proponents of the bill on the administrative level will be asked to comment upon his submitted amendments and the points that he has made.

Mr. CRAMER. Thank you, Mr. Chairman.

Mr. HOLIFIELD. The next witness will be Mr. J. W. Hershey, Chairman of the Executive Committee, Common Carrier Conference of Domestic Water Carriers.

**STATEMENT OF J. W. HERSHEY, EXECUTIVE COMMITTEE CHAIRMAN, COMMON CARRIER CONFERENCE OF DOMESTIC WATER CARRIERS; ACCOMPANIED BY PAUL MACKENZIE**

Mr. HERSHEY. Mr. Chairman and members of the committee, my name is J. W. Hershey. I am Chairman of the Board of American Commercial Lines, Inc., which, of course, is a water carrier. I am accompanied here today by Mr. Paul J. MacKenzie, an attorney and a member of one of the firms who are counsel for a member of the Common Carrier Conference. Also in this room are representatives of the conference who have come to Washington as interested people in this proposed legislation from the west coast to the east coast, the Mississippi River system and the Great Lakes.

Mr. HOLIFIELD. Would you like to have Mr. MacKenzie come forward?

Mr. HERSHEY. Would you like to?

Mr. HOLIFIELD. You may proceed.

Mr. HERSHEY. Thank you, sir.

The Common Carrier Conference is composed of the principal domestic common carriers by water operating vessels, towboats and barges on the Great Lakes, the inland rivers, coastwise and in the intercoastal trade. These companies all hold certificates of public convenience and necessity issued by the Interstate Commerce Commission for the transportation of freight.

The opportunity which we have had to scrutinize the bill and to discuss it, to absorb the significance of the testimony presented by Government witnesses advocating it, and to evaluate the public positions announced by other organizations concerned has materially strengthened the conviction of our group of carriers that we should take a firm position.

The bill itself, the arguments presented by Government witnesses, and the attitudes towards the bill publicly expressed by others have frankly left us a little bit bewildered because it would appear that all indicate there is no indication of any compelling need for change.

Even those industry groups which have announced support of the broad principles, have, almost without exception, proposed specific qualifying amendments.

Our conference could have adopted a similar attitude of lip service while recommending crippling amendments. We decline to follow such a course and therefore categorically oppose H.R. 13200, the Department of Transportation Act.

While we, as an industry, are wholeheartedly in favor of better transportation coordination, we are opposed to this bill on a number of general grounds:

1. The advocates of the bill have failed, in our judgment, to demonstrate how the wholesale transfer of statutory authority will, in and of itself, guarantee the accomplishment of essential transportation tasks, achieve improved Federal efficiency, or provide measurable economies.

2. Of all the major transportation problems facing the United States, this bill concerns itself directly with only one, public safety, while, at the same time it creates a host of new problems for all commercial transportation modes, particularly freight carrying modes and those who use them.

3. While the Department of Transportation Act purports to deal only with a reorganization of functions presently administered by various departments, agencies, commissions, and bureaus, in fact it seriously erodes the traditional and historical congressional prerogatives in the area of transportation.

4. The creation of a new department which will initially require additional expenditures of public funds on the premise that theoretical economies will occur in the indefinite future seems imprudent to us in the face of present national commitments and fiscal policies.

Now, we contend, that this bill asks Congress to surrender its responsibility and authority to a single department and, more specifically, to a single Cabinet officer empowered to act almost without restraint.

For example, the provisions of section 2 and 4(a), directing the development of national transportation policies and program, are "open door" provisions far beyond the policy-making and programming limits of laws otherwise to be administered by the Department.

Section 2 would have Congress declare a need for development and implementation of national transportation policies and programs when, in fact, the Congress is already charged with and has been fulfilling that requirement. The commerce clause of the Constitution charges Congress and Congress alone with regulation of commerce between the States. In discharging that obligation, Congress has enacted necessary and desirable enabling legislation such as the Interstate Commerce Act, the Merchant Marine Act of 1936, and the Civil Aeronautics Act, each embodying a declaration of policy and each with an independent agency to interpret, administer, and enforce such acts, subject to judicial review.

Yet the summary of this bill prepared by the Department of Commerce, to explain it concerning the Department of Transportation Act, states that under section 4(a) of the act the Secretary of Transportation would develop national transportation policies and programs and make recommendations for their implementation to transportation regulatory agencies, including participation by the Secretary as a party in proceedings before such agencies.

Transportation regulatory agencies, such as the Interstate Commerce Commission, have long recognized the role of representatives of the executive branch of Government in assisting in the interpretation of applicable law, but national policies and programs that might be developed by a Secretary of Transportation would not be law and efforts by the Secretary seeking the implementation of such policies and programs by the regulatory bodies could, and in our opinion would, usurp legislative, independent agency, and judicial functions.

The conclusions of the conference with respect to sections 2 and 4(a). Mr. Chairman, may be summarized briefly as follows:

1. There is neither precedent nor other justification for a general directive to an executive department to develop and seek the implementation of national policies and programs which may be entirely

unrelated to any law which the executive branch of the Government has been granted the power to administer.

Mr. HOLIFIELD. Does the witness really believe that the Secretary of Transportation is empowered to make law which is contrary to existing statutes by this bill?

Mr. HERSHEY. I think to the extent that he is empowered to develop policies relating to transportation and then——

Mr. HOLIFIELD. But don't you realize that in the development of policies and regulations that they have to be consistent with the statutes of law?

Mr. HERSHEY. Well, I would say this: That if we could always be assured that there were some protection that the policies which he would develop would be policies which stemmed from or were identical with policies that were laid down by Congress, there would be no concern.

Mr. HOLIFIELD. But do you believe the committees of Congress, the various committees that have jurisdictional control over the various modes of transportation, would sit idly by and let a Secretary of Transportation violate the statutes which they have placed upon the book, without calling him to account and without passing additional laws, if it were necessary, to prevent him from violating the statutes? I can't understand the gentleman's fear. Congress is a continuing body. And these agencies have to come to Congress for authorization of every project that they develop. And certainly at the time of request for authorization of a project which was contrary to existing policy of Congress under the law, they would have to answer to that contrary policy and would come under the scrutiny of the committee of jurisdiction. The committee of jurisdiction could at that time take such action as it is empowered to take to prevent the violation of law or even the violation of the intent of Congress. This happens continuously.

Mr. BROWN. Mr. Chairman, hasn't the Congress, however, in fact yielded up some of this authority to the Secretary of Defense in certain areas?

Mr. HOLIFIELD. Well, if the Congress passes such a bill I doubt, if the bill is enforced, it would survive in its present form. I think this committee would look into it before it is ever approved. And certainly I don't think that in this bill, as it is now written, that we are giving the Secretary of Transportation carte blanche authority to violate the law.

Mr. HERSHEY. I would not imply for a moment that any Secretary of Transportation would set out to violate the law. However, Mr. Chairman——

Mr. HOLIFIELD. You wouldn't imply that the Congress wouldn't maintain continuous scrutiny in its respective committees over anything that affected their programs, would you?

Mr. HERSHEY. I would certainly expect that, and I would certainly hope so. However, this bill in our opinion materially changes the balance of the power and influences in the field of transportation. Subsequently in this testimony I will develop briefly various things which transpired in the past in which the executive branch of the Government have in fact made recommendations which are contrary to the long-standing policies of Congress relating to transportation.



In fact it is our history which makes us so chary of this type of reorganization.

Mr. HOLIFIELD. Well, make recommendations to whom?

Mr. HERSHEY. They made recommendations to the Congress.

Mr. HOLIFIELD. All right.

Mr. HERSHEY. They made recommendations to shipper groups. They made recommendations to anybody who might have some influence in the general area of the public concerned with legislation.

Mr. HOLIFIELD. This, of course, is normal, but the Congress retains the power to sit in judgment on those recommendations.

Mr. HERSHEY. Well, quite right, sir. And all I can say about that is we have fared far better at the hands of Congress in the administration of the national transportation programs and policies than we have fared with the executive department.

And this, in a nutshell, is why this testimony is in this vein. Would you like me to continue, sir?

Mr. HOLIFIELD. Proceed.

Mr. HERSHEY. The intrusion of general Department of Transportation policies and programs into the transportation regulatory process is clearly unwarranted and probably unlawful. The provision in subsection 6(e) of the act that "Nothing in this subsection shall diminish the functions, powers, and duties of the Interstate Commerce Commission" except as specifically provided, affords no protection. It is clear that the Commission will continue in its decisionmaking role, but the point is that the Congress and not a Secretary of Transportation must provide the policies and programs affecting regulation.

Sections 2 and 4(a) have no substantive purpose in the act other than to provide a congressional mandate to assume what basically is, and should remain, a congressional function.

With respect to section 7, the Department of Commerce summary of the proposed act is startling in its omission since it makes no mention of the fact that section 7 would change drastically existing legal procedures for Federal investigations and improvements of rivers, harbors, and other waterways by wresting from the Congress and vesting in the executive branch supervision and control of waterway improvement projects. Neither is attention drawn to the fact that determinations by the Secretary of Transportation as to standards, criteria, and relative transport desirability, developed in comparative abstraction, would control determinations made under the supervision of the Army Corps of Engineers, founded upon particular expertise, and reached after careful study of the particular proposal involved.

Accordingly, it is our considered judgment that section 7 is improper legislation for the following reasons:

1. Subsection 7(a) directs the Secretary to develop standards and criteria consistent with the Secretary's own transportation policies. In essence, the Secretary is directed to do as he thinks best. The vesting of broad and discretionary control in the Secretary of Transportation over investment proposals for waterway improvements, which proposals may be the result of investigations directed by the Congress and, in any event, are subject to congressional approval, is not in the public interest and may, in fact, prove to be unconstitutional.

2. As concerns waterways improvements, subsection 7(b) directs the Army Corps of Engineers to prepare every survey, plan, or report proposing a transportation investment in accordance with the standards and criteria established from time to time by the Secretary of Transportation. Since the Secretary is granted almost limitless powers in the development of standards and criteria, it is impossible even to estimate the degree to which this requirement could and, we believe, would cripple waterway improvements.

3. Subsection 7(b) goes on to direct that every survey, plan, or report proposing a transportation investment by the corps must be based upon the Secretary's determination of traffic needs, the relative efficiency of various modes of transport and the effect upon existing modes and the economy. Congress has already established standards and criteria to be applied by a board of engineers of the corps in evaluating the need for waterway improvements, such as the standards set forth in 33 U.S.C.A., section 541. In the application of such standards, the Corps of Engineers has developed the widely used cost-benefit ratio as a measure of the economic feasibility of waterway improvements. Most important, the River and Harbor Improvements Act, 33 U.S.C.A., chapter 12, is based upon the congressional mandate that the desirability of waterway improvements shall be determined by the public benefit and need and not upon factors involving inter-modal transportation competition, as would be required by subsection 7(b) of the proposed act.

4. Again, as concerns waterway improvements, subsection 7(b) provides that whatever might remain of a Corps of Engineers proposal, following subsection to the determinations of the Secretary, would be transmitted by the corps to the president for disposition. Under the existing River and Harbor Improvements Act, the corps is subject to the direct requests of the Committees on Public Works of the Senate and of the House, and the corps submits its various surveys, plans, reports, and proposals to the Congress.

Existing law provides that public work on canals, rivers, and harbors, adopted by Congress, may be prosecuted by direct appropriations, by continuing contracts, or by both means. The Department of Commerce, in its summary of the proposed act, fails even to note the complete loss of control by Congress of waterway improvement projects which would be effected by section 7.

This bill concentrates power to an unprecedented degree in the hands of a single public official who, regardless of his integrity, intelligence, and earnest intentions, would be placed in a position of developing policy and criteria guiding absolutely the Federal Government's participation in transportation.

Now, let's try to imagine what all these policies and criteria will be. Does the bill set them forth? Have the Government witnesses shed any light on what they are? On the contrary: complete vagueness remains.

The only basis for estimating the nature of the executive branch policies under the proposed act is history—"The past is prologue." Let's look at the record or proposals inimical to the interests of water carriers over the past 10 years alone.

Now, these are harmful to the entire spectrum of the water transportation in the United States, including a vast amount of boat-exempt traffic which moves outside the scope of regulations. This total transportation complex accounts for about 30 percent of the entire intercity ton-miles moved within the United States, going down the list.

The Commerce Department actively sought legislation prohibiting ICC consideration of the effect of freight rates proposed by one mode upon another in the case of the so-called three-shall-nots legislation.

Various Commerce Department spokesmen have publicly advocated total freight rate deregulation, long advocated by the railroads, particularly in the field of agricultural commodities, in order to free the competitive influence of the railroads in the area of discriminatory freight rates.

The Commerce Department has advocated common ownership of all modes of transport.

Commerce Department officials have repeatedly advocated ratemaking favoring the railroads, they say, because of a peculiar variable-to-fixed cost relationship.

Administration spokesmen have repeatedly implied that they would seek repeal of the Jones Act which prohibits domestic trade by foreign-built vessels.

The Bureau of Public Roads has imposed quite naturally unrelenting pressures for the lowering of bridge clearances over inland waterways which would effectively retard navigation and the related shipper benefits.

The Bureau of the Budget has recently superimposed its own unrealistic cost-benefit ratio system of evaluating waterway development projects. More of this in just a moment.

The Bureau of the Budget and the Treasury Department have perennially proposed waterway user charges applicable only to shallow-draft domestic vessels.

Currently, the Treasury Department, through the Coast Guard, is seeking to take control of the manning schedules of towboats.

And, the Council of Economic Advisers, in its most recent report, urged that minimum rate regulation be based upon short-term incremental costs, a theory long advocated by the railroads. The Council report stated:

Some traffic on which rate reductions are not proposed will pay more than marginal cost and in this fashion fixed costs will be met.

This is the Council's simple solution to the economic enigma this formula suggests.

Inimical overt acts by public officials have been matched by their failure to perform as required by law.

They have failed to intervene generally in the public interest in ICC cases as required by law.

They have failed to promote rail/water freight coordination as required by law.

The Commerce Department has failed to interest itself positively in the development and maintenance of a sound domestic deep-draft fleet on the Great Lakes and offshore.

The water carriers have survived this onslaught and this disinterest only because the Congress, over its long experience, has fully realized

the importance of the water carrier industry and its vulnerability, as an industry of small units, to predatory attack by its larger competitors. In our opinion, Congress has done a good job in the field of freight transportation. Our industry urges no diminution of congressional authority. No strong argument has been presented in these proceedings which would justify such a sweeping change, as it affects freight transportation.

Another development which illustrates the potential far-reaching effect of power to impose new criteria is the change, as of late 1964, in the cost-benefit ratio calculation method as imposed by the Bureau of the Budget. As a result of the change, the Corps of Engineers can no longer use actual freight rates from which to calculate savings which would result from waterway improvements. On the contrary, they are required to use hypothetical estimates of probable rail freight rates which might result after the construction of the waterway project being studied. Aside from the obvious fact that these involve using a "rubber yardstick," there is no logic to the method as it is in direct conflict with the fundamental precept of benefit determination by which the conditions without the project are to be compared with those expected to obtain after the project is completed.

These are the only indications, which can indicate to us the nature of the "standards and criteria" called for in section 7 of this bill. The water carriers cannot long survive much application of this type of criteria.

The real problems which will affect the destinies of all for-hire carriers, as well as shippers and consumers, have been totally ignored in the present bill. Some of these are:

The inadequate enforcement and penalty provisions of the Interstate Commerce Act relative to freight rate discrimination and destructive competitive practices;

Common ownership of different modes of transportation by railroads;

Exemption from ICC regulation of certain commodities carried by one mode and not by another;

The undefined jurisdiction over regulated and unregulated carriers, frequently call "gray areas";

The improvement in the rule of minimum rate-making;

The special exemption given to the Government under section 22 of the Interstate Commerce Act; and the matter of railroad mergers.

Moreover the bill does not deal directly with the pressing problem of the mass transportation of passengers in urban areas.

It is the judgment of the common carrier conference, Mr. Chairman, that the Department of Transportation Act, whether it is amended in the fashion already sought by many others or whether it is not amended at all, would fail to fulfill an essential role in effective transportation management in the interest of the United States.

Mr. HOLIFIELD. Mr. Hershey, the bells have been ringing for quorum call and the members will have to answer.

At this time the Chair would like to include the rest of your statement in the record, if it is agreeable to the gentleman.

Mr. HERSHEY. That will be entirely satisfactory to me, sir.

Mr. HOLIFIELD. And it will be included in its fullness in the record. I regret that the bell interfered at this time.

Mr. HERSHEY. I appreciate the opportunity of giving the testimony. Most of it had been concluded.

Mr. HOLIFIELD. Yes. We will reconvene in this room at 2 o'clock and at that time we will hear Prof. Martin L. Lindahl and Mr. Joseph B. Hartranft, Jr—if the witness would like to come back at that time.

Do the committee members have questions?

Mr. BROWN. I have two questions. If it is convenient for him to come back?

Mr. HOLIFIELD. If you will come back at that time, we will in the meantime have read the other two pages of your testimony and put questions to you.

Mr. HERSHEY. I will be available, sir.

Mr. HOLIFIELD. Thank you.

At this time, the acting chairman would like to yield to the distinguished chairman of our committee, Mr. Dawson, of Chicago.

Chairman DAWSON. Mr. Chairman, and members of the committee, there are present in the room a delegation from one of the public schools in my district. The students are from the Oakenwald Public School, Chicago, Ill.; there are 45 students and 5 teachers. We are happy indeed to have you with us. We are sorry at this time that we have got to adjourn because there has been a call from the House and we have to go back to the House.

I am sure that you will find plenty around to amuse you in the meantime. And if you can come back—we will be back at 2 o'clock—we will be happy to see you back again. So, we will all hurry over, the members of the committee, to attend the session of the Congress that has been called.

Mr. HOLIFIELD. The acting chairman would also like to add his word of welcome to the pupils from this Chicago district. We would like to call to their attention and the attention of the members of this committee that today is the birthday of our honorable and respected chairman. This is a special day for him and one in which I know that members of the committee extend to him our congratulations and our appreciation for his many years of dedicated service, to the people of his district and the Nation, and I am sure all the pupils here would be glad to wish him a happy birthday. [Applause.]

Chairman DAWSON. Thank you.

Mr. HOLIFIELD. The committee is adjourned until 2 o'clock.

(Whereupon, at 12:15 p.m., the hearing was recessed to reconvene at 2 p.m. this day.)

#### AFTERNOON SESSION

Mr. HOLIFIELD. The committee will be in order.

Mr. HERSHEY, will you please resume where you stopped on your statement and finish your statement for the record?

Mr. HERSHEY. Thank you very much, Mr. Chairman.

The proponents of the bill thus far have repeatedly asserted that the centralization of controls in transportation is necessary to make certain that the United States will have adequate capacity to meet the needs of our growing population and economic development in the future.

In our opinion, Mr. Chairman, I should like to state for the record, this false argument will not stand the light of the facts. The way to assure adequate capacity in transportation is to make certain that fair prices are paid for transportation services rendered and that destructive competitive practices are curbed. When transportation companies are enabled to realize a fair return on investment, comparable to that enjoyed by private companies in other industries, there will be no shortage of either rail or highway rolling stock, of vessels, of barges, of aircraft, or of pipelines.

The railroads have recently attributed the freight car shortage to lack of funds available for new construction. They have even suggested that the Federal Government should subsidize the railroads through special tax relief despite the fact that in 1965 the rails paid an average Federal income tax of 17.8 percent compared to the regulated water carrier effective tax of from 40 to 48 percent.

The way to meet national growth requirements does not lie in the direction of Government controls nor tax relief. It lies in assuring that every carrier, if efficiently managed, can recover, through fair and equitable rates, the dollars it requires to make it profitable to reinvest in its own business. Only this solution, Mr. Chairman, will resolve our transportation shortages today and prepare all modes to fulfill their respective transportation opportunities tomorrow.

The history of human activity has proved time and time again that the existence of a monolithic structure, dominating policies, decisions, innovations, and initiative, tends to stagnation rather than vitality. In the case of Government domination of an industry, centralized controls invariably restrain development rather than fostering it and, in our opinion, the existence of a dominant national transportation agency would be a long step along the road toward eventual nationalization of one or several transportation modes.

The American transportation industry has consistently met and overcome challenges imposed by population growth, geographical and economic expansion, competition, and national emergency. It has quickly adopted technological developments from all fields to improve equipment, safety, and service to the public and the Nation. It is unlikely that the forces at work in every mode will long view today's challenges as problems but will, rather, consider them what they truly are, opportunities for progress and prosperity. It is with this conviction that the common carrier conference of domestic water carriers has taken its stand today.

We are opposed unequivocally to the establishment of a Department of Transportation empowered to replace congressional judgments, congressional responsibilities, and congressional actions which will guarantee in the future, as in the past, that the United States will continue to have the best freight transportation system in the world.

Thank you.

Mr. HOLIFIELD. Thank you, Mr. Hershey.

There are so many things in your statement which seem to me to be out of line with the situation as I understand it that I won't take the time to go through it, because we would be here the rest of the afternoon. And I readily concede that you certainly have a right to every point that you have made as far as testimony is concerned. I would like to comment on one or two things.

In the first place, your industry, the railroads, the trucking industry, and the aviation industry have all been supported by the Federal Government, and it is because of the fact that you have been subsidized that the Congress, of course, has continued an interest in these different arrangements. You point out that the average Federal income tax of 17.8 percent was paid by the railroads as against 40 to 48 percent. I assume you called that to the attention of the committee because you are dissatisfied with it and on the face of it it certainly does seem to be a disparity in treatment. But you got this treatment under a noncoordinated transportation industry, with each mode of transportation fighting for its own support and its own regulatory treatment.

Now, it does seem to me that if the transportation of this country as an overall subject is a matter of concern to the people, and I believe it is, and I think it will continue to become of greater concern as the population increases, that you might be willing to try to coordinate some of these different facets of transportation, at least to the point where a central body somewhere would be looking at this difference that you have called to our attention along with many other so-called inequities, because each industry, as it comes before the Congress, claims that they are being treated more inequitably than others and they come before separate committees and give their separate testimony to separate committees and there is no one really to compare. There is no central area of coordination or of comparison between the types of treatment, types of subsidy and the types of inequitable regulation which occurs in these four different main facets of transportation. It does seem to me that you are living in a situation of inequity as far as your own statement is concerned and you haven't been able to solve it under the present system. It is hard for me to understand why you would not want some central national transportation policy formulated and recommended to the Congress for adjustment of some of these inequities. That is the purpose of this bill, to establish a national policy.

We do not have a national policy on transportation. We have four national policies at the present time, for the four different modes of transportation. We have four different jurisdictional committees, four different regulatory bodies, and the purpose of the bill, is the coordination of these different policies and seeing if we can find one that will deal equitably with all of the different modes of transportation.

Now, the principle of placing related functions together in one agency is a well-established principle of government. For instance, if we had four departments of defense, if we had the Army Department, Navy Department, Air Force Department, and the Marine Department, all of them separately, none of them coordinated, each one fighting the other for support of Congress and each one being regulated by a different regulatory body, why, we would have a real chaotic condition in the field of defense.

It is the same with many other programs of the Government where the attempt has been to bring them together into one coordinated effort to accomplish the main objective of the different sections of service to the Government and to the people. This is what we seek to do here.

It seems as if every time we seek to do anything like this, we have opposition. We have had it in other agencies before and yet after we do put them together, they seem to work a little bit better. It follows a pretty well-known principle in business of having a centralized board to control the activities of a corporation that may be engaged in producing and selling and transporting and many different phases of business, and to have somewhere a board of directors that can look at the overall operation and at least make recommendations to the stockholders and, in this instance, it would be recommendations to the Congress to solve some of these conflicting problems which everyone recognizes exist.

Mr. HERSHEY. May I comment just briefly on what you said?

Mr. HOLIFIELD. Surely.

Mr. HERSHEY. You spoke of coordinated transportation, which is a recognized problem among all transportation people in the business and government sector. No transportation industry in the United States has worked harder for coordinated transportation with respect to through movements and joint rates on commodities which would be rail-borne part of the way and ship-borne another part of the way.

The effect of the adamant refusal of the railroads to afford the same proportional rates or divisions to water traffic as they do to connecting railroad traffic has impeded that development tremendously. We have gone through the Interstate Commerce Commission, we have gone to the courts, no less than three times and have had these cases come to the Supreme Court, and each time the Supreme Court has instructed the Commission to insist that the railroads accord the same treatment to water carriers. However, there is no penalty for refusal to abide by the clear language of the Interstate Commerce Commission Act. There is no substantial coordination between rail and water transportation on the river systems of the United States.

Now, this is a real problem. Yet, this Department of Transportation bill has nowhere in it anything that would even affect that problem.

On the question of subsidy—

Mr. HOLIFIELD. You are speaking of the regulatory practice?

Mr. HERSHEY. That is where the problem is.

Mr. HOLIFIELD. Certainly. And the fact that this does not deal with it doesn't mean that a study of the problem by a central body such as this, as the Secretary and his associates would be, would not develop some recommendations along this line for Congress to consider. You describe the condition of chaos which all of us recognize exists, but when there is any attempt to make a study to develop the relative merits of the different forms of transportation and the relative inequities with the purpose of coming up with a national coordinating policy and with the recommendations which undoubtedly will require legislative assistance, each facet of transportation seems to be desirous of maintaining the same condition of chaos that they are comfortable in. Maybe they are complaining but they are so comfortable that they don't want to chance anything that might possibly either solve their problem or might give them more of it, it seems to me.

Mr. HERSHEY. This is not true of the water carriers at all. I have enumerated the problems I think should be solved, but I think they are in the lap of Congress.



Mr. HOLIFIELD. Congress has failed to solve these because they have never been presented with an overall coordinated national transportation policy.

Mr. HERSHEY. Well, the policy as set forth in the Transportation Act of 1940 and all the powers with respect to transportation stem from Congress. Therefore, Congress alone, without the help of a new department at the executive department level, can, if they will, solve these questions.

Mr. HOLIFIELD. Well, this is a theory which I would admit might be possible but it simply doesn't work that way.

Mr. HERSHEY. It has been difficult, I will admit.

Mr. HOLIFIELD. As long as we had the Department of the Army, Department of the Navy, Department of the Air Force all working separately, all bringing up their budgets without any kind of coordination and so forth, why, we had a chaotic condition. When we finally formed the Department of Defense we had a comparison of budgets, we had a comparison of policies and, of course, that is not—I don't say that that is a hundred percent satisfactory but at least we have had a more coordinated Department of Defense, I believe, since that happened, than it was before.

I served on the old Military Affairs Committee before there was a Department of Defense, and I know personally that each department of our defense forces, each agency, I should say, was going to fight the war and win it all by itself without regard to any help from anybody else.

Mr. HERSHEY. I can see the difficulty of the overall problem. With respect to the analogy on the Department of Defense, however, I would respectfully point out that you have a situation there where you are dealing with a Government function entirely. Here the problem is to try to develop a climate and a system of promotion, if you will, a subsidy, and regulation which will encourage the flow of private capital into transportation at a rate commensurate with its requirements. In that context it is a more difficult problem.

Mr. HOLIFIELD. That hasn't been done, and there is no indication that it will be done, because the Congress is just not built to initiate an overall program. They don't do this—the implementation of legislation is in the executive department and the executive department sits in judgment upon its own function and proposes and the Congress disposes.

Mr. HERSHEY. I understand.

Mr. HOLIFIELD. If you think you can get four committees of Congress, each one dealing with a different mode of transportation, to sit down and draw up a coordinated national policy on transportation, I think you are being unrealistic because it never has happened and never will happen. If a coordinated policy is developed and brought up, it is possible that the four committees of Congress might acquiesce in it, they might modify. Nothing that comes up from the executive department is sacred. We look it over carefully as we will look this over carefully. We will consider the testimony and amendments offered here. Our staff and the members will study it and we will have the Government witnesses back to testify on the points raised and perhaps out of that we will come to the conclusion that we can do something beneficial to all of the modes of transportation, and

perhaps we would come to the conclusion that we can't and we will not report the bill. These are all possibilities. This is the procedure we are going through at this time.

Mr. HERSHEY. I think it is interesting that when you talk about investment criteria—and certainly, as a citizen as well as a witness here today I applaud any effort which will bring maximum prudence to Government expenditures—and yet nowhere in here is there any assurance that the specific investment criteria which would be applied to my business with respect to the development of the waterways would be the same for investment in highways or anything else.

We have already seen in the last year the adoption of a cost-benefit ratio calculation on the basis which is absolutely absurd from the standpoint of any medium that you could possibly use to judge it.

Mr. HOLIFIELD. If it is absurd, and I am not saying whether it is or not, the committee of jurisdiction can change it. The committee of jurisdiction in the Congress can change it if it is absurd.

Mr. HERSHEY. Just one bit of clarification. When I mentioned the difference between the income tax paid by railroad and barge, I was not in any way objecting to the railroads' financial situation.

In fact, I realize the implications of their large investment program. I was simply trying to make the point that in the long range the way that you assure the economy and the government of transportation capacity is to make sure that the climate, measured in terms of reasonable rate of return, is such that capital will flow into the industry in competition with capital requirements elsewhere.

Mr. HOLIFIELD. I agree with that principle in general. I think it is a general principle we all agree with.

Mr. Brown wanted to ask a question when we adjourned.

Mr. BROWN. Yes. I would like to pursue two or three points, but I feel obliged to comment on a point you made. Since we had the coordinated Defense Department this country fought two wars, Korea and Vietnam, so apparently it doesn't resolve all the problems just to have a unified Defense Department.

Mr. HOLIFIELD. Of course, the fighting of a war has nothing to do with—I consider the gentleman's remark as irrelevant from the standpoint of logic, because wars come whether you have four separate agencies or one coordinated agency. It is a matter of opinion as to whether those wars were fought better under the coordinated defense system than before. At least, Congress had no—I have not known of any Member of Congress proposing a dismantling of the Defense Department into its prior independent agencies of defense.

This committee handled the bill which established the Department of Defense and I handled the bill on the floor. We have criticized things the Department of Defense does, and our report last Friday criticized Department of Defense actions. I think that is entirely within the scope of the Congress to criticize, but I have heard no one advocate dismantling the Department of Defense and going back to the former position of four independent agencies.

Mr. BROWN. Mr. Hershey, you have suggested in your testimony that it is possible that Congress can set standards and criteria for the transportation industry and assure a balance in the modes of transportation better than a presumably single-minded secretary of

transportation or a Mr. X in the White House executive branch that we have discussed earlier. Where do you get an idea like that?

Mr. HERSHEY. Well, I get an idea like that because of the fact that the appropriate committees in Congress have had a great deal of continuity and seniority in membership, and they have dealt with these problems continuously over a period of time.

Despite the apparent fragmentation and chaos that exists in the relationships between the modes of transportation and the relationships between the individual modes and government, there has not been any shortage of overall transportation capacity even for a single mode except for perhaps some very, very short period of time relating to natural phenomena or peak harvest or something of that order.

In other words, what I am trying to say is I think that we have moved the goods of the Nation and we have moved them at rates which are far and away cheaper measured by any yardstick that exist anywhere in the world and we have moved them at an average yield on investment for the transportation industry of less than one-half of the yield of investment of industry generally.

Now, I say how much better are we supposed to do? Of course, we have problems. But we feel that Congress, because of its intimate connection with all forms of transportation and the seniority of its members and staff are better equipped to deal with this problem than any executive department.

Mr. ERLNBORN. Would the gentleman yield?

Do I understand that you are really suggesting here anything as radical as that Congress should be establishing national policy and the executives should execute this policy? Is this really what you are saying? That Congress should return to its constitutional role of developing and announcing public policy?

Mr. HERSHEY. I think basically that is what I am saying; yes.

Mr. ERLNBORN. Well, I would like to say that I thoroughly agree with the gentleman and—

Mr. HERSHEY. I hope that isn't considered heresy here.

Mr. ERLNBORN. I agree with the gentleman, but there would be those I think who would feel revolted by the thought that Congress would be put back in the role of developing and establishing national policy rather than just agreeing to it.

Mr. HERSHEY. I may be a bit naive, but I don't feel revolted by the idea.

Mr. BROWN. Don't you realize that in Congress there are strong advocates of each mode of transportation and that these people would vie for attention of the mode that they may have a vested interest in so that there would not result a single-minded idea within Congress as there would be in the case of the Secretary of Transportation?

Mr. HERSHEY. Well, I have lived in that climate in the transportation industry for 25 years. It has been rather interesting and energetic and certainly Congress can't be expected to speak with one voice at any one time. But out of the system there has come a viable climate in which the various transportation modes have survived, some have prospered, but in the main they have done the job transportation is supposed to do.

Mr. BROWN. You have also suggested something else which I would like to get either your comments or perhaps Mr. MacKenzie's com-

ments on, and that is by giving over to the Secretary of Transportation the right and obligation of establishing standards and criteria for the various modes of transportation, that Congress may be yielding up some of its constitutional prerogatives and obligations to the executive branch of the Government. Is that really what you are suggesting? Is there any danger in that?

Mr. HERSHEY. May I refer that question to Mr. MacKenzie.

Mr. MACKENZIE. I, as a lawyer, feel that there is a considerable danger along that line. It seems to me, No. 1—and this is not the core of the issue that seems to trouble us—but we are transferring laws and functions which I might point out under the Rivers and Harbors Improvements Act, which define the standards which the Corps of Engineers should apply in evaluating the feasibility and desirability of any given proposed improvement.

The Corps of Engineers, in doing that, will oftentimes be acting at the request of Congress. Now, those standards which I can read do not refer, for example, to elements of consideration of intermodal competition. They don't refer to any decision which might be called upon to be made as to whether rail or water transportation would be best under the circumstances.

They view the improvement in terms of public benefit as opposed to Government cost, both to build and maintain. We feel that there are problems when Congress directed the corps to apply certain standards, specifically in existing laws. Then we tell the Secretary of Transportation to, No. 1, develop criteria and No. 2, determine facts which may be wholly inconsistent with those considerations to be made by the corps.

We further provide that the corps must prepare its surveys and reports in a manner consistent with the criteria of the Secretary and must base its report on the facts developed by the Secretary. We feel that the report that might have gone in under existing laws would be totally different under the new law.

I think we feel, in addition, stated briefly, that there is a general principle with respect to the delegation of legislative power which we feel—and I think as a good principle of law, exists—that while it is proper to delegate power, it is proper to do so only with adequate guides restricting, limiting and defining the exercise of that power. We don't think that exists either in section 7 or section 2 or 4(a).

Mr. ERLNBORN. Will the gentleman yield?

In other words, you are saying—and I agree with you in the interpretation of section 7—there would almost be a necessity that you interpret it to mean that the standards and criteria now established by Congress are superseded by the standards and criteria to be established under section 7 by the Secretary of the Department of Transportation.

Mr. MACKENZIE. Yes, I do.

Mr. ERLNBORN. In other words, by implication we are repealing those standards and criteria already established by Congress and giving up, as a congressional prerogative, the right to establish these standards and criteria to the new Secretary.

Mr. MACKENZIE. Precisely my feeling.

Mr. ERLNBORN. Would you view also, Mr. MacKenzie, the provision in section 4, page 4, line—well, parts of lines 2, 6, and 7—and agree that Congress is giving up its prerogative through this language? I will paraphrase it by leaving out the intervening language: "The Secretary, in carrying out the purposes of this Act, shall—" dropping down to line 6, "develop national transportation policies and programs." In other words, we are giving the right to the Secretary to develop policy rather than Congress itself developing the policy.

Mr. MACKENZIE. I agree wholeheartedly, and I feel that the deliberative process of Congress, where we can get a hearing as we are getting here today, is essential, I think, to all industry. I think that there is a great danger where the amount of capital investment that is required as it exists in the transportation industry. If we are forced then to chance changing policies and policies concerning which we may not have a voice, we may not be heard. We would do a great injustice to our program and I think Congress, just as you have indicated, is really relinquishing a power that belongs to it and constitutionally has been vested in Congress.

Mr. ERLNBORN. In other words, the development of a national policy certainly should be done in a public forum rather than behind the closed doors of a department?

Mr. MACKENZIE. I agree.

Mr. ERLNBORN. Do you know of any other department created by Congress that is charged with the obligation of establishing and developing national policy?

Mr. MACKENZIE. No, I don't. And I checked carefully. I checked the laws creating each of the other executive branches of Government. There is no parallel for this.

As a matter of fact, with respect to the other executive branches of Government—only the most recent with respect to urban affairs—has a purpose clause and that purpose clause simply describes the purpose. It does not, as does this purpose clause and general provision clause, direct the development of policies without limits and guidelines as to which policies should be developed.

Mr. ERLNBORN. Thank you.

I thank the gentleman for yielding.

Mr. HOLIFIELD. Has the gentleman studied the Water Resources Council setup?

Mr. MACKENZIE. Yes, I have, although as I said I was turning to executive departments of the Government. The existing executive departments of the Government.

I think I am generally familiar even though I don't have it before me, with the provisions of that act.

Mr. HOLIFIELD. If the gentleman will read that act, he will find that sections 103 and 104 have almost identical language with sections 7(a) and 7(b), and this was an act passed by Congress. I can read it to you:

The Council shall establish, after such consultation, with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related

land resources projects. Such procedures may include provision for Council revision of plans for Federal projects intended to be proposed in any plan or revision thereof being prepared by a river basin planning commission.

That is quite parallel to 7(a). Section 104 of the Water Resources Planning Act, reads in part: "Upon receipt of a plan or revision thereof from any river basin commission \* \* \* the Council shall review the plan or revision with special regard \* \* \*" to three factors, which I shall not read.

Mr. MACKENZIE. I am familiar with that and I didn't mean to indicate that didn't exist. I was referring to executive departments as we are talking about here, but I think there is a great distinction in a number of respects.

But I would say primarily in the respect that Congress ultimately will control those things that are recommended by the Water Resources Board.

Mr. HOLIFIELD. Congress will control anything recommended by the Secretary of Transportation, too. I have gone through that exercise this morning. And anything that the Secretary of Transportation proposes must have the scrutiny of the Congress. If they should throw out all existing criteria and bring up some radical new criteria and standards, I assure you that the Congress won't let the Secretary of Transportation get away with it.

It would be an irrational move on his part in the first place, and if he did do such a thing, the respective committee of Congress would haul him over the coals as quickly as they could get him up here.

Mr. ERLNBORN. Would the gentleman yield?

I think it is important to point out not only that this is not a department we are talking about, but also under the Water Resources Act the procedure that you have described does not charge the Council with establishing national policy. Nowhere do I find the language that empowers the Council to establish national policy.

Secondly, that the whole procedure referred to culminates in the recommendations being transmitted by the Council to Congress. In other words, this is a recommendation to be delivered to Congress contrary to the establishment of policy by a department without recommendations being transmitted to Congress.

Mr. HOLIFIELD. You bear with me just a minute on this.

As I read it, on page 4:

The Secretary in carrying out the purposes of this Act shall, among his responsibilities, exercise leadership under the direction of the President in transportation matters, including those affecting the national defense and those involving national or regional emergencies; develop national transportation policies and programs, and make recommendations for their implementation.

Who would he make the recommendations to? He would make them to the President. The President would make them to the Congress. It would be impossible for him to put into effect these studies unless it was referred to the executive branch and the legislative branch.

Going further:

Promote and undertake development, collection, and dissemination of technological, statistical, economic, and other information relevant to domestic and international transportation; and promote and undertake research and development in and among all modes of transportation and types of transportation services and facilities.

It seems to me that what we are doing is charging a group of duties to the Secretary of Transportation who will in turn recommend them to the President, who would recommend them to the Congress.

This is not conferring statutory powers upon the Secretary to put into effect a national transportation policy. It is for the purpose of doing the research and developing it.

Mr. ERLNBORN. Would the chairman yield?

It would appear to me that the powers granted by section 7 empower the Secretary, once he has established national policy, as charged in section 4, to implement it by the establishment of standards and criteria that must be followed in the development of every plan survey and report before they ever get to Congress.

Mr. HOLIFIELD. Providing Congress goes along with it.

Mr. ERLNBORN. I think the only proviso in section 7 is that the President agree.

Mr. HOLIFIELD. That is to ignore the functions of the Congress and I don't think we can ignore them.

Mr. ERLNBORN. That is what I fear.

Mr. HOLIFIELD. I don't think Congress would allow itself to be ignored. I have too much confidence in these full committees that have jurisdiction over these modes of transportation to think they would sit by and allow the President and the Secretary of Transportation to reverse and change and completely nullify all of the previous acts of Congress over the past decades. I can't understand that type of reasoning.

Mr. MACKENZIE. Well, may I say one more thing?

Mr. HOLIFIELD. Sure, Mr. MacKenzie.

Mr. MACKENZIE. So that I don't appear in any way even personally to fear such an extreme result, I think matters are much more subtle than that. I believe firmly we will have a very competent Secretary who will be a capable man and of competent action and consideration.

On the other hand, the Department of Commerce has interpreted section 4(a) to provide that the Secretary will seek implementation of his national policies and programs before, among others, the various regulatory agencies. I think here is an example of a case in which certainly he is not going to try to write out acts that have been enacted over 10 years. He is not going to take positions that would be subject to complete outright criticisms or would be in any way outrageous. But he will form an opinion, as every man must, and he will form it according to his best likes. But he will form it, we are afraid, without giving us an opportunity or the railroads or the truckers or any other interested party an opportunity such as we get in Congress to explain our views and then, when he has determined his policy, will appear as a party in an adversary proceeding, probably between private industries, and take a position one way or the other.

We feel then that when he is taking a position in a case involving the Interstate Commerce Act, for example, on what may be a reasonable rate, this is a matter of judgment but a matter which we believe the Congress had told the Commission to determine under the Interstate Commerce Act. This is under its prior decisions, under Supreme Court decisions, but in no place in the Interstate Commerce Act do we find any direction to any of the Commission's or any recog-

dition that what is or is not a reasonable rate will be what may or may not be determined to be such by a Secretary of Transportation.

Now he cannot determine——

Mr. HOLIFIELD. Just a minute on that point.

Do you think that the Interstate and Foreign Commerce Committee of the House would allow the Secretary of Transportation to put into effect a body of rates contrary to that set by the Interstate Commerce Commission?

Mr. MACKENZIE. I have no idea of a body of rates.

Mr. HOLIFIELD. Don't you realize that under the law that anything we would recommend along that line would have to go before the regulatory body, that there would be hearings held and that there would be notices to all persons and corporations and services affected to come before the Interstate and Foreign Commerce Commission, the Interstate Commerce Commission?

Mr. MACKENZIE. Yes.

Mr. HOLIFIELD. And have their day in court?

Mr. MACKENZIE. They will have their day in court, and to make my point as briefly as I can, I only meant to say I don't envision changes in laws and I know the Secretary is not going to propose specific rates.

The Interstate Commerce Act requires, among other things, that rates be reasonable. Now, if the Secretary determines that a reasonable rate or reasonable intermodal pricing in competitive situations is based on marginal costs or a criteria and goes to the Commission in an adversary proceeding and he states his position—as the Commerce Department has interpreted to be one of his functions—that it should be marginal or incremental pricing, he would be tremendously influential. He won't change the law, nor can he write the law. But Congress has directed that he make policies of national significance.

Mr. HOLIFIELD. That he recommend policies.

Mr. MACKENZIE. That's right. I wouldn't like to be either a plaintiff or defendant and have the Department of Transportation on the other side in an issue of that kind. We feel that it is now law, that his position has no part.

Mr. HOLIFIELD. It was testified today that the Secretary of Commerce has made recommendations which have not been accepted and he has pointed out a long series of attempts by executive departments to influence—I don't know why you think the Secretary of Transportation would have any more effect upon the Congress than the Secretary of Commerce or any other Cabinet position.

Mr. MACKENZIE. I think our concern is that no other executive department of our Government has been directed by Congress to make national transportation or national anything else policies.

Mr. HOLIFIELD. Not to make but to develop it and recommend it. Let's try to keep that clear. You speak as though the Secretary has the power to make the policy and order it implemented. The only thing that I read in the bill, and I read the purpose of it very carefully, is that he shall develop and recommend national transportation policies and programs to accomplish these objectives with full and appropriate consideration of the needs of the public, the users, the carriers, industry, labor and national defense. Who does he recommend it to?



He recommends it to the President and the President undoubtedly sends up a draft of a bill, as this bill has been sent up, from the executive department. It comes to the Congress. If it has to do with the railroads, it will undoubtedly go to Mr. Staggers' Committee on Interstate and Foreign Commerce, and there his recommendations would be considered.

Let's not jump over the intervening processes of procedure in our lawmaking process. The development and recommendations of policy is one thing but the enforcing of policy is another and I don't think the executive branch can enforce any kind of national policy that they might develop after all this consultation with the public needs. The users, the carriers, industry, labor and national defense, after all of this we will say that they have acted in good faith, as most Congressman and most members of the executive branch act, and they come up with a policy.

Now what happens? Is that put into effect automatically? Of course it isn't. If it is in a bill, it will be referred by the Speaker to the committee of jurisdiction, and that committee of jurisdiction has not had its powers changed one bit. It still has the same powers after this bill goes into effect as it had before. It has the same jurisdiction.

Even the jurisdiction of the particular mode of transportation is not changed. Maritime matters will go to the Committee on Merchant Marine and the railroads and aviation would go to Mr. Staggers' committee, so your jurisdiction isn't changed; your regulatory bodies are not changed. So it seems to me you are leapfrogging over all the protective processes of the Government and arriving at a conclusion of doom and gloom.

Mr. MACKENZIE. In a final comment, I don't believe that that is the result. I would think that there would be opposition among the drafters of this bill to limiting the action of the Secretary to recommendations to Congress through the President.

I may now go directly to the regulatory agencies and the Commerce Department so interprets that. It doesn't become law but he may go. He can impose his policies on the proposals and recommendations of the Corps of Engineers, for example, or of any other Government agency that makes a proposal with respect to the investment of Federal funds in transportation facilities or equipment. Then, in a vast change from existing procedure, as Mr. Cramer pointed out this morning, the schedule of the Corps of Engineers proposal report or examination going directly to Congress, it must first be written only if it will conform to the standards and criteria. It must conform. It must use the information of the Secretary.

Then, instead of going to Congress, it goes up to the President. We think there is a tremendous difference and we think these policies do become effective without Congress having to do with it, especially under section 7.

Mr. HOLFIELD. If I felt the same thing I would be against it too.

Mr. ERLNBORN. Would the chairman yield? Just to reenforce the witnesses' interpretation of the meaning of the words in this act, we should look to the briefing book prepared by the Department of Commerce and their own interpretation as draftsmen of the bill as to what this language means.

It says on page 2 of the summary of the bill, section 4(a) provide that the Secretary shall exercise leadership under the direction of the President in transportation matters and develop national transportation policies and programs.

Not to recommend them but to develop them. Then how does he implement them? The Secretary would carry them out or make recommendations for the implementation to the President, the Congress or the transportation regulatory agencies as appropriate. In other words, not always going to Congress but going directly to the regulatory agency if the Secretary of the Department thought that this was the proper way to implement it, the policy he has developed.

This would include participation by the Secretary as a party in the proceedings before a regulatory agency. So I think the witness is correct in this interpretation that the policy developed by the Secretary would not necessarily have to get the stamp of approval of the Congress or the President but the Secretary can go directly to the regulatory agency and appear as a party to the proceeding and this is the interpretation of the draftsmen of the bill.

Mr. HOLIFIELD. All right, let's analyze that sentence.

The Secretary could carry them out or make recommendations for the implementation to the President. What power does the President have that is not provided in statute?

Mr. ERLNBORN. Certainly broad power.

Mr. HOLIFIELD. Emergency power in the time of war. But in time of peace, the President certainly has a very limited power and no power to go beyond the statute, to contravene a statute.

Mr. ERLNBORN. We have national guidelines, without benefit of law, as to wage and the cost of goods, implemented with the full power of the Executive as we have seen in recent days, as to steel and aluminum. Certainly the——

Mr. HOLIFIELD. Only by persuasion.

Mr. ERLNBORN. True. Very effective persuasion.

Mr. HOLIFIELD. Well, if it be effective, then it is effective persuasion but it does not change the statutes. Any industry affected has a perfect right to resist and some of them have, as you well know, and there have been no violations of the law either in persuading or in resisting persuasion.

Now let's go to the Congress. So he comes to the Congress. Certainly we don't object to that. Or the transportation regulatory agencies. We certainly don't—if the Secretary of Commerce wants to go before the Interstate Commerce Commission today he not only may but he does and he will in the future, so you are conferring no additional power upon the Secretary to vote for a regulatory agency than you have right at this time by the Secretary of Commerce.

Now, in other words, there are checks in this matter all down the line and there are also checks on regulations that it must be under the Administrative Practices Act, consistent and not in violation with the existing statute.

So you have got checks all the way up and down the line on this matter.

Mr. ERLNBORN. Charged by my colleague Mr. Brown, who unfortunately had to leave to testify before another committee, to ask one

last question, we have been talking here about Congress giving up some of its historic constitutional powers to establish policy. My colleague wanted me to ask the attorney for the witness, if there is anything wrong with this.

Have the courts ever found that Congress has unconstitutionally attempted to delegate its authority?

Mr. MACKENZIE. This has been found to be unconstitutional in a number of instances. The courts have held that there may constitutionally be a delegation of power only if there are reasonably ascertainable standards within which that power should be exercised by the nonlegislative body to implement it.

Mr. HOLIFIELD. The Chair is in agreement with that statement.

Mr. ERLNBORN. I think the witness and I might agree that those guidelines possibly are not clear in this bill.

Mr. HERSHEY. We would agree.

Mr. HOLIFIELD. I might add this committee will do some clearing up if they are not.

Thank you, gentlemen.

The next witness is Prof. Martin L. Lindahl, member of the Transportation Committee of the New England Council of Economic Research.

Mr. Lindahl, go ahead.

#### **STATEMENT OF PROF. MARTIN L. LINDAHL ON BEHALF OF THE NEW ENGLAND COUNCIL**

Mr. LINDAHL. Mr. Chairman and members of the committee, my name is Martin L. Lindahl and I appreciate this opportunity to appear on behalf of the New England Council before your committee to testify in support of H.R. 13200, the proposed Department of Transportation bill. I am a member of the faculty at Dartmouth College and serve as a member of the transportation committee of the council.

As you may know, the New England Council was established in 1925 at the request of the six New England Governors. It is a private nonprofit organization with a broadly representative membership interested in the sound economic development of the region. As a consequence, it is particularly interested in legislation that would strengthen and improve the transportation services in New England.

##### **I. BRIEF HISTORY OF THE NEW ENGLAND COUNCIL'S INTEREST IN TRANSPORTATION MATTERS**

The New England Council has a continuing interest in the adequacy and financial health of all forms of public transportation serving New England. Because of our location in the northeast section of the country, we are very dependent on the maintenance of an adequate transportation system. Few regions in the Nation rely so completely on long-haul transportation as does New England in acquiring raw materials, fuel, and basic food supplies, and in marketing finished products. The adequacy and efficiency of the transport system have a basic impact on the economy of the region.

The council has over the years been actively interested in a number of important issues affecting transportation services in the region. For example, at present the council is a party in the Penn-Central merger case and the reopened Norfolk & Western-Nickel Plate merger proceeding before the ICC and the New York-Florida renewal case and the Mohawk route 94 realignment investigation before the CAB. Last year the council vigorously supported the enactment of legislation to establish the high-speed ground transportation program and is now following with great interest the demonstration project in the northeast corridor. In 1962 the council prepared a summary report entitled "A Master Plan for Regional Airports To Serve Scheduled Area Transportation Needs of New England." This report, a unique effort to plan for the essential facilities for providing effective regional air service, has had a wide impact. One result of the study was the New England regional airport investigation before the CAB.

In both administrative and legislative matters affecting transportation, the New England Council has attempted to present the public interest in an adequate transportation system.

One result of our interest in transportation matters has been the development of some understanding of how diverse and fragmented are efforts at the Federal level to deal with transportation problems.

## II. INTEREST OF THE NEW ENGLAND COUNCIL IN THE PROPOSED DEPARTMENT OF TRANSPORTATION

We believe that the proposed Department of Transportation provides a significant opportunity to strengthen and improve transportation services in New England. We are faced with several difficult and serious transportation problems at the present time, the most critical being the continuation of satisfactory railway freight and passenger service in southern New England. More sustained research, planning, and promotional efforts on the Federal level could be of great potential value in reaching solutions to these regional transport problems.

The importance of more effective and coordinated transportation services cannot be overemphasized. Available economic projections indicate that New England will continue to be an area with one of the largest concentrations of population, income, and wealth in the Nation. It is estimated that by 1970 population will have increased to 11.8 million from its 1960 level of 10.5 million. Employment, labor force, and output figures will show comparable increases.

It should be noted that New England has become a service economy; that is, one dependent on high levels of education and skill. And amongst the services which have been developed in recent years, particularly, have been research and development. Education has been a foremost service for many, many years as have insurance, finance, and related industries as well. Recreation is very important; not only tourism in the summer months but, also, we are rather famous for winter sports. In all these industries and services, we realize that intimate links with the overall U.S. economy does require consistently improved transportation systems to other regions of the Nation.

### III. IMPACT OF THE PROPOSED DEPARTMENT OF TRANSPORTATION ON THE ADEQUACY OF TRANSPORTATION SERVICES IN NEW ENGLAND

In our efforts to express the public's interest in improved transportation services in New England, it has been a source of continuing frustration that transportation activities are so fragmented at present, and, as a consequence, inadequate data must necessarily serve as a basis for reaching decisions.

For example, we believe that the Federal Government should have done far more to develop an adequate factual record for decision in a proceeding of the significance of the Penn-Central merger case. To rely on private parties and civic intervenors to define the public interest is not enough. The Government can do much to fill the information gap and we should fully expect the new Department to move rapidly in this direction.

In addition, the new Department, by coordinating the principal programs that promote transportation in the United States, can provide important help to a region such as New England to deal in a more efficient and uniform way with its transportation problems. Where in the past it has been necessary to make contact at various levels in a variety of departments and agencies, the new Department can be expected to provide essentially one-stop service.

There is little disagreement that research and development efforts in the transportation field have lagged. Not only is there a lack of uniformity in R. & D. expenditures in relation to particular modes, but the overall research program has been inadequate. We should expect the new Department to take a comprehensive look at existing R. & D. activities and take immediate steps to improve both the quantity and quality of transportation research.

New England has been on the forefront in efforts to improve the safety of highway transportation. Following World War II a rather substantial program, which predated the launching of the Interstate and Defense Highway System was undertaken in New England. We rate very highly the important contribution that the new Department can make to strengthen safety programs for all forms of transportation.

Key to the success of the new Department will be its ability to place maximum reliance on privately owned transportation facilities operating under the incentives of private profit. Incentives must be provided to the private sector to meet transportation needs. We should expect that increasing reliance could be placed on competition within a framework of flexible guidance designed to insure a system adequate to meet national security and emergency demands, as well as those of a rapidly expanding economy.

In all of these ways, the interests of my region, as well as the country as a whole, should be better served.

### IV. CONCLUSION

This brief recital of some of the advantages of the new Department is far from exhaustive, but we hope it is sufficient to point out the importance of lodging in one department the responsibility for providing the necessary leadership in seeking solutions to transportation problems. At present the organizational framework in which

transportation policy is made at the Federal level constitutes a distinct barrier to substantive accomplishment. Only by means of a new Department can sound and consistent national transportation policies be evolved. To develop a sound transportation system, it will be necessary to integrate fully all modes. Undue emphasis or neglect of one mode or another constitutes a direct drag on the economy of a region such as New England and the Nation as a whole. By combining the nonregulatory transportation services in one department, the Federal Government will be in a better position to assume its historic responsibility for the development of a high quality transport system to serve the needs of the future.

Mr. HOLIFIELD. Thank you, Professor Lindahl.

Mr. Erlenborn, you have some questions?

Mr. ERLNBORN. I noticed, Professor Lindahl, you made reference to several cases that your group was interested in and that you appeared before certain agencies to advance your interests.

Mr. LINDAHL. Yes, sir.

Mr. ERLNBORN. And most of these agencies that you appeared before were regulatory agencies, were they not?

Mr. LINDAHL. Yes; they were regulatory agencies.

Mr. ERLNBORN. You understand, of course, that this bill would not call for the merger of the regulatory agencies in the new Department.

Mr. LINDAHL. Yes, I fully understand that, but the reason we suggested these things was to indicate that New England has had some experience in the transportation field with respect to the making of policy and formulation of policy and the implementation of that policy. Of course, we have also had very close connections with the FAA, the Interstate Commerce Commission with respect to safety and some of its other functions, and the Department of Commerce.

The Department of Commerce, for example, has been rather concerned with some of the problems in New England. Recently a study was completed by one of the research organizations in New England having to do with traffic flows. It was hoped that that study would have been prepared and completed prior, say, to the New York Central merger proceedings so that such evidence could have been presented, but it did not happen that way. But we are suggesting these things to indicate that we are concerned and that with respect to at least the CAB and the ICC in each instance they have important functions with respect to safety and, of course, that is one aspect of their operations which would be carried over to a Department of Transportation.

Mr. ERLNBORN. I think you also indicated that you feel that we cannot rely completely on the private parties and people with civic interest to adequately represent the public interest before the regulatory commission, so you are, I would guess, in favor of the right of the Department of Transportation, if formed, to appear as a party to these proceedings before the regulatory agencies.

Mr. LINDAHL. Yes, I would, because it would be a repository for important information. As I see it, one of the big advantages here would be a concentration on the gathering of information and the carrying on of research from which conclusions could be drawn. It would seem that in many instances this information would be extremely valuable to a regulatory body in making decisions.

At the present time, of course, each of the agencies does have research facilities and research staff, and each one does present information, but usually they are more or less of an ad hoc type of study, whereas a department would be a continuing research organization, which, I should think, would be very helpful in formulating policy and presenting views to regulatory bodies on important issues.

Mr. ERLNBORN. Do you see the function of the Department in appearing as a party to these proceedings before regulatory agencies as being something beyond the gathering of information and the carrying on of research in order to develop and implement national transportation policies. Do you think this is desirable?

Mr. LINDAHL. Yes. I should hope that inquiries would be made into national transportation policy. After all, it is a very important issue to decide what resources should be allocated in the public sector, or even the private sector, to transportation and you have the further problem of allocating resources among the various modes. If you have studies made of the various needs and requirements of a growing economy and a growing nation; I should think that some of these matters would be important to a regulatory body, even though it is undertaking, in some instances, what might be regarded as rather unimportant decisions to the economy as a whole, because the decisions that are made could have an impact upon the allocation of resources and the development of the efficiencies of the various modes.

Mr. ERLNBORN. Do you feel that the Under Secretary of Transportation of the Department of Commerce could presently serve this function, or does he presently serve this function?

Mr. LINDAHL. He has served this function. I do not recall if there have been any formal entries into many cases—I did suggest that there was some thought they might handle the Penn-Central merger—I cannot recall any particular case, but certainly he could, and, of course, the Under Secretary has sought to encourage and has undertaken researches of various sorts.

For some years prior to 1962, there was an advisory or so-called transportation council associated with the Department of Commerce made up of some 70 representatives from the various modes—from shippers and a few from academic life—and we undertook to make studies of various transportation problems which were assigned to us by the Under Secretary, but we did not have many research facilities or anything like that. It was simply a matter of digging out information and then trying to arrive at a consensus among the various modes, which is rather difficult at times. You will be interested to know that Mr. Forgas, who is prominent in the transportation field, headed up a panel back in 1960 and made a report in which—I think we had almost unanimous approval for the development of a Department of Transportation. It just occurs to me that was illustrative of the sort of problem which this transportation council sought to study and to make recommendations on.

Mr. ERLNBORN. Well, I was interested in finding out if the Under Secretary of Transportation in the Department of Commerce does appear as a party to these proceedings.

Mr. LINDAHL. I think so. I think Agriculture has appeared and we know Justice appears in these cases, and I do not see any reason

why the Department of Commerce could not, too, particularly in merger cases where you have issues such as what is the effect of increasing size upon the economies of scale? Are there diseconomies involved in growth? That is an issue which has been debated on and on which there has been research and so on, but there is room for a good deal more and if we had information like that, it would probably be very useful.

Mr. ERLNBORN. This probably resolves a question I had as to the authority of the Department of Transportation, once created, to appear as a party to these proceedings. I find no specific authority in this bill, so the authority must be granted in the laws creating the regulatory agencies, their rules and regulations, or the Administrative Procedures Act.

Mr. HOLIFIELD. Will you yield?

The Department of Interior, I know of cases, personally, where they have appeared before the Federal Power Commission and represented the public interest on cases—many of which they have lost, incidentally—but, nonetheless, they did appear. In some instances, they prevailed; in some they lost. I can recall the Department of Agriculture appearing before the Interstate Commerce Commission on behalf of the Government commodity rates on shipments of Government commodities. I can think of no more equitable position than an agency of Government representing the people of the United States appearing before any regulatory body as an appellant or as a witness on cases that involve the public interest. Certainly, it is their duty. It has been done and I think it might be a good idea for this staff to settle this point definitely by inquiring of the agencies as to this particular point.

Mr. LINDAHL. Yes. It has the big advantage that a department has in having the resources to undertake these studies, and if it does not have the resources, it can always engage a consulting firm, which, as I have suggested, it does, or it can do. Individual communities, or even the New England Council, have very limited resources and they just cannot do the sort of thing that a Federal agency could do.

Mr. ERLNBORN. I have no further questions.

Mr. HOLIFIELD. I notice, on page 4, in your footnote there, you referred to a study by Arthur D. Little Co. prepared for the development of conservation on water resources by the U.S. Army Corps of Engineers, so I believe it is also frequently the case that different departments of Government hire a professional consultant to make studies and to testify, in fact, on complicated rate cases.

Mr. LINDAHL. Yes. The study that I referred to, the New England railroad study having to do with rail freight traffic patterns, was also done by Arthur D. Little on a contractual basis.

Mr. HOLIFIELD. Was that particular study done as a result of interest on the part of the Army Corps of Engineers?

Mr. LINDAHL. Yes. I think the Army Corps of Engineers has been interested in river basin development—of course, in New England, primarily the Connecticut River and to some lesser extent with the Merrimac and some of the others.

Mr. HOLIFIELD. Was the action of your council unanimous in supporting this bill?

Mr. LINDAHL. I beg your pardon?



Mr. HOLIFIELD. Was the action of your New England Council, as I believe you called it, unanimous in behalf of support of this bill?

Mr. LINDAHL. The transportation committee favored it and we have a policy advisory committee, and, to my knowledge, everyone favored it there.

Mr. HOLIFIELD. Will you check on that matter, please, and direct a letter to the chairman of the committee in relation to this question?

You, of course, can understand that if you appear here as a spokesman for the council, even if it is a majority of the council, it would have more weight with the committee than if you appear as an individual, making your own personal views on it.

Mr. LINDAHL. Yes.

Mr. Chairman, I could not ascertain the views of all the members of the council because there are hundreds, but as I have suggested, we do have the transportation committee, advisory policy committee, and an executive committee, and I would be very pleased to find out if there were any dissents. I do not believe there were, actually, but I should like to confirm that.

(The information referred to follows:)

THE NEW ENGLAND COUNCIL,  
Washington, D.C., May 2, 1966.

HON. WILLIAM L. DAWSON,  
*Chairman, House Subcommittee on Executive and Legislative Reorganization,*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: At the recent hearing on H.R. 13200 at which Prof. Martin Lindahl appeared to present testimony on behalf of The New England Council, Congressman Holifield requested additional information about whether the views of Professor Lindahl represented those of the council.

Professor Lindahl was speaking on behalf of The New England Council. In developing a position on proposed legislation in the field of transportation, the transportation committee of the council proposes a policy for adoption by the organization. A quorum of the committee voted unanimously to adopt the views contained in the testimony which was presented by Professor Lindahl.

Should you have any further questions on this matter, we will be glad to try to answer them.

Sincerely yours,

JAMES S. HOSTETLER.

Mr. HOLIFIELD. Mr. Brown?

Mr. BROWN. Mr. Lindahl, I am interested in one paragraph of your testimony.

Mr. LINDAHL. Yes.

Mr. BROWN. It reads:

Key to the success of the new department will be its ability to place maximum reliance on privately owned transportation facilities operating under the incentives of private profit. Incentives must be provided to the private sector to meet transportation needs. We should expect that increasing reliance could be placed on competition within a framework of flexible guidance designed to insure a system adequate to meet national security and emergency demands, as well as those of a rapidly expanding economy.

I wonder if you would expand briefly on what you see in H.R. 13200 that would provide these additional incentives and do this job to which you have reference in that paragraph.

Mr. LINDAHL. Yes. One of my thoughts was that to the extent that you have a coordinated agency, the question of promotion of various transport agencies would be reviewed, it seems to me, much more carefully than it is now done through our legislative and ad-

ministrative machinery. If you did have a central agency that reviewed these plans for promotion and so on, you would have some review of the impact upon the other modes of transport. To the extent that highway promotion, for example, tended to obstruct the development of rail transport or highway transport, at least these questions would be raised and given consideration, and to the extent that the Government promotion in the fields in which the Government has been very active has made it exceedingly difficult—say for private enterprise like the railways—to maintain growth and financial health that at least these matters would be taken into account. To the extent that you promote highway development, waterway development, and air development, you also provide the vehicle or the ways in which private operators may engage in business and to the extent that those are superior, and more extensive as the program progresses, to that extent it will make for greater opportunity on the part of those operators that do operate as private enterprises, but do pay user fees for the use of those facilities.

I do think that in this area of promotion that something can be done at least to recognize that there is a problem here with respect to private enterprise.

Mr. BROWN. When you are speaking of promotion, however, you mean promotion of one mode of transportation over another?

Mr. LINDAHL. Yes. Well, hopefully, we are trying to promote all modes of transport, but our policy has been, of course, to fragment our consideration of these matters.

Mr. BROWN. When you say promote all modes of transport, are you changing the meaning of the word "promote" or are you talking about development of highways or rail beds and so forth and so on?

Mr. LINDAHL. We should promote all of them, obviously, and each one should develop in accordance with its characteristics and with respect to the services which it can render. After all, there are some modes that are better adapted, that have better characteristics for some types of service than other modes.

Mr. BROWN. And some modes are better for some regions. For instance, rail in the northeast corridor might be of more benefit in the New England area than perhaps highways.

Mr. LINDAHL. Yes; although we would like to have both, I suppose.

But the trouble is that as you continue to emphasize the highway construction, it does not seem to solve our problem of congestion so that—

Mr. BROWN. Let me ask you at this point: Do you see some advantage in taking user taxes, for instance, from the highways to be used in the development of a northeast corridor rail system?

Mr. LINDAHL. Well, I think there are great demands for the available revenues. Now, to the extent that user taxes are assessed, and it is understood that they are to be used for highway purposes, then I would be rather reluctant to permit diversion. But if it is understood that some of the user fees, say, gasoline taxes, are simply another form of excise tax and can be used for any purpose, just like a cigarette tax may be used for any purpose, then I think there is no reason at all why it should not be used for rail or development of alternate modes of transport.

But I think it should be understood what the tax is being raised for.

Mr. BROWN. How would that understanding be brought about?

Mr. LINDAHL. I think Congress, in enacting the legislation makes this point clear. For example, our Federal aviation tax on gasoline, for years, was regarded simply as another excise tax, and now I think that the understanding is that it is pretty much a contribution by the airlines toward the maintenance of the airway system.

Mr. BROWN. In other words, you would oppose the use of highway trust funds for the development of—

Mr. LINDAHL. Up to this point: If the understanding has been that they are to be devoted exclusively for highways, then it would bother me, I think.

But, if today Congress said that this is simply another way of raising money for general purposes, then I see no objection whatsoever to regarding the user tax on highways as a source of general revenues for the promotion of the transportation system as a whole.

Mr. BROWN. But you feel that the decision should be made by Congress rather than by a Secretary of Transportation.

Mr. LINDAHL. I should think so; yes. After all, Congress basically determines policy, with the guidance and under the leadership, or at least suggestions with respect to policy by the administrative branch, but Congress, in the final analysis, it seems to me, does determine what that policy shall be.

Mr. BROWN. Do you agree that Congress should determine policy in the transportation area and leave the execution of this policy to the executive branch?

Mr. LINDAHL. Yes; but I think we have to have some pretty definite machinery for the formulation of policy at the administrative level, at the Cabinet level. That is why we are supporting this bill. But, certainly, the appropriation of moneys, obviously, is in the hands of Congress, so, in the final analysis, it does determine what the ultimate policy will be.

Mr. BROWN. And you feel this bill leaves the determination of policy to the Congress, but the execution of it is granted to the administration?

Mr. LINDAHL. Yes. Well, with the exception, I suppose, of minor matters where you have changes, just like the regulatory has sublegislative functions. There may be some sublegislation in the administrative department, too. That is more or less inevitable, I should think. But overall policy, I think, again, is a congressional function.

Mr. HOLIFIELD. Thank you very much.

Our next witness is Joseph B. Hartranft, president of the Aircraft Owners & Pilots Association. We are reading a bill for amendments on the floor of the House. Would you prefer to enter your statement and summarize it to the committee or come back at a future time?

Mr. HARTRANFT. I think if the chairman would allow us, we would prefer to come back at a future time.

Mr. HOLIFIELD. Is that satisfactory? All right, we will arrange, then, for you to be the first witness as soon as we can schedule other hearings.

This bill was on the floor, the agricultural bill, and they are reading it for amendments. We have just been notified and some of the mem-

bers of the committee must be there. We are sorry that we haven't been able to get to you earlier.

Mr. HARTMAN. Did the chairman indicate when the next session will be called?

Mr. HOLIFIELD. We will have to make that announcement. I will have to confer with the other committee members as to the next meeting.

Thank you very much. Meeting is adjourned.

(The following communications were received for inclusion in the record:)

STATEMENT BY W. J. AMOSS, CHAIRMAN, COMMITTEE ON NATIONAL TRANSPORTATION POLICY, AND FIRST VICE PRESIDENT, THE AMERICAN ASSOCIATION OF PORT AUTHORITIES, INC.

The American Association of Port Authorities, Inc., consists of 68 U.S. members who operate public port and marine terminal facilities on all seacoasts of the United States. The membership of 68 are exclusively State and local government agencies which are port operators. This membership represents all U.S. seaports of commercial consequence.

It is estimated that these city, state, and local port district entities have a total investment of approximately \$4½ billion in marine terminal and related structures. All are keenly sensitive to national transportation patterns and their modal ramifications.

The board of directors of this association in formal session on March 30 in Washington, D.C., took under consideration the proposed legislation setting up a Department of Transportation at Cabinet level and authorized the undersigned, as chairman of the association's committee on national transportation policy, to place the board on record as neither endorsing nor approving the establishment of a Department of Transportation until more clarifying details are made known on departmental organization and assignment of responsibilities, policies and policy changes, and safeguards to assure impartial and equal treatment for all modes of transportation.

The board further recommends that the Maritime Administration be recognized and assigned independent status in recognition of its vital importance to the economic life of the Nation and its vital place in national defense as demonstrated in World War I, World War II, the Korean conflict and the present situation in Vietnam.

The board of directors of AAPA also urges that the navigation program of the Corps of Engineers remain where it is without transfer of the function of issuing through this proposed new Department "Standards and criteria for the economic evaluation of Federal transportation investments" as related to waterway and multipurpose projects.

Should the committee have questions or desire amplification of these basic views, I will be happy to answer or provide same.

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STATEMENT OF THOMAS L. CAMPBELL, CHAIRMAN, LEGISLATIVE COMMITTEE,  
PITTSBURGH COAL EXCHANGE

Mr. Chairman and members of the committee, my name is Thomas L. Campbell, of Pittsburgh, Pa. I am chairman of the legislative committee of Pittsburgh Coal Exchange. The exchange, organized in 1870, is composed of water carriers and industrial concerns which are heavy shippers by water. Its members originate more than 90 percent of the water commerce in the Pittsburgh area. It is engaged in the promotion of navigation, flood control, water quality control, conservation, low-flow betterment, and other phases of water resource development.

We have grave reservations as to the desirability of establishing a Department of Transportation as provided in the pending legislation. While we are not prepared at this time to express outright opposition to the creation of such a department, we wish to indicate some of the questions which we trust the committee will consider most carefully in reaching a judgment on the merits.

We are particularly concerned as to the consequences for the future of water transportation to be expected from consolidation of the policymaking functions for all modes in a single agency.

On a statistical basis, waterway transportation occupies a distinctly junior position as compared with railroads, trucklines, and air carriers in terms of invested capital, numbers employed, gross revenues, profits, and traffic volume. But, because water carriage is the lowest cost mode serving primarily the mass transport needs of basic industry such as coal, electric power, petroleum, iron and steel, aluminum, chemicals—all of crucial importance to economic growth—the continued health and prosperity of water transportation are vital to the industrial development of the Nation. Its importance far exceeds that indicated by the comparative statistics.

To a substantial degree, the present arrangements provide a reasonable opportunity for expression of the needs of the various modes and the resolution of their competing claims by the President and, in the last analysis, by the Congress. In the nature of things, as experience with other Government departments clearly shows, the policy of the new Department would tend strongly to reflect the interests of the dominant modes. Water transportation would almost certainly suffer diminished consideration and the views of competing modes, often harmful to water transportation, if reflected in the official positions of the new Secretary, would be accorded enhanced prestige and influence.

We trust that the committee will subject the pending legislation to most searching examination in the light of the grave risk of subversion of the national interest in the continuing availability of low-cost water transportation, which we believe to be implicit in this proposal. As a minimum safeguard, we respectfully urge that the committee recommend an amendment to provide for appointment by the President of an Assistant Secretary representing each mode of transportation.

We invite the committee's attention also to the fact that transportation is inherently a service function essential to the performance of a variety of governmental responsibilities, such as those of the Post Office and the armed services. Indeed, practically all departments of Government are concerned with one or more aspects of transportation in discharging their primary duties. The Departments of Commerce, Labor, and Agriculture are continuously involved in some phase of transportation policy affecting their respective spheres. It appears highly unlikely, therefore, that creation of a Department of Transportation would significantly diminish the transportation interests of the other agencies. On the contrary, it seems probable that the establishment of a new department would result in a mammoth and extremely costly duplication of functions. We would hope that in the interest of efficiency and economy of government, the committee would carefully examine the question whether the new Department would substantially reduce existing Government activities in the transport field or merely add to the taxpayers' burden.

With respect to those aspects of the pending bills specifically affecting waterway transportation and water resource development, we offer the following comments:

First. Section 7 of the pending bills would empower the Secretary of Transportation to develop and (with the approval of the President) to promulgate standards and criteria for evaluation of the transportation features of water resource projects. This section further provides that "every survey, plan, or report formulated by a Federal agency which includes a proposal as to which the secretary has promulgated standards and criteria \* \* \* shall be \* \* \* prepared in accord with such standards and criteria."

The consequence would be to classify navigation simply as transportation, rather than as an element of water resource development for Federal investment purposes. This classification, in sharp conflict with long established law and policy, disregards the facts that (a) even those waterway projects commonly designated as navigation improvements invariably serve other water resource purposes, such as water supply, flood control, and soil conservation, being in this vital respect quite different from highway or airway improvements which are exclusively for transportation, and (b) navigation improvements, whether separate project elements of a comprehensive river basin program or features of

multiple purpose projects, occupy a relationship of mutual dependence and support with other projects in the program or other project features. Classification of navigation features merely as transportation would severely limit the scope of the values and benefits to be considered in their evaluation. It would, therefore, in our judgment, exercise a depressive influence on essential development of our waterways for navigation and, thus, upon development for flood control, water supply, water quality control and other closely related water resource functions. At a time when every competent authority is concerned with the need for accelerated development of water resources, such a retarding influence would be especially unfortunate.

The Congress only last July in the Water Resources Planning Act conferred authority to establish (with the approval of the President) "principles, standards and procedures \* \* \* for the formulation and evaluation of Federal water and related land resources projects" upon the Council created by that act. By splintering off navigation from other water resource purposes, the proposed legislation would, in effect, repudiate the coordinated, comprehensive approach established by the 1965 act and set in motion a process of atomizing water resource programs, resulting in obstruction of progressive, balanced development. We, therefore, most strongly urge that section 7(a) of the pending legislation be amended so as to exclude water resource projects from the proposals for investment of public funds as to which the Secretary of Transportation would be authorized to develop, revise and (with the approval of the President) promulgate standards and criteria.

Second: Under section 6(f) of the pending legislation there would be transferred to the Secretary of Transportation all functions, powers and duties of the Secretary of the Army and other officers and offices of the Department insofar as they relate to the location and clearances of bridges in the navigable waters of the United States.

In our judgment, such a transfer of authority would be ill advised. We are convinced that the final authority in the matter of bridge locations and clearances should reside in the agency having responsibility for evaluating, constructing, operating, and maintaining water resource projects. Decisions as to bridge locations and clearances involve, of course, a variety of questions of public convenience, as well as of the economy and efficiency of transport modes utilizing the facility. But, the experience and special skills and knowledge of the Corps of Engineers as the agency responsible for river management are called for in making such decisions. For they involve consideration of river levels, frequency and duration of high water, effect of installations on river flow, direction of current, navigation channels, bank erosion, flood hazards, and a variety of other hydrological problems peculiarly within the competence of the Corps of Engineers.

Moreover, if an error is made adverse to overland modes, their costs may be increased in some degree, but there would be no risk of destruction or major impairment of their traffic. In the case of error involving bridge heights, adverse to river navigation, however, there is danger of actual destruction of waterway traffic or limitation of future growth through physical obstruction. The wisdom of Congress in reposing final authority in the corps with full opportunity for consideration of all interests is thus fully confirmed. We urgently request that existing arrangements be continued.

Third. Section 6(b) of the pending bills would transfer the Coast Guard to the new department. We have serious reservations as to the desirability of this change. The functions of the Coast Guard in the matter of merchant marine safety involve the highest level of professional competence and integrity. A maximum degree of insulation from adverse policy interests of other modes is essential to preserve that integrity. The prudent course is to retain the present arrangement. If the proposed transfer is made, however, then surely appropriate steps should be taken to manifest the intent of Congress to assure that the Coast Guard retain final authority in merchant marine safety functions.

We wish to express our appreciation to the committee for this opportunity to present our views on these issues which vitally affect the national welfare.

STATEMENT OF FRANK KINGSTON SMITH, EXECUTIVE DIRECTOR, NATIONAL AVIATION  
TRADES ASSOCIATION

I am Frank Kingston Smith, executive director of the National Aviation Trades Association, national representative of general aviation businesses serving the needs of general aviation, by far the largest user of the Nation's airspaces.

Our association has reviewed the language of this bill with considerable interest. We have been briefed thoroughly on the proposed Department of Transportation by high government officials. We respectfully express our considerable concern over the pending legislation as we now understand it, and our reasons for opposing it.

Our first concern is that although the intent of the legislation is to integrate the enormous problems of the Nation's transportation complex, to bring the decision point to one focus—the Secretary of Transportation—for reasons of efficiency and economy, a Department of Transportation is not going to do this in actual practice. The need for a transportation czar has been merely theorized, not proved.

The creation of a Department of Transportation will not simplify the problems of the aviation industry, it will complicate them. The number of Government contacts which must be made by aviation businessmen will not be reduced. The status of a separate entity established by the Federal Aviation Act of 1958 to promote and foster aviation would be lost in our organizational reversion to the status of the old Civil Aeronautics Authority under the Department of Commerce. There is not one solid fact, not one piece of hard evidence, nothing but an impractical inference that the creation of the Department of Transportation will in fact solve anything. Every business that may be affected by the proposed legislation opposes it. There is only one conclusion: Something must be wrong with it.

The basis of our association's concern in the matter goes even further than the bill itself. We are vitally concerned because of the lack of knowledge and understanding on the part of National and State legislators and their advisers of the importance of general aviation in today's transportation complex. We are even more concerned about their lack of understanding of general aviation's importance and vision concerning its future. Our concern, therefore, is that aviation as a total entity may be relegated to an inferior position as proposed in the new department's table of organization, to rank despite its immensity along with such functions as the St. Lawrence Seaway, the U.S. Corps of Engineers, and the Great Lakes Pilotage Administration. We join the Air Transport Association and the airlines in concern that the aviation function may be subjected to internal political factionalism, competing with the railroad function, the highway function, and the maritime function for funds and government support. Unless the Secretary of Transportation is thoroughly grounded in aviation and its potential, we agree with the airlines that the possibility that the Federal Aviation Agency may be cut off at the pockets by the edicts of the Bureau of the Budget is a very real and present danger to our industry.

More than this, we are concerned because of the lack of recognition of the importance of general aviation to the economy of the Nation. In this so-called jet age the impression of legislators everywhere seems to be that there are two types of aircraft: the Boeing 707, pure jet, and the fabric-covered, two-place, low-powered, Piper Cub. It is hard for people in the aviation industry to believe that such a hiatus of information actually exists. The fact is, only 1,870 fixed wing aircraft are owned and operated by scheduled air lines in the United States, compared with 88,742 general aviation aircraft (not owned or operated by scheduled airlines or the military). In the United States, 9,940 airports are registered with FAA; 709 of which are used by scheduled air carriers, and 8,781 by general aviation.

In the evolution of aviation transportation, a new industry has developed and branched off—"demand" air taxi, and its new development, the scheduled air taxi or commuter airline operation. Although it is obvious to people in the industry, few people outside of it realize that "light aircraft" (by legal definition weighing less than 6¼ tons) are better, more reliable, and have more equipment than the largest airliners of 10 years ago.

Our association represents the sales and service businessmen who are the "frontline" and supporting structure for this enormous fleet called general aviation. Although people in authority have sneered that general aviation is unim-

portant because it contributes nothing to the "gross national product," our preliminary studies have shown that if one excepts personnel engaged in airline reservation and ticketing, general aviation employs as many people as the airlines themselves. FAA statistics indicate the importance of general aviation as part of the transportation picture, and yet none of this importance is recognized in the President's transportation message, in the proposed legislation, or in the briefing materials to which we have been exposed. General aviation appears to be left out of any consideration whatever.

In the present structure, the FAA is a level II agency, and the Administrator reports directly to the President. Under the proposed legislation, FAA would become a level III agency, with the Administrator reporting to the Secretary of Transportation. Unless the Secretary of Transportation is knowledgeable on the subject of aviation, we would find the development of this enormous business completely crippled. As an organization of free enterprise businessmen, already overloaded with Government regulations and restrictions, we are concerned about our future. We believe that these businesses, by virtue of this act, will be relegated to the position of being pawns, which can be ground between the political grindstones of huge financially entrenched organizations. If through this legislation, the original reasons for the creation of the FAA—the promotion and growth of aviation—are to be modified or revoked, this could drive us into bankruptcy individually and collectively. Most of us still remember the slow progress made when CAA was part of the Department of Commerce. Everyone here has seen the tremendous acceleration of the business under FAA, which was given the congressional mandate to foster and promote civil aviation, including general aviation.

We are not against improvements. We are not opposed to anything that will reduce Government expense and we certainly believe that we must come to grips with the problems of national transportation. But we submit to you who are businessmen and who have also had the experience of investing in your own future and know what it is to incur huge financial obligations on the gamble of your ability to develop free enterprise business, that we are vitally concerned about ourselves as businessmen and about transportation between the communities which we serve and support—including the entire United States. Until we feel that general aviation has been adequately recognized and its rights protected, we believe we must oppose this bill.

Thank you again for this opportunity to testify.

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STATEMENT OF HARRY M. MACK, CHAIRMAN OF THE BOARD OF TRUSTEES OF THE OHIO VALLEY IMPROVEMENT ASSOCIATION, INC.

Mr. Chairman and members of the committee, my name is Harry M. Mack of Cincinnati, Ohio. I am chairman of the board of trustees of the Ohio Valley Improvement Association, Inc. Its membership includes agricultural groups and industries such as coal, oil, steel, aluminum, chemicals, and power. It is dedicated to the development and more effective use of water resources in the Ohio River Basin, including particularly, improvement of navigation facilities, domestic and industrial water supply, and flood control.

INTRODUCTION

The public values of long established national policies in the field of water resource development have been abundantly demonstrated in the Ohio River Valley where, since 1950 on the banks of the main stream of the Ohio and its navigable tributaries, some \$22 billion have been invested in new and expanded plant facilities. This phenomenal growth with all that it means in improved job opportunities, more abundant goods and services at lower cost to the public and an expanded tax base, could not have occurred without the interrelated facilities for the improvement of navigation, flood control, low-flow augmentation, and stabilized water supply provided by the coordinated efforts of National, State, and local governments. The Ohio Valley's emergence as one of the world's greatest concentrations of industrial might during the postwar period is an outstanding demonstration of an effective partnership between Government and the free private enterprise system and a living tribute to the wisdom of the Congress and the Corps of Engineers in planning and prosecuting a comprehensive, coordinated water resource development program.



But, much remains to be done in modernizing navigation facilities and expanding the system of multipurpose reservoirs and flood protection works before the full economic potential of the valley can be realized. Indeed, existing inadequacies are already threatening future growth. Other great river valleys, such as the Arkansas, the Illinois, the Missouri, the Red, the Trinity, and many more, stand on the threshold of rising prosperity through sound development of their water resources, the provision of suitable interconnections between the existing systems, or replacement of outmoded facilities. Throughout the Nation the need for accelerated water resource development is a matter of the highest priority. The Congress has repeatedly demonstrated its concern and its desire to take all sound and practical steps in seeking a solution of these urgent problems.

#### PART I

It is because we are convinced that section 7 of S. 3010 and H.R. 13200 in their present form would seriously obstruct these objectives that we are proposing an amendment to that section so as to exclude water projects from the proposals for the investment of Federal funds as to which the Secretary of Transportation would be authorized to develop, revise, and (with the approval of the President) promulgate standards and criteria.

#### *Supporting reasons*

Section 7(a) of the administration's bill (S. 3010 and H.R. 13200) to establish a Department of Transportation, would direct the Secretary to "develop and from time to time in the light of experience revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment," with exceptions not here material. The bill provides further that "standards and criteria for economic evaluation of the transportation features of multipurpose water resource projects shall be developed by the Secretary after consultation with the Water Resources Council and shall be compatible with the standards and criteria for economic evaluation applicable to the nontransportation features of such projects." Such standards and criteria are to be promulgated by the Secretary upon their approval by the President.

In addition, section 7(b) provides as follows:

"Every survey, plan, or report formulated by a Federal agency which includes a proposal as to which the Secretary has promulgated standards and criteria pursuant to subsection (a) shall be (1) prepared in accord with such standards and criteria and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of transport, the available transportation services in the area, and the general effect of the proposed investment on existing modes, and on the regional and national economy; (2) coordinated by the proposing agency with the Secretary and, as appropriate, with other Federal agencies, States, and local units of government for inclusion of his and their views and comments; and (3) transmitted thereafter by the proposing agency to the President for disposition in accord with law and procedures established by him."

The clear intent of section 7 is to include navigation improvements within the coverage of "transportation facilities" and, thus, to empower the Secretary to establish (with Presidential approval) standards and criteria governing the formulation and evaluation of such improvements. This provision applies both to the transportation features of multipurpose water resource projects and also to those projects customarily described as navigation projects. With respect to the transportation features of multipurpose water resource projects, the Secretary need only consult with the Water Resources Council in the development of standards and criteria for evaluation. The requirement that such criteria be "compatible" with those applicable to nontransportation features of such projects, is devoid of specific meaning.

With respect to both multipurpose and so-called navigation projects, the provision would repudiate at its very inception the program adopted by the Congress only last year for the development of coordinated standards for river basin programs. Even those undertakings usually described as navigation projects are mutually interdependent with other projects included in basin programs, such as water supply, hydroelectric potential, flood control, and soil conservation.

Section 7 of the new bill would, in effect, withdraw navigation from coordinated evaluation in relationship with these other objectives.

The Water Resources Planning Act (Public Law 89-80, 89th Congress, July 22, 1965) declares it to be the policy of Congress "to encourage the conservation, development, and utilization of water and related land resources of the United States on a *comprehensive and coordinated basis* by the Federal Government, States, localities, and private enterprise with the cooperation of all affected Federal agencies, States, local governments, individuals, corporations, business enterprises, and other concerned." [Italic supplied.]

Section 103 of that act provides that the Water Resources Council (consisting of the Secretaries of Interior, Agriculture, Army, Health, Education, and Welfare, and the Chairman of the Federal Power Commission) "shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, *principles, standards, and procedures* for Federal participants in the preparation of comprehensive regional or river basin plans and *for the formulation and evaluation* of Federal water and related land resources projects." [Italic supplied.]

In Report No. 169, 89th Congress, 1st Session, to accompany H.R. 1111 which, with amendments, became the Water Resources Planning Act, the House Committee on Interior and Insular Affairs stated:

"The purpose of H.R. 1111, introduced by Chairman Aspinall, is to encourage and make possible the prudent development of the Nation's water and related land resources through sound, comprehensive, and coordinated planning. To accomplish this purpose, H.R. 1111 establishes a Cabinet-level Water Resources Council in the executive branch; authorizes the President to establish river basin planning commissions when and where they are needed; and provides for financial assistance to the States for water resources planning. \* \* \*

"Thus, we must plan the use of our Nation's available water supplies to provide *maximum benefits* to all purposes—controlling floods and preventing pollution, providing water for irrigation, *assisting navigation*, providing hydroelectric power and energy, and providing outdoor recreation opportunities and fish and wildlife conservation and enhancement. Comprehensive planning as contemplated by H.R. 1111 is a key element in resolution of the problems of water supplies and various water use requirements which face this Nation in the years ahead. It will permit this Nation to develop, manage, and utilize its basic water supply to best meet demands as they arise, both in terms of quantity and in terms of quality." [Italic supplied.]

In the light of the foregoing, it is evident that the provision of S. 3010 (and its companion bill, H.R. 13200) for establishment by the Secretary of Transportation, with approval of the President, of criteria for Federal investments in navigation improvements, would constitute a repudiation of the fundamental philosophy of the Water Resources Planning Act. The Congress deemed it essential to the attainment of the objectives of comprehensive and coordinated planning that the Council be empowered to establish principles, standards, and procedures for evaluation of all Federal water and related land resources projects. Navigation was, of course, expressly contemplated as one of the primary elements in comprehensive planning. Exclusion of navigation from the scope of the Water Resources Planning Act would have done violence to the basic concepts and purposes of the act.

This is because navigation was historically the first of all the water resources objectives in the pursuit of which the Federal Government is now engaged. Improvements to the Nation's rivers and other waterways for the benefit of navigation in order to assist in the unification of the Nation and to stimulate agriculture, commerce, and industry are among the earliest works of internal improvement undertaken by the National Government.<sup>1</sup> Other features of water resource development, such as flood control, water supply, hydroelectric power and low-flow augmentation, evolved from and, in the early constitutional sense, were dependent upon their relationship to navigation.<sup>2</sup> As the concept of comprehensive river basin development for all purposes has been generally accepted, the role of navigation as a vital element in such development has been fully recognized and confirmed.

<sup>1</sup> Report of the President's Water Resources Commission (1950), vol. 3, pp. 87-89.

<sup>2</sup> Report of the President's Water Resources Commission (1950), vol. 3, pp. 8-21.

The public policy objectives served by navigation improvements—economic growth, regional rehabilitation, conservation and development of natural resources, and aid to agriculture, for example—are substantially the same as those to which improvements for flood control, water supply, water quality control and other features make their contribution.

Similarly, improvements in aid of navigation often contribute significantly to flood protection, water supply, soil and water conservation, recreation and other water resource objectives. Thus, the navigation dams on the Ohio and upper Mississippi and many other rivers provide stable pools for water supply upon which countless communities and industries depend and without which economic and population growth would have been sharply curtailed. The pools created by these same navigation dams help materially in recharging underground aquifers. The pools also provide artificial lakes used by millions of citizens for recreational activities. Again, bank stabilization programs which provide stable channels for navigation contribute directly to flood protection and soil conservation. Indeed, the system of levees and bank stabilization projects on the Mississippi serves jointly the interests of flood control, navigation and soil conservation, though authorized and funded as a flood control program.

Upstream reservoirs often include low-flow augmentation features which permit releases in dry weather. These reservoirs, as well as reservoirs constructed primarily for navigation, not only enhance water supply for down-stream communities and industries, but they contribute importantly to pollution control through flushing and dilution of wastes, as well as to navigation through maintenance of water levels. For example, water released from the Fort Peck Reservoir, which was constructed for navigation and hydroelectric power development, was instrumental a few years ago in saving the New Orleans water supply from disastrous salt water intrusion. Flood control reservoirs, even when no low-flow betterment is incorporated, add materially to the safety and economy of waterway transportation.

Conversely, project design, scale or particular features which might be adequate from a strictly transportation point of view could well have adverse consequences in respect of related water resource objectives. Thus navigation dams for river canalization must be designed so as to minimize obstructive effects, lest flood heights be raised. Bank stabilization cannot ignore implications for flood control and soil conservation. Where uses potentially competitive with navigation, such as hydropower and irrigation, are involved in a comprehensive river basin program, the basic interdependence of water resource objectives is vividly highlighted.

With particular reference to economic evaluation, the public values and benefits properly attributable to a navigation project regarded as an element in a comprehensive basinwide program of water resource development, may differ materially from those reasonably to be expected from a navigation improvement viewed simply in its transportation aspect and in isolation from other projects forming part of a comprehensive plan. Properly conceived, the several projects of a comprehensive program will mutually support and enhance the values of the other projects and the whole may be greater than the sum of its parts. Criteria of evaluation confined to transportation aspects alone would ignore these dynamic relationships and, thus, result in serious understatement of project values.

As a consequence, proposals for navigation improvements fully justified under appropriate criteria might be curtailed or even rejected under standards designed for evaluation of investments in transportation facilities per se. In such an event, costs of remaining elements of the comprehensive plan would be allocated over a reduced number of purposes and each charged a higher percentage of the total with possible impairment of flood control, water supply and other program elements. In this respect, the problem is not significantly different from that of multipurpose projects. Just as unduly restrictive evaluation of a particular project feature can impair feasibility of the entire project, so understatement of benefits of one project in a comprehensive plan can result in curtailment or rejection of the entire program of development.

Indeed, as previous discussion has shown, it is quite unrealistic to regard any water resource project as having only a single purpose. In this vital respect navigation is unique among transportation media: improvements to highways, airways and railways perform only a transportation function; navigation improvements invariably serve other water resource objectives. Thus, the at-

tempted distinction in the bill between multipurpose water resource projects and projects involving a transportation investment only is unreal and could not fail to cause confusion.

Moreover, as pointed out above, achievement of the objectives of the Water Resources Planning Act would be gravely impaired if authority to establish standards and criteria for navigation features of water resource projects were removed from the Water Resources Council. Further, the relationship of navigation improvements to other water resource development is at least as significant and as essential as any other element or objective, be it flood control, water supply, soil conservation, recreation or fish and wildlife enhancement. Consequently, there is no greater justification for separating navigation improvement evaluation from the Council's jurisdiction than for transfer of any other phase of water resource development to another agency to which it is closely linked. Thus, the proposed transfer would undermine the basic structure of the Water Resources Planning Act and create an unanswerable precedent for atomizing its functions. Surely, the coordinated, comprehensive concept of water resource development embodied in that act and in operation only since July 22, 1965, should be given a reasonable trial before it is scuttled by carving out essential water resource elements for separate treatment.

The sound and practical solution to the problem would appear to be an amendment to exclude water resource projects from the proposals for investment of Federal funds as to which the Secretary of Transportation would be empowered to develop, revise and (with the approval of the President) promulgate standards and criteria.

The existing law provides that the Chairman of the Council shall request heads of other Federal agencies to participate with the Council in matters affecting their responsibilities and calls for consultation by the Council with other interested parties prior to establishment of evaluation standards. Thus, the structure of existing law is fully adequate to provide for consideration of the new Secretary's views. We would have no objection to a specific provision permitting the Secretary to submit his recommendations to the Council as to standards applicable to transportation features of water resource projects, nor would we object to an alternative provision designating the Secretary as a member of the Council.

An amendment to section 7(a) as set forth below would automatically exclude water resource projects from the requirements of section 7(b), since its provisions apply only to surveys, plans or reports which include proposals "as to which the Secretary has promulgated standards and criteria pursuant to subsection (a)" and the proposed amendment to subsection (a) would preclude such promulgation as to water resource projects. This is essential since prescription of types of data to be considered would inevitably affect the outcome of the evaluation process. Authority for prescription of types of data should, therefore, reside in the agency charged with responsibility for establishment of criteria.

The text of the proposed amendment is as follows:

- (1) In line 15, page 19, delete the word "or".
- (2) In line 16, page 19, after the word "assistance" substitute a semicolon for the period and insert the words "or (5) water resource projects".
- (3) In line 16, page 19, strike out the words "The standards and criteria"; strike out lines 17, 18, 19, 20, 21 and, in line 22, strike out the words "tion features of such projects".

Subsection (a) of section 7 of S. 3010 (H.R. 13200) as so amended would read as follows:

"The Secretary shall develop and from time to time in the light of experience revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with (1) the acquisition of transportation facilities or equipment by Federal agencies in providing transportation services for their own use; (2) an interoceanic canal located outside the contiguous United States; (3) defense features included at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; (4) programs of foreign assistance; or (5) water resource projects. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the President."

## PART II

We are equally convinced that the objectives of sound water resource development will be obstructed by the restrictive criteria for evaluation of navigation improvements promulgated by the Chief of Engineers on November 20, 1964, under the policy guidance of the Bureau of the Budget.

At this juncture in the growth of the American economy, it is essential that, in the development of our water resources and, in particular, in the field of navigation improvements, standards and criteria of evaluation be applied which, at the very least, are no more restrictive than those which were applied so long prior to the directive of November 1964.

The harbors and inland waterways of the country are, in fact, probably underdeveloped at the present time. This is because of the extreme conservatism of the benefit estimates and traffic projections for waterway improvements upon which the Army Corps of Engineers has long relied. The Nation has now entered upon an era of growth accompanied by rising demands for transportation service, on a scale without precedent in our history. Even if the long-established criteria are restored and continued, the navigation improvements they will commend for action will be barely adequate to the needs of an expanding population and labor force and a rapidly rising volume of industrial and farm production requiring water carriage.

Proposed navigation improvements now under consideration, and to be evaluated in the future, will relate to a vastly expanded economy. The Bureau of the Census projects a U.S. population for the year 1977 of 232 million, for 1990, of 300 million, and for the year 2000, only 34 years hence, of 350 million—almost twice the population of 1960. The United States is literally in the process of doubling in size within a single generation.

Twice as many people might seem to require twice as much transportation of the commodities they will need for their jobs and livelihood. In fact, however, they will require well over twice as much. This is because, with rising standards of wages and income, the volume of production per person is going up. Our gross national product in 1966 will not be far from \$700 billion. But by 1976, according to projections of the Natural Planning Association, the GNP, without inflation, will be close to \$1,000 billion. By the year 2000 it will have nearly tripled to over \$2,000 billion.

Thus, it appears likely that, at present and projected rates of growth, the American transportation system is going to have to carry in the year 2000, over three times its present traffic volume. Much concern has been expressed over the impact of waterway improvements on the railroads. This anxiety reflects a backward-looking and depression-oriented view. It assumes a static economy.

The American railroad problem as it is now emerging is not one of inadequate traffic. It is the very opposite. It is a problem of the adequacy of the capacity of the American railroads to the freight-carrying demands the economy is going to make upon them. The biggest load the railroads have ever carried so far was about 745 billion ton-miles under the forced-draft operation of World War II. But, by 1976 the Nation will be demanding of the railroads over 1 trillion ton-miles of freight per year. And, by 2000, if they continue carrying only their present share, the railroads will have to be equipped to carry close to 2 trillion ton-miles of freight, much more than all modes of transportation combined in 1965.

This rising demand on the railroad system is already underway. Along with the current growth in water transportation in this country, railroad freight is growing even faster. From 1959 to 1964, the production of physical goods requiring transportation in the United States increased by 17.6 percent. Water carriage on the rivers and canals performed its share in carrying these goods with an increase of 28.3 billion ton-miles. But, the ton-miles of freight carried by the railroads increased by 83.7 billion, three times as much as the waterways. Alongside the growth in water transportation, the railroads are already on their way, and on a bigger scale, toward the 1-trillion ton-mile demand the economy will place upon them in 1976.

Thus, it is vital that steps be taken toward a balanced expansion of the country's transportation system. The railroads will not be able to carry the entire traffic increment. In view of the huge economic growth lying ahead, they will be under severe strain to handle even their present percentage of the rising total. Each mode of transportation will have to be enlarged and extended so as to provide that type of freight service for which it is best adapted.

No other mode of transportation can be substituted for the role of the rivers and harbors. Water transportation is uniquely suited for the mass haulage of bulk commodities at low cost. On the average, what you can move for \$1 by rail you can carry just as far by water for only 25 cents. For this reason most of our basic industries, such as steel, petroleum, chemicals, coal, electric power, fertilizers, and much of food handling and processing is literally built around waterway transportation. According to the American Waterways Operators, Inc., from 1952 through 1965, a total of 5,882 new industrial waterside plant projects were established in the United States. This has been fundamental to the economic growth of the country.

The Nation is under the deepest obligation to develop its water transport base for the future. As the years pass, constantly increasing numbers of young Americans will be seeking jobs at rising standards of income. During the 15 years from 1950 to 1965, the American labor force increased by 12 million persons, reaching a total of 76 million last year. But, for the next 15 years, it will expand twice as fast. The Bureau of the Census projects an increase of 25 million to over 101 million persons in the labor force in 1980.

We have been hard pressed over the past 15 years to provide 12 million additional jobs. How are we going to provide 25 million in the next 15 years? The Americans who will be members of the labor force in 1980 are now alive and with us. They are our children growing up in American homes and in the schools. We are making an enormous investment in their character, their citizenship, and their training. The future prosperity and security of our children, as young adults, will require a rising abundance of the basic metals, chemicals, and fuels to nourish a growing industrial economy, and the supply of these underlying requirements of their livelihood rests directly on a water transport base.

The long-established criteria and standards for navigation improvements need, if anything, to be liberalized. Waterway and harbor improvements over many years have been under the restraint of extremely conservative benefit and traffic estimates on the part of the Corps of Engineers.

While conservatism is to be respected in professional judgments of this category, if carried too far it becomes unrealistic and will deprive the public of highly beneficial and badly needed waterway improvements.

It may be helpful to cite a few examples of the extreme conservatism of the Corps of Engineers. The following are illuminating:

1. Early in this century, the Corps of Engineers evaluated the soundness of providing for the Ohio River a navigation system which would assure a year-around channel depth of 9 feet. The corps recommended the project on the basis of an annual traffic expectation of 13 million tons of freight. The year the project was completed, 1929, the Ohio River carried 22 million tons of freight. In 1955, while the navigation works the corps had recommended were still 100 percent in service, the Ohio River carried 71 million tons of freight.

2. During the 1920's the Corps of Engineers studied the economic advisability of canalizing the Upper Mississippi River from St. Louis to Minneapolis. They based their estimates of benefits to the American public, notably to the vast farm communities of the Upper Mississippi Basin, then suffering from chronic depression, on a traffic projection of 9 million tons per year. In 1964, the Upper Mississippi, between St. Louis and Minneapolis, carried 34 million tons.

3. In the early 1930's consideration was given to improving the Illinois River. The Corps of Engineers, in considering this project, based their estimate of the public benefits on a traffic projection for the Illinois River of 7.5 million tons a year. In 1964, when the completed Illinois project was still less than 30 years in service, the Illinois River carried 27 million tons of freight.

The record of waterway improvement in this country under the standards in effect prior to November 1964, is a great success story. It would be difficult, indeed, to cite any major American waterway now in service the improvement of which has been a disappointment. Could it be honestly stated today that the American people now have reason to regret the original canalization of the Ohio River? Have the Illinois River and waterway not lived up to expectations? Do we hear any expressions of chagrin and disappointment from the communities of the Upper Midwest with respect to the canalized Upper Mississippi? Do we genuinely regret having improved the Columbia River, the Houston Ship Channel or the Gulf Intracoastal Waterway? If we could reverse the decision once made to improve any of the major waterways, would we actually do so? On the contrary. The Congress might more appropriately be critical of the

evaluating agency for the substantial understatements under the earlier standards of the potentials of these waterways. Every lesson from our past experience with waterway improvements would seem to call for liberalization of the earlier standards. Surely there is no justification in our national experience for making them more restrictive.

These examples are merely illustrative of the degree to which the actual volumes of waterborne traffic, and the actual public benefits consequent upon navigation improvements have been exceeding the projections of the corps, even under the criteria and standards utilized before the directive of November 1964. The long-established criteria and standards have left this country with a deficit and retardation of waterway improvement.

Surely, we cannot afford, standing as we do on the brink of the greatest national expansion in our history—in population, in labor force, and in the volume of production to be transported—to retard even further an already inadequate pace of waterway and harbor modernization and expansion. Conservatism, carried to an extreme degree, ceases to be prudent and becomes, instead reckless. There is no policy more wantonly wasteful than to withhold the outlay of sound public investment required to construct the water carriage foundation of those industries most basic to economic growth.

The amendment which we recommend is intended only for the limited purpose of restoring for the judgment of Congress, in the evaluation of proposed navigation improvements, the highly conservative criteria and standards which were followed prior to the directive of November 20, 1964. Under the criteria for evaluation of navigation improvements prescribed by that directive, transportation savings are based upon "projected competitive rates or charges" for the movement by alternative means and "projected rates and charges utilizing the waterway." Traffic expected to use the waterway is estimated on the basis of "projected, water-compelled rates," "foreseeable technological developments" and other factors.

Thus, the directive introduces into the evaluation process rate practices specifically designed to prevent the development of waterway traffic. Such rates often have little relationship to the true economic cost of providing the service. As a key element in waterway improvement evaluation they will inevitably result in a serious underallocation of resources to navigation improvements. Indeed, the unduly restrictive consequences of such reliance upon projected water-compelled rates are amply demonstrated by the fact that not a single waterway improvement apart from replacements has been recommended for construction since the new criteria were promulgated. This is the inevitable result of a procedure which is based upon projected rates by a competitive mode designed to prevent realization of waterway traffic potential and thereby to obstruct waterway improvements.

Moreover, the projected competitive rates in question here are those which in the absence of the waterway would never have been put into effect. Consequently, if reliance upon such projected rates is permitted to block waterway improvements, the national economy will be deprived of the benefits of both low-cost water carriage and reduced rates by competitive modes.

As we have urged earlier in our statement expanded transport facilities by all modes are imperatively demanded by our growing economy. By obstructing the provision of means to fulfill rising national requirements, the criteria promulgated in November 1964 are directly contrary to the national interest in an adequate economical transportation system.

We have previously invited the committee's attention to the relationship of interdependence both in operation and evaluation which exists among the several elements of water resource programs and projects. The impairment or elimination of navigation projects conceived as elements of comprehensive river basin programs or the impairment or elimination of navigation features of multiple-purpose projects casts a higher proportion of total program or project costs on remaining elements. Thus, by the operation of unduly restrictive criteria applicable to navigation improvements, flood control, water supply, water quality control, recreation, and other water resource objectives are imperiled and the national imperatives for accelerated water resource development are frustrated.

The criteria promulgated in November 1964 contain another defect which in our judgment is sufficient in itself to require their rejection.



For they involve a highly unreliable complex of mutually interdependent conjectures and deprive the Congress of any rational basis for review and verification of reports submitted. Thus in order to apply these criteria, the Corps of Engineers must develop the following data:

(a) As in the past, a forecast of tonnages via the proposed improvement on the basis of existing rates by alternative modes.

(b) A forecast with respect to each commodity movement of how much the railroads may be expected to reduce rates in response to the traffic volumes forecast on the basis of existing rates.

(c) A forecast as to which of the projected rate reductions will be disallowed by the Interstate Commerce Commission.

(d) A forecast of the tonnages for each commodity movement which shippers will redirect from water to rail in response to hypothetical rail rate reductions.

Only by such a procedure as this can the waterway tonnage forecast be adjusted for future water-depressed rates of alternative modes. It necessarily involves modifying conjectures with conjectures which could only yield highly unreliable results, tending to discredit the entire evaluation process and to place data before Congress for which no acceptable standards of verification and review would be available. It is not surprising, therefore, that the Corps of Engineers itself has admitted that no dependable technique has been devised for determining the theoretical water-compelled rates, which can be uniformly applied to all parts of the country.

As a former Chief of Engineers put the matter in his 1951 annual report:

"Carriers indulging in competitive ratecutting lose money as long as the practice is continued. The only conceivable object of these tactics on the part of the high-cost agencies is to force the water carriers into final bankruptcy and to eliminate their competition followed by restoration of former high, monopolistic freight rates. For the foregoing reasons the Corps of Engineers is not content to measure the justification of navigation improvements in terms of depressed rate differentials, nor to assign to the project only that portion of potential water-adapted tonnage that might find its way to the improvement in spite of the uneconomic measures taken by competitors to discourage it."

Consistently with this view, it is our considered opinion that traffic for waterway improvements should be estimated on the basis of competitive rates prevailing at the time of the study. This, we believe, is the most practical and valid method of estimating the total of benefited traffic currently available. While it may not represent theoretical perfection, it has resulted in highly conservative evaluations of waterway improvements on the basis of which Congress has authorized practically our entire inland waterway system and it has permitted at least a reasonable degree of progress. It avoids the grave deficiencies of the criteria promulgated in November 1964 and errs only on the side of understatement. While we hope for the eventual development of criteria, with the approval of Congress, which will truly reflect the realities of a dynamic economy and correctly identify all benefits and costs, we think it imperative that pending such development, the former criteria, tested by experience, be restored. The obstruction to waterway improvement and other water resource development created by the November 1964 criteria must be removed. To that end we most urgently recommend an amendment adding a new subsection (c) to section 7 of the pending bill reading substantially as follows:

"(c) For the purposes of principles, standards and procedures for the formulation and evaluation of Federal water and related land resources projects established by the Water Resources Council with the approval of the President under the Water Resources Planning Act, the primary direct navigation benefits of a water resource project are defined as the product of (1) the savings to shippers using the waterway and (2) the estimated traffic that would use the waterway, where the savings to shippers shall be construed to mean the difference between the current freight rates or charges for the movement by the alternative means and those which would be charged on the proposed waterway, and where the estimate of traffic that would use the waterway shall be based on existing freight rates, taking into account projections of the economic growth of the affected area."

We wish to express to the committee our sincere thanks for this opportunity to present our views on these vitally important issues.



## STATEMENT OF CHARLES E. SHUMATE, PRESIDENT OF THE AMERICAN ASSOCIATION OF STATE HIGHWAY OFFICIALS

Mr. Chairman and members of the subcommittee, I am Charles E. Shumate, president of the American Association of State Highway Officials and chief engineer of the Colorado Department of Highways.

Our association is composed of the State highway departments of this country, and it is our policy to speak to Congress through our elected officials.

I have the privilege of presenting the views of the State highway departments and, I believe, this is the first time that they have been represented before your committee. We appreciate the opportunity and privilege of presenting these views for the consideration of your subcommittee as you address yourselves to the proposal for creating a new Department of Transportation in the executive branch.

We hope that some of these views may find their way into whatever bill that you might report out of the full committee, or that they be reflected in some of the legislative history so that it might influence the reorganization and operation of the new proposed Cabinet-level Department.

Like everyone else, we had very little knowledge of the details of what was to be contained in President Lyndon B. Johnson's proposal for the creation of a Department of Transportation until his message and draft legislation were released. As soon as these items were available, they were sent to the several State highway departments for study.

Although the time was rather short for a complete study for such an important proposition, and for the highway departments to take a position on the matter, we did get an unusually good response from our member State highway departments that forms a consensus on the points presented in this statement.

As you well realize, there is no group in this Nation more vitally interested in any proposal involving the Federal-aid highway program than the State highway departments. It is up to them to carry out the program and to make it work.

We point with considerable pride of accomplishment at this Nation's highway network, which is the world's best. Much of this accomplishment can be accredited to the 50-year-old Federal-State partnership in highway building. The Federal Bureau of Public Roads and all of the State highway departments have worked together well and, we believe, that the public has been the beneficiary.

We have no comment on the first six sections of H.R. 13200.

It would appear to us that the proposition of gathering the fragmented transportation activities and interests of the Federal Government into one coordinated department makes sense, especially if the Federal Government is to give proper attention to this Nation's growing transportation needs.

As we understand it, 70 percent or more of the proposed new Department's total budget would be that of the Bureau of Public Roads. In the way of historical background, we wish, at this time, to mention that during the first 40 years of our 50-year highway partnership, the Federal Government contributed only slightly over \$9 billion, with the majority of construction funds coming from the States. However, the Federal contribution did much to create a nationally connected highway system and encourage stability in the State highway department organizations.

Since 1956, the Federal contribution has raised percentagewise and has taken on additional importance. However, and including the 90-percent Federal contribution to the interstate program, the Federal expenditures on highways on the Federal-aid systems is still less than 50-percent of the total expenditures by the States. Of course, as you know, maintenance has been the responsibility of the State highway departments and that is what they prefer.

The State highway department-Bureau of Public Roads partnership stands out as one of this Nation's finest examples of intergovernmental relationships in the public interest.

It has been the basic policy of the State highway departments, operating through this association, never to advise nor prescribe how the Federal Government should organize its agencies and, in turn, that the Federal Government should never dictate such things to the State governments.

There is, however, one minor but important exception to which we subscribe and that was initiated by the Federal Government.

In establishing the Federal-aid highway program, the Federal Government required that the States have a duly constituted State highway department adequate and competent to carry out the program in order to qualify for participation. It also required that the State highway departments have sufficient authority to commit and obligate the State in highway matters.

If that is good for one, it should be good for the other, so, therefore, we believe that if there is to be a new Department of Transportation that it should be spelled out that the Bureau of Public Roads should have sufficient delegated authority to carry out the same role on the part of the Federal Government in its dealings with the States, subject only to top policy guidance by the Secretary.

We believe, further, that because of the size and the importance of the Federal-aid highway program and highway transportation in general, the Bureau of Public Roads must be at an operational level in the proposed new Department organization that will guarantee easy access to the Secretary by the Federal Highway Administrator, without having such departmental communications diluted or revised by going through intermediate administrative levels.

To go through intermediate stratas involves the risk of the Federal Highway Administrator's professional recommendations being amended by lay administrators.

Because of the cooperative and engineering nature of the Federal-aid highway program, the State highway departments feel strongly that the Federal Highway Administrator must always be an experienced, outstanding, recognized highway administrator-engineer, who knows the program well and who is well known to, and respected by, the State highway departments.

Much of the past and present success of the program is definitely attributable to the fact that such persons have always been named to the top Bureau of Public Roads position. We hope that if a new Department of Transportation is created, any legislation dealing with title 23, U.S. Code, Highways, will continue to be under the purview of the Public Works Committees of the Congress. The background, experience, and knowledge in these committees in highway matters is a valuable public asset and is highly respected and appreciated by the State highway departments.

We believe that in the process of developing or reviewing national transportation policies and programs, nationally recognized State highway administrators should always be included in any advisory committees involved, inasmuch as highway transportation is definitely a major transportation form that affects the entire Nation. We prefer not to leave such matters entirely to experts in other transportation forms and to academic transportation economists.

Highway transportation daily affects the travel and way of life of practically every person in this country, and will continue to do so, so long as the freedom of choice is not infringed and highway transportation is not subordinated by some revolutionary effort to artificially fertilize some other transportation mode.

It is the policy position of our association that the proper role for highways in any so-called balanced national transportation system or program must be based on highway needs as cooperatively developed from documented factual information being furnished by the State highway departments and assembled by the Bureau of Public Roads. Such needs studies should always control, instead of some administrative determination that might be based entirely on the financial investment return concept, or the theoretical efficient concept that does not give adequate consideration to the public's desires or to the public convenience.

Highway expenditures must continue at a high level just to protect the large investment that we have in the highway system and to give minimal service to our motoring public. Both expanding urban and rural areas have transportation needs that are highway oriented.

We, in the State highway departments, are quite proud of the sophisticated processes that we have developed for making highway needs studies and the justification for highway improvements. We probably have reached a degree of development in this regard that has not been reached by any other transportation form.

We believe that the highway trust fund must be kept inviolate and highway user revenues must never be used as a total transportation fund that could be administratively diverted for research, development, and subsidization of other transportation forms.

We are not quite clear whether the proposed legislation would permit such use of the highway user revenues, and we think that probably the Congress should clarify this matter.

Highway transportation is unique in that it is our only transportation mode that offers complete transportation within itself, and is the only one where the cost of the rolling stock, the upkeep of the rolling stock, and the cost of operation are supplied by the owner, and where he, together with the other users, pay completely the cost of the road system and its maintenance. This unique situation has greatly facilitated the financing of highway transportation. Other forms of public transportation must raise public funds to furnish the rolling stock, its upkeep, and operation. The fact that highway transportation financing is probably easier to accomplish should never be the basis for diverting it to other uses.

The State highway departments have never considered Federal aid for highways as a subsidy for highways as is sometimes alleged, or that it gives highways an unfair advantage over other transportation forms. The highway user is just paying his own way.

We do not like to see the various transportation modes being placed in competitive positions, for each is definitely designed to supply certain services. We do not believe that a transportation form should be furnished because it might be a status symbol for an urban area, but where it is needed it should be provided, if at all possible, with it paying its own way in some equitable manner. We firmly believe that transportation should be planned so that the various forms complement each other and form a connected and integrated system to serve the public in the movement of goods, people, and services.

We believe, further, that highway engineering standards, geometric design policies, specifications, and signing, must continue to be developed cooperatively by the State highway departments and the Federal Bureau of Public Roads, through the AASHO process. This is in the public interest and utilizes the vast reservoir of technical knowledge that exists in the highway departments and the Bureau, brings in creative thinking, and results in the desired level of uniformity.

During the 50 years of highway partnership, this process has been responsible for developing highway technology in the United States to the point that it is recognized as the world's leader. Under no condition would we want some separate group established in a Department of Transportation that might have the authority to veto such standards or policies that are cooperatively developed in the manner described. In case such a unit might be organized, we feel that it should be advisory only to the Bureau of Public Roads and not have the power to veto, or to create. If such were to be the case, the distinct possibility exists that stagnation could result in the development of highway technology because of too much emphasis being placed on the opinions of too few people.

We believe that the Federal Highway Administrator should be delegated sufficient authority to act for the Secretary of Transportation in matters involving the adoption and approval of highway engineering and traffic standards, developed cooperatively between the Bureau of Public Roads and the State highway departments, as formally balloted upon by the several State highway departments through the AASHO process.

We note that the proposed legislation would put the bridge clearance determinations over navigable waters within the province of the new Department. This, we think, would be a constructive and desirable thing. We have reached the point where the present and future demands and economics of all affected transportation forms involved should be considered in determining navigational clearances.

In closing, we urge your committee to make a complete appraisal of section 7 of H.R. 13200 to assure that proper decisions are being retained for the Congress and that dictatorial powers over transportation planning and programs are not being left to administrative discretion.

Transportation programs and authorizations must always be the subject of congressional action, and the investment return concept should never be the total criteria for developing national transportation policies, systems, and programs, but it is essential that the public's desires and convenience must always be given adequate consideration.

We thank you for the privilege and opportunity of presenting these views.

AMERICAN TRUCKING ASSOCIATIONS, INC.,  
Washington, D.C., May 3, 1966.

Hon. CHET HOLIFIELD,  
U.S. House of Representatives,  
Washington, D.C.

MY DEAR MR. HOLIFIELD: This will confirm the conversation our counsel, Mr. James F. Pinkney, had with you and committee counsel following the May 2 morning session of your hearings on H.R. 13200.

Although Mr. Pinkney advised you of our support of the proposed Department of Transportation, I would like to reiterate our position in writing.

At its regular meeting in January, the executive committee of the American Trucking Associations, Inc., adopted the following statement:

"We favor, in general, the President's proposal to create a Cabinet-level Department of Transportation.

"The idea of bringing under one roof and vesting in one agency the Federal Government's promotional and safety activities in the broad field of transportation is entirely logical. It is equally logical that the head of such agency should have Cabinet status in view of the tremendous importance of transportation to the life of the United States and its people.

"We particularly congratulate the President for the overriding emphasis he placed upon safety since it is in this area that the proposed new Department probably could make its greatest contribution. If the proposed Department of Transportation is to have jurisdiction over the safety of the other forms of transportation, as provided in the legislation, we are prepared to accept a similar transfer of jurisdiction with respect to the motor carrier industry.

"We applaud the President's recognition that the economic regulatory functions of the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission, should remain unaltered. The economic regulatory functions are performed by these agencies as 'arms of the Congress,' and we feel strongly that it should stay that way.

"Although we can support the general proposition of establishing a Department of Transportation, we have serious reservations about some of the language contained in section 7 of the proposed bill. This section deals with 'Transportation Investment Standards,' and we feel that it requires close scrutiny to make sure that it does not encroach upon the proper prerogatives of the Congress and some of the other Federal agencies."

We would be most appreciative if you would make our statement a part of the record.

Very truly yours,

W. A. BESNAHAN.

TRUCK TRAILER MANUFACTURERS ASSOCIATION,  
Washington, D.C., April 21, 1966.

Hon. WILLIAM L. DAWSON,  
Chairman, Committee on Government Operations,  
Rayburn Office Building, Washington, D.C.

MY DEAR CONGRESSMAN DAWSON: We respectfully request that the enclosed copies of resolutions approved by our membership on March 30, 1966, be given careful consideration when related bills are discussed in your appropriate meetings.

Sincerely yours,

CHARLES J. CALVIN,  
Managing Director.

RESOLUTION II.—REGARDING THE PROPOSED DEPARTMENT OF TRANSPORTATION  
IN THE PRESIDENT'S CABINET

Whereas the President of these United States has requested the Congress to approve the creation of a Department of Transportation through the transfer of various agencies and certain functions of other agencies or departments to the proposed Department of Transportation; and

Whereas S. 3010 and H.R. 13200 and H.R. 13238 to implement the President's proposal, have been introduced into the Senate and House of Representatives; and

Whereas there are many implications in the proposed legislation which are as yet unclear as to their ultimate effect: Now, therefore, be it

*Resolved*, That the Truck Trailer Manufacturers Association, Inc., in convention assembled this 30th day of March 1966, does hereby memorialize the Congress of these United States to hold extensive hearings on the respective bills so that the objectives to be accomplished by the proposed legislation may be fully understood by all the parties to be affected by this legislation; be it further

*Resolved*, That this resolution duly executed be forwarded to the members of the appropriate committees of the Congress of these United States.

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EASTERN INDUSTRIAL TRAFFIC LEAGUE, INC.,  
Lancaster, Pa., April 28, 1966.

HON. WILLIAM L. DAWSON,  
*Chairman, Government Operations Committee,  
House of Representatives, Washington, D.C.*

SIR: The Eastern Industrial Traffic League, Inc. is a nonprofit membership organization of almost 200 associations, shippers, and receivers of freight. The league's purpose is to safeguard the transportation interests of the shipping and receiving public, who have a cause to be interested in commerce within, to, and from the Middle Atlantic and New England areas. The membership includes many of the principal associations and industries engaged in many types of businesses in this territory and representation by industries located elsewhere.

The league met in Boston, Mass., on April 12-14, 1966, and the membership at this meeting passed the following motion:

"The Eastern Industrial Traffic League is generally in favor of the declaration of purposes of House bill H.R. 13200 with the following exceptions and recommendations:

"(1) Extreme caution be exercised to appoint experienced, competent, transportation minded people.

"(2) Provisions of the Administrative Procedures Act be included as a section of the bill so that public hearings can be held on any orders or actions of the proposed Secretary of the Department of Transportation.

"(3) Oppose the transfer of car service functions from the Interstate Commerce Commission.

"(4) No interference in the regulatory portions of the Interstate Commerce Commission.

"(5) The request of the administration to appoint a permanent chairman of the Interstate Commerce Commission be rejected."

We would appreciate your serious consideration of the views of the league and request this statement be made a part of the records of the hearings on this legislation.

Very truly yours,

JOHN KEENE,  
*Chairman, Legislative Committee.*

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THE AMERICAN INSTITUTE OF ARCHITECTS,  
Washington, D.C., April 27, 1966.

HON. WILLIAM L. DAWSON,  
*Chairman, Committee on Government Operations, U.S. House of Representatives,  
Washington, D.C.*

DEAR MR. CHAIRMAN: The American Institute of Architects, a professional association organized in 1857 and which today claims a membership of more than 22,000 licensed architects, appreciates this opportunity to comment on H.R. 13200, legislation to establish a Department of Transportation.

Our members are deeply involved in the planning and construction of mass transit systems. We view an efficient and economical transportation system as an asset to national growth. We are familiar with the formidable problems which occur in our metropolitan areas because of poorly planned transportation

programs, and we have long advocated the necessity of considering transportation programs when formulating a master plan for a metropolitan area.

Last year, Congress approved legislation establishing a Department of Housing and Urban Development. This new Department was needed to bring together Federal policies aimed at improving urban areas. The enabling legislation directs the Department of Housing and Urban Development to "assist the President in achieving maximum coordination of Federal urban programs," and instructs the Secretary to "exercise leadership, at the direction of the President, in coordinating such Federal activities."

We believe urban transportation decisions fall within the purview of the Department of Housing and Urban Development since, in President Johnson's words, it "bears the principal responsibility for a unified Federal approach to urban problems." We recognize, however, that the proposed Department of Transportation will have concomitant responsibilities for coordinating transportation programs and policies.

We have reservations about the partnership approach to urban transportation recommended by President Johnson in his transportation message, and hope that it will work in theory and in practice. It would be unfortunate to curtail the Department of Housing and Urban Development in this one area of urban planning before it has had an opportunity to demonstrate its utility. To avoid needless conflict, the Congress should ascertain the modus operandi of cooperation between the two Departments before the Department of Transportation is established. Postponing for a year "the means and procedures by which this cooperation can be affected," as President Johnson recommended in his transportation message, may only serve to compound urban transportation problems.

We hope our comments will assist you in your deliberation on this very important measure.

Sincerely yours,

MORRIS KETCHUM, Jr., F.A.I.A.

(Whereupon, at 3:30 p.m., the subcommittee was adjourned.)

# APPENDIXES

## APPENDIX 1

(The following was submitted by the Bureau of the Budget in response to a request noted on p. 76.)

### SUBSTANCE OF LAWS TRANSFERRED

On the following pages, the substance of each of the laws transferred under section 6 of the bill is briefly described.

In the case of FAA and Coast Guard, all of their functions, powers, and duties would be transferred. The major laws which those agencies administer are described.

#### LAWS TRANSFERRED FROM COMMERCE DEPARTMENT (SEC. 6(a))

1. *The act of August 27, 1958 (72 Stat. 885), title 23, United States Code, "Highways"*

Title 23 represents a codification into positive law of all permanent acts relating to the Federal-aid and other highway programs administered by the Secretary of Commerce.

2. *The act of October 23, 1962 (76 Stat. 1145), the Federal-Aid Highway Act of 1962*

Most of the provisions of this act are included in amendments to title 23, United States Code. However, this act (sec. 13) also authorizes the Secretary of Commerce to make engineering studies and surveys relative to highway construction programs in Alaska, to make a report thereon to Congress, and, from time to time, to submit recommendations to Congress with respect to construction of highways in Alaska.

3. *The act of July 14, 1960 (74 Stat. 526), as amended by the act of October 4, 1961 (75 Stat. 779), National Driver Register*

This act directs the Secretary of Commerce to establish and maintain a register containing the names of individuals whose licenses have been terminated or temporarily withdrawn due to certain offenses, and to make such information available to the States upon request.

4. *The act of May 6, 1954 (68 Stat. 70), as amended by the act of October 13, 1964 (78 Stat. 1092), the Federal-Aid Highway Act of 1954*

Section 14 provides that the Secretary of Commerce apportion \$500,000 to the 10 States bordering the Mississippi River on the basis of needs for planning and expediting the Great River Road. (Not fully executed; a portion of these funds has not yet been apportioned.)

5. *The act of June 29, 1956 (70 Stat. 387), Highway Revenue Act of 1956, as amended*

Section 209(e)(1) directs the Secretary of the Treasury, after consultation with the Secretary of Commerce, to report to Congress annually on the actual and anticipated financial condition and the results of the operations of the highway trust fund.

Section 209(f)(5), added by section 202(a) of act approved September 3, 1964 (78 Stat. 897), directs the Secretary of the Treasury to transfer from the highway trust fund into the land and water conservation fund amounts as determined by him in consultation with the Secretary of Commerce as are equivalent to taxes received after January 1, 1965, with respect to special motor funds and gasoline used in motorboats.

Section 209(g) directs the Secretary of the Treasury after consultation with the Secretary of Commerce to estimate the amounts which will be available in the highway trust fund to defray the expenditures which will be required to be made from such fund. This section also relates to the function of the Secretary of

Commerce with respect to the apportionment of funds to the States for the Interstate System.

**6. *The act of October 22, 1965 (79 Stat. 1028), Highway Beautification Act of 1965***

Section 302 provides that the Secretary of Commerce shall furnish Congress a report of the estimate of cost and economic impact of this act not later than January 10, 1967.

Section 303 provides that the Secretary of Commerce shall hold public hearings in each State to gather information on which to base standards, criteria, and rules and regulations, and report to Congress not later than January 10, 1967, with respect to the standards, criteria, and rules and regulations promulgated.

**7. *The act of June 25, 1959 (73 Stat. 141), Alaska Omnibus Act***

Section 21(a) provides that the Secretary of Commerce shall transfer to the State of Alaska all properties of the Bureau of Public Roads except those he must retain for additional road purposes. (Some aspects have not been fully executed.)

**8. *Joint resolution of August 28, 1965 (79 Stat. 578)***

Section 3 provides that the Secretary of Commerce shall report to Congress in January 1968 and in January of every second year thereafter his estimate of future highway needs of the Nation.

**9. *The act of August 2, 1946 (60 Stat. 847), the General Bridge Act of 1946, as amended***

Section 525(c) provides that in case of conflict between States as to the location and plans of an interstate bridge the location and plans shall be submitted to the Bureau of Public Roads and if approved by the Bureau of Public Roads approval of State highway departments is unnecessary.

**10. *Act of July 26, 1956 (70 Stat. 669)***

Creates the Muscatine Bridge Commission.

**11. *Act of December 21, 1944 (58 Stat. 846)***

Creates the City of Clinton Bridge Commission.

**12. *Act of April 12, 1941 (55 Stat. 140)***

Creates the White County Bridge Commission.

**13. *Act of April 27, 1962 (76 Stat. 59)***

Provides for annual audit of the above federally created bridge commissions.

Section 2 provides that the Secretary of Commerce is directed to appoint or reappoint persons as members of the above bridge commissions. The Secretary may also remove any member for cause.

Section 3 provides that the Secretary of Commerce is to review the annual reports and audit reports submitted by the bridge Commissions and submit such recommendations to the Congress, based on such review, as he deems necessary.

**14. *The act of September 30, 1965 (79 Stat. 893) high speed ground transportation***

Authorizes the Secretary of Commerce to (1) undertake research and development in high-speed ground transportation; (2) contract for demonstrations; and (3) collect and collate transportation statistics.

**15. *The Urban Mass Transportation Act of 1964 (78 Stat. 302; 49 U.S.C. 1601, et seq.)***

Section 8 of this law requires the Secretary of Commerce and the Secretary of Housing and Urban Development to consult on general urban transportation policies and programs in order to assure coordination of highway, railway, and other mass transportation planning and development programs in urban areas, taking into consideration federally assisted highways. The responsibility of the Secretary of Commerce would be transferred to the Secretary of Transportation.

**16. *The act of September 7, 1957 (71 Stat. 629; 49 U.S.C. 1324 nt)***

**17. *Section 410 of the Federal Aviation Act of 1958 (72 Stat. 769; 49 U.S.C. 1380)***

The Secretary of Commerce administers the program for governmental guarantees of loans to enable local air carriers to purchase aircraft suitable for such transportation on reasonable terms.



**18. Title XIII: War Risk Insurance, of the Federal Aviation Act of 1958 (72 Stat. 800; 49 U.S.C. 1531, et seq.)**

Authorizes the Secretary of Commerce, with the President's approval, to provide aviation war risk insurance to air carriers in international air transportation when such insurance is not available under reasonable terms and conditions in the commercial market.

**19. The Great Lakes Pilotage Act of 1960 (74 Stat. 259; 46 U.S.C. 216, et. seq.)**

Requires the Secretary of Commerce to assure adequate pilotage service for certain restricted waters of the Great Lakes. The Secretary, in agreement with Canada, regulates rates and operations of pilotage service. The Secretary also licenses pilots.

**20. The Merchant Marine Act, 1920 (41 Stat. 988; 46 U.S.C. 861)**

The Secretary of Commerce authorized: (1) Under section 30 (Ship Mortgage Act), to make regulations covering mortgages covering U.S. vessels; (2) To investigate port congestion and remedies applicable thereto, and to promote, encourage, and develop ports and facilities in connection with water-bound transportation; (3) Under section 28 to certify inadequate shipping facilities to ICC, so that agency may suspend preferential through rates.

**21. Merchant Marine Act, 1928 (45 Stat. 689; 46 U.S.C. 891)**

(1) Confirmed the policies of the 1920 act, described in 20 herein; (2) Secretary of Commerce has authority to recommend new vessels to be planned with reference to usefulness as naval and military auxiliaries; (3) Recondition and repair vessels, remodel and improve.

**22. The Merchant Marine Act, 1936 (49 Stat. 1985, 46 U.S.C. 1101)**

Authorizes the Secretary of Commerce to: (1) Make, amend, and terminate subsidy contracts; (2) investigate, determine, and keep current records of ocean service, routes, lines from ports in U.S. territory, district, or possession to foreign market and type, speed and requirements for service; (3) investigate and determine relative cost of constructing comparable vessel in the United States and foreign countries, and also such relative cost of operating vessels; (4) charter its vessels; (5) provide Federal ship mortgage insurance and war risk insurance; (6) provide liaison to secure preference to American cargo vessels; (7) in cooperation with owners and builders, develop plans for economical construction of vessels and machinery.

**23. The Shipping Act, 1916 (39 Stat. 728, 46 U.S.C. 801)**

The Secretary is authorized to:

(1) Investigate—

(a) The cost of building merchant vessels abroad and in the United States;

(b) Of operating in the foreign trade;

(c) Rules and classifications abroad;

(d) Marine insurance in the United States and abroad; and

(e) Examine navigation laws and legal status of mortgage loans.

(2) Grant approval to transfer of mortgage bonds to foreigners.

**24. Merchant Ship Sales Act of 1946 (60 Stat. 41, 50 U.S. App. 1735)**

The Secretary of Commerce (1) is authorized to charter war-built dry-cargo vessels to U.S. citizens for bare-boat use; (2) is authorized to charter any passenger vessel, either war-built or owned by the United States on or after June 30, 1950, pursuant to title VII of the Merchant Marine Act, 1936, and to charter any war-built vessel for use in the domestic trade.

**25. The Maritime Academy Act of 1958 (72 Stat. 622; 46 U.S.C. 1381)**

Authorizes the Secretary of Commerce to (1) assist and cooperate with States and territories by furnishing training vessels if unavailable to such States as Maine, Massachusetts, New York, California; (2) assist by entering into agreements with such academy or college by making annual payments to such colleges; (3) make agreements to make subsistence payments to such school per student.

**26. The act of June 12, 1940 (54 Stat. 346; 46 U.S.C. 1331)**

Authorizes the Secretary of Commerce to (1) examine civilian nautical schools; (2) rate such schools as to course of instruction, competency of instructors, suitability of equipment.

27. *The act of August 30, 1964 (78 Stat. 614 amending 74 Stat. 212; 46 U.S.C. 1401) relating to the fishing fleet*

Authorizes Secretary through (1) Maritime Administrator to determine and certify to the Secretary of the Interior the lowest responsible domestic bid for the construction of a fishing vessel and (2) supervise construction for which construction subsidy is paid.

28. *The act of September 14, 1961 (75 Stat. 514; 46 U.S.C. 1126b-1) relating to appointments to the Merchant Marine Academy)*

The Secretary is authorized to permit, upon designation of the Secretary of the Interior, not to exceed four persons at a time from the Trust Territories of the Pacific Islands to receive instruction at the U.S. Merchant Marine Academy.

29. *The act of June 13, 1957 (71 Stat. 73) to the extent it relates to operating-differential subsidies*

In addition to providing appropriation for operating-differential subsidy the act provides that to the extent that ODS accrual is represented on the operators books by a contingent accounts receivable item against the United States as a partial or complete offset to the recapture accrual, the operator is (1) excused from making deposits in special reserve fund; (2) excused deposits in (1) receive same tax treatment as if deposited. Amounts paid on such account must be deposited in special reserve fund. Also provides no ODS contract for more than 2,100 voyages per year.

30. *The act of June 12, 1951 (65 Stat. 59, 46 U.S.C. 1241a)*

Created vessel operations revolving fund for purposes of carrying out vessel operating functions of the Secretary of Commerce, i.e., charter, operation, maintenance, repair, reconditioning, and betterment of merchant vessels under his jurisdiction.

31. *The act of July 24, 1956 (70 Stat. 605; 46 U.S.C. 249) relating to the grant of medals and decorations for service in the U.S. merchant marine*

Authorizes the Secretary to award (1) distinguished service medal to U.S. merchant mariners for outstanding act, conduct, or valor beyond line of duty; (2) distinguished service ribbon bar to masters, officers, members of crew in times of war or national emergency in conditions of danger; (3) ship citation to gallant ships.

32. *The act of June 9, 1954 (68 Stat. 675; 50 U.S.C. 196)*

Authorizes the Secretary of Commerce during periods in which vessels may be requisitioned under Merchant Marine Act, 1936, section 902, to (1) purchase, charter, requisition, take title to any vessel not owned by U.S. citizen and lying idle in waters within U.S. jurisdiction and which President deems necessary for national defense; (2) acquire by voluntary agreement of purchase or charter the ownership of any merchant vessel not owned by citizens of United States; (3) recondition, repair, recondition any vessel to be utilized under this act.

33. *Reorganization Plan No. 21 of 1950 (64 Stat. 1273; 5 U.S.C. 133z 15 note)*

34. *Reorganization Plan No. 7 of 1961 (75 Stat. 840; 5 U.S.C. 133z 15 note)*

35. *Reorganization Plan No. 7 of 1949 (63 Stat. 1070; 5 U.S.C. 133z 15 note)*

The Secretary of Commerce administers the award of subsidies and related promotional functions and is accountable for the effective conduct of such programs, including the size and character of the U.S.-flag fleet, the need for governmental assistance, and requirements for appropriations to support subsidy programs. He investigates and determines relative costs of construction and operation abroad.

33. *Reorganization Plan No. 21 of 1950 (64 Stat. 1273) (5 U.S.C. 133z 15 note and 46 U.S.C. 1111 note)*

Established in the Department of Commerce the Office of the Under Secretary of Commerce for Transportation and the Maritime Administration.

34. *Reorganization Plan No. 7 of 1961 (75 Stat. 840) (5 U.S.C. 133z-15)*

Created the Federal Maritime Commission which is not affected by this bill and established the office of the Maritime Administrator in the Department of Commerce.

**35. Reorganization Plan No. 7 of 1949 (63 Stat. 1070) (5 U.S.C. 1332-15 note)**

Transferred to the Secretary of Commerce functions of (1) the Public Roads Administration; (2) the Commissioner of Public Roads; (3) the Federal Works Administrator.

**36. The act of August 1, 1947 (61 Stat. 715) (5 U.S.C. 1161(d))**

Authorizes the Secretary of Commerce to establish and fix the compensation of scientific and professional positions which require the services of specially qualified personnel.

The authority of the Secretary of Commerce under this act would be transferred only to the extent it authorizes scientific and professional positions which relate primarily to transportation.

**COAST GUARD ADMINISTERED ACTS (SEC. 6(b))****GENERAL INFORMATION**

Because of its position as the principal maritime enforcement agency, the Coast Guard or Coast Guard officers are named in provisions or are involved in administering many other acts such as maritime conservation acts and treaties, customs laws, criminal statutes, Corps of Engineers laws affecting navigable waters, and similar matters.

The Coast Guard also has authority to assist any Federal, State, or local government where personnel and facilities are especially qualified and available. This authority is used frequently.

The Coast Guard's status as an armed force has also led to its participation in defense activities and the commitment of personnel, vessels, and equipment to defense efforts.

Section 2 of title 14, United States Code, indicates in a very general way the scope of Coast Guard activities as follows:

- (1) Enforce or assist in the enforcement of all applicable Federal laws afloat.
- (2) Administer laws and promulgate and enforce regulations for the promotion of safety of life and property afloat covering all matters not delegated to some other executive department.
- (3) Develop, establish, maintain, and operate:
  - (a) aids to maritime navigation;
  - (b) icebreaking facilities;
  - (c) rescue facilities.
- (4) Maintain a state of readiness as an armed force.

**1. Title LII, Revised Statutes (R.S. 4399-4500), and acts supplementary thereto; chapters 2A, 7, 11, 14, and 15, title 46, United States Code**

Provide generally for the supervision of shipping and vessels from the point of view of safety. Specific functions include: (1) Supervision of construction, alteration, and repair of vessels; (2) inspection of hulls, propulsion equipment, appurtenances, and safety equipment; (3) licensing of officers and establishment of manning requirements; (4) promulgation of regulations to carry out marine safety laws; (5) investigation of marine casualties.

**2. Title LIII, Revised Statutes (R.S. 4501-4612), and acts supplementary thereto; chapter 18, title 46, United States Code**

Provide generally for the supervision of merchant marine personnel. Specific functions include: (1) Examination and documentation of seamen; (2) supervision of the shipment of seamen and of their discharge and payment; (3) supervision over the wages and effects of deceased seamen; (4) maintenance of records of the employment of seamen; (5) maintenance of official logbooks of American vessels.

**3. Act of August 4, 1949, as amended (63 Stat. 496) (14 U.S.C. 81)**

Authorizes the establishment and maintenance of: (1) Aids to maritime navigation to serve the needs of the Armed Forces or the commerce of the United States; (2) aids to air navigation to serve the needs of the Armed Forces as requested by the Secretary of a military department; (3) Loran stations to serve the needs of the Armed Forces, maritime commerce, and air commerce, the latter as requested by the FAA Administrator.

*4. Act of August 4, 1949 (63 Stat. 501) (14 U.S.C. 88)*

Authorizes Coast Guard to (1) perform acts necessary to rescue and aid persons and protect and save property; (2) take charge of property saved from marine or air disasters or floods, and care for bodies of victims; (3) furnish shelter, supplies, and medical aid to persons assisted; and (4) destroy sunken or floating dangers to navigation.

*5. Act of August 4, 1949 (63 Stat. 502) (14 U.S.C. 89)*

Provides generally for the exercise of law enforcement authority by the Coast Guard, and by commissioned, warrant, and petty officers of the Coast Guard. Specific authority mentioned: (1) Permits the boarding of U.S. vessels to examine papers, inspect and search, and arrest for violations of U.S. law where authorized; and (2) permits enforcement of U.S. law by Coast Guard in waters over which the United States has jurisdiction and upon the high seas.

*6. Act of August 4, 1949 (63 Stat. 502) (14 U.S.C. 90)*

Authorizes the maintenance of floating ocean stations to provide search and rescue, communication, and air navigation facilities and meteorological services.

*7. Act of October 5, 1961 (75 Stat. 827) (14 U.S.C. 94)*

Authorizes Coast Guard to engage in oceanographic research including use of necessary equipment and collection and analysis of data.

*8. Act of June 15, 1917, as amended (40 Stat. 220) (50 U.S.C. 191-194)*

Authorizes the establishment of a port security program during periods of national emergency and when the security of the United States is threatened.

*9. Act of April 25, 1940 (54 Stat. 163) (46 U.S.C. 526 et seq.) (Motorboat Act of 1940)*

*10. Act of September 2, 1958 (72 Stat. 1754) (46 U.S.C. 527 et seq.) (Federal Boating Act of 1958)*

Provide generally for the regulation of motorboats and include (1) classification of motorboats; (2) equipment requirements; (3) prohibitions against reckless or negligent operation; (4) numbering requirements; (5) approval machinery for State numbering systems; and (6) penalty provisions.

*11. Act of August 4, 1949 (63 Stat. 496) (14 U.S.C. 2)*

*12. Executive Order No. 7521, 1 F.R. 2527*

Provides authority for Coast Guard to develop, establish, maintain, and operate icebreaking facilities.

#### LAWS TRANSFERRED FROM FAA (SEC. 6(c))

The FAA administers and operates under a number of laws. The following pages describe the major laws administered by FAA.

*1. Federal Aviation Act of 1958 (72 Stat. 731, 49 U.S.C. 1301)<sup>1</sup>*

Empowers the Administrator of FAA to (1) control the use of the navigable airspace and regulate civil and military operations in such airspace in the interest of safety and efficiency; (2) develop and operate a common system of air traffic control and navigation for both military and civil aircraft.

*2. Federal Airport Act (60 Stat. 170, 49 U.S.C. 1101)*

Authorizes the Administrator of FAA to administer a grant-in-aid program for the development of public airports.

*3. International Aviation Facilities Act (62 Stat. 450, 49 U.S.C. 1151)*

Authorizes the Administrator of FAA to (1) acquire and operate in foreign territory airway and airport facilities necessary to the foreign commerce of the United States; (2) perform other functions to promote the development of civil aviation outside the continental United States.

*4. Act of June 29, 1940 (54 Stat. 686)*

*5. Act of September 7, 1950 (64 Stat. 770)*

Provide, respectively, for the operation of Washington National and Dulles International Airports by the Administrator, FAA.

<sup>1</sup> Titles III, V, VI, and XII prescribe the major powers of the Administrator. Of the remaining titles, some apply exclusively to the CAB, while others contain general provisions applicable both to the CAB and the Administrator.

## LAWS TRANSFERRED FROM THE CIVIL AERONAUTICS BOARD (SEC. 6(d))

1. *Title VI of the Federal Aviation Act of 1958 (72 Stat. 775, 49 U.S.C. 1421) (safety appeals).*
2. *Title VII of the Federal Aviation Act of 1958 (72 Stat. 781, as amended by 76 Stat. 921, 49 U.S.C. 1441) (accidental investigation)*

Under title VI, the only functions exercised by the CAB are review pursuant to section 602 of the denial by the Administrator of the FAA of applications for airmen certificates, and review pursuant to section 609 of orders of the Administrator amending, modifying, suspending, or revoking air safety certificates (i.e., certificates issued to an airman; aircraft; air carrier; air navigation facility; or air agency). Proceedings are adjudicatory in nature and are subject to the Administrative Procedure Act. CAB orders affirming the Administrator's actions or orders, or amending, modifying, or reversing such orders or actions, are subject to judicial review.

Under title VII, the CAB is charged with the responsibility for investigating all accidents involving civil aircraft; determining the probable cause of such accidents; making recommendations based thereon to the Administrator of the FAA designed to prevent similar accidents; making such reports public as may be deemed by it to be in the public interest; and conducting special studies and investigations to reduce accidents. CAB does not act in quasi-judicial capacity in investigation of accidents, and reports relating thereto are not admissible in evidence in actions for damages.

## LAWS TRANSFERRED FROM INTERSTATE COMMERCE COMMISSION (SEC. 6 (e))

1. *The act of March 2, 1893 (27 Stat. 531), as amended by the act of August 14, 1957 (71 Stat. 352), the act of March 2, 1903 (32 Stat. 943), as amended by the act of April 11, 1958 (72 Stat. 86), and the act of April 14, 1910 (36 Stat. 298), as amended by the act of August 14, 1957 (71 Stat. 352), relating to safety appliances*

(1) Prescribes certain safety appliances for trains, locomotives, and cars used by railroads engaged in interstate commerce; (2) authorizes the ICC, after hearing, to prescribe certain other safety appliances for such equipment; (3) imposes a duty on ICC to inform U.S. attorney of any violations as may come to its knowledge.

2. *The act of May 30, 1908 (35 Stat. 476)*

Relating to ash pans: Prescribes ash-pan equipment required on locomotives and specifically imposes duty on ICC to enforce this act.

3. *The act of February 17, 1911 (36 Stat. 913), the act of March 4, 1915 (38 Stat. 1192), the act of June 26, 1918 (40 Stat. 616), the act of June 7, 1924 (43 Stat. 659), the act of June 27, 1930 (46 Stat. 822), and the act of April 22, 1940 (54 Stat. 148), the act of May 27, 1947 (61 Stat. 120), the act of June 25, 1948 (62 Stat. 909), the act of October 28, 1949 (63 Stat. 972), the act of August 14, 1957 (71 Stat. 352), relating to boiler inspection*

Created the Office of Director of Locomotive Inspection and provides for the inspection of all parts and appurtenances and tenders, as well as the boilers, of locomotives used by common carrier railroads.

4. *The Reorganization Plan No. 3 of 1965 (79 Stat. 1320) relating to locomotive inspection*

Abolishes the Office of Director of Locomotive Inspection and transfers his functions to the ICC.

5. *The resolution of June 30, 1906 (34 Stat. 838), relating to block signals*

Directs and authorizes the ICC to investigate and report to Congress on the use and necessity for block signals.

6. *The act of May 27, 1908 (35 Stat. 325), relating to investigation and testing of appliances*

Authorizes the ICC, at its discretion, to test and report on safety appliances.

7. *The act of March 4, 1909 (35 Stat. 965), relating to inspection of mail cars*

Directs that ICC safety inspectors inspect mail cars and report to Postmaster General.

8. *The act of May 6, 1910 (36 Stat. 350) and the act of September 13, 1960 (74 Stat. 903), relating to accident reports*

(1) Requires railroads to report accidents on forms prescribed by ICC; (2) authorizes ICC to investigate accidents and make public reports of investigation.

9. *The act of March 4, 1907 (34 Stat. 1415), the act of May 4, 1916 (39 Stat. 61), the act of June 25, 1948 (62 Stat. 909), the act of August 14, 1957 (71 Stat. 352), relating to hours of service of employees*

Prescribes maximum hours of service of employees of any railroad common carrier and imposes on ICC duty to inform U.S. attorney of any violations as may come to its knowledge and to enforce provisions of this act.

10. *The act of February 23, 1905 (33 Stat. 743), the act of June 13, 1957 (71 Stat. 69), relating to awards*

Authorizes the President to grant medals of honor for heroism with respect to wrecks upon railroads or involving motor vehicles.

11. *Title 18, United States Code, sections 831-835, relating to explosives and other dangerous articles (74 Stat. 808)*

(1) Prohibits transportation of certain explosives on passenger vehicles operated by common carriers and shipments of such explosives without disclosing their nature; (2) authorizes ICC to prescribe regulations relating to the transportation of explosives and other dangerous articles by land, and marking and packing of such articles transported by land or water.

12. *The act of March 19, 1918 (40 Stat. 450), the act of March 4, 1921 (41 Stat. 1446), and the act of March 3, 1923 (42 Stat. 1434), as amended by the act of June 24, 1948 (62 Stat. 646), relating to the Standard Time Act*

(1) Establishes five time zones which shall govern movement of all common carriers; (2) authorizes the ICC to define the limits of each zone.

13. *The following sections of the Interstate Commerce Act (24 Stat. 379): sections 1(10), 1(11), 1(12), 1(13), 1(14)(a) (but not including establishment of the compensation to be paid for the use of any locomotive, car, or other vehicle not owned by the carrier using it), 1(15), 1(16), 1(17), 6(8), the final sentence of 15(4), 15(10), and 420, relating to car service*

(1) Imposes duty on railroads and freight forwarders to establish just and reasonable practices, in use, control, supply, movement, distribution, etc., of rolling stock; (2) authorizes the ICC to require publication of the carrier's car service rules and regulations in tariffs; after hearing, to establish reasonable rules, regulations and practices with respect to car service; to issue emergency orders relating to car service, use of facilities, and priority of traffic; and, under certain circumstances, establish through routes and to direct routing of traffic; (3) provides for handling military traffic upon demand of President in time of war.

14. *Section 25, relating to safety appliance, methods, and systems*

(1) Authorizes the ICC, after investigation, to prescribe installation by any railroad of block signal system, interlocking automatic train stop or other similar appliances, etc.; (2) requires carriers to file rules and regulations for installation, operation, and maintenance of such appliances, methods, or systems with ICC and, upon failure of a carrier to do so, authorizes ICC to prescribe such rules; (3) authorizes ICC to inspect such systems, etc., and to determine whether in proper condition; (4) requires railroads to report to ICC failures and accidents relating to such systems; (5) imposes duty on ICC to enforce provisions of this section.

15. *Section 226 of Interstate Commerce Act (24 Stat. 379, as amended), investigation of motor vehicle sizes and weights*

This is an obsolete provision, enacted in 1935, which authorized the Commission to investigate and report on the need for Federal regulation of motor vehicle sizes and weights, which investigation was completed and a report submitted to Congress in 1941. It also includes authorization for a similar investigation with respect to qualifications and maximum hours of service of employees

of all motor carriers and private carriers of property by motor vehicle. The Commission found a need for such regulations and by 1940 had prescribed them under its specific power in section 204(a) (1), (2), and (3), which power now would be transferred to the Secretary of Transportation.

*16. Section 1(21)*

Except to the extent that it relates to the extension of line or lines of common carriers, authorizes the ICC to require a railroad to provide itself with adequate facilities for car service.

*17. Sections 204(a), (1), (2), (3), (3a), and (5) of the Interstate Commerce Act (24 Stat. 379, as amended)*

These sections, insofar as they are pertinent to the bill, authorize the Interstate Commerce Commission to (1) prescribe requirements relating to qualifications and maximum hours of service of employees and safety of operation and equipment for motor common and contract carriers; (2) prescribe requirements relating to qualifications and maximum hours of service of employees and standards of equipment for private carriers of property by motor vehicle; (3) prescribe requirements relating to comfort of passengers, qualifications, and maximum hours of service of employees, and safety of operation and equipment for carriers of migrant workers by motor vehicle; (4) avail itself of the research agencies of the Federal Government in carrying out the motor carrier safety regulations.

**LAWS TRANSFERRED FROM DEPARTMENT OF THE ARMY (SEC. 6(f))**

*1. Section 7 of the River and Harbor Act of March 4, 1915 (38 Stat. 1053; 33 U.S.C. 471)*

*2. The act of April 22, 1940 (54 Stat. 150; 33 U.S.C. 180, 258)*

Authorizes the Secretary of the Army to establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of the United States. These areas are reserved for vessels to unload or load cargoes, or to await clearance for entering a harbor or approaching a dock, and also for small vessels not exceeding 65 feet in length to anchor without anchor lights.

*3. Section 5 of the act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499)*

Authorizes the Secretary of the Army to prescribe such rules and regulations as in his opinion the public interest require, to govern the opening of drawbridges, built across the navigable rivers and other waters of the United States, for the passage of vessels and other water crafts.

*4. The act of June 21, 1940 (54 Stat. 497; 33 U.S.C. 511-524) (Truman-Hobbs Act)*

Railroad and publicly owned highway bridges determined by the Secretary of the Army to be unreasonably obstructive to the free navigation of any navigable waters of the United States may be required to be altered by the owner so as to remove such obstruction. The Federal Government shares in the cost of such alternations in accordance with the formula established at 33 U.S.C. 516.

*5. Section 4 of the act of August 23, 1906 (34 Stat. 85; 33 U.S.C. 494)*

*6. Section 503 of the act of August 2, 1946 (60 Stat. 847; 33 U.S.C. 526)*

*7. Section 17 of the act of June 10, 1930 (46 Stat. 552; 33 U.S.C. 498a)*

*8. Act of June 27, 1930 (46 Stat. 821; 33 U.S.C. 498b)*

*9. Act of August 21, 1935 (49 Stat. 670; 33 U.S.C. 503-507)*

The Secretary of the Army is authorized to review and determine the reasonableness of rates charged for transit across a bridge over navigable waters by the bridge owner. With some limited exceptions, toll bridge rates are subject to the Secretary's regulatory rates. The exceptions would be bridges built under the authority of the legislature of the State across rivers or other waterways the navigable portions of which lie wholly within the limits of a single State, bridges on which the tolls are prescribed by a contract entered into by or with

any State or political subdivision thereof, or any municipality, and international bridges, where the enacting legislation of such bridges did not make them specifically subject to the 1906 act. Also excepted are intrastate bridges constructed under the authority of the 1946 act.

*10. Act of August 30, 1961 (75 Stat. 402), Oil Pollution Act, 1961*

The Oil Pollution Act, 1961, implements the provisions of the International Convention for the Prevention of the Pollution of the Sea by Oil, 1954. The act implements the convention by prohibiting American ships from discharging waste in any of the zones named, including 50 miles around our own coasts; provides for the keeping of records showing where such wastes were discharged; and provides for the inspection of oil record books. The Secretary of the Army generally administers the provisions of this act.

*11. Section 9 of the act of March 3, 1899 (30 Stat. 1151, 33 U.S.C. 401)*

*12. The act of March 23, 1906 (34 Stat. 84, 33 U.S.C. 491-498) (the General Bridge Act of 1906)*

*13. The act of August 2, 1946 (60 Stat. 847, 33 U.S.C. 525-539) (the General Bridge Act of 1946)*

The location and plan for bridges over the navigable waters of the United States are required to be approved by the Chief of Engineers and the Secretary of the Army before construction is commenced. It is the responsibility of the Chief of Engineers and the Secretary of the Army under these laws to assure that such bridges provide adequate clearances for the reasonable needs of navigation at the least cost to both land and water transportation.

NOTE.—Section 9 of the act of March 3, 1899, requires the consent of Congress or a State legislature, and approval of the Chief of Engineers and Secretary of the Army for the construction of any bridge, dam, dike, or causeway in navigable waters of the United States. Under the proposed legislation, the Department of the Army would retain responsibility for administering those provisions of section 9 as it relates to dams and dikes. Causeways are considered to be bridges and authority therefor would be transferred to the Department of Transportation.

## APPENDIX 2

(The following was submitted by the Bureau of the Budget in response to a request noted on p. 72.)

### PRECEDENT FOR SPECIAL STUDY AUTHORITY PROVIDED IN SECTION 4(g) OF THE DEPARTMENT OF TRANSPORTATION BILL

*Justification.*—The Commerce Department currently has similar authority (15 U.S.C. 189a). Under this authority, for example, the Maritime Administration of the Department of Commerce currently makes studies relating to foreign and domestic transportation. It is an essential function of the Maritime Administration to provide these studies for the use of the agency and the maritime industry. Such information is of particular importance to the agency and to operators participating in statutory hearings so that a proper record can be developed on the need for additional U.S.-flag service.

*Source of provision.*—Section 4(g) is modelled after 15 U.S.C. 189a which authorizes the Secretary of Commerce to grant requests for information made by interested persons. The wording of 4(g) is similar to 15 U.S.C. 189a except that Transportation supplants Commerce in 4(g).

#### *Other precedents*

1. Department of Interior, 5 U.S.C. 488.

Authorizes the Secretary of Interior to provide and charge for copies of records, documents, and the like, when not against the Government interest.

2. Federal Aviation Agency, 49 U.S.C. 1352.

"The Administrator is empowered and directed to collect and disseminate information relative to civil aeronautics (other than information collected and disseminated by the Board under subchapters IV and VII of this chapter) \* \* \*."

<sup>1</sup> Subchapter IV relates to Economic Regulation of Air Carriers and subchapter VII relates to aircraft accident investigation.



### 3. Federal Power Commission, 16 U.S.C. 825k.

"The Commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and is authorized to sell at reasonable prices copies of all maps, atlases, and reports as it may from time to time publish. Such reasonable prices may include the cost of compilation, composition, and reproduction. The Commission is also authorized to make such charges as it deems reasonable for special statistical services and other special or periodic services."

## APPENDIX 3

(The following was submitted by the Bureau of the Budget in response to a request noted on p. 77.)

### ANALYSIS OF SECTION 7—THE USE OF STANDARDS AND CRITERIA IN THE FORMULATION AND EVALUATION OF FEDERAL TRANSPORTATION INVESTMENTS

The President and the Congress will place upon the Secretary of Transportation primary responsibility for transportation matters in the executive branch. Among the matters demanding wise and active direction, Federal investment programs in transportation facilities and equipment are of particular importance. By investment in transportation facilities is meant the financing by the Federal Government of capital goods such as air traffic control centers, highways, harbor and waterway improvements and other durable facilities and equipment used by private industry in providing transportation for the public or directly by the general public in providing its own transportation.

Next to economic regulation, the greatest impact of Government transportation programs comes from the massive investment of public funds in transportation facilities and equipment. It is clear that these capital investment programs will continue to grow in response to expanding demand for transport services.

The individual Federal programs of investment in transportation had their beginnings under widely differing circumstances and were generally initiated without regard to (a) their interrelationships or (b) their relationships to Federal programs serving other major purposes. Some transportation investment programs were authorized without specific statutory standards and criteria on which to base project formulation and evaluation; for others general standards were laid down in the statutes, e.g., the merchant ship construction subsidy may not, by law, exceed 55% of the total cost of construction.

Given the increasing demand for public transportation investments, we must be sure that the Nation's transportation systems get their fair share of public resources in competition with programs serving other major national objectives. We must also be sure that (a) the most urgent national transportation needs are identified, (b) projects to meet these needs are assigned planning and development priorities, and (c) needs are met in the most effective manner.

Section 7(a) of the proposed legislation authorizes the Secretary of Transportation to promulgate, after approval by the President, standards and criteria for the formulation of transportation investment proposals. "The standards and criteria for economic evaluation of the transportation features of multi-purpose water resource projects shall be developed by the Secretary after consultation with the Water Resources Council, and shall be compatible with the standards and criteria for economic evaluation applicable to non-transportation features of such projects. The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the President."

In considering Section 7, several points should be borne in mind.

1. The standards and criteria apply to inland navigation investment "proposals". They are, in other words, to be used by the executive branch in formulating and evaluating within the executive branch proposals to be submitted to the Congress.

2. Nothing in Section 7 adds or detracts from the existing statutes applying to the various transportation activities of the Federal Government. For ex-

ample, neither the general nature nor the scope of the Interstate Highway System could be altered by the Secretary. The Secretary could not change programs already authorized by the Congress.

3. The concepts in Section 7 would extend the concept of *consistent* standards and criteria required by the Water Resources Planning Act for water resource projects to other transportation projects. The development and implementation of a consistent set of standards has greatly improved the quality of water resource development planning, and has helped to assure more consistent—though not necessarily uniform—treatment of various elements of water resources development. (Attachment A is a brief description of the use of standards and criteria in the formulation and evaluation of Federal water resources development projects.)

It is not intended, as it was not intended by Senate Document 97, which now governs water resources project formulation, that a single set of specific rules and regulations be established. Rather, Section 7 contemplates the establishment of broad general standards that must be taken into account in developing transportation investment proposals. They would state, for example: (a) the types and kinds of benefits to be considered; (b) the kinds and extent of costs to be examined; (c) the period of evaluation; (d) the use of the maximization of net benefits principle.

The standards and criteria contemplated under Section 7 apply to two kinds of programs: these programs are either (a) those to be included in the new Department, or (b) those to remain outside the Department.

#### PROGRAMS TO BE INCLUDED IN THE DEPARTMENT

The Secretary of Transportation would, of course, have policy responsibility for investment proposals developed under Federal programs included in the Department. In evaluating proposals for transportation investments, to be transmitted to the Congress, the Secretary would utilize the standards he had promulgated, after Presidential approval. The existence of such standards would help insure a consistent approach to departmental transportation investments. As indicated earlier, however, such standards could not alter the statutes currently applying to the various transportation programs included in the proposed Department.

#### TRANSPORTATION PROGRAMS TO REMAIN OUTSIDE THE DEPARTMENT

Some of the water resources projects developed by the Corps are exclusively or predominantly transportation projects and can be evaluated as such. Most of the projects, however, serve other purposes as well. All such multi-purpose projects are planned so as to permit the evaluation of costs and benefits associated with each main development purpose separately.

The Water Resources Council was created as a vehicle for establishing standards and criteria for Federal investments in water and related land resources. Section 7 directs the Secretary of the Department of Transportation to consult with the Water Resources Council and requires that the transportation standards and criteria for formulation and evaluation of the navigation elements of such projects be compatible with the standards and criteria for economic evaluation of non-transportation features of the projects. This requirement, plus the approval of the President, will assure that all standards and criteria promulgated by the Secretary will be fully coordinated with other Government agencies.

After the Rivers and Harbors Board approves a project report by the Division Engineer, the report is submitted to an interagency review procedure which is required by law. The President and the Congress should have the Secretary's advice on the merits of the transportation elements of these projects, as well as on programs developed in the Department of Transportation. Section 7 provides for this. The Secretary will not have veto power over Corps projects, however. The Corps will continue to exercise its responsibilities fully. Attachment B describes the current procedures for handling Corps projects and the modifications that would result because of Section 7.

*Other programs to remain outside the department.*—The urban mass transit assistance programs administered by the Department of Housing and Urban Development and the economic development projects administered by the Department of Commerce have major transportation impacts. These programs are also related to programs serving other major national objectives, e.g., community and regional development.

Urban transportation problems, including the appropriate roles of mass transit and highways in urban development, will be the subject of joint analysis by the Secretaries of Housing and Urban Development and the Department of Transportation during the year following establishment of the Department of Transportation. Any necessary reassignment of functions or changes in program direction or emphasis will be recommended by the President to the Congress upon receipt of the advice of the two Secretaries. Meanwhile, the two Departments will continue to consult and collaborate in seeking harmonious and mutually reinforcing programs.

Section 7 will not apply to urban mass transit projects during this period. It is clear, however, that a means will have to be developed for assuring *compatibility* between standards and criteria employed by the Department of Housing and Urban Development and the Department of Transportation when these two sets of standards and criteria are applied to urban transportation investments.

#### TRANSPORTATION ACTIVITIES TO WHICH SECTION 7 DOES NOT APPLY

As used in Section 7 of the bill, transportation investment does not mean any of the following:

1. The acquisition of capital goods by the Government for its own use, as for example, MSTTS aircraft, Panama Canal improvements, or mail trucks.
2. The costs of operating, maintaining and administering Federally-financed transportation facilities or equipment.
3. Property acquired in pursuit of Federally-financed transportation research and development programs *per se*, though any permanent capital investment made as a result of such research and development would be subject to Section 7 of the bill.
4. Any property acquired to implement transportation demonstrations of a transitory nature such as that being planned for high speed rail services between Washington and New York, but again, any permanent capital made as a result of such demonstrations would be subject to Section 7 of the bill.
5. The established methods of financing existing transportation programs; for example, the highway trust fund will not be changed.

#### CONCLUSION

Government investment in transportation facilities will almost certainly increase over the next decade. Since the Congress and the President will look to the Secretary of Transportation for advice on the scope and direction of transportation investment programs, it is important that he develop explicit and objective standards and criteria by which to guide his policy advice on transportation investments.

Section 7 extends an approach tested out over a long period in the water resources development field to transportation investments. It will ensure that all administration proposals to Congress for investment of Federal funds in transportation facilities are based on a common approach.

This responsibility of ensuring that transportation investments are based on a common approach will overlap with other areas of responsibility. The Water Resources Council responsibilities for standards and criteria in the development of water resources is one clear area of overlap. This is also true for urban transportation facilities and roads that are part of an economic development plan for a region.

Whenever such an overlap occurs we must develop a mechanism to insure *compatibility* among the several standards and criteria. Section 7 provides the Secretary of the Department of Transportation with the authority necessary for him to work with other interested agencies in assuring the necessary compatibility.

#### ATTACHMENT A

#### THE USE OF STANDARDS AND CRITERIA IN THE FORMULATION AND EVALUATION OF FEDERAL WATER RESOURCES DEVELOPMENT PROJECTS

##### THE EARLY YEARS THROUGH 1936

The application of standards and criteria in the formulation and evaluation of the Federal water projects has a long history, with roots in the River and Harbor Acts of 1902 and 1920 as well as the Flood Control Act of 1936. This latter Act stated, in part:

"\* \* \* that Federal Government should improve or participate in improvement if benefits are in excess of costs."

Following passage of the 1936 Flood Control Act, Federal agencies concerned with water resource development began to apply new evaluation techniques and standards in an effort to develop specific cost and benefit information. However, the lack of any effective procedures through which the programs of the various Federal water agencies might have been coordinated led to a wide divergence of standards and techniques which were adopted by the several agencies.

#### 1936 THROUGH 1946

In the 1930's and early 1940's the National Resources Planning Board conducted reviews of water project proposals. These reviews were made on a project by project basis rather than against any specific set of standards. While the Planning Board identified the need for coordination and, more specifically, the establishment of comparable standards for all water programs, it made no effort to issue such standards. In 1943, the Planning Board was dissolved and President Roosevelt, recognizing the continuing need for coordination, issued Executive Order No. 9384, which required agencies to submit all reports relating to Federal public works expenditures to the Bureau of the Budget for review. That order is still in effect.

#### 1946 THROUGH 1955

Shortly after the war even more attention was devoted to the need for appropriate and consistent standards. This interest resulted in the appointment of the Cooke Commission by President Truman to study water development policies. It also led to the formation of the Inter-Agency River Basin Committee (initially composed of the Chairman of the Federal Power Commission and the Secretaries of the Departments of Agriculture, Army, Commerce, Interior and, later, Health, Education and Welfare). This River Basin Committee, in 1950, issued an interim report (the "Green Book") which set forth appropriate procedures for the treatment of various elements of cost-benefit analysis. Although the interim report was never formally adopted, its influence throughout the Federal government was substantial.

Also in 1950 the Cooke Commission published its recommendations on standards and criteria to be used in formulating and evaluating water resource development projects. As a direct result of the Commission's recommendations, the Bureau of the Budget issued Circular A-47, which promulgated the standards and procedures which the Bureau expected to use in reviewing project proposals and budget estimates. These standards and criteria covered such matters as the method of calculating benefits, the period of evaluation, the appropriate interest or discount rate, and cost allocation. The purpose of Circular A-47 was to ensure both the consistency of standards and the consistency of their application during the growth of water development programs in the post-war era.

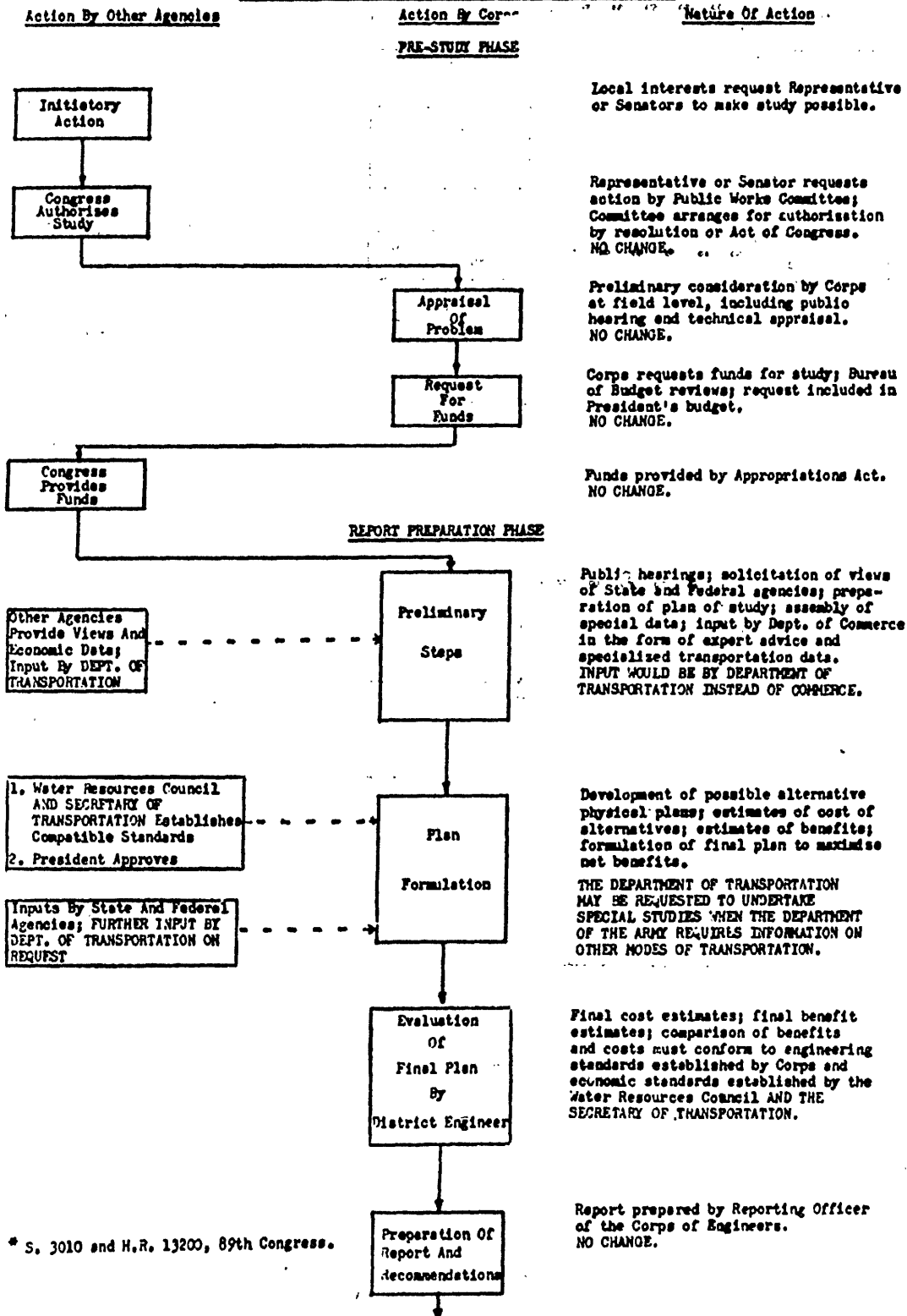
#### 1955 TO 1960

In the late 1950's the need to modify and revise the standards and criteria embodied in Circular A-47 became evident. In 1957, the Senate adopted Resolution 148 calling for improvement in the procedures used to evaluate water and land resource projects. The Resolution also called for the water agencies to provide other data on costs, benefits, repayments, allocations, and time periods in addition to what was set forth by Circular A-47. During this same period, the Inter-Agency Committee on Water Resources (the successor to the Inter-Agency River Basin Committee) updated and reissued an interim report on project evaluation in the form of a second "Green Book."

#### 1960 TO PRESENT

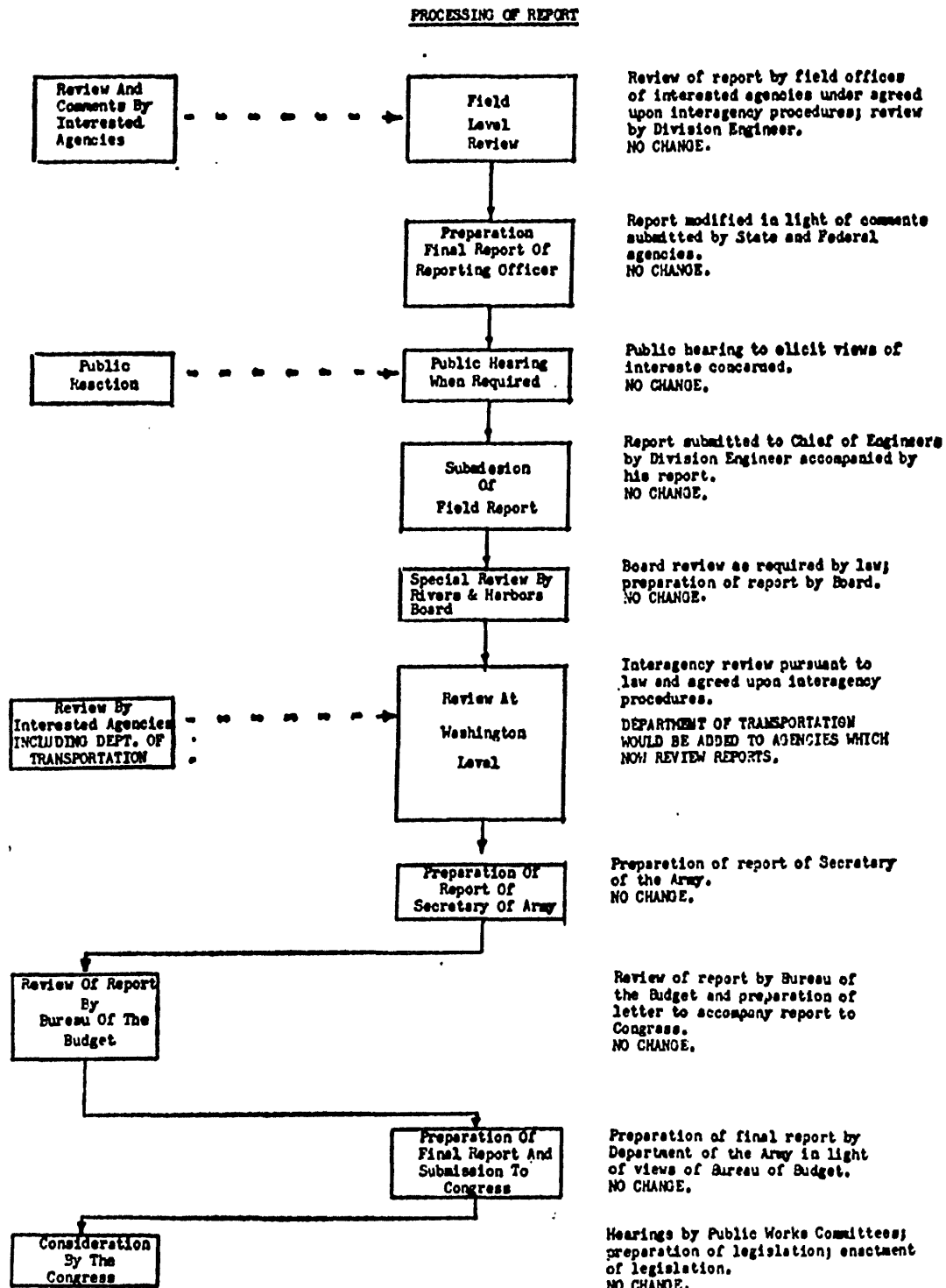
In the early 1960's new standards were finally promulgated. In 1961 President Kennedy established the Ad Hoc Water Resources Council, consisting of the Secretaries of Agriculture, Army, Health, Education and Welfare, and Interior. The first task of this group was to review the existing standards with a view towards updating and modifying them. The modifications and revisions ultimately recommended by the Ad Hoc Council were approved by the President in May 1962 and printed as Senate Document No. 97, 87th Congress. Subse-

## ATTACHMENT B

STEPS LEADING UP TO AUTHORIZATION OF A WATERWAY PROJECTSHOWING EFFECT OF PROPOSED TRANSPORTATION ACT\*UPON PRESENT PROCEDURESPresent Procedures In Lower Case; Changes In Capitals

\* S. 3010 and H.R. 13200, 89th Congress.

## ATTACHMENT B—Continued



quently, all Federal water development projects have been formulated and evaluated in accordance with the standards promulgated in this document.

About the time of the establishment of the Ad Hoc Water Resources Council, the President proposed legislation to make the Council a permanent body. With the enactment of this legislation (P.L. 89-80) in 1965, a Water Resources Council was established, with a membership similar to that of its predecessor, except for the addition of the Chairman of the Federal Power Commission. The President subsequently appointed the Secretary of the Interior as Chairman of the Council.

Among other things, the Council is empowered by law to establish principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects. Such principles, standards and procedures are to be developed, however, in consultation with interested Federal and non-Federal entities and are to be established only with the approval of the President.

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#### APPENDIX 4

(The following was submitted by the Bureau of the Budget in response to a request noted on p. 89.)

#### GOVERNMENT ACTIVITIES RELATING TO THE AIRPORT NOISE PROBLEM

In line with the President's statement in his transportation message, the Director of the Office of Science and Technology, Dr. Hornig, has formed a task force composed of representatives of FAA, NASA, HUD, and Commerce to develop a comprehensive program to investigate and find ways to ameliorate the airport noise problem.

Meanwhile both FAA and NASA are conducting numerous studies on various aspects of the problem.

FAA will spend about \$1.8 million in 1966 and \$1.9 million in 1967 for research and theoretical studies of how jet noise is generated in jet engines, the effects of terrain and atmospheric conditions on the transmission of the noise to the ground, and of community reactions to various levels of jet noise. Several projects are designed to develop means for suppressing noise at the source. Others will investigate ways that the problem can be alleviated by modifying take-off and landing procedures. Also, in the SST development program, the contractors are devoting considerable funds and effort to devising means of minimizing the noise which may be produced by the larger SST engines and aircraft.

NASA at the same time is carrying on parallel—but not duplicating—studies on the sources of jet noise, and possible changes in operational procedures to reduce the noise problem. NASA has budgeted \$1 million in 1966 and nearly \$3 million in 1967 to carry forward and expand this work, nearly half of which will be done through contracts with universities and industry.

Section 1113 of the Housing and Urban Development Act of 1965 directed HUD to conduct a study of feasible methods of reducing economic loss and hardship suffered by homeowners as a result of the depreciation of values following the construction of airports in the vicinity of their homes. Funds for the study were requested last year but were not approved by the Congress.

It is expected that the new task force formed by the Director of the Office of Science and Technology will review work done and planned, and will shortly develop a coordinated program for a concerted attack on the problem. Each of the interested agencies will be given clear direction on how the program will be carried out, and what their respective responsibilities will be.

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#### APPENDIX 5

(The following was submitted by the Bureau of the Budget in response to several requests at various points in the transcript and contains a discussion of accident investigation and safety investigation in the proposed Department of Transportation, with attachments of statutory authorities. The statement was prepared in collaboration with the Coast Guard, the Federal Aviation Agency, the Interstate Commerce Commission, and the Civil Aeronautics Board.)

## DEPARTMENT OF TRANSPORTATION—ORGANIZATION OF ACCIDENT INVESTIGATION AND SAFETY FUNCTIONS

### TRANSFER OF SAFETY FUNCTIONS TO THE SECRETARY AND THE NTSB

Under the provisions of Section 6 of H.R. 13200, all existing safety functions of the FAA, the CAB, the ICC, and Coast Guard are transferred to the Secretary of Transportation. The broad range of safety activities now being carried out by the transferred agencies will continue to be executed by the components of the Department.

Section 5(a) however, provides that the National Transportation Safety Board (NTSB)—rather than the Secretary—will exercise functions, powers, and duties with respect to

determining the cause or probable cause of transportation accidents and reporting the facts, conditions, and circumstances relating to such accidents and

the review, on appeal, of the suspension, amendment, modification, revocation, or denial of any certificate or license issued by the Secretary.

Clause 1 of Section 5(a) does *not* vest the Board with the function and power of conducting accident investigations, nor is it contemplated that existing investigation accident functions of the various components of the Department of Transportation will be separated from the component where such functions are now lodged. The total thrust of Section 5 is intended to ensure that investigative functions will continue essentially as at present with, however, special arrangements for the investigative functions transferred from the CAB (see discussion of Office of Accident Investigation below).

### ROLE OF THE NATIONAL TRANSPORTATION SAFETY BOARD

The Board's function in the process of the accident investigation is to provide an independent tribunal which can, without Departmental or other loyalty or partiality, examine the extent to which accident investigations fairly state the circumstances of an accident. In other words, the Board, with its independent status provides a mechanism whereby the record of accident investigation made by the Department will be reviewed to determine the cause or probable cause of an accident. In carrying out this function the NTSB will be able to judge whether the Department is functioning properly in enhancing and furthering transportation safety through the procedures, methods, and practices employed by the components of the Department.

It must be recognized that Section 5(a) has been written to accommodate a variety of accident investigation practices and procedures in agencies with a number of statutory responsibilities. Over the years, these practices and procedures have developed in the particular mode of transportation involved to reflect the different practices of the industry concerned, the unique operations in each of the modes, as well as different statutes. Thus, what is necessary or convenient in the field of aircraft accident investigation is not necessarily the case in the field of maritime accident investigation. The differences in the various modes also lead to differences in field organization.

In establishing the NTSB, recognition of these differences without going into elaborate detail was necessary. The provisions of Section 5, read in their entirety, allow the necessary accommodation to established practices, as well as allowing the Secretary of Transportation and the NTSB future flexibility in improving practices and procedures to reflect contributions by staffs of experts in each of the modes of transportation.

### RELATION OF SECTIONS 5(g), 5(h), AND 5(i) TO SECTION 5(a)

Sections 5(a), 5(g), 5(h), and 5(i) do not change established investigative procedures nor vest accident investigative powers in the NTSB. The Board will exercise its functions established under Section 5(a) by serving as the final authority on investigative reports containing findings of fact, conclusions, and recommendations prepared by elements of the Department and submitted to the Board by the Department of Transportation. The independence of the Board and its capacity to make determinations with full knowledge, is assured by Section 5(g) which gives the Board authority to hold public hearings when it deems appropriate in the interest of transportation safety. Through such hearings, the Board can obtain additional facts regarding an accident if it is unable,



from the information contained in the report submitted by the Department of Transportation, to determine the probable cause of an accident.

Other than Section 5(a), the only sections generally dealing with the relationship of the NTSB with the operating units of the Department are Sections 5(h) and 5(i).

Section 5(h) provides that the Board, subject to an exception *with respect to aviation only* under Section 701(g) of the Federal Aviation Act, may delegate to employees of the Board, or with the approval of the Secretary, to employees of the Department such functions as it may deem appropriate.

Section 5(i) provides that the Board is authorized to make *recommendations* concerning transportation safety to the Secretary, including recommendations concerning the initiation of accident investigations and recommendations concerning rulings, regulations, and procedures for the conduct of accident investigations.

The intent of 5(h) is to allow for determinations of cause or probable cause to be made by the Department's operating elements (as delegates of the Board) in *minor* marine, motor, and rail accidents which are now generally resolved on the basis of accident reports made by field staffs of the various agencies concerned. In the aviation field, Section 5(h) would permit delegation to the Department of authority to hold hearings. Similarly, final certificate appeal actions could be delegated in a manner prescribed by the Board.

If Section 5(a) were to vest in the Board accident *investigation* functions, there would be no necessity for the Board to recommend to the Secretary either the initiation of accident investigations on rules, regulations, and procedures for their conduct, as provided in Section 5(i). In such a case, these matters would be established by rules of the Board and would be included as possible delegations under Section 5(h). Section 5(i) is necessary, however, because the operating components of the Department retain their investigative functions, with special provision for the activities transferred from the CAB.

#### COAST GUARD

In the maritime safety field, unlike aviation, the formal separation of accident investigative functions from the operating agency has no historical precedent. Ultimate determination of cause is now vested in the Commandant of the Coast Guard for major accidents. There has been no necessity to effect such a separation of accident investigation nor would a separation be practical for this function.

It should be noted with respect to the Coast Guard that functions relating to it should remain identifiable and not be fragmented so that if the President places the Coast Guard under the Navy Department in an emergency or time of war, the transfer of functions involved can be done smoothly and with a minimum of interruption in the transportation industry. The accident investigation (and disciplinary) functions of the Coast Guard are an essential element of the Navy's wartime control of merchant shipping. Were the investigative functions to be separated from the Coast Guard and fragmented by the NTSB into whatever organization the NTSB might establish, the transfer of this function at a later date from the NTSB back to the Coast Guard, under the Navy Department, would be difficult if not impossible, to the detriment of national security requirements.

Under the provisions of Section 6, all authority for the Coast Guard to conduct casualty and personnel investigations is transferred to the Secretary. These authorities will be delegated to the Commandant of the Coast Guard under the Secretary's authority established by Section 9(f) of the bill. Investigations of marine casualties and procedures will be carried out by Coast Guard personnel, as is now the case. However, since the NTSB is given final authority to determine cause under Section 5(a) of the bill, certain changes from existing practice will be made in the determination process which follows the preliminary accident investigation. (See Table 1).

Coast Guard statutory authorities for investigations are cited in Attachment A. These functions are transferred to the Secretary, however, the determination of what "... caused or contributed to the cause of such casualty" will be made by the NTSB in those cases which have not been delegated. It is expected that in most cases the determination of cause or probable cause will continue to be made by the Commandant.

Coast Guard statutory authorities for action in connection with suspension, amendment, modification or revocation of certificates and licenses issued are cited

in Attachment A. These functions are transferred to the Secretary, however, Section 5a(2) of the bill vests in the NTSB final appellate authority in those cases which have not been delegated. It is expected that most cases reviewed on appeal would be decided by the Commandant, under delegated authority.

#### CAB AND FAA FUNCTIONS

Under the provisions of Section 6, all aviation safety functions now carried out by the CAB will be transferred to the Secretary of Transportation. Two exceptions to this general transfer are made by Section 5(a), as noted above. Thus, determination of probable cause in all aviation accident cases and decisions on appeal on certificate action will be made by the NTSB under arrangements similar to those at present. A provision of Section 5(h) precludes the Board from delegating determination of probable cause in aviation accident cases. Under the authority of Section 5(h), however, certificate actions in categories decided upon by the Board could be delegated to employees of the Board or to the Department for final disposition.

In aviation, unlike the marine field, there has been established a tradition of having a separate accident investigation staff for certain types of accidents. Presumably because of the direct involvement of FAA personnel in flight operations, it has been considered desirable to have a staff, independent of the agency operating the air navigation system conduct investigations of fatal accidents. Investigations of light plane, non-fatal aviation accidents have been carried out by the field staff of FAA under delegation from the CAB. (See Attachment B). This framework would essentially continue under the new Department:

Investigations of designated categories of non-fatal accidents involving small planes would be carried out by the Department's aviation component field elements, as is now the case.

Investigation of fatal accidents would be carried out by a separate staff element (primarily composed of the personnel transferred from the CAB's Bureau of Safety) in the Office of Accident Investigation—not a part of the aviation component. (See below).

Determination of probable cause of accidents based on the record of the investigation would be made by the NTSB, after review of investigation results transmitted by the Secretary of Transportation.

#### ICC FUNCTIONS

In the railway, motor carrier, and pipeline fields, as in the maritime area, there has been no historical separation of accident investigation staffs from the operating units. Serious accidents in both these modes are investigated by an inspection staff which also regularly carries out a broad range of safety functions including spot check inspections of equipment, checking of carrier records, and discussions with carriers to improve safety programs. (See Attachment C for statutory authority).

In the new Department these activities, including accident investigation, will continue to be carried out by the staffs in the appropriate operating units of the Department. It is expected that in most accident cases which are investigated by the agency, the determination of cause will, under delegation from the NTSB, be made in the operating units of the Department. Authority to determine cause in certain significant types of accidents, however, may well be retained by the NTSB under authority of Sections 5(a) and 5(h).

Unlike the procedures in the aviation and marine areas, there is no Federal licensing authority for employees engaged in motor carrier and railroad transport. Consequently the provisions of Section 5(a) with respect to certificate actions do not apply in this case.

#### OFFICE OF ACCIDENT INVESTIGATION

This office would be a staff office to the Secretary and as such would be entirely independent of the operating units of the Department. It would also serve as a focal point for accident investigation responsibilities for aviation. The office would house the investigative staff transferred from the CAB, charged with investigating fatal aircraft accidents. The Secretary may want to group this office with other Departmental Safety programs under the general oversight of an Assistant Secretary.

In addition to being the base of the aircraft accident staff, it seems likely that the office would have a small group concerned with the coordination of accident investigations conducted by the operating components. In other words, this group would recommend to the operating components investigative techniques of proven worth used in each of the transportation modes. It would also help to ensure the availability to investigators of appropriate laboratory and other investigative facilities from any of the operating components.

## CONCLUSION

In summary, accident investigation will be carried out by field elements of the appropriate operating units of the agency—aviation, maritime, rail, pipeline, motor carrier, or the Office of Accident Investigation under the Secretary—for fatal aviation accidents.

*Probable cause determination* will be made by

the NTSB in all aviation cases, as well as other cases where authority is not delegated to the Department by the Board, or by Department of Transportation elements, acting under delegation from the NTSB, in maritime, motor carrier, pipeline, and rail safety cases.

TABLE 1

PRESENT PROCEDURES	NEW PROCEDURES
After preliminary investigation and hearing, the report of the Marine Board of Investigation is forwarded directly to the Commandant, who reviews the report and takes a specific action with respect to approving or disapproving the findings, opinions, and recommendations. The Board report may be returned for further proceedings if considered appropriate.	Same
The Commandant publishes the Board report in its entirety along with the Commandant's separate action and it becomes a public record.	The Commandant reviews the Board's report and forwards it to the Secretary along with the Commandant's recommendation with respect to final action on the Board's report.
No comparable action.	The Board's report is reviewed by the Secretary and is submitted to the National Transportation Safety Board for final review and approval and publication as a public record.
No comparable action.	The NTSB, after review of the Board's report and the recommendations from the Commandant and the Secretary, decides if additional information is required, takes final action on the report of investigations: i.e., determines cause or probable cause and if appropriate transmits recommendations to the Secretary of Transportation.

## ATTACHMENT A

## 1. STATUTORY AUTHORITY FOR COAST GUARD ACCIDENT INVESTIGATION ACTIVITIES

a. Investigations by Coast Guard are under authority of R.S. 4450, as amended, 46 U.S.C. 239.

(a) The Commandant of the Coast Guard shall prescribe rules and regulations for the investigation of marine casualties involving loss of life in order to determine whether any incompetence, misconduct, unskillfulness or willful violation of law on the part of any licensed officer, pilot, seaman, employee, owner, or

agent of such owner of any vessel involved in such casualty, or any inspector, officer of the Coast Guard, or other officer or employee of the United States, or any other person, caused, or contributed to the cause of such casualty. All reports shall be made to the Commandant of the Coast Guard and such reports shall be public records and be open to inspection at reasonable times by any persons.

(b) The Commandant of the Coast Guard shall establish rules and regulations for the investigation of marine casualties and accidents not involving loss of life, any act in violation of any of the provisions of title 52 of the Revised Statutes or of any of the regulations issued thereunder, and all cases of acts of incompetency or misconduct committed by any licensed officer or holder of a certificate of service while acting under the authority of his license or certificate of service, whether or not any of such acts are committed in connection with any marine casualty or accident. The Commandant of the Coast Guard shall classify marine casualties and accidents not involving loss of life according to the gravity thereof and in making such classification the commandant shall give consideration to the extent of injuries to persons, the extent of property damage, the dangers actual or potential which such marine casualties or accidents may create to the safety of navigation or commerce.

(c) Omitted.

(d) All acts in violation of any of the provisions of title 52 of the Revised Statutes or of any of the regulations issued thereunder, whether or not committed in connection with any marine casualty or accident, and all acts of incompetency or misconduct, whether or not committed in connection with any marine casualty or accident, committed by any licensed officer acting under authority of his license or by any chief or assistant steward, purser, radio operator, electrician, able seaman, or lifeboat man acting under authority of a certificate of service issued to him by the Bureau of Marine Inspection and Navigation or the Coast Guard, and all marine casualties and accidents and the attendant circumstances shall be immediately investigated as provided in subsections (a) and (b) of this section. The investigation shall determine, as far as possible, the cause of any such casualty or accident, the persons responsible therefor, and whether or not the United States Government employees charged with the inspection of the vessel or the vessels involved and with the examination and licensing of the officers thereof have properly performed their duties in connection with such inspection, examination and licensing. In all investigations conducted under the authority of this section, any owner, licensed officer, or any holder of a certificate of service, or any other person whose conduct is under investigation, or any other party in interest, shall be allowed to be represented by counsel, to cross-examine witnesses, and to call witnesses in his own behalf, and a full and complete record of the facts and circumstances shall be submitted to the Commandant of the Coast Guard.

(e) In any investigation directed by this section the Coast Guard shall have power to summon before it witnesses and to require the production of books, papers, documents, and any other evidence. Attendance of witnesses or the production of books, papers, documents, or any other evidence shall be compelled by a similar process as in the United States District Court. The Coast Guard shall administer all necessary oaths to any witnesses summoned before said investigation.

(f) \* \* \*

(g) In any investigation of acts of incompetency or misconduct or of any act in violation of the provisions of title 52 of the Revised Statutes or of any of the regulations issued thereunder, committed by any licensed officer or any holder of a certificate of service, the person whose conduct is under investigation shall be given reasonable notice of the time, place, and subject of such investigation and an opportunity to be heard in his own defense. The whole record of the testimony received by such investigation and the findings and recommendations shall be forwarded to the Commandant of the Coast Guard, and if that officer shall find that such licensed officer or holder of certificate of service is incompetent or has been guilty of misbehavior, negligence, or unskillfulness, or has endangered life, or has willfully violated any of the provisions of title 52 of the Revised Statutes or any of the regulations issued thereunder, he shall, in a written order reciting said findings, suspend or revoke the license or certificate of service of such officer or holder of such certificate. The person whose license or certificate of service is suspended or revoked may, within thirty days, appeal from the order to the Commandant of the Coast Guard. On such appeal the appellant shall be allowed to

\*Indicates material not applicable.

be represented by counsel. The Commandant of the Coast Guard may alter or modify any finding of the investigation, but the decision of the Commandant shall be based solely on the testimony received by the said investigation and shall recite the findings of fact on which it is based.

- (h) \* \* \*
- (i) \* \* \*
- (j) \* \* \*
- (k) \* \* \*

b. Specific authority exists for narcotics violations in 46 U.S.C. 239b.

§ 239b. Same; denial or revocation of seaman's document

The Secretary may—

(a) deny a seaman's document to—

(1) any person who, within ten years prior to the date of the application therefor, has been convicted in a court of record of a violation of the narcotic drug laws of the United States, the District of Columbia, or any State or Territory of the United States, which conviction has become final; or

(2) any person who, unless he furnishes satisfactory evidence that he is cured, has ever been a user of or addicted to the use of a narcotic drug; and

(b) take action, based on a hearing before a Coast Guard examiner, under hearing procedures prescribed by the Administrative Procedure Act, as amended, to revoke the seaman's document of—

(1) any person who, subsequent to July 15, 1954, and within ten years prior to the institution of the action, has been convicted in a court of record of a violation of the narcotic drug laws of the United States, the District of Columbia, or any State or Territory of the United States, the revocation to be subject to the conviction's becoming final; or

(2) any person who, unless he furnishes satisfactory evidence that he is cured, has been, subsequent to July 15, 1954, a user of or addicted to the use of a narcotic drug.

c. Specific authority exists in 46 U.S.C. 240 for revocation or suspension of an officer's license for refusal to serve.

§ 240. Revocation or suspension of officer's license for refusal to serve

If any licensed officer shall, to the hindrance of commerce, wrongfully or unreasonably refuse to perform his official duties after having signed articles or while employed on any vessel as authorized by the terms of his certificate of license, or if any pilot or engineer shall refuse to admit into the pilot house or engine room any person whom the master or owner of the vessel may desire to place there for the purpose of learning the profession, his license shall be revoked or suspended upon the same proceedings as are provided in other cases of revocation or suspension of such license.

d. With respect to proceedings before the hearing examiner, the basic statutory authority is the Administrative Procedure Act, 5 U.S.C. 1001 et seq. The Act will not be set out herein.

e. Accidents are required to be reported under the authority of 33 U.S.C. 361 and 46 U.S.C. 526(1) (c).

§ 361. Reports of accidents generally; penalty

Whenever any vessel of the United States has sustained or caused any accident involving the loss of life, the material loss of property, or any serious injury to any person, or has received any material damage affecting her seaworthiness or her efficiency, the managing owner, agent, or master of such vessel, shall within five days after the happening of such accident or damage, or as soon thereafter as possible, send, by letter to the Coast Guard official of the district wherein such vessel belongs or of that within which such accident or damage occurred, a report thereof, signed by such owner, agent, or master, stating the name and official number (if any) of the vessel, the port to which she belongs, the place where she was, the nature and probable occasion of the casualty, the number and names of those lost, and the estimated amount of loss or damage to the vessel or cargo; and shall furnish, upon the request of either of such Coast Guard officials, such other information concerning the vessel, her cargo, and the casualty as may be called for; and if he neglect or refuse to comply with the foregoing requirements after a reasonable time, he shall incur a penalty of \$100.

\*Indicates material not applicable.

**§ 5261. Reckless or negligent operation of vessels; prohibition; accident assistance, information and report**

(a) \* \* \*

(b) \* \* \*

(c) In the case of collision, accident, or other casualty involving a motorboat or other vessel subject to this subchapter, the operator thereof, if the collision, accident, or other casualty results in death or injury to any person, or damage to property in excess of \$100, shall file with the Secretary of the Department within which the Coast Guard is operating, unless such operator is required to file an accident report with the State under section 521a(c)(6) of this title, a full description of the collision, accident, or other casualty, including such information as the Secretary may by regulation require.

**2. REGULATORY AUTHORITY**

a. Detailed procedures for marine investigation are set forth in 46 CFR, part 136. In general, these define the various categories of accidents to be investigated and set forth the various steps of the proceedings which are undertaken. Administrative details regarding investigations are also covered by the regulations in this part.

b. Detailed procedures for suspension and revocation proceedings are set forth in 46 CFR, part 137. The regulations in this part are similar to those in part 136 and cover similar matters.

**ATTACHMENT B**

**STATUTORY BASIS FOR FEDERAL AVIATION AGENCY**

**ACCIDENT INVESTIGATION ACTIVITIES**

Title VII of the Federal Aviation Act governs aircraft accident investigation in general.

Section 701(g) recognizes the need for the Administrator's participation in accident investigations conducted by the Civil Aeronautics Board, and makes it mandatory on the Board to provide for the Administrator appropriately to participate in any investigations conducted by the Board. This subsection reads as follows:

"(g) In order to assure the proper discharge by the Administrator of his duties and responsibilities, the Board shall provide for the appropriate participation of the Administrator and his representatives in any investigations conducted by the Board under this title; *Provided*, That the Administrator or his representatives shall not participate in the determination of probable cause by the Board under this title."

The law also provides that the Board may ask the Administrator to investigate accidents (Section 701(f)). This is the basis of the Board's delegation (copy enclosed) to FAA for the investigation of small plane accidents under 12,500 pounds in which no fatalities occur. This subsection reads as follows:

"(f) Upon the request of the Board, the Administrator is authorized to make investigations with regard to aircraft accidents and to report to the Board the facts, conditions, and circumstances thereof, and the Board is authorized to utilize such reports in making its determinations of probable cause under this title."

There is also specific provision for participation by the Administrator in accidents involving solely military aircraft. Section 702(b) requires military authorities to provide for the Administrator's participation when a function of the Administrator is or may be involved. (The CAB is not involved in the investigation of military accidents; they are investigated directly by the military authorities; CAB's authority extends only to the investigation of accidents involving *civil* aircraft. This subsection reads as follows:

"(b) In the case of accidents involving solely military aircraft and in which a function of the Administrator is or may be involved, the military authorities shall provide for participation in the investigation by the Administrator."

Other sections of the Federal Aviation Act give the Administrator further general or specific investigative authority, not addressed, however, as is Title VII to the investigation of accidents.

Thus:

Section 303 authorizes the Administrator to make expenditures for "(7) making investigations and conducting studies in matters pertaining to aeronautics;"

Section 313 authorizes the Administrator "to conduct such investigations . . . as he shall deem necessary to carry out the provisions of, and to exercise and perform his powers and duties under" the Federal Aviation Act.

Section 600 authorizes examination, reexamination and "any other investigation" of certificate holders. Note that the need to exercise this authority with reference to certificate holders frequently arises out of accidents or incidents.

Section 1002(a) requires the Administrator to investigate matters pursuant to complaints filed by any person.

Section 1002(b) authorizes the Administrator to institute investigations on his own initiative.

#### CIVIL AERONAUTICS BOARD

#### PUBLIC NOTICE PN-16

(Effective August 30, 1965)

The developments in civil aviation since the issuance of Public Notice 13 requires the rescission of Public Notice PN 13. In lieu thereof the following request is issued.

#### *Request to the Administrator of the Federal Aviation Agency to investigate certain aircraft accidents for a temporary period*

Acting pursuant to the authority vested in it by Title VII of the Federal Aviation Act of 1958, the Civil Aeronautics Board hereby requests the Administrator of the Federal Aviation Agency to exercise his authority subject to the terms, conditions, and limitations of Title VII, and as set forth below, to investigate the facts, conditions, and circumstances surrounding certain fixed-wing aircraft accidents and to submit a report to the Board from which the Board may make a determination of the probable cause.

A. The authority which you are requested to exercise under Section 701(f) of the Federal Aviation Act of 1958, shall include the investigation of all civil aircraft accidents involving fixed-wing aircraft which have a certificated maximum gross takeoff weight of 12,500 pounds or less except

1. Accidents in which fatal injuries have occurred to an occupant of such aircraft.

2. Accidents involving aircraft operated in accordance with the provisions of Part 135 of the Federal Air Regulations entitled "Air Taxi Operators and Commercial Operators of Small Aircraft."

3. Accidents involving aircraft operated by an air carrier authorized by certificate of public convenience and necessity to engage in air transportation in the State of Alaska.

4. Provided however, that this authority shall not be construed as authorization for the Administrator to hold public hearings or to determine the probable cause of the accident; and Provided further that the Administrator will report to the Board in a form acceptable to the Board the facts, conditions and circumstances surrounding each accident from which the Board may determine the probable cause.

B. If at any time the Board shall determine whether upon request of the Administrator or upon its own initiative that the circumstances of a particular accident being investigated by the Administrator pursuant to this request are of sufficient public interest, the Board may, upon written notice to the Administrator, terminate this authority and assume full responsibility for the investigation of the accident in the same manner as an accident not covered by this request.

C. Invoking the provisions of Section 701(f) is necessary inasmuch as sufficient funds have not been made available to the Board to provide adequate facilities and personnel to investigate all accidents involving civil aircraft. This request, therefore, is considered to be temporary in nature and may be modified or terminated by written notice to the Administrator.

[SEAL]

HAROLD R. SANDERSON,

Secretary.

## ATTACHMENT C

## Statutory Authority for ICC Accident Investigation Activities

## MOTOR CARRIERS

In all instances shown below, except as to carriers of migrant workers, Section 835 of 18 U.S. Code 831-835 is additional authority where explosives and other dangerous articles are involved.

*Authority to require reports of accidents from motor carriers*

Authorized common carriers-----	Sections 204(a) (1) and 220(a).
Authorized contract carriers-----	Sections 204(a) (2) and 220(a).
Private carriers of property-----	Sections 204(a) (3) and 220(a), the latter section being made applicable by the second sentence of Section 204(a) (3).
Carriers of migrant workers-----	Sections 204(a) (3a) and 220(a), the latter section being made applicable by the second sentence of Section 204(a) (3a).
Exempt motor carriers-----	Sections 204(a) (1), (2), and (3a).

*Authority to investigate accidents of motor carriers*

Authorized common carriers-----	Sections 204(a) (1), 204(c) and 220(d).
Authorized contract carriers-----	Sections 204(a) (2), 204(c) and 220(d).
Private carriers of property-----	Sections 204(a) (3), 204(c) and 220(d), the latter two sections being made applicable by the second sentence of Section 204(a) (3).
Carriers of migrant workers-----	Sections 204(a) (3a), 204(c) and 220(d), the latter two sections being made applicable by the second sentence of Section 204(a) (3a).
Exempt carriers-----	Sections 204(a) (1), (2), and (3a).

*Authority to issue reports regarding causes of accidents*

Authorized common carriers-----	Sections 204(a) (1), 204(c), 204(d), and 220(f).
Authorized contract carriers-----	Sections 204(a) (2), 204(c), 204(d), and 220(f).
Private carriers of property-----	Sections 204(a) (3), 204(c), and 220(f), the latter two sections being made applicable by the second sentence of Section 204(a) (3).
Carriers of migrant workers-----	Sections 204(a) (3a), 204(c) and 220(f), the latter two sections being made applicable by the second sentence of Section 204(a) (3a).
Exempt carriers-----	Sections 204(a) (1), (2) and (3a).

## PIPELINES

Authority to require reports of accidents.	Section 20(1) of Interstate Commerce Act and Section 835 of 18 U.S. Code 831-835 (Explosives and Other Dangerous Articles).
Authority to investigate accidents--	Sections 20(5) and 13(2) of the Interstate Commerce Act and Section 835 of 18 U.S. Code 831-835 (Explosives and Other Dangerous Articles).
Authority to issue reports regarding causes of accidents.	Section 14 of the Interstate Commerce Act and Section 835 of 18 U.S. Code 831-835 (Explosives and Other Dangerous Articles).



## RAILROADS

Requiring reporting of accidents---- 45 U.S. Code 32; 45 U.S. Code 38.  
 Authorizing us to investigate acci- 45 U.S. Code 32; 45 U.S. Code 40.  
 dents.  
 Publishing reports of findings of ac- 45 U.S. Code 33; 45 U.S. Code 40.  
 cident investigations.

## APPENDIX 6

(The following was submitted in response to a request noted on p. 207.)

THE AMERICAN WATERWAYS OPERATORS, INC.,  
 Washington, D.C., May 10, 1966.

HON. CHET HOLIFIELD,  
 House of Representatives, Washington, D.C.

DEAR SIR: In the course of our testimony on April 25 before the Executive and Legislative Reorganization Subcommittee of the Committee on Government Operations on H.R. 13200, you requested that we submit amendments to the proposed legislation which would accomplish the purposes of the changes which we suggested. We appreciate the opportunity to do so.

We shall deal with our proposed amendments, the explanation of them, and our views as to what they accomplish individually.

Section 3(c) should be amended to read as follows:

(c) There shall be in the Department four Assistant Secretaries and a General Counsel, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall perform such functions, powers, and duties as the Secretary shall prescribe from time to time; and *four Assistant Secretaries, who shall be appointed by the President, by and with the consent of the Senate, who shall perform such functions, powers, and duties as the Secretary shall prescribe, with one such Assistant Secretary, each assigned responsibilities with respect to the Department's policies and programs as they affect transportation by railway, highway, airway, and water.*

We understand the primary mission of the Department of Transportation is to coordinate the federal interest in transportation and, through research, promotion, and accident prevention activities, seek to insure that the nation has an adequate transportation system. We believe this mission can best be accomplished by the appointment of an Assistant Secretary by the President who will have, under the direction of the Secretary of Transportation, individual responsibility primarily concerned with these functions as they affect the modes named. The appointment of such Assistant Secretaries having modal responsibilities would in no way diminish the functions, powers and duties of the Secretary, the Under Secretary, or the four Assistant Secretaries having over-all staff responsibilities. The work of the Assistant Secretaries having modal responsibilities would be coordinated by the Secretary.

With respect to Section 7 of the bill, we propose that the section be amended as follows with the strike-through indicating language to be deleted and the italicized language to be added:

## TRANSPORTATION INVESTMENT STANDARDS

SEC. 7. (a) The Secretary shall develop and from time to time in the light of experience revise standards and criteria consistent with national transportation policies, for the formulation and economic evaluation of all proposals for the investment of Federal funds in transportation facilities or equipment, except such proposals as are concerned with (1) the acquisition of transportation facilities or equipment by Federal agencies in providing transportation services for their own use; (2) an interoceanic canal located outside the contiguous United States; (3) defense features included at the direction of the Department of Defense in the design and construction of civil air, sea, and land transportation; or (4) programs of foreign assistance. ~~The Standards and criteria for economic evaluation of the transportation features of multipurpose water resource projects shall be developed recommended by the Secretary after consultation with to the Water Resources Council for approval, and shall be compatible with the standards and criteria for economic evaluation applicable to nontransportation features of~~

such projects. *For purposes of considering standards and criteria for the transportation features of water resource projects the Secretary of Transportation is made a member of the Water Resources Council.* The standards and criteria developed or revised pursuant to this subsection shall be promulgated by the Secretary upon their approval by the President.

(b) Every survey, plan or report formulated by a Federal agency which includes a proposal as to which the Secretary has promulgated standards and criteria pursuant to subsection (a) shall be (1) prepared in accord with such standards and criteria; and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of transport, the available transportation services in the area, and the general effect of the proposed investment on existing modes, and on the regional and national economy; (2) coordinated by the proposing agency with the Secretary and, as appropriate, with other Federal agencies, States, and local units of government for inclusion of his and their views and comments; and (3) transmitted thereafter by the proposing agency to the President for disposition in accord with law and under procedures established by him.

Federal investments in water resource projects are seldom made solely for transportation purposes. In the great majority of projects already developed, the navigation feature for transportation purposes has been only one of many features. Other features include flood control; water stabilization for general public use including municipal use, industrial use, agricultural use, low flow augmentation, and sanitation; hydroelectric generation, land enhancement and recreation. Future projects will contain all these features and perhaps others. We believe that evaluation and determination of economic criteria and standards for water resource projects should be made on a basis which takes into consideration the many facets of public benefits to be derived. Standards and criteria for transportation features should not be considered separate and apart from the standards and criteria for other purposes for which water resource improvements are made because they are inseparable in most cases. In order to accomplish this we are recommending (1) that the word "multipurpose" be eliminated so that there can be no doubt that this section of the proposed law applies to all water resource projects; and (2) that the Secretary of Transportation be given authority to "recommend" standards and criteria, rather than to "develop" them, and that his recommendations go to the Water Resources Council for approval by that Council. The Water Resources Council was established by the Water Resources Planning Act which was passed by the Congress in 1965 for the announced purpose of having the Council develop standards and criteria and make recommendations to the Congress for the orderly improvement of our water resources consistent with the needs of the entire nation. We believe the Water Resources Council is the proper agency to develop the standards and criteria for water resource projects, including the standards and criteria for federal investment for transportation in such projects. In order to give the Secretary of Transportation a voice in the determination of standards and criteria for the economic evaluation of the transportation features of water resource projects, we propose that he be made a member of the Water Resources Council for the purposes of the Council's consideration of such projects where transportation features are involved.

We recommend that the following language be eliminated from Section 7(b) of the bill:

"\* \* \* and upon the basis of information furnished by the Secretary with respect to projected growth of transportation needs and traffic in the affected area, the relative efficiency of various modes of transport, the available transportation services in the area, and the general effect of the proposed investment on existing modes, and on the regional and national economy \* \* \*."

This language itself constitutes a statement of standards and criteria and should not be incorporated in the law. Particularly we think it would be objectionable to have a federal agency seeking to make a determination concerning federal investment in transportation facilities to be required by law to make such a determination on the basis of the general effect on existing modes. Every time a better airplane is put into service, federal funds have gone into the development of that airplane and its use is going to have an impact on other modes. Research and development under federal sponsorship of a rapid rail transit system will affect other modes of transportation, and the possibility of that effect should not be used to determine federal investment in research and development. Federal research and development in highway construction and highway construction

itself affect other modes of transportation, but such effects should not necessarily influence federal investment in such research, development and construction. The same can be said with respect to inland waterways transportation.

With respect to our proposed amendment to the portion of Section 7(b) which reads as follows in the legislation before the Congress: "\* \* \* (3) transmitted thereafter by the proposing agency to the President for disposition in accord with law and procedures established by him," an error apparently occurred in drafting this section which should be corrected.

In our testimony we pointed out the desirability of establishing legislative history with respect to the intent of Congress concerning determination of navigation clearances in bridges crossing navigable waterways in the transfer of such authority from the Army Corps of Engineers to the Secretary of Transportation. Our purpose in doing so is to seek to resolve in advance some of the differences which are certain to arise in the interplay of forces within the Department of Transportation between the Bureau of Public Roads on the one hand, whose only purpose is to build a bridge to carry surface transportation, and navigation interests on the other hand, who must have adequate overhead dimensions and horizontal dimensions for the waterway in order to continue to provide service. We do not propose an amendment to the legislation. We only seek to have the Committee in its report on the legislation say in whatever fashion the Committee sees fit that the Secretary of Transportation will not permit restrictive clearances in bridges crossing navigable waterways. Our suggestion was that the Committee in preparing its report on the bill indicate the intentions of the Congress and we suggested that those intentions might be consistent with S. 2483, now pending before the Congress, which reads as follows:

"(d) Notwithstanding any other provision of law the Secretary of the Army shall not approve, under this or any other Act, the plans for any bridge construction, reconstruction, or alteration over any navigable river or waterway connecting with the sea, which would have the effect of reducing the least bridge clearance provided for vessels moving between any point on such river or waterway and the sea, except that in any case where (1) such plans are for the construction of a new bridge and there is no other bridge between such bridge and the sea, and (2) the next bridge above the site for such new bridge provides unusually high clearance because of the terrain or other special circumstances, the Secretary may reduce the clearance which would be required under the provisions of this subsection by any amount which he deems to be unnecessary clearance."

With respect to our interest in seeing that the U.S. Coast Guard's merchant marine safety functions are not subjected to substantive review by the National Transportation Safety Board, we do not believe an amendment to the legislation is necessary. We do believe, however, that the Committee report on the legislation should show that it is the intent of Congress, in transferring the Coast Guard as a legal entity from the Treasury Department to the Department of Transportation, to have the Coast Guard retain its autonomy with respect to its merchant marine safety functions.

Again may we express our appreciation to the committee for giving us an opportunity to present our views on this proposed legislation.

Sincerely yours,

F. A. MECHLING,  
Chairman, Legislative Committee.  
BRAXTON B. CARR,  
President.