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# 6 SERVICE CREDIT AND FRINGE BENEFITS FOR ASC EMPLOYEES

GOVERNMENT

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## HEARING BEFORE THE COMMITTEE ON CIVIL SERVICE OF THE COMMITTEE ON OFFICE AND CIVIL SERVICE USE OF REPRESENTATIVES EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

### H.R. 2452

A BILL TO EXTEND THE BENEFITS OF THE ANNUAL AND SICK LEAVE ACT OF 1951, THE VETERANS' PREFERENCE ACT OF 1944, AND THE CLASSIFICATION ACT OF 1949 WITH RESPECT TO EMPLOYEES OF COUNTY COMMITTEES ESTABLISHED PURSUANT TO SECTION 8(b) OF THE SOIL CONSERVATION AND DOMESTIC ALLOTMENT ACT, AND FOR OTHER PURPOSES

APRIL 29, 1965

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Committee on Post Office and Civil Service



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## CONTENTS

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### Statement of—

|                                                                                                                                                                                               |            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| Jones, Woodrow, president, National Association of Agricultural<br>Stabilization County Employees; accompanied by Joy Flud, vice<br>president, and Dillard Lasseter, legislative counsel----- | Page<br>12 |
| Macy, John W., Jr., Chairman, Civil Service Commission-----                                                                                                                                   | 2          |

# NOTES

1. The first part of the notes is devoted to a description of the general character of the country, and to a statement of the objects of the expedition.

2. The second part contains a description of the country, and a statement of the objects of the expedition.

3. The third part contains a description of the country, and a statement of the objects of the expedition.

## SERVICE CREDIT AND FRINGE BENEFITS FOR ASC EMPLOYEES

THURSDAY, APRIL 29, 1965

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON CIVIL SERVICE OF THE  
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,  
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m., in room 215, Cannon House Office Building, Hon. Lindley Beckworth (chairman of the subcommittee) presiding.

Mr. BECKWORTH. The subcommittee will come to order.

The Subcommittee on Civil Service is meeting this morning, pursuant to notice, for the consideration of H.R. 2452, a bill to extend the benefits of the Annual and Sick Leave Act of 1951, the Veterans' Preference Act of 1944, and the Classification Act of 1949 with respect to employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes.

(The bill H.R. 2452 follows:)

[H.R. 2452, 89th Cong., 1st sess.]

A BILL To extend the benefits of the Annual and Sick Leave Act of 1951, the Veterans' Preference Act of 1944, and the Classification Act of 1949 with respect to employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That section 802 of the Classification Act of 1949, as amended (5 U.S.C. 1132), is amended by adding at the end thereof the following new subsection:

"(e) An employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may upon appointment to a position subject to this Act have his initial rate of compensation fixed at the minimum rate of the appropriate grade, or at any step of such grade that does not exceed the highest previous rate of compensation received by him during service with such county committee."

SEC. 2. The Annual and Sick Leave Act of 1951 (65 Stat. 679-683), as amended (5 U.S.C. 2061 and following), is amended by adding at the end thereof the following new section:

"SEC. 210. Service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), or of a committee or an association of producers described in section 10(b) of the Agricultural Adjustment Act of May 12, 1933 (48 Stat. 37), shall be included in determining years of service for the purpose of section 203(a) of this Act. The provisions of section 205(e) of this Act for transfer of annual and sick leave between leave systems shall apply to the leave system established for such employees."

SEC. 3. Section 12 of the Veterans' Preference Act of 1944 (5 U.S.C. 861) is amended by inserting before the period at the end thereof the following: " : And provided further, That in computing length of total service, credit shall be given

for service rendered as an employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), or of a committee or an association of producers described in section 10(b) of the Agricultural Adjustment Act of May 12, 1933 (48 Stat. 37)".

Mr. BECKWORTH. H.R. 2452 is identical to H.R. 8544 of the 88th Congress, which was reported unanimously from the Civil Service Subcommittee on August 12, 1964, and was ordered reported from the full committee on September 17, 1964. The purpose of this legislation is to facilitate the staffing of often hard-to-fill positions in the U.S. Department of Agriculture by removing certain impediments to the recruitment of experienced State employees.

The first section of the bill will authorize an employee of an agricultural stabilization and conservation county committee, upon appointment to a position under the Classification Act of 1949, to have his initial rate of compensation fixed at the lowest rate of the appropriate general schedule grade which does not exceed the highest salary rate paid him by the county committee.

Sections 2 and 3 will permit former employees of such county committees, or of associations of producers under the Agricultural Adjustment Act of 1933, to bring with them, when they accept Federal employment, credit for their leave earned and time served with such committees or associations for purposes of determining their Federal leave and reduction-in-force benefits and rights.

Under present law, experienced and valuable employees of county committees or associations of producers under the Agricultural Adjustment Act whom the Department of Agriculture needs often cannot afford to accept Federal appointments because in doing so they would relinquish all of the leave and service rights they have earned through long years of non-Federal employment. These circumstances have operated to the serious disadvantage of the U.S. Department of Agriculture and have impeded the advancement of high capable personnel to assignments which will make best use of their training and knowledge in the public interest.

Our first witness is the Honorable John W. Macy, Jr., Chairman of the U.S. Civil Service Commission.

#### STATEMENT OF HON. JOHN W. MACY, JR., CHAIRMAN, CIVIL SERVICE COMMISSION

Mr. MACY. Thank you very much, Mr. Chairman. I am pleased to have this opportunity to appear before you and your colleagues in connection with your consideration of H.R. 2452.

This legislation proposes to accord salary, leave, and retention credit in Federal employment for services performed with Agricultural Stabilization and Conservation Service county committees. It would also permit the transfer of unused annual and sick leave earned in county committee employment to the leave accounts of county committee employees who enter the Federal service.

My letter of April 28, 1965, which you may wish, Mr. Chairman, to incorporate in the record, fully sets forth the Commission's position regarding this proposal. As I indicated in my letter, this legislation represents the most recent in a long history of efforts to obtain for ASC county committee personnel the benefits and privileges of Federal employment. Previous efforts have been successful in the areas of

retirement health benefits, life insurance, and injury compensation benefits. If H.R. 2452 were to be enacted, there would be virtually nothing in the way of benefits and privileges they would not have.

Mr. Chairman, there are three main reasons why we oppose this legislation now, and have opposed it in the past. My most recent expression of opposition was that in testimony before a similar subcommittee on June 26 of last year. First, it would compound the already unclear relationship between ASC county employees and the Federal Government. Although these employees may resemble Federal employees in certain respects and are participants in a federally sponsored program, the fact remains that they are not Federal employees. Proof that they are not Federal employees is the fact that legislation is needed to declare their service creditable for the purposes of Federal employee benefits and privileges.

If ASC county committee personnel are non-Federal, then what is their actual status? Ostensibly, they are and were intended to be employees of farmer-elected, farmer-composed committees of private citizens. Yet over the years a combination of regulation and legislation has made it increasingly difficult to determine what their status really is. They seem to be in sort of a twilight zone.

For example, they are hired by non-Federal officials, but can be removed by either Federal or non-Federal officials. They are Federal employees for the benefits of Federal employment, but not for the obligations and protection of such laws as the Lloyd-La Follette Act, the Veterans' Preference Act, of the Civil Service Act. Their terms and conditions of employment are all fixed by the Department of Agriculture.

Our second reason for opposing this legislation is that it would be inequitable to Federal employees. Under the retention credit feature appearing in section 3 of the bill, a former ASC county committee employee who became a Federal employee could use his ASC service credit to displace other employees with longer total Federal service in reduction-in-force situations. Because the language of the bill does not limit its applicability to the Department of Agriculture, a former ASC county employee could use his ASC service credit to displace longer service Federal employees in other Federal agencies as well.

The third reason we are opposed to this legislation is that it would open the way for other non-Federal personnel employed in federally sponsored programs to make claims for similar treatment. There are, for example, numerous programs in which the Government makes direct payments to States under cooperative arrangements. The enactment of H.R. 2452, therefore, would be little basis for denying the other groups the same advantages. The end result would be a general weakening of the protections and benefits intended for Federal employees.

Mr. Chairman, assuming that the Department of Agriculture has been experiencing difficulty in recruiting county committee personnel needed for positions in the Department, I propose another solution to the problem which would be more equitable for all concerned. It would be to amend section 8(b) of the Soil Conservation and Domestic Allotment Act as amended (16 U.S.C. 590h(b)) by reconstituting county committee employment as Federal for all purposes. A model for an arrangement such as this already exists in the Farmers Home Administration.

I might point out that the idea of making county office employees Federal is not new. In 1962, the Secretary of Agriculture convened a study committee to look into the farmer committee system. The majority of the eight-member group favored continuation of the existing arrangement with certain modifications, but two members dissented. One was a distinguished former Secretary of Agriculture and the other was a political science professor at the University of Chicago. Both favored essentially the same approach as I am suggesting now. If this approach should be adopted, we would be most willing to assist the Department of Agriculture in carrying out the subsequent conversion.

Thank you for affording me the privilege of appearing before you this morning.

I will be happy to answer any questions that you or your colleagues may wish to address to me on this legislation.

Mr. BECKWORTH. Thank you, Mr. Chairman.

Do you have any questions?

Mr. CLEVINGER. Not right now.

Mr. MATSUNAGA. Not just now.

Mr. JOHNSON. I kind of lost your last train of thought because I was glancing at last year's hearings.

You say something that you are proposing now. "I am suggesting now"—

Mr. MACY. Yes. Mr. Johnson, my suggestion—and I believe I made it at the hearings last year also—would be that in order to clarify the exact status of these employees, and to provide a ready means for their movement into other agricultural activities that are funded by the Federal Government, the basic legislation be amended to make these employees Federal employees.

This would mean that in addition to the benefits that are proposed in this bill, that these employees would be subject to other Federal legislation in the personnel field. It would mean that they would be selected under the terms of the Civil Service Act, that the merit system would function in their appointment.

Mr. JOHNSON. Initially.

Mr. MACY. It would mean that they would be subject to the Hatch Act which they are not at the present time. As I pointed out in my statement, these employees are in a twilight zone between private employment and Federal employment. They are actually, under the theory of this program employees of private citizens who have been grouped together to provide farmer committees for the supervision of these activities.

It seems to me that if it is the congressional desire and intent to extend to these employees the benefits of Federal employment we ought to go the whole way and make them Federal employees.

Mr. JOHNSON. I get your point. I have always felt this way about this problem even back in my experience in the—I believe I stated it last year—in the Pennsylvania Legislature. We were always being confronted with bills written where we were to determine the question whether a county employee who obtained a State job could merge his pension from the county into the State system, the theory being to make it readily possible for employees to obtain promotions in the higher service, yes let's say State service.

I have always seen bills which would provide for the funding of pensions from one corporation to another, transferring of your annuity from one corporation to another corporation. Of course corporations fight that because one of the reasons they claim for a pension system is for continuity of employment and for keeping the man with them 35 years and they don't want him to be able to leave the corporation and go to another corporation.

Mr. MACY. Right.

Mr. JOHNSON. Of course this bill is along the same line of making it readily and easy for an employee like these ASCS employees to get the better job which he would get in the Federal service. Of course, it is commendable but I can see the problem that you have raised such as give them the right to bump other Federal employees and it does open up a whole new area that maybe we had not considered.

Mr. MACY. If you do this for this particular group that there are many other employees who receive directly or indirectly their pay from the Federal Treasury who would have just as legitimate a claim for crediting of previous experience as would this particular group. So I feel that the way to deal with this if the Congress is interested in including this group in these benefits, would be to change the language and say they are Federal employees.

Mr. BECKWORTH. Who are some of these employees to whom you refer that might come knocking at the door asking for the same privilege as this group?

Mr. MACY. These would be employees of States or municipalities or counties who are engaged in programs that are in whole or in part financed by the Federal Government. They might in turn claim that that service should be creditable. In fact last year you had, at the same time you had hearings on this bill, another bill that would have extended retirement and insurance benefits to employees under cooperative programs with the State.

Mr. BECKWORTH. Such as vocational agriculture and teachers, I believe.

Mr. MACY. Yes. It was my unhappy act to oppose that legislation also.

Mr. BECKWORTH. In procedure that would run into millions of employees. Has any estimate been made at any time as to the annual cost this might involve?

Mr. MACY. No, it is very difficult to do that, Mr. Chairman, because we don't know how much movement there is likely to be among the people working for these committees into the Federal service so that these benefits would apply. I think in all fairness the record should show that the incremental cost of this would not be significant. I don't argue against the bill on a cost ground, but rather on these factors of equity and clarification.

Mr. BECKWORTH. Have you given any consideration to what actually would happen to the people who are today working for these various county committees, under the terms of the bill as written?

In other words, would there be any dislocation problem as you see it?

Mr. MACY. No, I don't think there would be any dislocation problem. I think the basic purpose of the bill is to make it easier for men

and women employed by these committees to move into regular agricultural programs by assuring that they retain the salary level that they had in the county committee job and that they carry over accumulated leave. In other words, the intent of the bill is to treat the county committee employment in very much the same fashion as we would treat employment in another Federal agency.

Mr. BECKWORTH. Under your suggested proposal would there be likely to occur a good many dislocations?

Mr. MACY. No, I think we could work out a conversion administratively with the Department of Agriculture so that the changeover could be applied prospectively.

We could work out an examining procedure to take care of incumbents. Certainly I would be opposed to any disruption of program or of the people who are performing this important work at the present time.

Mr. BECKWORTH. You mentioned a moment ago that the bill as drawn is not limited to the Department of Agriculture, I believe. On page 2 of the language you see in the record, "Position," in line 2, page 2.

Mr. MACY. Yes.

Mr. BECKWORTH. Now, if the language "under the Department of Agriculture" were inserted there between the two words "position" and "subject," would that probably meet the objection so far as limiting it?

Mr. MACY. That certainly would limit the span of inequity. The competition would be exclusively within the Department of Agriculture. If the Department views employment of this type as sufficiently related so that they do not feel that this constitutes an inequality, I would not feel as strongly opposed as I do when it is as open and broad as it is now.

Mr. BECKWORTH. Thank you.

Mr. JOHNSON. May I ask another question?

Under your plan to make these employees initially Federal employees it would work out all right for the little person, he would have to take a civil service exam. How about those who were civil service employees, and let us say, have 20 years of service with their county committees? How would you blanket them into the Federal service?

Mr. MACY. We would follow the same practice we have in the past when we bring new groups into competitive service. There would be a system whereby the present incumbents probably take a noncompetitive examination or there would be some evaluation of their service by their supervisors which we would consider equivalent. And the new examination would apply prospectively to those who were being considered for new appointments so that there would be a minimum amount of disruption. This is a fairly well-established pattern, because through the years this has been done as excepted agencies have been brought into the competitive service.

Back in 1938, for example, under the Ramspeck Act broad authority was given to bring into the civil service a good many of the agencies that had grown up during the early thirties. This is the pattern that was followed.

Mr. JOHNSON. I believe in answer to your question to the chairman, about—I think the effect of his question was—would there be a rating

by the Federal Government of present State systems and taking valuable employees away from the States and bringing them into the Federal system? I think there is a reluctance on the part of some of the Governors to support this bill because they are afraid they will lose a lot of their valuable employees to the Federal service. Is that a good objection?

Mr. MACY. That has been an objection not in connection with this particular group of employees, but every time we have discussed opportunities for greater mobility among various public jurisdictions, the States and municipalities have tended to be concerned lest the Federal Government draw off their better people into Federal jobs.

However, this program is so closely related to other phases of the Department of Agriculture program, and as I indicated earlier, it is primarily of a nongovernmental character, that I don't see that this would pose a threat to State employees or to State supervisors.

Mr. JOHNSON. Another question: Does this bill provide for any funding to the Federal Government by the States, that is to say, will the States take the annuity that the worker has accumulated in the State system and transfer the State's and let's say employee's share of their annuity given to your retirement system so that they will have a funded pension in the future?

Mr. MACY. This bill does not relate to annuity provisions. These employees are already under the Retirement Act and in answer to your question the previous legislature did not call for State funding of the portion of the retirement credit that the individuals receive.

In this plan the only additional cost would be a carryover of unused annual leave or sick leave that the individual would add to his account when he entered the Federal Government. There is no provision to fund this in any way other than to have it an added charge to the current appropriation of whatever department hires the individual.

Mr. JOHNSON. Then they are already under the Federal pension service.

Mr. MACY. They are already under the Federal retirement, Federal health benefits, and Federal life insurance. This was enacted by Congress a number of years ago over the opposition of my predecessor.

Mr. CLEVINGER. Mr. Chairman, what proportion of the total ASCS budget is funded by the Federal Government, if you know, roughly?

Do we pay for the program in its entirety now?

Mr. MACY. That is my impression. However, I think this is really a question beyond my capability.

Mr. CLEVINGER. Your capability may be closer than mine.

Mr. MACY. The number may be of some interest to you—there are about 15,000 of these employees across the country.

Mr. CLEVINGER. So that, except for annual leave which presumably could be adjusted by having it used prior to their coming onto the Federal—coming under the bill—

Mr. MACY. You see there are two advantages on the annual leave that are bestowed by this bill: One is that it will permit the employee of the county committee who moves into the Federal service to credit his service toward the amount of leave for which he is eligible. We have a graduated system where there are a certain number of days earned in the first 3 years and a larger number from 3 to 15 years and over 15 they get 26 days. You move over to the higher bracket based on

the previous service before he entered the civil service. This would be one benefit.

Mr. CLEVINGER. But he would already have it if he stayed as he is now he would have presumably the same—

Mr. MACY. He would have it under the leave plan that presently exists for these employees.

Mr. CLEVINGER. So really, what you are saying, if the program is funded almost completely by the Federal Government and they now have a leave system comparable to that of Federal employees, you are not adding any cost to the program?

Mr. MACY. I think the Federal system is slightly more liberal than the system that applies.

Mr. CLEVINGER. Then we have established though, that if you do as you propose, which is to make them come under all aspects of Federal employment, you would keep those on who are already on, and you are just saying you would "take the tail with the hide," or "the hide with the tail."

Mr. MACY. That is right.

Mr. CLEVINGER. Thank you.

Mr. MATSUNAGA. Mr. Chairman, what is the attitude of the Department of Agriculture to your proposal or have you had a chance to determine?

Mr. MACY. I have not discussed it with them.

Mr. MATSUNAGA. The objectives of your proposal and that of H.R. 2452 would be the same, would they not?

Mr. MACY. The objective of my proposal is quite different in the sense that I would propose that these employees be subject to all Federal personnel statutes, so that the kind of transfer that is contemplated in the bill would be a transfer of Federal employees from one employment location to another, rather than the transfer of a non-Federal employee into Federal employment with certain selected benefits out of the whole range of personnel legislation of the Federal Government.

Mr. MATSUNAGA. In other words, you would want them to be subjected to the liabilities of the Hatch Act as well as get the benefits of the other program.

Mr. MACY. Yes. My feeling is that there should be certain compliance with obligations that are imposed upon Federal employees as well as gaining the benefits.

Mr. MATSUNAGA. You do not happen to know the attitude of the employees themselves—those who are involved—toward your proposal?

Mr. MACY. No, I haven't carried it that far. My further answer to your question about the attitude of the Department I believe the Department reviewed a proposal similar to this at the time of the 1962 study and arrived at the conclusion that they preferred to leave it the way it has existed through the years.

So my assumption is that the Department would prefer not to make the change that I propose.

Mr. MATSUNAGA. I would think so, too, because one purpose in setting up the ASCA employee status as is stated is to sort of establish a nonfederally controlled program.

Mr. MACY. Yes.

Mr. MATSUNAGA. And if we were to accept your suggestion, well, then we would lose this independence from the Federal control aspects.

Mr. MACY. That's right. But you see my feeling is that you cannot be both. You cannot be both Federal and non-Federal and each legislative enactment such as this puts these employees deeper into this twilight zone where they are neither Federal or non-Federal, and it seems to me Congress needs to make some kind of public policy decision as to what they are. And the benefits and obligations should be designed in order to meet what they are.

Mr. MATSUNAGA. Well, of course, with a dichotomy of thinking we may arrive at your conclusion. On the other hand, in many other areas such as in politics, one can say you have to be a Democrat or Republican, but we still have the mugwumps. In fact, there are mugwumps, as in this case.

Mr. CLEVINGER. What is this mugwumps?

Mr. MATSUNAGA. So, realistically, we have them here, and the question is whether we are going to extend them further benefits.

Mr. MACY. That's right, whether you are going to get them all the way to being Federal employees, although they are not, by individual legislative steps. It seems to me that further action along this line is just going to make it increasingly confusing as to what these employees really are.

I certainly agree with your point that the original intent when these committees were set up was to have local determination, local participation in decisions relating to these programs. It seems to me that every time you take a step such as this you are in effect tying them more and more into the Federal service and it seems to me at some point you cross the line, and it makes better sense and better public policy to go the whole way.

Mr. CLEVINGER. Mr. Chairman, may I just ask this question which is probably not as much of a question as an observation?

Mr. BECKWORTH. Aren't we constantly getting ourselves in a box and don't we recognize many times as these programs are begun the opposition to the program uses this horrendous thought that there is going to be some sort of Federal control as a way of really opposing the program not because there is anything inherently bad about Federal control that is any worse than some of the local control, and that we get into this situation, and can we go backward now and say, "Well, we have got a Federal program, it is going going to be federally controlled but Federal control may be no worse or no better than local control." There are many advantages that would accrue to the people involved as well as in the program, so let's finally recognize it and have some of those who oppose the program then be in a position to now admit that the program is pretty good and get out then from under this shibboleth of some sort that is constantly brought up when we try to solve some of our problems with national legislation.

Mr. MACY. I share those advices and it seems to me with the kind of evolution that takes place in a kind of program such as this that at some point it is perfectly logical and sound to say that this is totally a Federal program, and that you can preserve the fundamental benefits that you sought by the initial arrangement and still have it as part of the Federal program.

I think we are going to see this in some of the other legislation that has been enacted in more recent times.

Mr. CLEVINGER. I see it now. I had that refreshing experience of listening to the constituents last week and, while there has been a

considerable struggle on the education program and one of the arguments there was this is going to subject us to Federal control. Already the school people and the school superintendents are saying and said to me, "Well, why aren't you doing this faster? Why didn't we have it before and why do we have to fool around with the State education people for when they are not moving on it?" And so forth.

Well, I think to make an argument, one wants to use all of the bullets in his arsenal, and if there is something dangerous about Federal control, fine, but the people who are going to participate in the program, and the general public seems to be aware that we sometimes structure—have elaborate structures to avoid this argument that there is going to be some kind of Federal control. I don't think it is a valid argument in all cases.

Mr. MACY. I am an unashamed enthusiast for the people in the Federal service. I think they represent quality and judgment and ability, and that after all they are the neighbors of those being served by the Federal Government in the community, and they have been selected on a merit basis in terms of their abilities to perform a particular job under Federal statute in that community, and to me they do not constitute a threat or a control. They are an extension of a Government program through the abilities of individual people.

Mr. MATSUNAGA. Mr. Chairman, in that connection, supposing we adopted your proposal, the employees would be Federal employees. Presently they are hired and fired by the county committee, as I understand it.

Mr. MACY. They are hired by the county committee; they can be removed by either the county committee or a Federal official of the Department of Agriculture.

Mr. MATSUNAGA. Oh, by a Federal official also? I did not realize that.

Mr. MACY. Yes; it is not very clear.

Mr. MATSUNAGA. But then if your proposal is adopted then the county committee itself would have no say whatsoever in the hiring and firing.

Mr. MACY. If my proposal were adopted, the employees would be just like other Federal employees and if the county committees were to continue in the same fashion, they would not be making the judgments with respect to those people; that is correct.

Mr. MATSUNAGA. So the original intent of making the county committee the boss of those employed in the activities of the county committee would be lost.

Mr. MACY. Unless you had some delegation that was given to the county committee by the Department of Agriculture to exercise an appointing authority, it would seem to me we would have to see if we couldn't work this out so that you could preserve the desirable local judgment and still have them covered under the Federal statutes.

Mr. MATSUNAGA. Well, to begin with, we have a peculiar situation here anyhow; one paid by the Federal Government being controlled by the independent committee.

Mr. MACY. I think my own preference would be to have them controlled by the people who pay for them; namely, the supervisors in the Federal Government, rather than by a group who has no responsibility to the Federal Government.

Mr. MATSUNAGA. Then of course you would break away from the original intent of forming the county committee?

Mr. MACY. It certainly would be a modification of the original intent, no question about it.

Mr. BECKWORTH. Thank you, Mr. Chairman. We have certainly appreciated your fine presentation.

Mr. MACY. Thank you.

Mr. BECKWORTH. Without objection the letter that was sent by the Chairman of the Civil Service Commission to the Honorable Tom Murray, dated April 28, 1965, will be made a part of the record at this point.

U.S. CIVIL SERVICE COMMISSION,  
Washington, D.C., April 28, 1965.

Hon. TOM MURRAY,  
Chairman, Committee on Post Office and Civil Service,  
House of Representatives,  
Cannon House Office Building.

DEAR MR. CHAIRMAN: This is in further reply to your request of January 29, 1965, for the views of the Civil Service Commission on H.R. 2452 and H.R. 3000, identical bills, to extend the benefits of the Annual and Sick Leave Act of 1951, the Veterans' Preference Act of 1944, and the Classification Act of 1949 with respect to employees of county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, and for other purposes.

This legislation would grant salary, leave, and retention credit in Federal employment for service performed as an employee of Agricultural Stabilization and Conservation Service county committees. It would also permit the transfer of unused annual and sick leave earned in county committee employment to the accounts of former county committee personnel who enter the Federal service.

These bills are the most recent in a long history of proposals to confer the benefits of Federal employment on ASC county committee personnel. Previous proposals have been enacted granting these personnel coverage under the Federal Employees' Compensation Act, the Civil Service Retirement Act, the Federal Employees' Group Life Insurance Act, and the Federal Employees Health Benefits Act. The enactment of this legislation would leave ASC county committee employees in possession of virtually all of the benefits and privileges of Federal employment without having to be Federal employees.

The Civil Service Commission has in the past recommended against extending Federal benefits to ASC county committee personnel. Our position remains unchanged. We see no justification for singling out this group of non-Federal employees for further preferential treatment.

As we see it, this legislation would further complicate the already unclear relationship between the Federal Government and county committee employees. These personnel are said to perform Federal functions, but the manifest intent of the county committee approach has been to administer Federal programs without the exercise of Federal functions at local levels. They are, in name at least, employees of farmer-elected committees of private citizens, but the Department of Agriculture fixes all the terms and conditions of employment. They are Federal employees for the benefits of Federal employment, but not for the requirements and protections as provided under such laws as the Veterans' Preference Act or the Lloyd-La Follette Act.

There are other undesirable consequences that this legislation would have. For one thing, it would be inequitable to other employees. It would not be difficult to envision a situation where the application of the retention preference provision could result in the displacement by reduction in force of a long-service Federal employee by a former ASC county committee employee with shorter Federal service. In addition, this legislation would open the way for other non-Federal personnel employed in federally sponsored programs to obtain similar advantages.

Presumably, this legislation is intended to provide an incentive for ASC county committee personnel to accept positions in the Department of Agriculture. It seems to us that there is a far more equitable way to accomplish this objective. This would be to amend section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590h(b)), by conferring a clear-cut Federal

function on county committees, and by declaring the employees Federal for all purposes, subject not only to the benefits of Federal employment, but to all the obligations and protections as well. Such legislation would clarify the status of these employees and put an end to the incongruous duality which insists on maintaining local control in name, but Federal control in substance. Until the law is changed as suggested, we see no basis for extending the privileges desired.

The Bureau of the Budget advises that there would be no objection to the submission of this report as enactment of the subject bills would not be consistent with the administration's objectives.

By direction of the Commission :

Sincerely yours,

JOHN W. MACY, Jr., *Chairman.*

Mr. BECKWORTH. The next witness is the president of the National Association of Agricultural Stabilization County Employees, Mr. Woodrow Jones.

Come forward, Mr. Jones.

**STATEMENT OF WOODROW JONES, PRESIDENT, NATIONAL ASSOCIATION OF AGRICULTURAL STABILIZATION COUNTY EMPLOYEES; ACCOMPANIED BY JOY FLUD, VICE PRESIDENT; AND DILLARD LASSETER, LEGISLATIVE COUNSEL**

Mr. JONES. Mr. Chairman and distinguished members, for the record, I am Woodrow Jones, Bowie County, ASCS office manager, New Boston, Tex. I am president of the National Association of ASCS County Office Employees. Our association, which we refer to as NASCOE, is made up of more than 90 percent of all county ASCS employees in the Nation. We work at the county level. We administer the farm programs which you in the Congress in your wisdom provide to benefit the Nation's farm people.

The agency for which we work is the Agricultural Stabilization and Conservation Service. It is one of the largest divisions of the U.S. Department of Agriculture. Its functions devolve solely from the actions in the Congress and is administered by the Secretary of Agriculture.

The legislation being considered would extend to a group of loyal Government employees in the ASCS offices at the county level—not preferred—but equal treatment to that enjoyed by other Government employees if through their initiative they become eligible for transfer to another level of the same agency or a different agency in the public service.

You may be told that we are non-Federal and non-Government but I'll assure you that our every official act is governed by Federal statute or directive. The Secretary has issued regulations that provide the conditions of our employment and delegates authority to the Deputy Administrator to issue instructions implementing these regulations. Under this authority the Deputy Administrator has issued our county administrative handbook (1-CA). In addition to implementing the regulations this handbook is a manual of instructions for the county office.

It covers every administrative facet of county office operation, including employment and removal of county office personnel, budgeting of funds, record handling, administrative services, and so forth. The handbook sets up standards for classification of all positions in the county office. It establishes the rates of pay. It contains procedure

for filing or vacancies. It sets up minimum qualifications for county office manager and subordinate positions in the county office. In addition to this handbook, some 40-odd others have been issued and are in effect. They pertain to the various programs administered in the field.

I would like to point to my own county office as one that is about an average one in scope of operations and number of employees. We have 3,425 farms and 6 employees including myself. And, Mr. Chairman, I know that you have personal knowledge as to what goes on in our area.

As far as supervision is concerned, we receive instructions from our State office daily. The district fieldman, who works out of the State ASCS office and who is under Federal appointment, visited our office a total of 16 times last year. He supervised us to the extent that he could see that handbook provisions and other directives were observed to the letter.

In addition to his visits, an employee from the State performance supervisor's office visited in our county office four times last year. He spotchecked our fieldwork. An auditor from the Office of the Inspector General spends approximately 3 weeks checking all the records on all our programs at least once each year. I could go on and on talking to you, citing facts that would prove to you that we are as Federal as the U.S. mint. Your time, however, is too valuable for me to do that. I feel that each of you are well acquainted—as you have exhibited—with the day-to-day operations of the county ASCS offices in your States.

You understand that our duties are solely those provided for by you and your colleagues.

It is a time-honored American principle of management for employees to rise through the ranks. The ideal success story always involves the office boy who works his way up to head the corporation. In ASCS, however, under the present work rules this cannot happen. We find that to advance from the county office level to the State office, area office, or Washington office level, in our agency, the employee must forfeit all accumulated sick leave and retention rights.

He must accept lump-sum payment for annual leave and see his leave earning rate rolled back to the same level as that applicable to a new employee recruited from the street.

Other Government employees advancing in our sister agencies do not face these circumstances. When a clerk in the small town post office transfers to the terminal or a civilian employee of the arsenal in my county transfers to work in the Pentagon, they do not suffer these losses. And even when an employee transfers from employment in other branches of the Government to ASCS they do so without being penalized in the manner just described. This is the case even though the employee being transferred is working at the county level of a sister USDA agency.

Many times their offices are located next door or just across the hall in the same building with the local ASCS office.

These people are those who working with the same farmers, sitting on the same action panels, carrying out programs authorized and provided for by the same Congress, and being paid out of funds appropriated in the same piece of legislation as we are. We think this is an unfair situation, and this bill will correct it if you should see fit to enact it.

The Government service would be the greatest benefactor if the legislation is passed. We feel employees trained at the basic level of our agency would find it possible to accept promotions they cannot now afford to take under the conditions that we work under today. Many of our people have applied to the board of civil service examiners in Kansas City, received ratings placing them at the top of the register, only to find when the job opening came that they could not afford to make the sacrifices required to take the job.

We work at the level where we are face to face with the farmer and his problems on a day-to-day basis. Sometimes we hear this referred to as the grassroots area of administration. It is our opinion that people advanced from recent contacts with the basic elements of agriculture can most likely be relied upon to do a better job in program formulation and policymaking than someone who has not had this experience. During our contacts with people in ASCS and USDA at the Washington level we have found that they agree with this philosophy on this.

Our association made a survey that included every county ASCS employee in the Nation. We found that each employee had spent an average of 13.6 years working for ASCS. Almost 2,000 of these have in excess of 20 years of service. Many of us have spent our entire adult lives working for ASCS or its predecessor agencies. We have here a vast reservoir of trained personnel who should be given an opportunity to take higher positions if and when they are needed, but unless some relief from the existing situation is provided they cannot afford to make the move. ASCS and USDA will continue to have problems recruiting from this source unless you can help us.

The legislation being considered, if enacted, would not give us preferential treatment. It would only serve to afford us equal opportunity to advance along with other Government employees. It would not extend privileges to non-Federal, non-Government, or even quasi-Federal employees. Our jobs are no more detached from Federal control than are the jobs of the postmasters. We are no more county employees than the postmaster of New York City is a city employee.

The legislation would not permit us to bypass any examination or any other qualification requirement. I assure you that we are as interested as you in maintaining good program administration, and would be the last group to ask for special treatment or relaxing of job requirements. As we have always emphasized, we only hope to be treated exactly like each and every other Government employee.

I count it a joy and a privilege to appear before you. We know that here we will get courteous, impartial, and above all fair treatment. We know we are in good hands. We hope you will favor enactment of H.R. 2452.

Thank you for the kindness of hearing us today.

Mr. BECKWORTH. Thank you very much, Mr. Jones.

I wish the record to reflect that Mr. Jones, though he works in Bowie, is in my home county, Upshur, and we were raised about 14 miles apart and have been to each other's respective rural schools through the years, and we are proud, Mr. Jones, of the good work that you have done for the Department of Agriculture, for the good work that you have done in the county, and the good work you have done in behalf of your organization. You have an effective organization.

Your statement is an excellent one and a very clear one.

Mr. JONES. I thank you and I want to say that I certainly appreciate those remarks and assure you that I feel the same about having had the opportunity of sitting in the same schoolroom under the supervision of your father.

Mr. BECKWORTH. Thank you. Thank you very much.

You have emphasized that in a good many instances real sacrifices would take place if some of your people change the kind of work they do for the Department of Agriculture, as I understand your remarks.

Would you describe what may be termed a typical case along that line?

Mr. JONES. Excuse a personal reference, but in the past 3 years I have been given the opportunity on five occasions to change employment to a better position in ASCS, but I have accumulated more than 100 days of sick leave and I am, of course, subject to all the human frailties of any other person who is approaching or past middle age and I could not see making the sacrifice and taking the risk of taking a job today and being hospitalized tomorrow and jeopardizing the future of my family to where I could see my way clear to take the position.

As I said, that is a personal reference, but it has not only happened to me, it has happened to many others, and even though the grades would sometimes have been as much as three greater than the grade comparable to the one I was in, I could not feel safe enough to take the risk.

Mr. BECKWITH. Thank you for that example.

Do you have any questions?

Mr. MATSUNAGA. Mr. Chairman.

Mr. Jones, you have heard the proposal made by Mr. Macy, what is your view on his proposal?

Mr. JONES. Congressman, we feel this way: We had not been exposed before this morning to the thinking of Mr. Macy on this matter, but the Congress has always determined the conditions of our employment, and we have been willing to do our best to efficiently serve agriculture under the conditions that the Congress set up. And we will always be willing to abide by any decision that you people make concerning our employment. We just simply plead for fairness and equal consideration with others in the Government service.

Mr. MATSUNAGA. It is your position, as I take it from your testimony, that you are now Federal employees, period.

Mr. JONES. We cannot feel any other way, sir. All of our compensation originates as Federal funds, as far as I know. There are a few fees that the farmers pay into the ASCS funds for our services, but in most counties over the Nation it is a very, very minute amount as compared to amounts as furnished directly through appropriations from you people.

Mr. MATSUNAGA. So, if you consider yourselves now as Federal employees, you can't really conceive of any real objection to the proposal made by Mr. Macy to make you in fact Federal employees?

Mr. JONES. We have been asked this question before and we have had to answer it like this: That if the program should be administered as effectively as it is intended to be, then we would have to accept the decision of the Congress, and certainly we will accept the decision of the Congress in the matter.

Mr. MATSUNAGA. Because the way Mr. Macy, who is Chairman of the Civil Service Commission, looks at it, you are not now Federal employees, but sort of a—

Mr. JONES. Neither fish nor fowl.

Mr. MATSUNAGA. Sort of mugwumps—neither fish nor fowl—that's the way Mr. Macy looks at it, and of course his proposal is that you may be made to bear the liabilities as well as the benefits such as the Hatch Act.

Mr. JONES. Of course, sir, the Hatch Act, as I understand it, does not apply to use per se, but the Secretary's regulations have incorporated the provisions of the Hatch Act, I think, to the full extent possible and we do have to observe all the provisions of the Hatch Act that I know anything about, sir.

Mr. MATSUNAGA. Yes. Well I think the example picked by Mr. Macy was a poor one, because that act, as I recall, states that, if any Federal funds are involved toward payment of your wages, salaries, you do come within the Hatch Act anyhow, but there may be some other Federal programs which would impose a liability upon you, if you do become Federal employees, but you are willing to accept these so-called liabilities if the committee should decide to go all the way and approve the proposal put to us by Mr. Macy.

Mr. JONES. We would certainly be willing to accept the judgment of this committee on any matters and we will be willing to accept any obligation that you can expect of us; yes, sir.

Mr. MATSUNAGA. Mr. Macy observed that you can be fired either by the Federal supervisor or the Department of Agriculture or the county committee; is this correct?

Mr. JONES. Yes, sir; we can be removed by almost anybody, sir. The county committee can certainly do it. The State committee—there are provisions for them to do it. In the regulation it is provided that we can be removed by people at the Washington level for a number of reasons that could exist, such as impeding the administration of any other programs or something in that field.

Mr. MATSUNAGA. On what basis can the county committee remove you? Is it for cause?

Mr. JONES. They can remove us for cause or they can remove us without cause.

Mr. MATSUNAGA. Are you on a contractual basis with the county committee or what is the employment relationship between you and the county committee?

Mr. JONES. The county committee sets the policy as outlined by the Secretary in his regulations and the handbook instructions on all the programs.

If there is policy that is of a nature that there are decisions that should be made at the local level, the county committee has the responsibility of making and setting that policy.

They, as the regulations are written today, have the responsibility of hiring the office manager, and he serves at their pleasure. They have to hire a person, though, who meets the qualification standards as handed down in the handbook 1-CA that I referred to earlier by the Deputy State Administrator of the County Operations. Then, in return, the county office manager has the responsibility of hiring and supervising the subordinate employees but they too must meet certain qualification standards as stated in the regulations.

Mr. MATSUNAGA. But then my question is: Who does the actual hiring of your subordinates.

Mr. JONES. Me and the county committee.

Mr. MATSUNAGA. Who hires you?

Mr. JONES. The county committee hires me with the approval of the State committee.

Mr. MATSUNAGA. I see.

Mr. JONES. And I see the subordinate employees with the approval of the State committee.

Mr. MATSUNAGA. This is still an independent committee, not a Federal agency?

You are speaking of the local State committee?

Mr. JONES. No, sir; the State committee is appointed by the Secretary of Agriculture. The local county committee is elected by the eligible farmers in the county.

Mr. MATSUNAGA. Oh, yes, yes, so it is only at the county level that the farmers themselves elect the committee members?

Mr. JONES. Yes.

Mr. MATSUNAGA. At the State level, the Secretary makes the appointments?

Mr. JONES. Yes, sir.

Mr. MATSUNAGA. Yes. And are you hired on a year-to-year basis or on an indefinite basis?

Mr. JONES. Indefinite basis, sir.

Mr. MATSUNAGA. You spoke of a handbook which makes provisions which must be followed by you. By whom is this handbook put out?

Mr. JONES. The Deputy Administrator of State and County Operations, ASCS, in Washington.

Mr. MATSUNAGA. Does the county committee have anything to do with determining the provisions of that handbook?

Mr. JONES. No, sir; none at all.

Mr. MATSUNAGA. None at all. Well, I am inclined to agree with you, Mr. Jones, that you are not seeking to be preferred employees, but merely seeking equal rights.

Mr. JONES. Yes, sir.

Mr. MATSUNAGA. And in this day and age when everybody is seeking equal rights I think you deserve to be recognized.

Mr. JONES. Thank you very much.

Mr. BECKWORTH. Mr. Broyhill.

Mr. BROYHILL. Mr. Jones, Mr. Matsunaga asked you some of the questions that I was going to ask. When you are employed by these county committees, does the ASCS, on the national level, have anything to do with your employment? Do they make any recommendations or, in other words, do they recommend to the committee, four, five, or six applicants from which the county committee can select?

Mr. JONES. The ASCS, at the Washington level, Mr. Broyhill, does not. The State committee in many States, and mine happens to be one of them, they have a trainee program—that the prospective county office managers are required to come up through the trainee program.

Mr. BROYHILL. Is this trainee administered in any way by the ASCS?

Mr. JONES. By the State ASCS office; yes, sir. Not all States follow that however, sir.

Mr. BROYHILL. You say you are paid out of Federal funds. Does your monthly check come from the U.S. Treasury, sir?

Mr. JONES. Periodically at this present time, I would say each quarter, the estimated amount of expenses that will be required to operate our county office, is forwarded to me in the form of a U.S. Treasury check and as treasurer of the Bowie ASCS County Committee I deposit that in a bank account which is the county committee's, and each pay period, which is the same as those in the Federal service, there is a check drawn on that bank account and signed by me as the treasurer, and paid to the people who have worked in the county offices during that 2-week period.

Mr. BROYHILL. Are you familiar with the proposal that Mr. Macy has made in his statement this morning?

Mr. JONES. It was the first I heard of it this morning when he broke it to you people here.

Mr. BROYHILL. Are you able to comment this morning on this proposal to this extent, that if his proposal were adopted, would the county committees have any right to select their own ASCS county manager?

Mr. JONES. Of course, that would depend of course on how the eligible lists that he proposed be set up. I don't know how he intended to do that or whether they could have any leeway. I don't know enough about civil service regulations to know whether there could be any leeway in their selection.

Mr. BROYHILL. No other questions.

Mr. MATSUNAGA. That would be a key question, would it not, because, as I understand it, by setting up the county committee with freedom of action from Federal control, the power was given to the county committee to select the so-called manager.

Mr. JONES. The compatibility of those two things right there would certainly be a key to the acceptance of it, I think.

Mr. MATSUNAGA. I am interested to know, Mr. Jones, in your speaking of your membership, extending over the entire Nation, do you have any members in Hawaii?

Mr. JONES. Only recently were the county offices in Hawaii set up on the basis of all the rest, I think, in the United States, and we have had the good fortune in the last 2 months, that one of our executive committeemen visited the State of Hawaii, and talked to all the people and I believe that within the next 30 days every employee in the State of Hawaii will be members of NASCOE and we are very thankful that they will be.

I had had a lot of correspondence with the people out there and they have indicated they would be joining within the next month.

Mr. MATSUNAGA. I would appreciate your communicating with me to indicate how many have joined.

Mr. JONES. I certainly will, sir.

Mr. MATSUNAGA. So that at least I can say to them that I listened to their representative here.

Mr. JONES. I can assure you I will come to them and let them know that you have been very helpful this morning.

Mr. MATSUNAGA. We wish to thank you, Mr. Jones, for your testimony.

Is Mr. Flud or Mr. Lasseter here?

Mr. JONES. Both of them are here.

Mr. MATSUNAGA. Are they here to testify or just to give you moral support?

Mr. FLUD. I don't think I have anything to add. Thank you, gentlemen, for giving us the opportunity to appear and give our side of the story.

Mr. LASSETER. I am Mr. Lasseter and I have nothing to say beyond what Mr. Jones has said.

I appreciate your permitting me to be here, sir.

Mr. MATSUNAGA. Then you both agree that Mr. Jones did such a good job you do not have to add anything?

Mr. LASSETER. Yes.

Mr. JONES. Again, we want to thank you and the staff for being so nice to us.

Mr. MATSUNAGA. Thank you. We will now adjourn subject to the call of the Chair.

(Whereupon, at 11:20 a.m., the subcommittee adjourned, subject to the call of the Chair.)



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