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# MISCELLANEOUS BILLS

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GOVERNMENT

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## HEARING

BEFORE THE

### COMMITTEE ON ARMED SERVICES

### UNITED STATES SENATE

EIGHTY-SEVENTH CONGRESS

FIRST SESSION

ON

**H.R. 4328**

REASSIGNING U.S. MARINE CORPS SUPPLY-DUTY-ONLY OFFICERS

**H.R. 6668**

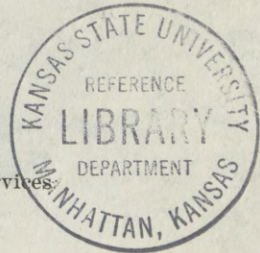
AMENDING CONTINGENCY OPTION ACT WITH RESPECT TO ANNUITIES BASED ON RETIRED OR RETAINER PAY

**S.J. Res. 108**

AUTHORIZING DISTINGUISHED FLYING CROSS TO MAJ. GEN. BENJAMIN D. FOULOIS

JULY 13, 1961

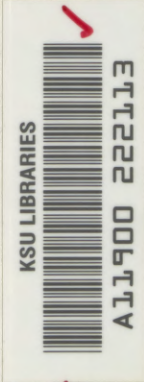
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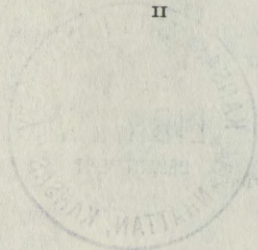
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## CONTENTS

### H.R. 4328

#### Statements:

	Page
Hill, Maj. Gen. William P. T., former Quartermaster General, U.S. Marine Corps, retired-----	16
Shoup, Gen. David M., Commandant, U.S. Marine Corps-----	4

### H.R. 6668

Clarey, Rear Adm. Bernard A., USN, Director for Military Personnel, Office of Assistant Secretary of Defense (Manpower)-----	25
Houser, Rear Adm. Harold A., USN, retired, legislative counsel of the Retired Officers Association-----	38
Hysmith, Logan E., Personal Affairs Officer in the Directorate of Military Personnel, Headquarters, USAF-----	33
Jackson, Rear Adm. Alexander, acting executive director of the Reserve Officers Association of the United States-----	40
Myers, Robert J., Chief Actuary of the Social Security Administration and a member of the Board of Actuaries of the Uniformed Services Contingency Option Act-----	26

### SENATE JOINT RESOLUTION 108

Goldwater, Hon. Barry, U.S. Senator from the State of Arizona-----	41
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## MISCELLANEOUS BILLS

THURSDAY, JULY 13, 1961

U.S. SENATE,  
COMMITTEE OF ARMED SERVICES,  
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 212, Senate Office Building.

Present: Senators Russell (presiding), Byrd of Virginia, Stennis, Symington, Jackson, Ervin, Thurmond, Engle, Bartlett, Cannon, Byrd of West Virginia, Saltonstall, Bridges, Smith of Maine, Case of S. Dak., Bush, and Beall.

Also present: Harry L. Wingate, Jr., chief clerk; Herbert S. Atkinson, assistant chief clerk; William H. Darden, T. Edward Braswell, and Gordon A. Nease of the committee staff.

### H.R. 4328

Chairman RUSSELL. The first bill on our agenda to be considered this morning is H.R. 4328, a legislative proposal of the Department of Defense that proposes to eliminate the supply-duty-only officer category in the Marine Corps.

The Department witness on this bill is the Commandant of the Marine Corps, Gen. David M. Shoup.

(The bill referred to is as follows:)

[H.R. 4328, 87th Cong., 1st sess.]

AN ACT To reassign officers designated for supply duty as officers not restricted in the performance of duty in the Marine Corps

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That officers on the active list of the Marine Corps designated for supply duty, except the officer serving as Quartermaster General on the date of enactment of this Act, are hereby reassigned as officers not restricted in the performance of duty. All provisions of law relating to officers on the active list of the Marine Corps not restricted in the performance of duty apply to officers reassigned by this Act, except as otherwise specifically provided herein.

SEC. 2. The numbers of officers authorized to serve in grades above captain in the Marine Corps as set forth in the table in subsection (a) of section 5443 of title 10, United States Code, are readjusted to the extent necessary to include the numbers of officers authorized for those grades by subsections (g) and (h) of that section as those subsections read before the enactment of this Act.

SEC. 3. (a) Each officer serving in the grade of brigadier general or colonel who is reassigned as an officer not restricted in the performance of duty by this Act, and who is senior to the senior officer in the first promotion zone established for his grade after the enactment of this Act, shall be considered for all purposes to be in that promotion zone.

(b) Within the number of officers not restricted in the performance of duty that may be recommended for promotion to a grade below brigadier general,

as determined under section 5756 of title 10, United States Code, the Secretary of the Navy shall allocate a portion thereof for officers on the active list of the Marine Corps who were formerly designated for supply duty and who were reassigned as officers not restricted in the performance of duty by this Act. The portion allocated shall afford at least the same opportunity for promotion to such officers as is afforded other officers not restricted in the performance of duty. These provisions apply only when there is an eligible officer in the promotion zone. For the purpose of the above provisions, "eligible officer" means an officer who is serving in a grade below colonel, who has been reassigned as an officer not restricted in the performance of duty by this Act, and who has not previously been in a promotion zone established for any grade after the enactment of this Act. Reassigned officers in a zone of consideration established for the grade of major shall also be allocated a portion of the number of officers who may be recommended for promotion from within that zone, so as to afford them at least the same promotion opportunity as is afforded other officers not restricted in the performance of duty.

Sec. 4. This Act does not terminate or reduce the four-year term of the officer who is serving as Quartermaster General of the Marine Corps on the date of enactment of this Act or deprive him of the rank, pay, allowances, or retirement privileges to which he became entitled under sections 5204 and 5205 of title 10, United States Code. However, he shall be counted as a major general for the purposes of sections 5443 and 5448 of that title, as amended by this Act. His date of rank as a major general is July 1, 1954. When he ceases to serve as Quartermaster General, he shall be reassigned as an officer not restricted in the performance of duty and he may be reappointed by the President alone to the permanent grade of major general to rank from July 1, 1954.

Sec. 5. Subtitle C of title 10, United States Code, is amended as follows:

(1) Section 5001(a) (8) is amended by striking out the words "supply duty or".

(2) Section 5204 is amended to read as follows:

**"§ 5204. Quartermaster General: detail**

"The Quartermaster General of the Marine Corps shall be detailed by the Commandant from officers of the Marine Corps on active duty."

(3) Section 5205 is repealed.

(4) The analysis of chapter 515 is amended by striking out the following items:

"5204. Quartermaster General: appointment; term, pay and allowances.

"5205. Heads of Staff Departments: retirement."

and inserting the following item in place thereof:

"5204. Quartermaster General: detail."

(5) Section 5409(c) is amended by striking out the words "excluding officers designated for supply duty,"

(6) Section 5443 is amended—

(A) by striking out the words "excluding officers carried as additional numbers in grade," wherever they occur in subsections (a), (b), (c), and (f); and

(B) by striking out subsections (g) and (h) and redesignating subsections (i) and (j) as subsections "(g)" and "(h)".

(7) Section 5448 is amended—

(A) by striking out the words "excluding officers carried as additional numbers in grade," wherever they occur in subsections (a), (b), and (c); and

(B) by substituting the number "36" for the number "32" in the last sentence of subsection (a); and

(C) by striking out subsections (f) and (g) and redesignating subsections (h) and (i) as subsections "(f)" and "(g)".

(8) Section 5588 is repealed.

(9) The analysis of chapter 539 is amended by striking out the following item:

"5588. Regular Marine Corps: officers designated for supply duty."

(10) Section 5589(e) (3) is amended by striking out the words "be designated for supply duty or".

## (11) Section 5703 is amended—

(A) by striking out clause (1) in subsection (a) and renumbering clauses (2), (3), (4), and (5) as clauses “(1)”, “(2)”, “(3)”, and “(4)”, and

(B) by striking out subsection (d) and redesignating subsections (e) and (f) as subsections “(d)” and “(e)”.

## (12) Section 5706 is amended—

(A) by striking out the words “, the number of officers of the Marine Corps designated for supply duty,” in clause (3) ;

(B) by striking out clause (8) and renumbering clauses (9), (10), (11), and (12) as clauses “(8)”, “(9)”, “(10)” and “(11)” ; and

(C) by striking out the words “or colonels in the Marine Corps” in clause (9) as so renumbered.

## (13) Section 5707 is amended—

(A) by striking out the words “supply duty or” in subsection (d) ; and

(B) by inserting the words “supply duty,” before the words “or duty in any technical specialty” in subsection (f).

## (14) Section 5709 is amended—

(A) by amending the catchline to read as follows: “§ 5709. Navy and Marine Corps: retention of rear admirals and major generals on the active list” ; and

(B) by striking out subsection (c) and redesignating subsection (d) as subsection “(c)”.

## (15) The analysis of chapter 543 is amended by striking out the following item:

“5709. Navy and Marine Corps: retention of rear admirals, major generals, and brigadier generals on the active list.”

and inserting the following item in place thereof.

“5709. Navy and Marine Corps: retention of rear admirals and major generals on the active list.”

## (16) Section 5751(a) is amended by striking out the words “not restricted in the performance of duty”.

## (17) Section 5759 is repealed.

## (18) The analysis of chapter 545 is amended by striking out the following item:

“5759. Regular Marine Corps; male officers designated for supply duty: numbers that may be recommended.”

## (19) Section 5765 is amended—

(A) by striking out the words “not restricted in the performance of duty” in subsection (a) ; and

(B) by striking out subsection (c) and redesignating subsection (d) as subsection “(c)”.

## (20) Section 5769(b) is amended—

(A) by striking out clauses (4) and (6) and renumbering clause (5) as clause “(4)” ; and

(B) by striking out the following words in the last sentence: “; and an officer in the grade of captain in the Marine Corps designated for supply duty is not eligible for promotion to the grade of major until there is a vacancy for him among officers of his designation in the combined grades of colonel, lieutenant colonel, and major”.

## (21) Section 5775 is amended—

(A) by striking out clauses (7) and (8) in subsection (a) and renumbering clauses (9), (10), and (11) as clauses “(7)”, “(8)”, and “(9)” ; and

(B) by striking out the words “and each male officer of the Marine Corps designated for supply duty” in subsection (b).

## (22) Section 5776(b) is amended—

(A) by striking out the words “, or a male officer of the Marine Corps restricted in the performance of duty serving in the grade of colonel,” in the first sentence; and

(B) by striking out the words “or brigadier general” in the second sentence.

## (23) Section 6020 is repealed.

## (24) The analysis of chapter 555 is amended by striking out the following item:

“6020. Marine Corps officers: detail to duty in Supply Department.”

(25) Section 6374 is amended by striking out the words "not restricted in performance of duty" in the catchline and the words "not restricted in the performance of duty" in the text.

(26) Section 6375 is repealed.

(27) Section 6376 is amended by striking out the words "not restricted in performance of duty" after the word "colonels" in the catchline and the words "not restricted in the performance of duty" in the first sentence of the text before the words "serving in the grade of colonel".

(28) Section 6377 is amended—

(A) by striking out the words "; Regular Marine Corps, colonels designated for supply duty" in the catchline;

(B) by striking out the words "and each officer designated for supply duty serving in the grade of colonel on the active list of the Marine Corps" in subsection (a); and

(C) by striking out, in subsection (e), the words "or colonel in the Marine Corps" in the first and second sentences and the words "or colonel" in the second sentence.

(29) Section 6378 is amended—

(A) by striking out the words "; Regular Marine Corps, colonels designated for supply duty" in the catchline;

(B) by inserting the word "and" after the words "in any staff corps," in the first sentence of subsection (a) and by striking out the words "and each officer designated for supply duty serving in the grade of colonel on the active list of the Marine Corps" in that sentence;

(C) by striking out the word "colonel," in the last sentence of subsection (a); and

(D) by striking out clause (8) in subsection (b).

(30) The analysis of chapter 573 is amended by striking out the following items:

"6374. Regular Marine Corps; brigadier generals not restricted in performance of duty: retirement for failures of selection for promotion.

"6375. Regular Marine Corps; brigadier generals designated for supply duty: retention on active list; retirement.

"6376. Regular Navy, line captains not restricted in performance of duty; Regular Marine Corps, colonels not restricted in performance of duty: retirement for length of service.

"6377. Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders; Regular Marine Corps, colonels designated for supply duty: retirement for length of service or for age.

"6378. Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders; Regular Marine Corps, colonels designated for supply duty: continuation on active list; retirement."

and inserting the following items in place thereof:

"6374. Regular Marine Corps; brigadier generals: retirement for failures of selection for promotion.

"6376. Regular Navy, line captains not restricted in performance of duty; Regular Marine Corps, colonels: retirement for length of service.

"6377. Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders: retirement for length of service or for age.

"6378. Regular Navy, line captains restricted in performance of duty, staff corps captains, and Nurse Corps commanders: continuation on active list; retirement."

Passed the House of Representatives May 15, 1961.

Attest:

RALPH R. ROBERTS, *Clerk*.

Chairman RUSSELL. General Shoup, we are glad to have you before the committee.

You may proceed with your statement.

#### STATEMENT OF GEN. DAVID M. SHOUP, COMMANDANT, U.S. MARINE CORPS

General SHOUP. Mr. Chairman, members of the committee; the single purpose of H.R. 4328 is to improve the effectiveness of the Marine Corps.

It will do so by removing the restricted supply duty officer designation which now applies to about 400 of our officers. The supply duty officer concept is one which has outlived its usefulness in the Marine Corps.

We have moved beyond the point where a small group of officers restricted in numbers and range of assignments can adequately meet the needs of the corps in supply matters.

It is a situation which has come to pass in the Marine Corps because supply matters cannot be isolated and set apart in a neat little compartment sufficient unto themselves. Instead, we are right in the middle of an era when the related fields of sound fiscal management and logistics planning and operations have become so merged with this thing called supply that the restrictive supply duty designation has become unrealistic and artificial.

The ever-increasing responsibilities we place upon our commanding officers, at all levels, for sound fiscal, supply, and logistics performance provide one practical illustration of how outdated our present arrangement has become.

The obsolescence of our SDO system has been hastened during the past 7 or 8 years by our procedure of placing personal responsibility upon the commander for strict management of his command's fiscal affairs. To successfully meet this requirement, he must be knowledgeable and competent in both supply and fiscal matters, for neither can be dealt with separate and apart from the other.

I have had the opportunity in recent years as Fiscal Director of the Marine Corps, a division commander in the United States and Far East, and commander of one of our major bases, to watch the effect which the restrictive nature of our present SDO system has on our efforts to increase the peacetime efficiency and combat effectiveness of our total service support field—supply management, fiscal management, logistic functioning.

The importance of these matters is so great in the successful accomplishment of the missions of the corps that we must broaden the base of our competence in dealing with them. In consonance with the provisions of present supply duty officer legislation, approximately 400 officers are designated for duty with the supply field, which contains some 1,340 billets. Thus, only about 30 percent of the supply billets are filled by supply duty officers. These officers are also denied the experience and training in command billets considered necessary for maximum effectiveness throughout their Marine Corps careers. In an already small officer corps, these restrictions seriously limit our endeavor to achieve the broad, overall level of competence we must have in the service support functions.

The bill before you contains provisions to protect the career opportunities of those officers below the rank of colonel now serving under the SDO legislation. The promotion opportunities of SDO colonels and general grade officers remain substantially unchanged. Existing law provides that the Secretary of the Navy may direct selection boards to select officers with specific qualifications for promotion to general officer grades. This feature will be used to select former SDO colonels and general grade officers for promotion to meet the needs of the Marine Corps. The proposed bill also provides that the officer presently serving as Quartermaster General under a Presidential appointment of January 1, 1960, will serve out his present appointment. I will be glad to discuss these provisions fully should you have questions concerning them.

Enactment of this proposed bill will have no effect on the budgetary requirements of the Marine Corps.

The bill is based on my firm belief that the interrelated problems of supply, fiscal management, and logistic support in all their aspects are of such importance to the corps that they must have the emphasis this bill will permit us to give them.

Mr. Chairman, this is the end of my prepared statement.

Chairman RUSSELL. General Shoup, the trend in our Armed Forces today is very decidedly in the direction of more specialization rather than less specialization.

This bill seems to be directed at less specialization in the Marine Corps, at least since the supply duties of the officers affected would have to be discharged by unrestricted officers.

Would abolishing this specialized category contribute to the efficiency of the Marine Corps?

General SHOUP. As I pointed out, we have 1,340 supply duty billets in the Marine Corps right today and only 400 of them are filled by these officers in the SDO category. That, in itself, is ample proof that unrestricted officers can perform all of the duties that are commonly related to those in the SDO category today.

In addition, I think it is proper to say that we have a good example of how a young service, more modern, let us say, in terms of years of age, even though they were a splinter from an older service, never started out with any such thing as an SDO category.

The Air Force does not have it.

The specialization that you talk about, for example, we have electronics officers, we send people to schools, we have all of the specialization we need.

We do not propose that we will discontinue sending officers to the schools that are related to efficient supply management. We will continue to send such officers as we need them to those schools.

However, they can do other duties.

For example, we have any number of unrestricted officers today doing supply duty. We also have today supply-duty-only category officers who have tremendous capabilities to do other things in this Marine Corps, but they are restricted to this kind of duty.

And, further, they do not have the opportunity under the provisions that are operating today to get the broad command experience.

For example, there is no better way to learn the requirements of supply in our small organization, which is devoted mostly to combat organization, than to get out and command a combat organization and understand why, understand what the supply is all about.

Now, these supply-duty-only officers are restricted in this manner. They can by a stretch of the imagination command maybe a service battalion. I have given SDO officers command of the service regiment. But those are not the categories of duties in which the initial SDO category was intended for.

Chairman RUSSELL. Would a man holding a commission as brigadier general in the Supply Corps be qualified to take over command of a regimental combat team immediately and go ahead with it?

General SHOUP. He will be, if he comes up through the unrestricted basis.

And right today, for example, we have two fine brigadiers—I speak of two—they are commanding our big supply depots. Either one of those officers has almost a tailored background to be put in command

of our big stations like Camp Pendleton and Camp Lejeune, but I cannot do it under this setup that we have.

Chairman RUSSELL. In other words, it is sometimes a handicap to an officer?

General SHOUP. Yes, sir.

Well, for example, right now I am quite confident, were this legislation in effect, that our selection board sitting today would certainly select one or both of these two officers as a major general. But they will be deprived of that opportunity.

Further, it is interesting to note that this is one of the features of it:

That the people in the SDO category in one sense are not getting equal treatment with the others, and in another sense they are getting restricted protection. For example, at this point we have some colonels in the Marine Corps because of some of the restrictions that are presently on SDO; and there is no way except an act of God, which we do not like to call upon in this kind of predicament, to get these people out unless they have 35 years of service.

Well, now, what does that do?

We have a situation now, for example, the last SDO officer who waited about a year to get promoted will be with us until 1972, and the only chance that he could possibly have to make major general is Quartermaster General, and there is only one of those under the present setup.

Now, the colonels below these people, we have today three who do not have to get out until 1965. That means between now and 1965, again, barring acts of God, there is no promotion opportunity whatsoever for colonels in the SDO.

Yet, there are colonels here that I am sure ought to be promoted, and in the course of less years than that. And then after that period, it will again be 6 years before any colonel in the SDO category can make brigadier general. I do not think that is good at all, particularly when we have officers in this category in equal percentages qualified to make these higher ranks.

In other words, we broaden the base and more of the colonels in the SDO will become brigadier, and some of the brigadiers in SDO will become major general.

Further, in the unrestricted category of brigadier general today he is coming up for selection for major general at the end of about 3 years service, and if he is passed over twice, he goes out.

No so with these people. There is no chance to select them. If, as is sometimes the case—but very seldom—there is no opportunity after 3 or 4 years to determine whether this officer should go on into the higher grade and continue service, he is guaranteed until he has 35 years service, and now they are being selected to where they have 12 years to go here before this officer most recently promoted could be relieved of duty or retired or anything else except by his own request.

Chairman RUSSELL. The answer to my original question, though, I assume, is that any of these supply officers are qualified by training and experience to assume their grade in combat and lead Marines in combat?

General SHOUP. I would not say that without equivocation. There are a number of the colonels today, just sticking with the grade of colonel, that I would have no reservation whatsoever to give an in-

fantry regiment to. There are some I would not do it with, obviously, because they have not had the background.

Some of these officers that are in this supply area here now have had previous experience before they became SDO, in combat battalions during World War II.

Chairman RUSSELL. In the event this legislation were to pass, of course, this committee would be very much concerned to see that these supply duty officers who are serving in that capacity at the present time would have a fair chance, along with line officers and others, for promotion. There is a section, I believe 3(b), of the bill that is apparently intended to insure that that will be the case, but I want to make the record perfectly clear that in the event this bill does pass, supply duty officers would have the same percentage of selection for their first promotion opportunity as officers in the same grade who have never had such supply duty.

General SHOUP. Yes, sir.

And it will be equal or better to what it would have been if they stayed in the SDO category.

Further, the provision is such that the officer, the first time he comes up for selection after the passage of this bill, of the ranks below colonel, has this equal opportunity for selection, and then, if selected, as he goes up the grade he will average from 5 to 12 years in the unrestricted category before he again comes up for selection.

So he has between 5 to 12 years in the various ranks before he would come up for selection again, which I consider ample opportunity to get in sufficient tasks and jobs and experience that he would have again, when he came up with his contemporaries, equal opportunity for selection.

Chairman RUSSELL. It has also been suggested to me in the same connection, following that question, that some of these supply duty officers have not had an opportunity to attend the company and field officer schools, and, therefore, have not had as much opportunity for training as line officers and those of similar rank in the line.

Do you propose to give these former supply duty officers, in the event we pass this legislation, an opportunity to attend school before they are in line for promotion?

General SHOUP. We will certainly give every one of them an opportunity to attend the school commensurate with their rank and potential, and be selected on the same basis that others are.

Now, I would not say that we could waste the time of the school on every colonel on this list. I think we would be wasting our time.

But in the same manner that we have boards to select those who go to schools, these people will be considered on the same basis, and I assure you that any number of these officers below the rank of colonel, down in the major, captain, and lieutenant colonel categories, there will be more of them go to our schools of the type you are speaking of in the event of the passage of this legislation than there would be before. There would be a goodly number more, although our schools are not devoid, Mr. Chairman—I do not want to let you think that our schools are devoid or that these people are barred from our regular schools now.

That is not true.

Chairman RUSSELL. They may attend them at the present time?

General SHOUP. Yes, sir.

But we do not have a tremendous number of them on a comparative basis, obviously, if there are only 400 officers in this category of all ranks.

Then the number is not equal to the unrestricted.

Chairman RUSSELL. Someone has suggested that we could solve this problem, General, by transferring the supply function of the Marine Corps over to the Navy's Bureau of Supplies and Accounts, and that the supply-duty-only officers be given an opportunity by law to transfer to the Bureau of Supplies and Accounts.

Have you given any thought to that?

General SHOUP. Yes, sir.

And I think, if you are going to go hunting, you ought to carry your own shotgun shells with you. If we are going to do the fighting, why, I think we ought to have the supply system be our supply system.

We have a tremendous amount of support now, as you know, from the Navy and our air stations and medical supplies and all that.

Chairman RUSSELL. I assume you oppose this suggestion, but, as a practical matter, you are completely dependent on the Navy now for certain types of supplies and support?

General SHOUP. Yes, sir, but not in the combat field.

Chairman RUSSELL. Do you supply active combat units?

General SHOUP. We get our bombs, aviation gets their bombs, but the ground troops, outside of medical supplies, our Marine Corps supply system furnishes, and our Marine Corps supply system supplies in the field.

I do not say a fellow in a blue uniform could not go out there and be a supply officer in a Marine battalion, if he had the training.

Chairman RUSSELL. As a matter of fact, men in blue uniforms have gotten killed trying to take Marines back to hospitals in every war we have been engaged in?

General SHOUP. Yes, sir.

Not only that, Mr. Chairman, but the percentage of Navy Crosses to the Navy corpsmen in World War II is greater than any other group in the Marine Corps.

Chairman RUSSELL. I was not aware of that, but I knew that any time there is any shooting where the Marines are getting hit, there is some boy there in blue trying to get the casualties off the field.

General SHOUP. Yes, sir.

Chairman RUSSELL. And he is just as liable to get hit as anybody else.

General SHOUP. There is a very close relationship between the Marine Corps and the Navy in every respect of supply, supply support, and combat support, as you well know.

Chairman RUSSELL. Senator Saltonstall?

Senator SALTONSTALL. Mr. Chairman, just two very short questions.

General, we have a law, of course, that at the present time limits the number of general officers and the number of colonels and majors in the Marines.

This bill, in substance, without increasing the number, will make the competition for promotions for those officers more difficult, am I correct?

General SHOUP. Promotions to general officer?

Senator SALTONSTALL. We have under the law so many generals, so many colonels and so on in the Marines, have we not?

General SHOUP. Yes, sir.

Senator SALTONSTALL. If you throw in all these 400 supply officers into that general competition, it will make the competition for promotion more difficult?

General SHOUP. At the same time you are throwing in six general officer billets.

Senator SALTONSTALL. I understood we were not increasing the billets.

General SHOUP. We are not increasing the number of general officers in the Marine Corps, but of the total general officers in the Marine Corps today, six of them are SDO. So those six would become unrestricted billets, so with the 400 go six billets.

Senator SALTONSTALL. What I mean is you are throwing 400 more men into competition for promotion.

General SHOUP. I have not done the arithmetic on a relative basis, Senator, but whatever six is to 400, 56 is to 17,000 or something like that, I suspect that they are better off.

Chairman RUSSELL. They are now headed for promotion but in their particular relationship?

General SHOUP. Yes, sir.

Chairman RUSSELL. It does not really increase the number of officers in the Marine Corps?

General SHOUP. No, sir, no increase.

Senator SALTONSTALL. I understand that, but what I am trying to bring out is that it does increase the competition for officers in the overall service, because these 400 were formerly limited to the Supply Department, is that not right?

General SHOUP. Yes, sir, that is right, in that respect.

Senator SALTONSTALL. Now, the chairman has brought up section 3(b) of this act.

If you will turn to page 2 of that act, the way section 3(b) is drafted, and come down to line 17 through 23, as I read that, that would mean that the Secretary of the Navy would have to allocate in any of these promotion problems a certain proportion for promotion to the officers who were formerly designated for supply duty only.

General SHOUP. Yes, sir, in the grade of colonel and brigadier.

Senator SALTONSTALL. Yes.

Now, may that not affect the efficiency of the Marine Corps because if you put a certain percentage into the Supply Department and make the selections come from them, you may affect officers who are better qualified who will not be eligible for promotion because of the percentage that has to go in this department?

General SHOUP. This provision is in there for this purpose. For example, take the grade of colonel. There would have been, as I pointed out here, although it is very slow, some of these people had an opportunity to compete for the three billets that would be open in 1965, the colonels, and for the three again that would be open in 1971.

Now, in order to insure that these people do not get euchred out of the opportunity, and we do need in the Marine Corps some people who

have had this much experience up through the years in supply, so the Secretary of the Navy can say:

All right, in this board this year among those brigadiers selected, there will be one or two, or whatever the number that we need, who have had this previous SDO duty—

thus insuring that these people have a chance to make brigadier, so that no board could go in and unilaterally as a board say:

Well, we are not going to select any people who have had SDO experience.

That is to protect them.

Senator SALTONSTALL. General, without prolonging this discussion, does not that contradict what you said formerly? If you are going to put a certain portion of promotions into this former Supply Department for the purposes of maintaining your supply efficiency, are you not then keeping the form of specialization?

General SHOUP. It is not necessarily in this instance to continue the supply efficiency. Obviously we have in these officers supply experience. But I can go out in the unrestricted category and pick you 10 colonels that can do any one of the jobs these colonels are doing right today.

But this provision is so that these people will have an opportunity to make brigadier, and that they will be guaranteed some chance at it during these years while these people who have served most of their career in this business will have an opportunity.

Senator SALTONSTALL. What would be the effect if section 3 were struck out?

General SHOUP. Where the Secretary does not have the chance to do it?

Senator SALTONSTALL. If section 3 is not included in the bill, then, as I understand it, these supply officer people would be put on the same level for qualification for promotion as the line officers, and it would not require the Secretary of the Navy to get a certain portion of the promotions from these former supply officers.

General SHOUP. That is just another part of the protective business in there that was thought to be essential in this transition, in the same manner that the below colonel will have an opportunity for their first selection on the same basis that they would, if the legislation had not passed.

Senator SALTONSTALL. Then should it not be limited to a number of years?

Should not this section be a temporary section and not a permanent part of the law?

General SHOUP. I think this is more a statement of fact than anything else. Our selection laws today provide that the Secretaries of the departments may specify a certain type of individual with certain type qualifications that will be selected. I think this is more a statement of fact than provision of law.

Senator CASE. Would the Senator yield on that?

Chairman RUSSELL. Will the Senator yield?

Senator SALTONSTALL. Yes.

Senator CASE. Is not section 3(b) intended to make the benefits of this legislation applicable to those who have been SDO's?

Without section 3(b) you would deny the benefits of this proposed change to the officers who are presently SDO, would you not?

General SHOUP. That is correct.

Now, the way this law is now, you have a limitation because it says those who were formerly. Pretty soon, if this legislation passes, there will not be any formerly.

Senator CASE. It will run out.

Chairman RUSSELL. As I understood section 3, all of it, sections (a) and (b) would be designed solely to see that these supply officers had equal chance with those who have not been supply officers in all future promotions?

General SHOUP. That is right for their first promotion opportunity.

In other words, until the SDO category runs out.

Chairman RUSSELL. When it runs out, they will not need any protection. If you have not got any SDO category, they will not need any protection.

General SHOUP. That is right.

Senator BUSH. Could I ask a question?

Senator SALTONSTALL. I yield.

Senator BUSH. Is this a recommendation that originated really from the SDO group or is it something you have worked out yourself from your own observation and experience?

General SHOUP. It seems 100 percent from me. When I took over as Commandant, I said this is one of the things that I wanted to get done, and it has come from my observations over a period of years and the various duties I have done.

I had been with G-4 of the Marine Corps during the last year of the World War, which is, in effect, the top supply planning job.

I commanded the service command which is the top supply job in the Pacific.

There is absolutely no reason for having this restrictive category which gives these particular people protection over the others, and many of them now do not even want it. But it has been determined legally that once one has been designated supply-duty-only, he cannot go back by his own request. He cannot do it.

Senator CASE. Mr. Chairman, if I may oversimplify this, I think it is like saying, if you are in the House of Representatives, that if you are a member of a certain committee, you might aspire to be the chairman of that committee, but you might never aspire to be Speaker of the House, and it would also prevent the Members who are members of other committees from ever transferring or aspiring to be chairman of a particular committee.

The point that the Commandant has made about the six officers carrying over opens up the chairmanship, let us say, of the Committee on Armed Services, to those who might have been members of some other committee, if they transferred into the Armed Services Committee.

General SHOUP. That is right.

Chairman RUSSELL. And you say there are 400 of these supply officers?

General SHOUP. There are about 400 now that are in the category of supply-duty-only.

Chairman RUSSELL. How many officers of the Marine Corps are actually performing supply duty?

General SHOUP. About 1,320.  
Chairman RUSSELL. 1,320, and only 400 of them are in this special category?

General SHOUP. That is all.

Chairman RUSSELL. Senator Stennis?

Senator STENNIS. I would like to ask right on that point:

How did this preference situation or special situation, at least, originate?

You might have covered that in your testimony, but I had to go out to the telephone.

General SHOUP. There is a lot of history.

Senator STENNIS. Just quite briefly how did it originate and how did a man get out, once he was in there?

General SHOUP. He cannot get out of it under the present provisions.

That has been gone into by a lot of the legal people. Once you are in SDO, you cannot come out. Ever since the 3d day of March 1817, until the Reorganization Act of 1946, Congress provided paymasters and quartermasters in the Marine Corps.

Senator STENNIS. So this is a relic of the old, old days, then, that has come on down?

General SHOUP. Yes, sir.

It is really as far as I am concerned. It does not fit our modern requirements.

We have specialists, my goodness, we have specialists. Let us take an aviator flying a plane today. We do not have aviation duty only. We have aviators commanding a recruit battalion in Parris Island.

We have aviators on my staff. We have aviators on the ground division staff.

They do not just fly and come up in a protected area for selection and promotion and everything just because they are aviators. They are across the board.

Senator STENNIS. As I understand now in the present law, once an officer gets into this category, particularly if he goes up the line a little, then he is there. He is solidified. He cannot get out.

General SHOUP. Once he has received a permanent promotion, after having been designated SDO, he has had it.

Senator STENNIS. Did you say or did you not say that you were once in?

General SHOUP. I never have been in SDO. I was simply pointing out that I had had considerable duty directly related with supply in the combat area particularly.

Senator STENNIS. I have found one good way to look at the bill. You have told us the points in favor of it, but what are the arguments against it?

General SHOUP. I do not know of any unless it would happen to be some individual—actually, everyone that I have discussed this with—and it has been a good many people very close to me and in the supply-duty-only business—have told me, if the bill did not go through, they would ask to get back in the unrestricted, but they cannot do it—

Senator STENNIS. Now, you said something a while ago about there being a difference in this group and your other group of officers with reference to age of retirement or early retirement or late retirement,

whichever term is used. It seems to me it ought to all be on the same level before that bar of justice that you have in considering a man for retirement.

Is it true that if he once gets in this group, a different rule applies?

General SHOUP. Oh, yes.

Senator STENNIS. To retire?

General SHOUP. Different retirement regulations apply to the SDO category than they do the unrestricted.

Senator STENNIS. And it will take some law along this line to change that rule?

General SHOUP. Yes, sir.

That is exactly one of the reasons for it.

Senator STENNIS. That is all I have, Mr. Chairman.

Chairman RUSSELL. Senator Case, have you concluded your questioning?

Senator CASE. Mr. Chairman, I think I have. The only point I would seek to make in connection with it, I might add to it by this illustration:

That if the Army had a similar restriction on the officers who were in the Engineer Corps, we never would have made it possible for command duties to have been assigned to men like General Wheeler or General Hoegh.

They were in the Engineers.

Chairman RUSSELL. General MacArthur, also.

Senator CASE. Yes.

They established reputations as outstanding engineers, but during World War II Wheeler commanded in the India-Burma area and Hoegh was the commander that exploited the Remagen Bridge.

If they had been restricted to engineer duties, they would not have had these command posts.

Chairman RUSSELL. Senator Ervin?

Senator ERVIN. No questions.

Chairman RUSSELL. Senator Thurmond?

Senator THURMOND. As I understand it, General, you are just asking for a policy that provides for flexibility for the Marine Corps and more flexibility for the individual officer.

That is the effect of it, is it not?

General SHOUP. That is exactly correct, and that we have one Marine Corps instead of two.

Senator THURMOND. It offers an opportunity for the Marine Corps to choose from a broader base?

General SHOUP. Yes, sir.

Senator THURMOND. It offers an officer an opportunity to rise from a broader base?

General SHOUP. Yes, sir.

Senator THURMOND. I want to ask you about this. I have had last year or the year before a lawyer in the Navy, a naval officer, who told me that the judge advocates do not have as good an opportunity for promotion as the line officers. As you familiar with that situation?

General SHOUP. In the Marine Corps we try to take care of that.

Senator THURMOND. What is that?

General SHOUP. We try to take care of that situation, I think, in our selection that is going on right now.

Senator THURMOND. How do you handle that? Would you mind just telling us how you handle the judge advocate promotions in the Marine Corps?

General SHOUP. We do not have any right now that are in the judge advocate business. We have some legal officers. We try to have it across the board.

Let us say, for example, we only have three billets. That is not correct, but let us say we have three billets for legal officer in the rank of colonel in the Marine Corps. That is all we have.

If there are a dozen people coming up for selection from lieutenant colonel and a colonel happens to be in the zone, well, three is all that can be selected.

At the same time we need three. Therefore, the Secretary of the Navy can tell the Board:

"You will select a minimum of three with this kind of experience," and that is the method by which we can control it.

Senator THURMOND. Do you have a provision under your policies such that if a legal officer would prove to be a good line officer, he could be transferred?

General SHOUP. Oh, yes, sir.

Senator THURMOND. Or he could be considered for promotion in the line and not restricted to the legal?

General SHOUP. We are getting some people now who come in for legal duty.

Senator THURMOND. Some of your best commanders, I think, have been legal officers in the past?

General SHOUP. Yes, sir.

Senator THURMOND. Certainly in the Army?

General SHOUP. Yes, sir.

Senator THURMOND. And I was just wondering what your policy was in the Marine Corps?

General SHOUP. We try our best to have people do the job and get promoted on their merits.

Senator THURMOND. But even though they stay in the legal or the medical, they would have—

General SHOUP. I think we can prove that in the Marine Corps our legal people have over the past years done better than the people who have been artillerymen, let us say, or tankmen most of their lives or signalmen most of their careers.

Senator THURMOND. So the legal and medical are not handicapped in any way in promotions in the Marine Corps?

General SHOUP. The legal are not. The medical come from the U.S. Navy.

Senator THURMOND. All your medical officers come from the Navy?

General SHOUP. Yes, sir.

Senator THURMOND. You do not have any medical in the Marines?

General SHOUP. No, sir.

Senator THURMOND. Thank you, Mr. Chairman.

Senator ERVIN. I have one question.

Chairman RUSSELL. Senator Ervin?

Senator ERVIN. I am under the impression that among your lower ranks in the Marine Corps you do not permit any officer to devote all of his time to legal work, but, on the contrary, that you require him to

alternate between serving with an organization as a platoon commander or company commander with legal service.

General SHOUP. That has been the case almost 100 percent until the last year or two.

We do have some officers now that devote most of their time to the legal business, because we have the legal billet that is always going to be there in the words of the law. Therefore, we know we have to have one.

Senator ERVIN. But do you not still have the practice—take, for example, men with the rank of lieutenants who have had legal training or who have been sent to your school there in New England.

You do try to see to it that they get line service as well as the others?

General SHOUP. Yes, sir, particularly if the officer himself want it.

Senator ERVIN. You get your chaplains from the Navy, too, do you not?

General SHOUP. Yes, sir, dentists and doctors.

Chairman RUSSELL. Senator Beall?

Senator BEALL. No questions.

Chairman RUSSELL. Senator Byrd?

Senator BYRD of West Virginia. No, thank you, Mr. Chairman.

Chairman RUSSELL. If there are no further questions, General Shoup, we appreciate your presentation.

We will now hear from Maj. Gen. William P. T. Hill, who is former quartermaster general of the Marine Corps, now retired, who will testify on the bill.

**STATEMENT OF MAJ. GEN. WILLIAM P. T. HILL (RETIRED),  
FORMER QUARTERMASTER GENERAL, U.S. MARINE CORPS**

General HILL. Mr. Chairman, I thank you very much for inviting me to appear before you this morning. My name is William P. T. Hill, major general, U.S. Marine Corps (retired). It has been 7 years since I appeared before this committee, so if I do not recognize some of you by name, please excuse it. I will try to.

I entered the Marine Corps in 1917. I was a qualified naval aviator. I was an engineer. I was an infantry officer, an artillery officer.

In 1929 I was detailed as an acting assistant quartermaster in the then Quartermaster Department. I served continuously in the Quartermaster Department until it was consolidated with the Paymasters Department, and I was the acting quartermaster general or quartermaster general from December 1, 1943, to February 1, 1955.

Now, I did not have time, sir, to write out a full statement, but I have a few observations that I would like to call to the attention of the committee.

I have no fight with General Shoup. I admire him as a soldier and a man. He has had a hard time to straighten out the Marine Corps when he started, and I served under 8 or 10 Commandants of the Marine Corps, and I would place him at the top of all of those.

But the comments I am offering, I believe, are for the good of the Marine Corps, the good of the country, and the protection of those loyal, dedicated people who gave up the chance to become Commandant of the Marine Corps and went into the supply department.

The supply department, as such, the Quartermaster Department and the Paymaster Department, adjutant inspector was established permanently in 1817.

But to get to the gist of the situation, sir, in 1916, March 1, 1916, the detail system versus the staff departments, August 29, 1916 (Public Law 241, H.R. 15947, approved August 29, 1916), abolished and repealed the act of 1903 and made:

No further permanent appointments in any grade in any staff department of the Marine Corps. Any vacancy hereafter occurring in the lower grade of any staff department shall be filled by the detail of an officer of the line for a period of 4 years unless sooner relieved. Any vacancy hereafter occurring in the upper grade of any staff department shall be filled by the appointment of an officer with the rank of colonel holding a permanent appointment in the staff department in which the vacancy exists, or of some other officer holding a permanent appointment in such staff department; in case there be no permanent staff officer with the rank of colonel in the department; or of a colonel in the line in case there be no one holding a permanent appointment in such staff department, such appointment shall be made by the President for a term of 4 years, and the officer so appointed shall be recommissioned in the grade to which appointed.

This law permitted permanent staff officers to be, upon their own applications, with the approval of the President, be reappointed in the line of the Marine Corps, except colonels and lieutenant colonels. If an officer requested transfer to the line, he was required to serve in line duties for 1 year and then establish to the satisfaction of an examining board consisting of line officers, his physical, mental, and professional fitness for the performance of line duties. [All officers, staff and line, were placed on a common list in order of seniority.]

Now, gentlemen, at that time very few officers requested transfer. The last one of those officers left retired in 1944.

Now, in the interim between 1917 and 1937 there had been a lot of meritorious noncommissioned officers appointed, quartermaster sergeants and so forth, by the permanent board as a result of the act of March 4, 1920. They were usually a major, captain, or first lieutenant. Some of them had 20 or more years of service.

Now, those officers were well qualified for those junior positions in the then Quartermaster Department, the then Paymaster Department.

However, in about 1929 those people were retiring with 30 or 35 or 38 years service, and others had to be designated acting assistant quartermasters without being asked for it. So this brings up the law of 1937:

H.R. 7510, a bill to authorize the assignment of officers of the line of the Marine Corps to staff duty only as assistant quartermasters and assistant paymasters, and for other purposes—an act of Congress approved July 28, 1937 (50 Stat. p. 537, U.S.C. supp., title 34, sec. 32)—carried out the provisions of the above bill, H.R. 7510.

All the testimony supporting this bill confirmed the fact that the detail system established by the 1916 act was unsatisfactory and inefficient. The recommendations of Brig. Gen. Hugh Mathews, the then Quartermaster General, Brig. Gen. Harold C. Reisinger, the then Paymaster General, Brig. Gen. Clayton B. Vogel, representing the Major General Commandant of the Marine Corps, that the object was to:

Enable the Marine Corps to develop and maintain an adequate and efficient Staff Corps and looking to the future rather than to the present, to insure that there will be available highly qualified officers with the necessary specialized knowledge, training, and experience to fill important key positions in the Quartermaster and Paymaster Departments.

To accomplish this purpose, it provides that a small number of majors, lieutenant colonels, and colonels of the line may elect, with the approval of the Secretary of the Navy, to spend the remainder of their careers as quartermasters and paymasters, under the same conditions that line officers of the Navy elect to perform engineering duty only.

It provided titles of "Quartermaster General of the Marine Corps" and "Paymaster General of the Marine Corps."

Before it was just the "Quartermaster" and "Paymaster."

The Reorganization Act of 1946, Plan No. 3, consolidated the Paymaster and the Quartermaster Department into one unit, the Supply Department. The paymaster was abolished, the title was abolished.

Next we come to H.R. 1371, which added:

Officers of the line of the Marine Corps of the permanent grades of captain upon application, and with the approval of the Secretary of the Navy, be assigned to *Supply duty only*.

and—

*Provided*, That all Officers of the Marine Corps now assigned to assistant quartermaster duty only, and assistant paymaster duty only are hereby assigned to *Supply duty only*, without change in their lineal positions and precedence solely as a result of such change or assignment. [Emphasis supplied.]

Now, General Vandegrift testified:

It will permit officers who elect in the future to follow this type of duty to begin their specialization earlier in their careers, which should be conducive of greater competence in their specialty.

I would like to quote a paragraph of U.S. Navy Regulations, 1948, Navy Department General Order.

#### 1381. SUCCESSION TO COMMAND BY OFFICERS OF THE MARINE CORPS

1. An officer of the Marine Corps shall not succeed to command of any ship or naval shipyard or of a naval station, except when the officer detailed to command the station is an officer of the Marine Corps.

2. An officer of the Marine Corps designated for supply duty only or detailed for duty in the Supply Department may succeed to command in supply activities of the Marine Corps, and, when directed by a senior in the chain of command, may succeed to command other activities.

There are several cases on record where line officer (not restricted in the performance of duty) without the qualifications necessary to carry out a certain job that were ably and competently filled by assistant quartermaster duty only officers or supply duty only officers.

Now, in 1961, H.R. 4328, Report 354, May 4, 1961, the testimony was given that the supply duty officer concept is one which has outlived its usefulness in the Marine Corps.

We have moved beyond the point where a small group of officers restricted in numbers and range of assignments can adequately meet the needs of the Corps in supply matters.

Well, General Shoup pointed that out.

There are these 402 officers on December 31, 1959. They are augmented by other junior officers for positions that are not a key responsibility. Also, there are several hundred limited-duty-only officers with technical qualifications who assist the Supply Department in carrying out their duties.

The Hoover Committee in June 1955, the "Business Organization of the Department of Defense," says:

## SPECIALIZATION OF PERSONNEL IN SUPPORT ACTIVITIES

The importance of the support activities within each military department clearly requires more specialization of career management and technical personnel than now exists.

On April 11, 1961, the address of the Secretary of the Navy, the Honorable John B. Connally, before Navy and Marine Corps officers, Constitution Hall, contained the following on page 13:

## SPECIALIZATION

The increasing complexity of our Navy requires increasing specialization. We must look into the possibility of slowing down the rotation in order to guard against transferring our officers and men at about the time they become really proficient in a particular position. We cannot afford rotation merely for the sake of a career pattern.

In today's Navy the demands of the various tasks are so different and so taxing that no one officer or man can hope to become even moderately proficient in all.

## PERFORMANCE

In an age of technology, should we not place more emphasis on engineering duty officers? Should we not take steps to even further increase the vitality of this group—particularly in the junior ranks?

Duty in the Supply Department of the Marine Corps has been compared to line officers of the Navy restricted to engineering duty only since 1937.

Again referring to this report, page 3:

All supply-duty-only officers would be redesignated as unrestricted line. However, to protect these officers when they become eligible for their first promotion to the next higher grade, the proposed legislation states that there must be an allocation of vacancies so that the former supply-duty-only officers will receive the same portion of promotion opportunity as their counterparts within the same zone. *This will, in effect, give every supply duty officer protection for promotion to the next higher grade.* [Emphasis supplied.]

Well, I believe it only gives him protection for selection, not protection for promotion, because he is competing with line officers.

Now, the major general in this bill is particularly well cared for. He gets his major generalcy from the date he made brigadier generalcy.

The remainder, in my opinion, suffer enormously when considered by later selection boards as best fitted for promotion to the next higher grade for the following reasons:

1. For a great many years supply-duty-only officers were not permitted to attend the company and field officers schools at Quantico, Va. Therefore, they have not had an equitable chance to be effectively educated as line officers.

2. After the one supposedly "protection for promotion to the next higher grade," all would, in effect, have to attend some line officers school within a short period of time to become at least exposed to the line education of those they would compete against.

3. The colonels, lieutenant colonels, majors, and captains would suffer greatly in comparison with line officers for selection as "best fitted for promotion to next higher grade" for the reason that very few would ever in their careers have had command of any line unit.

4. The schools that supply-duty-only officers usually attend, and rightly so, are schools pertaining to supply and/or logistics.

In my mind it would be more efficient in the long run to continue the present laws governing supply-duty-only officers. I read in the papers, gentlemen, that we are coming up for mobilization, and we will be confronted with the same position that we were in 1942.

We had to call in all the Regulars retired to take these positions of responsibility, and it was some time before they got their feet on the ground. This group of SDO are a group of loyal, capable, dedicated officers who have foregone their chance for the accolades of command in the line. They only wait and serve.

Now, to disturb their laws of primogeniture, as it were, would be breaking faith with them. In a few years they would be eliminated when competing with regular line officers for promotion to higher rank "as best fitted."

I want only to see that those officers who have so faithfully and capably performed their allotted duties have a fair chance of their future opportunities for retention and advancement.

I will admit that we had a hard time during the war to get people to put in an application for supply duty only. In fact, when I first went in, I was called and said: "What have you got but a badge of shame on."

We had a pair of wheels with a sword and a pin. And the service had been kind of looked down on. Maybe they were not superior intellects. They were just the workers. They were not the honey bees.

So I want to see those people protected in some way or other.

I have other comments for the "good of the country" and for the "good of the service."

I say:

1. Don't disturb the present Supply Department of the Marine Corps; or if the present system be changed, turn over by law all phases of supply to the Bureau of Supplies and Accounts—a very efficient organization—and permit present supply officers only to transfer, if they so desire, to augment them to carry out these duties. The junior duties could still be carried out by regular Marine officers.

2. The Medical Corps, the Civil Engineer Corps, the Chaplains Corps, the Bureau of Ships, the Bureau of Naval Weapons, Bureau of Aeronautics all furnish large amounts of supply and logistics support to the Marine Corps, and, from my point of view, if the Quartermaster Department is abolished, supply-duty-only officers are assigned to the line, then the Bureau of Supplies and Accounts, augmented by Marine Corps supply-duty-only officers transferred to their Bureau, could easily replace the Supply Department functions in a short time.

3. This one is rather drastic. I believe that from the start it has been that I have been one person in the service who has been for this next recommendation. Organize a Service and Supply Department within the Department of Defense with equality with the Departments of the Army, the Navy, and the Air Force. This would be more efficient and cheaper in the long run. It would take over all the services and supply for the Department of Defense, leaving with those other departments their operation for defense.

4. A short-range suggestion: Refer a questionnaire to all supply duty only officers in the Marine Corps asking their views on how they feel about it, and how it would affect the efficiency of the Marine

Corps. To protect such officers from future reprisals by not requiring the questionnaire to be signed, or employ the services of group efficiency experts to make recommendations to the Senate Armed Services Committee on the question.

Many times the committees and the Congress have recommended that we have a Supply Department in the Department of Defense. Recently, the Appropriations Committee of the House recommended more specialization, recommended less rotation. I will admit that it is quite a complicated affair, running the finances, the supply and the procurement of the services, and I feel that those people who know what they are talking about, who know all the laws going on, should be the people permitted to run that department.

Thank you very kindly, sir.

Chairman RUSSELL. You, of course, General Hill, are aware of the fact that under the law we passed here about 2 years ago the Secretary of Defense has the authority to have a single procurement agency now, if he wants to, in the Department of Defense.

General HILL. Well, certain things do have central procurement, sir.

In some cases they are satisfactory; in other cases they wait too long, because the people doing the procurement make the decisions but do not have the responsibility of furnishing the supplies of other people.

Chairman RUSSELL. You were quartermaster general of the Marine Corps when it was larger than it has ever been in history, I suppose.

General HILL. Yes, sir.

Chairman RUSSELL. The number of men who were discharging supply duty must have been very considerable.

General HILL. Yes, sir.

Chairman RUSSELL. But the number of SDO officers at that time must have been a very small percentage of the total officers under your command doing supply duty, were they not?

General HILL. It was very small, sir. At one time I believe they had 104 officers in the Supply Department in Washington.

I had worked late that night. I got in the next morning early and my plans and policy officer came in and said:

"You should have stayed until 12 o'clock last night. You lost 67 of your officers to go to the Pacific," and it is relief on the job. In other words, they had to go out there and relieve those people, before those people could come back, have leave and come report to duty in the Supply Department. It was kind of rough, yes, sir.

Chairman RUSSELL. But you did have a lot of line officers who were doing supply duty, did you not?

General HILL. Yes, sir.

Chairman RUSSELL. Did not most of them perform satisfactorily?

General HILL. They did, and we had a preponderance of Reserve officers who were performing supply duty who had a business education, and it was very simple for them to catch on and go ahead with the work. There were not any seniors. They were, say, lieutenant colonels, majors, and captains. But they still had positions of responsibility, great responsibility.

Chairman RUSSELL. You are not impressed, then, with the argument that this would open up a wider field for these SDO officers, I assume, because there are a very limited number of billets in the higher ranks in the SDO now, whereas, if this bill were passed, all

your SDO officers could compete for a much larger number of vacancies?

General HILL. They could compete, sir, but I feel that due to their background, these senior officers had 20 years' supply duty experience.

Now, a great many of them, in my mind, are equivalent or above the average line officer and some of them are superior to line officers. Now, they would get by all right.

Chairman RUSSELL. We have just had testimony here from the Commandant of the Marine Corps that some of these supply officers, if they were not in this category, would undoubtedly get to higher grades, performing greater responsibilities in the Marine Corps.

General HILL. When they went into the Supply Department sir, they were cautioned that the highest you can get is quartermaster general. You forgo the chance of ever being Commandant.

Chairman RUSSELL. There cannot be but one Quartermaster General.

General HILL. There can only be one Quartermaster General.

Chairman RUSSELL. But they have a great many majors and brigadier generals.

General HILL. One Quartermaster General every 4 years. But those brigadiers are permitted to stay 35 and 5—that is, 5 years' commission and 35 years' service—and about that time they are ready to retire, and I believe very few of them who are outstanding in supply would be selected to command a station like Camp LeJeune, Camp Pendleton, or Parris Island, or something like that, sir.

Chairman RUSSELL. I was interested in your observation that it would be preferable to transfer this to the Navy Bureau of Supplies and Accounts than to pass this bill. What would be your views on a bill that did not disturb the present status of these officers but prevented the assignment of any more officers to SDO?

General HILL. I feel you would be in the same position you were when we went to war or when we were mobilized in 1942.

We had 1 major general, 1 brigadier general, 9 colonels, and 11 lieutenant colonels. Everyone else was on a 4-year-detail. In fact, some of them, against their own wishes, were on their second 4-year detail, because they changed the rules about 1933 and said instead of one 4-year detail, if you had shown any efficiency whatsoever, you had to be assigned the second 4-year detail.

Chairman RUSSELL. Senator Saltonstall?

Senator SALTONSTALL. No questions.

Chairman RUSSELL. Senator Stennis?

Senator STENNIS. I think it is covered fully. Thank you.

Chairman RUSSELL. Senator Smith?

Senator SMITH. No questions, Mr. Chairman.

Chairman RUSSELL. Senator Case?

Senator CASE. No questions.

Chairman RUSSELL. General, we are very glad to get your observations growing out of your long years of experience.

General HILL. Thank you very kindly, sir.

(Subsequently, in executive session, the committee voted to report H.R. 4328 without amendment, as covered by S. Rept. 577.)

## H.R. 6668

Chairman RUSSELL. We will take up next H.R. 6668. The committee members will recall that this act permits members of the uniformed services to elect to receive a reduced amount of retirement pay in exchange for a right to their survivors to receive certain payments upon death of the members.

The plan is intended to be a self-sustaining one, except for administrative expenses, which, of course, would be borne by the Government.

This bill proposes several modifications to the restrictions on entering and withdrawing from the program.

The departmental witness is Rear Adm. B. A. Clarey, Office of the Assistant Secretary of Defense.

We will also hear Mr. Robert Myers, Chief Actuary of the Social Security Administration, and a member of the Board of Actuaries that supervises the Contingency Option Act. He is here if his testimony is needed.

If you wish, Mr. Myers, you may sit there with Admiral Clarey.

Admiral Clarey, you may proceed.

(The bill referred to is as follows:)

[H.R. 6668, 87th Cong., 1st sess.]

AN ACT To amend title 10, United States Code, with respect to annuities based on retired or retainer pay, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That chapter 73 of title 10, United States Code, entitled "Annuities Based on Retired or Retainer Pay" may be cited as the "Retired Serviceman's Family Protection Act".

Sec. 2. Section 1431 of title 10, United States Code, is amended to read as follows:

§ 1431. Election of annuity: members of armed forces

"(a) This section applies to all members of the armed forces except—

"(1) members whose names are on a retired list other than a list maintained under section 1376(a) of this title;

"(2) cadets at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy; and

"(3) midshipmen.

"(b) To provide an annuity under section 1434 of this title, a person covered by subsection (a) may elect to receive a reduced amount of the retired or retainer pay to which he may become entitled as a result of service in his armed force. Except as otherwise provided in this section, unless it is made before he completes 18 years of service for which he is entitled to credit in the computation of his basic pay, the election must be made at least three years before he is retired or granted retired or retainer pay. However, if, because of military operations, a member is assigned to an isolated station or is missing, interned in a neutral country, captured by a hostile force, or beleaguered or besieged, and for that reason is unable to make an election before completing 18 years of that service, he may make the election, to become effective immediately, within one year after he ceases to be assigned to that station or returns to the jurisdiction of his armed force, as the case may be. A member to whom retired pay or retainer pay is granted retroactively, and who is otherwise eligible to make an election, may make the election within 90 days after receiving notice that such pay has been granted to him.

"(c) An election may be changed or revoked by the elector before he retires or becomes entitled to retired or retainer pay. However, unless made on the basis of restored mental competency under section 1433 of this title, the change or revocation is not effective if the member is retired or becomes entitled to retired or retainer pay within three years after making the change or revocation.

"(d) If an election made under this section is found to be void for any reason

except fraud or willful intent of the member making the election, he may make a corrected election at any time within 90 days after he is notified in writing that the election is void. A corrected election made under this subsection is effective as of the date of the voided election it replaces."

SEC. 3. Section 1434 of title 10, United States Code is amended—

(1) by amending subsection (b) to read as follows:

"(b) A person may elect to provide both the annuity provided in clause (1) of subsection (a) and that provided in clause (2) of subsection (a), but he may elect only 25 or 12½ percent of his reduced retired or retainer pay for each annuity. The reduction in his retired or retainer pay on account of each annuity, and the amount of each annuity, shall be determined in the same manner that it would be determined if the other annuity had not been elected."; and

(2) by adding the following new subsection at the end thereof:

"(d) Under regulations prescribed under section 1444 (a) of this title, a person may, before or after becoming entitled to retired or retainer pay, provide for allocating, during the period of the surviving spouse's eligibility, a part of the annuity under subsection (a)(3) for payment to those of his surviving children who are not children of that spouse."

SEC. 4. Section 1436 of title 10, United States Code, is amended—

(1) by adding the following at the end of the catchline: "**withdrawal for severe financial hardship**";

(2) by inserting the designation "(a)" before the words "The reduction" at the beginning; and

(3) by adding the following new subsection at the end thereof:

"(b) Under regulations prescribed under section 1444 (a) of this title, the Secretary concerned may, whenever he considers it necessary because of the member's severe financial hardship, allow him to withdraw from participation in an annuity program under this chapter, when requiring the member to continue to participate in the program would violate equity and good conscience. The absence of an eligible beneficiary shall not of itself be a basis for such action. However, no deductions from his retired or retainer pay may be refunded to him under this subsection."

SEC. 5. Section 1444(b) of title 10, United States Code, is amended by adding the following new sentences at the end thereof: "In addition to a report on the administration of this chapter, the report shall also contain a detailed account, including an actuarial analysis of those cases in which relief is granted under sections 1436(b) and 1552 of this title, or any other statutory or administrative procedure. This subsection does not apply to actions taken under section 1445 of this title."

SEC. 6. Chapter 73 of title 10, United States Code, is amended—

(1) by adding the following new sections at the end thereof:

**"§ 1445. Correction of administrative deficiencies**

"Whenever he considers it necessary, the Secretary concerned may, under regulations prescribed under section 1444(a) of this title, correct any election, or any change or revocation of an election, under this chapter when he considers it necessary to correct an administrative error. Except when procured by fraud, a correction under this section is final and conclusive on all officers of the United States.

**"§ 1446. Restriction on participation**

"(a) Notwithstanding section 1441 of this title, if a person—

"(1) has made an election under this chapter;

"(2) is retired for physical disability before he completes 18 years of service for which he is entitled to credit in the computation of his basic pay; and thereafter dies, his beneficiaries are not entitled to the annuities provided under this chapter until they give proof to the department concerned that they are not eligible for benefits under chapter 11 or 13 of title 38. If the beneficiaries are not eligible for benefits under chapter 11 or 13 of title 38, the annuity shall begin on the first day of the month in which the death occurs.

"(b) Whenever the beneficiaries on whose behalf the election was made are restricted, under subsection (a), from participating in the annuities provided under this chapter, the amount withheld from the elector's retired or retainer pay as a result of an election under this chapter shall be refunded to the bene-

ficiaries, less the value of any annuities to be paid under this chapter, and in either case without interest.”; and

(2) by striking out the following item in the analysis :

“1436. Computation of reduction in retired pay.”

and inserting the following item in place thereof :

“1436. Computation of reduction in retired pay; withdrawal for severe financial hardship.”; and

(3) by adding the following new items at the end of the analysis :

“1445. Correction of administrative deficiencies.

“1446. Restriction on participation.”

Sec. 7. Any person who, before the date of enactment of this Act, has filed a change or revocation, subject to section 1431(c) of title 10, United States Code, of an election made under section 1431(b) of that title, which change or revocation would be ineffective if he were to retire upon the date of enactment of this Act, shall have that change or revocation become effective on that date, or three years after the date upon which it was filed, whichever is later.

Sec. 8. Any person who—

(1) made an election before the date of this Act which would be effective if he retired on the day before such date; and

(2) hereafter retires for physical disability before completing 18 years of service for which he is entitled to credit in the computation of his basic pay—

shall be considered as having applicable to him all of the provisions of chapter 73 of title 10, United States Code, existing on the date preceding the date of enactment of this Act, except that any revocation or change of an election is not effective until three years after the date of filing such revocation or change, or the date of enactment of this Act, whichever is later.

Passed by the House of Representatives May 15, 1961.

Attest :

RALPH R. ROBERTS, *Clerk*.

**STATEMENT OF REAR ADM. BERNARD A. CLAREY, USN, DIRECTOR FOR MILITARY PERSONNEL, OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE (MANPOWER), AND ROBERT J. MYERS, CHIEF ACTUARY OF THE SOCIAL SECURITY ADMINISTRATION, AND A MEMBER OF THE BOARD OF ACTUARIES OF THE UNIFORMED SERVICES CONTINGENCY OPTION ACT**

Admiral CLAREY. Mr. Chairman and members of this committee, I am Rear Adm. Bernard A. Clarey, USN, Director for Military Personnel in the Office of the Assistant Secretary of Defense (Manpower). I welcome the opportunity to present the views of the Department of Defense on H.R. 6668, a bill to modify certain provisions of the Contingency Option Act of 1953.

As you know, the Contingency Option Act allows a member of the uniformed services to elect to have his retired pay reduced during his lifetime so that his widow and children might continue to receive a portion of that pay after his death. The program is designed to be paid for by the participating member with no direct contribution by the Government.

H.R. 6668, the bill for your consideration this morning, is based on 7 years of experience with the operation of the Contingency Option Act. During this period it has become apparent that the act requires certain modifications in order to increase participation through more flexible elections, improve financial stability by eliminating those groups which have proved to be an excessively bad financial risk, and to simplify administration.

Considering first the question of participation—we have never been satisfied with the number of eligible members electing to come into the program. This particularly is true in the case of enlisted men, since participation is largely among officers. For example, during 1959 only 19 percent of those eligible, 45 percent of the officers and only 5 percent of the enlisted men, elected coverage. This is a substantial increase over previous years but is far short of what we consider to be desirable.

Among the major provisions of the bill designed to increase flexibility, and thereby, we believe, to increase participation, are the following:

1. Members with 18 or more years of service, who are now barred from making an election, would be permitted to make an election that will be effective providing retirement occurs at least 3 years after the date of the election.

2. The time for changes and revocations to become effective would be reduced to 3 years from the 5 years under present law. Revocation would not bar the member from subsequent participation in the program providing appropriate time requirements are met.

3. In cases where continued participation in the program would result in severe financial hardship which is against equity and good conscience, members would be permitted to withdraw from the program with permission of the Secretary concerned upon presentation of fully substantiated justification. A member withdrawing under these circumstances would not be refunded any moneys already paid into the fund since he would have been protected up to the date of withdrawal.

Turning now to improvement of the financial stability—experience has demonstrated that the mortality rate of those members who were retired for physical disability with less than 18 years service was considerably higher than anticipated, with the result that this part of the program was not self-supporting. To relieve this financial drain on the fund and at the same time to provide coverage for the group retired for disability with less than 18 years service, an additional option was developed. This option would permit a member with less than 18 years of service to elect up until the last day of active duty to enter the Contingency Option Act program but should he die a service-connected death and his survivors be awarded Veterans' Administration benefits, no annuity would be paid. In such a case an appropriate refund would be made to the member's beneficiaries.

Chairman RUSSELL. What do you regard as an appropriate refund? Would that be the amount equivalent to that paid in?

Admiral CLAREY. Well, sir I am not an expert, Mr. Chairman, on that.

Chairman RUSSELL. How about that, Mr. Myers? Are you the actuary down there?

Mr. MYERS. Yes, Mr. Chairman, I am one of the members of the Board of Actuaries. In this particular case, Mr. Chairman, it would be a full refund without any interest.

Chairman RUSSELL. It would be limited to the amount that had been contributed in his behalf?

Mr. MYERS. That is correct, the amount that is taken from his retired pay.

Chairman RUSSELL. And less any amount that you had paid him, I assume, if he received any annuities, or can he make the change after he becomes a recipient?

Mr. MYERS. Mr. Chairman, this is in the case of a retired member who later dies, and he has had certain amounts withdrawn from his retired pay so that he would not have received any benefits under the Uniformed Services Contingency Option Act himself.

Chairman RUSSELL. He would not have received any benefits?

Mr. MYERS. Yes, sir. They would not have received any benefits under the act.

Chairman RUSSELL. So the refund would be the equivalent of all that had been contributed toward his annuity?

Mr. MYERS. That is correct.

All that would have been contributed by him through reductions in his retired pay.

Chairman RUSSELL. That is what I understood.

Mr. MYERS. Yes, Mr. Chairman.

Chairman RUSSELL. All right, Admiral, go ahead.

Admiral CLAREY. Other provisions of the bill are designed to facilitate the operation and administration of the program and include transition from the present law and revision in the method of computing multiple options and deductions. These modifications are generally technical in nature but are important to the improvement of the program.

We have been working closely with your staff on this bill and have agreed on certain technical changes which are indicated in the latest committee print. These technical changes will further improve the bill and the Department of Defense has no objection to them.

This highlights briefly the main provisions of this bill which modify the present law. The Department of Defense, on behalf of all uniformed services, wholeheartedly supports these changes which experience has shown necessary for the improvement of this important program. The endorsement of this committee is respectfully requested.

I have a couple of technical experts here with me, sir, who will be prepared to answer any technical questions you have on the operations of this program from the Department of Defense point of view.

This concludes my statement, Mr. Chairman.

Chairman RUSSELL. As I understand it, the basic principle of the contingency option program is that it is self-supporting.

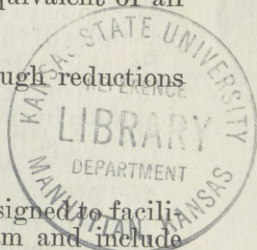
Admiral CLAREY. Yes, sir.

Chairman RUSSELL. Pays its own way except for the administrative costs?

Admiral CLAREY. Yes, sir.

Chairman RUSSELL. Can both of you gentlemen representing the Department of Defense and Actuaries Committee and Social Security Administration give this committee assurances here that the liberalizing features of this bill with regard to entering and leaving this system will not affect the actuarial soundness of the program or require appropriations from the General Treasury to supplement the benefits that will accrue?

Admiral CLAREY. We feel that it will, sir, from our operational standpoint.



Mr. MYERS. Yes, Mr. Chairman.

The Board of Actuaries believes that the conditions providing for more liberal entrance into the system are such that the actuarial soundness of the system will be safeguarded and, in fact, will be improved in certain respects.

Senator SALTONSTALL. Would the Senator yield?

Chairman RUSSELL. Yes.

Senator SALTONSTALL. Mr. Meyers, you have written a letter to Mr. Russell in which you criticize several of these provisions. Has that been cured in these amendments?

Mr. MYERS. No, Senator, not completely.

We do have criticisms of certain minor provisions, but the general principles of the bill we endorse.

Senator SALTONSTALL. You say here you have apparently two objections. You believe that there is no necessity for even limited participation by members with less than 18 years of service.

Do you still oppose that section or believe it is wrong as it is now written?

Mr. MYERS. Our preference would be that that section were not in the bill, but we do not think that it would destroy or affect the financial soundness of the program or create any significant obligation on the General Treasury.

Senator SALTONSTALL. You also state in the next paragraph that you are not in favor of the provision added by section 5 permitting withdrawal of retired persons from the system for severe financial hardship.

Are you still opposed to that?

Mr. MYERS. Yes.

We would still be opposed to that, but, in balance, we endorse the provisions of the bill.

Senator SALTONSTALL. Mr. Chairman, may I ask one more question?

Chairman RUSSELL. Certainly. I am always frightened by this type of bill. My technical knowledge is a little skimpy but my experience over nearly 30 years has shown that despite all the protests to the contrary, when they are submitted, they wind up costing a great deal of money before they are through with them.

Senator SALTONSTALL. What disturbs me, Mr. Myers, you come before us now and say you are agreeable to this bill going forward and yet you stand by two of these objections that might involve, as the chairman has said, a cost to the Government and also provisions that you do not think are necessary.

Do I understand you to mean in this letter that you wrote on May 29, that you think the bill as it has been changed and these provisions which are still in it are sufficiently innocuous so that you would stand behind this bill?

Mr. MYERS. Yes, Senator Saltonstall.

We think that there are certain reporting provisions that have been put in the bill so that careful attention can be paid to the operations of the program to see that it is operating soundly and to see that there is no financial loss to the Government.

We do suggest in my prepared testimony here that there be at least one other change made in the bill to tighten it up in this respect; namely, we suggest that the last sentence of section 5 should be de-

leted so that there will be further reporting of the activities so that study and analysis of them can be made by the Board of Actuaries.

Admiral CLAREY. That was one of the changes to which I referred in a general way, Senator, to which we have no fundamental objection.

Senator SALTONSTALL. You believe, Admiral, that this will stimulate the interest of married enlisted men to participate in this plan?

Admiral CLAREY. Overall, yes, sir.

We are very hopeful that this will be the case.

Senator SALTONSTALL. And it will do so without cost to the Government?

Admiral CLAREY. Yes, sir.

Senator SALTONSTALL. Mr. Chairman, I appreciate the opportunity. I did not mean to ask so many questions.

Chairman RUSSELL. That is all right. I want you to develop all you can about the bill.

Senator SALTONSTALL. I do not have any further questions.

Chairman RUSSELL. Senator Smith?

Senator SMITH. I have no questions, Mr. Chairman.

Chairman RUSSELL. Mr. Myers, do you have any formal statement?

Mr. MYERS. Mr. Chairman, I have a formal statement that I prepared. It is relatively short. If time permits, I would like to go over it. It covers some of the same points that we have discussed, but it may also cover some additional material.

Chairman RUSSELL. All right, sir, if you will proceed as expeditiously as possible.

Mr. MYERS. I should like to present a brief report on the operation of the Uniformed Services Contingency Option Act program, together with the unanimous views of the Board of Actuaries upon the proposed changes contained in H.R. 6668.

During the last 5 years, there has been an increase in the number of members electing to participate in the program; in the last 2 years, the increase has been substantial. There has been a slight increase in the number of retirants under the program each year, although the percentage of participation has remained about the same: at slightly more than 10 percent of total retirements. Of course, members without dependents would have no interest in the program, and we do not know the proportion of retirants with dependents. It is generally desirable to increase participation, which would at the same time afford a broader base for the financial operations.

The operation of the program has been reasonably close to the results expected when it was inaugurated, except with respect to disability retirants with less than 18 years of service for pay purposes. For those who have retired in this category, the system has had a financial loss of about \$20 million, considering both benefits paid in the past and those that will be payable in the future. The Board of Actuaries has consistently recommended that this category be eliminated from the program. We believe that there is no necessity for even the restricted participation provided in section 6 of the bill. This program designed for career servicemen should not be utilized in an attempt to fill a gap in other separately administered programs.

In the past we have recommended that the basis for participation in the program should be by advance election of 5 years, with no benefit coverage during that period or before completion of 20 years of

service. At the same time, the present limiting point of 18 years of service behind which election cannot be made would be eliminated. The bill would reopen the program to members who have completed 18 years of service, provided that their elections are not effective for retirements occurring within 3 years after the date of election. The bill would also permit changes and revocations to become effective after 3 years and would permit a member who has made a revocation to make a new election. Although these changes are not what we have recommended in the past, we believe that they will definitely strengthen the program.

We are not in favor of the provision added by section 4 permitting withdrawal of retired persons from the system for "severe financial hardship," although we recognize that the reporting requirements contained in section 5 will permit some measure of control of abuse. We fail to see that requiring members to continue to participate might violate equity since the rates are actuarially determined so that they will be equitable.

We are concerned that the provisions for correction of administrative deficiencies, contained in section 6 of the bill, may be extended beyond correction of clerical errors and incontrovertible mistakes. Any such extension would be most undesirable. Limitation of the provisions might be strengthened by adding the requirement that corrective actions must be analyzed in our annual report. This could be accomplished by deleting the last sentence of section 5.

The Board has no objection to the technical and transitional provisions included in the bill.

There is, however, one other technical point that concerns us; namely, that in the codification of the original law, one matter was made considerably less clear and precise. This could readily be handled in the committee report.

I have given your staff a statement on this point.

That concludes my statement, Mr. Chairman.

Chairman RUSSELL. Any question of Mr. Myers?

Senator SALTONSTALL. Yes, Mr. Chairman:

If we decide to pass this bill—and I do not know whether we will or not—suppose we eliminated this section which you feel is less than 18 years of service. That is section 6 where you say:

We believe there is no necessity for even the restricted participation provided in section 6 of the bill.

What would happen if we eliminated section 6 of the bill and passed the rest of the bill?

Mr. MYERS. Senator Saltonstall, I think that the Board of Actuaries would definitely prefer that, although we see the disadvantage, from what you might say a public relations standpoint, in the members of the armed service not having available to some extent a privilege which they had before; namely, of coming under a system when they have less than 18 years of service.

From a financial standpoint, this would definitely, in our opinion, be an improvement.

Senator SALTONSTALL. Mr. Myers, may I ask you this question:

You are speaking for the Board of Actuaries of the Uniformed Services Contingency Option Act. May I ask, most respectfully, what is your responsibility with relation to this?

You are Chief Actuary of the Social Security Administration.

Mr. MYERS. Senator Saltonstall, I am Chief Actuary of the Social Security Administration in the Department of Health, Education, and Welfare, but I am not here representing that Department. Rather, I am representing the Board of Actuaries that was established by the original law.

Senator SALTONSTALL. Is your salary partly paid by the Social Security Administration?

Mr. MYERS. My salary is completely paid by the Social Security Administration. My function on this Board is in an ex-officio capacity.

Senator SALTONSTALL. I see.

So you do this other service on the orders of the social security group?

I am not being critical; I am just trying to find out your relationship with the Department of Defense.

Mr. MYERS. As you say, there is no relationship with the Department of Defense at all. The law specifies that the person in my job shall be one of the members of the Board of Actuaries.

Senator SALTONSTALL. And, as such, you do not believe this bill, in its present status, is a sound bill or is a bill that the committee ought to recommend?

Mr. MYERS. We believe that the bill is a sound bill. We believe, however, that it could be improved in certain ways, and we further believe that passage of this bill in its present form would be a definite improvement in the program and would definitely be beneficial to the Government as a whole, by preventing certain financial losses that have occurred in the past.

Senator SALTONSTALL. But more work should be done on it to improve it, to improve its terms. Do you take that position?

Mr. MYERS. I would say that we would like to see the bill passed at least as it is, and we would prefer some other changes in it, but we recognize that in this world there always needs to be certain compromises between conflicting views, and we think that this bill is a good bill.

Senator SALTONSTALL. What would be the result, then—this is July—what would be the result, Admiral, if this bill was held up until the 2d session of this Congress and some further work was done on it?

Admiral CLAREY. Well, sir, we, of course, are very anxious to get it through because of the liberalizing provisions in the bill, and we feel—and I think Mr. Myers does, too, sir—that the changes which are being made with reference to this group with less than 18 years' service is a significant change in the financial improvement of the bill. It was bad before, and it was for this reason that we have addressed ourselves in devising this recommendation to you specifically to this group, so that now, if these people in the 18-years-of-service-and-less category die from service-connected deaths, they will not participate in the program, and so many of them who do retire with less than 18 years of service die eventually of service-connected deaths, and their dependents are eligible for the dependents' indemnity compensation under the survivor's benefits bill; so many of these people are going to be eliminated under the provisions of this bill that I think Mr. Myers

agrees that there is a great financial improvement being made, even by this change here, sir.

Senator SALTONSTALL. Will this bill eliminate those who have caused a financial loss of \$20 million? Will this bill, if we pass it, eliminate that category?

Mr. MYERS. Yes, Senator Saltonstall.

This bill would rectify that situation which, if the bill is not enacted, will continue to go on.

Senator SALTONSTALL. Then you say that while that would be true—

we believe there is no necessity for even the restricted participation provided in section 6 of the bill.

Does that mean that you want to eliminate this category entirely from the bill by eliminating section 6?

Mr. MYERS. Our preference would be to do that, but we believe that even if this is not done, the bill does a very substantial job toward remedying the present situation.

Senator SALTONSTALL. And do you believe that if we leave section 6 in, that it is going to continue to carry a financial loss to the Government, or is it going to eliminate that loss?

Mr. MYERS. We believe that that loss will be eliminated. We believe that the new provisions can be controlled financially. Our recommendations are more what might be said to be from an actuarial policy or planning standpoint than from a financial standpoint.

Senator SALTONSTALL. Yes, but we are interested in both, I think, from what the chairman has just said. We do not want to pass an amendment to a bill here if we know, when we pass it, it is going to cause a financial loss, even though the bill is set up under a principle that it is not going to establish a financial loss.

You gentlemen now say that you think it may still establish a financial loss, or is that an incorrect statement?

Mr. MYERS. I think, Senator Saltonstall, that there will not be any financial loss on this new category that is brought in, in section 6.

We just thought that from an actuarial policy or a program planning standpoint this was not a desirable thing, but from a cost standpoint, I do not think it is a significant item.

Senator SALTONSTALL. Mr. Chairman, I thank you for the opportunity of asking these questions.

Why will any great loss be established if we hold this bill over until next January and give it consideration at that time?

Mr. MYERS. The reason there would be a continuing financial loss to the system is that persons with under 18 years of service could elect this program immediately upon becoming disabled and retiring, knowing that they were in very poor health and possibly on their deathbed. Thus, there would be very little collected in those cases by the system and yet there would be a large amount paid out in benefits.

Senator SALTONSTALL. I think you, Mr. Chairman.

Chairman RUSSELL. Senator Smith?

Senator SMITH. No questions.

Chairman RUSSELL. Thank you, gentlemen.

Senator Byrd?

Senator BYRD of West Virginia. No, thank you.

STATEMENT OF LOGAN E. HYSMITH, PERSONAL AFFAIRS OFFICER  
IN THE DIRECTORATE OF MILITARY PERSONNEL, HEADQUARTERS,  
U.S. AIR FORCE

Mr. HYSMITH. Mr. Chairman and members of the committee, my name is Logan E. Hysmith. I am a personal affairs officer in the Directorate of Military Personnel, Headquarters, U.S. Air Force, and Air Force member, and presently chairman, of the Standing Committee for the Uniformed Services Contingency Option Act, established by the Secretary of Defense, pursuant to Executive Order 10499, November 15, 1953. This Executive order was issued by the President for the purpose of delegating to the Secretary of Defense the functions vested in the President by section 8 of the Uniformed Services Contingency Option Act of 1953, Public Law 239, 83d Congress (10 U.S.C. 1444). I am accompanied by Mr. Leroy J. Spence, Directorate of Personnel Planning, Headquarters, U.S. Air Force, Mr. R. L. Walter, Army member of this committee, and Lt. Comdr Paul Rickey, Navy member. In addition, other members of the committee who are present in the room are Maj. John Curd, U.S. Marine Corps; Capt. J. F. Bills, U.S. Coast Guard; and Capt. E. F. Hicks, U.S. Coast Guard and Geodetic Survey.

One of the committee's duties under our charter is to recommend to the Secretary of Defense such changes to the basic legislation as would, in the opinion of the committee and the several services, improve the operations of the act. These recommendations were contained in H.R. 4329, 87th Congress. However, during the hearing on this bill, certain changes were deemed appropriate and the result was the introduction and passage of H.R. 6668.

Before addressing myself to the bill, it appears appropriate to review the history of the Contingency Option Act. The U.S. Government provides members of its uniformed services with a retirement program, awarding retired pay to an individual based upon a variety of factors. A member retiring from the uniformed services may receive his retirement pay as long as he lives, but it does not pass on to his immediate survivors. A widow and dependent children would only be eligible for monthly income from the Veterans' Administration under the Servicemen's and Veterans' Survivor Benefits Act, if the member's death in a retired status is considered by the Veterans' Administration to have been service connected; that is, his death must have resulted from some condition which can be connected with his service in the uniformed services. Thus a healthy member having completed his career, retired, and been granted retired pay took the family income with him at death.

The Congress addressed itself to this problem in 1953 and after considerable study, a bill was developed which was enacted as Public Law 239, 83d Congress, the Uniformed Services Contingency Option Act of 1953, usually referred to today as USCOA. Under this act, the member may elect to receive a reduced amount of pay in retirement so that he may have the assurance that his widow and dependent children can continue to receive a portion of his retired pay upon his death. The Congress in tackling this problem, truly pioneered in this concept of survivor benefits. Public Law 239 established a period of time in which those members already in receipt of

retired pay on the effective date of the act could elect to come under it. It also established that members in the active service would have to make a decision to participate before completing 18 years of service, computed for basic pay purposes. For those individuals then in the active service who had passed their 18th anniversary, a period of 1 year was given within which to make that election. During the first year of operation, 85,000 members were eligible to make election, and over 31,000, or approximately 37 percent, did so.

The Contingency Option Act has been in operation virtually unchanged for over 7 years. Although its operations to date have been very successful, certain facets susceptible to improvement have been noted. These can be divided into two classes; the first referring to the attractiveness of the act, that is, its appeal to the members of the uniformed services, and, second, its actuarial problems. The act was based on the requirement that it would be completely self-sustaining, without cost to the government, except for minor and scarcely identifiable administrative cost. Therefore, certain restrictions in the terms of participation were included with regard to election, modification, and revocation. These restrictions may be summarized as follows: First, in the event a member of the uniformed services failed to make an election prior to the completion of 18 years of service for pay purposes, he would not thereafter be permitted to participate. Second, once a member elected to participate in the act and thereafter modified or revoked his election, such action would not be effective should the member retire within 5 years of the date of such modification of revocation.

At the same time, one very generous provision was contained in the act which permitted members on active duty who were retired for physical disability with less than 18 years of service to elect to participate at the time of their retirement. Therefore, in order to maintain the actuarial soundness of the fund, the board of actuaries were forced to use multiple cost tables. One table applicable to those who were disabled, both personnel formerly retired and those to be retired in the future; two for those retired for other than physical disability, one of which was applicable to those retired prior to May 1, 1954, and one for those retired after that date. Thus a member electing to participate prior to completion of 18 years' service had no way of estimating with any degree of certainty under which table his annuity cost would be based upon his eventual retirement.

The two most frequent complaints from prospective participants have been the rigidity of the election modification (or change) and revocation requirements and the use of the multiple cost tables. The first of these is the subject of this legislation upon which hearings are being held today, and the second (with reference to multiple cost tables) has been the subject of action by the board of actuaries in promulgating, effective January 1, 1961, a single cost table applicable to personnel retiring with more than 20 years of service. In addition, they establish another table for personnel retiring with from 17 to 20 years of service (which could be only for those retiring for physical disability) and another extremely high cost table applicable to those retiring with less than 17 years of service which also could apply only to disability retirements.

Section 2 of the bill is a provision to redefine "active member" to bring it back in line with the definition contained in Public Law 239. A Comptroller General decision (B-121979, March 25, 1955) interprets subsequent legislation as not authorizing inactive members of the Reserve components to make an election. This has worked a peculiar hardship on the Public Health Service, since all of their reserves not on active duty are termed "inactive" even though they are in a category equivalent to the Ready Reserve of the Armed Forces. Many of the Inactive Reserve may actually be participating in the Reserve program of their service and being credited for the time spent in such status for retirement and pay purposes.

Section 2, H.R. 6668, reduces the 5-year waiting period which must elapse between the date of a modification or a revocation, and the date it can become effective, to 3 years. It also provides that should a member fail to make an election prior to the completion of 18 years of service for pay purposes, he may still make such an election; however, it cannot be effective if he retires within 3 years from that date. The Department of Defense believes the 3-year limitation is reasonable but there is a school of thought to the effect that a 2-year period would suffice. In many instances, it would be adequate. However, the board of actuaries originally opposed any change on this point. The 3-year period contained in H.R. 6668 was arrived at as a result of compromise and is one we consider to be appropriate.

This action also contains language to permit a member who is prevented from making an election by reason of military operations to thereafter make one. If, for reasons of this nature, a member is assigned to an isolated station, is missing, interned, besieged, or beleaguered and is thereby prevented from making an election, he may do so within 1 year after the condition which prevented the election ceases to exist.

Another provision of section 2 is concerned with void elections. Many instances have been noted where an election is considered as void because of failure to properly execute a form, designation of an ineligible beneficiary, or be witnessed or dated improperly to mention but a few of the several irregularities that could void the instrument of election. Where time permits, the form is returned for correction but in most instances it is not discovered until the deadline is passed. This provision would permit a valid corrected election to be made at any time within 90 days after the member is notified in writing the election is void.

Under the present law, if a member makes an election he may not withdraw or cancel it regardless of whether or not it is effective. If he desires to participate all he can do is retire before the revocation is effective if such retirement is authorized by law. This section also authorizes the making of a new election in such cases and provides that, for members with less than 18 years' service, a revocation, modification, or change is effective without imposing the 3-year waiting period.

In some instances, members who have been discharged are found to be eligible for retirement. If they have less than 20 years' service the retirement is for physical disability and retired pay is awarded retro-

actively. A provision is included to permit an election to be made within 90 days from the date of the awarding of the retired pay. Under advice of the Comptroller General we are now accepting elections if made within 30 days. This does not give sufficient time to process the case, compute costs and properly advise the individual.

Section 3 contains a provision to permit a member to allocate an annuity between a surviving spouse and his surviving children who are not children of that spouse. Fortunately, so far as we have knowledge, cases of this nature have been resolved amicably but we believe the member should have the right only to make such an allocation where this situation exists.

Section 3 also contains language to remove the 50 percent limitation on multiple options. This can best be explained by stating that under the law as written, a member may elect option 1 for one-fourth, and option 2 for one-fourth, however, the combined amount of the annuity may not exceed 50 percent of the reduced retired pay. By computing each annuity separately, which we are required to do, and then adding them, in some cases, the total exceeds 50 percent of the reduced retired pay. This requires each annuity to be adjusted downward in a sufficient amount to meet the 50 percent limitation. By removing it computation of costs could be simplified.

Following enactment of Public Law 239, this committee and the several services were made aware of certain hardship situations created by a member electing to participate without a full understanding of the impact the cost would have on their retired pay. These cases prompted enactment of Public Law 696, 83d Congress, granting the Secretaries of the several Departments authority to make determination of hardship in individual cases, and authorize their withdrawal from further participation.

These hardship situations still continue to arise. For that reason, section 4 was included in the bill to permit the Secretary concerned, under regulations prescribed under section 1444(a), title 10, to allow withdrawal from participation in hardship cases. This section follows closely the intent of Public Law 696 as permanent legislation, with the safeguard that additional monitorship by the Secretary of Defense is assured because of the delegation to him by Executive Order 10499, November 4, 1953, of the functions vested in the President to prescribe regulations by section 1444(a) of title 10, United States Code. As a further precaution section 5 of the act amends section 1444(b) relating to reports of administration to require a detailed account, including an actuarial analysis of every case in which relief is granted from participation in the act except those based upon administrative error.

Section 6 of this act is a new section (sec. 1445) which would grant authority to the Secretary concerned, under regulations prescribed under section 1444(a), to correct administrative errors. Except when procured by fraud the correction would be final and conclusive. This would permit the correction of purely administrative errors by the Secretary concerned without having to resort to considering them under authority granted by section 1552, title 10, United States Code.

One of the most critical situations that could be eliminated by enactment of this section is in connection with computation of service at the time of retirement. Several instances have been called to our attention

where an individual is found to have more service than his records have indicated. Usually this is National Guard or Reserve time that has not been credited. In the recomputation, his election is frequently found to have been made after 18 years' service as corrected. In all fairness his election should be recognized and this section would grant this authority. There are other perfectly human errors by which an individual's service is improperly recorded which prejudice participation.

Section 6 also proposes to add another new section (sec. 1446) to provide a system of annuities to be paid only to survivors of personnel who retired with less than 18 years of service and who died of other than service-connected causes. All of the individuals in this category would have been retired for physical disability and if death is on account of service-connected causes as determined by the Veterans' Administration, the survivors would be entitled to dependency and indemnity compensation. We refer to this section as "option 5"; however, we think it is best described as DIC protector.

This is how it would work: An individual retired with less than 18 years of service would be permitted to make the election at the time of retirement. If at the time of his death it was determined that dependency and indemnity compensation was payable by the Veterans' Administration, then, no annuity would be paid. Instead the beneficiary would be refunded the amount of the member's contributions after first deducting the cost of term insurance for the amount of the annuity during the period that he participated. Much thought was given to this option; however, it was determined that something must be done to provide increased participation on the part of enlisted personnel, especially those retiring with less than 17 years of service and who, under the present cost tables, would find their cost of participation increased to almost prohibitive amounts. For example, a member retiring with 16 years of service at age 34 with a wife 3 years younger and a child 7, would have to pay \$32.81 for each \$100 of retired pay awarded him.

However, if this same individual is retired with 17 years' service his cost would be only \$12.48 per month for each \$100 of retired pay. It is believed that by introducing this new concept the cost could be materially reduced below this figure. The plan has the advantage of permitting the election to be made at the time of retirement, and would provide a cash payment to the widow should dependency and indemnity compensation be awarded.

For personnel retired with less than 18 years' service it would assure some income to the survivors in event of death without forfeiting from 25 to 50 percent of the retired pay awarded. This provision was developed by the Department of Defense at the request of the Bureau of the Budget.

Section 7 is a transitional provision. In section 2 the 5-year waiting period, before a change or revocation is effective, is reduced to 3 years. Section 7 provides that changes or revocations pending on the effective date of the law will be effective on that date or 3 years from the date of the change or revocation whichever is later.

Section 8 is a savings proviso applicable to personnel who have an effective election on the date of enactment and who may thereafter be retired for physical disability. Individuals in this situation would

have applicable to them the provisions of chapter 73, title 10, United States Code (the chapter being amended), as it existed on the date of enactment except for a change or revocation coming under section 7 above. This would permit the payment of annuities to survivors who had a valid election in effect upon date of enactment even though retired prior to completion of 18 years. Otherwise the restrictions imposed by the new section 1446 would be applicable.

Chairman RUSSELL. Admiral Houser, I understand, wants to make a statement on this bill.

Have a seat, Admiral.

You may proceed, sir.

**STATEMENT OF REAR ADM. HAROLD A. HOUSER, U.S. NAVY  
(RETIRED), LEGISLATIVE COUNSEL OF THE RETIRED OFFICERS  
ASSOCIATION**

Admiral HOUSER. Mr. Chairman and members of the committee; I am Rear Adm. Harold A. Houser, U.S. Navy, retired, legislative counsel of the Retired Officers Association, with headquarters in this city. Our association consists of over 49,000 members, representing retired officers of all of the seven uniformed services, including both Regulars and Reserves.

The association appreciates the opportunity to present its views in connection with the committee's consideration of the bill, H.R. 6668, a bill to amend title 10, United States Code, with respect to annuities based on retired or retainer pay, and for other purposes.

It appears that enactment of this bill would accomplish its purpose of increasing the attractiveness of the program established by the Uniformed Services Contingency Option Act of 1953. This law authorized members of the uniformed services to make an election whereby they agree to forego a certain amount of their retired pay in return for annuities their widows and other dependents receive upon the death of the persons concerned, after retirement. The Contingency Option Act set up a self-sustaining program involving no direct contribution on the part of the Government.

The receipt of the annuity provided by the above law was not intended by the Congress to prejudice the right of the recipient to receive any pension to which otherwise entitled under the existing law. The enactment of a subsequent law, however, did bring about this unfortunate result.

It is desired to invite the committee's attention to the language in the Contingency Option Act covering this point. It is found in section 11, and reads, as follows:

Annuities payable under this act shall be in addition to any pensions or other payments to which the beneficiary may now or hereafter be entitled under any other provision of law, and shall not be considered income under any law administered by the Veterans' Administration.

After the enactment of the above law, the heads of the uniformed services, through appropriate means, acquainted personnel of the several services as to the various provisions contained in that law. In so doing, it was made clear that the payments to be made under this law would not be interpreted as "income" in determining the qualifications for a pension.

This was a very important consideration because of the income limitation a person must meet in order to qualify for a pension. As an illustration, a widow (without dependents) of a World War I veteran cannot qualify for a pension if her income exceeds \$1,800 per annum.

The Veterans Pension Act of 1959, effective June 1, 1960, has been construed as requiring that the annuities paid under the Contingency Option Act be considered income in determining qualification for a pension. This is in direct conflict with the plain language on this subject which was contained in the Contingency Option Act of 1953, as quoted above. The question of electing to participate in the program provided in the 1953 law posed a very difficult question for many officers. Among the points they took into consideration was the effect it might have on other benefits available to dependents, including the right to a pension. The official assurance that participation in the Contingency Option Act would not prejudice this right was one of the strong motivating causes and, in many instances, the determining factor—that was involved in this decision.

It is submitted, Mr. Chairman, that the legislative history as outlined above demonstrates that there has been a unilateral modification of a contract entered into in good faith by many members of the uniformed services. This, obviously, is true as to those who elected to come under the contingency option program prior to July 1, 1960.

It is, therefore, recommended, with respect to this group, that the bill, H.R. 6668, be amended to reenact, with appropriate language, the substance of section 11 of the Uniformed Services Contingency Option Act of 1953, to which the committee's attention has been invited.

Subject to the foregoing, the Retired Officers Association urges favorable consideration of the bill by the Congress.

Thank you, Mr. Chairman.

Chairman RUSSELL. Thank you for your able statement, Admiral Houser.

Admiral HOUSER. Thank you, sir.

Chairman RUSSELL. Any questions?

Senator SALTONSTALL. This question, Mr. Chairman: I have just been informed by our expert in charge of this matter that this suggestion or recommendation that you make is not within the jurisdiction of this committee; that it is a question of the Veterans' Administration and the Finance Committee; and that if we pass this bill or make this suggestion or recommendation here, that we are putting ourselves in conflict with the Veterans' Administration.

Admiral HOUSER. Senator Saltonstall, might I comment on that, sir?

The basic law originated in the House Armed Services Committee and hearings were held, as I understand it, in this committee when it was enacted in 1953.

I just assume that modification of a bill which had its inception in these two committees would be properly before these committees.

Senator SALTONSTALL. But what is considered as income and not considered as income in connection with a pension, as I understand it, is under the Veterans' Administration, if I am correctly informed, so that if we pass this bill and put in an amendment such as you suggest, then we are in direct conflict or we may be in direct conflict with the Veterans' Administration and its laws as to what is or is not income.

That is what I am informed. I do not know whether that is right or not, but I trust our expert.

Admiral HOUSER. I do not think I could add anything to what I have said, Senator Saltonstall. I believe I have said all I can say on that point, sir.

Chairman RUSSELL. Senator Byrd?

Senator BYRD of West Virginia. No, thank you.

Chairman RUSSELL. Senator Smith?

Senator SMITH. No questions.

Chairman RUSSELL. Thank you very much, Admiral Houser. We are very glad to hear from you.

Admiral HOUSER. Thank you, Mr. Chairman.

#### STATEMENT OF REAR ADM. ALEXANDER JACKSON, ACTING EXECUTIVE DIRECTOR, RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES

Mr. Chairman and members of the committee, we appreciate the opportunity to appear before your committee and present our views on this most important piece of legislation.

H.R. 6668 will give individuals who desire to exercise the contingency option sufficient time so that they can fully determine their needs and act accordingly.

We have had a standing mandate from our national convention for several years requesting the Defense Department and Congress to make a study in order to ascertain if the time element in which the option had to be exercised could be shortened. H.R. 6668 will accomplish this.

We feel that H.R. 6668 will permit officers to make the election more judiciously than the present law, whereby they have to exercise the option many years prior to retirement.

We are in full support of this bill and hope that your committee will see fit to favorably report the same.

We want to thank you for permitting us to express our views.

#### SENATE JOINT RESOLUTION 108

Chairman RUSSELL. Senator Goldwater is here with respect to a brief statement to the committee on Senate Joint Resolution 108. There has been some confusion, Senator Goldwater.

As I told you yesterday, we had no report from the Department on it. Then I called and read the report and it turns out the report was from the Department of the Air Force but we have not yet received any report from the Department of Defense.

Despite that, however, we are perfectly willing to have a hearing on this bill. We are glad to hear from you.

(S.J. Res. 108 is as follows:)

[S.J. Res. 108, 87th Cong., 1st sess]

JOINT RESOLUTION To authorize the presentation of the Distinguished Flying Cross to Major General Benjamin D. Foulois, retired

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Air Force is hereby authorized and directed to present the Distinguished Flying Cross to Major General Benjamin D. Foulois (AO1590), United States Air Force, retired,*

in recognition of his extraordinary and heroic achievements in aerial flight while serving with the air arm of the Army from 1908 to 1935, and in recognition of his outstanding contributions to military aviation during that period. As Chief of the Air Service, American Expeditionary Force, during World War I and later as Chief of the Army Air Corps from 1931 to 1935 he was highly instrumental in developing the fledgling air arm of the United States from its infancy to a position of power and prestige.

STATEMENT OF HON. BARRY GOLDWATER, U.S. SENATOR FROM  
THE STATE OF ARIZONA

Senator GOLDWATER. Thank you very much, Mr. Chairman and members of the committee.

This is a resolution to take care of what I like to think of as an oversight in justice which is nobody's fault because at the time this man could have been awarded a Distinguished Flying Cross for his flying activities, we did not have such an award.

Gen. Benjamin D. Foulois entered the service in 1898 as an enlisted man in the Army Engineers. Later on he became a commissioned officer in the Army, and in 1908 he was assigned to the aviation section of the Signal Corps. He performed a rather unique feat in learning to fly in that he learned by correspondence with the Wright brothers. We had an airplane but nobody understood how to fly it.

The Wright brothers were in Dayton and the general wrote letters to the brothers and learned to fly.

Chairman RUSSELL. What was his rank?

Senator GOLDWATER. He was a lieutenant. He became a captain later on, I am not certain what date, but he was sent to Texas when the first of the Texas flying fields were beginning to open up in San Antonio about 1913, if I remember correctly. There he helped organize the first instruction field at San Antonio and later was placed in command of the 1st Aerial Squadron.

In fact, it was the first company of the First Aerial Squadron.

In 1915, he was sent with this aerial squadron into Mexico and was stationed at various points from Columbus, N. Mex., on down to a point below Chihuahua City. The story of this squadron's activity in the Mexican War is a very interesting one.

I will not relate it here, but the aircraft were not suitable for the missions that were assigned, but they did do a very commendable job. They flew mail, they flew messages, and they flew observation missions in aircraft that frankly could not get high enough to do the mission properly.

He had an interesting experience in Chihuahua City where two aircraft landed in a flight north of the city, two landed south and one from the south went to the north, and they threw rocks and poked holes and undertook to dismantle the aircraft on the north side.

One aircraft was destroyed. The others got away.

After this period from about March of 1915, I would say, through August of the same period, that mission was finished, and, by the way, just as the outfit returned to Columbus retired General Spaatz joined the 1st Aerial Squadron.

Chairman RUSSELL. It may be interesting to know, Senator, that the Air Force presented the committee with a flag today with all of their battle streamers, and the first one was commemorating that

1915-16 campaign. That is the first battle streamer on the Air Force flag.

Senator GOLDWATER. I am very glad to hear that, and I am glad to be here on the day that it was brought over to this committee.

Chairman RUSSELL. We had those exercises before the committee.

Senator GOLDWATER. It makes my argument even stronger for recognition of this man's flying activities. He became the commander of the Air Service in the First World War in Europe, and when he returned from Europe, he eventually became the first commander of the Air Service of the Air Corps of the Army.

He retired in 1935, and during this whole period of service—

Senator SALTONSTALL. Is he still alive?

Senator GOLDWATER. Yes, he is still alive, and I might say extremely active in promoting air power. He visits—I imagine he speaks every day to some young group some place in this country about airpower and about the military in general.

He is a very striking man, quite small, very rugged. He looks to be in the best of shape even though he is 83 years old now.

But he was never awarded any recognition of his flying during the formative years of aviation in the Army, and it is because of that that a number of us felt that he should be so recognized, particularly because of the great contribution then and now, and I have introduced this resolution calling for the award of the Distinguished Flying Cross to the retired Gen. Benjamin Foulois.

Chairman RUSSELL. Any questions?

Senator SALTONSTALL. Senator Goldwater, what was his part in World War I?

Senator GOLDWATER. I mentioned it. He was made Chief of the Air Service of the American Expeditionary Forces in France. Then after that he served as military attaché and military observer in various posts in Europe.

And when he came back to this country in 1925, he was made commanding officer at Mitchel Field in New York, and in 1927 was elevated to the post of Assistant Chief of the Air Corps, and in 1931 he became Chief of the Air Corps, and he held this post until he retired in 1935.

Chairman RUSSELL. Any further questions?

Senator THURMOND. I am just wondering:

Has the Air Force ever given any consideration to this matter?

Senator GOLDWATER. Yes, the Air Force is very interested in having this brought about. But, as I understand it, it has to be done by a resolution because the award did not exist during the period that he performed in a manner that would have caused the award to have been made at that time. The Flying Cross did not come into being until the 2d of July 1926, and by that time I would suppose he had reached around 50 years of age, and if the Air Corps was then what it is now, they begin to frown on you when you get that age.

Senator THURMOND. The Air Force is in accord with your resolution?

Senator GOLDWATER. Yes.

Chairman RUSSELL. We have the Air Force supporting the resolution but the Department of Defense has made no report on it.

Senator GOLDWATER. Do awards have to be approved by the Department of Defense?

Chairman RUSSELL. No.

The Congress has a right to give them, whether they approve them or not, but as a general proposition this committee does not report bills until we have at least their views on them. We get their suggestions and views and we have not yet heard from the Department of Defense.

If there are no further questions, Senator, we are delighted to have you here.

Senator GOLDWATER. Thank you very much. Mr. Chairman.

Chairman RUSSELL. That will conclude the open hearing.

Senator THURMOND. Mr. Chairman, I just want to say it is a great pleasure to have before this committee a man who believes in the Constitution of the United States.

Senator GOLDWATER. Thank you very much.

(Whereupon, at 12:10 p.m. the committee went into executive session.)



