April 24, 1950.

Honorable William Benton,
United States Senate,
Washington 25, D. C.

Dear Bill:

I am returning herewith your draft of a minority report on S. Res. 246. This is such a good job and so well done that I have only some minor suggestions to make, together with a paragraph which you can use if you wish, referring to my views. The enclosed memorandum contains these changes.

Sincerely yours,

Enclosure

M. S. Eccles.

CM:am

Cm

Change the last sentence of the second paragraph to read as follows:

"Reorganization Plan No. 1 simply makes more explicit the relation between the Comptroller and the Secretary of the Currency that has existed in fact during the past 16 years."

On page 4 where the statement is made that the Secretary of the Treasury already appoints the Deputy Comptroller of the Currency, change this to read "Deputy Comptrollers".

On page 5, change the first line to read as follows: "I do agree that the present confusion created by bankers concerning the status of the Comptroller".

On page 5 change the opening sentence in the last paragraph to read:

"This campaign obscures the true facts; there is merely superficial plausibility to the argument that the banks pay for the work of the Comptroller of the Currency and thus he should be left right where he is."

At the bottom of page 4 insert a new paragraph as follows:

"This statutory mandate to the Comptroller has not been a mere formality. I know from my talks with a high official who has been personally acquainted with the operations of the Treasury, including those of the Bureau of the Comptroller of the Currency, throughout the past 16 years, and including the regimes of three Secretaries of the Treasury that the policies of the Comptroller of the Currency have been, in fact, controlled by the Secretary of the Treasury. He states that the Comptroller could not have functioned with less independence during this period than would have been the case if this reorganization plan had been in effect. For example, the first Deputy Comptroller of the Currency for a long period was the personal representative of the Secretary of the Treasury; a Secretary of the Treasury dictated the participation of the Comptroller of the Currency in an agreement among the three Federal supervisory agencies on examination policy; the policies of the Comptroller with respect to the approval of branches for one of the largest banking organizations in the country have been determined from time to time by the various Secretaries of the Treasury; and the Comptroller of the Currency has not been in position to make recommendations to the Congress with respect to legislation except after consultation and in accordance with the views of the Secretary of the Treasury. Thus the situation with respect to the Comptroller

will not be different under this plan from what it has been. He makes the comment, however, that this reorganization plan will have the merit of bringing out into the open the lodgment of responsibility in the Secretary of the Treasury for the determination of policies where heretofore there has been obscurity as to whether that responsibility was exercised by the Comptroller. It is better to make it explicit than to continue to permit it to be covered up."

passed by the Senate did not provide for this kind of separation of activity, but called instead for such segregation of functions as might be necessary to conform to the provisions of the Administrative Procedure Act of 1946. This act requires the separation of functions in all administrative agencies to prevent a violation of the judge-jury-prosecutor principle.

Indeed, never has the Senate passed a labor relations bill of its own which provided for any such separation of powers as is required by the Taft-Hartley Act. It may be recalled that the Taft bill, which was passed by the Senate last June, contained no such separation and its provisions dealing with this matter were very similar to those in the Senate bill of 1947. In truth, the procedures which would have been adopted by the Board under the terms of either the 1947 Senate bill or the 1949 Taft bill almost surely would be the same as those which would be adopted by the Board under the terms of Reorganization Plan No. 12.

What is at stake in this particular controversy over plan No. 12 is not the reduction or the elimination or the abolition of functions. Neither is it primarily a question of the separation of powers by statute. This plan is aimed to correct a very unfortunate condition occasioned by very poor draftsmanship in the Taft-Hartley Act, which was the product of conference action in 1947 and which, due to its ambiguity and inadequacy, has occasioned a great deal of confusion and conflict between the National Labor Relations Board and the general counsel and—most unfortunate of all—in the minds of the parties coming before the Board or the general counsel.

It happens that, in his selection of a general counsel, the President named a person who has appeared sometimes to be more friendly to management than to labor. But there is no assurance that another general counsel would not be friendly to labor and hostile to management. As a matter of fact, it seems to me that the personality of the present general counsel is among the least important of the factors in the consideration of plan No. 12.

Criticism has been directed against the present Labor Relations Board set-up because of its dual-headed nature. From the standpoint of efficient and effective administration, the justification for this criticism would appear to be obvious.

As I see it, however, the idea of dual-headed administration in this particular agency is most undesirable for reasons of far greater consequence than is the matter of administration itself. The whole concept of thus separating the prosecuting and adjudicating functions of the National Labor Relations Board—even to the limited extent to which the judge-jury-prosecutor relationship exists at the present time—is fundamentally hostile to the attainment of sound and satisfactory labor relations. By this process, labor and management are automatically set apart by law as naturally antagonistic forces in a set-up which legalizes their status of litigants in all labor relations controversies. This separation of functions by inviting formal litigation acts to cripple the very force in labor relations which can contribute most to their improvement—the force of mediation.

This is one of my chief reasons for objecting to the present National Labor Relations establishment. It is one of my chief reasons for favoring Reorganization Plan No. 12. It is one of my chief reasons for objecting to the two-headed agency which would be created under the terms of S. 3339, which has been introduced by the distinguished senior Senator from Ohio [Mr. TAFT].

If, as permanent policy, we are to accept the idea that there must be perpetual conflict between management and labor—which I deny—then neither the present set-up in the National Labor Relations Board nor the proposal offered by the Senator from Ohio is suitable. If in this country we have reverted to a condition where, insofar as the attainment of a happy relationship between labor and management is concerned, we must despair, then a system of labor courts with all the attendant prosecuting and other essential machinery and procedures should be established.

Right now, in the attitude of many opposed to plan No. 12, is evidenced at least a subconscious feeling that a basic antagonism and conflict between labor and management must be permanent. The very thought, as expressed by some, that the adoption of plan No. 12 would be a victory of labor over management is preposterous. I deplore this attitude. It augurs no good for the future of labor relations in our country.

For all of these reasons I favor Reorganization Plan No. 12 and oppose Senate Resolution 248.

Mr. MYERS. Mr. President, I yield 15 minutes to the junior Senator from New York [Mr. LEHMAN].

The PRESIDING OFFICER. The junior Senator from New York is recognized for 15 minutes.

Mr. LEHMAN. Mr. President, I strongly oppose the pending resolution to set aside Reorganization Plan No. 12. In my opinion plan No. 12 provides the best immediate method for putting an end to the unique administrative chaos in which the National Labor Relations Board is now operating.

The sponsors of the pending resolution would have the Senate believe that plan No. 12 is an exceptional plan, designed to set aside the expressed will of the Congress. Actually plan No. 12 is merely one of the seven proposed by the President to increase the administrative efficiency of the seven principal regulatory commissions of the Federal Government. The changes proposed for the National Labor Relations Board are admittedly more sweeping than those proposed for the other commissions, but that is only because the need is greater. A stronger remedy is required because the disease of administrative disorder is more serious in the National Labor Relations Board than in any of the other commissions and boards.

Four years' experience as lieutenant governor and 10 years as Governor of New York have taught me that efficient government management is possible only when the government structure is so arranged as to reduce to an absolute minimum the sources of internal friction and to establish clear lines of authority and responsibility within every administrative agency.

The hearings before the Committee on Expenditures are replete with evidence that the split in functions at the National Labor Relations Board has magnified many times the already great difficulties of administering the Taft-Hartley Act.

The question of sound administration has nothing to do with the substantive provisions of the present act. This same chaos would exist if the present administrative arrangement had been part of the original Wagner Act. Indeed the administrative monstrosity inherent in dividing the responsibility between the office of the general counsel and the Board, itself, is an evil separate and distinct from the question of the wisdom or lack of wisdom in all the other provisions of the Taft-Hartley Act.

It has been asserted in some quarters that President Truman's action in proposing plan 12 is motivated, not by his interest in governmental efficiency, but by a desire to satisfy the criticism that labor organizations have directed at the present incumbent in the office of general counsel. Such an argument strikes me as very naive. It seems clear to me that the President has shown a deep sense of obligation to the responsibilities of his high office by proposing plan 12 at this particular time. If he had any motive other than the improvement in general administrative efficiency—if his motives were political—the President's easiest course would have been to leave the present structure exactly as it is, so as to permit existing resentment against the Taft-Hartley law to increase between now and November.

But President Truman has not permitted such considerations to affect his judgment. Instead, by proposing structural changes which will immediately increase efficiency in the administration of a statute which he has never favored, he has met his obligations as President, letting the political chips fall where they may.

Had the President failed to propose plan 12, he would indeed have been subject to criticism for leaving the National Labor Relations Board out of a reorganization program which he has proposed for every other important regulatory commission. He would then have disregarded the basic recommendation of the Hoover Commission that the structure of all commissions be changed so that "all administrative responsibility be vested in the Chairman."

This arrangement proposed by the Hoover Commission cannot be achieved at the National Labor Relations Board, as it can at the other commissions, by simply transferring to the Board Chairman those administrative and housekeeping functions now vested in the Board as a whole. Many of the existing functions of the independent general counsel of the National Labor Relations Board must also be transferred—the substantive functions to the Board as a whole, and the purely administrative ones to the Chairman—before there can

be achieved a sound administrative structure.

Of course this involves a substantial reorganization of the National Labor Relations Board. But what is the purpose of the Reorganization Act, under which we are now considering plan 12, if it is not to reorganize?

It is true, of course, that the Hoover Commission did not specifically recommend the elimination of the office of general counsel of the National Labor Relations Board. But neither did the Hoover Commission make such specific recommendations with respect to any regulatory commission or any Government department. The affirmative proposals of the Hoover Commission—and I am proud to be a member of the advisory board of that Commission—are largely general. The important fact remains, and it cannot be successfully denied by those who seek to complicate the issue, that the reorganization measures set forth in plan 12 will bring the National Labor Relations Board in line with the other Federal commissions. Thus plan 12 is entirely consistent with the basic purposes of the Hoover Commission recommendations.

The Hoover Commission task force headed by an outstanding citizen of my State, Mr. Owen D. Young, was extremely critical of the position of the indepeng general counsel. Following is what the task force says in its discussion of this subject:

Another problem that has caused us considerable concern is the position of the general counsel. As indicated above, he is a prosecutor, an administrator, a policy maker. The incumbent, Mr. Robert Denham, has noted that his powers "are broad and absolute and his authority final to an outstanding degree seldom accorded a single officer in a peacetime agency." (Quoting from a speech of General Counsel Denham before the American Bar Association in 1947.)

The existence of such an office, independent both of the Federal departmental structure and of the Board, marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization, it may lead to a diffusion of responsibility.

Such an official is in a peculiarly exposed position. In view of the wide powers of the office, it is inevitably subject to heavy pressure from all sides, and lacks the protection of either a multiheaded agency or an executive department in resisting such pressures.

Later in its report, the task force states that—

Our conclusion is that the present position of the general counsel is an unstable one.

Indeed, Mr. President, in June of last year, as has been repeatedly pointed out, the United States Senate, under the strong urging of the able and distinguished senior Senator from Ohio [Mr. TAFT], approved a bill which would have abolished the independent office of the general counsel of the National Labor Relations Board. The senior Senator from Ohio did not, at that time, regard this particular change in the Taft-Hartley Act as an incidental or improper one. In describing the changes he proposed at that time, he said:

Perhaps the most important one is the elimination of the independent general counsel.

Mr. President, events in recent months, as recounted in detail by the five National Relations Board members in testimony before the Committee on Expenditures in the executive departments, and as summarized in the minority views of the committee, make it perfectly clear that the situation on the National Labor Relations Board has grown progressively worse. No one, including the general counsel himself, has offered any testimony to show that these difficulties have been eliminated.

Differences between the National Labor Relations Board and the general counsel concerning the exercise of Federal jurisdiction over small business, differences over the processing of cases in the courts, and over the supervision of Board personnel, have grown sharper during recent months. Surely this is not the time for the Senate to recede from a position which it took less than a year ago.

Although the President submitted plan 12 as one of a series of proposals to reorganize the executive branch of Government, the opponents of this plan have seen fit to debate this issue as if it were an isolated attack on the office of the general counsel of the NLRB. The junior Senator from New York is ready to argue the case on that basis, too. It is clear, Mr. President, that this is not a partisan issue. The stand of my colleague from New York [Mr. IVES] and of other Senators on both sides of the aisle bear witness to this fact.

On this issue, I ask the Members of the Senate why the elimination of the independent office of the general counsel, which was thought so suitable in 1949, should not be viewed with equal favor in 1950. Can it be because last year this change was recommended by the Senator from Ohio, whereas this year it is proposed by the President of the United States?

Mr. President, the real issue today is the attitude of Congress on the administrative process itself, a process which has been endorsed by the people of the United States ever since the Interstate Commerce Commission was established in 1887. One witness who opposed plan No. 12 before the Committee on Expenditures was frank enough to declare that this was the issue.

I agree with him that congressional endorsement of present administrative arrangements at the National Labor Relations Board would be an open invitation to chip away at the administrative process throughout the Federal Government. This witness, representing the National Association of Manufacturers, said with commendable candor, that—

The present separation at the National Labor Relations Board could stand as a testimonial for its extension throughout Government agencies.

Does Congress wish to give such testimonial, Mr. President?

The junior Senator from New York certainly does not. He prefers to take his stand with Monsignor John P. Boland, whom he had the honor to appoint as the first chairman of the New York State Labor Relations Board in 1937. Commenting upon similar proposals for splitting the functions at the State board, Monsignor Boland said, in addressing the Holy Name Society in March 1942:

When my colleagues and I were appointed to administer the Labor Relations Act, we were appointed to do just that: to administer the Labor Relations Act. By now it should be clearly understood that we were not appointed to prosecute or to judge employers or unions. There was a time when some persons misconceived our function. Ignoring realities, they imagined that the Board combined the functions of prosecutor and judge and declared that these functions should not be combined in a single agency.

Actually, it is not possible for the Labor Relations Board to be both prosecutor and judge, for the simple reason that it is neither prosecutor nor judge. It is only one of many administrative agencies. It merely enforces a public right, because the State legislature has found that there is a paramount public interest in collective bargaining which cannot be either adequately protected by private lawsuit or wisely encouraged by criminal prosecution.

That is my attitude on this question, Mr. President. I think the present setup at the National Labor Relations Board is impossible administratively and dangerous in principle. It is a threat to orderly government. It represents total misinterpretation of the functions of the NLRB and of its general counsel. The function of the National Labor Relations Board, under even the Taft-Hartley Act, is theoretically to stabilize relations between labor and management. The effect of this arrangement is to provide, within the same act, two separate bodies with two separate and conflicting purposes. Let us reject the pending resolution and give our endorsement to plan 12.

Mr. MYERS. Mr. President, I yield 15 minutes to the junior Senator from Connecticut [Mr. BENTON].

The PRESIDING OFFICER. The junior Senator from Connecticut is recognized for 15 minutes.

Mr. BENTON. Mr. President, as all of us in this Chamber know, the report of the Hoover Commission on the Reorganization of the Executive Branch of the Government has almost universal popular support. Indeed, almost all Members of the Congress have pledged themselves to support it. Almost all of us have said that we would work for reorganization.

Former President Hoover has, I think, performed a great service by making government reorganization respectable—at least, respectable with the public, Mr. President.

The Hoover recommendations seem to me to be not only clear and unequivocal on the question of vesting administrative responsibility in the Chairman of the National Labor Relations Board, but, more important—indeed, far more important—these recommendations seem to me valid and sound.

The task force report says that the position of the general counsel has caused them "considerable concern." They quote Mr. Denham's statement that his powers are—quoting now from the task force report—"broad and absolute and his authority final to an outstanding degree seldom accorded a single officer in a peacetime agency."

Mr. President, the very persons who have organized to bring pressure upon us to defeat this proposed reorganization plan, claim they fear a grant of power far less than this to the Chairman and the Board.

When I was appointed to the Committee on Expenditures in the Executive Departments, I looked forward to the opportunity to vote for the various reorganization plans because I felt that their adoption would clear up some of the chaos and confusion. I thought there was a determination in the Congress to eliminate at least some of the inefficiency of the executive branch of the Government.

I have now discovered, of course, that this broad support seems to be limited to the general principle only. It bogs down—as the senior Senator from Ohio [Mr. TAFT] is so well demonstrating—when our pet projects are touched.

Of the 21 plans submitted by the President to Congress, at least 12 are being opposed by special-interest groups. Those of us who serve on the committee are seeing a veritable parade of pious witnesses adopting the line of—

We are all in favor of reorganization, yes. Go on out and reorganize everybody—everybody except me.

Of course the Congress knew when it passed the Legislative Reorganization Act that many groups would descend upon it to demand changes in the reorganization proposals, in line with their own selfish interests as they saw them. During its work, the Hoover Commission itself was subject to such pressures. It is to the great credit of ex-President Hoover that his firm leadership withstood these pressures. Today it is our turn, here in the Senate, to stand up and be counted. Yesterday ex-President Hoover expressed to us his deep alarm. Today we are voting on a reorganization plan which has been considered fully by ex-President Hoover's Commission. Pages 134 to 141 of the task-force report on regulatory agencies make this very clear. I shall, of course, support Reorganization Plan No. 12, as I shall support every one of the present 21 reorganization proposals.

I digress to salute the New York Board of Trade, Mr. President, and the Junior Chamber of Commerce of Connecticut and elsewhere, as outstanding examples of business groups which have understood the issues, which have withstood the internal pressures upon them from their own members and their own staffs, perhaps, and have recommended just such a course—the support of the 21 proposals.

Mr. President, I desire to give an example, which I think is very illuminating, of a great and powerful trade organization opposing one of the reorganization proposals. I refer to the National Association of Manufacturers. I shall not discuss its attitude on Reorganization Plan No. 12, which is well known. I shall however quote from testimony, in which I participated, on Reorganization Plan No. 5, dealing with the Department of Commerce.

The 15,000 members of the National Association of Manufacturers pay a very high percentage of the high cost of Government inefficiency. I am told that President Hoover once made a general estimate of this cost as being between $3,000,000,000 and $4,000,000,000. It is the National Association of Manufacturers, it is its membership, which contributes a high percentage of the taxes which pay the bills. It is the heads of the 15,000 companies constituting that organization who should understand better perhaps than any other group in the country the principles involved in Government reorganization, and in the case I am about to cite, affecting the reorganization of the Department of Commerce, with its 46,000 employees and its budget of more than $600,000,000, they should have a special interest.

I shall read from the testimony and comment on its as I go along. I refer now to the testimony of George E. Folk, adviser to the committee on patents and research of the National Association of Manufacturers, who was an examiner in the Patent Office for 7 years, beginning in 1898, and who was general patent attorney for the American Telephone & Telegraph Co. until retired 12 years ago. In his testimony Mr. Folk says:

During the last 12 years—

That is, "since I have retired from the American Telephone & Telegraph Co."—

more as a hobby than anything else, I have been patent adviser to the National Association of Manufacturers. * * * I am speaking today for that association, a voluntary organization of more than 15,000 manufacturers.* * * The National Association of Manufacturers urges adoption of Senate Resolution 259, which declares that the Senate does not favor the President's reorganization plan—

For the Department of Commerce.

When I had a chance to question Mr. Folk, near the end of his testimony, I asked him several questions. I shall read these questions and his replies, as taken from the printed testimony:

Mr. BENTON. These manufacturers who are among our biggest taxpayers * * * how may of them * * * had the other side of the case presented to them before agreement was reached on this statement which you submitted in the name of the National Association of Manufacturers?

Mr. FOLK. I can only say that I was authorized by the National Association to take the position I have taken.

Mr. BENTON. How many of the 15,000 members that you list on the first page of your statement have approved this statement?

Mr. FOLK. * * * of course, it was practically impossible, it would be impossible, to do that. I did submit these views to our committee on patents and research of the National Association of Manufacturers. A committee of more than 100 * * * constitute that committee.

Mr. BENTON. You think perhaps those 100 men have been exposed to the memorandum you presented today?

Mr. FOLK. They have not seen the memorandum, but it is the position NAM would take concerning the reorganization plan.

Not even the 100 men, Mr. President, had seen the memorandum.

Mr. BENTON. If they have not seen the memorandum, would you think it is a fair assumption to say that they have not been exposed to the kind of presentation or arguments presented by Secretary Sawyer, Mr. Fleming, and Mr. Lawton this morning which present the arguments demonstrated, according to those who have studied most thoughtfully, why this particular plan is in the interest of efficiency and economy and the best conduct of this Government?

Mr. FOLK. I did not see the arguments of the Secretary of Commerce, Mr. Sawyer, myself, until today. So I dare say the members of the association did not have any more information than I had.

Mr. President, here there is presented a picture of a great, powerful, rich, and influential trade association at work, and seemingly, as I interpret this testimony, largely in the hands of this staff representative. To begin with, how many of the 15,000 members of the NAM are interested in patents? Surely only a segment. Surely the group is larger which is interested in efficiency in Government, and particularly in efficiency in the Department of Commerce. Suppose there are 1,000 of them interested in patents. Who are the 100 men they put on their patents and research committee? I telephoned this morning and secured the names of some of them. The chairman of the committee is Albert E. Noelte, treasurer of the Priscilla Braid Co. The vice chairman is Merwin F. Ashley, manager of the patent department, United Shoe Machinery Corp. Other members of the patents and research committee are Robert Gottschalk, assistant manager, development and patent department, Standard Oil Co.; Leslie R. Groves, vice president, Remington Rand, Inc.; Richard O. Loengard, president, United Chromium, Inc.; and Randolph T. Major, vice president and scientific director, Merck & Co., Inc.

The great corporations which are interested in patents and which belong to the NAM and pay their dues, put on the patent committee of the NAM their representatives who are charged with the duty of considering patents and who are interested in patents. But did these 100 men, these 100 subordinates, meet and consider Mr. Folk's memorandum? No, they did not meet or consider it. Who did approve it? Was it a subcommittee? Was it three or four men in New York, who operate in the name of the committee? Was it two or three members of the staff of the National Association of Manufacturers? Who is it that is responsible for this attitude on the part of the NAM? I know it is not the presidents and heads of the constituent 15,000 companies. I know that those men, hundreds of whom are within my own circle of personal acquaintances, would approve the principles advocated by former President Hoover and his Commission as recommended in these reorganization proposals.

I shall speak later on today, Mr. President, about Reorganization Plan No. 1. It looks as if the first two plans to come before the Senate will be bowled over like tenpins, and some of the great business and trade associations undoubtedly will carry an important part of the responsibility. I exclude, of course, the New York Board of Trade and certain

other organizations which have courageously spoken in favor of these recommendations.

I, of course, thought this question of reorganization was not a party issue. It is not a party issue to the presidents of the 15,000 companies which I have mentioned.

The Republican Party, in its 1948 platform, pledged itself to support measures to provide for the more efficient assignment of functions within the Government. The plan we are now considering is an important step in that direction. In opposing it, the Republican leadership is running counter to their own platform, as well as running counter to efficiency in the Government. I do not, of course, claim, Mr. President, that this is a unique procedure, but I think it should at least be pointed out to the country.

The Taft-Hartley Act introduced a new concept into the sphere of Government management by creating a double-headed monstrosity for the administration of a single statute. Such a concept is contrary to every principle of sound administration, whether in Government or in private industry.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. BENTON. I shall be glad to yield to the Senator from Ohio.

Mr. TAFT. With reference to double-headed monstrosities, what is the difference between putting all the administrative and executive functions in one man and putting all the judicial functions in a board of five of which he is one member? Is there not as much a diffusion of responsibility there as there is between the board and the separate general counsel?

The PRESIDING OFFICER. The time of the Senator from Connecticut has expired.

Mr. MYERS. I yield the Senator from Connecticut two additional minutes.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for two additional minutes.

Mr. BENTON. One monstrosity in these marble palaces on the Potomac does not justify another monstrosity. I reject wholly and totally the implications of the question of the distinguished Senator from Ohio.

Mr. LONG. Mr. President, will the Senator yield?

Mr. BENTON. I shall be glad to yield to the Senator from Louisiana.

Mr. LONG. I missed a portion of the Senator's speech. I wonder if, in summing up, he will point out exactly what the Hoover Commission has recommended dealing with this particular problem. The Senator has stated that the Hoover Commission recommended the type of reorganization which is contained in the plan.

Mr. MYERS. Mr. President, I yield five additional minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for five additional minutes.

Mr. BENTON. The Hoover Commission's proposals have been unequivocal, as I have read and studied them. They place as their very first recommendation among their general over-all recommendations the following:

> We recommend that all administrative responsibility be vested in the Chairman of the Commission.

That is all we are talking about today. It is as simple as that, and it is as direct as that.

On page 139 of the task-force report on regulatory commissions it is contended:

> The existence of such an office—

The office which is under debate today, that of the general counsel—

> independent both of the Federal departmental structure and of the Board, marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization, it may lead to a diffusion of responsibility.

The very thing we have to have in order to assure efficient administration is fixed responsibility. That is what we do not have here now in the case of the National Labor Relations Board. The act which established the National Labor Relations Board failed to provide the responsibility of which we are now speaking, and we are seeking to secure effective administration through this reorganization proposal.

Mr. President, I hope the Senate will have the courage, as well as the good judgment, to defeat the resolution which is now pending. I am confident that if the Chamber were full and the Members were exposed to these issues and had an opportunity to consider them and to consider the elements involved in the opposition to this reorganization plan, the Senate would reject the resolution. Its defeat will be a heartening development to friends of good government, not only at the national level, but, more important than that, at the State and community level as well. The adoption of the resolution, Mr. President, will encourage every privileged group with selfish interests to move in against the other plans which are yet to come before the Senate, and to bludgeon their own selfish views upon the United States Congress.

Mr. President, I yield the floor, though I do not see the majority leader present at the moment.

The PRESIDING OFFICER. The Chair will state that the acting majority leader has informed the Chair that 20 minutes' time is yielded to the senior Senator from Utah, who is now recognized.

Mr. THOMAS of Utah. Mr. President, I rise in opposition to Senate Resolution 248. As a preface to my remarks I desire to read two quotations. The first is taken from Chairman Herzog's report, and it answers one of the questions which has been asked:

> The plan is the President's plan. It was proposed so that the National Labor Relations Board would not continue to be the only regulatory commission whose administrative structure would be different from the one recommended, without exception, by the Commission on Organization of the Executive Branch of the Government. Second, the plan was proposed by the President because it will make for sound and efficient administration, not only of the present statute but of any regulatory statute, whether concerned with labor relations or with any other policy of Congress. We support it for the same reasons, and for these reasons alone.

Those are the words of Mr. Paul M. Herzog, Chairman of the National Labor Relations Board.

Mr. President, I now quote the words of the task force with regard to the general counsel:

> Another problem that has caused us considerable concern is the position of the general counsel. As indicated above, he is a prosecutor, an administrator, a policy maker. The incumbent, Mr. Denham, has noted that his powers "are broad and absolute and his authority final to an outstanding degree seldom accorded——

Mr. LONG. Mr. President, will the Senator yield?

Mr. THOMAS of Utah. I yield for a question.

Mr. LONG. Whom is the Senator quoting?

Mr. THOMAS of Utah. I am quoting the task force report to the Hoover Commission. The quotation last made would be a quotation within a quotation. It is a quotation from Mr. Denham in speaking before the labor committee of the American Bar Association in 1947. The quotation begins with these words:

"are broad and absolute, and his authority—

Referring to the general counsel—

"final to an outstanding degree seldom accorded a single officer in a peacetime agency."

> The existence of such an office, independent both of the Federal departmental structure and of the Board, marks a departure from previous administrative practice. If permitted to set a pattern for future Government organization, it may lead to a diffusion of responsibility.
>
> Such an official is in a peculiarly exposed position. In view of the wide powers of the office, it is inevitably subject to heavy pressure from all sides, and lacks the protection of either a multiheaded agency or an executive department in resisting such pressures.

Mr. President, I should like to say here that during all the hearings upon the amendments to the Taft-Hartley Act, time and time again witnesses, including Mr. Denham himself, emphasized the point that the power reposed in him was really and truly so overpowering that at times he himself wondered about it. So, it is perfectly proper that the task force would wonder about giving him those great powers.

> Experience during the first year indicates a tendency to develop close working relations with the joint congressional committee established by the act. To the extent that this has involved advice and suggestions with respect to interpretation of the act and its application to specific situations, the practice seems doubtful and likely to blur the desirable separation between the legislature and administration.

I should like to add, Mr. President, that while I was not a member of the subcommittee, which was called the watchdog committee, during the first year, if one member of an administrative authority and a committee of Congress do not agree, there cannot help being a division of opinion which, if carried to an extreme, must work disastrously in the administration of law. I