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HEARING BEFORE THE COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE HOUSE OF REPRESENTATIVES EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 7777

A BILL TO AUTHORIZE THE PRESIDENT TO APPOINT GEN.
WILLIAM F. McKEE (U.S. AIR FORCE, RETIRED) TO THE
OFFICE OF ADMINISTRATOR OF THE FEDERAL AVIATION
AGENCY

MAY 12, 1965

Serial No. 89-10

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Committee on Interstate and Foreign Commerce



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APPOINTMENT OF FAA ADMINISTRATOR

WEDNESDAY, MAY 12, 1965

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

The committee met at 10 a.m., pursuant to call, in room 2123, Rayburn House Office Building, Hon. Oren Harris (chairman of the committee) presiding.

The CHAIRMAN. The committee will come to order. Today the committee has met for hearings on a bill sent up by the President, which I introduced at his request, H.R. 7777, to authorize the President to appoint Gen. William F. McKee (U.S. Air Force, retired) to the Office of Administrator of the Federal Aviation Agency.

(The bill referred to, and reports thereon, follow:)

[H.R. 7777, 89th Cong., 1st sess.]

A BILL To authorize the President to appoint General William F. McKee (United States Air Force, retired) to the office of Administrator of the Federal Aviation Agency

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 301 (b) of the Federal Aviation Act of 1958 (49 U.S.C. 1341 (b)), or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint General William F. McKee (United States Air Force, retired) to the office of the Administrator of the Federal Aviation Agency. General McKee's appointment to, acceptance of, and service in that office shall in no way affect any status, rank, or grade he may occupy or hold in the United States Air Force or any component thereof, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade: *Provided*, That so long as he holds the office of Administrator of the Federal Aviation Agency, he shall receive the compensation of that office at the rate specified in the Federal Executive Salary Act of 1964 (title III of the Act of August 14, 1964, Public Law 88-426) and shall retain the rank and grade which he now holds as an officer on the retired list of the Regular Air Force, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of the Dual Compensation Act (the Act of August 19, 1964, Public Law 88-448).

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Agency, General McKee shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the Regular Air Force.

SEC. 3. It is hereby expressed as the intent of the Congress that the authority granted by this Act is not to be construed as approval by the Congress of continuing appointments of military men to the office of Administrator of the Federal Aviation Agency in the future.

APPOINTMENT OF FAA ADMINISTRATOR

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 13, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request of May 5, 1965, for the views of the Bureau of the Budget on H.R. 7777, to authorize the President to appoint Gen. William F. McKee (U.S. Air Force, retired) to the office of Administrator of the Federal Aviation Agency.

The Bureau of the Budget favors the enactment of H.R. 7777.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 11, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
Longworth House Office Building.*

DEAR MR. CHAIRMAN: This is in further reply to your request of May 5, 1965, for the Commission's views on H.R. 7777, a bill to authorize the President to appoint Gen. William F. McKee (U.S. Air Force, retired) to the office of Administrator of the Federal Aviation Agency.

Section 301(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1341(b)) requires that the Administrator of the Federal Aviation Agency be a civilian "at the time of his nomination." H.R. 7777 would permit the appointment of General McKee, a retired Air Force officer, as Administrator without regard to this requirement. If so appointed, General McKee would receive the salary of the Administrator as specified in the Federal Executive Salary Act of 1964, and would continue to receive his military retired pay, subject to the provisions of the Dual Compensation Act.

The Commission has no objection to the enactment of H.R. 7777, since its provisions are consistent with the policies on the Federal civilian employment of retired military personnel established by the Dual Compensation Act.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, May 11, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H.R. 7777, 89th Congress, a bill to authorize the President to appoint Gen. William F. McKee (U.S. Air Force, retired) to the office of Administrator of the Federal Aviation Agency. The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense.

The purpose of H.R. 7777 is to authorize the President, by and with the advice and consent of the Senate, to appoint Gen. William F. McKee (U.S. Air Force, retired) as Administrator of the Federal Aviation Agency and authorize General McKee to retain the rank, grade, and emoluments of his military status while holding the office of Administrator, FAA, subject to the provisions of the Dual Compensation Act.

The Department of the Air Force, on behalf of the Department of Defense, recommends H.R. 7777 be enacted by the Congress.

By the terms of the bill the proposed authority would apply only to Gen. William F. McKee (U.S. Air Force, retired).

Section 301(b) of the Federal Aviation Agency Act of 1958 provides that a person, at the time of his nomination as Administrator, shall not hold military status. General McKee, in his present position with the National Aeronautics and Space Administration, under the employment laws for that agency is permitted to retain his military status and benefits accruing thereto. In accepting the position as Administrator of the Federal Aviation Agency, under the current laws applicable to that agency, General McKee would not be permitted to retain his military status and therefore would incur a great financial loss. Enactment of H.R. 7777 would waive the restrictions imposed by section 301(b) of the Federal Aviation Act of 1958 with respect to General McKee and thereby permit him to retain his military status and the benefits accruing thereto, subject to the Dual Compensation Act. This legislation, except for the compensation provisions, is similar to that enacted by Congress to authorize General of the Army George C. Marshall to serve as Secretary of Defense.

Enactment of H.R. 7777 would not result in any increased budgetary requirements within the Department of the Air Force.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

EUGENE M. ZUCKERT.

FEDERAL AVIATION AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., May 11, 1965.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Agency on H.R. 7777, a bill to authorize the President to appoint Gen. William F. McKee (U.S. Air Force, retired) to the office of Administrator of the Federal Aviation Agency.

Adoption of this bill is necessary to make General McKee eligible for nomination under section 301(b) of the Federal Aviation Act of 1958.

This Agency favors the adoption of the bill in order to facilitate the entrance of General McKee on his duties as Administrator in accordance with the announced intention of the President to appoint him to that post.

The Bureau of the Budget has advised that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely,

N. E. HALABY, *Administrator.*

The CHAIRMAN. We are very glad to have the Honorable John W. Macy, Jr., Chairman of the U.S. Civil Service Commission, as a witness this morning to present to the committee the facts and information regarding this bill in order that the committee may know just what the problem is and what will be necessary under the circumstances.

Mr. Macy, we welcome you and appreciate your appearance here to develop the facts on this subject in order that the committee may have the benefit of your knowledge.

STATEMENT OF HON. JOHN W. MACY, JR., CHAIRMAN, U.S. CIVIL SERVICE COMMISSION

Mr. MACY. Mr. Chairman and members of the committee, I want to thank you for arranging this hearing and affording me the opportunity to testify in support of H.R. 7777.

Upon learning of Najeeb Halaby's desire to resign as Administrator of the Federal Aviation Agency, the President felt it very important that his successor be one who knew the aviation industry thoroughly and had the full confidence of its leaders, who knew the problems of all those who fly, and who had the experience of managing a large organization with an aviation mission.

There is great need today to press forward in all areas of aviation; for example, in the design and development of the supersonic transport, in further advancing the cause of air safety and convenience, and in applying the latest technological progress in the interest of the flying public.

I know that all members of this committee share the President's objective in seeking a very able and experienced executive and policy adviser for this post.

Gen. William F. McKee possesses these essential qualities. During his long and successful career with the U.S. Air Force, he has been responsible for research and development, procurement and supply, transport and operations.

For 9 years he had command and management responsibility for the Air Materiel Command, the logistical element of the Air Force. In this capacity he directed the work of more than 150,000 civilian employees engaged in aviation occupations and professions throughout the country and abroad.

In addition, he has acquired important experience during the past year in evaluating the program of the National Aeronautics and Space Administration in advanced science and technology. He has reviewed all aspects of NASA's operations, particularly relating to aeronautical research and development, from the standpoint of their adequacy and value.

General McKee has a broad understanding of problems in the aviation field necessary to advise the President and the Congress wisely on the difficult policy questions to be faced, and the demonstrated executive ability and confidence of leaders in the aviation field necessary to carry out policy decisions effectively.

Section 301(b) of the Federal Aviation Act of 1958 provides that the Administrator "at the time of his nomination shall be a civilian."

Consequently, unless the Congress otherwise authorizes, General McKee would be eligible for appointment as Administrator only if he resigns his commission and forfeits his status as a retired officer of the Regular Air Force.

This would involve an immediate and unreasonable financial sacrifice and would subject his family to the risk of being denied, in the event of his death, the benefits of his present retired status. These benefits he earned through distinguished service to his country.

The bill you are now considering to meet this situation is modeled after the act of September 18, 1950, which authorized the President to appoint General of the Army George C. Marshall to the Office of Secretary of Defense as an exception to the requirement that the Office of Secretary be held only by a civilian.

Section 1 of H.R. 7777 would authorize the President, acting by and with the advice and consent of the Senate, to appoint General McKee as FAA Administrator, and would permit General McKee to retain his status as a retired Air Force officer, subject to the provisions of the Dual Compensation Act.

The Government's policies regarding the employment of retired military officers in Federal civilian posts were thoroughly reviewed by the Congress last year in its consideration of the Dual Compensation Act.

In fact, the traditional dual compensation restrictions were modified in that law to permit the Government to utilize the skills and experience of retired military personnel in civilian posts.

Such was the intent of Congress last year. Section 201 of that act permits retired regular officers to receive the full compensation of any civilian office to which they may be appointed, but requires that their military retired pay be reduced during their civilian employment.

Under the formula specified by the Congress for the reduction of retired pay the retiree receives the first \$2,000 of his retired pay, plus one-half of the remainder, if any. Section 1 of H.R. 7777 would require such a reduction in General McKee's retired pay in accordance with this statutory standard.

Section 2 of H.R. 7777 provides that General McKee, while serving as FAA Administrator, shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) because of his status as a retired Regular Air Force officer.

As Administrator he will, of course, be subject to the supervision of the President and will report to him on his stewardship of this office.

Section 3 of H.R. 7777 expresses the intent of Congress that the authority granted by the enactment of the bill is not to be construed as approval by the Congress of continuing appointments of military men to the Office of FAA Administrator in the future.

Under the provisions of the Federal Aviation Act of 1958 a Deputy Administrator position is established. That position may be filled by the President through appointment of "an officer on active duty with the armed services."

But the statute, anticipating a situation similar to that faced today, makes clear that "if the Administrator is a former Regular officer of any one of the armed services, the Deputy Administrator shall not be an officer on active duty with one of the armed services or a retired Regular officer or a former Regular officer of one of the armed services."

The President intends to meet that statutory requirement with the appointment of a civilian to the deputy post to be associated with General McKee in the leadership of this important agency.

In fact, the President has selected and will shortly announce his intention to appoint a highly qualified career professional from the agency to this office of Deputy Administrator.

We support the concept in the original legislation that the Federal Aviation Agency Administrator should generally be a civilian. We believe that the Agency should bear the stamp of civilian leadership over the long term. However, we believe that an exception should be made at this time because of the exceptional and appropriate qualifications possessed by General McKee.

If H.R. 7777 is approved, General McKee's appointment will be consistent with the policies established by the Congress in the Dual Compensation Act for the appointment of retired Regular officers to Federal civilian posts.

The President has already advised the Congress that he regards this legislation as both important and urgent. I therefore respect-

fully urge this committee to give prompt and favorable consideration to H.R. 7777.

Thank you for the opportunity to offer this testimony.

I am certainly available to you and the members of the committee for any questions you may wish to address to me concerning this bill.

The CHAIRMAN. Thank you, Mr. Macy. I have just two points. You have made your position and the position of the President very clear and I think it is a commendable statement on your part to really present the facts so clearly and succinct as you have.

But, No. 1, you have explained what you propose here is in keeping with the policy of the dual compensation law which the Congress provided. General McKee is presently employed under that act, is he not?

Mr. MACY. That is correct, sir.

The CHAIRMAN. Where is he employed?

Mr. MACY. He is employed at the present time as an Assistant Administrator of the National Aeronautic and Space Administration.

The CHAIRMAN. Which is a civilian agency of the Government?

Mr. MACY. Yes, sir.

The CHAIRMAN. And after all, this would permit him then to be transferred or to go from one civilian agency of the Government under the present law to another civilian agency of the Government and to assume that responsibility under precisely the same terms?

Mr. MACY. That is generally correct with one amendment, Mr. Chairman. Under this Dual Compensation Act, as passed by Congress last year, the Administrator of NASA has a special authority for the appointment of retired military personnel without any reduction in the retirement pay.

However, the application of that act with respect to other civilian posts would require the reduction that is incorporated in that act.

The CHAIRMAN. And it is contemplated that the reduction as you explained here would be in effect?

Mr. MACY. Yes, sir; under the terms of the Dual Compensation Act of 1964.

The CHAIRMAN. Now the other point. I think the fact that General McKee has had tremendous experience in this field and in the management of, as you explained, 150,000 civilian employees certainly is valuable experience. The direction of the Federal Aviation Agency is a highly important responsibility.

But do I understand in addition thereto that it is contemplated that the President is seeking someone who is knowledgeable in the particular field and can give special primary attention to the possibility of the development of supersonic planes?

Mr. MACY. Yes, Mr. Chairman. The President has assigned to the Federal Aviation Agency the responsibility for determining the feasibility of the design and manufacture of a supersonic transport for the United States. In view of that assignment, the President felt that it was particularly important at this state in the history of this Agency to have a man who had had extensive experience in research and development and procurement with respect to new aviation systems and new aircraft.

And it was the President's view that General McKee was uniquely qualified to take on that responsibility as well as the other responsi-

bilities assigned to the Administrator of the Agency under the Federal Aviation Act.

The CHAIRMAN. Have you not in your responsibility been also given a much broader responsibility of trying to find people knowledgeable, capable, able to fill certain positions of the Federal Government?

Mr. MACY. Yes, Mr. Chairman. The President has asked that, in addition to my duties as Chairman of the Civil Service Commission, I assist him in reviewing the names of potential candidates for Presidential appointments.

The CHAIRMAN. In your position as Chairman of the Civil Service Commission and with this broad responsibility, you have had occasion, have you not, to analyze and observe the experience and background and training of General McKee?

Mr. MACY. Yes, sir, I have. I have known General McKee through much of my Government career, but have known him particularly well during the past 4 years.

The CHAIRMAN. Would you say from the study that you have made and from an analysis of his record that he would be especially qualified for this tremendous and important task?

Mr. MACY. Yes, sir; that is both my official and personal view. He is highly and uniquely qualified for this particular position.

The CHAIRMAN. Do you have any questions?

Mr. STAGGERS. Mr. Chairman, I gather that you are in general agreement with the Federal Aviation Act of 1958 which provides that the head of this Agency shall be a civilian.

Mr. MACY. Yes, I am.

Mr. STAGGERS. Would it be agreeable with you if this committee should say that in the future the President should make this a civilian appointment?

Mr. MACY. I would feel, Mr. Staggars, that this would be a matter of judgment for the Congress. It is always difficult for us to see into the long-range future, but clearly it is the view of the President that the civilian characteristics of the leadership of this Agency, as specified by the act, represents a desirable pattern for the long term and that if it were not for General McKee's unique qualifications and the particular demands of this assignment at this time which tend to match his qualifications, he would not be asking for this exception.

Mr. STAGGERS. It is understood if there is an emergency or some particular cause, of course, you could come back, but I just wanted to get this clear.

Mr. MACY. Yes, sir.

Mr. STAGGERS. Thank you.

The CHAIRMAN. Mr. Springer, do you have any questions?

Mr. SPRINGER. Yes, Mr. Chairman.

Mr. MACY, did you say the President consults you on these appointments?

Mr. MACY. Yes, sir.

Mr. SPRINGER. Did he consult you on this one?

Mr. MACY. Yes, sir.

Mr. SPRINGER. If this is not invading the prerogative of the Executive, was anyone else considered?

Mr. MACY. Yes, sir.

Mr. SPRINGER. Without naming anybody, how many others were considered?

Mr. MACY. That is a difficult question to answer because there are varying degrees of consideration.

Mr. SPRINGER. In your best judgment.

Mr. MACY. Let me say that there were at least a half a dozen individuals considered.

Mr. SPRINGER. Out of the half dozen, without naming the others, were any of the others military?

Mr. MACY. No.

Mr. SPRINGER. All of the others were civilian?

Mr. MACY. Yes, sir.

Mr. SPRINGER. Were all of the others highly qualified?

Mr. MACY. In varying degrees.

Mr. SPRINGER. When this act was written, I remember the discussions which went into this act on this particular problem that the Administrator should be a civilian. And I remember the hours this committee pored over this question as to what it meant as was there a chance that we were not going to have it.

You say you are in agreement with that policy, right?

Mr. MACY. Yes, sir.

Mr. SPRINGER. How many Administrators have there been thus far?

Mr. MACY. Three.

Mr. SPRINGER. Can you name those?

Mr. MACY. Yes. The first one was Elwood Quesada, appointed by President Eisenhower, shortly after the act was passed. The second one was Najeeb Halaby, the present Administrator, appointed by President Kennedy. And the President has indicated his intention to nominate General McKee as the third one.

Mr. SPRINGER. Since 1958?

Mr. MACY. Since 1958.

Mr. SPRINGER. All right. Now that is a total of 7 years and you have had three Administrators including the suggested one.

The CHAIRMAN. You have had two so far.

Mr. SPRINGER. He used the word "three" and he is assuming this man would be confirmed.

This makes two out of three noncivilians?

Mr. MACY. Yes.

Mr. SPRINGER. Are we following the act very well?

Mr. MACY. I think that to answer that question, the act has been followed in that in the case of General Quesada he was a civilian at the time he was appointed to this position. He did have a military background. The arrangements were made for him to serve. My own view is that the provision for civilian leadership has been safeguarded.

In this particular instance, as I have indicated in my testimony, the conditions are special and warrant this exception.

Mr. SPRINGER. Let us assume that he is a highly qualified man and he doubtless is. Would you assume that we could not get a civilian Administrator with the same qualifications?

Mr. MACY. I don't believe I am in a position to answer that.

Mr. SPRINGER. I think we would have to assume that both Quesada and Halaby have been excellent Administrators. The thing that disturbs me is that we talked about this question of a civilian and two out of three of the first Administrators are going to be military men. And I think we certainly could not say others have not been qualified.

I think General Quesada had very high qualifications. This question of policy which we established in this act in the beginning, it seems to me, ought to have pretty strong connotations.

Mr. MACY. I believe that it does. And yet at the same time it would be my view that there should be a consideration at points in time where there is a change in the Administrator to evaluate what the needs are at that time and seek the best person to meet those needs.

Mr. SPRINGER. I am not going to argue with the President of the United States on his appointment except that I do believe that here is where we ought to air this question of whether or not a civilian ought to be appointed to this position. Now, I remember there was a lot of discussions the first time.

As I understood when this act was passed the possibility was that the Deputy Administrator would probably be a military man. But the thought was that this ought to be in charge of a civilian. I think the reason was that you were essentially dealing with a civilian matter, domestic aviation, international aviation. It had to do with primarily civilian aspects and that is why we ought to have a civilian Administrator of the Agency rather than a military man.

With the development of supersonic planes, in which this committee has been very active and having made one trip to Europe to talk to the French about their possibility a year or two ago, don't you think that on this whole thing that a civilian can look at this in perspective better than a military man can?

Mr. MACY. Mr. Springer, my own personal view is that you look more at a man and his qualities than what kind of service or career or uniform he has had. It seems to me that in our good fortune in having General McKee, we have a man who combines the qualifications that are called for at this particular time.

When this committee was considering the original legislation, they were putting together a new agency. It was an agency that was assembled from the Civil Aeronautics Administration, from some portions of this Civil Aeronautics Board, the air coordinating activity and certain activities from Defense.

I think the Congress constructed an effective agency. I think it has become an institution that has effectively carried out the intent of Congress. It has moved ahead to apply the technology that has developed during the intervening period of time. The systems have been updated to afford greater safety and greater speed.

We now have this very important additional project that has been assigned to this Agency. It is assigned in relation to its other activities. I believe in view of that we are warranted—

Mr. SPRINGER. I don't want to interrupt you at all but I want to get a little more to the point.

Mr. MACY. That is all right.

Mr. SPRINGER. Let us assume the supersonic plane is very important. The FAA Administrator, though, I would say a great majority of his duties, I would say 80 percent, have to do with everyday civilian aviation.

Mr. MACY. I don't have any percentage distribution.

Mr. SPRINGER. That is my understanding. Even with the supersonic plane, still 80 percent of his time is still going to be spent on civil aviation. Does he have any particular qualifications in the administering of civilian aviation?

Mr. MACY. Oh, yes. I feel that the systems that he has administered in the Air Force are very closely related to the systems that are in civilian aviation.

Mr. SPRINGER. Can you name some of the systems he has administered?

Mr. MACY. The air traffic control systems, the systems of aircraft inspections, the systems of providing the necessary supplies for aircraft, the involvement in the training of pilots and crewmembers. These are all activities that although performed for a military purpose still are functionally very similar to those that are involved in civilian aviation.

Mr. SPRINGER. I go for a moment to the question of retirement to be sure it is clarified. I did not understand from the question asked by the chairman as to what his retirement situation would be if he accepted the position under this legislation and assuming the legislation is passed, and signed by the President.

Mr. MACY. Mr. Springer, let me be precise about that. If this legislation were enacted and the President's nomination is confirmed by the Senate, General McKee, as Administrator, would receive the authorized salary of \$30,000. In addition, under the terms of the Dual Compensation Act, he would receive the first \$2,000 of his retired pay plus 50 percent of the balance. This would mean that he would receive \$8,400 in retired pay.

Mr. SPRINGER. In other words, his total income would be \$39,000?

Mr. MACY. Nearly \$39,000.

Mr. SPRINGER. What is it at the present time, approximately?

Mr. MACY. At the present time he occupies a civilian post which pays \$24,500. And under the exception in the dual-compensation statute relating to NASA, he is receiving his full retired pay which amounts to \$14,800.

Mr. SPRINGER. So that he is now receiving approximately \$39,000 or \$40,000?

Mr. MACY. That is correct.

Mr. SPRINGER. Under this—

Mr. MACY. Under this, he would receive \$38,400.

Mr. SPRINGER. So for all practical purposes it is approximately the same.

Mr. MACY. He would receive under this legislation \$900 less gross compensation than he does at the present time.

Mr. SPRINGER. How is this reflected in taxable income? Would that be about the same?

Mr. MACY. About the same.

Mr. KEITH. Would the gentleman yield at that point?

Mr. SPRINGER. Yes.

Mr. KEITH. In terms of this legislation as you suggest in section 201, his drawing the full compensation of the new position will entitle him to pension benefits under the Civil Service Act in later years.

Mr. MACY. If he meets the eligibility requirements.

Mr. KEITH. And that is 5 years?

Mr. MACY. If he served 5 years he would establish a vested right under the civil service retirement system.

Mr. KEITH. How many years does he now have in NASA?

Mr. MACY. He has approximately 1 year in NASA.

Mr. KEITH. So in an additional 4 years he would be entitled to participation in another pension plan?

Mr. MACY. That is correct.

Mr. KEITH. And would he not receive credit for military service to the extent of 5 years?

Mr. MACY. Only if he forfeits his military pay. In other words, he cannot use the same period of service to establish coverage under two retirement plans.

Mr. KEITH. So he, in effect, becomes eligible—

Mr. MACY. So he would be eligible for an annuity based on 5 years of civilian service on top of the military. Or if he would elect to forfeit his military he would then receive a civil service retirement annuity based on his combined military and civilian service.

Mr. KEITH. So the pension at the end of 5 years would be roughly 12½ percent of his top 5 years?

Mr. MACY. Yes.

Mr. KEITH. Thank you, Mr. Chairman.

Mr. SPRINGER. May I ask one question? As Chairman of the Civil Service Commission, you primarily represent those who are civilians in their appointment. Is that correct?

Mr. MACY. I don't feel I represent any particular group. My concern is exclusively with the civilian side of Federal employment, that is correct.

Mr. SPRINGER. I can remember when we had Quesada up here on the same question, and he resigned. We didn't make the waiver, but we finally reinstated him.

Mr. MACY. He resigned, but you authorized his reinstatement following his completion of service as Administrator.

Mr. SPRINGER. Did we authorize that in the legislation?

Mr. MACY. It is my understanding that it was a private bill that authorized that.

Mr. SPRINGER. That was after he had finished his term of office. Is that correct?

Mr. MACY. I believe the private bill was introduced while he was in office. There was a commitment at the time of the passage of the legislation that if he were Administrator, there would be this arrangement.

As I recall the record, and I was not here in Washington at that particular time, he was the representative of the Eisenhower administration, with respect to the proposed legislation, and worked very closely with this committee and the Senate committee, and it was generally known that he would become the Administrator if the legislation was passed.

I believe that that was the historical development of this.

Mr. SPRINGER. I will say, Mr. Chairman, that I am somewhat disturbed that we are not having a civilian appointee. I was inclined to believe that even when Quesada was appointed that was probably not the thing to do, and I went along with it, but I didn't assume that we were going to come in every other time with a military Administrator.

I want to say that I may go along with this legislation, but I am going to put on notice from now on I am not.

We are going to follow, insofar as I have the responsibility the purpose for which this legislation was constructed, and that is we are going to have civilian appointees at the head of this Agency.

I think that was the purpose of the act, and I think it ought to be followed.

Mr. MACY. I understand.

Mr. SPRINGER. Thank you, Mr. Chairman.

The CHAIRMAN. That is another one of the paradoxes that we live in. We said when the act was written we were going to expect a civilian Administrator, but at the same time we did it with the full knowledge that General Quesada was going to be the Administrator.

He came here and worked with us and testified for it, and he told us frankly that he was going to become the head of it, and yet the committee did accept what was proposed with that understanding.

I say that is another one of the paradoxes that we live in in this country.

Mr. ROGERS.

Mr. ROGERS of Texas. Mr. Macy, the only issue involved here actually is whether or not the Congress is going to force General McKee to give up the benefits and the retirement that he has earned during his military service in order to take this job.

Mr. MACY. That is what it boils down to, Mr. Rogers.

Mr. ROGERS of Texas. Because if he resigned and gave up all of the benefits that he has acquired, and the President wanted to appoint him, and the Senate wanted to confirm him, there is nothing in the world to keep him from serving, is there?

Mr. MACY. No. By resigning, he would become a civilian, and meet the test in the statute, but we would be asking him to forfeit the benefits of 35 years of military service.

Mr. ROGERS of Texas. So actually we have not the question of the civilian against the military man, we have the question of whether or not you are going to force a man to give up things he has earned in order to serve his country.

Mr. MACY. Yes, sir.

Mr. ROGERS of Texas. Thank you.

The CHAIRMAN. Mr. Younger?

Mr. YOUNGER. I would like to pursue this question of retirement a little bit.

You say the general has 35 years of military service?

Mr. MACY. Yes, sir. He graduated from West Point in 1929.

Mr. YOUNGER. Does the retirement plan that would be available to him if he served 5 years follow the same kind of a plan that we have in the Congress?

Mr. MACY. The formula is a little reduced.

I am watching my words very carefully. The percentage of salary authorized in the computation is somewhat lower than the one applicable to Members of Congress. However, if you wish to figure it, roughly it come out to slightly less than 2 percent a year.

I think I answered "Yes" to 12½ percent. It would be closer to 10 percent of his high 5 years of salary in computing his annuity, if he served 5 years in a civilian status.

Mr. YOUNGER. Yes. But under our plan we get whatever years we had in the military free. If that was available to him, say he got 2 percent for each year. He would start in with 70 percent of his \$30,000, plus the additional which would make the maximum percentage of 75 percent of \$30,000 in his retirement, so that he would greatly benefit

his retirement over and above the \$16,000 he is getting from the military. Is that possible?

Mr. MACY. My answer to Mr. Keith was that he would only be able to draw that kind of a civilian annuity if he agreed to forfeit his military retirement.

Mr. YOUNGER. He would forfeit \$16,000 for 75 percent of \$30,000.

Mr. KEITH. Will the gentleman yield at that point?

Mr. MACY. There are certain other benefits that go with his military pay.

Mr. YOUNGER. Yes; I will yield to you.

Mr. KEITH. You cannot get any number of years at 2½ percent from the congressional military service. It is limited to 5 years at 2½ percent, and I believe that for successive years it is 1¼ percent.

Mr. YOUNGER. For the military service?

Mr. KEITH. That is correct.

Mr. YOUNGER. That is what I am trying to get at. How much allowance would he have for his 35 years military service? Would he only have 5 years, or could you compute the whole 35?

Mr. MACY. If he counted all of his service, it would come out to roughly 70 to 75 percent of his salary.

Mr. YOUNGER. That is what I am trying to get at. So he could very well forfeit his military pension at \$16,000, on the chance of getting 70 or 75 percent of \$30,000, if he finished 4 years more.

He has 1 year already in Government civilian service, and if he had 4 more years as FAA Administrator, then he would be eligible for civilian pension. Is that correct?

Mr. MACY. If he forfeited his military retirement, which he has now, it would mean he would also forfeit the survivorship benefits that are under the military retirement plan, as well.

The CHAIRMAN. Which are not under the other plan?

Mr. MACY. If he were to acquire survivorship coverage under the civil service plan, he would, of course, have to accept a reduced annuity in order to acquire that coverage.

I apologize. I don't have all of this worked out.

Mr. YOUNGER. I think for the record it ought to be put in, exactly what the status would be in case he forfeited his military pension and filled his 5 years in Government service, just what would be his pension at that time under civil service.

Mr. MACY. All right. I will get my computer out and provide an answer for the record.

Mr. YOUNGER. You can very easily get that from Secretary McNamara. I understand he is an expert at computers.

Mr. MACY. I have one in the Commission, too.

(Information furnished is as follows:)

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., May 18, 1965.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
Longworth House Office Building.

DEAR MR. CHAIRMAN: During the hearings on H.R. 7777 on May 12, 1965, Representative Younger asked for information regarding the amount of civil service annuity General McKee would be entitled to if he is appointed as FAA Administrator and serves in that position until he acquires a total of 5 years civilian service.

General McKee entered civilian Federal service on September 1, 1964, in his present post with NASA, and has been subject to the Civil Service Retirement Act since that time. Assuming he leaves NASA on June 30, 1965, and continues in civilian employment as FAA Administrator from and after July 1, 1965, he will complete 5 years of civilian service on August 31, 1969. He will then be past age 62 and eligible to retire on an immediate civil service annuity.

Upon so retiring, he could choose to retain his military retired pay and draw civil service annuity computed on civilian service only, or he could waive the retired pay and have the annuity computed on civilian and creditable military service combined. Because General McKee apparently will be eligible for social security benefits at age 62, his military service after December 31, 1956, cannot be credited toward annuity under the Retirement Act even though he waives military retired pay.

Based on these projections and on the further assumptions that (1) FAA salary will be \$30,000 a year, and (2) the maximum survivorship protection for spouse will be chosen under the Retirement Act, General McKee's civil service annuity rates (reduced to provide benefit to widow) would be approximately as stated in the following table:

Annual benefit rates¹

	If retired pay retained		If retired pay waived	
	Retiree	Widow	Retiree	Widow
Civil service annuity.....	\$2,124	\$1,200	\$18,348	\$11,040
Military retired pay ²	14,808	3,702	-----	3,702
Total.....	16,932	4,902	18,348	14,742

¹ Benefit to retiree commences Sept. 1, 1969; benefit to widow commences upon death of retiree.

² Widow's benefit elected and purchased under provisions of ch. 73, title 10, United States Code.

If you wish any other information relating to General McKee's status, please let me know.

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

Mr. YOUNGER. One other question. You say, "Upon learning of Mr. Halaby's desire to resign * * *." Do you know when that was learned?

Mr. MACY. I don't know the precise date, Mr. Younger. It was some time ago.

Mr. YOUNGER. There is a story going around here on the Hill, I don't know whether it is true or not, that Mr. Halaby learned of it when the announcement was made of his successor.

Mr. MACY. I believe that story, as well as the early stories about his desire to leave, are both somewhat exaggerated.

Mr. YOUNGER. They are both exaggerated?

Mr. MACY. Yes.

Mr. YOUNGER. Thank you, Mr. Chairman.

The CHAIRMAN. I notice a fine group of high school students, here. I understand they come from the district that our colleague, Mr. Nelsen, represents.

I know all of the members of the committee join me in giving a very cordial welcome to you, but I don't believe it would be complete without permitting Mr. Nelsen to welcome this fine group.

Mr. NELSEN. Thank you, Mr. Chairman.

I am sure all of you noticed the fine group of future voters that came through the door.

Coming from a district that has repeatedly shown good judgment, I want to thank the chairman for giving me the opportunity of welcoming them to the committee.

We had a little visit over on the floor of the House, and a tour around the Capitol, and we welcome them to our Nation's Capital and this great Committee of Interstate and Foreign Commerce.

Thank you, Mr. Chairman, for giving me this opportunity.

The CHAIRMAN. We are honored by your presence today, and hope you will stay with us as long as your schedule will permit.

Mr. FRIEDEL. Mr. Chairman, I want to ask Mr. Macy whether our Congressman was violating the Hatch Act when he was making this political speech to the students.

Mr. MACY. No comment.

Mr. FRIEDEL. Seriously speaking, if General McKee is approved by the Senate, and we pass H.R. 7777, wouldn't the general be taking a loss of about \$1,000?

Mr. MACY. Yes.

Mr. FRIEDEL. There is no question in my mind that I am going to vote for this bill, and that he is the most desirable man. But what I am worried about is how would the family be affected in case General McKee passed away? Would they take a financial loss?

Mr. MACY. No. His survivorship benefits would continue under this arrangement.

Mr. FRIEDEL. Full scale?

Mr. MACY. Yes.

Mr. FRIEDEL. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Devine?

Mr. DEVINE. Mr. Chairman, I have sent out for some information, and would like to reserve the right to ask questions at a later time.

The CHAIRMAN. Mr. Moss?

Mr. MOSS. Mr. Chairman, I want to preface my remarks with the statement that I have followed the policy, since coming here now approximately 15 years ago, of resolving under certain conditions my doubts in support of the reasonable requests of the President of the United States, whoever he might be, but I do want to voice very strong concern over this request, and I haven't the slightest concern over the matters of the finances here involved.

The United States is going to pay \$30,000 to an Administrator, whether he is a civilian or military. It has its responsibility to pick up the commitments it has made for the retired military officers of this country. That, in my judgment, is as it should be.

But I am alert to the fact that as the scope and complexity of military operations continues to grow, their role in much that affects the civilian activities of our economy, of our educational and cultural institutions, that they do present a reservoir of uniquely experienced individuals.

So my concern does not go to the questions of qualifications. But in 1958, when we were faced with a somewhat similar problem, and had a very articulate and able spokesman representing the administration urging the creation of the Federal Aviation Agency, I was one of those who insisted on the provision that we would now set aside.

It was because of concern of the orientation of any future Administrator whether he would be a civilian in the true sense of the word, or of an orientation and background that would deny him certain basic facets of experience which I felt desirable in a civilian agency Administrator.

So I want to express my strongest concern over any expansion of this policy, any repeat of a similar request. I would have grave difficulties in resolving it in any future instance.

That is all I have to say.

The CHAIRMAN. Mr. Nelsen.

Mr. NELSEN. Mr. Macy, your major responsibility is the Chairman of the Civil Service Commission, is it not?

Mr. MACY. Yes, sir.

Mr. NELSEN. Recently I have been reading in the paper about the additional responsibilities that have been given to you by the President, to review the qualifications of potential appointees. Is that not about it?

Mr. MACY. Yes; that accurately states it.

Mr. NELSEN. Do other members of the Civil Service Commission assist you in this, or is this your major responsibility to the President?

Mr. MACY. No, this is an additional responsibility to me as Chairman.

Mr. NELSEN. I would like to comment relative to the appointment here that while I think it is very important that the intent of the Congress in the original act be carefully reviewed relative to a civilian appointee, I might add, however, that it is my feeling that if in the military you have a man with tremendous qualifications, certainly if he is available, and it is often difficult to get appointees to Federal posts, that maybe we should review the act itself to take into account the reservoir of persons that may be in military that could be made a useful appointee to the Federal Government.

I might add, Mr. Macy, that serving as you do on the Civil Service Commission, I know this is out of order when I mention it here, but I want to say that I am disappointed in the lack of expeditious attention to some of the problems in the Civil Service Commission that I feel should be acted on soon.

I hope you will give me a chance to visit with you on this before you leave. I don't want to embarrass anyone.

Thank you, Mr. Chairman.

Mr. MACY. I am aware, Mr. Nelsen, of my responsibility, and let me assure you that lack of expedition on affairs you are interested in has nothing to do with this added duty.

The CHAIRMAN. Mr. Rogers of Florida.

Mr. ROGERS of Florida. Thank you very much, Mr. Chairman.

I, too, share concern with my colleagues, particularly Mr. Moss, in varying from the intent of Congress when we have a specific provision in the law, very clearly stated, that this position be held by a civilian.

It seems to me unfortunate that the general is not in a position to resign as General Quesada did.

I, too, have great concern over consideration of this legislation in varying from the intent of Congress in allowing the military man to be charged with the responsibilities of an agency which so vitally affects the civilian sector of our country.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Keith?

Mr. KEITH. Thank you, Mr. Chairman.

I would like to elaborate somewhat on the sentiments expressed by Mr. Moss and Mr. Rogers.

It seems to me there is a very good reason for the intent of Congress as expressed in the act.

Let us say, for example, that the Secretary of Defense is cool toward supersonic transport, and let us assume further that he relies heavily on his staff for advice and counsel with reference to this subject. But if we do assume that he does rely on the staff, then we appoint to a position a man such as this, a man with friends on the staff, then we do have this complex that has been of concern to General Eisenhower.

It does seem if General McKee is enthusiastic about the supersonic transport, he would prevail on the Department of Defense and the objections of Secretary McNamara might be overcome, and we could get an objective through the marriage of military and civilian.

Mr. MACY. Mr. Keith, this question is one in which there is a great deal of interdepartment interest. The economic implications are of interest to the Commerce Department, the financial aspects are of interest to the Treasury Department and Bureau of the Budget, and obviously the military aspects are of interest to the Department of Defense.

So the decisions relating to it are, in the final analysis, the decisions of the President, and the President must call upon a number of his assistants in reaching that decision.

But the key person in carrying forward the work will be the Administrator of the FAA. It is the President's view that the important thing here is to have the experience and the knowledge that there are adequate safeguards in the executive branch to assure that the kind of relationships that you described will not be of a negative nature, but will be of an affirmative nature.

Mr. KEITH. I recognize that, but we in the Congress have on several instances indicated our concern for supersonic transport developed by the military, with a dual mission, and it has been frustrated by the executive branch, and the President acts upon the recommendations of his executive branch.

And it does seem to me that the possibility exists, as has been recognized by the Congress in this legislation, and by President Eisenhower in his warning to us, as well as those of other Presidents.

I think that is part of the reason for the concern of Mr. Rogers and Mr. Moss and Mr. Springer, and I share that concern.

Mr. MACY. I understand.

The CHAIRMAN. Mr. Kornegay.

Mr. KORNEGAY. Mr. Macy, I am not personally acquainted with General McKee. I assume he is a four star general?

Mr. MACY. Yes, sir.

Mr. KORNEGAY. A graduate of the U.S. Military Academy in 1929, I believe you said.

Mr. MACY. That is correct.

Mr. KORNEGAY. How long was it before he went into the Air Force or Air Corps?

Mr. MACY. His first assignment was with the Coast Artillery in the War Department. He joined the Air Force in 1942.

Mr. KORNEGAY. Ten years, then, after he was graduated from the Academy.

Mr. MACY. Actually, he served in the Army for a period of 13 years before joining the Air Force.

Mr. KORNEGAY. Is he a pilot?

Mr. MACY. No, sir; he is not.

Mr. KORNEGAY. How old is he at the present time?

Mr. MACY. Fifty-eight.

Mr. KORNEGAY. Thank you.

The CHAIRMAN. Mr. Curtin?

Mr. CURTIN. No questions.

The CHAIRMAN. Mr. Devine?

Mr. DEVINE. Yes, Mr. Chairman. Thank you for returning to me.

In the letter to the committee over in the other body, the President says, "General McKee has indicated his intention and willingness to abide by the provisions of that act," which I would presume would mean that General McKee is perfectly willing to accept the appointment as FAA Administrator whether or not we enact this H.R. 7777. Is that correct? Is that your understanding?

Mr. MACY. I believe the intent in the letter was that he would be willing to abide by the reduction in his retirement income that would result from appointment, if this legislation was passed.

Mr. DEVINE. Is it your understanding, then, Mr. Macy, that in the event we do not favorably enact this legislation, that General McKee would not be interested in the appointment?

Mr. MACY. I have no indication one way or the other on that.

Mr. DEVINE. That is all, Mr. Chairman. Thank you.

The CHAIRMAN. It would be exceedingly doubtful if he would, wouldn't it, as a matter of practical fact?

Mr. MACY. Mr. Chairman, I have no hard and fast statement from him, but it seems to me that the President's letter, and from the testimony and request for this bill, that the belief is that this would be a substantial loss, and difficult for him if he were asked to do it.

If the bill were not passed, we would obviously have to discuss this very thoroughly with him.

The CHAIRMAN. Mr. Van Deerlin?

Mr. VAN DEERLIN. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Carter?

Mr. CARTER. No questions.

The CHAIRMAN. Mr. Pickle?

Mr. PICKLE. Mr. Macy, I assume you share the President's feeling that General McKee is perhaps the best qualified man in America today to handle this job.

Mr. MACY. He is certainly the best qualified man that we are aware of at the present time.

Mr. PICKLE. And it is your opinion that he is needed by our country in this particular position at this time?

Mr. MACY. That is clearly my view.

Mr. PICKLE. In this instance, Mr. Chairman, I have no grave doubts about the course we should take.

As a matter of interest, is General McKee here this morning?

Mr. MACY. I don't believe so. Not to my knowledge.

Mr. PICKLE. Thank you.

The CHAIRMAN. Mr. Callaway?

Mr. CALLAWAY. Mr. Macy, I am a graduate of the same school as General McKee, West Point, so naturally I am not antimilitary. I

am well aware of the contributions of the military, and I appreciate them.

I do, however, join Mr. Springer, Mr. Moss, and other members of the committee in pointing out what seems to be a violation of the act, because whether General McKee would resign or not seems not to be the problem. He is basically a military man, and his basic background is military.

He is being selected because of his excellence as a military man. And if you go through the daily affairs of the FAA, where military and general aviation and commercial airlines have a position, they are usually at variance.

The President is relying on the Department of Defense to give the military viewpoint. It looks like he should rely, in a controversy, on a person with a civilian background to keep this as a civilian agency.

Would you comment on that?

Mr. MACY. My feeling is that General McKee, with his background in the logistical and management end of the Air Force, has had an opportunity to be familiar with many of the functions in the Air Force that are comparable to those within the FAA, and that he brings a very broad point of view to this Agency, and to the solution of the problems that it faces at this time.

Certainly he has as an officer of the Air Force had a career of experiences which are particularly valuable in this assignment.

Mr. CALLAWAY. I agree with that. I am a pilot, myself. I see a lot of these issues that come up in the FAA.

Just for example, generally the military takes the position all air space should be controlled. Much of general aviation and commercial aviation takes the position that all aviation should not be controlled.

It is just the kind of thing that is bred in an Air Force man for years and years and years, just as it is bred in me, as a private pilot, the other way. I could no more change overnight than he could.

Mr. MACY. Let me add also the experience of the past year that General McKee has had with NASA has indicated to those who have worked with him the breadth of view and the objectivity of judgment that he is able to bring to some of these complex questions.

Mr. CALLAWAY. I certainly have heard nothing against General McKee. I understand he is an outstanding man.

Thank you, Mr. Chairman.

Mr. SPRINGER. Would you yield?

Mr. CALLAWAY. Yes.

Mr. SPRINGER. On the point which the gentleman from Georgia has raised, would you recall from what agency the FAA took most of its personnel when it was set up?

Mr. MACY. It is my recollection, Mr. Springer, that most of it came from CAA.

Mr. SPRINGER. And that had been a civilian-administered agency. I don't believe there had ever been a military man in the agency.

Mr. MACY. I am not familiar with the history.

Mr. SPRINGER. I believe I am correct in that.

And it was the feeling since you were going to deal with civilians for the most part, there was a great fear of having a military man,

because so much of what was arising from the created FAA was in essence conflict between the civilian and military, especially over fights of various kinds, and because of the kind of information that was given.

And it was because this was formed that you would have a civilian administrator, and probably a military man as a deputy, for the purpose of working out the conflict which they have had between the military and the civilian.

I can remember this debate, and why this was put forward that this would cure the situation, by bringing these two together, and then there was the fear you might have some general appointed to this.

I will admit what the chairman has said. I will say this, that at least Quesada came before us and said he probably would be the Administrator. But at least he wasn't appointed during the time he held that. He was a civilian.

I am not going to say that he forgot all about his military background during the time he was a civilian, but I think they are primarily making decisions that affect an entirely civilian capacity, and that is domestic and international air traffic.

This is why I have such strong views.

Thank you, Mr. Callaway.

Mr. MACY. As I recall it, Mr. Springer, at the time the Agency was set up, certain military functions were also brought into FAA, and it was necessary to work those out during the early days.

It would be my observation that as a result of the skillful management of both Quesada and Halaby that most of those have been worked out, and there has been a balance of civilian and military interest obtained in the FAA. This situation generally exists at the present time.

And further, as I pointed out in my statement, it was clear that those of you who drafted the legislation did anticipate that there might be a military head of the Agency, because you prescribed in that event the deputy should not be a military man or even someone who was a former military man. That is the way the specification for the deputy is written.

Mr. CALLAWAY. I would like to yield to the gentleman from California.

Mr. YOUNGER. Thank you very much.

Following up the question I asked you as to when he learned of this, the current issue of Life has a story in it, and here is a quotation that they have from the President, talking to Gonzalez, the Congressman from San Antonio.

As I understand, the general comes from Texas. Is that correct? Originally?

Mr. MACY. No; he is from Virginia.

Mr. YOUNGER. Originally?

Mr. MACY. He was born in Virginia.

Mr. YOUNGER. Here is the President's quotation, and I think it ought to go in the record. He is talking to Congressman Gonzalez.

"I had to chase Halaby all over town to get his resignation," Johnson said to him. "But I got it just like I said I would."

That is in this issue of Life.

Mr. MACY. This does not coincide with any understanding I have of the situation. Mr. Halaby had indicated his desire to resign over quite an extended period of time, and there had been a review of a number of candidates, as I have indicated earlier. And the decision was made that of those candidates, General McKee was the one that most appropriately met the requirements of the job.

Mr. YOUNGER. That is all, Mr. Chairman.

The CHAIRMAN. I think probably it should not be overlooked that there has been a controversy that has been going on between our colleagues, as mentioned by Mr. Younger, which it seems to me ought not to be brought into this hearing.

I hope that the committee will not get involved in some matter of a difference of principle between a colleague and Mr. Halaby.

I think Mr. Halaby has tried to do the best job that he possibly could in his administration of this act. I think in that regard actually there has been too much said in the record about it. One day I want to say it on the floor, and set the record straight on it.

In view of the fact that Mr. Springer mentioned it further, and the comment of Mr. Callaway made a few minutes ago, I think we should not overlook the record. It is easy to forget what motivates a particular viewpoint.

And as some of our colleagues will recall, what brought this issue up at the time was that there were two separate systems being set up in this country, one military and one civilian. The purpose of the 1958 act was to combine those systems into one, and bring them all within the Federal Aviation Agency.

Now, at that time, the Federal Aviation Agency, the old CAA, if I recall, had about 15,000 personnel. I am not sure.

Mr. MACY. It was about that. That is about right.

The CHAIRMAN. And it was anticipated with those functions being brought together that something like 14,000 military personnel involved in the same kind of administration would be transferred to the Federal Aviation Agency, and because there were so many military personnel that were being transferred to the civilian agency, there was a great concern at that time about the head of the Agency being a member of the military, and that together with all of this personnel being transferred, the military would have the upper hand of it.

That was a fact. That was the reason for the issue at that time. But as has been stated heretofore, General Quesada was a military man. He told us, Congress knew it, he was going to be the first Administrator, even though he had said that he would resign from the military.

But nevertheless, as has been said, we had that situation, which we knew about. We accepted it, and the first Administrator of this Agency was a military man in fact.

Mr. Gilligan?

Mr. GILLIGAN. No questions.

The CHAIRMAN. Mr. Farnsley?

Mr. FARNSELEY. No questions.

The CHAIRMAN. Mr. Williams?

Mr. WILLIAMS. Thank you, Mr. Chairman.

Mr. Macy, I share the concern expressed by the gentleman from Georgia. I am not a West Point graduate, but I am an ex-Air Force officer, a rated pilot, and I have a very deep interest in this matter.

I share certain apprehensions expressed by Mr. Callaway in regard to the military orientation toward positive control of all aircraft, and I certainly do not feel that is in the interest of developing a sound civil aviation transportation system in our country.

I am dedicated to the concept that this is a Government of laws, and not a Government of men. A law was passed in 1958, which I would quote, known as the Federal Aviation Act. I quote from the statute, with which you are familiar, in regard to the qualifications of the Administrator, subsection (b) of section 301. It has a stipulation, which I quote:

At the time of his nomination he shall be a civilian, and shall have had experience in a field directly related to aviation.

In the committee report, which accompanied that act, and again repeated in the statement of the managers on the part of the House, who were at that time our present chairman, Congressman Harris, Mr. Roberts, Mr. Walter Rogers, who is presently on the committee, Mr. John Flynt, who is no longer a member of this committee but is still a Member of Congress, Mr. Wolverton, Mr. O'Hara, and Mr. Schenck, who were managers on the part of the House, they said this:

The requirement in section 301(b) that the Administrator be a civilian at the time of his nomination means that he shall be a civilian in the strictest sense of the word.

Now, I subscribe, of course, to what Mr. Rogers said a few minutes ago, that the President should be free to make appointments of the best qualified persons available to him, but I would add that the President should be free to make such appointments only within the limitations imposed on such appointments by the law.

Do you agree with that statement?

Mr. MACY. Yes.

Mr. WILLIAMS. Mr. Macy, you have come here with the suggestion that the Congress waive the civilian requirement for the second time in three appointments. In other words, that the Congress not stand by the law as the Congress passed it for the second out of the third time that an Administrator is to be appointed.

Do you feel that that is a good policy for the Congress, to make exceptions repeatedly to statutory requirements on which it has previously passed?

Mr. MACY. My view, Mr. Williams, would be that the circumstances in this particular instance warrant making the exception in order—

Mr. WILLIAMS. Can that be applicable to any instance wherein the President has a man he feels is uniquely qualified for any position? Couldn't that same argument be applied to any kind of limitations imposed by the law in certain circumstances?

Mr. MACY. This is one of very few appointing authorities that are limited in this fashion, and in this case, the view was that the circumstances and the individual warranted providing an exception in order to make this particular appointment.

Mr. DINGELL. Would you yield?

Mr. WILLIAMS. Yes.

Mr. DINGELL. Mr. Macy, have you studied the history of this act?

Mr. MACY. Not to the extent that Mr. Williams may have, but I have certainly reviewed the background.

Mr. DINGELL. Are you aware of the history of this act?

Mr. MACY. Yes.

Mr. DINGELL. Are you in agreement with the history of this act, and the reasons of this committee and Congress in setting up the FAA?

Mr. MACY. Yes. As I indicated in my statement, I believe it is desirable to have civilian leadership over the long term in this Agency, and to have a civilian stamp on it.

Mr. DINGELL. Do you recognize the wisdom of having the civilian leadership in this Agency?

Mr. MACY. I do. That is why I support the concept. But I believe in this particular situation—

Mr. DINGELL. You seek here this morning a specific exemption based solely on the convenience of the administration.

Mr. MACY. Based upon the needs of this particular Agency at this time, and the qualifications of this particular man.

Mr. DINGELL. Based upon convenience as the administrator within the Federal agency who is charged with conducting a talent search.

This is what you are seeking, a special convenience for yourself, and a special exemption for the administration from a law of Congress which you admit is a wise act.

Isn't that what you are seeking?

Mr. MACY. No, I certainly don't put it in personal terms, at all. This is an appointment that the President has indicated it is his intention to make. But obviously, before he can make any nomination, it is necessary to have this waiver.

Mr. DINGELL. I am transgressing greatly on the time of my friend, the Congressman from Mississippi.

Mr. WILLIAMS. Is our time limited, Mr. Chairman?

The CHAIRMAN. No. We have not invoked any time limit.

Mr. WILLIAMS. I should not want to abuse my privilege.

The CHAIRMAN. You are not, at all.

Mr. WILLIAMS. Mr. Macy, I believe you stated in response to a question asked a few minutes ago that Congress anticipated that there might be a time in the unforeseeable future when it might become necessary for a military man to be appointed to the head of this Agency. Didn't you say that? Am I correct in that?

Mr. MACY. Yes. I indicated in my statement—

Mr. WILLIAMS. What do you base that statement on?

Mr. MACY. I base this on the language in the statute pertaining to the Deputy Administrator.

Mr. WILLIAMS. Yes, sir, but it doesn't pertain to the Administrator.

Mr. MACY. No, sir.

Mr. WILLIAMS. With reference to the Administrator, the language is very specific, isn't it? It is a positive stipulation?

Mr. MACY. But what I was referring to was the language in the section pertaining to the Deputy Administrator, where it states that if the Administrator is a former Regular officer of any one of the armed services, the Deputy Administrator shall not be an officer on active duty with one of the armed services or a retired Regular officer or a former Regular officer of one of the armed services.

I was citing that, and then went on in my statement earlier this morning to indicate that it was the President's intention to name a civilian to the deputy position.

Mr. WILLIAMS. You are familiar with the history of the Quesada appointment, aren't you?

Mr. MACY. Yes, I am.

Mr. WILLIAMS. You recall that an effort was made in the Congress, and I don't remember whether it was in the form of an amendment to the Federal Aviation Act or whether it was in the form of legislation similar to this before the committee, but nonetheless, an effort was made to permit General Quesada to receive that appointment, notwithstanding the civilian stipulation in the law, and to retain his military status.

You recall that on a vote of the House of Representatives that was defeated. You recall that subsequent to that defeat in the House of Representatives, and the expression of disapproval on the part of the Congress, General Quesada, in order to qualify himself for appointment as head of the Federal Aviation Agency, resigned all of his military connections, including giving up his retirement pay, didn't he?

Mr. MACY. I do not recall.

Mr. WILLIAMS. Therefore, what we are seeking to do here for General McKee is something that the Congress refused to do for General Quesada, isn't it?

Mr. MACY. I do not recall.

Mr. WILLIAMS. I am advised, and I don't recall the legislation; that after Quesada went out, Congress restored those privileges?

Mr. MACY. Yes; there was a private bill that restored all of those privileges to him.

Mr. WILLIAMS. Now, I would like to be frank and honest about these things, and I am sure you do. In two out of three cases the Congress has been asked to waive the stipulation which it wrote into the Federal Aviation Act.

Don't you think that a much more honest approach would be for the Congress simply to amend the Federal Aviation Act and take that stipulation out?

Mr. MACY. It would seem to me, in view of the experience, there should be a review of the requirement by the Congress to see whether it could be generalized.

Mr. WILLIAMS. Would you like it removed from the act so the President would be given a free hand in making these appointments?

Mr. MACY. I think we have reached a point where it should be considered.

Mr. WILLIAMS. While I may say I don't support that, I will offer that as an alternative to the committee, so as to meet the issue head on.

I have worked rather closely with the Federal Aviation Agency for the past 8 or 10 years. I have found both General Quesada and Mr. Halaby to be extremely able men. I consider both of those gentlemen to be fine Administrators, and I think both served the best interests of their country, and did it well.

I don't know General McKee. I don't know anything about him except what I have read in the newspapers. All the reports that I have received about General McKee are fine. They are good and complimentary.

Like Mr. Moss, I have nothing personal in taking the position that I do with respect to this nomination, but I do feel that the Congress should be sufficiently honest and above board either to amend the law,

the basic law, so as to remove this stipulation, or to refuse to make an exception to the law for the second time in 8 years.

You stated that General McKee had unique qualifications for this office.

Mr. MACY. Yes.

Mr. WILLIAMS. You stated that General McKee was not a pilot. Is General McKee a rated airman of any kind?

Mr. MACY. No, sir.

Mr. WILLIAMS. General McKee is not a rated navigator, not a rated bombardier, he is not a rated observer?

Mr. MACY. No; he is a nonrated officer.

Mr. WILLIAMS. Yes, sir. But I understand he is a specialist in the field of supersonics.

Mr. MACY. He is a specialist in Air Force management and logistics.

Mr. WILLIAMS. Yes, sir.

Mr. MACY. He is experienced in Air Force research and development, which means that he has had extensive experience in aircraft engine and frame development, which is related to the supersonic mission.

Mr. WILLIAMS. Yes, sir. Has he ever had any experience in connection with light, slow aircraft?

Mr. MACY. I can't answer that. I do not know.

Mr. WILLIAMS. There are some 100,000 general aviation aircraft, I believe, in the skies today, as opposed to some 2,000 or 3,000 commercial scheduled carriers. There is not a civilian supersonic in the air, as I understand it, except prototypes.

The present Administrator has a very capable consultant in Mr. Gordon Bain, as you know, who is Deputy Administrator for Supersonics. Is it really necessary to have someone who is oriented toward supersonics as head of the Agency, in view of the fact that Mr. Bain, an expert in that field, is available to advise in the same manner that Mr. Dave Thomas, an expert in his field, would be there to advise in respect to technical problems in other areas?

Mr. MACY. I wouldn't describe General McKee as a specialist in supersonic transports. He has the background, so he will be able to contribute in the overall direction of the supersonic program.

Just what use he will make of Mr. Bain's qualifications, I don't know, but Mr. Bain certainly has developed a background in the course of the time that he has been on this work which will be useful.

Mr. WILLIAMS. I am a bit concerned over the attention that would be given to everyday conventional-type aircraft. In other words, I am afraid that the appointment of an Administrator for the express purpose of developing a supersonic aircraft might result in a neglect of the great mass of general and scheduled air carriers that we have in the country today.

Mr. MACY. General McKee in his responsibility as Administrator would cover this whole area. His experience with aviation generally would well equip him to deal with this whole broad and important spectrum of responsibility that is the FAA's.

Mr. WILLIAMS. I hope you are right.

You mentioned that he has unique qualifications in traffic control and inspection and training of pilots and crew members. If he is not a rated airman, what type of experience did he have in connection with the training of pilots and crew members, other than administrative?

Mr. MACY. He was Vice Chief of Staff, and had with General LeMay the overall responsibility for all of these functions relating to the Air Force.

Mr. WILLIAMS. Yes, sir.

Mr. MACY. He was one of the top Air Force managers concerned with the total mission of the Air Force. And as commander of the Air Force Logistics Command, he was concerned with the direction of all of the activities pertaining to the procurement and maintenance and supply of aircraft in the Air Force.

The view I was expressing was that this background particularly well equipped him for the direction of the FAA with its multiple mission.

Mr. WILLIAMS. I don't have any further questions. I do feel, as I say, that this committee should meet this question head on, and adopt one or two alternatives: either change the law, or abide by the law.

And if my position in this doesn't prevail, and I am quite sure it will not, I would welcome General McKee to the new post and certainly will offer whatever cooperation I might be able to accord him.

That is all, Mr. Chairman.

The CHAIRMAN. Mr. Jarman, do you have any questions?

Mr. JARMAN. Not at this moment.

The CHAIRMAN. Mr. Dingell?

Mr. DINGELL. Thank you, Mr. Chairman.

Mr. MACY, tell me about the civilian background of General McKee.

Mr. MACY. General McKee has been a member of the military service since he entered West Point in 1925, so his civilian background predates that time.

Mr. DINGELL. So his entire career, his entire experience, is military. Is that correct?

Mr. MACY. Except for the past year, when he has served as an Assistant Administrator of NASA in a retired military status.

Mr. DINGELL. Do you agree with me, as you already have, that the purpose of the Congress was a laudable one in putting limitations in the Federal Aviation Act of 1958, which you are seeking to effectively abrogate today? Is this correct?

Mr. MACY. I am seeking an exception that will permit General McKee to serve in this capacity without resigning from his retired status as an Air Force officer.

Mr. DINGELL. But you agree that the purpose of Congress was laudable?

Mr. MACY. Yes; I support the desirability of civilian leadership in the long run.

Mr. DINGELL. Here we have an officer whose entire experience has been with the military. It would be fair to infer that he has consistently supported the position of the military, as we would expect from a military man, in all controversies involving aviation policy of the armed services. Isn't that so?

Mr. MACY. As far as I know, he has. He certainly was subject to command.

Mr. DINGELL. His whole experience was military. His whole attitude in terms of aviation is military, and his whole attitude and philosophy are formed by service in the military. Is that correct?

Mr. MACY. I don't know what other forces or reading may have—

Mr. DINGELL. It would be fair to infer, though, that these were by far the most dominant experiences that this gentleman has had in his experience. Is that correct?

Mr. MACY. Except that he was engaged a good portion of his career in the phase of military operations that was very closely parallel to that of the civilian.

Mr. DINGELL. That is right.

Now, over the years, there has been an abundance of controversy between military and the civilian aviation within this country, has there not?

Mr. MACY. So I understand.

Mr. DINGELL. And these controversies have been bitter, deep, and have involved very fundamental questions, have they not?

Mr. MACY. Yes.

Mr. DINGELL. So again it becomes clear that the purposes of the Congress in enacting precisely the limitation we have before us in the FAA Act of 1958 were again wise, to assure that the purposes and functions of civilian aviation insofar as civilian aviation is concerned were maintained and preserved now. Isn't this a fact?

Mr. MACY. Yes.

Mr. DINGELL. As a matter of fact, if you read the Federal Aviation Act of 1958, you will notice that there was a transfer of Department of Defense functions involved, and you will notice, in addition to this, the question which is paramount—of use of airspace—was resolved in this legislation, was it not?

Mr. MACY. That is correct.

Mr. DINGELL. This was again vested in civilian authority. Is this correct?

Mr. MACY. It was vested in the FAA as a civilian agency. It brought together both the military and civilian in one agency.

Mr. DINGELL. And again we recognize the wisdom of the Congress in trying to maintain civilian control over the authority through precisely the limitation we are discussing today?

Mr. MACY. And the Congress proceeded to approve the appointment of a military man as the first Administrator.

Mr. DINGELL. There is nothing in the law today which precludes General McKee from entering the Government service as Administrator of the FAA, provided he agrees to comply with the provisions of the act.

Mr. MACY. It would be necessary for him to resign his military status, and to forgo the benefits that have accrued to him over a 35-year career of the Air Force.

Mr. DINGELL. This has already been required by one other military man, has it not?

Mr. MACY. And then restored to him by a subsequent act.

Mr. DINGELL. We are not discussing that. We are discussing the fact that Congress by a wise policy required that one military man with a distinguished background and reputation forgo this fringe benefit, important to him.

Mr. MACY. But the Congress also accepted a man with exclusively a military background, and in that instance merely required that he resign in order to meet the standard of the act.

Mr. DINGELL. The Congress required him to accept this responsibility subject to the law.

Mr. MACY. But your earlier point was to the background of the man. The man still had an exclusively military background.

Mr. DINGELL. I recognize that, but we required that the law be adhered to. Now here today you are here before us with a request that the Congress essentially establish a precedent, because we can anticipate no military man will ever enter in the responsibility without the specific exception that you have before us today. Isn't this a fact?

Mr. MACY. Yes, it seems highly unlikely that any military man would accept the sacrifice of resigning all of his benefits in order to take the post, particularly when many of them can go outside of Government and continue to have all of those benefits, and receive a much higher salary than the Government is able to extend to them.

Mr. DINGELL. I want to continue on that point. Wouldn't it be fair to say that there are many people in this Nation who have civilian backgrounds who have the qualifications and experience and abilities that are required for the position of Administrator of the FAA?

Mr. MACY. There probably are, but I certainly would feel that the qualifications that General McKee brings would be equal or superior to any individual that I know of who is available for an assignment of this type.

Mr. DINGELL. But it is fair to infer that there are probably many who have the qualifications?

Mr. MACY. I certainly wouldn't say that he is the only one who has the qualifications. We are in the position of saying that General McKee has the qualifications which are technically appropriate for this job at this time, and therefore we ask for this waiver.

Mr. DINGELL. This waiver is then for the convenience of the administration.

Mr. MACY. No, it is in order to acquire the services of a highly qualified man.

Mr. DINGELL. But it really is for the convenience of the administration, so they don't have to seek further. Isn't that correct?

Mr. MACY. No, I disagree.

Mr. DINGELL. Well, they are just going to have to seek further, if they don't get this man. Isn't that correct?

Mr. MACY. If this man is not nominated, certainly we will seek further, but this isn't a matter of convenience. This is advanced because of the belief that this man is eminently well qualified for this particular post, and should be permitted to serve in it without giving up the benefits that he has earned serving his Government in a different capacity for 35 years.

Mr. NELSEN. Will the gentleman yield?

Mr. DINGELL. I will be happy to yield.

Mr. NELSEN. One point has been brought out. As a personnel man, I would like to comment on this.

The NASA program is a most important one, is it not?

Mr. MACY. Yes; it is very important.

Mr. NELSEN. Involving the potential success of this Nation in its effort to compete with other nations in the space program, and taking many, many, many billions of dollars, perhaps \$30 or \$40 billion before we are through?

Mr. MACY. Yes.

Mr. NELSEN. You have a man who is I believe at a salary of \$30,000 for his contribution to this effort?

Mr. MACY. His salary is \$24,500.

Mr. NELSEN. One of the highest paid employees?

Mr. MACY. That is correct.

Mr. NELSEN. And in a very key position.

Generally speaking, we are in short supply of men of this type. Research and development has a crying need nationwide. Is that not true?

Mr. MACY. That is correct.

Mr. NELSEN. We already have, I believe, fairly good research and development insofar as the need is concerned in the FAA's program.

It seems to me that we have a man in a very responsible position, a square peg in a square hole, and a very important one that is going to be moved to a position where his talents are not necessarily so much in demand, and it is going to be to some extent a handicap to the NASA agency.

They are not going to comparably contribute to the success of the FAA program. His needs are not as great, or the Agency's needs are not as great as they are in the case of NASA, which is of so much more significance.

Mr. MACY. I consider them both very important public agencies. I feel that the FAA has a broad public responsibility in the aviation field, and should have strong leadership and direction. The NASA program is also one of high priority and critical importance.

I believe that General McKee's qualifications are equally appropriate, if not more appropriate, in FAA than they are in NASA.

He has made a fine contribution in a year's time at NASA, and would continue to do so, if he were to remain, but my belief is that he would serve in a more effective fashion as FAA Administrator.

Mr. NELSEN. Thank you.

Mr. DINGELL. I have just one more question, and then I will terminate.

The recommendations included a statement which I think you should be aware of, and that is it said that even if the Administrator of the FAA were to be a retired, resigned, or former military officer, that the Deputy, who I understand is now an active member of the military—

Mr. MACY. Mr. Dingell, I am afraid you misunderstood my statement earlier this morning, at which time I cited this language, and indicated that it was the President's intention to select and to announce shortly the nomination of a career civilian from the Agency to fill the Deputy's position.

Mr. DINGELL. I took note of that. What I am coming to is simply that this should express to you, Mr. Macy, and to the administration, the very clear concern of Congress that we preserve this Agency from an undue degree of military influence, background, and philosophy, and I don't think that you or any other Federal official can give the Congress the kind of assurances that Congress expected at the time that it enacted the Federal Aviation Act of 1958.

And I say to you, Mr. Macy, I was a member of this committee at that time, and I am sure that we did not.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Jarman?

Mr. JARMAN. Mr. Chairman, I have no questions of Mr. Macy at the present time.

I would like to go on record in favor of H.R. 7777, to facilitate the appointment of General McKee as Administrator of the FAA.

General McKee has an outstanding background of military experience and administration in aviation. There is reason to believe that he can render the Nation a service in the position for which he has been nominated.

My own State of Oklahoma has a lot of stake in the FAA, particularly with the great FAA center located in my own home city of Oklahoma City. Many Oklahomans, Mr. Chairman, had working contact with General McKee when he was head of the Air Force Logistics Command at Wright-Patterson in Ohio.

At this point, Mr. Chairman, I would like to insert in the record an editorial from the April 30 issue of the Daily Oklahoman in Oklahoma City, strongly endorsing General McKee's appointment.

The CHAIRMAN. Without objection, it is so ordered.
(Editorial referred to follows:)

[From the Daily Oklahoman, Oklahoma City, Okla., Apr. 30, 1965]

FORTUNATE APPOINTMENT

Oklahoma is indeed fortunate that retired Gen. William F. McKee was appointed Administrator of the Federal Aviation Agency.

The successor to Najeeb E. Halaby takes to his new post a varied background of military and quasi-military experience and administration in aviation, which will be of value to the Nation.

Our particular relationships with the 58-year-old Administrator have extended over many years in diverse categories. When he was head of the Air Force Logistics Command at Wright-Patterson Air Force Base in Ohio, General McKee's area of responsibility included Tinker Field and its Air Materiel Area. He made visits here which gave him acquaintanceship with our people and area.

Presently Assistant Administrator for Management Development of the National Aeronautics and Space Administration, he has been an adviser to James E. Webb, NASA administrator, formerly of this city. Although the former Vice Chief of Staff of the Air Force maintained a close connection with the Pentagon, he had an interest in development of the supersonic transport (SST) but no direct responsibility for it.

Since we have the large FAA Center at Will Rogers World Airport, our future relationship to General McKee will be even closer. Although our city is the principal beneficiary of the FAA Center, the employment and procurement "fallout" is of benefit to the whole area and to the State. These connections, with General McKee's demonstrated ability and talents, make the appointment highly pleasing.

Mr. JARMAN. Thank you, Mr. Chairman.

The CHAIRMAN. Any further questions by a member?

Mr. FARNSELY. Just a short statement for the record.

I would like the record to show that it is important that Congress anticipated such an event and spelled out what should happen in the event that it came about.

I further think it is important that we give the President the benefit of the doubt in times of national emergency, and I think we are in a time of national emergency.

The CHAIRMAN. Mr. Macy, thank you very much for your appearance here today. We are glad to have you representing the great civilian personnel organization of this Government here, and also I want to compliment you on your very fine presentation, and your ready response to all of the questions that have been asked of you.

Mr. MACY. Thank you, Mr. Chairman, and thank you, members of the committee, for this opportunity.

The CHAIRMAN. You may obtain the information that some member asked for a moment ago to be included in the record at the appropriate time.

Mr. MACY. I will do that. It is with respect to the retirement provisions.

The CHAIRMAN. The next witness is Mr. J. B. Hartranft, Jr. Mr. Hartranft is the president of the Aircraft Owners & Pilots Association, with the address of course in nearby Bethesda, Md.

Mr. Hartranft, we are very glad to have your appearance here today. We will be glad to have your statement on the subject.

STATEMENT OF JOSEPH B. HARTRANFT, JR., PRESIDENT, AIRCRAFT OWNERS & PILOTS ASSOCIATION

Mr. HARTRANFT. Mr. Chairman, my name is Joseph B. Hartranft, Jr. I am president of the Aircraft Owners & Pilots Association, AOPA. A résumé of the nature of AOPA is presented for your information in annex A to the printed copies of our statement.

On May 4, 1965, the day following the introduction of H.R. 7777, AOPA issued a press release, and on the following day wrote a letter to the chairman of this committee stating our opposition to the appointment of a career military man as Administrator of the Federal Aviation Agency.

Our release stated that our opposition had nothing to do with General McKee personally, but that it was based on the principle that civilians should head the various agencies of the U.S. Government.

Further, the Federal Aviation Act specifically states that the Administrator shall be a civilian at the time of his appointment.

AOPA vigorously pursued the principle of civilian leadership when the Federal Aviation Act was being drafted, and testified before both Houses of Congress to this effect upon several occasions.

We have not changed our beliefs or principles in this respect.

Since the issuance of our press release, we have had the opportunity to read the letter from President Johnson to Senator Warren G. Magnuson, as it appeared in the Congressional Record on May 4, 1965.

Since May 4, we have had the opportunity of meeting General McKee. We also have been informed that the President had compelling reasons of national interest, that transcend strictly aviation affairs, in announcing his intention of appointing General McKee as Administrator of the Federal Aviation Agency.

It is not within our power to assess those reasons. In these troubled times, when the prestige and security of our Nation is threatened in many parts of the world, occasions arise when we must accept the judgment of our Chief Executive, despite our strong, contrary beliefs.

We have been convinced that this is one of those occasions. Therefore, without abandoning our conviction that the Federal Aviation Agency should be headed by a civilian in the truest sense of the word, we have decided that in the national interest we should not press our opposition to this bill.

We will continue to monitor the actions of the Federal Aviation Agency, as we have in the past, and will offer a full measure of cooperation to the new Administrator.

In the event that we find his actions contrary to the intent and spirit of the Federal Aviation Act, with regard to general aviation, and contrary to the interest of our 110,000 members, who are our constituents, we then will take appropriate actions upon the specific issues.

In the final analysis, General McKee's performance as Administrator will be the motivating factor to generate support or opposition by the aviation public.

Now, again addressing ourselves to the basic issue of maintaining integrity of the act, and of reestablishing and preserving, for the future, the doctrine of civilian and industry-oriented helmsmanship for the FAA, we wish to recommend an amendment to the language of H.R. 7777.

We believe the amendment essential to bring the intent of the bill more nearly into conformity with the precedent established in the George C. Marshall bill cited by the President in his letter.

This amendment would be the addition to H.R. 7777 of the last sentence of the thought contained in the Marshall bill, and would read as follows:

It is hereby expressed as the sense of the Congress that after General McKee leaves the office of Administrator of the Federal Aviation Agency, no additional appointments of military men to that office shall be approved.

Such an amendment will once and for all eliminate "zero hour" situations such as we have now experienced in two out of three endeavors to select an FAA Administrator.

The FAA has had two Administrators, one with a military background, and the other a civilian. Now, it is proposed that the third Administrator be a military-oriented individual. Thus, under an act which stipulates that the Administrator shall be a civilian, the score will be two Administrators from the military and only one civilian.

We must conclude that the present language is either inadequate to convey accurately and convincingly the intent of Congress with regard to statutory qualifications of candidates, or that there exists nowhere an available and capable civilian to fill this top aviation post.

We cannot conceive that the latter could be the case—that nowhere within the FAA itself, or from outside that Agency, does there exist a qualified civilian.

The issue of civilian leadership, we conclude, must be drawn with renewed clarity, and this would be accomplished by the amendment we have proposed.

It has the value and merit of precedence in a legislative history of the handling of a similar problem pertaining to a Cabinet-level appointment. The similarities in the Marshall-McKee situation are greater than the dissimilarities, and, therefore, in our opinion, provide compelling and persuasive argument for the need for and consistency of a sound legislative amendment.

With such an amendment as herewith proposed, clearly stating that no further circumventions of the act will henceforth be allowed, the executive and legislative branches of our Government and the aviation industry will have the guidance and the opportunity of seeking and grooming appropriate individuals from the civilian ranks to fill future requirements for FAA Administrators.

Mr. Chairman, this concludes our prepared statement. We wish to express our appreciation to you and the other members of the committee for your courtesy in hearing our views on this subject.

The CHAIRMAN. Mr. Hartranft, let me thank you for your statement. Let me commend you for it. I think it is very reasonable, considerate, and in recognition of the situation as you have so well indicated in your statement.

I would like to assure you that this committee, so long as I am on here and have anything to do with it will, as time goes on, join you in the oversight, or as you refer to it monitoring, or keeping up with what is going on and if it finds that there is anything that needs attention, we will join you in giving it the attention it deserves.

I think it is a very good suggestion that you make and the committee would like to join with you in that objective.

Mr. Rogers?

Mr. ROGERS of Texas. Only this. I want to join you, Mr. Chairman, on complimenting Mr. Hartranft and the organization. I think the organization has a record of splendid cooperation in the private enterprise system of this country and I want to compliment you on that and your splendid spirit of cooperation in the situation with which we are faced now.

Mr. HARTRANFT. Thank you, Mr. Rogers.

The CHAIRMAN. Mr. Springer, do you have any questions?

Mr. SPRINGER. Yes. Mr. Hartranft, I notice on page 2 you use these words:

we also have been informed that the President had compelling reasons of national interest, that transcend strictly aviation affairs, in announcing his intention of appointing General McKee as Administrator of the Federal Aviation Agency.

Could you put on the record what you understand those compelling reasons were?

Mr. HARTRANFT. Mr. Springer, certainly we have no access to the details of what the President may consider to be compelling reasons. Our understanding of the situation, however, is that his considerations may have been twofold.

One, a concern with respect to the SST program and the other a concern related to the national situation at the moment involving matters of national security. And as I have indicated, it is really not within our power to assess those reasons nor to probe beyond the recommendation which apparently is deeply felt by the President.

Mr. SPRINGER. Did the President talk with you about it?

Mr. HARTRANFT. No, sir; he did not.

Mr. SPRINGER. Did a representative of the President talk with you about it?

Mr. HARTRANFT. Yes; he did.

Mr. SPRINGER. Do you mind stating who that was?

Mr. HARTRANFT. I received a call, Mr. Springer, from a very old friend of mine who has been associated in aviation affairs, whose paths have crossed with me since the 1940's, Mr. James Webb, of the Space Administration, asking an opportunity of discussing with me the President's views with respect to his FAA appointment. I have also, as other members of the committee here have indicated, been exposed to the press and have some lay knowledge of the situation

with respect to our commitments abroad; the emphasis which is being placed upon some of the military aspects as they relate to general aviation.

Mr. SPRINGER. Are you talking now, Mr. Hartranft, with reference to the SST?

Mr. HARTRANFT. No, I am not, sir. I indicated that my understanding was that there was a twofold consideration. First was the SST and the second was in the availability of an individual whose confidence the President had with respect to those issues in the national interest over and above the aviation considerations and my comments—

Mr. SPRINGER. What I want in the record, Mr. Hartranft, is you have no knowledge of what these compelling reasons that you were so informed by Mr. Webb are; is that correct?

Mr. HARTRANFT. I have no detailed information with respect to the national security aspects which apparently are represented to be involved.

Mr. SPRINGER. In other words, you don't have any knowledge of that?

Mr. HARTRANFT. That is correct, sir.

Mr. SPRINGER. Let me ask you a question. I didn't ask the Chairman of the Civil Service Commission because he is a representative of the President and that I suppose is confidential information with him as to who was considered.

Now you are not such a representative. Could you give us any idea of who else was considered besides General McKee?

Mr. HARTRANFT. I have no personal knowledge of anyone who may have been considered. The announcement of General McKee's appointment, I think, came as a sudden surprise to all members of the industry. I do not know of anybody who did have knowledge before the actual release by the President of his selection.

Mr. SPRINGER. Then you have no knowledge of anyone else who was considered; is that correct?

Mr. HARTRANFT. I have no knowledge beyond the normal rumor mills of Washington which did indicate a number of people but I have no way of knowing whether they were actually or substantially considered by anybody.

Mr. SPRINGER. Who were those, then? You are in the industry.

Mr. HARTRANFT. The aviation press speculated on a number of individuals. Those that I can recall offhand include Mr. Schulte, who presently has the post of Assistant Administrator for General Aviation. The speculation also ran that a gentleman from Texas that the President knew and who had some part in his transportation by air in the past might be under consideration.

Mr. SPRINGER. What was the name?

I am trying to find out the quality of the people who were considered.

Mr. HARTRANFT. Mr. Springer, I think what we are pursuing here are press rumors and I wouldn't like to give any credence to this line of indicated candidates because I have no way of knowing whether the President or any of his people actually considered any one of these names.

Mr. SPRINGER. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Jarman?

Mr. JARMAN. No questions.

The CHAIRMAN. Mr. Younger?

Mr. YOUNGER. Thank you, Mr. Chairman. The references have been made all the way through the testimony about the similar bill that was passed for General Marshall in September of 1950. If my memory serves me right that was after the start of the Korean war; is that true?

Mr. HARTRANFT. 1950?

Mr. YOUNGER. I think it was June or July along in there that the Korean war started. Now I am wondering whether the similarity between appointing a general as Secretary of the Defense Department after a war had started, with putting a general in charge of the FAA, has similar military connotation.

Is it the intention, do you think, that we will be confronted shortly with the idea that our general aviation is going to be tied up as they were during the Korean war and during the Second World War?

Mr. HARTRANFT. Mr. Younger, as I indicated in my testimony, I don't think I am in a position to evaluate the events that may be going on in Vietnam and the Dominican Republic. I can only accept what I understand to be the wish of the President and his evaluations. I have certainly neither the talents nor knowledge to allow me to make such a judgment.

Mr. YOUNGER. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Dingell?

Mr. DINGELL. Thank you, Mr. Chairman. I am concerned, Mr. Hartranft. Are there civilian personnel with experience to qualify for this experience that is around to be found?

Mr. HARTRANFT. There is no doubt in my mind, sir, that there are well-qualified people.

Mr. DINGELL. Isn't it a fact that if we make this exception now we will be condemned from here on forward to make precisely the same exceptions?

Mr. HARTRANFT. That is precisely why we have suggested an amendment to the act that will make it perfectly clear that this is the end of the road on these last-minute zero-hour suggestions.

Mr. WILLIAMS. Will the gentleman yield?

Mr. DINGELL. Yes.

Mr. WILLIAMS. How do you make it any clearer than it is written in the law? Don't you know the amendment you have suggested is not more than pap and it is not worth the paper it is written on? I mean that seriously.

Mr. HARTRANFT. Mr. Williams, I am afraid I would have to agree with you that I cannot understand why the intent of the act thus far has brought the results that it has. But the fact is that we still have a ball park score of 2 to 1. I think I would have to join in your sentiments that there is something that hasn't been made very clear with respect to the selections, or that there are mitigating circumstances of a compelling nature as have been represented.

Mr. DINGELL. Isn't it true, Mr. Hartranft, that if the previous language didn't make it clear to this administration that no language is going to make it clear to this or any other administration?

Mr. HARTRANFT. I would not want to contemplate what action Congress would take on one set of the language requirements versus another one. But the amendment we have suggested I think states a position, a "never again," which the present language apparently has not conveyed or we would not all be sitting here today discussing the subject.

Mr. DINGELL. You have over the years strenuously opposed the idea of military control of FAA, have you not?

Mr. HARTRANFT. We have, sir.

Mr. DINGELL. And AOPA has done exactly the same thing?

Mr. HARTRANFT. Yes.

Mr. DINGELL. Would it be fair to say that when you have a military man, military people are going to influence his judgment, his attitudes and his actions as FAA Administrators?

Mr. HARTRANFT. We have so testified our belief in that many times, sir.

Mr. DINGELL. And, as a matter of fact, it is not inconceivable that the fight you have made to retain civilian control over our air space can be very neatly lost simply by putting a man of military philosophy, experience, and upbringing into the control of the FAA and that by so doing he can essentially convert the FAA to a polished policy subordinate of the military on matters of aviation. Is this not a fact?

Mr. HARTRANFT. It is not only a fact, but in July 1960 we brought this same argument before the other committee of the Senate. Among other things, we said that originally we were told (under the new FAA act) that military participation in the FAA would be confined to those areas where their operations were substantially affected.

Indeed we find ourselves dealing with military personnel in matters of little or no concern to military services.

We went on to say that the history of aviation throughout this world is that the growth and success of civil aviation is inversely in proportion to the amount of military control either directly or indirectly that can be imposed on civil aviation.

As a matter of fact the history of U.S. civil aviation is so free from military domination or influence that it has grown to the size that it eclipses all of the rest of the world's civil aviation combined.

In December of the same year we made the recommendation asking for the elimination of all military personnel in key administrative positions of FAA except those needed to look out for the immediate interests of the military and those FAA functions that bear directly upon military operations.

Mr. DINGELL. Now isn't it also a fact that you are going to provide large numbers of military personnel on active duty who will be in this Agency who will be making policy decisions on the higher or lower levels?

Mr. HARTRANFT. I have no way of knowing what General McKee's policies will be with respect to his administration. We can only look to the history of the situation where we have many key positions not generally related to civil aviation matters occupied by military personnel.

An offhand example, for instance, is the head of the medical department of the FAA, being headed by General White.

This we would not conclude was an appropriate type of military infiltration of the FAA.

Mr. DINGELL. What we have is a changed direction at the top but a continuing military orientation on matters involving civil aviation throughout the agency would result in this very real hazard before us today that civilian control of the FAA and our Nation's aerospace and policies with regard to aircraft and so forth will ultimately be lost to military domination. Is that a fact?

Mr. HARTRANFT. The problem, I believe, sir, is weighing the necessity of the exceptions based upon the recommendations of the national interest.

I have agreed with all you have said in a normal situation. This has been our position consistently and regularly. We have gone even further than this committee has been prone to go in that direction. But, again, to balance against that we have the other considerations (which we do not feel that we have the power to assess) but which have been convincingly put forth by the President and then comes the question as to making your point.

If the matter has been weighed and it is a fait accompli there comes a time then when you have to join the team.

Mr. DINGELL. Thank you very much.

Mr. SPRINGER. Would you yield, please?

Mr. DINGELL. I would be happy to.

Mr. SPRINGER. This is the law that he has to be a civilian. Now under this legislation we are waiving that law. That is in effect what we are doing, aren't we? We are changing the law for the term of this man's administration of this Agency. Isn't that what we are in effect doing?

Mr. HARTRANFT. That is my understanding.

Mr. SPRINGER. Now it certainly should be the rule that the consideration should be very overriding to make such a change. Isn't that true?

Mr. HARTRANFT. Yes, sir.

Mr. SPRINGER. To change the law. That is what we are in effect doing. We are changing the law during this man's administration. Now thus far I haven't heard anything which is overriding in my estimation. I am trying to find out what the facts are that would make this overriding and I didn't get any from the Chairman of the Civil Service Commission except that he was an exceptionally qualified man, I believe, could believe Mr. Macy.

And he may even be by your words. But is that an overriding fact that would make it necessary for us to change the law for this man's administration?

Mr. HARTRANFT. Most respectfully, Mr. Springer, I think the only individual who can probably satisfy that question is the President himself.

Mr. SPRINGER. Do you have any knowledge of any situation or have any facts which would make it overriding in the national interest that we should change the law for this man?

Mr. HARTRANFT. I have accepted the recommendation, as I understand it, of the President with respect to this. I am not in a position to assess those reasons. You, sir, in your position probably would have more success at that than I might have. The assertion has been made, however, and at some point one must address himself to whether they accept what the understanding of the President's position is as to the necessity for such a change.

My conclusions simply are this: The President is, himself, certainly as a former Member of the Senate, well acquainted with the processes of the Congress and the nature of the law. And he has with all of this knowledge made a determination in his own mind and for the national interest that this is the route he feels compelled to take.

I do not feel that I am in a position to challenge the President of the United States in making such a decision.

Mr. SPRINGER. I understand. I hope I am not in any way belittling what you have said. I want to say I have the utmost respect for the President of the United States. I just feel that we here have a duty to know what the reasons are before we waive the law. I see that you don't have it. I can understand the position that you have taken on the President's words that are overriding questions of national interest or security which make it necessary to make the appointment.

I think we should know what the overriding reasons are, if we are going to change the law.

Thank you, Mr. Dingell.

Mr. HARTMAN. I have every confidence, sir, that the committee will perform properly with respect to such matters and certainly would hope that they do.

The CHAIRMAN. Mr. Keith?

Mr. KEITH. No questions, Mr. Chairman, except as a member of the AOPA, a nonflying member at any time because of unfortunate experiences, I want to compliment the witness and congratulate him on the testimony.

Thank you.

The CHAIRMAN. Mr. Farnsley?

Mr. FARNSELEY. I would like to thank the witness and congratulate him on what I think is a statesmanlike statement of position and repeat for the record the part in which you say:

In these troubled times, when the prestige and security of our Nation is threatened in many parts of the world, occasions arise when we must accept the judgment of our Chief Executive despite our strong, contrary beliefs.

I have no strong contrary belief, but I certainly respect you for taking that position. And thank you, sir.

The CHAIRMAN. Mr. Callaway?

Mr. CALLAWAY. Mr. Chairman, thank you.

I would like to say as a flying member of AOPA, I think this is a very statesmanlike statement. I agree very much with Mr. Springer because at the moment I haven't been yet shown those overriding reasons.

Perhaps the President will see fit to show us these overriding reasons and if he submits these reasons to me I will take your position. While I have strong opinions to the contrary, certainly I will go along with him on this.

You mentioned General White. I think this points out the feeling of a person who is military in background. I do remember a controversy with General White a few years ago. Most of us in general aviation felt that we had arbitrary treatment. Because of the preconditioning of a military man, it was quite arbitrary.

This is the reason I am so concerned. But I would just go back and say if the President sees fit to show us, as through Mr. Webb he has

apparently shown you, that he has an overriding reason, certainly I would go along with it.

Mr. HARTRANFT. I would hope that your conclusions would be the same and I would hope if it is not I might know about it, sir.

The CHAIRMAN. Mr. Williams?

Mr. WILLIAMS. Mr. Chairman. Mr. Hartranft, I too, am a dues-paying member of the AOPA and I most certainly have the deepest sympathy for the position in which you find yourself today. If statesmanship is vascillation then I also want to pay the highest tribute for the finest statesmanship that I have seen displayed before this committee in a long time.

As a matter of fact, I wish we had you on the "Ole Miss" football team because that is the finest piece of broken field running I have ever seen in my life. I wouldn't say that by way of personal criticism because indeed I realize the rather precarious position of the AOPA finds itself in with respect to the action here today.

At this point, Mr. Chairman, I am going to ask permission to insert in the record a copy of a press release issued on May 4, 1965, by the Aircraft Owners & Pilots Association.

The CHAIRMAN. Is there objection?

The Chair hears none.

(Press release referred to follows:)

[Press release from Aircraft Owners & Pilots Association]

AOPA STATEMENT ON NOMINATION FOR FAA ADMINISTRATOR

This statement was issued by the Aircraft Owners & Pilots Association.

The Aircraft Owners & Pilots Association (AOPA) is strongly opposed to the appointment of a career military man as Administrator of the Federal Aviation Agency and therefore is also opposed to H.R. 7777, a bill introduced in the U.S. House of Representatives on May 3 to authorize the President to appoint Gen. William F. McKee to that office while retaining his military status and privileges. The bill, and the nomination, is not only contrary to the unequivocal spirit and language of the Federal Aviation Act, but violates the principle of civilian leadership of major Federal agencies which has been the dominant theme of American Government.

AOPA has a long history of support for the principle of civilian leadership and sees no overwhelming or persuasive reason why the provisions of the Federal Aviation Act should be circumvented in this instance. Though the FAA has a responsibility to fulfill the requirements laid upon it by national defense, it is primarily an agency with responsibilities for the promotion, encouragement, development, and regulation of civil aviation.

The House committee in 1957 studied the matter of civil versus military leadership of the Agency extensively and concluded with this statement on the part of the managers of the bill, "The requirement in section 301(b) that the Administrator be a civilian at the time of his nomination means that he shall be a civilian in the *strictest sense* of the word." [Emphasis ours.] It is also evident that the President recognizes that General McKee does not meet the statutory requirements for nomination as Administrator.

It will be argued that military inputs are essential to the proper functioning of the FAA in providing for the national defense needs with respect to airspace and air traffic control. We agree. But we disagree that this requires a military-trained man at the head of the Agency. Neither our President, nor Vice President is a general and neither are the Secretaries of Defense, the Navy, the Air Force or the Army, or their deputies. There is no need for it to be so with the FAA.

AOPA firmly holds that no person who has been trained for and served in professional military capacity for over 10 years shall be appointed as either Administrator or Deputy Administrator of the FAA.

AOPA has repeatedly opposed the appointment of military personnel to essentially civil decisionmaking posts. It fought vigorously for the principle of civilian leadership when the Federal Aviation Act was being drafted and has defended and reiterated this position in testimony before both Houses of Congress upon repeated occasions.

AOPA even quizzed the late John F. Kennedy when he was seeking the Presidency as to his views on this subject and obtained recognition of the problem. President Kennedy appointed a civilian.

AOPA bears no animus for General McKee personally. It does not know him nor have AOPA officials met him or had any conversations with him. The AOPA position is based purely on the principle that civilian-oriented people should head the agencies of the U.S. Government in keeping with long established and generally adhered to principles of American Government.

Mr. WILLIAMS. In this statement, Mr. Chairman—and I assume you approve this statement.

Mr. HARTRANFT. Yes; I am giving the recording secretary a copy of it.

Mr. WILLIAMS. Thank you.

Mr. Hartranft, were you expressing your honest and candid views, in this press release or in this statement after you talked with Mr. Webb?

Mr. HARTRANFT. Mr. Williams, I think that my statement today confirms the press release. My statement today says the essence of our condition now is that the AOPA has determined that it will not press its open position to this bill because of the representation of the President of the United States that there are factors involved in his judgment and in the selection of his candidate for FAA Administrator which were not known and not part of the available record to us at the time of the press release.

Our basic open position to this is clear. I have stated that we have had a consistency of position in this and that we have not changed our beliefs with respect to the principles involved.

Mr. WILLIAMS. All right, sir. You are relating today's position to the statement you made in your release.

I presume you now see a persuasive and overwhelming reason why it should be set aside.

Mr. HARTRANFT. Yes; I think we have covered that before.

Mr. WILLIAMS. What is that reason, specifically?

Mr. HARTRANFT. The reason is specifically the request of the President with respect to what he considers to be overwhelming interest in the national defense which presumably involve the two issues which have been discussed here before, the most important of which I judge to be the matter of the situation the Nation faces with respect to its foreign commitments and the ability of the President to build a working team to reach solutions—

Mr. WILLIAMS. What has the FAA Administrator got to do with foreign commitments and why should a military man be in that office?

Mr. HARTRANFT. I think again, sir, the detail of "why," which you seek, runs to a dry well because I am not informed in detail by the President what his considerations may be.

Mr. WILLIAMS. Isn't it a fact, Mr. Hartranft—

Mr. HARTRANFT. May I complete that? But the overall operations of the FAA including as it does both the military and the civil aspects of airspace and air traffic control immediately runs to the problem.

Now the President has made a judgment. I don't know whether that judgment is a correct judgment or whether it is not a correct judgment.

Mr. WILLIAMS. You didn't take that position when the President decided to name General Quesada, did you?

Mr. HARTRANFT. What was the question, sir?

Mr. WILLIAMS. I say when President Eisenhower named General Quesada the AOPA didn't exactly take the same position, did it?

Mr. HARTRANFT. I think it did, sir.

Mr. WILLIAMS. I don't recall the AOPA coming by and suggesting that we waive that civilian requirement for General Quesada?

Mr. HARTRANFT. I believe in our testimony we opposed the installation of a military man in that post.

Mr. WILLIAMS. That is right. And I go along with you 100 percent in that.

Mr. HARTRANFT. I don't have copies of our testimony at that time.

Mr. WILLIAMS. Mr. Chairman, you have to answer that rollcall. I am not going to ask him any more questions.

Mr. HARTRANFT. I am sure we have had a complete consistency of position on this question.

The CHAIRMAN. We are going to come back at 2:30.

Mr. WILLIAMS. Let me ask one more question and I am through and I think we can excuse Mr. Hartranft.

Isn't it a fact, Mr. Hartranft, that following the issuance of this initial press release in opposition to General McKee's nomination, a subsequent visit by Mr. Webb that practically everybody in the hierarchy of the AOPA said they don't want to go through that again?

Figuratively speaking, of course.

Mr. HARTRANFT. No; I don't believe that is exactly the situation, Congressman. We are pretty well on the record even back as far as 1950 in our recommendations which were accepted by the Bureau of the Budget when the militarization of the then CAA was under consideration that we have stated our point very clearly.

Mr. WILLIAMS. You have reached the wrongest conclusions for some of the rightest reasons of somebody I have ever seen.

We are going to have to get on.

The CHAIRMAN. Do you want him to come back again later?

Mr. WILLIAMS. No.

The CHAIRMAN. Thank you very much, Mr. Hartranft, for your appearance and presentation here. Is Mr. Scott in the room?

Could you come back about 2:30 this afternoon?

Mr. SCOTT. Yes, sir; I can.

The CHAIRMAN. The committee will recess until 2:30 this afternoon or as soon thereafter as the rollcall or business on the floor will permit.

(Whereupon, at 12:35 p.m., the committee recessed to reconvene at 2:30 p.m. the same day.)

AFTER RECESS

(The committee reconvened at 2:30 p.m., Hon. Oren Harris, chairman of the committee, presiding.)

The CHAIRMAN. The committee will come to order.

The other witness we scheduled for today is Mr. David Scott, executive vice president of the National Pilots Association.

Mr. Scott, I want to say that we are sorry to have detained you. We wanted to get to you this morning but you saw the committee was quite interested in the information from the witnesses who were here so we were unable to get to you before we had to adjourn to the House.

We did want to come back, as we are, in order to hear you on the subject today.

**STATEMENT OF DAVID H. SCOTT, EXECUTIVE VICE PRESIDENT,
NATIONAL PILOTS ASSOCIATION**

Mr. Scott. Thank you, Mr. Chairman. I felt the morning session was very much worthwhile and I learned a great deal from it. I do not think anything that I learned will change my testimony and therefore I would like to present a paper that was very carefully prepared by our board of directors.

My name is David H. Scott. I am the executive vice president of the National Pilots Association. This association has a general membership at the present time of a little over 4,700 pilots. Many of these members are professional pilots with the air carriers or the military services but also have an interest in general aviation through ownership of personal aircraft.

By and large, the National Pilots Association is made up of pilots who use aircraft for cross-country transportation for business and pleasure.

The National Pilots Association has had only a brief time to study H.R. 7777. It has been necessary for us to contact our board of directors by telephone to arrive at an agreed-upon position concerning this legislation. Incidentally, our board of directors includes a former Deputy Administrator of the Federal Aviation Agency and also a former Administrator of the Civil Aeronautics Administration. So we bring to this problem some element of experience.

All reports that we have received concerning Gen. William F. McKee indicate that he is a man of outstanding talents and ability, particularly in the field of management. He has had a distinguished career with the U.S. Air Force and has served ably with the National Aeronautics and Space Administration. We have no doubt that he could make important contributions to the Federal Aviation Agency.

We are impressed with the concern of Congress in 1958 in drafting the Federal Aviation Act to provide that the Administrator of the Agency be a civilian at the time of his nomination by the President. Congress did not, however, preclude the appointment of a noncivilian to the position of Deputy Administrator.

To take action which will nullify this specific determination of Congress in order to suit a special situation should be warranted only on the basis that there is no acceptable alternative. We are not convinced that there is no possibility of finding a qualified civilian to serve in this important position as Administrator of the Federal Aviation Agency or to find a place in the Federal Aviation Agency to use the talents of General McKee without changing the provisions of the law as originally drafted.

It has been reported, and I think the statement was also made here this morning, that the President chose General McKee for the post of Administrator because he particularly wanted a man who would

accelerate the supersonic transport program. The SST is a dramatic program but there are other activities of the Agency which are most important even if not so spectacular. We feel the new Administrator of the FAA should initiate programs that would accelerate development of practical STOL or VTOL passenger aircraft to solve the problem of mass transportation on relatively short-haul intercity travel. Although not as spectacular this could well prove more beneficial to more people than the SST.

International aviation problems are becoming of increasing importance and we question whether a man with a military background is the ideal choice to deal with representatives of foreign governments in this field.

Lastly, in our own area of general aviation, we feel that problems will be created by the appointment of a military career man to the post of Administrator. Most general aviation pilots that are active today remember the unfortunate reputation of the early days of the Federal Aviation Agency when the Administrator was a former Air Force general. To many of these pilots it appeared that the Agency was being operated as a police force. It took several years of patient personal grassroots contacts with pilots for the present Administrator to transform the image of the Agency to the "Friendly Aviation Agency."

There is a tradition in the executive department of the U.S. Government that military career men will not be appointed to the head of civilian agencies. Congress has supported this tradition by writing such a provision into the Federal Aviation Act of 1958. Unless there is some overwhelming evidence that there is no other acceptable solution, we believe the Federal Aviation Act of 1958 should stand as written and H.R. 7777 should not be approved.

Mr. Chairman, may we express our sincere appreciation for this opportunity to appear here and submit our views before your distinguished committee.

The CHAIRMAN. Mr. Scott, thank you very much for your testimony and expressing the views of your association.

I guess maybe you think this is a naive question, but what is the difference between your organization, National Pilots Association, and the AOPA.

Mr. SCOTT. Mr. Chairman, I am asked that question several times a day.

The CHAIRMAN. I am sorry I bothered with it, then.

Mr. SCOTT. No, sir. Please do not accept my remark as being facetious or trying to cast it aside, I just wanted to assure you that you had not asked a question that was unusual.

The National Pilots Association's officers and directors are elected by ballot by all the membership, or at least those who wish to participate in the vote.

We have an election once a year. We are very strictly a noncommercial organization; we have nothing to sell at any time. We operate in the purest sense of the word as an association that devotes 100 percent of its time to aviation problems. I can enlarge upon this at great extent, but I trust that that answers the most pertinent part of your question.

The CHAIRMAN. Well, yes, with one exception. Are they all primarily civilian pilots?

Mr. SCOTT. No, sir; we have quite a variety of military pilots, air carrier pilots. It so happens that Bob Buck of TWA is No. 1 member of the National Pilots Association as he was the first one to sign up and help organize our association 10 years ago.

The CHAIRMAN. How many of the members do you say would be military?

Mr. SCOTT. Well, I would have to take a wild guess at that because sometimes when members write in they do not tell us fully what their background is. It is not a large percentage, certainly. I would say just as a wild guess somewhere around 5 or 6 or 7 percent. We are contemplating the installation of IBM equipment this year and I trust that we would be able to answer a question like that much more accurately.

The CHAIRMAN. Now I would suppose in view of the fact that comparatively speaking there are only relatively few commercial pilots in the country, then the members who are commercial pilots of your association would also be rather small.

Mr. SCOTT. I am not sure if I understand what you mean by "commercial pilots" because a great many of our members fly for business purposes and are so-called corporate pilots, and, of course, they have commercial ratings.

Now if you mean air carrier pilots—

The CHAIRMAN. Yes. I had in mind for the commercial airlines.

Mr. SCOTT. Yes, sir. Well, unless an air carrier pilot has some personal interest in aviation such as the ownership of a small aircraft, the chances are he would not be a member of the National Pilots Association.

The CHAIRMAN. The large number of your members are composed of private pilots for private planes and business executives, and so forth.

Mr. SCOTT. Yes, sir; that is true. We do have some ATR pilot ratings but not for professional use.

The CHAIRMAN. Thank you.

Mr. Williams?

Mr. WILLIAMS. Mr. Chairman, I have no questions except to compliment Mr. Scott and his organization for not taking to the hills in the same fashion that the AOPA did, and I want to congratulate him on the courage that has been exhibited by his association in taking a firm stand with regard to the principles involved here.

This is not necessarily implying any criticism of the fine gentleman whose name has been suggested for the position, nor does it disparage his qualifications for the position.

I do feel that this organization should be complimented for his appearance to a basic principle which has been enunciated by the Congress and which has previously been endorsed by his association.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Callaway.

Mr. CALLAWAY. Thank you, Mr. Chairman.

I have nothing except to say that as a member of your association I appreciate very much your testimony. I think that the particular significant part that I read was on the second page, "Unless there is some overwhelming evidence." This would be my comment. Unless we can find some overwhelming evidence, I should think that the

intent of the Congress to have a civilian head of the FAA should be dealt with that way.

Mr. SCOTT. Thank you, Mr. Callaway. At the time this paper was presented, I was not aware of any efforts being made personally by the President with any other group. As the testimony disclosed this morning, there might be some overwhelming evidence but I do not see it and I still think our statement should stand unless we hear other information.

Mr. CALLAWAY. Yes. I have not seen it yet, either. In light of some new evidence, I might change my position. As of now, I would like to see a civilian as the head of the FAA.

The CHAIRMAN. Mr. Pickle?

Mr. PICKLE. Are you saying that the fact the President appointed a man recommended by his experts in the field is not a compelling reason?

Mr. SCOTT. Well, you have me on the spot there, Mr. Pickle. I would say that anyone here certainly has respect for the President's judgment, but I think what is lacking is that the evidence has not been given to us in detail as to what this overwhelming urgency is.

Mr. PICKLE. I do not mean to put you on the spot at all, and I am sure you understand. I know it is a hard search to find just the man. It seems the President has found the man and that is why he is asking for this exception.

I have no further questions.

The CHAIRMAN. Mr. Broyhill?

Mr. BROYHILL. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Kornegay?

Mr. KORNEGAY. Thank you, Mr. Chairman.

I have no questions.

I would like to thank Mr. Scott for coming here and making a very fine and forthright statement. Thank you, Mr. Scott.

The CHAIRMAN. Mr. Curtin?

Mr. CURTIN. Thank you, Mr. Chairman.

Mr. Scott, does the National Pilots Association speak for practically all the pilots of commercial airlines?

Mr. SCOTT. No, sir.

Mr. CURTIN. Is there another association which they are connected with?

Mr. SCOTT. You may be referring to the Air Line Pilots Association which is made up of the air carrier pilots. We are essentially a general aviation group but we do have a small percentage of air carrier pilots and a small percentage of military pilots, but it is not predominant.

Mr. CURTIN. Would you be in a position to say what percentage of airline pilots your association does represent?

Mr. SCOTT. We would represent a very small proportion of the total airline pilots.

I am just trying to rack my memory. I think there is something like 35,000 or 40,000 airline pilots who are qualified to fly for the airlines and our total membership here is a little over 4,700 and grows about a hundred a month. Even so, we are a small group.

We think we are a rather select group in the sense that we are rather highly qualified. Many of our members, although they are not flying professionally, are instrument rated pilots.

Mr. CURTIN. So that your association is made up of some airline pilots, some military pilots and some pilots of private planes—mostly pilots of private planes.

Mr. SCOTT. Yes, sir. I would say that at least, and here I am guessing again, lacking the IBM equipment, but 85 percent of our members I would say would fall into the category of being general aviation pilots and possibly 15 percent military and air carrier.

Mr. CURTIN. That is all.

Thank you, Mr. Chairman.

Mr. WILLIAMS. Would the gentleman yield?

Mr. SCOTT, for some of the members who are not closely associated with aviation, would you explain that private pilots and commercial pilots and airline pilots hold certificates or ratings that are issued by the Federal Aviation Agency?

In other words, a private license is a license which permits a person to fly but not for hire. A commercial license permits him to fly for hire. An airline rating, of course, permits him to fly an air carrier.

Now there is a distinction, I think, which should be drawn here for the enlightenment of the committee as between a person who holds a commercial pilot's rating and a person who is a professional commercial pilot.

I think maybe that is confusing some of the members of the committee. Do you feel that that is significant enough to explain to them the difference between a professional pilot and a person holding a commercial pilot's rating which does not necessarily imply that he is a professional pilot?

Mr. SCOTT. I think you have made it very clear, Mr. Williams. That is quite true. I do not know how I can add to your statement. It is clear to me and I trust it would be clear to the other members of the committee.

Mr. CURTIN. Thank you. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Friedel?

Mr. FRIEDEL. Mr. Chairman, I want to thank Mr. Scott for a fine statement. I notice that he has become a steady visitor. He appeared yesterday before the subcommittee on H.R. 699 on holding Bolling Field open for the general aviation.

There is only one question I want to ask. On page 2 you mention STOL or VTOL. I wish you would explain that.

Mr. SCOTT. You wish me to explain that?

Mr. FRIEDEL. Yes.

Mr. SCOTT. STOL is commonly known as short take-off and landing aircraft and VTOL is vertical takeoff and landing aircraft.

Mr. FRIEDEL. All right. That is all, Mr. Chairman.

The CHAIRMAN. Mr. Younger?

Mr. YOUNGER. Thank you, Mr. Chairman.

This morning when Mr. Hartranft appeared there was some mention made about a gentleman by the name of Mr. Webb. Do you know the gentleman Mr. Webb that they are referring to?

Mr. SCOTT. I met Mr. Webb on only one occasion when I rode with him and Mr. Halaby to Houston, Tex., from Washington, D.C. This was about 2 years ago, I guess now, and I have had no contact with Mr. Webb since that time.

Mr. YOUNGER. Is that the Mr. Webb of NASA?

Mr. SCOTT. Yes, sir; Mr. James Webb.

Mr. YOUNGER. And that General McKee works for now?

Mr. SCOTT. Yes, sir.

Mr. YOUNGER. And he has not talked with you about this situation?

Mr. SCOTT. No.

Mr. YOUNGER. I was just interested because it is hard for me to understand why Mr. Webb would be so anxious to recommend General McKee for another job. I just do not see that in the picture. I would like to get some further information on that.

The CHAIRMAN. Well, I think probably that should not be a question to go in the record and leave standing like this. Mr. James Webb is the Administrator of NASA. Mr. Webb in his responsibility, is charged with the expenditures of over \$5 billion each year in connection with their program, NASA is paying for the service of this man, after he retired, because of the special knowledge he has in this field.

The choice was made through the usual way of trying to find the best possible man available for the particular work and one who would meet all other requirements.

The President asked Mr. Webb about it. Mr. Webb, I am informed, highly recommended General McKee to the President. Mr. Webb did not necessarily want to get rid of him; he would like to keep him very much, but in order to meet the overall responsibility of the President, this man was tapped for this position.

I think it should be made very clear for the record, even though most of the members of the committee have already highly commended General McKee as being a man of outstanding ability and a great record, that there is no hint whatsoever that this is General McKee's doing. He is a man who has made himself available to serve any place that he can serve his country, whether it is at NASA or in the military where he served for 35 years. I believe he is qualified for the position that we have here under consideration today.

Mr. YOUNGER. Mr. Chairman, may I say this? I have some 17 years' experience in Government service. I think this is the first time that I have seen such an experience as this where a Director of one organization is selected to pick a man for another organization and he picks one of his own men for that job. I have seen a lot of this bureaucracy in 17 years of service around Washington but this is the first experience I have had, which is to me rather unusual, to say the least.

The CHAIRMAN. It may be to the gentleman unusual, but the record shows it is not unusual at all. During World War II, the most outstanding example that I can think of in my experience, and yours, too, is when General Marshall, who was the top military man of this country during that tragic World War II period, was given a special dispensation and was made Secretary of Defense.

We can just name innumerable ones who have come along and have gone from one agency to another. Only recently from the CAB has Chairman Boyd gone to Under Secretary of the Department of Commerce. We can mention many others along with this.

Mr. WILLIAMS. Mr. Chairman, in support of the President, General Eisenhower was taken out of the military and made President.

Mr. YOUNGER. That is correct, at the will of the voters. As far as General Marshall is concerned, he was a direct appointee of the Presi-

dent at the time and moved to the Defense Department after we were in war, which is a very natural thing.

The CHAIRMAN. In order that the record may not reflect again, this general is a direct appointee of the present President of the United States.

Any further questions or reflections?

Mr. YOUNGER. No reflections at all, just commenting that it is a rather unusual circumstance that we have here.

The CHAIRMAN. That is the gentleman's opinion. I do not think it is unusual at all and I think the record should show reflect.

Mr. Friedel?

Mr. FRIEDEL. I do not think any man that is very able, and is practically a retired man, should lose his pension if he is called upon for his services, or that his wife and family should be punished and lose the pension. That is why I am in favor of this bill. We have done it before.

The CHAIRMAN. Of course it can also be remembered in other fields that Senator George, one of the greatest public servants we ever had in the Congress and who also served in the Senate, was called upon for special service and the Congress provided a special dispensation for him to continue to draw his congressional retirement and accomplish that purpose. Senator George was from the gentleman's own home State.

We might recall another special exception was made when our very genteel southern gentleman and colleague, the Honorable Dick Richards, of South Carolina, who was chairman of the Foreign Affairs Committee of the House, was given special dispensation to perform a special service.

We will not keep it on the side of the Democrats. Jim Gulliver received a special dispensation in order that he might serve in that capacity and not be penalized because of it. There are a lot of precedents if we are going to use precedents with regard to special dispensation.

There is another matter which I have concern about, the commission. I know the sincerity that has been expressed by my colleagues here about the basic policy.

Mr. Scott, were you in accord with the selection of General Quesada as the first Administrator of the FAA since he resigned temporarily his commission?

Mr. SCOTT. Are you asking me if I was personally involved in that?

The CHAIRMAN. No; I just asked if you approved of that action.

Mr. SCOTT. Well, at the time, Mr. Chairman, I was not active with the National Pilots Association in any way and this was a little bit ahead of my time.

The CHAIRMAN. It has only been 7 years ago.

Mr. SCOTT. Yes, sir; but I have been active with the National Pilots Association since 1961.

The CHAIRMAN. As I understood, the general feeling of most everybody was it was all right for General Quesada to serve in that capacity providing he resigned his commission. I think the gentleman from Georgia hit on that this morning. A man just cannot resign his commission and say this is going to meet the basic problem which is incorporated in the so-called description.

Mr. CALLAWAY. Mr. Chairman, I thank you for mentioning that because this is very much my concern. I appreciate very much your pointing out our Senator, Senator George. He was one of the great Americans I was pleased to know. I think in a situation like this Senator George had a unique capability and his country needed him, and quite properly he was given this chance to serve his Nation.

My concern is that there seems to be a continual military-civilian fight in the FAA.

We mentioned this morning something about the open spaces. The military is basically for—this is an oversimplification—controlled airspace, general aviation is basically for free and open airspace.

You see it in navigation systems.

A while back, I think you referred to it this morning, the military was basically for a TACAN system, general aviation was basically for an OMNI system. The military was basically for a set of doctors who are licensed to give physical examinations to individual pilots, the civilians were for any local doctor being able to do it.

I think you just find day after day after day a human major consideration where civilians take one position and the military the other.

My whole concern is that in the absence of some overwhelming reason, I would just prefer to see a civilian as the head.

Now I hope we will have a chance to hear from someone like Mr. Webb who perhaps can tell us these compelling reasons. I will certainly be very much in favor of General McKee who is no doubt a competent general, but I would prefer a civilian because I feel that the military will always have their representation but the FAA head it seems to me, should basically be civilian oriented.

The CHAIRMAN. I would like to say to the gentleman that the Congress and the committee has tackled all those problems that the gentleman has mentioned and we are in favor of civilian aviation. We did it in the TACAN fight, we did it in the other problems that he has mentioned.

The real concern that was highlighted when we rewrote what was called the old Civil Aeronautics Act, was that in taking over so many thousands of those who were a part of the military that it would be turned into a civilian organization dominated by the military.

This committee saw that that did not happen.

Mr. CALLAWAY. I appreciate that.

The CHAIRMAN. It did not happen and in my judgment it is not going to happen. We have made it very clear in our air traffic control program that this would be operated under a civilian dominated organization, and the military had to give in, too. I think this committee and the associations like those represented by Mr. Scott and by others who would be interested are going to see that it goes along.

Now I will say to the gentleman you have had more information here as to the compelling reason given by Mr. Macy and as brought to us than was ever permitted and put on record as to Senator George being the kind of a man particularly suited for that.

Now I will say this, that this man was particularly suited to the responsibility that he had to meet and the problems that he had. It involved military, too. I should think that it is understood there are compelling reasons; many of them we cannot drag out here and discuss in the open.

Mr. WILLIAMS. In view of compensation, this issue involved here concerns a basic law which sets out a specific qualification that shall be possessed by the nominee; that is, that he shall be a civilian.

As I see it, the question in view of compensation and whether or not the general will retain his military fringe benefits, and so forth, is really not a great deal of concern, it is the question of whether the principle which was written into the act in 1958 is going to stand as a requirement of the qualifications for the Administrator's office or whether the Congress is going to continue to submit to requests for waiving this principle from time to time.

We have been asked to waive it now twice. As far as General Quesada is concerned, an attempt was made to permit General Quesada to take over the position as Administrator and retain his military status. That was refused by the Congress.

Subsequent to that time, General Quesada severed all connections with the military and then that eliminated the issue, he became a civilian and he qualified. It would appear to me that if General McKee is sufficiently interested in getting this office and taking this over, that if he wants to become qualified, all he has to do is resign.

I am not suggesting that he sever his connections with the military, but if he wants to become qualified and is willing to pay the price, it is a very simple matter for him to become qualified.

It appears to me that we are going back on something that we have written into the law and which the report of the conferees stated that the Administrator shall be a civilian in the strictest sense of the word.

This is entirely different from the appointment of General Quesada after he had resigned his commission. That issue was not involved then. This is a question of whether the man is qualified by virtue of being a military man.

The CHAIRMAN. I would say to the gentleman that I appreciate—

Mr. WILLIAMS. I am not talking about his individual qualifications.

The CHAIRMAN. I appreciate that. I did not make the matter as clear as certainly the gentleman from Georgia has in mind, because as he pointed out a moment ago, to resign the position in the military does not change his mental attitude and his personal attitude insofar as the things he believes in.

If he is going to carry that out to the full philosophical viewpoint, then the thing to do is prevent anybody in the military from becoming head of the Agency. It seems to me that is the issue Mr. Rogers mentioned this morning, maybe we can wrestle with this whole subject during the consideration of this thing.

Mr. WILLIAMS. Except for the fact that General McKee is a military man and is specifically precluded by law from taking the job of Administrator, the question of his qualifications would be one for the Senate to determine in connection with his confirmation.

The question here is whether we are going to waive a basic requirement in the law with respect to the civilian control over the military.

The CHAIRMAN. Which the Congress has the right to do.

Mr. WILLIAMS. Of course they have the right to do.

Mr. FRIEDEL. Mr. Chairman, this morning Mr. Macy testified referring to H.R. 7777. On page 4 he says:

Section 2 of H.R. 7777 provides that General McKee, while serving as FAA Administrator, shall be subject to no supervision control, restriction, or pro-

hibition (military or otherwise) because of his status as a retired Regular Air Force officer. As Administrator he will, of course, be subject to the supervision of the President and will report to him on his stewardship of this office.

The CHAIRMAN. Mr. Scott, thank you very much.

No further questions.

Mr. O'Brien, did you have any questions?

Mr. O'BRIEN. No, I do not, Mr. Chairman.

The CHAIRMAN. Dr. Carter, any questions?

Dr. CARTER. No questions.

The CHAIRMAN. Mr. Scott, if there are no further questions, again on behalf of the committee, I thank you for your presence here and your testimony on this subject matter.

Mr. SCOTT. Thank you very much, Mr. Chairman.

The CHAIRMAN. The committee will adjourn subject to call of the Chair on this particular bill.

(The following letter was received for the record:)

AIR TRANSPORT ASSOCIATION,
Washington, D.C., May 7, 1965.

HON. OREN HARRIS.

*Chairman, Interstate and Foreign Commerce Committee,
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: On behalf of the members of the Air Transport Association, I am writing to express support of H.R. 7777, which would authorize the President to appoint Gen. William F. McKee (U.S. Air Force, retired) to the Office of Administrator of the Federal Aviation Agency, notwithstanding section 301 (b) of the Federal Aviation Act.

The Federal Aviation Act of 1958, of course, provides that the Federal Aviation Agency should be headed by a civilian. This was an important part of the act and the Air Transport Association in its testimony supported the provisions of section 301 (b).

We still support this principle but, since the President has found a man of such excellent qualifications and background to fill this important position, an exception seems warranted. By handling the exception in a manner which limits approval to the present nominee, as well as the inclusion of section 3 of H.R. 7777, an adequate check is preserved against erosion of the principle itself.

Cordially,

S. G. TIPTON, *President.*

(Whereupon, at 3:30 p.m., the committee adjourned.)



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