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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

SECOND SESSION

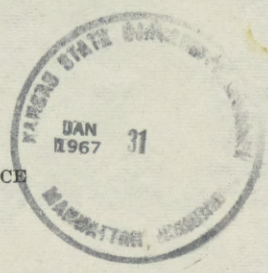
ON

H.R. 3002

A BILL TO AMEND THE ANNUAL AND SICK LEAVE ACT OF
1951, AS AMENDED, TO EXEMPT FROM COVERAGE
OF THE ACT OFFICERS AND MEMBERS OF
CREWS OF VESSELS

MARCH 1, 1966

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ANNUAL AND SICK LEAVE FOR
MARITIME EMPLOYEES

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ANNUAL AND SICK LEAVE FOR MARITIME EMPLOYEES

TUESDAY, MARCH 1, 1966

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

The subcommittee met at 10 a.m. in room 219, Cannon Building, Hon. Robert N. C. Nix presiding.

Mr. Nix. Ladies and gentlemen, the meeting will come to order.

This meeting is called for the purpose of hearings on H.R. 3002. Unfortunately, the subcommittee chairman, Hon. Lindley Beckworth, could not be present this morning. I assure you that his absence is completely justified. It was very necessary that he absent himself at this time.

Hon. James H. Morrison, who introduced H.R. 3002, is unable to attend these hearings because he is required to be in attendance at another important hearing, which relates to postal rates. He has submitted a statement, and without objection at this time it may become part of the record.

(The statement follows:)

STATEMENT OF HON. JAMES H. MORRISON, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF LOUISIANA

Seamen employed by the Government have their compensation fixed by the Classification Act of 1949. This is done by excluding them from the act with the provision that "officers and members of crews of vessels * * * compensation shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and practices in the maritime industry * * *"

I believe this exclusion was written in the Classification Act to prevent the Government from affecting labor conditions in the maritime industry and to prevent unfair Government competition with private industry.

Subsequent to this, the Annual and Sick Leave Act and the Civil Service Retirement Act, either by oversight or because everyone thought the language—rates and practices—in the Classification Act of 1949, did not exclude seamen. This legislation was drafted by the Navy Department at my request.

Legislation that I introduced would, with possible amendments, clarify the present confused picture and Government-employed seamen would receive annual leave benefits the same as those in the private industry.

I have been informed that the Government, specifically the Military Sea Transportation Service, is experiencing difficulty in recruiting seamen because of the differences between the conditions in the Government versus private—the very difference the Classification Act attempted to avoid.

Basically, what I am attempting to do is amend existing laws so that Government-employed seamen will receive vacation benefits commensurate with seamen in private industry. I have seen the AFL-CIO Maritime Committee's proposed amendment to H.R. 3002 and I ask that you adopt it and act favorably upon this legislation.

Mr. NIX. H.R. 3002 adds section J to a list of exceptions to the Annual and Sick Leave Act of 1951, as amended. If enacted, the chapter, 5 U.S.C. 2061(b)(1), would be amended by inserting a new subsection, in substance, excluding officers and members of crews of vessels, whose compensation and leave are fixed in accordance with prevailing rates and practices in the maritime industry from coverage under the above-cited act.

We are very happy to have as witnesses this morning Mr. Glenn Stahl, Director, Bureau of Policies and Standards, accompanied by Mr. Morton I. Horvitz, program planner, Policy Development Division, Civil Service Commission; and Mr. Pete Bocker, national representative of the National Maritime Union, New York City, accompanied by Mr. Talmage Simpkins, administrative assistant, AFL-CIO Maritime Committee.

We also have official reports from the Bureau of the Budget and the Civil Service Commission which, if there are no objections, will be included in the record at this time.

(The reports follow:)

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., February 28, 1966.

Hon. TOM MURRAY,
Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Civil Service Commission on H.R. 3002, a bill to amend the Annual and Sick Leave Act of 1951, as amended, to exempt from coverage of the act officers and members of crews of vessels.

This legislation would remove vessel crewmen compensated under prevailing rate schedules from the coverage of the Annual and Sick Leave Act and place them under leave arrangements prevailing in the maritime industry. Enactment of this legislation would mean substantially greater leave benefits for most vessel crewmen since the prevailing leave rates in the industry are, on the whole, significantly higher than they are in the Government. In some cases, however, it would mean a reduction in benefits. Under this legislation employees would not be allowed to carry over unused leave balances earned under the Annual and Sick Leave Act. This could be particularly disadvantageous to long-service personnel with large sick leave balances to their credit. It would also be disadvantageous to another category of vessel employees, harbor craft personnel, whose leave earning rate is higher in the Government than in industry.

The Civil Service Commission has in the past opposed legislation similar to H.R. 3002, and is opposed to this legislation on the grounds that this is the wrong way to deal with any problems that may exist.

Within the maritime industry leave rates are set by negotiation between employee unions and the shipping companies. No single leave rate prevails throughout the industry for all employees. Rates vary from one occupation to the other, and have even varied from one coast to the other for the same occupation. By contrast, occupation and grade make no difference in the granting of Federal leave benefits.

The enactment of this legislation would not only set apart one category of crewmen from the other in the application of its benefits, it would also set apart maritime personnel from other employees such as scientists and administrative personnel who often serve aboard Government vessels. These personnel would continue to be subject to the Annual and Sick Leave Act.

Aside from these considerations, any system which would be subject to change whenever a contract is negotiated and which would be lacking in uniformity, would be unwieldy and difficult to administer.

As with other fringe benefits for Federal employees, the Annual and Sick Leave Act was intended to strike a reasonable balance appropriate to the Government service as a whole. If it can be established that the existing features of the total compensation system (that is, pay and benefits) are not adequately meeting the needs of the Government, then changes should be sought by building on the present system. The Commission plans to explore the situation further with the

interested agencies to assess what problems they are having and to determine what changes in total compensation may be appropriate.

The Bureau of the Budget advises that from the standpoint of the administration's program there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

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

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., February 28, 1966.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to the committee's request for the views of the Bureau of the Budget respecting H.R. 3002, a bill to amend the Annual and Sick Leave Act of 1951, as amended, to exempt from coverage of the act officers and members of crews of vessels.

The purpose of the bill is to exempt those Federal employees who are officers and members of crews of vessels from the Annual and Sick Leave Act of 1951, as amended, and to require instead, that leave for such employees be fixed in accordance with rates and practices prevailing in the maritime industry.

The effect of the bill is to select one class of Federal employee for special treatment with respect to one element of total compensation—leave—without regard to the effect of such special treatment on the total compensation of such employees; that is, wages plus wage supplements (fringe benefits). Since it is reported that some categories of private maritime employees have recently been provided 60 days' leave per annum, the bill would raise the total wage supplements for some Federal maritime employees substantially above the standard pay supplements provided Federal employees generally.

The pay supplements provided Federal employees include vacation leave, sick leave, group life insurance, health insurance, retirement, unemployment compensation, and full medical care and compensation in case of duty-connected illness or injury, among others. The cost to the Government of these supplements is very substantial, averaging nearly 24 percent of wages and salaries. The Government cannot maintain an equitable and comprehensive policy with respect to pay, pay supplements, work schedules and other personnel matters affecting all its employees, if selected supplements are to be increased for selected groups of employees without regard to the resulting effect on total compensation. Such manipulation of Federal pay supplement statutes could produce an irrational, inequitable, and unjustifiable pattern of advantage and disadvantage among various groups of Federal employees, arising from considerations having no relationship to the effective conduct of Federal programs.

The Bureau of the Budget believes, in brief, that any proposed change in a single element in total compensation for Federal employment must be weighed in relation to all other elements of Federal compensation; and that there is no evidence that total Federal compensation is so defective as to require action to more than double leave for some employees, ignoring the substantial values of the Federal pay supplements considered as a whole.

Accordingly, for the reasons stated, the Bureau of the Budget strongly opposes the provisions of H.R. 3002 and urges that the committee not take favorable action, as enactment of the bill would be inconsistent with the administration's objectives.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

Mr. NIX. Our first witness will be Mr. Glenn Stahl. You may proceed in any manner you deem appropriate.

STATEMENT OF O. GLENN STAHL, DIRECTOR, BUREAU OF POLICIES AND STANDARDS, CIVIL SERVICE COMMISSION

Mr. STAHL. Thank you, Mr. Chairman. I believe the simplest thing would be to read aloud the report which was signed yesterday

and has been submitted to the committee and to which you refer. Then I would be happy to answer any questions that you have.

Referring, of course, to H.R. 3002, a bill to amend the Annual and Sick Leave Act of 1951, as amended, to exempt from coverage of the act officers and members of crews and vessels.

This legislation would remove vessel crewmen compensated under prevailing rate schedules from the coverage of the Annual and Sick Leave Act and place them under leave arrangements prevailing in the maritime industry. Enactment of this legislation would mean substantially greater leave benefits for most vessel crewmen since the prevailing leave rates in industry are, on the whole, significantly higher than they are in the Government. In some cases, however, it would mean a reduction in benefits. Under this legislation employees would not be allowed to carry over unused leave balances earned under the Annual and Sick Leave Act. This could be particularly disadvantageous to another category of vessel employees, harbor craft personnel, whose leave earning rate is higher in the Government than in industry.

The Civil Service Commission has in the past opposed legislation similar to H.R. 3002, and is opposed to this legislation on the grounds that this is the wrong way to deal with any problems that may exist.

Within the maritime industry leave rates are set by negotiation between employee unions and the shipping companies. No single leave rate prevails throughout the industry for all employees. Rates vary from one occupation to the other, and have even varied from one coast to the other for the same occupation. By contrast, occupation and grade make no difference in the granting of Federal leave benefits.

The enactment of this legislation would not only set apart one category of crewmen from the other in the application of its benefits, it would also set apart maritime personnel from other employees such as scientists and administrative personnel who often serve aboard Government vessels. These personnel would continue to be subject to the Annual and Sick Leave Act.

Aside from these considerations, any system which would be subject to change whenever a contract is negotiated and which would be lacking in uniformity, would be unwieldy and difficult to administer.

As with other fringe benefits for Federal employees, the Annual and Sick Leave Act was intended to strike a reasonable balance appropriate to the Government service as a whole. If it can be established that the existing features of the total compensation system (that is, pay and benefits) are not adequately meeting the needs of the Government, then changes should be sought by building on the present system. The Civil Service Commission plans to explore the situation further with the interested agencies to assess what problems they are having and to determine what changes in total compensation may be appropriate.

This report, Mr. Chairman, has been cleared by the Bureau of the Budget and is in accordance with the President's legislative program.

I will be happy, as I said at the outset, to answer any questions which you may have insofar as we are able at this time to provide the answers.

Mr. NIX. Mr. Stahl, in the last part of your statement, I refer to the last paragraph, you say, "If it can be established that the existing features of the total compensation system * * * are not adequately meeting the needs of the Government, then changes should be sought by building on the present system." It is assumed by that statement that in your judgment the present system, by and large, is a good system. That would be a fair conclusion, would it not?

Mr. STAHL. Yes, sir.

Mr. NIX. Did your agency arrive at that decision without extended conferences with other groups?

Mr. STAHL. That is correct, Mr. Chairman. We have not had an opportunity to make an intensive study of this or have extended conferences with the interested Federal agencies. The reason for the statement standing as it does—in terms of "If it can be established

that the present system isn't adequately meeting the needs"—is in recognition of the fact that the contention is being made that there is difficulty in recruiting crewmen for Government vessels. We have not yet been able to establish the degree of this if it is really true. We would also like to have the opportunity to determine, if it is correct that we are having substantial difficulty in recruiting to man these ships, what the best amendment or revision of our total package ranging from pay to the retirement system would be appropriate to this occupation, this kind of employment. So it is for that reason that we would like to reserve judgment on whether any change really is necessary and if so what that change might well be. We think this bill would be singling out one feature of the total compensation package; namely, leave, and deal with it in isolated form from the rest of the situation.

Mr. NIX. The basic question involved, however, is not a new question, is it?

Mr. STAHL. No, sir; it is not a new question.

Mr. NIX. Since it is not a new question, it is reasonable to think that discussions should have been had some time in the past. Therefore, the question arises in my mind: Why have they not been had?

Mr. STAHL. That is a perfectly logical question, Mr. Chairman, and I have every sympathy with your raising it. The fact is, though, that a year ago, when similar legislation was under consideration, conditions were at the time quite different. We did not feel that there was much likelihood of grave difficulty in recruitment. We are told now that because of the activation of additional ships as the result of the Vietnam situation that we may have a different situation now. That is why we are willing to explore it now. We opposed the legislation more or less flatly last year. Now we are saying, as a result of recent developments, we are willing to look into the situation, but we are unwilling to support the singling out of this particular amendment until we have an opportunity to see more fully what the situation calls for.

Mr. NIX. Then your change of position would be dependent upon the difficulty of securing crewmen?

Mr. STAHL. That is right.

Mr. NIX. Otherwise you would be adamant in your position?

Mr. STAHL. I should think so. Insofar as we see the situation now, I think that would be the main consideration: are we having difficulty in manning the ships? At the same time, of course, we would be mindful of how our total compensation system compares with that in industry. We would have to take into account such things, for example, as the degree of job security that Government crewmen have, working year round rather than signing up trip by trip, the latter practice existing in the private maritime industry. We would have to take into consideration those factors.

Mr. NIX. I get the impression that the legislation is offered because its proponents are impressed with the existence of an inequity. I understand that is why the legislation is advanced. Therefore, if your position is that its only virtue is to be found in the fact that it is difficult to find employees, I think you are in a position which is at variance with theirs.

Mr. STAHL. Well, Mr. Chairman, we would think that there is a good deal of interrelationship between the matter of equity and the

matter of recruitment. If the Government really is being inequitable in what it offers people, it is not going to be in a very good recruitment situation. But from a managerial standpoint, one of the indexes of equity is whether or not we are competing in the market.

My main point is not so much just to emphasize the recruitment but to emphasize the total range of compensation. Just because one thing is more favorable in private industry, we shouldn't single it out and act on it without looking at the total range of benefits—retirement, job security, pay rates, and all that goes with it—health insurance, life insurance, et cetera.

Mr. NIX. Yet, the basic position of the Government would have to be that equity must be done, even if you have to single out, wouldn't it?

Mr. STAHL. Yes, sir. We would have to look at equity in two ways, equity to the employees and equity to the taxpayers.

Mr. NIX. In the top paragraph of the last page, I note you say:

The enactment of this legislation would not only set apart one category of crewmen from the other in the application of its benefits, it would also set apart maritime personnel from other employees such as scientists and administrative personnel who often serve aboard Government vessels.

Now, on the surveys, I don't see why that is so bad. Would you mind explaining that?

Mr. STAHL. Mr. Chairman, our reason for calling attention to that is this: We have more and more instances nowadays where personnel whose normal jobs might be based here on the continent somewhere have occasions to be gone for months at a time at sea because of scientific studies and experiments and the like. This might be as far away as the Antarctic, for example. Since these people technically aren't merchant crewmen, they would not enjoy the special leave benefits that are being sought for merchant crewmen under this legislation. Yet, the reason apparently for seeking the special leave benefits is the condition of long absence from home with their being unable to get away from the worksite, as it were, being on shipboard all the time, weekends and all. Our superficial reaction, at least, is that any personnel who work under a certain set of conditions ought to be treated generally the same with respect to those conditions. So, we would like to explore that consideration, too. We would be a little suspicious, frankly, of any legislation that provides merely for certain occupations to be treated a certain way when the conditions of employment, even of other occupations, may be identical, at least during the time that they are on shipboard and out on the open seas.

Mr. NIX. Would you say, Mr. Stahl, that the Federal Cabinet-level Committee on Federal Staff Retirement System, set up by the President to study retirement benefits and furnish benefits, was in answer to questions raised such as that which is raised by the proponents of this legislation?

Mr. STAHL. Well, Mr. Chairman, I am not certain to what extent I could say that it was in answer to questions such as the ones raised by this proposed legislation. My impression is that the retirement study is an answer to a lot of questions about the total retirement policy in the Federal service and the problems of several different retirement systems—the relationship between social security and the civil service retirement system, and the relationship between the civil service retirement system and the military retirement system. So there have been many other issues that are in the background and

have provided the reasons for that particular study. But the elements of that study, the things covered in that study, are some of the kinds of things we are talking about here when we refer to total compensation.

Mr. NIX. Of course, there is continuing concern on the part of the President and others in this field. There has been a series of studies on this subject and others of similar nature, hasn't there?

Mr. STAHL. Oh, yes.

Mr. NIX. I suppose there will be many more.

Mr. STAHL. Yes.

Mr. NIX. Now, Mr. Stahl, let me ask you just a few more questions. You said here on the first page, next to the last paragraph, and I quote:

The Civil Service Commission has in the past opposed legislation similar to H.R. 3002, and is opposed to this legislation on the grounds that this is the wrong way to deal with any problems that may exist.

Why is this the wrong way to deal with it?

Mr. STAHL. What we mean by "the wrong way," Mr. Chairman, is to single out a single feature of total compensation, as I say, ranging from daily or hourly pay rates to the retirement system, and try to deal with it in isolation from the other elements of what we call total compensation. This is what we mean by "the wrong way." The reason that we leave some doubt as to whether there really are any problems is simply because, frankly, we have some conflicting information now about how serious this problem of either inequity or difficulty in recruitment, whichever approach you wish to take, really is. So this is what we meant, what we packed into that brief phrase.

Mr. NIX. And to enlarge that, then, you mean what you desire would be a conference, covering the overall picture, and if this is inclusive of the subjects discussed, it would find its proper place there.

Mr. STAHL. Precisely, sir.

Mr. NIX. As a result of those discussions, then, you would feel that there might be some changes?

Mr. STAHL. There may very well be.

Mr. NIX. As a result of all this.

Mr. STAHL. Yes, sir.

Mr. NIX. Now, under this proposed bill, I think you indicated that a situation could arise where Federal employees on the same vessel would be subjected to different leave systems. How would that disrupt the service or militate to the disadvantage of different individuals?

Mr. STAHL. Well, I am not sure that it would be so serious that it would disrupt anything, but I think it would mean a problem of equity where people are working under identical conditions but receiving substantially different treatment with respect to their work. This is the main point that we would be concerned about there. We think that this could only lead then to requests for other legislation to apply to them. We would rather tackle the whole problem at once.

Mr. NIX. When you say "Working under the same conditions," do you mean people of different employment, such as scientists?

Mr. STAHL. Yes.

Mr. NIX. And the ordinary seaman would be working under the same? Would you explain that to me?

Mr. STAHL. I mean that if one of the reasons for considering among the other compensation elements the leave situation, and for modifying the leave situation, then apparently what lies behind that is the condition of having to be away from one's home, from one's family, for extended periods, maybe several or many months at a time, with no opportunity to get off the ship, as it were. Now, that condition is just as real and just as meaningful to a man who may happen to wear the badge of scientist as it is to any of the ship personnel who are operating the vessel.

What we are saying is that we think that whatever we might come up with ought to apply to all who work under those conditions at the time that they work under the conditions. Obviously, it wouldn't apply if they weren't working under those conditions. But this is in the back of our minds as a possibility at least.

Mr. NIX. And yet, even if it were such as you described, it would affect the individuals, the men themselves. It would not be a concern, as I see it, of your department, would it?

Mr. STAHL. Yes, it would, sir, insofar as we have to administer such things as the Leave Act, and the compensation system, and the retirement system. Naturally we have to be concerned about their coverage and the different groups to which they apply and the conditions under which they apply. So we would be involved.

Mr. NIX. You mean that the number of personnel required in your administration would be materially increased?

Mr. STAHL. No, sir. This would not have any such impact at all.

Mr. NIX. In the event that the men, or their representatives wanted this change, then that would be their concern, and not your department's concern, would it not?

Mr. STAHL. Well, except as we have to be concerned with the total recruitment situation and the total equity situation as you referred to it a while ago. We would find it difficult, if we proposed legislation in this area or proposed administrative action in this area, assuming we had the freedom to adopt it, to propose anything which would be subject to attack on the grounds of inequity to any particular group of employees who work under conditions identical to those of others that are affected.

Mr. NIX. Just one last question. How would excluding officers and members of crews and vessels from the Annual Sick Leave Act of 1951 be beneficial to them?

Mr. STAHL. Because it is quite clear that with respect to leave—annual leave, vacation leave, whatever it may be called—the practices in the private maritime industry for most of those categories of personnel, except the harborcraft personnel, are considerably more liberal than the Government's general leave policy, although the Government's leave policy is a generally liberal one by comparison with most private employments. Therefore, the members of crews of vessels would continue to enjoy all of the other fringe benefits and pay benefits of Federal employment and the security of Federal employment, the year-round character of employment on vessels, and in addition have the advantage of the most favorable leave practice in private employment. Now, if this should be justified then we think it needs to be fully defended and this is why we would like to have the time to look into the thing more deeply.

Mr. NIX. The gentleman from Hawaii.

Mr. MATSUNAGA. You say you are looking into this matter?

Mr. STAHL. Yes, sir.

Mr. MATSUNAGA. How long will it be before you can come up with some suggestions?

Mr. STAHL. I would judge that if we would have 5, 6, or 7 weeks, we could come up with something.

Mr. MATSUNAGA. Fine.

Mr. NIX. Thank you, Mr. Stahl.

Mr. STAHL. Thank you, sir.

Mr. NIX. Our next witness is Mr. Peter Bocker, national representative of the National Maritime Union.

STATEMENT OF PETER BOCKER, NATIONAL REPRESENTATIVE OF THE NATIONAL MARITIME UNION, NEW YORK CITY, ACCOMPANIED BY TALMAGE SIMPKINS, ADMINISTRATIVE ASSISTANT, AFL-CIO MARITIME COMMITTEE

Mr. SIMPKINS. Mr. Chairman, I am Mr. Simpkins, and this is Mr. Bocker from the National Maritime Union. He has a statement.

Mr. NIX. Mr. Bocker, do you have a prepared statement?

Mr. BOCKER. Yes, sir.

Mr. NIX. You may proceed.

Mr. BOCKER. I am Peter Bocker, national representative of the National Maritime Union of America, AFL-CIO. I appear on behalf of the AFL-CIO Maritime Committee. The committee represents the majority of merchant seamen through its affiliated unions—American Radio Association, AFL-CIO; Great Lakes Seamen, Local 5000 of the United Steelworkers of America, AFL-CIO; Industrial Union of Marine and Shipbuilding Workers of America, AFL-CIO; and the National Maritime Union of America, AFL-CIO.

We appear in support of H.R. 3002 with the following amendment. Substitute the following for the proposed subsection (J) beginning with line 3 on page 2:

(J) Officers and members of the crews of vessels employed by the Federal Government whose annual leave system shall be the same as the annual leave system in effect for similar personnel in the maritime industry. Each such officer and member of the crew shall be credited for the purposes of the leave system provided by this section, with the annual leave to his credit under the leave system to which he was subject immediately prior to the time the leave system provided for by this section becomes effective. Annual leave so credited shall be used under regulations of the President.

The intent of this legislation is to exempt the merchant seamen employed by the Government from the Annual and Sick Leave Act of 1951, so that they would receive the same leave benefits as the seamen in private industry. It is not intended to change the sick leave feature of this act—the reason being that, if the seamen were exempted from the sick leave under the Annual and Sick Leave Act of 1951, they would receive no sick leave benefits at all because the courts have ruled that maintenance and cure that covers seamen in the private industry does not apply to Government employed seamen.

The primary Government agency employing seamen is the Military Sea Transportation Service. The U.S. Coast and Geodetic Survey also employs seamen who would be affected by this legislation, but a smaller number would be involved. The Corps of Engineers also employs seamen who are classified as wage board employees under

the Classification Act of 1949, that should be included under this legislation.

As we understand it, the Military Sea Transportation Service has a threefold mission:

1. To provide immediate capability in an emergency;
2. To plan for, and be capable of, expansion in time of war as directed; and
3. To provide sea transportation for personnel and cargoes of the Department of Defense and to provide support ships for scientific projects.

To fulfill this mission it is necessary for MSTS to employ seamen to operate their ships. Because of the disparity in basic pay and retirement benefits and annual leave—the subject of these hearings—the MSTS is experiencing difficulty in hiring enough seamen to man their ships. Because of this, their mission is being jeopardized.

Seamen employed on Government ships have their compensation fixed by the Classification Act of 1949. The act, in excluding seamen from its coverage, states that—

Officers and members of crews of vessels * * * compensation shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and practices in the maritime industry * * *.

The exclusion was to prevent the Government from affecting merchant seamen's wages—at that time from increasing their wages—and also to prevent unfair Government competition with the shipping industry.

In 1951, when the Annual and Sick Leave Act was enacted, either by an oversight or because prevailing rates and practices were interpreted to cover vacations, the seamen were not specifically exempt as they were from the Classification Act of 1949. Likewise, seamen were not excluded from coverage under the Civil Service Retirement Acts.

The fact that a vacation and retirement plan adequate for shore-side employees who live with their families is not adequate for a seaman who is away from his home for a long period of time and confined to his job day and night was not recognized by the Leave Act.

In February 1964, the Secretary of the Navy, in a request to grant the going leave benefits, stated that the MSTS was experiencing difficulty in recruiting marine employees. Since that time the demand for seamen has intensified and their difficulties have increased. There is a single explanation for this—because the Government has neglected the merchant seaman, it has deteriorated to where less than 9 percent of our waterborne imports and exports are carried on U.S.-flag ships. It, therefore, follows that the number of ships is continually decreasing which automatically means less seamen.

At the peak of World War II buildup—February 1946—there were 166,000 seamen actively manning—on board—U.S.-flag ships. With the conclusion of the war, this number began to decrease until at the beginning of the Korean hostilities there were 61,550 seamen on board the privately owned fleet and the Maritime Administration-owned ships under bareboat and GAA charters. Because of the Korean situation, this number increased to 99,700 on January 1, 1952.

Since that time the number declined drastically and on September 1, 1965, there were 43,598 seamen. Because of the Vietnam war, the number had increased to approximately 50,000 by the end of the year.

The incentive to go to sea has been dissipated by the simple fact that there is not a sufficient merchant marine to provide steady employment.

The demand for the number that do go to sea is rather intense.

There are other reasons a seaman would prefer the private industry over MSTs. However, considering the leave question, only the following disparity exists:

Length of service	Calendar days annual leave	
	MSTS	NMU
1 year.....	19	60
3 to 15 years.....	28	60
15 years or more.....	38	60

Even if all other things are equal it would be foolish for seamen to take a job that offered 19 days' vacation when they can get a job that offers 60 days. Additionally, Mr. Chairman, it seems unfair that a seaman should be discriminated against just because he works for the Federal Government.

MSTS recognizes the inequity that exists and recently asked the Comptroller General for permission to convert from their present leave system to a vacation plan similar to one that exists in the private industry.

The Comptroller General, after recognizing the disparity between the vacation earned by the MSTs seamen and the seamen in private industry, and also the difficulty that MSTs is experiencing in recruiting seamen, declined the request. The stated basis for declining the request was based on the fact that seamen, while recognized by Congress as being a particular class of employee and, therefore, exempt from the Classification Act of 1949, were not likewise specifically exempt from the Annual and Sick Leave Act of 1951.

It is this confusing situation—base wages that approximate what are paid in private industry—annual leave that in no way corresponds to the private industry—that this legislation—H.R. 3002—would correct.

Because of the confused situation, a double standard exists—one for the seamen in the private industry and another for the seamen employed by the Government. This double standard is precisely what the Classification Act of 1949 was designed to avoid.

By compensating their seamen below the private industry, the Government is unfairly competing against the private industry and in turn, because of the shortage of seamen, are experiencing difficulty in recruiting enough hands to man their ships.

We ask that you act favorably on this legislation and if in your wisdom it does not correct the situation that we have outlined here, we further ask that you amend H.R. 3002, so that it will.

Mr. Nix. Thank you, Mr. Bocker. What I gather from your statement is that, first of all, there undoubtedly is a shortage of seamen. I suppose that would be agreed to by both your organization and the other organizations?

Mr. BOCKER. Yes, sir.

Mr. NIX. The second thing that struck me as extremely important is where you said, "Even if all things are equal it would be foolish for a seaman to take a job that offered 19 days' vacation when he could get a job that offered 60 days." It is that, in particular, what you would seek to correct?

Mr. BOCKER. Yes.

Mr. NIX. Are you moved to become insistent on that because there is a great shortage in this category?

Mr. BOCKER. Yes, sir.

Mr. NIX. Tell me this, Mr. Bocker, are all things equal except that of which you complain?

Mr. BOCKER. Well, by this we mean that MSTs, over the years, in compliance with the Classification Act of 1949 has kept the pay rates and the general working conditions fairly equal. But in the case of leave, they have not. Just to give you a little bit of background—with the adoption of the Executive order in 1962 I was assigned by my president to handle the Government marine employee, by this I mean negotiating with the MSTs, with the Corps of Engineers, Panama Canal Company. We made an extensive survey particularly with the MSTs and tried to see where the inequities were.

We found that in addition to some premium pay practices that were in effect in the private industry that were not being paid in the MSTs which we have in some respects corrected to a point, by having revisions made to the regulations. We found that out of some 3,000 MSTs seamen employed in the Atlantic area command, that the average age of this seaman was in the early forties, with 6 to 15 years of service. His main question was, When are you going to correct the disparity for us with respect to vacations?

The MSTs seaman does basically the same work as the seaman employed on the private industry ships. The ships are in similar trades except those doing special project work.

The seaman in the MSTs, as stated in my testimony, spends 7 days a week at sea, in some cases 360 days a year on vessels that are out on station and vessels that stay for long periods away from the United States.

They felt looked down on as being some kind of a second-class citizen by only receiving as low as 13 days' or 19 days' annual leave a year as against the seaman in the commercial field who has been enjoying 60 days' paid vacation.

Some 2 years ago prior to the Vietnam war, in October of 1964, I had the privilege of representing my organization at military exercises that were being conducted off the south coast of Spain, which was Operation Steelpike. Prior to that exercise the industrial relations officer from the Military Sea Transportation Service in New York approached my organization asking us to provide certain skilled ratings because they were unable to man ships for this military exercise. They went so far as to ask us to make available to them our seamen who had left the industry and were on pension. But unfortunately, because of our pension regulations we were unable to do this.

But continuously from that time to the present, a day does not go by that we do not receive telephone calls in almost every one of our branch offices where there is a command post for MSTs that they do not appeal to us for certain ratings in order to keep their ships moving.

With the increase of ships needed in Vietnam, it is as my testimony states—the situation has become more critical. One of the reasons for this, is once we signed a contract with Military Sea Transportation Service, the new employee, who had downward of 15 years' service, and who is in the average age of 40 years old to 45, could not see a future in MSTS because of the inequities that exist in the annual leave policies and the retirement policies.

When we extended group I shipping privileges to these seamen, our records will show that since 1964, when we signed our first basic agreement with the MSTS, upward of 1,000 to 1,500 seamen have left the Government service because of this disparity.

Mr. NIX. Mr. Bocker, do you take the position that passage of this legislation would assure a future to the people whom you represent?

Mr. BOCKER. Yes, sir. I do not believe that the MSTS would have a problem in crewing their vessels if they would provide the same annual leave benefits that are enjoyed by the seaman who is employed on a private vessel.

Mr. NIX. How would the passage of this legislation affect Coast and Geodetic Survey vessel employees, or other employees on small vessels that utilize a dozen or less employees—some technical, some survey, and some administrative?

Mr. BOCKER. Well, there is no question in my mind that the U.S. Coast and Geodetic Survey, Department of Commerce, which I have had many dealings with since we received exclusive recognition, is an organization that is growing by leaps and bounds. They have at present plans to build in the neighborhood of 8 to 10 ships that will carry crews of 100 to 150 men on each ship.

They are continuously advertising for new employees. At present it is true that possibly this, being one of the oldest seagoing organizations in this country, established in 1807, they probably have the more steady employee, who has been there for a number of years. But I think that on a long-range program they are going to have to recruit, in my estimation, around 1,500 to 2,000 seamen in the next few years.

Now this is 1966, and these seamen, as we found in MSTS, will compare what they can get in private industry against what they are getting in Government. Therefore, it is only logical that he would go to private industry where he can get the most benefits.

Mr. NIX. Thank you, Mr. Bocker.

Mr. Matsunaga?

Mr. MATSUNAGA. Mr. Bocker, of the present 50,000 seamen aboard American ships, how many of these are now under MSTS?

Mr. BOCKER. Well, in this 50,000 I believe this represents the commercial-operated ship because of the Vietnam war. I believe my statement referred to that.

Presently employed with the Military Sea Transportation are 3,500 in the Atlantic area command, approximately 250 in the gulf subarea command, approximately 275 to 300 in the Far East command, and approximately 2,500 employed in the Pacific area command, which is under contract to another organization.

Mr. MATSUNAGA. Are these men in any way affiliated with your union?

Mr. BOCKER. Yes, sir. We have been granted exclusive recognition in three different areas of command, Atlantic, subarea, and Far East.

Mr. MATSUNAGA. I see. In these areas that you cited, are the employees of MSTs members of your union?

Mr. BOCKER. Yes, sir. As against the Coast and Geodetic who employ about 600, with the Corps of Engineers who employ approximately 1,000.

Mr. MATSUNAGA. Have you had occasion to discuss this matter with Mr. Stahl, or any of the other administration people?

Mr. BOCKER. No, sir. This is my first opportunity.

Mr. MATSUNAGA. You heard Mr. Stahl testify that it would take 5, 6, or 7 weeks to work up something they had in back of their minds. Do you suppose you could get together with them and work up some acceptable compromise—acceptable to both your union and to the administration?

Mr. BOCKER. Well, we would be more than happy to sit down with anybody from Government to discuss this matter. But I think that this must be discussed with the Military Sea Transportation. I think that these people have expressed, at least the Secretary of the Navy's office has expressed, a desire to have similar leave benefits that are found in private industry.

This legislation has been, using nautical terms, floating around the waterfront for a couple of years now.

As I stated, something must have moved the Secretary of the Navy's office to show some favorable response. But in answering your question, we would be very happy to sit down.

Mr. MATSUNAGA. Are you the recognized sole bargaining agent for the seamen under the MSTs?

Mr. BOCKER. Yes, sir—the majority of the Military Sea Transportation; yes.

Mr. MATSUNAGA. Therefore, there ought to be no real obstacle to your getting together with the administration representatives.

Mr. BOCKER. No, sir.

Mr. MATSUNAGA. This is one of the things that I have never been able to fully understand, not in your case alone, but in many other instances. I have found that while there are fully recognized bargaining agents, the Government authorities never seem to know about it or never seem to want to get together with these recognized representatives. Why is this?

Mr. BOCKER. Well, I don't know. Let me say that I think since I have been assigned to working with the Executive order from the outset, that in the first year it was learning to know each other which was probably the most difficult period for the labor movement, perhaps because of differences of opinion toward us from the immediate supervisor to the chiefs of personnel. This was a very difficult period.

It was very frustrating to both of us, I guess, to have to sit down with Government for the first time, and Government having to sit down across the table from a labor union. But I think that this gap is closing.

Speaking for our particular relations with the MSTs, I don't think that any can be found that are better.

Mr. MATSUNAGA. What percentage of these that you mention—3,500, 250, 275, and 3,500—does your union represent?

Mr. BOCKER. I would say we represent 75 percent of all MSTs, sir. The Sailors Union on the Pacific coast has representation for one MSTs area. Outside of that we have them all.

Mr. MATSUNAGA. Then the mates and pilots and the Government employers are represented by the Government Employers Council?

Mr. BOCKER. Yes, sir.

Mr. MATSUNAGA. And they represent about 25 percent?

Mr. BOCKER. I don't know whether they are affiliated with the Government Council or not, but there have been some discussions.

Mr. MATSUNAGA. But the original reluctance on your part to meet with the proper and appropriate Government officials in this matter—

Mr. BOCKER. We have discussed this with the Military Sea Transportation Service as well as with the Department of Defense, on numerous occasions—informally and formally. We also discussed this with the Civil Service Commission prior to the request of MSTs to GAO for a ruling as to whether or not the MSTs could put the private industry practices into effect.

Mr. MATSUNAGA. You would suggest that a meeting be held, or would you approve of a meeting, if we should strongly suggest it to the administration?

Mr. BOCKER. Oh, definitely. We would be more than happy to sit down and discuss this matter. But primarily my interest would be to deal with the operator of these vessels which is the Military Sea Transportation Service. They would have firsthand knowledge. Our experience to date with the Civil Service Commission is that they will tell us one thing and then do something entirely different.

Mr. SIMPKINS. In regard to getting together, how would we possibly get around the Comptroller General's ruling that they could not comply with the leave practices in the private industry because they were not exempt from the Annual Leave Act?

Mr. MATSUNAGA. Mr. Stahl is, I believe, the Director of the Bureau of Programs and Standards of the Civil Service Commission. I would think that any recommendation on his part would be accepted by the administration. We had the same problem back in Hawaii with the Air Force. The Air Force wouldn't recognize the unions until we stepped in and got the administration, from the top level, to move. Since they got together everybody is happy. They now have no problems there with labor. Now that they deal with the recognized union, they seem to resolve their problems without any difficulty.

I think this might be the case here, where once you do get together we may be able to arrive at something which is acceptable to both. We will have to think of the Government, whom we represent, as well as the employees whom we also represent, but I think some compromise can be worked out here.

Mr. Chairman, I strongly recommend that this committee do as suggested, because there seems to be, from the testimony of the Government, such a wide gap here now. This may be a bad thing. We don't know yet.

Mr. NIX. I think it is most desirable.

Mr. Stahl, if you will recall, in his testimony stated that he certainly wanted to sit down and have an overall discussion of the entire problem with Mr. Bocker and his organization.

Mr. MATSUNAGA. In line with comparability, that the Civil Service Commission definitely approves of, I would think that the union representatives do have legitimate complaints.

Mr. NIX. Yes.

Mr. MATSUNAGA. That is all, Mr. Chairman.

Mr. NIX. Mr. Bocker, you said a little earlier that the Navy expressed sympathetic interest in the position that you took.

Mr. BOCKER. Yes, sir.

Mr. NIX. I was just wondering whether or not the Navy has taken a position at variance with that as expressed by Mr. Stahl, or whether or not you haven't created a cleavage in the opposition.

Thank you very much.

Mr. SIMPKINS. Thank you, sir.

Mr. NIX. I have an official report from the Department of Commerce. If there is no objection, I will ask that it be included in the record this morning.

Mr. MATSUNAGA. I have no objection.

(The Department of Commerce report follows:)

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., March 1, 1966.

HON. TOM MURRAY,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department with respect to H.R. 3002, a bill to amend the Annual and Sick Leave Act of 1951, as amended, to exempt from coverage of the act officers and members of crews of vessels.

The bill would exempt officers and crews of vessels, whose compensation is fixed in accordance with prevailing rates and practices in the maritime industry, from coverage of the Annual and Sick Leave Act of 1951, as amended.

In the Department of Commerce, the bill would apply to officers and crews of vessels of the Coast and Geodetic Survey of the Environmental Science Services Administration other than commissioned officers of the Environmental Science Services Administration, who are subject to the laws applicable to the uniformed services.

The Department recommends against enactment of the bill.

It is believed that enactment of the bill would not be in the public interest for the following reasons, among others:

1. The bill would deprive vessel employees of their statutory rights to annual and sick leave benefits presently enjoyed on a uniform basis throughout the world, without any prospect or assurance of an adequate alternative system. Such a situation appears to be contrary to a basic concept of Federal civil service employment, as reflected in laws enacted by the Congress, that Federal employees should be provided equitable benefits under uniform rules applicable wherever such employees are assigned.

2. The effect of the bill would be to introduce into the Government service nonuniform policies and practices with respect to annual and sick leave benefits for vessel employees. In the absence of statutory standardization, significant differences would tend to develop in the leave policies and practices of various agencies. The establishment of nonuniform leave policies and practices from agency to agency would not appear to promote the efficiency of the public service or to be in the interests of vessel employees who seek to change employment from one Federal agency to another and from one leave system to another.

3. The effect of the bill would be to jeopardize employees' accumulated and accrued leave benefits under the Annual and Sick Leave Act of 1951, as amended.

4. The effect of the bill would be to introduce undesirable diversity in leave benefits for employees who work together not only in the same Federal agency but on the same vessel. On Coast and Geodetic Survey vessels some employees are unlicensed, some are licensed (by the Coast Guard in terms of normal maritime requirements), some hold limited licenses (licensed by the Coast Guard for duty on U.S.C. & G.S. vessels only), some are technical employees, some are survey employees, and some are administrative employees. Some of these employees are and would continue to be subject to the Annual and Sick Leave Act of 1951, as amended. Others, under the proposed legislation, would be subject to one or more different leave systems, the provisions of which obviously would involve

different requirements and benefits with respect to attendance and absence from duty.

The foregoing problem of diversity in leave systems would result in additional administrative problems when, from time to time, it is necessary to detail vessel employees to shore jobs, which would be subject to the Annual and Sick Leave Act of 1951, as amended. In addition, it would tend to increase the complexity, difficulty, and expenses of administering leave benefits for Federal employees, without commensurate advantage to the public service.

The Bureau of the Budget has advised that there would be no objection to the submission of this report from the standpoint of the administration's program and that enactment of H.R. 3002 would be inconsistent with the administration's objectives.

Sincerely yours,

ROBERT E. GILES,
General Counsel.

Mr. NIX. Since there are no further witnesses, this subcommittee will stand adjourned, subject to the call of the Chair, in order to give other interested witnesses an opportunity to testify.

We want to assure that the hearing is open to everyone who has a point of view to express on the subject to be dealt with.

The meeting is adjourned.

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



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