

Mr. DENNEY. Along that line, I think, though, that Mr. Dawson has brought out a point here that we must consider. The D.C. Transit has a franchise which was granted for 20 years, and I think it could be revoked for nonuser. Outside of that—I have not read it completely in the law but I think that is the only reason.

He is bringing out a point that by section 5, we are authorizing the Secretary, and then the D.C. Transit would have an action against possibly, or claim to be filed against, the United States for violation of the exclusive franchise that had been given to them.

Mr. GRAY. Of course, as the gentleman will notice, section 5, as presently written merely reaffirms what the Secretary claims he has in the way of authority dating back to May 26, 1930, which is 46 Stat. 382.

Mr. DENNY. But, you see, this franchise was granted in 1956 and runs for 20 years. Under the doctrine of superseding law, preemption, as Mr. Wright explained there, I think that when we grant to private enterprise an exclusive franchise, we have a real problem here of saying to the Secretary, "Ignore it; you can go ahead and make another contract." And I think we might be subject to a claim being filed and I believe this is the real serious problem that we have right now.

Mr. GRAY. I was pointing out what his contention was in requesting this particular section of the bill.

Mr. DENNY. Let me say just for the record, and I want it in here, any time this Congress can promote private enterprise, I am in favor of it, and that is in line with the President's directive of March 3. Therefore, let's not kill the goose that lays the golden egg. These people pay taxes and that is how we operate this Government. Let's keep this in mind as we determine this bill.

Mr. GRAY. I agree with the gentleman, it should be operated by private enterprise, and I am sure it will be, if at all possible.

Let me ask another question, General Dawson. If we strike completely section 5 as it is now written in the bill and merely give to the Secretary the authority to operate this service around Capitol Hill, which he contends he does not have now—and even the Commission, I am sure, would not have the authority to grant public transportation on the Capitol Grounds, this is a separate entity of government and I am sure they would not even contend that they have that authority—so we do need some legislation giving a private concessionaire the right to operate on the Capitol Grounds. If we write language in place of section 5, striking the whole section, just merely giving the Secretary authority to enter into contracts with private concessionaire's for the operation of a shuttle service and base it on competitive bidding, would this satisfy your firm?

Mr. DAWSON. Now you are speaking of the Capitol Grounds themselves, not the Mall area, not the area between the Union Station and the Capitol?

Mr. GRAY. I am referring primarily to a specific route around the Mall, but including the Capitol.

Mr. DAWSON. I think such legislation would be in violation of the compact.

Mr. GRAY. If we complied with that part of the compact and give, say, a year's notice of withdrawing from the compact, and we gave