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**RETURN OF SUBPENAS—PORT OF
NEW YORK AUTHORITY INQUIRY**

INQUIRY
BEFORE
SUBCOMMITTEE NO. 5
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
EIGHTY-SIXTH CONGRESS
SECOND SESSION

JUNE 29, 1960

Serial No. 20

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RETURN OF SUBPENAS, PORT OF NEW YORK
AUTHORITY INQUIRY

WEDNESDAY, JUNE 29, 1960

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE No. 5 OF THE
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:10 a.m., in room 346, Old House Office Building, Hon. Emanuel Celler (chairman) presiding.

Present: Representatives Celler, Rodino, Rogers, Holtzman, Donohue, Toll, McCulloch, Miller, Meader, Ray, Cahill, and Lindsay.

Also present: Herbert N. Maletz, chief counsel; Julian H. Singman, associate chief counsel; Cyril F. Brickfield, counsel; Murray Drabkin, counsel; William H. Crabtree, associate counsel; Richard C. Peet, associate counsel.

The CHAIRMAN. The committee will come to order.

The Chair desires to make an opening statement, but before that I will note the presence of a quorum and the presence here of the gentleman from New Jersey, Mr. Rodino, the gentleman from Colorado, Mr. Rogers, the gentleman from Pennsylvania, Mr. Toll, the gentleman from Ohio, Mr. McCulloch, the gentleman from New York, Mr. Miller. There is a quorum present.

The Chair, as I indicated a moment ago, will make an opening statement.

The subcommittee is meeting today in order to receive the return of subpoenas duces tecum served on Mr. S. Sloan Colt, chairman of the board of commissioners, Mr. Joseph G. Carty, secretary to the board of commissioners, and Mr. Austin J. Tobin, executive director, of the Port of New York Authority, requiring them to appear before the subcommittee this morning and to bring with them certain specified records and documents of the port authority.

The Chair notes the presence of Mr. Colt, Mr. Carty, and Mr. Tobin.

At the outset, the Chair wishes to review the events which have made necessary the service of these subpoenas.

The Chair wishes to interrupt the statement by noting the presence of the distinguished gentleman from New York, Mr. Holtzman.

The Port of New York Authority is an interstate, regional development authority established under bistate compacts between the States of New York and New Jersey approved by Congress in 1921 and 1922, for the purpose of dealing with the planning and development of terminal and transportation facilities and improving the commerce of the port district. It was the declared expectation of Congress that the effectuation of these compacts would—

better promote and facilitate commerce between the States and between the States and foreign nations and provide better and cheaper transportation of property and aid in providing better postal, military, and other services of value to the Nation.

The Chair wishes to interrupt to note again that the gentleman from Massachusetts, Mr. Donohue, is present.

The Chair wishes also to note the presence of the gentleman from New York, Mr. Ray, the gentleman from New Jersey, Mr. Cahill, who are not members of the subcommittee, but we are very happy to have them with us. They are, however, members of the full committee.

The operations of the authority exercise a farflung influence on interstate commerce. They yield tax-exempt revenues in excess of \$100 million annually from tunnels, bridges, terminals, airports, and shops, valued at more than \$900 million.

The port authority's operations affect the economic lives of millions of Americans living outside as well as inside the port development area and the States of New York and New Jersey. They intimately affect the operation of Federal agencies responsible, among other things, for the national defense, navigable waterways, and air, rail, and highway traffic. In short, they profoundly affect Federal interests of many and various kinds.

Nevertheless, although there were 2 days of hearings before the subcommittee in 1952 on a resolution that would have withdrawn congressional consent from the compacts and the authority, neither the Judiciary Committee, to which is assigned responsibility for interstate compacts of this character, nor any other congressional committee, has ever conducted a general investigation of the Port of New York Authority to determine its conformance or nonconformance to the limits of its authority or the extent or adequacy of its performance of its responsibilities in the public interest.

What is more, in recent months, complaints varying widely in character and gravity concerning the operations of the port authority under the compacts have come to the attention of the subcommittee.

In these circumstances and at the request—and I emphasize this—at the request of members of the New Jersey congressional delegation, composed of Senators and Representatives, the staff of the House Judiciary Committee was directed last March to make a study of the activities and operations of the authority under the 1921 and 1922 compacts, including a review of the scope of the authority's major operations.

For that purpose the Chair, by letter dated March 11, 1960, requested the executive director of the authority to make certain of the authority's files available for examination by committee staff members.

Notwithstanding this request, the port authority failed for the most part to make available the documents requested. Rather, it limited itself to supplying documents virtually all of which were already matters of public record.

Against this background, the subcommittee voted on June 8, 1960, to begin a full inquiry into the activities and operations of the Port of New York Authority under the 1921 and 1922 compacts.

Also on the same date, the subcommittee addressed a letter to the executive director of the authority requesting him to make available for examination by subcommittee staff representatives specified documents dating from January 1, 1946, and indicating that counsel for the subcommittee would call at the offices of the authority on June 15 for the purpose of examining these files at that time.

Two days later, by letter dated June 10, the executive director of the authority raised a number of objections to the request for inspection of documents in the port authority's files.

I wish to state parenthetically these objections mark an apparent change in policy. At hearings before this subcommittee in 1952, the same official of the authority testified:

As a public agency the port authority has always taken the position that its books and records are public information. On April 22, 1952, I wrote the chairman of this committee as follows:

"The commissioners of the port authority have also asked me to assure you of their desire to place at the disposal of your committee"—

meaning the Judiciary Committee—

"whatever records, information, data, or other material which may be helpful to your staff in preparation for the hearings on this resolution. The port authority is a public agency and our records are completely available for perusal by the members of your committee or your staff" (Tr. 346).

In the same letter of June 10, 1960, the executive director nevertheless expressed the hope that when the subcommittee counsel called at the offices of the authority and met with its general counsel, those present would reach agreement as to the materials to be furnished in aid of the subcommittee's inquiry.

On June 15, counsel for the subcommittee met with the executive director and the general counsel of the authority at its office. The port authority failed to make the requested documents available. Thereupon the subpoenas were served, returnable here today.

Thereafter, by letter dated June 17, 1960, the Chair notified the port authority that the subcommittee would consider production of documents dating from January 1, 1946, to June 15, 1960, to be full compliance with the subpoenas.

In taking these steps the subcommittee has acted and is acting pursuant to authority vested in, and responsibilities imposed upon, the Congress by the Constitution of the United States and, in turn, delegated to and imposed upon the House Judiciary Committee and this subcommittee by the Congress.

Article I, section 10, of the Constitution provides:

Section 10. No State shall enter into any Treaty, Alliance, or Confederation;
* * *

* * * * *
No State shall, without the Consent of Congress, * * * enter into any Agreement or Compact with another State, * * *.

Pursuant to this constitutional provision, the Congress in 1921 and 1922 adopted resolutions approving the compacts creating the Port of New York Authority and inaugurating a comprehensive plan for the development of the port area lying within the States of New York and New Jersey.

Soon after congressional approval of the 1922 compact, the port authority stated in a progress report that:

The comprehensive plan is now legally authorized by the two States and the Congress of the United States and the police powers of the States and the interstate commerce power of the Congress are joined in effectuating the definite plan, with one coordinating body as the State and Federal instrumentality.

The port authority also declared before the Supreme Court of the United States that:

There can be no doubt that Congress has made the port authority its agent for the effectuation of the comprehensive plan. (Records and briefs, U.S. Supreme Court, vol. 267, *City of Newark v. Central R.R. of New Jersey*.)

In adopting these resolutions Congress expressly carved out four reservations:

First, it reserved the right "to alter, amend, or repeal" its resolutions of approval. I repeat: Congress reserved the right "to alter, amend, or repeal" its resolutions of approval.

In addition, it specifically reserved the power of Federal officers and agents—

touching jurisdiction and control of the United States over the matters, or any part thereof, covered by this resolution.

Also, the resolutions reserved the jurisdiction of the United States in and over the port district region.

Finally, it was provided that no bridges, tunnels, or other structures should be built across, under, or in any of the waters of the United States, and no change made in the navigable capacity or condition of any such waters until the plans therefor had been approved by the Chief of Engineers and the Secretary of War.

Thus, Congress has responsibilities both under the compact clause of the Constitution and under the resolutions, with reservations thereto, by which it approved the compacts, the port authority, and the comprehensive plan.

Congress also has responsibilities in many areas affected by the operations of the authority, such as, interstate commerce, the national defense, navigable waters, air, rail, and highway transportation, and the operation of Federal agencies, including independent agencies.

The manner in which the Judiciary Committee became delegate of these Congressional powers and responsibilities may be briefly summarized. By the Legislative Reorganization Act of 1946 the Judiciary Committee of the House has jurisdiction of matters, among others, relating to "interstate compacts generally," and this grant of authority is found in House rule XI, 12, (i).

Further, by House Resolution 27 of the 86th Congress the Judiciary Committee and its subcommittees have general authority to conduct investigations of matters under the Committee's jurisdiction and—

to require by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary.

Finally, by House Resolution 530 of the 86th Congress the investigative and subpoena power of the committee is specifically extended to "the activities and operations of interstate compacts."

It remains for the Chair to indicate the purpose and scope of the investigation in aid of which the subject subpoenas were issued. The purpose of the investigation is to ascertain conformance or non-conformance of the Port of New York Authority with the congressionally imposed limitations on its powers and the extent and adequacy with which the authority is carrying out its duties and responsibilities under the congressionally approved compacts in order to determine whether Congress should legislate "to alter, amend, or repeal," its resolutions of approval.

The need to reevaluate congressional consent to the 1921 and 1922 compacts arises in part from complaints which have come to the attention of the subcommittee concerning various of the port authority's activities and operations. To give a few examples, it has been alleged that the policy of the port authority in combining revenues for financ-

ing purposes from all its facilities, rather than reducing tolls on each facility as it is amortized, placed an undue burden on the channels of interstate commerce and is contrary to national transportation policy—indeed, contrary to the publicly announced policy of the Bureau of Public Roads.

It has been alleged that certain activities of the port authority unjustifiably discriminate against certain types of interstate carriers. It has been alleged that the port authority has extended its operations beyond the geographic limits contemplated by the Congress. It has been alleged that in the letting of certain service and construction contracts, the port authority has not permitted competition and has failed to grant the award to the lowest qualified bidder.

It has also been asserted that the overall operations of the port authority have at no time been subjected to a comprehensive independent audit by any governmental agency.

The subcommittee in its inquiry will study these and other matters to determine whether legislation is warranted with respect to congressional consent to the port authority compacts in order more adequately to protect and preserve the manifold Federal interests involved. The subcommittee deems access to the documents sought in the subpoenas necessary to the effectuation of the investigation.

The Chair will offer at this point for the record the congressional resolutions approving the compact, and, too, the correspondence between the subcommittee and the port authority, and the various resolutions that have been mentioned in the statement.

(The documents referred to are as follows:)

[Sixty-Seventh Congress. Sess. I. Ch. 77. 1921]

OH.A.P. 77—Joint Resolution Granting consent of Congress to an agreement or compact entered into between the State of New York and the State of New Jersey for the creation of the Port of New York District and the establishment of the Port of New York Authority for the comprehensive development of the port of New York

Whereas commissioners duly appointed on the part of the State of New York and commissioners duly appointed on the part of the State of New Jersey for the creation of the Port of New York District and the establishment of the Port of New York Authority for the comprehensive development of the port of New York, pursuant to chapter 154, Laws of New York, 1921, and chapter 151, Laws of New Jersey, 1921, have executed certain articles, which are contained in the following, namely:

Whereas in the year 1834 the States of New York and New Jersey did enter into an agreement fixing and determining the rights and obligations of the two States in and about the waters between the two States, especially in and about the bay of New York and the Hudson River; and

Whereas since that time the commerce of the port of New York has greatly developed and increased and the territory in and around the port has become commercially one center or district; and

Whereas it is confidently believed that a better coordination of the terminal, transportation, and other facilities of commerce in, about, and through the port of New York will result in great economies, benefiting the Nation as well as the States of New York and New Jersey; and

Whereas the future development of such terminal, transportation, and other facilities of commerce will require the expenditure of large sums of money and the cordial cooperation of the States of New York and New Jersey in the encouragement of the investment of capital and in the formulation and execution of the necessary physical plans; and

Whereas such result can best be accomplished through the cooperation of the two States by and through a joint or common agency: Now, therefore,

The said States of New York and New Jersey do supplement and amend the existing agreement of 1834 in the following respects:

ARTICLE 1. They agree to and pledge, each to the other, faithful cooperation in the future planning and development of the port of New York, holding in high trust for the benefit of the Nation the special blessings and natural advantages thereof.

ART. 2. To that end the two States do agree that there shall be created and they do hereby create a district to be known as the "Port of New York District" (for brevity hereinafter referred to as "the district"), which shall embrace the territory bounded and described as follows:

The district is included within the boundary lines located by connecting points of known latitude and longitude. The approximate courses and distances of the lines inclosing the district are recited in the description, but the district is determined by drawing lines through the points of known latitude and longitude. Beginning at a point A of latitude forty-one degrees and three minutes north and longitude seventy-three degrees and fifty-six minutes west, said point being about sixty-five hundredths of a mile west of the westerly bank of the Hudson River and about two and one-tenth miles northwest of the pier at Piermont, in the county of Rockland, State of New York; thence due south one and fifteen-hundredths miles more or less to a point B of latitude forty-one degrees and three minutes north and longitude seventy-three degrees and fifty-six minutes west, said point being about one and three-tenths miles northwest of the pier at Piermont, in the county of Rockland, State of New York; thence south fifty-six degrees and thirty-four minutes west six and twenty-six hundredths miles more or less to a point C of latitude forty-one degrees and no minutes north and longitude seventy-four degrees and two minutes west, said point being about seven-tenths of a mile north of the railroad station at Westwood, in the county of Bergen, State of New Jersey; thence south sixty-eight degrees and twenty-four minutes west nine and thirty-seven hundredths miles more or less to a point D of latitude forty degrees and fifty-seven minutes north and longitude seventy-four degrees and twelve minutes west, said point being about three miles northwest of the business center of the city of Paterson, in the county of Passaic, State of New Jersey; thence south forty-seven degrees and seventeen minutes west eleven and eighty-seven hundredths miles more or less to a point E of latitude forty degrees and fifty minutes north and longitude seventy-four degrees and twenty-two minutes west, said point being about four and five-tenths miles west of the borough of Caldwell, in the county of Morris, State of New Jersey; thence due south nine and twenty-hundredths miles more or less to a point F of latitude forty degrees and forty-two minutes north and longitude seventy-four degrees and twenty-two minutes west, said point being about one and two-tenths miles southwest of the passenger station of the Delaware, Lackawanna and Western Railroad in the city of Summit, in the county of Union, State of New Jersey; thence south forty-two degrees and twenty-four minutes west, seven and seventy-eight hundredths miles more or less to a point G of latitude forty degrees and thirty-seven minutes north and longitude seventy-four degrees and twenty-eight minutes west, said point being about two and two-tenths miles west of the business center of the city of Plainfield, in the county of Somerset, State of New Jersey; thence due south twelve and sixty-five hundredths miles more or less on a line passing about one mile west of the business center of the city of New Brunswick to a point H of latitude forty degrees and twenty-six minutes north and longitude seventy-four degrees and twenty-eight minutes west, said point being about four and five-tenths miles southwest of the city of New Brunswick, in the county of Middlesex, State of New Jersey; thence south seventy-seven degrees and forty-two minutes east ten and seventy-nine hundredths miles more or less to a point I of latitude forty degrees and twenty-four minutes north and longitude seventy-four degrees and sixteen minutes west, said point being about two miles southwest of the borough of Matawan, in the county of Middlesex, State of New Jersey; thence due east twenty-five and forty-eight hundredths miles more or less, crossing the county of Monmouth, State of New Jersey, and passing about one and four-tenths miles south of the pier of the Central Railroad of New Jersey at Atlantic Highlands to a point J of latitude forty degrees and twenty-four minutes north and longitude seventy-three degrees and forty-seven minutes west, said point being in the Atlantic Ocean; thence north eleven degrees fifty-eight minutes east twenty-one and sixteen-hundredths miles more or less to a point K, said point being about five miles east of the passenger station of the Long Island Railroad at Jamaica and about one and three-tenths miles east of the boundary line of the city of New York, in the county of Nassau, State of New York; thence in a northeasterly direction passing about one-half mile west of New Hyde Park and about one and one-tenth miles east of the shore

of Manhasset Bay at Port Washington, crossing Long Island Sound to a point L, said point being the point of intersection of the boundary line between the States of New York and Connecticut and the meridian of seventy-three degrees, thirty-nine minutes, and thirty seconds west longitude, said point being also about a mile northeast of the village of Port Chester; thence northwesterly along the boundary line between the States of New York and Connecticut to a point M, said point being the point of intersection between said boundary line between the States of New York and Connecticut and the parallel of forty-one degrees and four minutes north latitude, said point also being about four and five-tenths miles northeast of the business center of the city of White Plains; thence due west along said parallel of forty-one degrees and four minutes north latitude, the line passing about two and one-half miles north of the business center of the city of White Plains and crossing the Hudson River to the Point A, the place of beginning.

The boundaries of said district may be changed from time to time by the action of the legislature of either State concurred in by the legislature of the other.

ART. 3. There is hereby created "The Port of New York Authority" (for brevity hereinafter referred to as the "port authority"), which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated, and such other and additional powers as shall be conferred upon it by the legislature of either State concurred in by the legislature of the other, or by Act or Acts of Congress, as hereinafter provided.

ART. 4. The port authority shall consist of six commissioners—three resident voters from the State of New York, two of whom shall be resident voters of the city of New York, and three resident voters from the State of New Jersey, two of whom shall be resident voters within the New Jersey portion of the district, the New York members to be chosen by the State of New York and the New Jersey members by the State of New Jersey in the manner and for the terms fixed and determined from time to time by the legislature of each State, respectively, except as herein provided.

Each commissioner may be removed or suspended from office as provided by the law of the State for which he shall be appointed.

ART. 5. The commissioners shall, for the purpose of doing business, constitute a board and may adopt suitable by-laws for its management.

ART. 6. The port authority shall constitute a body, both corporate and politic, with full power and authority to purchase, construct, lease, and/or operate any terminal or transportation facility within said district; and to make charges for the use thereof; and for any of such purposes to own, hold, lease, and/or operate real or personal property, to borrow money and secure the same by bonds or by mortgages upon any property held or to be held by it. No property now or hereafter vested in or held by either State, or by any county, city, borough, village, township, or other municipality, shall be taken by the port authority, without the authority or consent of such State, county, city, borough, village, township, or other municipality, nor shall anything herein impair or invalidate in any way any bonded indebtedness of such State, county, city, borough, village, township, or other municipality, nor impair the provisions of law regulating the payment into sinking funds of revenues derived from municipal property, or dedicating the revenues derived from any municipal property to a specific purpose.

The powers granted in this article shall not be exercised by the port authority until the legislatures of both States shall have approved of a comprehensive plan for the development of the port as hereinafter provided.

ART. 7. The port authority shall have such additional powers and duties as may hereafter be delegated to or imposed upon it from time to time by the action of the legislature of either State concurred in by the legislature of the other. Unless and until otherwise provided, it shall make an annual report to the legislature of both States, setting forth in detail the operations and transactions conducted by it pursuant to this agreement and any legislation thereunder. The port authority shall not pledge the credit of either State except by and with the authority of the legislature thereof.

ART. 8. Unless and until otherwise provided, all laws now or hereafter vesting jurisdiction or control in the public service commission, or the public utilities commission, or like body, within each State, respectively, shall apply to railroads and to any transportation, terminal, or other facility owned, operated, leased, or constructed by the port authority, with the same force and effect as if such railroad, or transportation, terminal, or other facility were owned, leased, operated, or constructed by a private corporation.

ART. 9. Nothing contained in this agreement shall impair the powers of any municipality to develop or improve port and terminal facilities.

ART. 10. The legislatures of the two States, prior to the signing of this agreement, or thereafter as soon as may be practicable, will adopt a plan or plans for the comprehensive development of the port of New York.

ART. 11. The port authority shall from time to time make plans for the development of said district, supplementary to or amendatory of any plan theretofore adopted, and when such plans are duly approved by the legislatures of the two States, they shall be binding upon both States with the same force and effect as if incorporated in this agreement.

ART. 12. The port authority may from time to time make recommendations to the legislatures of the two States or to the Congress of the United States, based upon study and analysis, for the better conduct of the commerce passing in and through the port of New York, the increase and improvement of transportation and terminal facilities therein, and the more economical and expeditious handling of such commerce.

ART. 13. The port authority may petition any interstate commerce commission (or like body), public service commission, public utilities commission (or like body), or any other Federal, municipal, State, or local authority, administrative, judicial, or legislative, having jurisdiction in the premises, after the adoption of the comprehensive plan as provided for in article 10 for the adoption and execution of any physical improvement, change in method, rate of transportation, system of handling freight, warehousing, docking, lightering, or transfer of freight, which, in the opinion of the port authority, may be designed to improve or better the handling of commerce in and through said district, or improve terminal and transportation facilities therein. It may intervene in any proceeding affecting the commerce of the port.

ART. 14. The port authority shall elect from its number a chairman, vice chairman, and may appoint such officers and employees as it may require for the performance of its duties, and shall fix and determine their qualifications and duties.

ART. 15. Unless and until the revenues from operations conducted by the port authority are adequate to meet all expenditures, the legislatures of the two States shall appropriate, in equal amounts, annually, for the salaries, office and other administrative expenses, such sum or sums as shall be recommended by the port authority and approved by the governors of the two States, but each State obligates itself hereunder only to the extent of \$100,000 in any one year.

ART. 16. Unless and until otherwise determined by the action of the legislatures of the two States, no action of the port authority shall be binding unless taken at a meeting at which at least two members from each State are present and unless four votes are cast therefor, two from each State. Each State reserves the right hereafter to provide by law for the exercise of a veto power by the governor thereof over any action of any commissioner appointed therefrom.

ART. 17. Unless and until otherwise determined by the action of the legislatures of the two States, the port authority shall not incur any obligations for salaries, office or other administrative expenses, within the provisions of article 15, prior to the making of appropriations adequate to meet the same.

ART. 18. The port authority is hereby authorized to make suitable rules and regulations not inconsistent with the Constitution of the United States or of either State, and subject to the exercise of the power of Congress, for the improvement of the conduct of navigation and commerce, which, when concurred in or authorized by the legislatures of both States, shall be binding and effective upon all persons and corporations affected thereby.

ART. 19. The two States shall provide penalties for violations of any order, rule, or regulation of the port authority, and for the manner of enforcing the same.

ART. 20. The territorial or boundary lines established by the agreement of 1834, or the jurisdiction of the two States established thereby, shall not be changed except as herein specifically modified.

ART. 21. Either State may, by its legislature, withdraw from this agreement in the event that a plan for the comprehensive development of the port shall not have been adopted by both States on or prior to July 1, 1923; and when such withdrawal shall have been communicated to the governor of the other State by the State so withdrawing, this agreement shall be thereby abrogated.

ART. 22. DEFINITIONS.—The following words as herein used shall have the following meaning: "Transportation facility" shall include railroads, steam or electric, motor truck or other street or highway vehicles, tunnels, bridges, boats, ferries, car floats, lighters, tugs, floating elevators, barges, scows, or harbor craft of any kind, aircraft suitable for harbor service, and every kind of transportation

facility now in use or hereafter designed for use for the transportation or carriage of persons or property. "Terminal facility" shall include wharves, piers, slips, ferries, docks, dry docks, bulkheads, dock walls, basins, car floats, float bridges, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, and every kind of terminal or storage facility now in use or hereafter designed for use for the handling, storage, loading, or unloading of freight at steamship, railroad, or freight terminals. "Railroads" shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, power houses, substations, lines for the transmission of power, car barns, shops, yards, sidings, turnouts, switches, stations and approaches thereto, cars, and motive equipment. "Facility" shall include all works, buildings, structures, appliances, and appurtenances necessary and convenient for the proper construction, equipment, maintenance, and operation of such facility or facilities, or any one or more of them. "Real property" shall include land under water, as well as uplands, and all property either now commonly or legally defined as real property or which may hereafter be so defined. "Personal property" shall include choses in action and all other property now commonly or legally defined as personal property or which may hereafter be so defined. "To lease" shall include to rent or to hire. "Rule or regulation," until and unless otherwise determined by the legislatures of both States, shall mean any rule or regulation not inconsistent with the Constitution of the United States or of either State, and, subject to the exercise of the power of Congress, for the improvement of the conduct of navigation and commerce within the district, and shall include charges, rates, rentals, or tolls fixed or established by the port authority; and, until otherwise determined as aforesaid, shall not include matters relating to harbor or river pollution. Wherever action by the legislature of either State is herein referred to, it shall mean an act of the legislature duly adopted in accordance with the provisions of the constitution of the State.

PLURAL OR SINGULAR.—The singular wherever used herein shall include the plural.

CONSENT, APPROVAL, OR RECOMMENDATION OF MUNICIPALITY; HOW GIVEN.—Wherever herein the consent, approval, or recommendation of a "municipality" is required, the word "municipality" shall be taken to include any city or incorporated village within the port district, and in addition in the State of New Jersey any borough, town, township, or any municipality governed by an improvement commission within the district. Such consent, approval, or recommendation whenever required in the case of the city of New York shall be deemed to have been given or made whenever the board of estimate and apportionment of said city, or any body hereafter succeeding to its duties, shall, by majority vote, pass a resolution expressing such consent, approval, or recommendation; and in the case of any municipality now or hereafter governed by a commission, whenever the commission thereof shall, by a majority vote, pass such a resolution; and in all other cases whenever the body authorized to grant consent to the use of the streets or highways of such municipality shall, by a majority vote, pass such a resolution.

In witness whereof we have hereunto set our hands and seals under chapter 154 of the Laws of 1921 of the State of New York, and chapter 151 of the Laws of 1921 of the State of New Jersey, this 30th day of April, 1921.

WILLIAM R. WILLCOX.	[SEAL.]
EUGENIUS H. OUTERBRIDGE.	[SEAL.]
CHARLES D. NEWTON.	[SEAL.]
J. SPENCER SMITH.	[SEAL.]
DEWITT VAN BUSKIRK.	[SEAL.]
FRANK R. FORD.	[SEAL.]
THOMAS F. MCCRAN.	[SEAL.]

In the presence of Nathan L. Miller, Walter E. Edge, Alfred E. Smith, Charles S. Whitman, William M. Calder, Lewis H. Pounds, Clarence E. Case, D. P. Kingsley, Irving T. Bush, Arthur N. Pierson, Julius Henry Cohen; in whose presence Messrs. Willcox, Outerbridge, Smith, Van Buskirk, Ford, and McCran signed in the great hall of the chamber of commerce in the city of New York on the 30th day of April, 1921. Attorney General Newton being at that time absent from the city, he signed on the 6th day of May, 1921, at the chamber, in the presence of William Leary, Charles T. Gwynne.

And Whereas the said agreement has been signed and sealed by the commissioners of each State, and has thereby become binding on the two States as provided in the aforesaid acts: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the said agreement, and to each and every part and article thereof: *Provided,* That nothing therein contained shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of said agreement.

SEC. 2. That the right to alter, amend, or repeal this resolution is hereby expressly reserved.

Approved, August 23, 1921.

[Sixty-Seventh Congress. Sess. II. Ch. 277. 1922]

CHAP. 277—Joint Resolution Granting consent of Congress and authority to the Port of New York Authority to execute the comprehensive plan approved by the States of New York and New Jersey by chapter 43, Laws of New York, 1922, and chapter 9, Laws of New Jersey, 1922

Whereas pursuant to the agreement or compact entered into by the States of New York and New Jersey under date of April 30, 1921, and consented to by the Congress of the United States by resolution signed by the President on the 23d day of August, 1921, the two States have agreed upon a comprehensive plan for the development of the port of New York; and

Whereas the carrying out and executing of the said plan will the better promote and facilitate commerce between the States and between the States and foreign nations and provide better and cheaper transportation of property and aid in providing better postal, military, and other services of value to the Nation: Therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject always to the approval of the officers and agents of the United States as required by Acts of Congress touching the jurisdiction and control of the United States over the matters, or any part thereof, covered by this resolution, the consent of Congress is hereby given to the supplemental agreement between the States of New York and New Jersey evidenced by chapter 43, Laws of New York, 1922, and chapter 9, Laws of New Jersey, 1922, covering the comprehensive plan for the development of the port of New York embraced in said statutes in form following, that is to say:

"SECTION 1. Principles to govern the development:

"First. That terminal operations within the port district, so far as economically practicable, should be unified.

"Second. That there should be consolidation of shipments at proper classification points so as to eliminate duplication of effort, inefficient loading of equipment, and realize reduction in expenses.

"Third. That there should be the most direct routing of all commodities so as to avoid centers of congestion, conflicting currents, and long truck hauls.

"Fourth. That terminal stations established under the comprehensive plan should be union stations, so far as practicable.

"Fifth. That the process of coordinating facilities should, so far as practicable, adopt casting facilities as integral parts of the new system, so as to avoid needless destruction of existing capital investment and reduce so far as may be possible the requirements for new capital; and endeavor should be made to obtain the consent of local municipalities within the port district for the coordination of their present and contemplated port and terminal facilities with the whole plan.

"Sixth. That freight from all railroads must be brought to all parts of the port wherever practicable without cars breaking bulk, and this necessitates tunnel connection between New Jersey and Long Island, and tunnel or bridge connections between other parts of the port.

"Seventh. That there should be urged upon the Federal authorities improvement of channels so as to give access for that type of waterborne commerce adapted to the various forms of development which the respective shore fronts and adjacent lands of the port would best lend themselves to.

"Eighth. That highways for motor-truck traffic should be laid out so as to permit the most efficient interrelation between terminals, piers, and industrial establishments not equipped with railroad sidings and for the distribution of building materials and many other commodities which must be handled by trucks; these highways to connect with existing or projected bridges, tunnels, and ferries.

"Ninth. That definite methods for prompt relief should be devised which can be applied for the better coordination and operation of existing facilities while larger and more comprehensive plans for future development are being carried out.

"SEC. 2. The bridges, tunnels, and belt lines forming the comprehensive plan are generally and in outline indicated on maps filed by the Port of New York Authority in the offices of the secretaries of the States of New York and New Jersey and are hereinafter described in outline.

"SEC. 3. Tunnels and bridges to form part of the plan: (a) A tunnel or tunnels connecting the New Jersey shore and the Brooklyn shore of New York to provide through-line connection between the transcontinental railroads now having their terminals in New Jersey, with the Long Island Railroad and the New York connecting railroad on Long Island and with the New York Central and Hudson River Railroad and the New York, New Haven and Hartford Railroad in the Bronx, and to provide continuous transportation of freight between the Queens, Brooklyn, and Bronx sections of the port to and from all parts of the westerly section of the port for all of the transcontinental railroads. (b) A bridge and/or tunnel across or under the Arthur Kill, and/or the existing bridge enlarged to provide direct freight carriage between New Jersey and Staten Island. (c) The location of all such tunnels or bridges to be at the shortest, most accessible, and most economical points practicable, taking account of existing facilities now located within the port district and providing for and taking account of all reasonably foreseeable future growth in all parts of the district.

"SEC. 4. Manhattan service: The island of Manhattan to be connected with New Jersey by bridge or tunnel, or both, and freight destined to and from Manhattan to be carried underground, so far as practicable by such system, automatic electric as hereinafter described or otherwise, as will furnish the most expeditious, economical, and practicable transportation of freight, especially meat, produce, milk, and other commodities comprising the daily needs of the people. Suitable markets, union inland terminal stations and warehouses to be laid out at points most convenient to the homes and industries upon the island, the said system to be connected with all the transcontinental railroads terminating in New Jersey and by appropriate connection with the New York Central and Hudson River Railroad, the New York, New Haven and Hartford, and the Long Island Railroads.

"SEC. 5. Belt lines: The numbers hereinafter used correspond with the numbers which have been placed on the map of the comprehensive plan to identify the various belt lines and marginal railroads.

"Number 1, middle belt line: Connects New Jersey and Staten Island and the railroads on the westerly side of the port with Brooklyn, Queens, The Bronx, and the railroads on the easterly side of the port. Connects with the New York Central Railroad in The Bronx; with the New York, New Haven and Hartford Railroad in The Bronx; with the Long Island Railroad in Queens and Brooklyn; with the Baltimore and Ohio Railroad near Elizabethport and in Staten Island; with the Central Railroad Company of New Jersey at Elizabethport and at points in Newark and Jersey City; with the Pennsylvania Railroad in Newark and Jersey City; with the Lehigh Valley Railroad in Newark and Jersey City; with the Delaware, Lackawanna and Western Railroad in Jersey City and the Secaucus meadows; with the Erie Railroad in Jersey City and the Secaucus meadows; with the New York, Susquehanna and Western, the New York, Ontario and Western, and the West Shore Railroads on the westerly side of the Palisades above the Weehawken Tunnel.

"The route of the middle belt line, as shown on said map, is in general as follows: Commencing at the Hudson River at Spuyten Duyvil, running easterly and southerly generally along the easterly side of the Harlem River, utilizing existing lines so far as practicable and improving and adding where necessary, to a connection with Hell Gate Bridge and the New Haven Railroad, a distance of approximately seven miles; thence continuing in a general southerly direction, utilizing existing lines and improving and adding where necessary, to a point near Bay Ridge, a distance of approximately eighteen and one-half miles; thence by a new tunnel under New York Bay in a northwesterly direction to a portal in Jersey City or Bayonne, a distance of approximately five miles, to a connection with the tracks of the Pennsylvania and Lehigh Valley Railroads; thence in a generally northerly direction along the easterly side of Newark Bay and the Hackensack River at the westerly foot of the Palisades, utilizing existing tracks and improving and adding where necessary, making connections with the Jersey Central, Pennsylvania, Lehigh Valley, Delaware, Lackawanna and Western, Erie, New York, Susquehanna and Western, New York, Ontario and Western, and West Shore Railroads, a distance of approximately ten miles. From the westerly portal of the Bay Tunnel and from the line along the easterly side of Newark Bay by the bridges of the Central Railroad of New Jersey (crossing the

Hackensack and Passaic Rivers) and of the Pennsylvania and Lehigh Valley Railroads (crossing Newark Bay) to the line of the Central Railroad of New Jersey, running along the westerly side of Newark Bay and thence southerly along this line to a connection with the Baltimore and Ohio Railroad south of Elizabethport, utilizing existing lines so far as practicable and improving and adding where necessary, a distance of approximately twelve miles; thence in an easterly direction crossing the Arthur Kill, utilizing existing lines so far as practicable and improving and adding where necessary, along the northerly and easterly shores of Staten Island to the new city piers and to a connection, if the city of New York consents thereto, with the tunnel under the Narrows to Brooklyn, provided for under chapter 700 of the laws of the State of New York for 1921.

"Number 2: A marginal railroad to The Bronx extending along the shore of the East River and Westchester Creek, connecting with the middle belt line (number 1) and with the New York, New Haven and Hartford Railroad in the vicinity of Westchester.

"Number 3: A marginal railroad in Queens and Brooklyn extending along Flushing Creek, Flushing Bay, the East River, and the upper New York Bay. Connects with the middle belt line (number 1) by lines number 4, number 5, number 6, and directly at the southerly end at Bay Ridge. Existing lines to be utilized and improved and added to and new lines built where lines do not now exist.

"Number 4: An existing line to be improved and added to where necessary. Connects the middle belt line (number 1) with the marginal railroad (number 3) near its northeasterly end.

"Number 5: An existing line to be improved and added to where necessary. Connects the middle belt line (number 1) with the marginal railroad (number 3) in Long Island City.

"Number 6: Connects the middle belt line (number 1) with the marginal railroad (number 3) in the Greenpoint section of Brooklyn. The existing portion to be improved and added to where necessary.

"Number 7: A marginal railroad surrounding the northerly and westerly shores of Jamaica Bay. A new line. Connects with the middle belt line (number 1).

"Number 8: An existing line to be improved and added to where necessary. Extends along the southeasterly shore of Staten Island. Connects with middle belt line (number 1).

"Number 9: A marginal railroad extending along the westerly shore of Staten Island and a branch connection with number 8. Connects with the middle belt line (number 1) and with a branch from the outer belt line (number 15).

"Number 10: A line made up mainly of existing lines, to be improved and added to where necessary. Connects with the middle belt line (number 1) by way of marginal railroad number 11. Extends along the southerly shore of Raritan Bay and through the territory south of the Raritan River reaching New Brunswick.

"Number 11: A marginal railroad extending from a connection with the proposed outer belt line (number 15) near New Brunswick along the northerly shore of the Raritan River to Perth Amboy, thence northerly along the westerly side of the Arthur Kill to a connection with the middle belt line (number 1) south of Elizabethport. The portion of this line which exists to be improved and added to where necessary.

"Number 12: A marginal railroad extending along the easterly shore of Newark Bay and the Hackensack River and connects with the middle belt line (number 1). A new line.

"Number 13: A marginal railroad extending along the westerly side of the Hudson River and the upper New York Bay. Made up mainly of existing lines—the Erie Terminals, Jersey Junction, Hoboken Shore, and National Docks Railroads. To be improved and added to where necessary. To be connected with middle belt line (number 1).

"Number 14: A marginal railroad connecting with the middle belt line (number 1) and extending through the Hackensack and Secaucus Meadows.

"Number 15: An outer belt line extending around the westerly limits of the port district beyond the congested section. Northerly terminus on the Hudson River at Piermont. Connects by marginal railroads at the southerly end with the harbor waters below the congested section. By spurs connects with the middle belt line (number 1) on the westerly shore of Newark Bay and with the marginal railroad on the westerly shore of Staten Island (number 9).

"Number 16: The automatic electric system for serving Manhattan Island. Its yards to connect with the middle belt line and with all the railroads of the port district. A standard gauge underground railroad deep enough in Manhattan to

permit of two levels of rapid-transit subways to pass over it. Standard railroad cars to be brought through to Manhattan terminals for perishables and food products in refrigerator cars. Cars with merchandise freight to be stopped at its yards. Freight from standard cars to be transferred onto wheeled containers; thence to special electrically propelled cars, which will bear it to Manhattan. Freight to be kept on wheels between the door of the standard freight car at the transfer point and the tailboard of the truck at the Manhattan terminal or the store door, as may be elected by the shipper or consignee, eliminating extra handling. Union terminal stations to be located on Manhattan in zones as far as practicable of equal trucking distance, as to pick-ups and deliveries, to be served by this system. Terminals to contain storage space and space for other facilities, the system to bring all the railroads of the port to Manhattan.

"Sec. 6. The determination of the exact location, system, and character of each of the said tunnels, bridges, belt lines, approaches, classification yards, warehouses, terminals, or other improvements shall be made by the port authority after public hearings and further study, but in general the location thereof shall be as indicated upon said map, and as herein described.

"Sec. 7. The right to add to, modify, or change any part of the foregoing comprehensive plan is reserved by each State, with the concurrence of the other."

And the consent of Congress is hereby given to the carrying out and effectuation of said comprehensive plan, and the said Port of New York Authority is authorized and empowered to carry out and effectuate the same: *Provided*, That nothing herein contained shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of said agreement: *Provided further*, That no bridges, tunnels, or other structures shall be built across, under, or in any of the waters of the United States, and no change shall be made in the navigable capacity or condition of any such waters, until the plans therefor have been approved by the Chief of Engineers and the Secretary of War.

Sec. 2. That the right to alter, amend, or repeal this resolution is hereby expressly reserved.

Approved, July 1, 1922.

[H. Res. 27, 86th Cong., 1st sess.]

RESOLUTION

Resolved, That the Committee on the Judiciary, acting as a whole or by subcommittee, is authorized and directed to conduct full and complete investigations and studies relating to the following matters coming within the jurisdiction of the committee, namely—

(1) relating to the administration and operation of general immigration and nationality laws and the resettlement of refugees, including such activities of the Intergovernmental Committee for European Migration which affect immigration in the United States; or involving violation of the immigration laws of the United States through abuse of private relief legislation;

(2) involving claims, both public and private, against the United States;

(3) involving the operation and administration of national penal institutions, including personnel and inmates therein;

(4) relating to judicial proceedings and the administration of Federal courts and personnel thereof, including local courts in Territories and possessions;

(5) relating to the operation and administration of the antitrust laws, including the Sherman Act, the Clayton Act, and the Federal Trade Commission Act; and

(6) involving the operation and administration of Federal statutes, rules and regulations relating to crime and criminal procedure and

(7) involving the operation and administration of the Submerged Lands Act and the Outer Continental Shelf Lands Act: *Provided*, That the committee shall not undertake any investigation of any subject which is being investigated by any other committee of the House.

The committee shall report to the House (or the Clerk of the House if the House is not in session) as soon as practicable during the present Congress the results of its investigation and study, together with such recommendations as it deems advisable.

For the purpose of carrying out this resolution the committee or subcommittee is authorized to sit and act during the present Congress at such times and places

within or without the United States, whether the House is in session, has recessed, or has adjourned, to hold such hearings and to require by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpenas may be issued under the signature of the chairman of the committee or any member of the committee designated by him, and may be served by any person designated by such chairman or member.

[Hous: Calendar No. 221]

[H. Res. 530, 86th Cong., 2d sess., Rept. No. 1613]

RESOLUTION

Resolved, That H. Res. 27, Eighty-sixth Congress, is amended by striking out the period at the end of clause (7) on page 2 and inserting "; and" and by inserting after clause (7) on page 2 the following clause: "(8) involving the activities and operations of interstate compacts;"

MARCH 11, 1960.

HON. AUSTIN J. TOBIN,
*Executive Director, Port of New York Authority,
New York, N.Y.*

DEAR MR. TOBIN: In connection with the responsibilities of the House Committee on the Judiciary over interstate compacts generally, and in particular in connection with the compacts of 1921-22 creating the Port of New York Authority, I have directed the staff to make a study of the activities and operations of the authority. Part of this study will include a review of the scope of the authority's major operations and in this connection it would be most helpful if it would provide certain information and materials.

In order to expedite our study and to reduce the burden upon your organization, it would be appreciated if the committee staff could examine, at your offices, certain of the authority's files. The files to be examined are those pertaining to the following activities for the period January 1, 1956, to present:

Budgeting, financing, and auditing operations.

Real estate acquisitions and operations.

Contracts and contracting procedures.

Revenue bond negotiations.

Personnel and administrative files on a need-to-know basis.

Agenda and minutes of commission and executive board meetings relating to the policies and operation of the port authority.

Though we believe the above information will suffice, it may develop that additional data will be required.

The committee will appreciate greatly your cooperation in this matter. It will also be appreciated if you would designate an official of your staff through whom the committee staff may channel and expedite its requests.

Mr. Cyril F. Brickfield, counsel to the committee, will be in touch with you within the next few days so that arrangements can be made for this matter to proceed at the earliest possible date.

With all good wishes, I am,

Sincerely yours,

EMANUEL CELLER, *Chairman.*

MARCH 24, 1960.

HON. AUSTIN J. TOBIN,
*Executive Director,
Port of New York Authority,
New York, N.Y.*

DEAR MR. TOBIN: This has reference to my letter of March 11, 1960 which requested that files of the port authority relating to certain specified areas of its operations and activities under the 1921-22 compacts be made available to the committee staff at your offices in New York.

Subsequent to that letter and on March 16, one day following his arrival at your offices, Mr. Brickfield of the committee staff, submitted a list to a member of

your legal staff, specifying with greater particularity the documents which our committee staff desired. A copy of that list is enclosed.

A number of the documents requested have already been made available. It is my understanding that the remainder are being withheld pending a decision by your board of commissioners after consultation with either or both of the Governors of New York and New Jersey.

It will be appreciated if the board of commissioners will act expeditiously in this matter and if you will promptly advise me of its decision.

Sincerely yours,

EMANUEL CELLER, *Chairman.*

THE PORT OF NEW YORK AUTHORITY

REQUIRED STATISTICAL DOCUMENTATION

Minutes of committee of operations.

Annual financial reports (Price Waterhouse) 1956-59.

Internal financial and other reports (audit division) including budgetary analyses.

Postclosing trial balances 1956-59.

Operational statistics:

Income from tolls, detail 1956-59.

Income from rentals, detail 1956-59.

Income, other, detail 1956-59.

Listing of owned and leased properties and facilities:

Location.

Date of acquisition or original lease.

Acquisition value of owned property or facility.

Lease terms (period and rental) of leased property.

Name of lessor, leased property.

Listing of leases, port authority lessor:

Location.

Name of lessee.

Lease terms (period and rental).

Listing of contract commitments:

Nature.

Date of contract.

Name of contractor.

Amount of contract.

Personnel:

Total number (current date).

Classification by function and location.

Number in each classification and at each location.

JUNE 8, 1960.

MR. AUSTIN J. TOBIN,
*Executive Director, Port of New York Authority,
New York, N.Y.*

DEAR MR. TOBIN: Under article I, section 10, clause 3, of the U.S. Constitution, "No State shall, without the consent of Congress, * * * enter into any agreement or compact with another State." The House of Representatives has delegated jurisdiction over certain types of interstate compacts to the Committee on the Judiciary under rule XI, section 12, item (i) of the Rules of the House of Representatives. Pursuant to that authority, the authority reserved in both acts giving congressional consent to the interstate compacts creating the Port of New York Authority, and pursuant to authority contained in House Resolution 27 and House Resolution 530 adopted in the 86th Congress, Subcommittee No. 5 of the House Committee on the Judiciary has begun an inquiry into the activities and operations of the Port of New York Authority under the interstate compacts approved by the Congress in 1921 and 1922.

The purpose of the inquiry is to determine whether pending or other legislation is necessary in respect to the interstate compacts creating the Port of New York Authority. For that reason the subcommittee will inquire into the organization, structure, and activities of the Port of New York Authority to ascertain (1) whether or not it has exceeded the scope of its activities as contemplated by Congress in approving the interstate compacts of 1921 and 1922; and (2) the extent to which

the authority is carrying out its duties and responsibilities under these interstate compacts.

In order to expedite this inquiry, it will be appreciated if the staff of the subcommittee could examine at your offices certain of the files of the authority for the purpose of studying or obtaining copies of documents in which the subcommittee is interested. The subcommittee therefore requests that you make available for such examination by its representatives the following documents from January 1, 1946, to date.

- (1) All bylaws, organization manuals, rules, and regulations;
- (2) Annual financial reports; internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants;
- (3) All agenda and minutes of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff;
- (4) All communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memoranda and reports relating to:
 - (a) The negotiation, execution, and performance of construction contracts; insurance contracts, policies and arrangements; and public relations contracts, policies and arrangements;
 - (b) The acquisition, transfer, and leasing of real estate;
 - (c) The negotiation and issuance of revenue bonds;
 - (d) The policies of the authority with respect to the development of rail transportation.

Mr. Cyril F. Brickfield and Mr. Julian H. Singman, counsel for the subcommittee, will call on you or your representative on Wednesday morning, June 15 and it is to be hoped that you can make these files available to them at that time.

Your cooperation in this matter will be appreciated by the subcommittee.

Sincerely yours,

EMANUEL CELLER, *Chairman.*

THE PORT OF NEW YORK AUTHORITY,
New York, N.Y., June 10, 1960.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House Office Building, Washington, D.C.*

DEAR MR. CELLER: We have your letter of June 8, 1960, relating to an inquiry into the activities and operations of the Port of New York Authority.

We appreciate having a statement of the purpose of the inquiry. Over the past 3 months, while your staff investigations have been in progress, we have not had the benefit of a specific statement of your objectives against which to measure the request for materials which have been made by your investigators. However, it is not clear that all of the documents described in your letter are pertinent to the subcommittee's inquiry, which, as you state its purpose, is "to ascertain (1) whether or not it has exceeded the scope of its activities as contemplated by Congress in approving the interstate compacts of 1921 and 1922; and (2) the extent to which the authority is carrying out its duties and responsibilities under these interstate compacts."

At the outset, it is stated in your letter that Subcommittee No. 5 will inquire not only into the activities of the port authority, but also into its organization and structure. It is respectfully submitted that how the States of New York and New Jersey fashion the structure of their bistate agency and how it organizes its internal administration cannot assist the committee in ascertaining whether or not the port authority has proceeded beyond its legal powers or carried out its duties and responsibilities.

As you know, we have, during the 12 weeks of your staff investigations, furnished at your request voluminous and comprehensive materials to your counsel, Mr. Cyril F. Brickfield, and your other investigators.

We furnished, at your request, all port authority board and committee minutes for the period 1956 through 1959. These minutes and the reports to the Governors and legislatures, which we have also furnished, contain all of the information which would permit your committee to inform itself on the subjects under inquiry, including some of the details particularized in your letter and much additional information which you have not requested.

For example, these minutes and reports contain the bylaws of the port authority, the annual financial reports prepared by the port authority, the reports of the outside independent auditors, the port authority's annual budgets, a delineation of all construction contracts, insurance contracts, and contracts with consultants, identification of all acquisition, transfer, and leasing of real estate, copies of the form of each bond authorized to be issued and sold by the Port of New York Authority and the details of each transaction involving the solicitation of bids for and the sale of such bonds, and a statement of the policies of the authority with respect to the development of rail transportation. The minutes contain not only the port authority's final action, which is sent to the two Governors for possible veto, but also the staff recommendations to the commissioners.

The operations committee minutes which were furnished to your investigators were working copies of the minutes. Your investigators were informed at the outset that these working copies did not contain transactions related to employment, promotion, separation, salaries, and salary changes of employees, but that these transactions are fully set forth in the official minutes which would be furnished to them at any time they desired. When about a month ago they first expressed this desire, we immediately made available to your investigators the official copy of the minutes containing the complete record of all the port authority's personnel transactions. It was surprising, therefore, that some newspapers reported that the minutes were furnished with some 600 pages removed.

Your investigators were also given the manual of administrative instructions issued by the executive director governing the internal administration of the staff work of the port authority. This two-volume compilation contains all of the official directives from the executive director to the staff of the port authority detailing administrative policies, procedures, and regulations established for guidance of the port authority staff. It also includes an organization chart of the port authority and its various departments and the detailed statement of the responsibilities of the chief administrative and operating department employees of the port authority.

It also includes personnel policies, administrative policies, financial policies, conditions of employment, materiel procurement procedures, procedures for the disposition of real property, accounting policies, budgeting procedures, facility operating procedures, procedures for award of construction or maintenance contracts, insurance and claims procedures and public relations procedures.

In addition, we understand that your investigators have requested and received complete access to the files of various New York banks detailing all of their transactions with the port authority, and including all correspondence with and memorandums concerning the port authority.

They have interviewed former port authority employees and have invited disclosure of any differences these employees might have had with their port authority supervisors. They have solicited derogatory comments about the port authority from former employees and others.

Your investigators have also queried successful and unsuccessful bidders on port authority contracts and invited criticism of the port authority's contracting procedures. They have sought out adversaries in public controversies with the port authority to invite them to air the differences they have had with the port authority in judicial, administrative, and legislative tribunals.

The port authority staff also furnished your investigators with the following material which they requested:

1. List of vetoes of port authority minutes by the Governors of both States.
2. All committee and board minutes containing the adoption of bylaws and any and all amendments thereto from 1921 to date.
3. Annual reports and financial reports of the port authority from 1949 through 1959.
4. Annual audit reports of Price Waterhouse, independent outside auditors, from 1956 through 1959.
5. Information as to the New York commuter car program initiated by bistate legislation in 1959, and as to the New York Dock Railway situation at the Brooklyn-port authority piers.
6. All board and committee minutes relating to the port authority's self-insurance program and Lincoln Tunnel workmen's compensation program.
7. All committee and board minutes relating to any and all transactions with Allied Maintenance Corp. and its affiliates, as well as Carey Transportation Co.
8. Reports to New York City on airport operations, 1956 through 1959.

9. Directory of tenants at—

- (a) Port Authority Building.
- (b) Bus Terminal, 41st Street and Eighth Avenue, New York City.
- (c) Newark Motor Truck Terminal.
- (d) New York Motor Truck Terminal.
- (e) Hoboken-port authority piers.
- (f) New York International Airport.
- (g) LaGuardia Airport.
- (h) Newark Airport.
- (i) Teterboro Airport.

10. Information regarding operating agent of floating grain elevators.

11. Special port authority report to the Governors made in 1926 on the Hoboken Manufacturers Railroad.

12. Copy of port authority brief to New York City Planning Commission relating to Greyhound Bus Co.'s application for enlargement and reconstruction of 34th Street bus terminal.

13. Legislative Index of New York and New Jersey for the years 1957 to 1959 which include summaries of all bills affecting the port authority.

14. Every statute passed by the States of New York and New Jersey, as well as by the Federal Government, relating to the port authority from 1921 to date.

On the whole, over a 12-week period, your staff of four to seven investigators should have informed themselves quite thoroughly as to the Port Authority's activities and policies.

Your letter states that the purpose of the inquiry relating to the port authority is "to ascertain (1) whether or not it has exceeded the scope of its activities as contemplated by Congress in approving the interstate compacts of 1921 and 1922; and (2) the extent to which the authority is carrying out its duties and responsibilities under these interstate compacts."

You will recall that these same inquiries were considered in public hearings by the same subcommittee under your chairmanship in 1952 and that in failing to report favorably on House Joint Resolution 375, your subcommittee was apparently satisfied with the record of the port authority's performance. Since that time, the States have not expanded the activities of the port authority except to initiate a program for the provision of commuter railroad cars in 1959.

The port authority is solely the agency of the two States. It is in no sense a Federal agency. In a recently published study on "The Administration of Interstate Compacts" by Leach and Sugg (Louisiana State University Press, 1959) it is said:

"Agencies established by interstate compact are identified administratively with the party States rather than with the Federal Government. They may develop close relations with Federal departments and include among their members Federal officials, but they are no more a part of the Federal administrative organization than any ordinary department of a State government."

Numerous courts have held that our port authority is such a State agency and the argument that the congressional consent gave it any Federal character has been rejected. The Federal Government did not create the port authority nor was the congressional consent to the compact the source of any of the authority's powers or jurisdiction. Under the Constitution, the congressional consent merely signified that the Federal Government has no objection to the purposes and objectives proposed by the two States in their compact. In effect a congressional consent simply expresses the agreement of the Congress that the compact does not in any way impair or otherwise affect the powers or jurisdiction of the Federal Government.

Based upon the port authority's status as a State and not a Federal agency, we are respectfully suggesting to the committee two related considerations. In the first place, Congress and the committee will undoubtedly wish to restrict themselves to inquiries which could assist in the legislative process, whereas the organization and structure of a purely State agency, whether established by interstate compact or otherwise, is hardly a field in which Congress would consider legislation.

Secondly, wholly apart from any legal questions of proprieties of congressional legislation delineating the organization and structure of a State agency, there is involved a grave matter of constitutional principle. The President's Commission on Intergovernmental Relations, containing distinguished Congressmen and Senators and Presidential representatives, reported that the Federal system of National and State Governments operating in a vast and diverse country requires a mutual "forebearance in the exercise of authority" on the part of both the Federal and State partners in the system over each other's legitimate activities.

Particularly, they said "the National Government must refrain from taking over activities that the States and their subdivisions are performing with reasonable competence lest the vitality of State and local institutions be undermined."

The same Commission favored the use of interstate compacts, saying:

"Through regional compacts it (interstate cooperation) can minimize the need for regional administration by the National Government."

Until very recently, the balance and effectiveness of the interstate compact technique has been maintained as between the National and State partners in the Federal system. Congress has performed the function of examining the compact in each case to determine whether it adversely affected the political balance of the Federal system. But the administration of the objectives thus consented to by Congress has been left exclusively to the States whose region was involved.

It is respectfully suggested that this accommodation has served an extremely useful purpose which would be sacrificed if your committee concerned itself with the organization and structure and detailed internal administration of a State agency, whether organized under an interstate compact or performing similar functions in a region wholly contained within a single State.

We have set forth the reasons why the structure and organization of the port authority would not appear pertinent to the purpose of the inquiry as stated in your letter of June 8. We are respectfully suggesting that for the same reason the communications, preliminary memorandums, interoffice memorandums, and all other documents relating solely to the internal administration of the port authority could not help the subcommittee to ascertain whether or not the port authority has exceeded the scope of its activities as contemplated by Congress in its consents of 1921 and 1922 or the extent to which it is carrying out any of its duties and responsibilities.

The Governors and legislatures of the two States, whose agency the port authority is, quite obviously are charged with the responsibility of reviewing the organization and structure of the port authority, the conduct of its internal activities, and any matter concerning the port authority, absolutely without limitation. The minutes which contain all the port authority's official actions do not take effect until the Governors have had an opportunity to exercise their veto power. There would not, therefore, be any failure of proper, effective, and nonpartisan supervision of this State agency if your committee were to exercise the forbearance which students of our Federal system judge to be essential to its maintenance.

You will recall, Mr. Chairman, that in your subcommittee's 1952 hearings on the port authority, you said:

"I want you to know that the Congress has approved scores and scores of compacts between the States and if we would presume to intermeddle with the operation of those compacts as a result of complaints that are offered, we probably would not do any other kind of work. We get all kinds of complaints in the operations of a State compact.

"Now if we would receive those complaints constantly and intermeddle, interfere with the operation of those compacts, I am afraid we would not have too much time to do any other kind of work.

"Must we not leave it to the States, in the first instance, particularly, to see that these operations are sound and wise?"

Similarly Congressman McCulloch, now ranking member of the subcommittee, said at that time:

"If the authority remains in the legislative bodies of New York and New Jersey, then your remedy is there, and if the things to which those who are now opposed to the port authority, are things that are objectionable to the majority of the people of these States, it will and should be checked."

It was thus made very clear by the subcommittee that there was no congressional duty of surveillance over the activities and operations of interstate compact agencies.

You will appreciate that these considerations apply to many of the documents which you have now requested be made available to the subcommittee's representatives.

When Mr. Brickfield and Mr. Singman call on June 15, I shall appreciate it if they will call on Mr. Sidney Goldstein, our general counsel, who will be glad to discuss your letter further. It is hoped that upon consideration of your letter and this reply, they will reach an agreement as to the materials to be furnished in aid of your inquiry and the mechanics for submitting them.

Sincerely,

AUSTIN J. TOBIN, *Executive Director.*

JUNE 13, 1960.

Mr. AUSTIN J. TOBIN,
Executive Director, Port of New York Authority,
New York, N.Y.

DEAR MR. TOBIN: I have your letter of June 10, 1960, concerning the request by Subcommittee No. 5 of the House Committee on the Judiciary for certain documents as set forth in my letter to you of June 8, 1960.

As you stated, information and documents, virtually all of a public nature, have been supplied to representatives of the subcommittee in connection with our earlier staff study. The subcommittee appreciates your cooperation in supplying that material and has found it helpful. However, much that was requested was not supplied.

Accordingly, the subcommittee found it necessary to authorize me to make the detailed requests set forth in my June 8 letter. Each request for information or documents set forth in that letter was carefully examined by the subcommittee. The considerations you set forth in your June 10 letter were anticipated and discussed at length. The subcommittee concluded that each request is proper, pertinent to its inquiry, and necessary for the fulfillment of its obligations and responsibilities.

Therefore, I would appreciate your making available to Messrs. Brickfield and Singman the documents requested in my June 8 letter when they call on you Wednesday morning, June 15, 1960. We ask that you make yourself available to these representatives of the subcommittee at that time for a brief discussion of this matter. Of course, there is no objection to your having Mr. Goldstein, your counsel, present.

Sincerely yours,

EMANUEL CELLER, *Chairman.*

The CHAIRMAN. The Chair also wishes to announce that there is now present the distinguished gentleman from Michigan, Mr. Meader. All the members of the subcommittee are now present.

I note also the presence of Mr. Lindsay, the gentleman from New York. Mr. Lindsay is a member of the full committee, but not a member of the subcommittee.

The Chair will receive for the record the various resolutions mentioned.

Now, we will hear from the distinguished ranking member on the Republican side, the gentleman from Ohio, Mr. McCulloch.

Mr. McCULLOCH. Mr. Chairman, it has been my custom at subcommittee proceedings, as the ranking minority member, to make a few remarks of my own at the conclusion of the opening statement of the chairman.

These statements, I believe, serve a useful purpose in that the prospective witnesses and the public are apprised of the views of the majority and minority on the subject matter under consideration.

This morning we are meeting for the purpose of receiving documents desired by the subcommittee to be used in furtherance of an inquiry by the subcommittee and for which a subpoena duces tecum has been issued and served on certain officials of the New York Port Authority.

The chairman, in my opinion, has adequately stated the reasons for issuing the subpoenas and the reasons the documents sought are necessary to enable the subcommittee to conduct and to complete its proposed inquiry.

There is, therefore, nothing of material importance which I could add to the opening remarks of the chairman. I will only add that it is my desire, as well as the desire of the entire subcommittee, to receive the full cooperation of the port authority for which the members of the subcommittee will be duly appreciative.

I also desire to state for the record that all properly interested persons will be given an opportunity to be heard and that their remarks will be made a part of the record in this proceeding.

We desire to have the benefit of the information contained in the records and in the minds of the officials of the people of the port authority on both sides of this most important issue.

The CHAIRMAN. Mr. Colt, will you please come forward.

Mr. GOLDSTEIN. Mr. Chairman, may I ask permission to read into the record a letter?

The CHAIRMAN. No. This is a proceeding primarily concerning the return of this subpoena. You will be heard subsequently; not at this juncture.

Mr. Colt, will you step forward, please. Mr. Colt, will you please raise your right hand. I will swear you. Do you solemnly swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. COLT. Yes, sir.

Mr. SCHENKER. Mr. Chairman, my name is David Schenker—

The CHAIRMAN. Just a minute, I want to ask Mr. Colt. To be brief:

Mr. Colt, will you please state your name and address?

TESTIMONY OF S. SLOAN COLT, CHAIRMAN, BOARD OF COMMISSIONERS, THE PORT OF NEW YORK AUTHORITY; ACCOMPANIED BY DAVID SCHENKER, ESQ., NEW YORK, N.Y.; SIDNEY GOLDSTEIN, GENERAL COUNSEL, THE PORT OF NEW YORK AUTHORITY; AND DANIEL B. GOLDBERG, ASSISTANT GENERAL COUNSEL

Mr. COLT. I am S. Sloan Colt and my business address is 415 Madison Avenue, New York City.

The CHAIRMAN. If your counsel is present, will you please identify counsel for the record.

Mr. COLT. Mr. David Schenker.

The CHAIRMAN. Is he present?

Mr. COLT. He is present.

The CHAIRMAN. Mr. Colt, are you appearing here today pursuant to a subpoena served upon you on June 15, 1960, ordering you to appear before the Subcommittee No. 5 of the House Judiciary Committee on June 29, 1960, and to produce the documents of the port authority described in the subpoena?

Mr. COLT. I am.

The CHAIRMAN. The Chair now places in the record a copy of the subpoena which was served on the witness and the proof of service.

(The documents referred to are as follows:)

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To: Cyril F. Brickfield or U.S. Marshal.

You are hereby commanded to summon S. Sloan Colt, chairman, board of commissioners, The Port of New York Authority, 111 Eighth Avenue, New York City to be and appear before the Subcommittee No. 5 of the Judiciary Committee of the House of Representatives of the United States, of which the

Hon. Emanuel Celler is chairman, and to bring with him from the files of the Port of New York Authority the documents listed on the attached sheet, in their chamber in the city of Washington, on the 29th day of June 1960, at the hour of 10.00 A.M. then and there to testify touching matters of inquiry committed to said Committee; and he is not to depart without leave of said Committee.

Herein fail not, and make return of this summons.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 13th day of June 1960.

(Signed) EMANUEL CELLER, *Chairman.*

Attest:

[SEAL]

RALPH R. ROBERTS, *Clerk.*

SUBPENA FOR: S. SLOAN COLT, 13TH DAY OF JULY 1960

- (1) All by-laws, organization manuals, rules and regulations;
- (2) Annual financial reports; internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants;
- (3) All agenda and minutes of meetings of the Board of Commissioners and of its committees; all reports to the Commissioners by members of the executive staff;
- (4) All communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memoranda and reports relating to:
 - (a) the negotiation, execution and performance of construction contracts; negotiation, execution and performance of insurance contracts, policies and arrangements; and negotiation, execution and performance of public relations contracts, policies and arrangements;
 - (b) the acquisition, transfer and leasing of real estate;
 - (c) the negotiation and issuance of revenue bonds;
 - (d) the policies of the Authority with respect to the development of rail transportation.

Subpena for S. Sloan Colt, Chairman, Board of Commissioners, Port of New York Authority, 111 Eighth Avenue, New York City before the Committee on the Judiciary, Subcommittee No. 5.

Served S. Sloan Colt at 415 Madison Avenue, New York, N.Y., at 11:50 a.m., June 15, 1960.

CYRIL F. BRICKFIELD,

Counsel, House Committee on the Judiciary.

The CHAIRMAN. On June 17, 1960, Mr. Colt, a letter was sent to you advising that the subcommittee will consider production on June 29, 1960, of all documents described in that subpoena dating from January 1, 1946, to June 15, 1960, to be full compliance with that subpoena. Did you receive that letter?

Mr. COLT. I did.

The CHAIRMAN. The letter will be offered in evidence.

(The letter referred to is as follows:)

JUNE 17, 1960.

Mr. S. SLOAN COLT,
Chairman, Board of Commissioners, the Port of New York Authority, Care of Bankers Trust Co., New York, N.Y.

DEAR MR. COLT: This is in reference to the subpoena issued by Subcommittee No. 5 of the Committee on the Judiciary of the House of Representatives on June 13, 1960, and served upon you on June 15, 1960.

Please be advised that the Subcommittee will consider production on June 29, 1960, of all documents described in that subpoena dating from January 1, 1946 to June 15, 1960, to be full compliance with the subpoena.

Very truly yours,

EMANUEL CELLER, *Chairman.*

The CHAIRMAN. Mr. Colt, are you the chairman of the Port of New York Authority and a member of its board of commissioners?

Mr. COLT. I am.

The CHAIRMAN. What are your duties as chairman?

Mr. COLT. The duties as chairman, according to the bylaws, concern—I can read it from the bylaws, if I may.

The CHAIRMAN. Yes.

Mr. COLT. "The Chairman shall preside at all meetings"—

The CHAIRMAN. You are reading from article 3 of the bylaws?

Mr. COLT. Article 3(a).

The chairman shall preside at all meetings, sign all official orders of the port authority, and shall have general supervision over the business and affairs of the port authority subject to the direction of the port authority. He shall, where required by statute, sign all vouchers and requisitions for payments upon the comptrollers of the two States or upon other fiscal officers.

The CHAIRMAN. In other words, as the bylaws provide, you have "general supervision over the business and affairs of the port authority," and you direct the executive director in his administration of all activities of the port authority.

That is correct, is it not?

Mr. COLT. As a member of the port authority—

The CHAIRMAN. I mean as the chairman of the board of commissioners of the port authority.

Mr. COLT. Subject to the direction of the port authority.

The CHAIRMAN. That is correct.

Have you brought with you today the documents called for by the subpoena?

Mr. SCHENKER. Mr. Chairman, on that issue, I ask your indulgence.

The CHAIRMAN. Just a minute.

Mr. HOLTZMAN. Mr. Chairman, may we have the response first?

The CHAIRMAN. Will you please take your seat, sir. I don't want to be impolite, but this is an interrogation of Mr. Colt. You will have your opportunity subsequently.

Under the Rules of the House, I will tell counsel, counsel cannot testify. Counsel are limited to advising and consulting with their clients.

I shall read the rule of the House so it will be very clear. I am reading from rule 11, paragraph 25, subdivision K:

Witnesses at investigative hearings may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights.

Will you please answer the question, which I repeat again:

Have you brought with you today the documents called for by the subpoena?

Mr. COLT. Mr. Chairman, the official documents have been brought here today, and I might make the following statement, if I may.

The CHAIRMAN. No, I will let you make a statement subsequently. I will give you every opportunity.

I repeat:

Have you brought with you all the documents called for by the subpoena that was served upon you, and as interpreted by the letter, which was placed into the record, of June 17 of this year?

The answer is "Yes" or "No." You will be given an opportunity later to explain, if you wish.

Have you brought all those documents called for by the subpoena which was served upon you and modified by the letter which you received?

Mr. COLT. Mr. Chairman—

The CHAIRMAN. Wait a minute.

Mr. Colt, I am going to caution counsel they have only the right to advise you as to your constitutional rights. I will say to counsel that counsel will be given a free and open opportunity subsequently to explain any position they desire with reference to these proceedings.

But I caution counsel again that these questions are directed to the witness. This is not a legislative inquiry. These are proceedings to determine whether there is or is not compliance with the subpoena served.

I am going to repeat that question, Mr. Colt:

Have you submitted, are you ready to submit to this committee, have you submitted this morning, all the documents called for by the subpoena which was served upon you as modified by the letter of June 17, which you also received?

Mr. COLT. By direction of the Governor of New York and the Governor of New Jersey, I have not.

The CHAIRMAN. Your answer, then, is "No"?

Mr. COLT. That is correct.

The CHAIRMAN. Is that right?

Mr. COLT. Yes, sir.

The CHAIRMAN. What have you done, either yourself or by communicating with the board of commissioners, the secretary of the port authority, its executive director, or any other person, to effectuate production of all the documents required by the subpoena served on you?

I would suggest that no coaching of the witness is permitted. I caution you again, Mr. Goldstein. I must be very stern about that. This is an inquiry as to whether or not the subpoena has been served and whether there is compliance. It is a simple matter. You will have plenty of opportunity to express your views.

I am going to repeat that question, Mr. Colt. One thing, will you please identify the gentleman on your left, Mr. Colt, for the record?

Mr. COLT. Mr. Sidney Goldstein, general counsel for the port authority.

The CHAIRMAN. I repeat the question:

What have you done, either yourself or by communicating with the board of commissioners, the secretary of the port authority, its executive director, or any other person, to effectuate production of all the documents required by the subpoena served on you?

Mr. COLT. I would be glad to read you the minutes of the meeting of the board of commissioners, if you would like me to.

The CHAIRMAN. I did not ask that question. Just tell us in your own language what have you done?

If you have done nothing, state that.

If you have done something, indicate what you have done.

Mr. COLT. This has been discussed—

The CHAIRMAN. I beg your pardon?

Mr. COLT. This has been discussed with all the members of the board of commissioners of the port authority, with the executive director, and the decision is as I gave it to you, subject to the instructions of the two Governors.

The CHAIRMAN. But what have you as chairman of the board of commissioners done in this regard, not what the Governors have done, or anybody else?

What have you done?

I will repeat:

What have you done, either yourself or by communicating with the board of commissioners, the secretary of the port authority, its executive director, or any other person, to effectuate production of all the documents required by the subpoena served upon you? What have you done?

Mr. COLT. I have discussed this with the Governors of the two States and asked for their instructions.

The CHAIRMAN. Have you done anything beyond that?

Mr. COLT. The Governor of New York State appoints me as a commissioner of the port authority. The Senate of New York State confirms my appointment. I am subject to the instructions of the Governor of New York State.

The CHAIRMAN. I repeat:

Have you personally taken any steps to effectuate the production of all the documents required by the subpoena served on you?

If so, please state what they have been. If there have not been any steps taken, state that.

Mr. COLT. I have done nothing to effectuate.

The CHAIRMAN. I direct you now to step aside and wait while I interrogate the next two witnesses.

Mr. COLT. Mr. Chairman, of course, I have always said that those papers that we considered appropriate to give you, we shall give you.

So when you are talking about all the documents, I want it understood—

The CHAIRMAN. Mr. Colt, we will give you the fullest opportunity to so express yourself momentarily.

Now, the Chair wishes to note a copy of the House rule 11, paragraph 25, has been made available to you, Mr. Colt, and you can get a copy of it.

Will Mr. Joseph G. Carty come to the witness stand.

Mr. Carty, will you raise your right hand, please.

Do you solemnly swear or affirm that the testimony which you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CARTY. I do.

The CHAIRMAN. For the record, will you state your name and business address?

TESTIMONY OF JOSEPH G. CARTY, SECRETARY TO THE BOARD OF COMMISSIONERS, THE PORT OF NEW YORK AUTHORITY; ACCOMPANIED BY SIDNEY GOLDSTEIN, GENERAL COUNSEL; AND DANIEL B. GOLDBERG, ASSISTANT GENERAL COUNSEL

Mr. CARTY. Joseph G. Carty.

The CHAIRMAN. Is your counsel present?

Mr. CARTY. Yes.

The CHAIRMAN. Will you state for the record the name of the counsel?

Mr. CARTY. Mr. Sidney Goldstein, general counsel, the port authority.

The CHAIRMAN. I just want to state again that you have a perfect right to confer at all times with your counsel.

Mr. Carty, are you appearing here today pursuant to a subpoena served upon you on June 15, 1960, ordering you to appear before the Subcommittee No. 5, this committee, on June 29, 1960, and to produce the documents of the port authority described in the subpoena?

Mr. CARTY. I am; yes, sir.

The CHAIRMAN. The Chair will now place into the record copy of the subpoena and proof of service.

(The documents referred to are as follows:)

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To: Cyril F. Brickfield or U.S. Marshal.

You are hereby commanded to summon J. G. Carty, secretary, Board of Commissioners, The Port of New York Authority, 111 Eighth Avenue, New York City to be and appear before the Subcommittee No. 5 of the Judiciary Committee of the House of Representatives of the United States, of which the Hon. Emanuel Celler is chairman, and to bring with him from the files of the Port of New York Authority the documents listed on the attached sheet, in their chamber in the city of Washington, on the 29th day of June 1960, at the hour of 10:00 A.M. then and there to testify touching matters of inquiry committed to said Committee; and he is not to depart without leave of said Committee.

Herein fail not, and make return of this summons.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 13th day of June, 1960.

(Signed) EMANUEL CELLER, *Chairman.*

Attest:

[SEAL]

RALPH R. ROBERTS, *Clerk.*

SUBPENA FOR: J. G. CARTY, 18TH DAY OF JUNE 1960

- (1) All by-laws, organization manuals, rules and regulations;
- (2) Annual financial reports; internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants;
- (3) All agenda and minutes of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff;
- (4) All communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memoranda and reports relating to:
 - (a) the negotiation, execution and performance of construction contracts; negotiation, execution and performance of insurance contracts, policies and arrangements; and negotiation, execution and performance of public relations contracts, policies and arrangements;
 - (b) the acquisition, transfer and leasing of real estate;
 - (c) the negotiation and issuance of revenue bonds;
 - (d) the policies of the Authority with respect to the development of rail transportation.

Subpena for J. G. Carty, Secretary, Board of Commissioners, The Port of New York Authority, 111 Eighth Avenue, New York City before the Committee on the Judiciary, Subcommittee No. 5.

Served on J. G. Carty at 111 8th Ave., New York, New York, at 11:15 A.M. on June 15, 1960.

CYRIL F. BRICKFIELD,

Counsel, House Committee on the Judiciary.

The CHAIRMAN. On June 17, 1960, a letter was sent to you advising that the subcommittee will consider production on June 29, 1960, of all documents described in that subpoena dating from January 1, 1946, to June 15, 1960, to be full compliance with the subpoena.

Did you receive that letter?

Mr. CARTY. I did, sir.

The CHAIRMAN. That letter will be offered in evidence.

(The letter referred to is as follows:)

JUNE 17, 1960.

Mr. JOSEPH G. CARTY,
*Secretary, Board of Commissioners,
The Port of New York Authority,
New York, N. Y.*

DEAR Mr. CARTY: This is in reference to the subpoena issued by Subcommittee No. 5 of the Committee on the Judiciary of the House of Representatives on June 13, 1960, and served upon you on June 15, 1960.

Please be advised that the Subcommittee will consider production on June 29, 1960, of all documents described in that subpoena dating from January 1, 1946 to June 15, 1960, to be full compliance with the subpoena.

Very truly yours,

EMANUEL CELLER, *Chairman.*

The CHAIRMAN. Mr. Carty, are you secretary of the Port of New York Authority?

Mr. CARTY. I am.

The CHAIRMAN. What are your duties as secretary of the Port of New York Authority?

Mr. CARTY (reading):

The secretary shall keep the official records and the seal of the port authority, shall certify, when required, to copies of records and shall from time to time perform such other duties as shall be assigned to him by the port authority.

The CHAIRMAN. You were just reading from the bylaws of the Port of New York Authority, article 3, subdivision C, is that correct?

Mr. CARTY. D.

The CHAIRMAN. Have you brought with you today—

Mr. CARTY. Pardon me, I could not hear you.

The CHAIRMAN. Subdivision C?

Mr. CARTY. D, subdivision D, Mr. Chairman.

The CHAIRMAN. Have you brought with you today the documents called for by the subpoena?

Mr. CARTY. Mr. Chairman, I have brought the documents that are pertinent to the subpoena I have received.

The CHAIRMAN. Have you brought with you all the documents called for by the subpoena as modified by the letter that you received?

Mr. CARTY. I have, according to the subpoena.

The CHAIRMAN. Have you brought all the documents?

Mr. CARTY. I have not covered all the documents.

The CHAIRMAN. You have not?

Mr. CARTY. No, sir.

The CHAIRMAN. What have you done, either by yourself or by communicating with the board of commissioners, the chairman of the board, the executive director, or any other person to effectuate production of all the documents required by the subpoena served upon you?

Mr. CARTY. I believe I have made every effort to cooperate, the records I have, to see that they are here.

The CHAIRMAN. The question is:

What have you personally done to effectuate the production of all these documents?

Mr. CARTY. Well, I have had my staff get out the necessary documents and brought them down here, sir.

The CHAIRMAN. All the documents?

Mr. CARTY. I have not jurisdiction of all the documents.

The CHAIRMAN. Do not the bylaws state that it is your responsibility to keep the official records of the port authority?

Mr. CARTY. Official records, yes, Mr. Chairman.

The CHAIRMAN. Have you produced all the official records called for by the subpoena?

Mr. CARTY. I have, sir, called for by the subpoena from me.

The CHAIRMAN. I ask again:

Did you make any efforts to produce all the documents required by the subpoena served upon you, all of them?

Mr. CARTY. All, I believe, all the documents I am asked for by the subpoena, I have produced here, sir.

The CHAIRMAN. I ask again:

Have you made any efforts to arrange for the production of all the documents covered by the subpoena served upon you, all of them?

Mr. CARTY. I still believe I have. I do not have jurisdiction over many documents of the port authority.

The CHAIRMAN. Then your answer is "No"?

Mr. HOLTZMAN. Or is it "Yes"? What is your answer?

Mr. CARTY. No; I have not brought all documents, I do not believe. I brought what is asked for me in the subpoena.

The CHAIRMAN. You admit you have not produced all the documents?

Mr. CARTY. I have produced all documents I am responsible for, Mr. Chairman.

The CHAIRMAN. But you have not produced all the documents covered by, or mentioned by, the subpoena?

Mr. CARTY. May I have a moment to read the subpoena again? I have. I have complied.

The CHAIRMAN. The subpoena provides, as follows, Mr. Carty, will you listen, please:

There is to be produced, (1), all the by-laws, organization manuals, rules and regulations.

Have you produced that category of documents, all the bylaws, organization manuals, rules and regulations?

Mr. CARTY. Yes, sir; I have.

The CHAIRMAN. Secondly, have you produced the annual financial reports; internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants? Have you produced all of them?

Mr. CARTY. I have annual financial reports here with me.

The CHAIRMAN. Have you produced all those that I have just mentioned in that category?

Mr. CARTY. No; I have not produced all. I have what is in my jurisdiction, Mr. Chairman.

The CHAIRMAN. Have you produced all agenda and minutes of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff?

Mr. CARTY. I have produced all the minutes of the meetings of the board of commissioners and the different committee meetings that were requested by your subpoena, Mr. Chairman.

The CHAIRMAN. Harken unto these words. Let me know whether you have produced them; that is, the documents mentioned:

All reports to the commissioners by members of the executive staff. Have you produced them?

Mr. CARTY. Oh, no; I do not have all those.

The CHAIRMAN. It is "Yes" or "No," sir.

Mr. CARTY. What is that? No.

The CHAIRMAN. It is "Yes" or "No."

Mr. CARTY. No, no; I do not have them.

The CHAIRMAN. Fourthly, have you produced all communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memoranda and reports relating to: (a) the negotiation, execution and performance of construction contracts; negotiation, execution and performance of insurance contracts, policies and arrangements; and negotiation, execution and performance of public relations contracts, policies and arrangements; (b) the acquisition, transfer and leasing of real estate; (c) the negotiation and issuance of revenue bonds; (d) the policies of the authority with respect to the development of rail transportation.

Have you produced all those items in those categories?

Mr. CARTY. I have not; no, sir.

The CHAIRMAN. One more question.

Have you produced all the documents requested by the subpoena over which you have custody?

Mr. CARTY. Yes, sir.

Mr. HOLTZMAN. Mr. Chairman, when you say "custody," do you refer to physical custody?

The CHAIRMAN. Yes, sir.

What have you done—I am talking about official custody.

Mr. CARTY. That is right.

The CHAIRMAN. If there is any question about that, I will repeat the question:

Have you produced all the documents requested by the subpoena of which you have physical custody?

Mr. CARTY. Yes.

The CHAIRMAN. Official custody?

Mr. CARTY. Yes, sir.

The CHAIRMAN. Official custody?

Mr. CARTY. Yes, sir; I have.

The CHAIRMAN. What have you done, either by yourself or by communicating with the board of commissioners, the chairman, the executive director, or any other person, to effectuate production of all the documents required by the subpoena served upon you?

Mr. CARTY. I conferred with the chairman, the commissioners at meetings, and the executive director, with regard to matters that I had in my particular office that I am in charge of. But I had nothing to do with others.

The CHAIRMAN. The question is directed to you specifically; what have you personally done to bring about the production of these documents called for by the subpoena either by communicating with the board of commissioners, the chairman, the executive director, or any other person?

What have you personally done so as to provide the production of all these documents?

Mr. CARTY. Mr. Chairman, I am an employee of the port authority in the two States, and I receive orders and I carry them out.

I have done everything I—

The CHAIRMAN. I recognize your classification of employment, but what have you done in your capacity as employee to bring about the production of these records?

Mr. CARTY. I think I have done everything that is humanly possible to produce the records that I have physical charge of.

The CHAIRMAN. That answer is not responsive.

What have you done personally so that the committee can secure possession for perusal of all these records mentioned? What have you personally done?

Mr. CARTY. I don't know how to answer that question. I feel I have done everything I know how to do.

The CHAIRMAN. What have you done?

Mr. CARTY. Well, many nights and many days I have had many employees in my office getting out whatever official records we had to produce for your investigators. I have done everything I know to comply with the subpoena. I do not know what further I could have done.

I certainly do not have jurisdiction of other records of other offices.

The CHAIRMAN. Have you discussed with any of the officers of the Port of New York Authority, the chairman, for example, or the executive director, as to the production of the documents which may not be in your official custody?

Mr. CARTY. I guess there have been conversations about them. There has been so much—

The CHAIRMAN. Have you discussed with them, those officers mentioned, the question of producing these documents mentioned in the subpoena which you may not have official custody of?

Mr. CARTY. In conversations I suppose other records were discussed. I discussed mostly what I had to produce. They directed me to produce—

The CHAIRMAN. Did you speak to Mr. Tobin? Did you speak to Mr. Colt or any other officer?

Mr. CARTY. Yes, I have.

The CHAIRMAN. Of the Port of New York Authority?

Mr. CARTY. Yes, I have.

The CHAIRMAN. With reference to the production of these documents which you may not have official custody of?

Mr. CARTY. It may have come up, but I had no—

The CHAIRMAN. You never what?

Mr. CARTY. It may come up in our conversation with regard to records, but I never discussed what other departments had.

The CHAIRMAN. You did have conversation with them?

Mr. CARTY. I suppose generally, yes, but I have no jurisdiction over it.

The CHAIRMAN. Did you ask these gentlemen to produce these documents, as secretary of the Port of New York Authority?

Mr. CARTY. No, sir, I did not.

The CHAIRMAN. You did not?

Mr. CARTY. No, I did not, no, sir.

The CHAIRMAN. I think you stated—and I want to repeat—that you are an officer of the Port of New York Authority?

Mr. CARTY. Yes, sir.

The CHAIRMAN. To wit, the secretary?

Mr. CARTY. Yes, sir.

The CHAIRMAN. Step aside, sir.

Mr. McCULLOCH. Mr. Chairman, I would like to ask the witness one question, please.

Well, I will wait to ask this question later on, Mr. Chairman.

The CHAIRMAN. The Chair notes copy of House Rule 11, paragraph 25, has been made available to Mr. Carty.

The third witness, Mr. Tobin, will you please take the chair.

Mr. Tobin, will you please raise your right hand.

Do you solemnly swear or affirm that the testimony which you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. TOBIN. I do.

The CHAIRMAN. For the record, will you please state your name and your business address?

TESTIMONY OF AUSTIN J. TOBIN, EXECUTIVE DIRECTOR, THE PORT OF NEW YORK AUTHORITY, ACCOMPANIED BY SIDNEY GOLDSTEIN, GENERAL COUNSEL, AND DANIEL B. GOLDBERG, ASSISTANT GENERAL COUNSEL

Mr. TOBIN. Austin J. Tobin, 111 Eighth Avenue, New York City.

The CHAIRMAN. If your counsel is present, will you please identify counsel for the record?

Mr. TOBIN. Mr. Sidney Goldstein, general counsel of the port authority.

The CHAIRMAN. Mr. Tobin, are you appearing here today pursuant to a subpoena served upon you June 15, 1960, ordering you to appear before Subcommittee No. 5 on June 29, 1960, and to produce the documents of the Port of New York Authority described in the subpoena?

Mr. TOBIN. I am.

The CHAIRMAN. The Chair places in the record a copy of the subpoena and proof of service thereof.

(The documents referred to are as follows:)

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To: Cyril F. Brickfield or U.S. Marshal.

You are hereby commanded to summon Austin J. Tobin, Executive Director, The Port of New York Authority, 111 Eighth Avenue, New York City to be and appear before the Subcommittee No. 5 of the Judiciary Committee of the House of Representatives of the United States, of which the Hon. Emanuel Celler is chairman, and to bring with him from the files of the Port of New York Authority the documents listed on the attached sheet, in their chamber in the city of Washington, on the 29th day of June 1960, at the hour of 10:00 a.m. then and there to testify touching matters of inquiry committed to said Committee; and he is not to depart without leave of said Committee.

Herein fail not, and make return of this summons.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 13th day of June, 1960.

(signed) EMANUEL CELLER, *Chairman.*

Attest: RALPH R. ROBERTS, *Clerk.*

SUBPENA FOR: AUSTIN J. TOBIN, 13TH DAY OF JUNE 1960

- (1) All by-laws, organization manuals, rules and regulations;
- (2) Annual financial reports; internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants;
- (3) All agenda and minutes of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff;
- (4) All communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memoranda and reports relating to:
 - (a) the negotiation, execution and performance of construction contracts; negotiation, execution and performance of insurance contracts, policies and arrangements; and negotiation, execution and performance of public relations contracts, policies and arrangements;
 - (b) the acquisition, transfer and leasing of real estate;
 - (c) the negotiation and issuance of revenue bonds;
 - (d) the policies of the Authority with respect to the development of rail transportation.

Subpena for Austin J. Tobin, Executive Director, Port of New York Authority, 111 Eighth Avenue, New York City before the Committee on the Judiciary, Subcommittee No. 5.

Served on Austin J. Tobin at 111 8th Ave., New York, New York, at 11:10 a.m. on June 15, 1960.

CYRIL F. BRICKFIELD,
Counsel, House Committee on the Judiciary.

The CHAIRMAN. On June 17, 1960, a letter was sent to you advising that the subcommittee will consider production on June 29, 1960, of all documents described in the subpoena dating from January 1, 1946, to June 15, 1960, to be full compliance with the subpoena.

Did you receive that letter, Mr. Tobin?

Mr. TOBIN. I did, Mr. Chairman.

The CHAIRMAN. That letter will be placed in the record.

(The letter referred to is as follows:)

JUNE 17, 1960.

Mr. AUSTIN J. TOBIN,
*Executive Director, The Port of New York Authority,
New York, N. Y.*

DEAR MR. TOBIN: This is in reference to the subpoena issued by Subcommittee No. 5 of the Committee on the Judiciary of the House of Representatives on June 13, 1960, and served upon you on June 15, 1960.

Please be advised that the Subcommittee will consider production on June 29, 1960, of all documents described in that subpoena dating from January 1, 1946 to June 15, 1960, to be full compliance with the subpoena.

Very truly yours,

EMANUEL CELLER, *Chairman.*

The CHAIRMAN. Mr. Tobin, you are the executive director of the Port of New York Authority?

Mr. TOBIN. I am.

The CHAIRMAN. What are your duties as executive director?

Mr. TOBIN. Under the bylaws, I am reading III(f):

The executive director shall, subject to the foregoing provisions and under the direction of the chairman, be generally in administrative charge of all activities of the port authority. The executive director shall make final certification for payment of all duly authenticated and authorized items of expenditure for payment from any port authority funds from whatever source derived. Whenever the chairman is required by the statute to sign vouchers, payrolls and/or requisitions, the executive director shall approve the same for submission to the chairman for his signature, and he shall sign all deeds of conveyance when authorized by resolution of the board.

There are various other duties, Mr. Chairman, that arise generally under our budget procedure, but among those and among the sources

of your interest here, I am in complete charge and control of all the files and records of the port authority.

I make arrangements for the files. I change arrangements for the files. I direct what files shall and shall not be kept in what department.

I am, therefore, in complete charge of all files of the port authority, both formal and the official records and the internal records.

Mr. Carty was trying, I know, to make the point that he is in charge of the official files of the port authority, and all of the records requested under the subpoena in those official files are here and are produced.

The Chairman of the port authority has nothing whatsoever to do with the arrangements for our files, internal memoranda, work sheets, working papers, and all of our plans and materials.

I am in complete charge and control of all of our papers, and I do not under my duties even have to consult the chairman as to the general placement arrangement, disposition and efficiency of that filing system.

The CHAIRMAN. Are you subject to the direction of the chairman?

Mr. TOBIN. I am in general subject to the direction of the chairman. Roughly, the two offices are like the chairman of the board and the president of the corporation.

The CHAIRMAN. But in general you are in complete control of the operations and have complete control of the custody of all files, documents, memoranda and so forth?

Mr. TOBIN. That is correct, sir.

The CHAIRMAN. Have you brought with you all the documents called for by the subpoena, as interpreted by the letter?

Mr. TOBIN. I have brought with me, Mr. Chairman, all documents pertinent to the work of this committee.

The CHAIRMAN. That is not the answer, Mr. Tobin. Have you brought all the documents called for by the subpoena as interpreted by the letter? The answer is "Yes" or "No," whether you have brought all of them or not.

Mr. TOBIN. Mr. Chairman, I have—excuse me just a moment.

The CHAIRMAN. Yes, sir?

Mr. TOBIN. In responding to the subpoena, by way of explaining my answer to your question, sir—

The CHAIRMAN. No, no, I asked whether you have—it is a simple question, requiring a simple answer; and then we will go into the details subsequently.

Mr. TOBIN. In accordance with—

The CHAIRMAN. Just a minute. Have you brought all the documents called for by the subpoena that was served upon you as interpreted by the letter that has been mentioned?

Mr. TOBIN. In accordance with the orders of the Governors of New York and New Jersey, I have not.

The CHAIRMAN. Have you produced (1), all bylaws, organization manuals, rules and regulations?

Mr. TOBIN. Yes, I have.

The CHAIRMAN. (2) Have you produced the annual financial reports; internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants?

Mr. TOBIN. Of those, Mr. Chairman, I have brought the annual financial reports and our budget is in the minutes, which I have also brought.

The CHAIRMAN. Let's see, you brought the internal financial reports?

Mr. TOBIN. No, I brought the annual, sir, financial reports.

The CHAIRMAN. Annual reports. You have not brought the internal financial reports?

Mr. TOBIN. No, sir.

The CHAIRMAN. Have you brought the budgetary analyses?

Mr. TOBIN. No, sir. I have brought the budget which is part of the minutes, but I have not brought our own internal budgetary analyses.

The CHAIRMAN. You brought copies of the budget?

Mr. TOBIN. Yes, Mr. Chairman.

The CHAIRMAN. But you have not brought the budgetary analyses?

Mr. TOBIN. That is correct, Mr. Chairman.

The CHAIRMAN. Have you brought the postclosing trial balances?

Mr. TOBIN. No, sir.

The CHAIRMAN. Have you brought the internal audits?

Mr. TOBIN. No, sir.

The CHAIRMAN. Have you brought management and financial reports prepared by outside consultants?

Mr. TOBIN. I have not.

The CHAIRMAN. Have you brought (3) all agenda and minutes of meetings of the board of commissioners and of its committees?

Mr. TOBIN. Yes, sir; I have, with the exception, Mr. Chairman—I am sorry—I have not brought the agendas.

The CHAIRMAN. Have you brought all reports to the commissioners by the members of the executive staff?

Mr. TOBIN. I have brought all the reports to the commissioners which are in both the board minutes and all committee minutes of the port authority.

The CHAIRMAN. Have you brought all reports to the commissioners?

Mr. TOBIN. No, sir.

The CHAIRMAN. Have you brought all communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memorandums, and reports relating to (a) the negotiation, execution, and performance of construction contracts? Have you brought those?

Mr. TOBIN. No, sir.

The CHAIRMAN. Have you brought all the files, the files of your office, including correspondence, interoffice and other memorandums concerning negotiation, execution, and performance of insurance contracts?

Mr. TOBIN. No, sir.

The CHAIRMAN. Have you brought files of the Port of New York Authority and files of any of its officers or employees including correspondence, interoffice and other memoranda, and reports relating to policies and arrangements—I withdraw that—relating to negotiation, execution and performance of public relations contracts?

Mr. TOBIN. No, sir.

The CHAIRMAN. With reference to policies and arrangements concerning public relations, have you brought those?

Mr. TOBIN. No, sir.

The CHAIRMAN. Have you brought any of the files of the offices, including correspondence, interoffice and other memorandums, and reports relating to the acquisition, transfer, and leasing of real estate?

Mr. TOBIN. All acquisition, transfer, and leasing of real estate, of course, are covered in full in our minutes and committee minutes, but, Mr. Chairman, I know what you want.

As qualified by your opening part of your question, which has to do with all reports and files in the port authority, interoffice and other memorandums, with respect to real estate, I am sorry, sir, no, I have not brought those.

The CHAIRMAN. Have you brought communications in the files of the Port of New York Authority and the files of various officers and employees including correspondence, interoffice and other memorandums, reports, relating to negotiation and issuance of revenue bonds?

Mr. TOBIN. No, Mr. Chairman.

The CHAIRMAN. Have you brought the files of the port authority, the files of its officers and employees, including correspondence, interoffice and other memorandums, reports, relating to the policies of the authority with respect to the development of rail transportation?

Mr. TOBIN. No, Mr. Chairman, in accordance with the directions of the Governors of New York and New Jersey in their instructions to Mr. Colt, Mr. Carty, and to me, which will be submitted to the committee, I have not produced those documents and do not consider them pertinent to the work of the committee.

The CHAIRMAN. I take it, now, that what you have supplied in pursuance of the subpoena is not all the documents and memorandums and data called for, but the following:

- (1) All the bylaws, organization manuals, rules and regulations;
- (2) Annual financial reports;
- (3) All agenda and minutes of meetings of the board of commissioners and of its committees—

Mr. TOBIN. Excuse me, Mr. Chairman, that is correct, except that you used the word "agenda" and I have not brought the agendas.

The CHAIRMAN. You have not brought the agendas?

Mr. TOBIN. But I have brought all of the documents mentioned.

The CHAIRMAN. And with those exceptions, that is all you have brought?

Mr. TOBIN. Yes, sir; generally speaking, the documents that I have brought are reviewed and listed in my letter to you, Mr. Chairman, of June 10.

The CHAIRMAN. Will you make those documents available?

Mr. TOBIN. Yes, sir; they are right here.

Mr. Chairman, in addition, I said that I had brought all the documents that were generally reviewed and listed in my letter of June 10, and I should add to that that with the receipt of your subpoena, which first required all of the materials of the port authority going back to 1921, and then corrected that to read 1946, I have in these records that I have brought down brought those back to 1946.

The CHAIRMAN. What have you done, either yourself or by communicating with the board of commissioners, the chairman of the port authority, the secretary or any other person, to effectuate

production of all of the documents beyond what you have supplied, of all of the documents required by the subpoena served upon you?

Mr. TOBIN. Mr. Chairman, as you know, I have been in immediate charge of this unhappy difference of opinion, since you and I began discussing it in March; and since that time I have carefully considered all of the file material that you and your investigators were asking for.

I have reported on the requests for material to the board. I have reported on those requests to the offices of the attorneys general of the States of New York and New Jersey and to the Governors, and in accordance with the Governors' instructions, as transmitted to me by the board, I have brought down the records which I have just mentioned in my previous answer, and I have not brought down the other records that you and I have been clarifying in these questions.

The CHAIRMAN. Have you in any other way, in any other way sought to bring about the production of these additional documents, additional to what you have indicated you have delivered to this committee?

Have you done anything—

Mr. TOBIN. No.

The CHAIRMAN (continuing). To bring about the production of all of them?

Mr. TOBIN. I brought the whole matter of the subpoena and your request to the attention of my board, to the attention of the attorneys general, to the attention of the Governors, and I have, in accordance with their directions, brought down the files that have been mentioned here this morning and have not brought down the other files.

The CHAIRMAN. Did you recommend that all these documents be supplied to the committee?

Mr. TOBIN. Did I recommend that all—

The CHAIRMAN. Did you recommend that all these documents be supplied to the committee?

Mr. TOBIN. That I brought down, yes, Mr. Chairman.

The CHAIRMAN. Did you recommend that the additional documents which have not been supplied, that they be supplied to the committee?

Mr. TOBIN. No, Mr. Chairman, I did not.

The CHAIRMAN. On the contrary, did you recommend against supplying these documents?

Mr. TOBIN. Yes, Mr. Chairman, I recommended against it.

The CHAIRMAN. Will you just step aside for the moment. We will call you later.

Just for the record, who is this gentleman at the end of the table?

Mr. GOLDSTEIN. Daniel B. Goldberg, assistant general counsel of the port authority, one of my assistants.

Mr. Chairman, may I read—

The CHAIRMAN. Just a moment, please.

Copy of rule 11, subparagraph 25, will be supplied to the witness—I think has been supplied to the witness.

Will you return to the stand, Mr. Colt, please.

Mr. Colt, I take it that Mr. Schenker, who is on your right, is your personal counsel?

TESTIMONY OF S. SLOAN COLT; ACCOMPANIED BY DAVID SCHENKER, ESQ., SIDNEY GOLDSTEIN, AND DANIEL B. GOLDBERG—Resumed

Mr. COLT. Yes, sir.

The CHAIRMAN. Mr. Colt, do you have any statement to make to the committee, any statement that you want to make to the committee, as to why you have failed to bring with you all the documents described in the subpoena?

Mr. COLT. Mr. Chairman, may I—

The CHAIRMAN. I want to say in all fairness you may confer with counsel at any time.

You have the right to confer with your counsel freely at any time.

Mr. COLT. Thank you, sir.

Mr. SCHENKER. But originally—

The CHAIRMAN. Counsel cannot testify.

Mr. SCHENKER. Originally, Your Honor, I wanted the record to show that while Mr. Colt was testifying, you denied me and you denied him the privilege—

The CHAIRMAN. We did not.

Mr. SCHENKER (continuing). Of conferring and you said I was limited merely to constitutional questions.

The CHAIRMAN. No, you have the right, the perfect right to explain to Mr. Colt any of his constitutional rights. You have a right to confer with Mr. Colt. It is distinctly understood.

Mr. COLT, I repeat the question:

Do you wish to make any statement to the subcommittee as to why you have failed to bring all the documents called for by the subpoena?

Mr. COLT. Mr. Chairman, may I identify myself first.

It has already been stated and known that I am a commissioner of the port authority representing the State of New York.

I have served as a commissioner of the port authority for the past 14 years. I was originally appointed in 1946, by Gov. Thomas E. Dewey, and was reappointed by him in 1950, and by Governor Harri-man in 1956.

In 1959, my fellow commissioners honored me by electing me chairman of the port authority.

The broad policies and general principles of administration which the board of commissioners adopt are carried into effect by an able career staff under the supervision of our executive director, Austin J. Tobin.

I might note in passing that the position of commissioner of the port authority is an unpaid public office which grants its reward in the form of satisfactions of worthwhile and constructive public service.

I have been serving for the past 11 years as president of the National Fund for Medical Education.

I am also serving the State of New York at present as a member of the temporary State commission on economic expansion by appointment of Governor Rockefeller in 1959.

In the past I served as a member of the Clay Committee formerly known as the President's Advisory Committee on the Federal highway program, the work of which I know you are all familiar with.

I served as president of the New York State Bankers Association in 1935, as national chairman of the American Red Cross War Fund here in Washington in 1941 and 1942, as a director of the Federal Reserve Bank of New York in 1943 and 1944, as chairman of the New York Clearing House Committee in 1950 and as its president in 1956 and 1957.

My business career has been in the banking field. For 27 years I was the chief executive officer of Bankers Trust Co., serving as its president and chairman of its board.

I am presently a director of the bank and a member of its executive and trust committees.

In my capacity as chairman of the port authority, I have received communications from their Excellencies, Governors Meyner and Rockefeller, containing instructions from them to me, and to the New Jersey and New York members of the port authority relative to my appearance here today, which it is my obligation to present to the chairman and members of this honorable subcommittee.

I respectfully request that the general counsel of the port of New York be permitted to read these communications.

Mr. GOLDSTEIN. With your permission, Mr. Chairman, may I read this letter into the record?

The CHAIRMAN. Very good.

Mr. GOLDSTEIN. Here I have, sir, a letter dated June 25, 1960, from the Governor of the State of New Jersey, from the Governor of the State of New York, the Honorable Nelson A. Rockefeller, addressed to the Honorable S. Sloan Colt, chairman of the Port of New York Authority, 111 Eighth Avenue.

A similar letter, Mr. Chairman and gentlemen of the committee, was addressed to the vice chairman of the port authority, Mr. James C. Kellogg III, under date of June 25, 1960, by the Honorable Robert B. Meyner, Governor of the State of New Jersey.

The letter reads, as follows:

On June 23, 1960, as you know, Governor Meyner and I sent telegrams to the members of the House Judiciary Committee requesting the opportunity to meet with the Judiciary Committee at a mutually convenient date to present for the committee's consideration our position on the grave questions of constitutional propriety arising from the subpoena served upon you, as chairman, Austin J. Tobin, the executive director, and Joseph G. Carty, the secretary of the Port of New York Authority. We requested an adjournment of the subpoena to permit such a presentation to the committee. We took this action because of our deep concern for the basic principles of our American form of government which reserves to the States all powers not delegated to the Federal Government.

We have sought by these means to resolve the important constitutional issues involved in a cooperative manner. The subpoena at issue appeared to us and our legal advisers to constitute a novel intrusion by the Federal Government into areas reserved by the Constitution to our respective States and to constitute a precedent which could subject various agencies of State government throughout the Nation to be similarly answerable to Federal authority. As the responsible chief executives of our States, we could not allow such action involving a State agency to proceed without our having an opportunity to present our objections.

The chairman of the Judiciary Committee has refused our request for a meeting and has refused to adjourn the date for the return of the subpoena to permit us to present our objections. Accordingly, in order to insure that these basic issues may be presented and decided in an orderly way and with full opportunity for the States to present their views on these crucial questions, I am instructing the New York members of the Port of New York Authority—

and in Governor Meyner's letter he said "I am instructing the New Jersey members"—

to direct you, Mr. Tobin, and Mr. Carty, when you appear before the subcommittee on June 29, to renew our request for an adjournment of the return date of the subpoena to permit the Governors of the respective States to present their States' views to the committee. Failing the grant of this request, due regard for the important questions of constitutional propriety and legality presented and the necessity to have these questions determined by the appropriate tribunal, constrains me to instruct the New York members of the Port of New York Authority—

and in the case of Governor Meyner he said "the New Jersey members"—

to direct you, Mr. Tobin, and Mr. Carty not to produce the internal memoranda, worksheets, day-to-day correspondence and other materials now requested by the subpoena.

As we understand it, you have already produced the minutes of the Board and Committees, the reports of the Agency to the Governors and Legislatures, and a great volume of other documents delineating the scope of the agency's activities.

Mr. Chairman and gentlemen, you will recall that those are more particularly delineated and described in the letter of June 10 of this year, addressed to the chairman and other members of the committee.

Of course, similar board and committee minutes and agency reports may be supplied for any period now requested.

I might say parenthetically those are the papers which are produced today.

The furnishing of the internal records now requested, in the opinion of my legal advisers, would represent a serious infringement on the rights of the State under the Constitution and could constitute a dangerous precedent as recognition of Federal authority in an area of State responsibility.

My only purpose is to insure that these basic questions of constitutional propriety and legality will be fully considered and determined by the appropriate tribunal.

I regret any inconvenience this may cause you personally, but I know you share with me the desire to have these basic issues decided with due regard for the substantial matters of State concern which are involved.

"Sincerely," in the case of New York, "Nelson Rockefeller"; in the case of New Jersey, "Robert Meyner."

Now, Mr. Chairman, the attorneys general of both States are present in this hearing room. Could we have the opportunity—

The CHAIRMAN. Are you now reading?

Mr. GOLDSTEIN. No, sir; I am not.

The CHAIRMAN. Have you finished the reading?

Mr. GOLDSTEIN. Yes, sir; I have.

The letters are submitted to be filed for the record.

The CHAIRMAN. I will hear you subsequently.

(The letters referred to are as follows:)

STATE OF NEW YORK,
EXECUTIVE CHAMBER,
Albany, June 25, 1960.

Hon. S. SLOAN COLT,
Chairman, Port of New York Authority,
New York, N.Y.

DEAR MR. COLT: On June 23, 1960, as you know, Governor Meyner and I sent telegrams to the members of the House Judiciary Committee requesting the opportunity to meet with the Judiciary Committee at a mutually convenient date to present for the committee's consideration our position on the grave questions of constitutional propriety arising from the subpoena served upon you, as chairman, Austin J. Tobin, the executive director, and Joseph G. Carty, the secretary of the Port of New York Authority. We requested an adjournment of the subpoena to permit such a presentation to the committee. We took this action

because of our deep concern for the basic principles of our American form of government which reserves to the States all powers not delegated to the Federal Government.

We have sought by these means to resolve the important constitutional issues involved in a cooperative manner. The subpoena at issue appeared to us and our legal advisers to constitute a novel intrusion by the Federal Government into areas reserved by the Constitution to our respective States and to constitute a precedent which could subject various agencies of State government throughout the Nation to be similarly answerable to Federal authority. As the responsible chief executives of our States, we could not allow such action involving a State agency to proceed without our having an opportunity to present our objections.

The chairman of the Judiciary Committee has refused our request for a meeting and has refused to adjourn the date for the return of the subpoena to permit us to present our objections. Accordingly, in order to insure that these basic issues may be presented and decided in an orderly way and with full opportunity for the States to present their views on these crucial questions, I am instructing the New York members of the Port of New York Authority to direct you, Mr. Tobin and Mr. Carty, when you appear before the subcommittee on June 29, to renew our request for an adjournment of the return date of the subpoena to permit the Governors of the respective States to present their States' views to the committee. Failing the grant of this request, due regard for the important questions of constitutional propriety and legality presented and the necessity to have these questions determined by the appropriate tribunal, constrains me to instruct the New York members of the Port of New York Authority to direct you, Mr. Tobin and Mr. Carty not to produce the internal memorandums, worksheets, day-to-day correspondence and other materials now requested by the subpoena.

As we understand it, you have already produced the minutes of the board and committees, the reports of the agency to the Governors and legislatures, and a great volume of other documents delineating the scope of the agency's activities. Of course, similar board and committee minutes and agency reports may be supplied for any period now requested.

The furnishing of the internal records now requested, in the opinion of my legal advisers, would represent a serious infringement on the rights of the State under the Constitution and could constitute a dangerous precedent as recognition of Federal authority in an area of State responsibility.

My only purpose is to insure that these basic questions of constitutional propriety and legality will be fully considered and determined by the appropriate tribunal.

I regret any inconvenience this may cause you personally, but I know you share with me the desire to have these basic issues decided with due regard for the substantial matters of State concern which are involved.

Sincerely,

NELSON ROCKEFELLER.

STATE OF NEW JERSEY,
OFFICE OF THE GOVERNOR,
Trenton, June 25, 1960.

HON. JAMES C. KELLOGG III,
Vice-Chairman, Port of New York Authority, New York, N.Y.

DEAR MR. KELLOGG: On June 23, 1960, as you know, Governor Rockefeller and I sent telegrams to the members of the House Judiciary Committee requesting the opportunity to meet with the Judiciary Committee at a mutually convenient date to present for the committee's consideration our position on the grave questions of constitutional propriety arising from the subpoena served upon S. Sloan Colt, the chairman, Austin J. Tobin, the executive director, and Joseph G. Carty, the secretary of the Port of New York Authority. We requested an adjournment of the subpoena to permit such a presentation to the committee. We took this action because of our deep concern for the basic principles of our American form of government which reserve to the States all powers not delegated to the Federal Government.

We have sought by these means to resolve the important constitutional issues involved in a cooperative manner. The subpoena at issue appeared to us and our legal advisers to constitute a novel intrusion by the Federal Government into areas reserved by the Constitution to our respective States and to constitute a precedent which could subject various agencies of State government throughout

the Nation to be similarly answerable to Federal authority. As the responsible chief executives of our States, we could not allow such action involving a State agency to proceed without our having an opportunity to present our objections.

The chairman of the Judiciary Committee has refused our request for a meeting and has refused to adjourn the date for the return of the subpoena to permit us to present our objections. Accordingly, in order to insure that these basic issues may be presented and decided in an orderly way and with full opportunity for the States to present their views on these crucial questions, I am instructing the New Jersey members of the Port of New York Authority to direct Mr. Colt, Mr. Tobin, and Mr. Carty, when they appear before the subcommittee on June 29, to renew our request for an adjournment of the return date of the subpoena to permit the Governors of the respective States to present their States' views to the committee. Failing the grant of this request, due regard for the important questions of constitutional propriety and legality presented and the necessity to have these questions determined by the appropriate tribunal, constrains me to instruct the New Jersey members of the port authority to direct Mr. Colt, Mr. Tobin, and Mr. Carty not to produce the internal memoranda, worksheets, day-to-day correspondences and other materials now requested by the subpoena.

As we understand it, you have already produced the minutes of the board and committees, the reports of the agency to the Governors and the legislatures and a great volume of other documents delineating the scope of the agency's activities. Of course, similar board and committee minutes and agency reports may be supplied for any period now requested.

The furnishing of the internal records now requested, in the opinion of my legal advisers, would represent a serious infringement of the rights of the States under the Constitution and could constitute a dangerous precedent as recognition of Federal authority in an area of State responsibility.

My only purpose is to insure that these basic questions of constitutional propriety and legality will be fully considered and determined by the appropriate tribunal.

I regret any inconvenience this may cause Chairman Colt and the other officers of the port authority, but I know you share with me the desire to have these basic issues decided with due regard for the substantial matters of State concern which are involved.

Sincerely,

ROBERT B. MEYNER.

Are there any other documents you want to read, Mr. Colt?

Mr. Colt, I wish to repeat, after conferring once again with your personal counsel, you may amplify or explain any answer to any question propounded to you when you first testified.

MR. COLT. I might make one more statement, sir.

As chairman of the Port of New York Authority, my duty as such officer, as set forth in the bylaws of the Port of New York Authority, is to preside at all meetings, sign all official orders of the port authority, and to have general supervision over the business and affairs of the port authority subject to the direction of the port authority.

I maintain no office at the port authority. My office is at Bankers Trust Co., Madison Avenue, in New York City, where this subpoena was served upon me.

The day-to-day affairs of the port authority are in charge of the executive director, Austin J. Tobin, whose office is at the headquarters of the Port of New York Authority, 111 Eighth Avenue, Borough of Manhattan, in New York City.

According to the bylaws the executive director is in administrative charge of all internal activities of the port authority and in such capacity has custody of all of the documents described in the subpoena.

I do not have custody of any of such documents enumerated in the subpoena.

The CHAIRMAN. Mr. Colt, I have to ask you the questions I asked Mr. Tobin.

Have you produced:

(1) All the bylaws, organization manuals, rules and regulations? Mr. COLT. No. 1, that has been produced, Mr. Chairman.

The CHAIRMAN. Have you produced:

(2) Annual financial reports; internal financial reports, including budgetary analyses, postclosing trial balances, and internal audits; and management and financial reports prepared by outside consultants?

Mr. COLT. The annual financial reports have been produced, but the others have not.

The CHAIRMAN. (3) Have you produced all agenda and minutes of meetings of the board of commissioners and of its committees?

Mr. COLT. Mr. Chairman, if you wish to save the time, I will reply in the same manner that the executive director—

The CHAIRMAN. I must get this exact. Forgive me, I am sorry to take the time.

Have you produced all agenda and minutes of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff?

Mr. COLT. The minutes of the board meetings and of the committee meetings have been produced, but not the others.

The CHAIRMAN. (4) Have you produced all communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memorandums, and reports relating to:

(a) The negotiation, execution and performance of construction contracts; negotiation, execution, and performance of insurance contracts, policies, and arrangements; and negotiation, execution, and performance of public relations contracts, policies, and arrangements?

Mr. COLT. The answer is "No."

The CHAIRMAN. (b) The acquisition, transfer, and leasing of real estate?

Mr. COLT. No.

The CHAIRMAN. The negotiation and issuance of revenue bonds?

Mr. COLT. No.

The CHAIRMAN. The policies of the authority with respect to the development of rail transportation?

Mr. COLT. No.

The CHAIRMAN. Do you have any further statement to make to the subcommittee as to why you failed to bring with you all these documents, in addition to those you have already supplied? Do you wish to make any further statement?

Mr. COLT. Mr. Chairman, as you know, the Governors of New York and New Jersey question whether all these documents can constitutionally be demanded of a State agency, and they question whether these documents can properly be deemed pertinent to the work of your committee.

After most earnest consideration, we cannot see how the documents called for by your subpoena are pertinent to the work of your committee or how investigation by this committee into such State affairs is proper under our Federal system as established by the Constitution.

I have, of course, the deepest respect for the Congress of the United States and a sincere desire to cooperate in the work of this committee.

In this spirit, I have submitted the minutes of the port authority and its reports to the Governors and legislatures of the two States.

The CHAIRMAN. I read again from the bylaws of the Port of New York Authority, No. 3, entitled, "Duties of the Officers," Subdivision (a). The chairman:

The chairman shall preside at all meetings, sign all official orders of the port authority and shall have general supervision over the business and affairs of the port authority subject to the direction of the port authority.

Under that delegation of power, do you still stand on your answer that you have not supplied all the documents, data, and memorandums called for by the subpoena?

Mr. COLT. Yes; I do.

The CHAIRMAN. I would like the record to show that during Mr. Colt's appearance, he has been accompanied by his personal counsel, Mr. Schenker, and by Mr. Goldstein, who is the general counsel of the Port of New York Authority, and, in addition, Mr. Goldberg, who is assistant counsel of the Port of New York Authority.

Mr. Colt, did you have a conference or did you and the other members of your board have a conference with the Governors of the States of New York and New Jersey relative to these matters?

Mr. COLT. We did.

The CHAIRMAN. Was the action taken by the Governors and/or the board reduced to writing?

Mr. COLT. Excuse me, sir?

The CHAIRMAN. Was the action taken by the Governors and/or the board with the Port of New York Authority reduced to writing, and if it was reduced to writing, have you a copy of the action taken at that meeting?

Mr. GOLDSTEIN. Could we have the question again, Mr. Chairman?

The CHAIRMAN. Was the action taken by the Governors and/or the board reduced to writing; and, if so, have you got a copy, in addition to what has been read by Mr. Goldstein?

Mr. COLT. I am not sure that I understand your question correctly, but we do have minutes of the board of commissioners of the port authority relating to this whole subject.

The CHAIRMAN. Will you step aside a minute, please, Mr. Colt.

Mr. Carty.

Mr. SCHENKER. Will we be able to come back, if we deem it necessary?

The CHAIRMAN. No. He is not excused. Just take another seat. I am calling on Mr. Carty.

TESTIMONY OF JOSEPH G. CARTY, ACCOMPANIED BY SIDNEY GOLDSTEIN AND DANIEL B. GOLDBERG—Resumed

The CHAIRMAN. I want to ask you, Mr. Carty, do you care to make a statement to the subcommittee as to why you failed to bring with you all the documents described in the subpoena?

Mr. CARTY. Yes, I would like to, Mr. Chairman.

I have submitted herewith, Mr. Chairman, all the minutes of the meetings of the board of commissioners of the port authority, other than finance, construction, operations, and port planning thereof, for the period from January 1, 1946, to January 15, 1960.

I have also submitted the annual reports of the port authority to the Governors and Legislatures of the States of New Jersey and New York for the years 1946 through 1959.

As you know, Mr. Chairman, the Governors of New Jersey and New York feel that a demand by your subcommittee for the internal memorandums, worksheets, day-to-day correspondence, and other materials requested by your subpoena raises grave questions of constitutional principle and law.

The Governors question whether these documents can properly be deemed pertinent to the work of your committee.

Mr. Chairman, I should appreciate having the benefits of an expression of your views on the question of pertinency.

The CHAIRMAN. We will cover the matter of pertinency very shortly.

Mr. CARTY. Mr. Chairman, and members of the Judiciary Committee, I have the deepest respect for the Congress of the United States and a sincere desire to cooperate in the work of this committee.

I am, however, a State public official appointed by and answerable to the commissioners and through them to the Governors of the States of New Jersey and New York. If I were to comply with your demand to produce all the file material now requested, I would be violating the plain and direct instructions of the Governors as transmitted to me by the commissioners of the port authority.

Many of these documents are not in my custody, nor subject to my control, and as for the documents other than those which have been submitted to you, we cannot see how they are pertinent to the work of the committee.

I would appreciate an opportunity to receive any further instructions the Governors might wish to give to the commissioners in the light of the situation in which I now find myself.

The CHAIRMAN. Now, Mr. Carty, have you produced all the by-laws, organization manuals, rules, and regulations?

Mr. CARTY. Yes, Mr. Chairman.

The CHAIRMAN. What is that?

Mr. CARTY. Yes.

The CHAIRMAN. (2) Have you produced the annual financial reports; internal financial reports, including budgetary analyses—

Mr. CARTY. Mr. Chairman, I think I reported I furnished the annual financial reports, the internal—

The CHAIRMAN. You have not furnished the internal financial reports?

Mr. CARTY. No.

The CHAIRMAN. Please let me ask the questions.

Mr. CARTY. I am sorry, all right.

The CHAIRMAN. On some other occasion, I would be very happy to have you do the interrogating.

Have you produced the internal financial reports, internal budgetary analyses, postclosing trial balances, and internal audits?

Mr. CARTY. No, sir.

The CHAIRMAN. And financial reports prepared by outside consultants?

Mr. CARTY. No.

The CHAIRMAN. (3) Have you produced all agenda and minutes of meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff?

Mr. CARTY. Just the minutes, Mr. Chairman, of the committees and the board.

The CHAIRMAN. And the other items have not been produced in that category?

Mr. CARTY. No.

The CHAIRMAN. Have you produced all the communications in the files of the Port of New York Authority and in the files of any of its officers or employees including correspondence, interoffice and other memorandums and reports, relating to:—

(a) the negotiation, execution, and performance of construction contracts; negotiation, execution and performance of insurance contracts, policies, and arrangements; negotiation, execution, and performance of public relations contracts, policies, and arrangements;

(b) the acquisition transfer, and leasing of real estate;

(c) the negotiation and issuance of revenue bonds;

(d) the policies of the Authority with respect to the development of rail transportation?

Mr. CARTY. No.

The CHAIRMAN. Will you identify the category of documents and records listed in the subpoena over which you have custody or control?

Mr. CARTY. Well, the bylaws, I have, organizational manual, rules, and regulations, annual financial reports, minutes of the meetings of the board and its committees; those I have control of.

The CHAIRMAN. And you have official custody over none of the other?

Mr. CARTY. No, sir.

The CHAIRMAN. Will you step aside.

There will be read for the record now—Mr. Tobin, will you take the chair, please.

Mr. Tobin, you are privileged to express any opinion or offer any statement for the record that you care to.

TESTIMONY OF AUSTIN J. TOBIN, ACCOMPANIED BY SIDNEY GOLDSTEIN, AND DANIEL B. GOLDBERG—Resumed

Mr. TOBIN. Thank you, Mr. Chairman.

Mr. Chairman, after the most earnest consideration by all of the high State officers who have been mentioned here—

The CHAIRMAN. Would you mind raising your head? It is hard to hear. The acoustics are not too good here.

Mr. TOBIN. I am sorry.

After the most earnest consideration by the Governors, by our board, all of the State officers, the attorneys general, all those that are mentioned here, we regret that we cannot see how the documents called for by the subpoena are pertinent to the work of your committee or how investigation by this committee into such State affairs is proper under our Federal system as established by the Constitution.

As you know, sir, the deepest respect for the Congress of the United States by my privilege through 33 years service as a State officer to appear before many of the committees of the Senate and this House in various important matters concerning our port; and I have the most sincere desire to cooperate in the work of this committee or any committee, every committee of Congress.

In that spirit, I may say, sir, I submit the minutes of the port authority and its reports to the Governors and legislators of the two

States and all of the other documents which have been submitted here, and I offer to answer any questions which the committee may choose to ask for the purpose of assisting you in determining whether or not our agency has exceeded the scope of its activities as contemplated in the compact, and the extent to which our agency is carrying out its duties and responsibilities thereunder.

We respectfully submit that this would provide every fact which could be pertinent or helpful in the work of the committee, including the objectives and purposes set forth, sir, in your letter to me of June 8, 1960.

I am, however, a public official of the States, elected by and answerable to the commissioners and through them to the Governors of the States.

If I were to comply with your demand to produce internal file material now requested, I would be violating the plain and direct instructions of my Governors.

I would appreciate an opportunity to receive any further instructions the Governors might wish to give the commissioners in the light of the situation in which I now find myself. If you will not grant me that opportunity, then I must at this time respectfully and regretfully decline to deviate from the instructions of the Governors of New York and New Jersey as set forth in their letters of June 25, 1960, to Chairman Colt and to Vice Chairman Kellogg of the authority.

The CHAIRMAN. Mr. Tobin, what is the statutory authority of the Governor of the State of New York and the Governor of the State of New Jersey to order the officers of the port authority to refuse to turn over documents, requested by subpoena, to the U.S. House of Representatives?

Mr. TOBIN. I respectfully request, sir, that you give me the privilege of permitting the general counsel of the port authority to answer that question.

The CHAIRMAN. You may confer with the general counsel.

Mr. TOBIN. He is far more able to answer it than I am.

The CHAIRMAN. You may confer with the general counsel, if you wish.

Mr. TOBIN. Then in my capacity as a lay administrator—

The CHAIRMAN. All right, we will let Mr. Goldstein answer that question.

Mr. GOLDSTEIN. Mr. Chairman, as you well know, this is a State agency created by a compact between the two States. The Governors of the two States exercise veto rights over the action of all port authority commissioners.

No action of the port authority commissioners is complete without their approval.

The CHAIRMAN. Thank you very much.

Mr. GOLDSTEIN. They appoint the commissioners and they may remove.

The CHAIRMAN. I would like the three witnesses to come forward to the table, Mr. Colt, Mr. Carty, with Mr. Tobin.

Mr. ROGERS. Mr. Chairman, I do not think counsel answered your question.

The question is:

What is the statutory authority? Now, citing the statute is what we are asking for.

Mr. GOLDSTEIN. Under article 4 of the compact, Congressman Rogers, the port authority consists of 12 commissioners, 6 resident voters from the State of New York, at least 4 of whom shall be resident voters of the city of New York, and 6 resident voters from the State of New Jersey, at least 4 of whom shall be resident voters within the New Jersey portion of the district.

The New York members are to be chosen by the State of New York; and the New Jersey members, by the State of New Jersey in the manner and for the terms fixed and determined from time to time by the legislature of each State respectively, except as herein provided.

Each commissioner may be removed or suspended from office as provided by the law of the State from which he shall be appointed.

By legislation enacted by the States themselves, sir, they have provided that the appointive and removal power of the commissioners of the port authority be lodged in the office of the Governor.

The minutes of each action of the board of port commissioners are not binding or effective until they are submitted to the Governors, each of whom has 10 days in which to approve or veto the action of the Governors from the State.

Mr. ROGERS. Will you cite the authority which you are now outlining as a matter of law that it is necessary that the action taken by the port authority be submitted to the Governors for approval before it is final so far as the port authority is concerned?

Mr. GOLDSTEIN. Yes, sir, I will be glad to do that. I might remind you, Chairman Rogers, that the attorneys general of both States are present in this hearing room, and I am sure they would like an opportunity to address you on the subject of the relationship between the chief executive of each of their States.

But I will nevertheless cite to you, if you will just bear with me for a second.

In New Jersey, sir, it is chapter 152 of the Laws of New Jersey, 1921, as changed by chapter 245 of the Laws of New Jersey, 1930.

In New York, it is chapter 422 of the Laws of New York of 1930.

Would you care for me to read the provisions to you, sir?

I submit that the attorneys general are here, and if you would afford them the opportunity of addressing you, they would be pleased to do so.

The CHAIRMAN. You do not have to read the law. We will take judicial notice of those. You made reference to them.

Mr. Meader, the gentleman from Michigan, wishes to interrogate.

Mr. MEADER. Mr. Chairman, I should like to address a question to the three officials of the port authority who have testified, to be sure that I understand their testimony correctly.

Mr. Tobin, of the documents described in the subpoena, you have produced some and not produced the others. Is that correct?

Mr. TOBIN. That is correct, sir.

Mr. MEADER. Those that you have produced, you have produced pursuant to the subpoena?

Mr. TOBIN. Yes, sir.

Mr. MEADER. I would like to ask the same question of Mr. Colt, if I may.

Did you understand the question, Mr. Colt?

Mr. COLT. Yes, I do, yes, sir.

Mr. MEADER. Those documents which you have produced here today, you have produced pursuant to the subpoena, is that correct?

Mr. COLT. Yes.

Mr. MEADER. Mr. Carty?

Mr. CARTY. I heard the question, Mr. Congressman, yes.

Mr. MEADER. Those documents you have produced today, you have produced pursuant to the subpoena, is that correct?

Mr. CARTY. Yes.

The CHAIRMAN. I say to all three gentlemen who have been subpoenaed who are now before us that the documents required by the subpoena are pertinent to the authorized purpose of this investigation.

I am going to ask counsel to read a statement on the pertinence of these questions to this inquiry, and the subpoena and the requirement of production of the documents mentioned in the subpoena.

Mr. Maletz?

Mr. MALETZ. Questions have been raised as to the pertinence to the subcommittee's inquiry of the documents required by the subpoenas served upon these witnesses. With respect to those questions, the Chair wishes to make the following statement:

In the judgment of the subcommittee, the pertinence to the stated purpose of the subcommittee's inquiry of each of the categories of documents required by the subpoenas served upon these witnesses on June 15, 1960, is clear on the face of the subpoenas.

Virtually all these documents were first requested from the port authority in March of this year. Since then, other letters have been sent to the executive director of the port authority setting forth generally the scope of the inquiry, particularizing the requests, and making clear that the subcommittee will consider production of all documents described in these subpoenas dating from January 1, 1946, to June 15, 1960, to be full compliance with the subpoenas.

Thus, the port authority, its officers and employees, including these three witnesses, have had ample opportunity to study these requests and ascertain their pertinence.

While in the view of the subcommittee further explanation is not necessary, nevertheless, to avoid any possible question and in order to make abundantly clear to these witnesses wherein the documents requested by the subcommittee are pertinent to the subcommittee's inquiry, the Chair will explain briefly some of the reasons for requesting each of the categories of documents listed in the subpoenas.

As the Chair pointed out in his opening statement, the purpose of this inquiry is "to ascertain conformance or nonconformance of the Port of New York Authority with the congressionally imposed limitations on its powers and the extent and adequacy with which the authority is carrying out its duties and responsibilities under the congressionally approved compacts in order to determine whether Congress should legislate 'to alter, amend or repeal' its resolutions of approval."

The documents listed in the subpoenas are sought to aid the subcommittee in performing this legislative purpose. Each category of documents was considered by the subcommittee and was concluded to be necessary and pertinent to the accomplishment of this purpose.

1. Item (1) of the subpoenas calls for production of "all by-laws, organization manuals, rules and regulations" of the port authority.

These documents are needed to apprise the subcommittee of the scope and extent of the port authority's activities in order that the

subcommittee may ascertain whether or not the authority is adhering to the duties, responsibilities and limitations placed upon it by Congress in the enabling resolutions of 1921 and 1922.

A thorough knowledge of the port authority's structure, lines of authority, and its rules and regulations governing the activities of its officers and employees is needed so that the subcommittee may fully comprehend the scope of the authority's operations.

Furthermore, article XVIII of the 1921 compact, approved by the Congress in Public Resolution No. 17 of the 67th Congress, authorizes the port authority to make suitable rules and regulations "not inconsistent with the Constitution of the United States" and "subject to the exercise of the power of Congress for the improvement and conduct of navigation and commerce."

Manifestly, the subcommittee must examine, among other things, all rules, regulations, and manuals promulgated by the authority to find out whether they are in conformity with the limitations expressed in that article.

2. Item (2) of the subpoenas calls for production of "annual financial reports; internal financial reports, including budgetary analyses, post-closing trial balances, and internal audits; and management and financial reports prepared by outside consultants."

These materials, in addition to the port authority's annual two-page summaries of financial condition, are required by the subcommittee so that it may learn with particularity the extent and scope of the port authority's operations and activities with respect to specific undertakings.

It is therefore necessary for the subcommittee to find out how much of the authority's revenues are derived from, and how much of its expenditures go toward carrying out, each of its various projects.

Such information is essential to determine whether or not certain channels of interstate commerce in the port district are being discriminated against, or unduly burdened by, the policies—including financial policies—of the authority.

In addition, it has been alleged that the policy of the port authority in combining revenues for financing purposes from all its facilities, rather than reducing tolls on each facility as it is amortized, places an undue burden on the channels of interstate commerce and is contrary to national transportation policy.

The subcommittee needs the information specified in this item in considering the advisability of legislation conditioning congressional consent to the compacts upon agreement to modify existing policies of the authority.

Moreover, some of the receipts and expenditures of the port authority are, under the terms of the interstate compacts and under Federal law, subject to the scrutiny of various Federal agencies. For example, the Department of the Navy, the U.S. Army Engineer Corps, the Federal Aviation Agency, the General Services Administration and the General Accounting Office, among others, all have legal responsibilities over some of the authority's activities and finances.

Accordingly, it will be necessary for the subcommittee to examine all audits and internal financial data of the authority to determine the manner and extent to which the port authority has complied with the supervisory requirements imposed by the Federal agencies with responsibility for various port authority activities under the interstate

compacts and to determine whether or not congressional consent should be conditioned upon added safeguards.

3. Item (3) of the subpoenas calls for all "agenda and minutes of all meetings of the board of commissioners and of its committees; all reports to the commissioners by members of the executive staff."

These documents are pertinent to the inquiry to enable the subcommittee to learn what policies have been adopted by the board, the manner and extent to which those policies have been carried out by authority personnel and staff, and how those policies conform to obligations and limitations imposed by the congressionally-approved compacts.

This will permit a thoroughgoing review of the scope and extent of the activities and operations of the port authority at the top levels. It will also enable the subcommittee to determine whether or not policy formation and execution by the authority is consistent with congressionally-approved objectives.

The agenda and the reports of the staff are also required in order to afford a full view of the authority's activities and operations. For example, failure of the authority to follow staff recommendations with respect to any Federal interest affected by the authority's operations might frame issues significant in the subcommittee's assessment of those operations.

Item 4(a) of the subcommittee's subpoenas calls for all files relating to "negotiation, execution and performance of construction contracts; negotiation, execution and performance of insurance contracts, policies and arrangements; and negotiation, execution and performance of public relations contracts, policies and arrangements."

This request was made because those three categories of authority activities represent areas having direct impact upon Federal interests.

Construction contracts are important to the subcommittee because most construction undertaken by the authority is for facilities used in, or in the aid of, interstate commerce or national defense. The subcommittee desires to ascertain whether this construction satisfies Federal requirements, policies and responsibilities and whether other construction work by the authority affects or interferes with any Federal projects or construction policy.

Insurance contracts are necessary to the inquiry, in part, because of the huge risks involved in the day-to-day operation of authority facilities and the potential liability of the port authority with respect to important national defense instrumentalities and with respect to the movement of persons and goods in interstate commerce.

In the event of any casualty for which the authority is liable, the possible indemnity could reach hundreds of millions of dollars, as was the case, for example, in the Texas City disaster. Should the files show that insurance coverage has not been adequate to protect fully all of the Federal interests affected by the port authority, modification of the interstate compacts may be necessary.

Further, if in the negotiation or letting of insurance or construction contracts clothed with Federal interests, practices are followed that prevent full competition or otherwise conflict with national policies, again, legislation modifying consent in these regards may become important.

Public relations contracts are needed for similar reasons and for the additional reason that such contracts can be, and according to reports brought to the subcommittee's attention, have been used for the purpose of affecting legislation and other governmental decisions on a variety of subjects, including diversion of interstate and foreign commerce from certain United States ports to the port of New York.

Such activities of the port authority are of manifest significance to the Congress because the very purpose of the constitutional requirement of congressional consent is to safeguard the interests of the many States from the combined efforts of those acting under a compact.

Item 4(b) of the subcommittee's subpoenas calls for all records relating to "the acquisition, transfer and leasing of real estate."

These documents are sought by the subcommittee, in part, because of its concern over certain real estate practices of the port authority as reported in various allegations coming to the subcommittee's attention. The subcommittee's duty to ascertain whether amending legislation to the consent resolutions of 1921 and 1922 is necessary with respect to these matters, makes it essential for it to examine these files.

In this connection, the subcommittee wishes to consider, for example, whether real estate acquisitions, transfers and leases by the port authority outside the specified geographical limits of the port district as contemplated by Congress should be further limited by modifying legislation. It also wishes to consider, as an additional example, whether the acquisition, transfer and leasing of real estate by the port authority for industrial development and similar commercial purposes not related to the initially approved purpose of coordinating transportation should be curtailed or regulated.

These legislative aims require that the subcommittee have full knowledge of current and past practices and policies of the port authority with respect to all real estate transactions.

Item 4(c) of the subcommittee's subpoenas requires the production of files relating to "the negotiation and issuance of revenue bonds."

These documents are sought, in part, because it has been alleged that full and free competition is not permitted by the authority in underwriting arrangements for issuance of its bonds.

In addition, it appears that issuance of these bonds is not subject to regulation by the Securities and Exchange Commission. The effectiveness with which the port authority conducts these financing operations bears directly upon its ability to carry out its responsibilities under the compacts.

Accordingly, it is essential that the subcommittee scrutinize these files in considering whether to condition further consent to the compacts upon changes in financial policies of the authority.

Item 4(d) of the subcommittee's subpoenas calls for files relating to "the policies of the authority with respect to the development of rail transportation."

These documents have been requested because of the subcommittee's desire to ascertain the extent to which one of the authority's principal purposes has been carried out. In article 6 of the 1921 compact as approved by Congress, certain primary powers granted under the compact are conditioned upon approval of a comprehensive plan for the development of the port.

In 1922, this comprehensive plan was presented to the Congress and approved. The 1922 comprehensive plan dealt extensively with development of rail transportation into and out of the port district. Accordingly, examination of files dealing with policies concerning the development of rail transportation are necessary to give the subcommittee information as to how this part of the authority's mandate as approved by Congress in 1922 has been and is being carried out.

The foregoing explanation, the Chair wishes to emphasize, illustrates only some of the respects in which the documents required by its subpoenas are necessary to the effectuation of the subcommittee's inquiry.

The Chair has made the foregoing statement to make clear to all concerned that the selection of documents required by the subpoenas is reasonably calculated to aid the subcommittee in carrying out the duties and responsibilities imposed upon it by its parent Committee on the Judiciary and by the U.S. House of Representatives. However, the foregoing in no way exhausts the reasons why the documents called for by the subpoenas are pertinent and necessary to the subcommittee's inquiry.

The CHAIRMAN. At one stage of the proceedings, I am informed that Mr. Goldstein, the distinguished general counsel of the port authority, said, "As you know, Mr. Chairman, the port authority is a State agency."

I unfortunately did not hear that statement when it was uttered. My attention was directed to other matters. I do not wish my silence to be tantamount to any admission that the port authority is a State agency.

Now, the Chair wishes to state to the gentlemen before us the following:

Mr. Colt, Mr. Tobin, Mr. Carty, in the light of the Chair's explanation of the subcommittee's authority and of the pertinence of all the documents required by its subpoenas, and in the light of the subcommittee's conclusion that its subpoenas are valid and in full effect, and in the light of its conclusion that each of you is amenable to these subpoenas, has custody of, or power to produce, the documents required by the subpoenas served upon each of you, I hereby order and direct you to comply forthwith fully and completely with the subpoenas served upon you on June 15 by producing all documents listed therein.

Mr. Colt, Mr. Tobin, and Mr. Carty, are you prepared to submit all the documents that have been requested forthwith?

Mr. TOBIN. Mr. Chairman, on behalf of the chairman, Mr. Carty, and myself, may I respectfully—

The CHAIRMAN. I just ask you to speak for yourself.

Mr. TOBIN. On behalf of myself, may I respectfully request that our general counsel of the port authority be heard?

The CHAIRMAN. No. Counsel will be given an opportunity subsequently. I just ask the question: Are you ready now to produce forthwith, comply fully and completely with the subpoena served on you on June 15, by producing all the records asked therein? I ask that of Mr. Colt first.

Mr. COLT. Mr. Chairman, in the light of the instruction of the Governors, I certainly would ask to have the right to confer with them before I agree to anything such as you ask.

The CHAIRMAN. Are you ready now, Mr. Colt; are you or are you not ready to submit forthwith the documents, all the documents, mentioned in the subpoena, modified by the letter which has been referred to?

Mr. GOLDSTEIN. Could we have 5 minutes, Mr. Chairman?

The CHAIRMAN. Five minutes for what?

Mr. GOLDSTEIN. To consult.

The CHAIRMAN. All right; we will give you 5 minutes.

(Whereupon, a brief recess was taken, after which the hearing was resumed.)

The CHAIRMAN. The Chair wishes to—

Mr. LEFKOWITZ. Mr. Chairman, may I be heard?

The CHAIRMAN. The Chair notes a quorum is present. I recognize the gentleman from Michigan for a statement.

Mr. MEADER. Mr. Chairman, with reference to the statement by Mr. Goldstein, to which the chairman recently referred, classifying the port authority as a State agency, I should just simply like to state for the record that created by a compact between two States which could not become effective without the consent of Congress, it seems to me it would be clear that this port authority would more properly be described as a regional authority which is neither an agency of any State nor an agency of the Federal Government, but an agency created by the power of two States and the power of the Federal Government.

Now, with respect to the scope of the committee's inquiry and the legislative purpose to be served by an inquiry into the operation of this regional authority which got the breath of life only with the consent of the Congress, it seems to me a very important legislative purpose would be the possible amendment of the Constitution of the United States that the Congress has the authority to initiate amendments to the Constitution of the United States and resolutions to accomplish that end are ordinarily referred to the House Judiciary Committee, House resolutions for that purpose are, and that an inquiry into the operation of the compact clause of the Constitution of the United States might very well indicate the propriety or necessity of some clarification, modification, or amendment of the compact clause of the U.S. Constitution.

The CHAIRMAN. Thank you.

Mr. MEADER. These are simply an addition to the views which the counsel read which I understood were the views of the chairman, and I did not hear that legislative purpose mentioned in those views, and I thought it should appear in our record.

The CHAIRMAN. Thank you very much.

Mr. Colt, may I have your attention? In the light of the Chair's explanation of the subcommittee's authority as to the pertinence of all the documents required by its subpoena and in the light of the subcommittee's conclusion that the subpoenas are valid and in full effect, and in the light of its conclusion that you are amenable to your subpoena served on you, that you have custody of or direct production of the documents required in the subpoena served upon you, I hereby order and direct you to comply forthwith fully and completely with the subpoena served upon you on June 15 by producing all the documents listed therein. Are you ready to forthwith supply all those documents and data mentioned in the subpoena?

Mr. LEFKOWITZ. Chairman Celler—

The CHAIRMAN. As modified by the letter.

Mr. LEFKOWITZ, I am going to ask you to take your seat. This is a question directed to Mr. Colt. His answer is yes or no and if he wishes to make an explanation after a yes or no answer he may do so.

Mr. LEFKOWITZ. My remarks are pertinent to the question you have asked. They are right in issue with the very question you have asked.

The CHAIRMAN. Mr. Lefkowitz, I cannot accept your statement at this time. You will be given an opportunity later to express yourself.

Mr. LEFKOWITZ. Could the record merely—could I respectfully ask—

The CHAIRMAN. Mr. Colt, will you please answer the question yes or no? Then you will be permitted to make an explanation.

Mr. COLT. I must at this time respectfully decline to deviate from the instructions of the Governors of New York and New Jersey.

The CHAIRMAN. Is your answer no or yes?

Mr. COLT. As set forth in their letters of June 25, 1960, to Vice Chairman Kellogg and to me.

The CHAIRMAN. I ask you the question again. Are you prepared forthwith to submit all the documents listed, mentioned in the subpoena, modified by the letter to which reference has been made?

Mr. COLT. The answer is no.

The CHAIRMAN. Now you may make an explanation if you wish.

Mr. COLT. I have the deepest regret for having to make that statement. As I repeat, I have a great respect for the Congress and a sincere desire to cooperate. In that spirit, I have submitted the minutes of the port authority and its reports to the Governors and legislatures of the two States, and I offer to answer any question which the committee may choose to ask for the purpose of assisting you in determining whether or not our agency has exceeded the scope of its activities as contemplated in the compact, and the extent to which our agency is carrying out its duties and responsibilities thereunder.

The CHAIRMAN. Mr. Tobin, in the light of the Chair's explanation of the subcommittee's authority and of the pertinence of all the documents required by its subpoena and in the light of the subcommittee's conclusion that its subpoenas are valid, in force and full effect, and in the light of its conclusion that you are amenable to the subpoena served upon you, that you have custody or power to direct production of the documents required by the subpoena served upon you, I hereby order and direct you to comply forthwith fully and completely with the subpoena served upon you on June 15 as modified by the letter to which reference has been made by producing all documents listed in that subpoena as modified by that letter. Are you willing to submit all those documents mentioned, Mr. Tobin?

Mr. TOBIN. For all the reasons that I have heretofore stated, sir, I am unable to do so. For all the reasons that I have heretofore stated I am unable to do so.

The CHAIRMAN. You might answer yes or no, and then give your explanation. Are you prepared at this time to forthwith submit all those documents mentioned in the subpoena as modified by the letter?

Mr. TOBIN. No, sir; I cannot do so.

The CHAIRMAN. Now, you might give an explanation if you wish.

Mr. TOBIN. I have given the explanation fully, referred to the instructions of the Governors of the two States and the action taken by the commissioners of the port authority. I have referred to the fact that I regard the question of whether all these documents can constitutionally be demanded of a State agency, which is a very, very serious constitutional question, and whether they can be deemed pertinent to the work of your committee.

The CHAIRMAN. Now, Mr. Carty.

Mr. CARTY. Mr. Chairman—

The CHAIRMAN. Mr. Carty, in the light of the Chair's explanation of the subcommittee's authority, as to the pertinence of all the documents required by its subpoenas, in the light of the subcommittee's conclusion that its subpoenas are valid and in full effect, and in the light of its conclusion that you are amenable to the subpoena served upon you and have custody of or power to direct production of the documents required by the subpoena served upon you, I hereby order and direct you to comply forthwith fully and completely with the subpoena served upon you on June 15 as modified by the letter to which reference has been made by producing all the documents listed therein. Are you prepared forthwith to supply the committee with all those documents?

Mr. CARTY. Mr. Chairman, the documents which—

The CHAIRMAN. The answer must be yes or no, and you can make an explanation afterwards. Are you prepared to?

Mr. CARTY. No.

The CHAIRMAN. You might make an explanation.

Mr. CARTY. The documents which I have are not produced, Mr. Chairman, are not in my official custody nor subject to my control, and as for the documents, other than those which I have submitted to your committee, we cannot see how they are pertinent to the work of your committee. I would appreciate an opportunity to receive further instructions the Governors might wish to give to the commissioners in the light of the situation in which I now find myself. If you will not grant me that opportunity, then I must at this time respectfully and regretfully decline to deviate from the instructions of the Governors of New Jersey and New York.

The CHAIRMAN. The Chair notes for the record that each of the witnesses, Mr. Colt, Mr. Tobin, Mr. Carty, has now failed to comply with the subpoena as served upon them at the direction of the subcommittee, and that each one has failed to bring with him all documents required by that subpoena or indicate willingness to make all such documents immediately available to the subcommittee. Consequently, the Chair rules that each of the witnesses, Mr. S. Sloan Colt, Mr. Joseph G. Carty, and Mr. Austin J. Tobin is in default and may be subject to the penalties prescribed by section 192 of title 2 of the United States Code.

The subcommittee will consider subsequently in executive session the conduct of these witnesses.

The witnesses may now be excused, but are directed to make themselves available to the subcommittee subject to the call of the Chair on 24 hours' notice. They are further directed to leave addresses and telephone numbers with the staff director of this committee as to where they can be reached.

The subpoenas served upon each of these witnesses is continued in full force, effective until further notice.

The committee will be very happy to hear from the attorney general of the State of New York, the attorney general from the State of New Jersey. The Chair wishes to state, and repeat, that counsel have no standing unless they be witnesses called by the committee to issue statements. However, in the light of the paramount importance of this matter, in the light of the fact that the gentlemen are distinguished officers of two sovereign States, as a matter of grace and not as a matter of right, they shall be privileged to make a statement.

Mr. GOLDSTEIN. May I make the first statement, Mr. Celler?

Mr. HOLTZMAN. Mr. Chairman, I should like to call to the chairman's attention we have an automatic rollcall on the floor of the House.

The CHAIRMAN. We have a right to sit. We are privileged to sit.

Mr. DONOHUE. This is a rollcall, not a quorum call.

The CHAIRMAN. On what?

Mr. DONOHUE. On some of the business being transacted.

Mr. MILLER. The King of Thailand.

The CHAIRMAN. Off the record.

(Discussion off the record.)

The CHAIRMAN. Mr. McCulloch?

Mr. McCULLOCH. Mr. Chairman, I would like the record to show this fact at this time, that the statement of the chairman read by the chief counsel, which statement is entitled "The Documents Required by the Subpoenas as Modified by the Letters are Pertinent to the Authorized Purpose of This Investigation," was authorized by the subcommittee and is the statement not only of the chairman but is the statement of the subcommittee.

The CHAIRMAN. Mr. Holtzman?

We will now hear from the distinguished attorneys general of the State of New York and from the State of New Jersey.

Mr. GOLDSTEIN. Will I be given an opportunity to be heard, sir?

The CHAIRMAN. You will be given an opportunity, also.

STATEMENT OF LOUIS J. LEFKOWITZ, ATTORNEY GENERAL OF THE STATE OF NEW YORK

Mr. LEFKOWITZ. Congressman Celler and members of the committee, first my thanks for the privilege to speak to you, even though you indicated it is by grace rather than by law or rule. I hope you will give consideration to my remarks even though they are pursuant to grace granted by you.

I am going to ask that you respectfully defer the ruling you made, namely that the witnesses, whose names you have mentioned, are in default. In effect, that is based on the fact that the internal working papers were not produced. I most respectfully ask that you and the members of the committee give consideration to reasons which I will advance very shortly, that the ruling which you just made, namely that the witnesses are in default, that that ruling be deferred.

In the first place, let me make it crystal clear that the Governor of my State, and I know the representative of the Governor of New Jersey will agree with me, that they are greatly disturbed by what is taking place. This is more than just perhaps a quarrel or a disagree-

ment or an issue between your honorable committee and the port authority. This involves, if you please, an issue between Congress and the sovereign States of New York and New Jersey, the people of those States, if you please. It is far and above personalities. And this is not an issue too easily to be resolved.

I respectfully say to you gentlemen that when the Governors of the two States, and let me confine myself to New York, respectfully asks, because of his concern about these issues, an opportunity to be heard, with all due respect, I think, when a Governor of a State manifests that interest in a problem which affects the sovereignty of his State and the people, that this committee should give him a chance to be heard.

Now, you might say to me you have thrown over all these legal questions and constitutional questions. I have no doubt you have. But it goes beyond that, too. It concerns the welfare of the State, the sovereignty and some very important questions. I think when this opportunity to be heard has been asked for, I think, Mr. Chairman and members of the committee, that should be granted.

The telegram which is addressed specifically asks for that.

Now we need calmness here. We need an area of sitting down across the table to talk this thing over and my plea, therefore, is one of forbearance. Don't you think the fact that the Governor of New York and the Governor of New Jersey asked for this appointment certainly should indicate to all of you that this is a matter of deep concern to them, not the ordinary day-in and day-out matters where they can have other people take care of it? It seems to me if they wanted this opportunity to be heard it should be granted.

Now let me go on to say this: I can't see possibly what harm could result by this committee, and I ask this most respectfully, to defer the ruling which has been asked by the Governor. I ask on behalf of the Governor of the State—as you all know the Governors are attending a conference now. I think this ruling which you made, Mr. Chairman, which was joined in by members of the subcommittee, from what the Congressman from Ohio stated, should be deferred to give the Governors a chance to be heard. They want the chance to sit down and discuss this dispassionately and in an orderly way the issues involved, which go beyond legal and constitutional questions as well.

You might say to me, well, after you get through listening to them you might be of the same accord. That is beside the point. There is an orderly way of doing things. There is a chance to be heard, and I can't see what harm could result by this committee not denying the opportunity to the Governors of the two States a chance to be heard.

Let me go a little further than this. Beyond the question of constitutional legal questions, I want to tell you members of the committee there is something you are overlooking. There is a practical question involved here. The U.S. Supreme Court time and time again, and the very congressional committees of your House, have urged States to have compacts. They have asked them to increase these compacts, the result of which not only in New York State and in New Jersey, but throughout the country, there are compacts now in existence, and the highest court of this land has urged these compacts, so have the congressional committees, as I have said before. I make

this statement, and I make it after talking on the phone with attorneys general of other States, after consulting with others personally, that the action of this committee in requiring the production of the internal day-by-day working papers in the course of which you have just ruled that these witnesses are in default will inhibit and discourage the making of these interstate compacts. And need I tell you if you bring about that result it will have a most disastrous effect not only on the economy of the States involved or on those who in the future would like to make these compacts, but in every area of Government, business, labor, transportation, food delivery, health, comfort, safety, anything you can think of. I think you should take heed. This is extremely important. The States have combined with these compacts. They are doing a great job on it. I think the worst thing that could happen is to have them feel that if they enter into compacts there would be a day-to-day supervision by a Federal committee or an agency of what they do day to day. I think this is the practical aspect that should not be overlooked.

You have heard a lot about the constitutional questions, and I can talk about that as well. But I should like to sit down with this last plea, Chairman Celler, and to the members of this committee: You have made your ruling. You are still in session. I think you should please take heed of what I have asked and what my colleague, Dave Furman, will mention. The request of these two Governors, (a) should be granted; (b) I think you should think seriously of the effect this would have on future compacts between States, bearing in mind, please, it has been the urge of the U.S. Supreme Court as well as your own congressional committees to do so.

I am reasonably satisfied that there must and should be a way where the Governors, attorneys general, the port authority, the counsel can sit down and work out some orderly fashion, if you please, where this important question can be tested in an orderly way before a tribunal which can have decision to do it. This is not an easy matter. This goes beyond the individuals involved here. The Governors' letter that was delivered which was read here was after consultation and after conferences. This is seriously looked at by the Governor of my State as well as the Governor of New Jersey.

Again, before I sit down, I want to express my thanks for the chance to be heard. If you are in session, I would like an opportunity later on; I don't want to take advantage of your kindness in letting me speak. I thought I would leave those thoughts with you which haven't as yet been discussed.

Thank you.

The CHAIRMAN. I just want to make a brief statement.

I would say, Mr. Attorney General, I have always had the highest regard for you personally, and I have a deep affection for you. We have been friends for a great many years. I regret that I have to make this ruling for the committee. Nonetheless, I am constrained to do so in pursuance of my duty as a Member of Congress and as chairman of this committee.

The ruling is that the judgment of default must stand and will not be deferred. The committee will be happy to confer with the Governors of the two sovereign States of New York and New Jersey in executive session at some future date. I mean the subcommittee will be perfectly willing to confer with the Governors of the two sovereign States at some subsequent time convenient to all.

Mr. LEFKOWITZ. In view of your last statement, Congressman Celler, what is the harm, then, in deferring the ruling, the effective date? You have made your ruling. It is obvious I can't change it. What is the harm, may I respectfully ask, to defer it until you have had a chance to speak to the two Governors as you have just indicated a desire to do?

The CHAIRMAN. Mr. Attorney General, there is no need for any protracted discussion along those lines.

Mr. LEFKOWITZ. No. It was a question based on your own statement.

The CHAIRMAN. The ruling has been made. Now, Mr. Furman?

STATEMENT OF D. C. FURMAN, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY

Mr. FURMAN. Mr. Chairman, I am here representing Gov. Robert B. Meyner and the State of New Jersey.

First I want to join in the request by Attorney General Lefkowitz for this committee to rescind its action and to defer the requirement of production of the other papers and documents until Governor Rockefeller and Governor Meyner have had an opportunity to appear before the full subcommittee. I want to add further, Mr. Chairman, and members of the subcommittee, that I would strongly recommend another try here, an effort of reasonable men to get at the documents where there is a legitimate Federal concern to meet in conference to discuss in detail the lines of legitimate congressional concern and those that may perhaps be reserved to the States. Reasonable men, I believe, can work out a reasonable approach here.

That is the principle that Governor Meyner has stood for, and it is the reason why I am here today.

We feel that there is an important principle at stake. Here is an agency which for all the law on the subject that we have been able to uncover is an agency of two States. It is not a Federal agency. We have the parallel to a port wholly within one State, where the government either of the State or the city had expended money, had built port facilities, had dredged the harbor, had erected piers, had erected bridges, had erected airports. Many of the matters that that agency within a single State handled would be properly the subject of investigation by Congress, either this committee or the committee dealing with interstate and foreign commerce. Similarly, here all the official records of this agency have been brought before the committee. Other matters are regularly submitted to arms of the Federal Government, as I understand it. The Army Engineers have passed upon bridge and tunnel construction. The Army passes regularly on the reasonableness of the tolls. The Federal Government has authority over marine terminals. The Federal Government requires permits and information dealing with harbor construction or possible impediments with navigation. The FAA has a full audit function and a full investigation function over the airports of the Port of New York Authority.

Now, all those matters unquestionably are within the reach of Congress.

But just as we would feel that it was improper for Congress to look into the internal management records of the operation of a port authority within a single State, so we think it is improper for the Congress to examine into and require production of all the internal records of a bistate agency.

This is a broadside blanket application. It is all-encompassing. That is the basis for the objection of Governor Meyner and myself. There may be, for example, confidential investigation reports. There are undoubtedly work product reports. There are matters that are brought up by one of the staff and never approved. There are confidential discussions of employees, whether they should be promoted, whether they should be fired. We don't think that Congress legitimately ought to look into those matters where there is a single State involved.

We don't think that legitimately Congress ought to look into those matters where there is a bistate agency involved. I may say as I listened to the very able analysis of counsel for the subcommittee that there are certain generalities involved and there are tenuous connections that are framed between various internal management functions of the port authority and some matter that is within the scope of congressional investigation.

The Federal system depends upon a mutual respect. It depends upon a balancing of the sovereignties of the Federal Government and the States. If the Federal Government presses too hard, if it forces a hypothetical basis or theoretical basis for securing production of all the records of a State or a State agency, then the Federal system is faltering and falling down.

I recommend that if there is not agreement on the specific papers, records and documents which are of interest and of importance to this committee, then the procedure followed should be an action by way of declaratory judgment brought by this committee or by some other agency of the Federal Government to determine what are the boundary lines between matters properly exclusively within the domain of the States and what are the matters which Congress can ferret out and investigate.

That is a reasonable approach by reasonable men to have a declaratory judgment proceeding rather than the rather shocking alternative of holding these fine honorable public servants in contempt of Congress.

I say further that these men are acting in direct accordance with the legislation of the State of New Jersey and the State of New York as I understand it. They are respecting the executive authority of the Governor of the State who has directed them not to produce any documents beyond those produced.

We have in New Jersey, and we have it in New York as well, supervision over the port authority by the legislature, by the Governor, and by the courts. When back in 1954 the town of Weehawken challenged the construction of the third tube of the Lincoln Tunnel, the Supreme Court of New York held that that was ultra vires without the express consent of both legislatures. So we have a complete system for supervision by the three branches of the State governments, legislative, gubernatorial, and judicial.

The issues that involve these two fine public servants, Mr. Colt, Mr. Tobin, and in addition Mr. Carty, are not perhaps at this point

directly within the scope of consideration of the State of New Jersey. They are, however, plainly, as I see it, unable because of the direction of the Governor, they show a lack of willfulness in their disregard of the subpoena duces tecum of this committee because of the higher executive instruction.

In conclusion, I may add to what Attorney General Lefkowitz has said, there is hardly anything of greater significance in the development of regions, of ports, of areas extending across State lines than the compact power. As we understand it, the compact power is vested in Congress because an enlargement of State sovereignty would be beyond the power of a single State and because Congress should first examine into whether there was an interference with a legitimate Federal concern, such as an interference with navigable waters or an interference with interstate commerce.

The compact approval does not somehow lift this compact authority created by the law of the two States into an arm of Congress. It remains an arm of the two States.

The compact has been encouraged repeatedly by students of American government, and Congress itself has given a blanket approval to airport construction by two States. I say to you, Don't strike a fatal blow at the compact power by a ruling here adverse to these public servants.

Give it another try. Let's try to work it out either by conference, by the appearance of the Governors or, at the furthest alternative, a declaratory judgment suit.

Thank you for the opportunity to be here.

The CHAIRMAN. Thank you.

Mr. Goldstein?

STATEMENT OF SIDNEY GOLDSTEIN, GENERAL COUNSEL OF THE PORT OF NEW YORK AUTHORITY

Mr. GOLDSTEIN. Mr. Chairman, members of the committee, I respectfully appreciate this opportunity to state my estimate of the situation we find ourselves in as a result of your decision to proceed immediately with the grave issues involved.

I would also recommend to you a course of action for the committee which would not only serve its objectives but also avoid a contest of power between the Federal Government and the States.

The issue raised by your demand would not be between the committee and the port authority officers whom I represent. The issue would be between the committee and the States themselves.

So grave is this issue that Governors Rockefeller and Meyner have felt that they would not be properly discharging their functions as chief executives of their respective States if they did not seek to discuss it with you. It is unfortunate, therefore, that I should be cast in the role of presenting arguments which transcend the interests of the port authority. However, I am fortified by the appearance and very able presentations here of the attorneys general from both States, to emphasize their Governors' deep concern.

I respectfully suggest that the committee need not and should not at this point reach the questions of whether it has the power to compel the production of any and all file materials of a State agency and whether the Governor of a State may direct subordinate officers to

withhold any documents. The Federal system needs more than anything else an effort on the part of both the National and State Governments to avoid unnecessary challenges to each other's powers. Therefore, the first question for the committee is whether it can avoid precipitating a clash of the respective sovereignties on the issue of raw and naked power.

The committee is obviously not interested in establishing its power for its own sake. It is seeking information. It should certainly exhaust the possibility of securing that information in any way short of challenging the sovereignty of the States and precipitating the Governors into an answering assertion of State sovereignty.

We offer, and have offered, and repeat the offer, that the port authority officers answer any questions which the committee may choose to ask for the purpose of assisting you in determining whether or not our agency has exceeded the scope of its activities contemplated in the compact and the extent to which our agency is carrying out its duties and responsibilities thereunder. You have made it clear that these are the stated purposes of your inquiry. The witness' instructions from the Governors leave them perfectly free to testify on these matters before this committee and to produce all port authority board and committee minutes, as well as all official port authority reports to the Governors and legislatures of both States for the 14-year period which your letter said is the period in which you are interested. I should point out that these minutes and reports contain all port authority documentary materials that I believe are pertinent to the proper scope of this committee's inquiry.

They contain, for example, the port authority's annual financial reports, the reports of its outside independent auditors, the port authority's annual budgets, all called for in item 2 of the subpoena. The minutes which are called for by item 3 of the subpoena also contain the staff recommendations of the commissioners which are likewise demanded by the subpoena. The minutes also include a delineation of all construction contracts, insurance contracts, and contracts with consultants; they identify and fully describe all acquisitions, transfers, and leaseings of real estate; they contain copies of the form of each bond authorized to be issued and sold by the port authority and also the details of each transaction involving the solicitation of bids for the sale of such bonds and the statements of the policies of the port authority with respect to the development of rail transportation, all the subject matter of item 4 of the subpoena. In addition, we would produce the port authority bylaws which are called for by item 1 of the subpoena, and we have produced them. The port authority organization manual, called for in item 1, has been made available to the staff investigators of the committee.

Now, Mr. Chairman and gentlemen of the committee, let us consider the nature of the communications and other materials in the files of the port authority which the Governors have instructed the port authority officers to withhold pending the Governors' meeting with you. The Governors have instructed the witnesses not to produce the internal memorandums, worksheets, day-to-day correspondence, and similar materials. As in the case of all executive departments of government, such port authority internal materials contain documents reflecting the personal judgments of subordinates made in the course of preparing recommendations to higher officials, many of

which are never transmitted to the commissioners. In every legal and actual sense, the discussions of subordinates simply are not encompassed by the activities of the port authority itself.

The port authority is an incorporation of 12 public officers, appointed by the elected Governors of two sovereign States. They act subject to the veto of their respective Governors. It is what the commissioners do that constitutes the action of the port authority.

If the committee truly wants to explore what the port authority has done or has not done, the answer can best be found—in fact, the answer can only be found—in the actions of the board of commissioners, as reviewed by the Governors.

What I am suggesting to you is that you do not insist at this time on demanding the production of those documents which the Governors have instructed the witnesses to refrain from producing pending the Governors' meeting with you. I am thus not calling upon you for an affirmative acknowledgment of States rights but merely ask that you refrain from insisting upon the assertion of Federal rights in this novel situation. Such a mutual forbearance at both levels respects the delicate balance which alone can keep our Federal system functioning and vital.

At the present time, one of the great questions of domestic concern facing the United States is the maintenance of a proper balance between the national and State partners in our Federal system. Congress itself recognized the vital importance of this problem only last year when it established a permanent Advisory Committee on Intergovernmental Relations. The creation of this Committee grew out of the recommendations contained in the 1955 report of the Presidential Commission on Intergovernmental Relations. This Commission, as you are no doubt aware, contained distinguished Congressmen, Senators, and Presidential representatives. The Commission's primary recommendation was that the successful maintenance of a Federal system, operating in a vast and diverse country such as ours, requires a mutual "forbearance in the exercise of authority" on the part of both the Federal and State partners in each other's legitimate activities. Particularly, they said:

The national Government must refrain from taking over activities that the States and their subdivisions are performing with reasonable competence lest the vitality of State and local institutions be undermined.

The Governors and legislatures of the two States, whose agency the port authority is, quite obviously are charged with the responsibility of reviewing the organization and structure of the port authority, the conduct of its internal activities, and any matter concerning the port authority, absolutely without limitation. The minutes which contain all the port authority's official actions do not take effect until the Governors have had an opportunity to exercise their veto power. There would not, therefore, be any failure of proper, effective and nonpartisan supervision of this State agency if your committee were to exercise the forbearance which students of our Federal system judge to be essential to its maintenance.

I respectfully suggest, Mr. Chairman and gentlemen of the committee, that a collision between the asserted rights of the Federal Government and the reserved powers of the States would be deplorable and can readily be avoided. From its very inception 4 months ago

the investigation of the port authority has been conducted on the premise that discussions with the officers or staff members of the port authority and their answers to questions could produce no reliable information as to the activities of this public agency. At the very beginning and throughout the investigation, we have been met with an assertion of a right to roam at will through the files of the various departments of the port authority. My own efforts to inform your staff with respect to the port authority were consistently met with the repeated statement that the staff's only interest was in obtaining access to our internal files.

The CHAIRMAN: Mr. Goldstein, I want at this point to make this statement relative to what you have just stated. I believe it to be quite inaccurate. In other words, to show the other side of the coin, a memorandum by staff counsel, Mr. Brickfield and Mr. Singman, who conferred periodically with you and other officers of the port authority, will be placed in the record at this point.

(The letter referred to is as follows:)

JUNE 16, 1960.

Memorandum for file.

From: Julian H. Singman.

Subject: Meeting of Messrs. Tobin, Goldstein, Brickfield, and Singman.

My plane having been delayed because of fog, I arrived at the office of Mr. Austin J. Tobin, executive director of the Port of New York Authority, 111 Eighth Avenue, room 1503, at 10:15 a.m., June 15, 1960. The appointment had been set for 10 a.m. The receptionist informed me that Mr. Brickfield had already arrived and that the meeting was underway. She led me down the hall to the offices of the general counsel, Mr. Sidney Goldstein. There, I was ushered into a small cubicle where I found Mr. Tobin, Mr. Goldstein, and Mr. Brickfield, who introduced me to the other two.

Mr. Goldstein and Mr. Tobin were in the process of explaining to Mr. Brickfield that the Port of New York Authority was wholly a State agency, deriving all of its powers and authority from the States of New York and New Jersey, and that, therefore, the Congress of the United States had no right to interfere with, or inquire into, any of its activities. I pointed out to them that the Port of New York Authority was actually not a State agency but a bistate agency whose very existence depended upon congressional consent, and that, therefore, it is not accurate to say that all of its powers and authority stemmed exclusively from the two States. Mr. Goldstein countered that whether the source of power was from two States or one made no difference but that the authority was wholly a State agency, immune from Federal inquiry.

Mr. Goldstein stated that they did not know what was covered by the chairman's June 8 letter and what was not covered. He asked, for example, whether a report on cafeteria operations which was then on his desk would be covered. Mr. Brickfield explained that the letter was reasonably clear and definite and that, if the port authority had any doubt, it might be best to include doubtful items. I stated that in the initial instance the decision of what to include and what not to include was one that the port authority would have to make and the subcommittee would, of course, rely on their good intentions and desire to cooperate.

Mr. Goldstein indicated that it would be a mammoth task to separate the materials requested. Mr. Brickfield pointed out that this might have been true had the request been a new or different one, but since the request in the June 8 letter was identical with the request made 3 months previously, he did not think that this should come as a surprise, nor should it pose any difficult task.

Mr. Goldstein then stated that there was a serious constitutional question involved as to the power of the committee to investigate such a State agency as the port authority. Therefore, he thought that action should not be taken too hastily but that careful consideration should be given before a request of this kind is made. Mr. Brickfield stated that the same request had been made 12 weeks ago, that it had been considered all that time, that no reply had been forthcoming from Mr. Goldstein although he had promised to give the subcommittee a reply, and that further consideration would be superfluous. Mr. Goldstein stated that at least they should be given an opportunity to discuss this matter at length with

the subcommittee before it committed itself to such an unusual investigation of a State agency. Mr. Brickfield stated that consideration had been given time and time again, that this was not a new question, that Mr. Goldstein had delayed and delayed, that he could have had opportunity to discuss the matter with the subcommittee previously but had never requested such an opportunity, and that any further meeting with the subcommittee would only cause further unnecessary delay.

Mr. Goldstein then stated that the port authority was quite willing to turn over to the committee its bylaws, organization manuals, rules, regulations, annual financial reports, as well as minutes of meetings of the board of commissioners and of its committees. However, any of the other items requested in the June 8 letter was not, he thought, pertinent to the subcommittee's inquiry. He stated, for example, that insurance contracts were certainly not a matter within the legitimate purpose of the subcommittee's inquiry. He asked if either Mr. Brickfield or I could explain how they could be pertinent.

I replied that the port authority was responsible for the interstate transportation of millions of persons through air and surface transportation and, therefore, potential liability in the event of a disaster caused by port authority personnel was tremendous. Accordingly, the committee had a great interest in determining whether the carriage of persons or property in interstate commerce was adequately protected by the port authority insurance policies. Moreover, since the amount of insurance involved is likely to be substantial, the cost of such insurance would be a large part of the operating expense of the port authority and would, therefore, be a matter of legitimate interest in determining the extent of these operations to ascertain whether the authority was staying within its prescribed bounds.

Mr. Goldstein stated that he did not think that this was a reasonable explanation for inquiring into the internal activities of a State agency. He said the port authority would be happy to turn over the documents he mentioned but that the others were not pertinent. I replied that Mr. Goldstein's offer amounted to a willingness to give the subcommittee only those documents it could obtain in the public library and none else. Mr. Goldstein countered by saying that the information the port authority was willing to give the subcommittee would be ample for determining the scope and extent of the port authority's activities. I denied that, replying that minutes, for example, will show only what the board of commissioners had decided upon but would not show what in actuality the port authority or its employees had done. I explained that the committee is interested in the extent and scope of the activities and operations of the port authority itself, not of the board of commissioners or of the person who keeps the minutes of the board of commissioners' meetings.

Mr. Tobin interjected at that point that in the event some minor official had refused to follow a recommendation of the board of commissioners, that this was something for the State to police and not the Federal Government. He also stated that insurance contracts could not be of any importance to the subcommittee since the port authority is not engaged in interstate commerce (sic). Mr. Goldstein again asked what the purpose was in asking for insurance contracts. Mr. Brickfield stated that Mr. Singman had explained that earlier.

Mr. Goldstein reiterated that the port authority wanted an opportunity to express its views to the subcommittee since up to this time the subcommittee had the benefit only of views of its own counsel. He felt it only fair for the subcommittee to hear the port authority's legal arguments on this very important constitutional question. I stated to Mr. Brickfield that in view of our extended discussion that morning, which seemed to be reaching no area of agreement whatsoever, it might be well to assure Mr. Goldstein that the port authority officials could discuss the matter with the subcommittee on June 29.

Mr. Brickfield then told Mr. Tobin that he had been instructed by the subcommittee to attempt to reach agreement with respect to delivery of documents pursuant to the June 8 letter but that since no agreement was forthcoming, he had been instructed to serve Mr. Tobin with a subpoena returnable on June 29, which he then showed to Mr. Tobin. Mr. Brickfield said to Mr. Goldstein that he was instructed to serve this subpoena unless Mr. Goldstein and Mr. Tobin were willing to produce the documents requested. Mr. Goldstein replied that what Mr. Brickfield did with the subpoena was his business but that they could not make available documents that related to the internal affairs of a State agency without first discussing the matter with the subcommittee. Thereupon Mr. Brickfield handed the subpoena to Mr. Tobin, who threw it on Mr. Goldstein's desk and walked out.

The meeting terminated at about 11:10 a.m.

MEMORANDUM OF MEETING BETWEEN AUSTIN TOBIN AND SIDNEY GOLDSTEIN, AND CYRIL F. BRICKFIELD AND JULIAN SINGMAN, AT THE PORT AUTHORITY OFFICES, NEW YORK, N. Y., JUNE 15, 1960

The meeting lasted approximately 1 hour. Goldstein stated that he was still being troubled with the pertinency of the documents requested insofar as they appertain to the stated purpose of the subcommittee to look into the scope and activities of the PA. He could not see, for example, how an outside consultant's report on cafeteria activities would help the subcommittee in its inquiry.

In answer, I stated that I did not wish to get into a discussion of the legal issues, that the subcommittee was sure that the documents requested were pertinent to its inquiry. Further, that the cafeteria report should be made available and that it was for the subcommittee to decide whether it would make use of the report. I pointed out that doubtless other reports, such as consultant reports on the George Washington Bridge and other installations would be of interest to the subcommittee and that it was for the subcommittee to decide what reports would be of use. Mr. Tobin took the position that Congress had no powers over the NYPA, and further, both he and Goldstein stated that the PA was not engaged in interstate commerce. I disagreed with them as to the congressional power without discussing it, and further stated that I thought the PA was engaged in interstate commerce, and that if they were making some technical distinction, then certainly the least that could be said was that PA activities affected interstate commerce.

Goldstein went over the enumerated list of documents requested, as contained in the committee's letter of June 8, and stated that the PA would make available all matters in item No. 1 relating to bylaws and organizational manuals, etc., the financial reports in item No. 2. I then asked about the internal financial reports and he said that they concerned internal matters and that Congress did not have a right to obtain them. He made the same argument in connection with construction contracts and insurance contracts. I stated that all he was giving us were documents which were public and which the committee already had available to it. He said that since these matters concerned the internal affairs of the PA, the committee had no right to them.

Goldstein tried to draw us into a discussion of construction contracts and insurance contracts. I stated that I did not wish to be drawn into a discussion but that I would say, for example, that the committee knew the PA was engaged in industrial activities and we wanted to know to what extent, and that the contracts and correspondence were necessary. Julian Singman, regarding insurance contracts, stated the PA wrote millions of dollars of insurance yearly, that the U.S. Government had a proper interest in seeing that airports, for example, had adequate coverage; that a disaster at an airport or a bridge could be catastrophic and that the Congress wanted to know about PA's insurance, especially since it formed such a large part of the PA's activities. From time to time Tobin would join in the conversation, and the gist of his position was that Congress had no power over the NYPA; that it had never given the NYPA "a cent."

Finally, I again went over the list contained in the letter of June 8 with Goldstein and had him reiterate his position made earlier about the documents not being made available since they pertain to internal matters. He also stated that the PA should have an opportunity to again take up the question with the commissioners and the Governors, and be permitted to appear in Washington to present its argument to the subcommittee on the grounds that the subcommittee has heard only the side presented by committee counsel. I stated that to me it meant only delay; that the request made in the letter of June 8 was substantially the same request of 3 months earlier, made on March 11, 1960. I then stated since we could reach no agreement as to the documents to be made available that I was directed by the chairman of the committee to serve Mr. Tobin with a subpoena. Goldstein stated that what I do with the subpoena was my own concern but that the PA should be given an opportunity next Tuesday to appear before the full committee to explain its position. I then served Tobin. I also served subpoenas on Mr. Carty, secretary of the port authority and Mr. S. Sloan Colt, chairman of the board of commissioners.

C. F. BRICKFIELD.

The CHAIRMAN. Proceed.

Mr. GOLDSTEIN. Only if you choose to precipitate at the very outset a contest as to the respective powers of the Federal and State Governments over each other, without waiting to see if the testimony and material offered directly satisfy your needs, do you come to the

question of whether the documents which are demanded in the subpoena and have not been produced, may, as a matter of constitutional law, be ordered for production by State officers. On that score, with the support of the attorneys general of the States, I must respectfully suggest that the internal structure, organization, and administration of our State agency are not lawful subjects of investigation for this committee. Insofar as the subpoena calls for the production of documents relating to such matters, it not only unconstitutionally violates the nature of our Federal system by threatening the administrative integrity of our State governments, but also calls for the production of materials which are not pertinent to the subject matter of this inquiry.

What the subpoena in question really amounts to is nothing less than an assertion by the committee of the power of continued surveillance over the activities of a State agency. We do not believe the Constitution has granted this power to Congress.

Furthermore, I respectfully submit, that the subpoena calls for the production of documents, preliminary memorandums, intraoffice memorandums, and other material relating solely to the internal administration of a State agency, insofar as it attempts to, is not pertinent to the subject under inquiry. This material could not help the committee ascertain as originally contemplated by Congress or the extent to which it is carrying out its duties and responsibilities.

The Governors feel most strongly that the documents called for by the subpoena which relate solely to the internal affairs of an agency of their States are not only pertinent to the investigation's scope but could never be pertinent to any proper inquiry by this committee.

This follows for the basic reason that the port authority is solely a State, and in no sense a Federal agency. The subpoena, by seeking the production of material relating to the internal concerns of a State instrumentality, raises questions going to the very heart of our Federal system—questions of both congressional propriety and constitutional law.

I cannot emphasize too strongly that your demand for documents unnecessarily places Mr. Colt in a dilemma. As you know, Governor Rockefeller instructed Mr. Colt—

not to produce the internal memorandums, worksheets, day-to-day correspondence, and other materials now requested by the subpoena.

Your demand, Mr. Chairman, therefore, places Mr. Colt in the unenviable position either of disregarding the instructions of his official superior, the chief executive officer of the State of New York and the chief executive officer of the State of New Jersey, or risking a citation by this committee for contempt. That a public officer should be confronted with such alternatives is disturbing. It is particularly so in the case of a member of the board of commissioners of the port authority who contributes his time and energies to the public service without compensation. In view of these considerations, I again, respectfully, yet most seriously, urge that this committee reconsider its demand that Mr. Colt produce the balance of the subpoenaed documents, at least pending the outcome of a conference between the committee and the Governors of New York and New Jersey.

In conclusion, and by way of summary, I earnestly request you to consider the following matters:

First, I urge you once more to give serious consideration to whether or not the committee must choose, at this time, to force a resolution

of the question of its power to obtain internal port authority documents called for by your subpoena. Should you not first rather test our suggestion that the materials we have offered to produce and the testimony which our witnesses would freely give would be more than adequate to serve the purposes of your committee's inquiry? I suggest, with all of the earnestness at my command, that the course of contest over power is not only unnecessary in light of these considerations but is fraught with the peril of jeopardy to the delicate balance indispensable to the functioning and vital Federal system. We appeal first for forbearance on the part of the committee at least until the course I suggest has been tried. And it can be tried immediately.

Second, I wish to stress the gravity of the issues presented by the demand of the committee. These issues are between the committee and the States of New York and New Jersey in the final analysis and not between the committee and the port authority. They go to the very heart of our Federal system which is dependent upon the maintenance of a proper balance of authority between the National and State partners of our Federal system. In turn, these same issues pose a grave problem of constitutional law with respect to the powers of the Federal Government over a State.

Third, there exists the very real question as to whether all of the documents called for by the committee's subpoena are pertinent to the subject under inquiry by your committee.

Fourth, if after deliberation your committee chooses to precipitate those unfortunate and avoidable questions by pressing its present demand, I would hope that the committee will follow a course suggested by the attorneys general, which will resolve the matters in a manner which is conducive to the way we lawyers should act. They can be decided judicially in a manner which accords to the dignity of Congress and our respective States. It is a method which does not call for the citation for contempt of a public officer under instructions of his Governor to preserve the position of the State in the Federal system.

Thank you.

The CHAIRMAN. Thank you, Mr. Goldstein. It is the kind of statement I would expect from an erudite and scholarly lawyer like yourself, although I don't agree with you.

Mr. GOLDSTEIN. I am sorry you don't.

The CHAIRMAN. There will be inserted in the record at this point a brief in support of the investigation of the Port of New York Authority by this committee.

(The document referred to is as follows:)

BRIEF IN SUPPORT OF INVESTIGATION OF PORT OF NEW YORK AUTHORITY

Statement of facts.

Article I, section 10 of the Constitution—the compact clause—and the reservations by Congress of its right to alter, amend, or repeal the port authority compact, fully support a congressional inquiry into the operations of the port authority.

Congress also has ample powers to inquire into the operations of the port authority under the express powers of article I, section 8 of the Constitution and especially its power to regulate interstate and foreign commerce.

Congress is not precluded from inquiring into the operations of the port authority simply because such an inquiry may involve matters which are also of State concern.

STATEMENT OF FACTS

The Port of New York Authority is an interstate, regional development authority established under compacts between the States of New York and New Jersey, approved by Congress in 1921 and 1922 for the purpose of dealing with the planning and development of terminal and transportation facilities and improving the commerce of the port district. It was the declared expectation of Congress that the effectuation of these compacts would "better promote and facilitate commerce between the States and between the States and foreign nations and provide better and cheaper transportation of property and aid in providing better postal, military, and other services of value to the Nation."

The operations of the authority exercise a farflung influence on interstate commerce. They yield tax exempt revenues in excess of \$100 million annually from tunnels, bridges, terminals, airports, and shops, valued at more than \$900 million. The port authority's operations affect the lives of millions of Americans living outside as well as inside the port development area and the States of New York and New Jersey. They intimately affect the operation of Federal agencies responsible, among other things, for the national defense, navigable waterways, and air and surface traffic. In short, they profoundly affect Federal interests of many and various kinds.

Although 2 days of legislative hearings were held before this subcommittee in 1952 on a resolution that would have withdrawn congressional consent from the compacts and the authority, neither the Judiciary Committee, to which is assigned responsibility for interstate compacts of this character, nor any other congressional committee, has ever conducted a general investigation of the Port of New York Authority to determine its conformance or nonconformance to the limits of its authority or the extent or adequacy of its performance of its responsibilities in the public interest.

In recent months, complaints, varying widely in character and gravity, concerning the operations of the port authority under the compacts, have come to the attention of the committee.

In these circumstances and at the request of the entire New Jersey congressional delegation, the staff of the House Judiciary Committee was directed last March to make a study of the activities and operations of the authority under the 1921 and 1922 compacts, including a review of the scope of the authority's major operations. For that purpose the chairman, by letter dated March 11, 1960, requested the executive director of the authority to make certain of the authority's files available for examination by committee staff members. Notwithstanding this request, the port authority failed for the most part to make available the documents requested. Rather, it limited itself to supplying documents virtually all of which were already matters of public record.

Against this background, the subcommittee voted on June 8, 1960, to begin a full inquiry into the activities and operations of the Port of New York Authority under the 1921 and 1922 compacts. Also, on the same date, the subcommittee addressed a letter to the executive director of the authority requesting him to make available for examination by subcommittee staff representatives specified documents dating from January 1, 1946, and indicating that counsel for the subcommittee would call at the offices of the authority on June 15 for the purpose of examining these files at that time.

Two days later, by letter dated June 10, the executive director of the authority raised a number of objections to the request for inspection of documents in the port authority's files.¹ In the same letter he expressed the hope that when committee counsel called at the offices of the authority and met with its general counsel, those present would reach agreement as to the materials to be furnished in aid of the committee's inquiry. On June 15, counsel for the committee met with the executive director and the general counsel of the authority at its office, but the port authority persisted in refusing to make the requested documents available. Thereupon, subpoenas requiring the production of documents necessary to carry out the inquiry were served, returnable in Washington on June 29, 1960.

¹ These objections mark an apparent change in policy. At hearings before this subcommittee in 1952, the same official of the authority testified:

"As a public agency the port authority has always taken the position that its books and records are public information. On April 22, 1952, I wrote the chairman of this committee as follows: "The commissioners of the port authority have also asked me to assure you of their desire to place at the disposal of your committee whatever records, information, data, or other material which may be helpful to your staff in preparation for the hearings on this resolution. The port authority is a public agency and our records are completely available for perusal by the members of your committee or your staff." (transcript of hearings on H.J. Res. 375 before a subcommittee of the House Committee on the Judiciary, 82d Cong., 2d sess., 346 (1962)).

Subsequently, by letter dated June 17, 1960, the chairman notified the port authority that the subcommittee would consider production of documents dating from January 1, 1946, to June 15, 1960, to be full compliance with the subpoenas.

In taking these steps the subcommittee has acted and is acting pursuant to authority vested in, and responsibilities imposed upon, the Congress by the Constitution of the United States and, in turn, delegated to and imposed upon the House Judiciary Committee and this subcommittee.

I. ARTICLE I, SECTION 10, OF THE CONSTITUTION—THE COMPACT CLAUSE—AND THE RESERVATIONS BY CONGRESS OF ITS RIGHT TO ALTER, AMEND, OR REPEAL THE PORT AUTHORITY COMPACT, FULLY SUPPORT A CONGRESSIONAL INQUIRY INTO THE OPERATIONS OF THE PORT AUTHORITY

It is well established that each House of Congress has the power to conduct investigations and compel testimony to provide information upon which its Members may intelligently base legislative decisions (*McGrain v. Daugherty*, 273 U.S. 135 (1927)).² It is also well established that the scope of the congressional investigative power is broad. It is as penetrating and far reaching as the potential power to enact and appropriate under the Constitution (*Barenblatt v. United States*, 360 U.S. 109 (1959)). It may concern itself not only with the administration of existing laws but also with proposed laws or the need for proposing laws. It may seek out defects in our social, economic, or political systems so that Congress may remedy them (*Watkins v. United States*, 354 U.S. 178 (1957)). Congressional power to investigate, however, is limited to those areas in which the Congress may potentially legislate or appropriate (*Barenblatt v. United States*, *supra*).

The question of whether the Congress is constitutionally authorized to inquire into the Port of New York Authority must, therefore, be resolved by determining (1) whether the status of the port authority is a proper subject of congressional legislation, and (2) whether the operations of the authority affect areas in which Congress may legislate. Where Congress may legislate, Congress may investigate.

The creation of the port authority, its continued existence, and the terms of that existence are subjects of the will of Congress. Article I, section 10, of the Constitution specifically provides:

"No State shall, without the consent of Congress * * * enter into any agreement or compact with another State * * *"

Thus, before any compact can come into force, Congress must consider and enact legislation to grant its approval to the compact. In short, without congressional action there is no compact.

The purpose of this requirement was stated just last year by a longtime student of the compact clause, Mr. Justice Frankfurter, in *Petty, Adm. v. Tennessee-Missouri Bridge Commission* (359 U.S. 275, 288-289 (1959)):

"The constitutional requirement of consent by Congress to a compact between the States was designed for the protection of national interests by the power to withhold consent or to grant it on condition of appropriate safeguards of those interests. The compact may impair the course of interstate commerce in a way found undesirable by Congress. Or the national interests may derive from the necessity of maintaining a properly balanced Federal system by vetoing a compact which would adversely affect States not parties to the compact." (See also Frankfurter and Landis, *The Compact Clause of the Constitution—A Study in Interstate Adjustments*, 34 Yale L.J. 685.)

Thus, the compact clause entrusts the Congress with a constitutional responsibility to safeguard both national interests and the interests of States which are not parties to the compact. If this responsibility is to be at all meaningful, congressional power cannot be limited to passing upon a compact in the first instance alone. This power must also include the right to alter, amend, and repeal consent subsequently.

This is so because administration of the compact may not be consistent with the purposes for which Congress had given its approval. Conditions change. As the Nation develops and progresses, the needs of one day are no longer the needs of

² The Supreme Court, in upholding this power stated the underlying reason for congressional investigations: "A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information—which not infrequently is true—recourse must be had to others who do possess it. Experience has taught that mere requests for such information often are unavailing and also that information which is volunteered is not always accurate or complete; so, some means of compulsion are essential to obtain what is needed. All this was true before and when the Constitution was framed and adopted." *McGrain v. Daugherty*, *supra* at 175.

another. Plans which do not adversely affect interstate commerce or the interests of other States at one time may, because of economic, political, and social changes, have harmful results at a later time. What was once good for all the States may later become bad for most. The power to consent to an interstate compact must, therefore, carry with it the power to withdraw that consent.³

The validity of this argument was recognized in principle by the Supreme Court as long ago as 1916 in *Louisville Bridge Company v. United States* (242 U.S. 409). In that case the appellant was the owner of a bridge, the design and structure of which had been approved by an act of Congress. Many years later, changes in design and structure were required by Congress. The Court rejected the argument that the terms of congressional approval were irrevocable and held that even in the absence of a specifically reserved right to alter, amend, or repeal, Congress, nevertheless, must of necessity retain that right.

However, in the case of the Port of New York Authority, the power of Congress does not depend upon general principles alone. In consenting to both the 1921 and 1922 compacts, Congress specifically conditioned its approval upon the expressly reserved right to "alter, amend, or repeal" its consent (42 Stat. 174; 42 Stat. 822).

It is, therefore, indisputable that Congress may enact legislation withdrawing its consent to any and all of the provisions of these interstate compacts. It may, as was proposed in 1952, enact legislation to repeal its consent to the compacts and thereby dissolve the port authority. (See H.J. Res. 375, 82d Cong.) It may enact legislation making its consent conditional upon the agreement of New York and New Jersey to delegate certain additional functions or withdraw certain functions from the port authority. (See *Petty, Adm. v. Tennessee-Missouri Bridge Commission*, *supra*, 288-289.) Clearly, decisions of this kind have an enormous potential impact upon the Nation's greatest metropolitan area, its largest port, and upon large segments of industry. To suggest that a Congress, entrusted with such powers, cannot inquire into the operations of the Port of New York Authority is to say that Congress must exercise these legislative responsibilities blindfolded.

II. CONGRESS ALSO HAS AMPLE POWERS TO INQUIRE INTO THE OPERATIONS OF THE PORT AUTHORITY UNDER THE EXPRESS POWERS OF ARTICLE I, SECTION 8, OF THE CONSTITUTION AND ESPECIALLY ITS POWER TO REGULATE INTERSTATE AND FOREIGN COMMERCE

Although the responsibility to grant or withhold consent to interstate compacts provides ample authority for Congress to investigate the operations of the port authority, such authority also derives from the impact of the port authority's operations upon areas of constitutionally paramount Federal interest. That Congress intended that the creation of the port authority should in no way diminish the powers granted to it under article I, section 8, of the Constitution is apparent from the resolutions approving both the creation of the authority and the comprehensive plan which the authority was to administer.

Thus, the provisos to section 1 of the act of August 23, 1921 (42 Stat. 174), and section 1 of the act of July 1, 1922 (42 Stat. 822), declare:

"That nothing herein contained shall be construed as impairing or in any manner affecting any right or jurisdiction of the United States in and over the region which forms the subject of said agreement * * *"

Section 1 of the act of July 1, 1922, *supra*, also provides:

"That the powers conferred are subject always to the approval of the officers and agents of the United States as required by acts of Congress touching the jurisdiction and control of the United States over the matters, or any part thereof, covered by this resolution * * *"

The second proviso to the act of July 1, 1922, *supra*, states:

"That no bridges, tunnels, or other structure shall be built across, under, or in any of the waters of the United States, and no change shall be made of the navigable capacity or condition of any such waters until the plans therefor have been approved by the Chief of Engineers and the Secretary of War."

³ This was the reason for the position taken in 1958 by the managers on the part of the House in the conference on H.R. 7153. The conference report states:

"A threat to the supremacy or efficiency of the Federal Government or to the interests of other States may develop or appear after a compact is consented to as well as before Congress gives its consent. In such circumstances Congress needs the power to take corrective action.

"It is possible that the present compact will not actually settle the boundary dispute between Washington and Oregon. Latent defects may be discovered in the future which would cause the continuance of the dispute. The compact describes the boundaries by points of longitude and latitude, but it does not guarantee to the Congress that disputes will not arise in the same way that disputes have arisen in the past over boundary descriptions. Such disputes conceivably could affect the rights of citizens, other States, and even the national interest" (Report No. 2234, House of Representatives, 85th Cong., 2d sess. (1958)).

The enormous effect of the port authority's operations in the area of Federal authority is apparent from a simple recital of the facilities operated by the port authority.⁴

Airports and heliports:

LaGuardia Airport.
New York International Airport.
Newark Airport.
Port Authority Heliport.
Teterboro Airport.

Marine terminals:

Brooklyn-port authority piers.
Hoboken-port authority piers.
Port authority grain terminal: Includes grain elevator, grain pier, Columbia Street pier, public open storage area.
Elizabeth-port authority piers.
Port Newark.
Erie Basin-port authority piers.

Terminals:

New York Union Motor Truck Terminal.
Newark Union Motor Truck Terminal.
Port authority building; Includes Union Railroad Freight Terminal.
Port authority bus terminal.

Tunnels and bridges:

George Washington Bridge.
Holland Tunnel.
Lincoln Tunnel.

Staten Island bridges:

Bayonne Bridge: Bayonne, N.J., to Port Richmond, Staten Island, N.Y.
Goethals Bridge: Elizabeth, N.J., to Howland Hook, Staten Island, N.Y.
Outerbridge Crossing: Perth Amboy, N.J., to Tottenville, Staten Island, N.Y.

It is perfectly clear that the operations of the port authority have a profound effect upon interstate and foreign commerce not only within the port area but upon every State in the Nation. The policy the authority adopts in respect to one form of transportation over another has a heavy impact upon the entire interstate transportation industry. By providing centrally located facilities for bus transportation, the authority profoundly affects railroad transportation in and out of the largest city in the Nation. By operating several of the Nation's busiest airports, the port authority is directly responsible for the safety and convenience of millions of air travelers from all over the United States and abroad. The quality of the facilities which the authority provides for docking, loading and off-loading ships, the facilities for the storage of goods in transit and the rates charged for these services are of decisive importance in foreign and domestic commerce.

The tolls set by the port authority for crossing from New York to New Jersey on one of the Nation's most heavily traveled highway networks affects the interstate travel of millions of Americans and of every industry that ships by truck. In turn, the quality of the administration of the port authority has a direct bearing upon the charges set by the authority for the use of its facilities and upon the kind of facilities which it can provide.

Operations of this kind are clearly subject to the powers expressly delegated to the United States in article I, section 8, of the Constitution. Indeed, this has been explicitly conceded by Mr. Sidney Goldstein, general counsel of the port authority, in a memorandum of law submitted to the Committee on the Judiciary at the May 1952 hearings, supra note 1. Mr. Goldstein stated:

"* * * The port authority, far from undermining Federal authority and jurisdiction in interstate commerce, has fully complied with all Federal regulations therein and cooperates constantly with the many Federal agencies set up in the field."

Mr. Austin J. Tobin, the authority's executive director, likewise conceded the amenability of port authority operations to Federal controls when he stated that the port authority appears "before the ICC, the Maritime Commission, the CAB, the Army Engineers and similar Federal administrative agencies."

The concession that the operations of the port authority render it responsive to so many Federal agencies necessarily concedes that the operations occur in areas of primary Federal interest. As such they are subject to legislation by Congress, and under the fundamental rule of *McGrain v. Daugherty*, supra, the port authority is subject to the investigative authority of Congress.

⁴ Port Authority Instructions 5-1.01, revised Feb. 17, 1950.

III. CONGRESS IS NOT PRECLUDED FROM INQUIRING INTO THE OPERATIONS OF THE PORT AUTHORITY SIMPLY BECAUSE SUCH AN INQUIRY MAY INVOLVE MATTERS WHICH ARE ALSO OF STATE CONCERN

As an argument to deter the committee from pursuing its investigation of the port authority, it has been asserted that the authority "is solely the agency of the two States", that it "is in no sense a Federal agency" and it is, thereby, implied that in some way the authority is immune from congressional inquiry. This position is without foundation in either law or reason.

The authority itself has, on a number of occasions, officially described itself as an agent of Congress, carrying out Federal objectives.

Thus, in the progress report of the authority, dated February 1, 1923, it is stated that:

"The comprehensive plan is now legally authorized by the two States and the Congress of the United States and the police powers of the States and the interstate commerce power of the Congress are joined in effectuating the definite plan, with one coordinating body as the State, and Federal instrumentality." Progress Report of Port of New York Authority, February 1, 1923, p. 8.

In the following year, in course of hearings before the House Committee on Military Affairs on the acquisition by the authority of the Hoboken shoreline from the Secretary of War, the following colloquy occurred:

"Mr. EAGAN. Do you contend that the Port of New York Authority in any sense is a Federal agency or instrumentality of the Federal Government?"

"Mr. COHEN (counsel for the Port of New York Authority). It is for the purpose of effectuating the comprehensive plan, Congress having directed the port authority to effectuate it. We went further than that in the hearing before the Senate committee, and I shall submit all of that hearing as a part of this record."

Later, Mr. Cohen expressed this answer, saying:

"Now, with regard to this question here that Congressman Eagan has put, in our arguments with the railroads we have taken the position that when this comprehensive plan has approval by the two States that it would not be effective as a regulation of interstate commerce until it was approved by the Congress of the United States, but that when it was approved by the Congress of the United States it was a Federal regulation of the commerce so far as these improvements were to be made in the port district, and that the port authority was the instrumentality, in that sense of the Federal Government, for the purpose of effectuating the comprehensive plan. * * *"

Thereafter, Congressman Eagan stated:

"I should like to ask Mr. Cohen whether or not I correctly understood him to say, in answer to my question of yesterday, that he considered the Port of New York Authority an agency or instrumentality of the Federal Government?"

Mr. Cohen replied:

"For the purpose of effectuating the comprehensive plan we are a Federal agency * * *." Hearings on S. 2287 and H.R. 7014 before the House Committee on Military Affairs (68th Cong., 1st sess., 7, 55 (1924)).

Before the Senate committee, similar representations were made. Mr. Cohen said that the " * * * plan involving interstate commerce, and the question of navigation and improvement of military roads and highways, and therefore necessitating approval by Congress, it was approved by Congress, so we are effectuating a Federal purpose, and in that sense we may be called a Federal instrumentality * * *." Hearing on S. 2287 before the Senate Committee on Military Affairs (68th Cong., 1st sess., 34 (1924)).

Also, in 1924 in an amicus curiae brief filed with the Supreme Court of the United States, in *City of Newark v. Central Railroad of New Jersey*, 267 U.S. 373 (1925), the port authority asserted as black letter law the following three points:

"I. There can be no doubt of the power of Congress to deal with the subject matter of the comprehensive plan nor of the effect of its action when it has so dealt.

"II. There can be no doubt of the right of Congress to make the port authority its agent to carry out its legislation.

"III. There can be no doubt that Congress has made the port authority its agent for the effectuation of the comprehensive plan." (Records and Briefs, U.S. Supreme Court, vol. 267.)

These quotations from official positions taken by the port authority over the years demonstrate the futility of attempting to label interstate regional development authorities like the Port of New York Authority as either State or Federal. Most accurately, they carry out both State and Federal functions under intricate and overlapping State and Federal supervision.

In this respect, it is instructive to compare the decisions in *Helvering v. Gerhardt*, 304 U.S. 405 (1938), which held that Port of New York Authority employees are not employees of a State or political subdivision of a State within the exemption of the Revenue Acts, with that of *Commissioner v. Shamberger's Estate*, 144 F. 2d 998 (2d Cir. 1944), holding that interest on securities of the port authority is exempt as interest on securities of a political subdivision of a State. These cases further highlight the impossibility of describing the interrelationships between the authority, the two States, and the Federal Government by any single label.

It is urged, nevertheless, by the port authority that the courts have, in fact, held that the port authority is a State agency. However, the numerous cases which have denied the right of private persons to sue the port authority (prior to 1951 legislation adopted by the States to authorize such suits) in no way support the proposition that the United States is precluded from investigating the operations of the port authority. Those cases are merely authority for the proposition that the port authority was not subject to suits by individuals.⁵ No rule of sovereign immunity, however, immunizes States against suit by the United States (*United States v. Texas*, 143 U.S. 621 (1891)). Insofar, therefore, as investigative power may be thought to be dependent upon the power to institute suit, the United States retains full authority to conduct an investigation into the operations of the port authority, irrespective of its precise status as a State agency.

Investigation of the far-flung, federally related operations of the port authority will necessarily trench upon some matters of State concern. This is inevitable in the nature and scope of the matters entrusted to the port authority. Commerce within the port area and the two participating States cannot be segmented from commerce outside these areas. Commerce is continuous. To conclude that Congress is barred from gathering information upon which to base legislative decisions because of the incidence of some State interests among substantial Federal interests would be to ignore the development of the doctrine of Federal supremacy and to frustrate the Federal Government in carrying out its legislative responsibilities.⁶

What is more, under such a view, the port authority could—as some charge it already does—avoid effective supervision by any government.⁷ For, if State interests suffice to debar the Congress, do not Federal interests operate to lock out the States? (*United States v. Owllett*, 15 F. Supp. 736 (M.D. Pa. 1936).) The supremacy clause resolves this dilemma, subordinating State interests in such situations to the interests of the people as a whole.

⁵ New York State courts:

Voorhis v. Cornel Contracting Corp. and Port of New York Authority, 170 Misc. 908 (1938).
LeBeau Piping Corp. v. City of New York and Port of New York Authority, 170 Misc. 644 (1938).
Hergott v. Port of New York Authority, 269 App. Div. 770 (1945).
Roochvarg v. Port of New York Authority, 190 Misc. 406 (1947).
Port of New York Authority v. Elman, 196 Misc. 91 (1949).
Marmor v. Port of New York Authority, 203 Misc. 568, 116 N.Y.S. 2d 177 (1952).
Harris v. Lord Electric Co., 281 App. Div. 693, 117 N.Y.S. 2d 593 (1952).
Barra, Admz. v. Port of New York Authority, 192 N.Y.S. 2d 838 (1959).

New Jersey State courts:

Miller v. Port of New York Authority, 18 N.J. Misc. 601; 15 A. 2d 262 (1939).
Feeley v. Port of New York Authority, 53 N.J. Super. 235, 147 A. 2d 105 (1958).

New York Federal courts:

Rao v. Port of New York Authority, 222 F. 2d 362 (2d Cir. 1955) aff'g 122 F. Supp. 595 (E.D.N.Y. 1954).
Larson v. Port of New York Authority, 17 F.R.D. 298 (S.D.N.Y. 1955).

New Jersey Federal courts:

Howell v. Port of New York Authority, 34 F. Supp. 797 (D.N.J. 1940).
Wolkstein v. Port of New York Authority, 173 F. Supp. 209 (D.N.J. 1959).

⁶ In *United States v. Di Carlo* the District Court for the Northern District of Ohio supported the authority of Congress to investigate matters which may be within the reserved powers of the States. Insofar as those matters affect matters within the scope of the powers granted to the Federal Government, the court declared, Congress has a right to inquire into them (*United States v. Di Carlo*, 102 F. Supp. 597, 601 (N.D. Ohio, 1952)).

The *Di Carlo* case is consistent with the earlier dictum of Chief Justice White in *Virginia v. West Virginia*. That case involved the enforcement by the United States of the terms of an interstate compact between those two States. Having found that Congress had the power to legislate for the purpose of enforcing the compact, the Supreme Court stated that—

“... it must follow that the power is plenary and complete, limited of course, as we have just said, by the general rule that the acts done for its exertion must be relevant and appropriate to the power. This being true, it further follows, as we have already seen, that, by the very fact that the national power is paramount in the area over which it extends, the lawful exertion of its authority by Congress to compel compliance with the obligation resulting from the contract between the two States which it approved is not circumscribed by the powers reserved to the States” (*Virginia v. West Virginia*, 246 U.S. 565, 602 (1918)).

⁷ Ross D. Netherton, in a recent article calling upon both Congress and the States to reexamine their laissez-faire attitude toward area development authorities, stressed the virtual autonomy of these instrumentalities, “The parent States have bound themselves not to exercise the means of regulation in the public interest which are generally applicable to public agencies. The taxpayer-voter is completely out of the play. Not only are his civic functions paralyzed when he is cast in the role of the consumer of services rendered by the authority and financed through revenue bonds, but even when he has a chance to vote or sue, he lacks coherent information on the basis of which to make up his mind”. Netherton, *Area Development Authorities—A New Form of Government by Proclamation*, 8 Vand. L. Rev. 678, 691 (1955).

CONCLUSION

For the reasons stated above, it is submitted that the Congress has the authority inquire into the scope of the port authority's activities as well as the adequacy of which the authority has performed its responsibilities under the compacts.

The CHAIRMAN. The Chair wishes to repeat that each of the witnesses has failed to comply with the subpoena as interpreted by the letter received by each of them. The Chair, therefore, states again to each of the witnesses, Mr. S. Sloan Colt, Mr. Joseph G. Carty, and Mr. Austin J. Tobin, is in default.

This will terminate this proceeding concerning the return of the subpoenas, and the Chair announces a meeting of the subcommittee executive session at 3 o'clock.

Mr. GOLDSTEIN. Mr. Chairman, may we have a copy of the staff memorandums and an opportunity to reply?

The CHAIRMAN. It will be in the record.

Mr. GOLDSTEIN. May we have an opportunity to reply?

The CHAIRMAN. I don't think there is any need to reply. You have your statement in the record. You might reply and the committee will take under advisement whether it shall appear in the record or not.

Mr. GOLDSTEIN. Thank you.

The CHAIRMAN. This will terminate this inquiry. The subcommittee will stand ready to meet at 3 o'clock in executive session.

(Whereupon, at 1:05 p.m., the subcommittee recessed, to reconvene in executive session at 3 p.m., the same day.)