

the Act of May 26, 1930, 46 Stat. 382, which is cited in Section 5 of H.R. 12686 (page 3, line 18). This Act authorizes the Secretary to contract for services provided the public in the national parks. The Secretary had contracted with Universal for the provision of a for-hire shuttle service on the Mall, a part of the national park system under the Secretary's jurisdiction. It was contended by the Secretary that such operation does not require certification by the Washington Metropolitan Area Transit Commission pursuant to the requirements of the Washington Metropolitan Area Transit Regulation Compact, approved by Act of September 15, 1960, 74 Stat. 1031. Such contention consisted of three premises: The first, that the Compact does not apply to any national park areas under the Secretary's jurisdiction; the second, that the proposed service will actually be operated by the Federal Government which is specifically excepted from the Compact; the third, that the Secretary has statutory authority to operate a for-hire transportation service.

By a decision of June 30, 1967, the Court of Appeals rejected such premises, holding that Universal's operation could not validly be conducted without a certificate from the Transit Commission. A petition for rehearing *en banc* was denied on October 3, 1967. I have copies of this decision with me should the members of the Subcommittee desire them. This decision makes it clear that the Transit Commission has paramount regulatory jurisdiction over for-hire motor carriage of passengers performed anywhere within the Washington Metropolitan Area.

The language of Section 5 appears to attempt a circumvention of the Court of Appeals decision to which I have just referred by directing the Secretary, when he deems it advisable, to "utilize the authority in the Act of May 26, 1930 * * *" to provide transportation of visitors *by the United States* * * *. Such language, if enacted, might well be construed by the Courts as constituting a Congressional authorization for the Secretary to operate, through contractual arrangements, for-hire transportation services on and to Federal enclaves under his jurisdiction in the District of Columbia. Such construction would exempt these services from the application of the Compact and the jurisdiction of the Transit Commission.

The effect of such exemption would be in derogation of the basic purpose for which the Compact was enacted. As noted on pages 2-3 of Senate Report No. 1906 of the 86th Congress accompanying H.J. Res. 402,

The compact accomplishes a very simple and basic objective, but a most important one. In effect, the compact centralizes to a great degree in a single agency * * * the regulatory powers of private transit now shared by four regulatory agencies. It will make possible the regulation of such transit within the metropolitan area without regard to the boundaries of political jurisdiction * * *. The compact is directed to the improvement of privately owned transit, not only through centralization of regulation, but also by creating machinery for the consideration on a regional basis of traffic problems related to transit service.

As a practical matter, the ability of the Transit Commission to regulate transit service and alleviate traffic congestion will be substantially impaired if it has no control over passenger operations on the Mall and to the contemplated National Visitor Center at Union Station. The same compartmentalized regulation will exist that the Compact was intended to replace.

Section 5 of H.R. 12686 will also contravene the administrative guidelines established by the Presidential Memorandum of March 3, 1966 and the accompanying Budget Bureau Circular No. A-76 to determine when the Government should provide services for its own use. I have prepared copies of these documents for the convenience of the Subcommittee and, with the Chairman's permission, will hand them out now. As noted in paragraph number 2 of the Circular, the guidelines are "in furtherance of the Government's general policy of relying on the private enterprise system to supply its needs". Several instances are specified under paragraph number 5 on pages 2-6 of the Circular as justifying a departure from such general policy. None of these instances is applicable to the provision of public transportation on the Mall and to the visitor center.

In this connection, Mr. Chalk desires to assure the Subcommittee that D.C. Transit stands ready, willing and able to provide any transportation services needed by the Secretary for the accommodation of visitors to the Capital. There is simply no reason for the Secretary to be directed by the Congress to disregard the mandate of the President expressed in his Memo of March 3, 1966 and Budget Bureau Circular No. A-76 of the same date.