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GOVERNMENT
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SCCELLANEOUS BILLS

HEARING BEFORE THE COMMITTEE ON ARMED SERVICES UNITED STATES SENATE EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

S. 3834

PROVIDING FOR PRICE ADJUSTMENTS IN CONTRACTS
FOR THE PROCUREMENT OF MILK BY THE DEPARTMENT
OF DEFENSE

H.R. 7973

PROVIDING PUBLIC QUARTERS AND UTILITIES WITHOUT
CHARGE TO CIVILIAN INSTRUCTORS AT THE U.S.
MILITARY ACADEMY

H.R. 9916

SELECTION OF CANDIDATES FOR APPOINTMENT TO
SERVICE ACADEMIES

H.R. 16646

AUTHORIZING AWARD OF EXEMPLARY REHABILITATION
CERTIFICATES

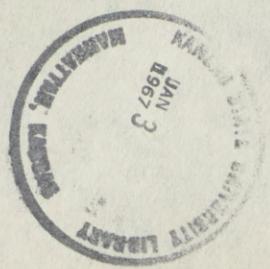
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MISCELLANEOUS BILLS

THURSDAY, SEPTEMBER 29, 1966

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

The committee met, pursuant to call, at 10:30 a.m., room 212, Old Senate Office Building, Senator Richard B. Russell (chairman) presiding.

Present: Senators Russell of Georgia, Symington, Cannon, Young of Ohio, Inouye, Byrd of Virginia, Saltonstall, and Smith.

Also present: William H. Darden, chief of staff; T. Edward Braswell and Gordon A. Nease, professional staff members; Charles B. Kirbow, chief clerk; and Herbert S. Atkinson, assistant chief clerk.

Chairman RUSSELL. The first bill on the committee agenda this morning is S. 3834, which was introduced by Senators Allott and Dominick, to authorize price adjustments on certain Defense milk contracts.

(The bill referred to follows:)

S. 3834

[S. 3834, 89th Cong., 2d sess.]

A BILL To amend chapter 141 of title 10, United States Code, to provide for price adjustments in contracts for the procurement of milk by the Department of Defense

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 141 of title 10, United States Code, is amended—

(1) by inserting at the end thereof the following new section:

“§ 2390. Contracts for the procurement of milk; price adjustment

“(a) Under regulations prescribed by the Secretary of Defense a contract of the Department of Defense for the procurement of milk where the period of performance exceeds ninety days shall include a provision for an equitable price adjustment for increased or decreased prices paid by a contractor for such milk as a result of increases or decreases in the producer price of fluid milk for beverage purposes ordered by the Secretary of Agriculture after the date of bid opening in a formally advertised procurement or the date of the contract in a negotiated procurement.

“(b) Under regulations prescribed by the Secretary of Defense, any contract for the procurement of milk which was being performed on or after March 1, 1966, may be amended to provide an equitable price adjustment for increased prices paid by a contractor for such milk as a result of increases in the producer prices of fluid milk for beverage purposes ordered by the Secretary of Agriculture on or after March 1, 1966. A price adjustment shall not be made unless it has been determined by the Department that—

“(1) such amount was not included in the contract price;

“(2) the contract does not otherwise contain a provision providing for an adjustment in price; and

“(3) the contractor will suffer a loss under the contract because of such increases in producer prices.”

(2) by inserting the following new item in the analysis thereof:

“2390. Contracts for the procurement of milk; price adjustment.”

Chairman RUSSELL. Members of the committee will probably recall that the Defense appropriations bill this year contained a Senate amendment that was intended to provide this relief.

However, certain milk marketing orders of the Secretary of Agriculture have required milk suppliers to the Department of Defense to pay higher prices than those in effect at the time the contracts were entered into. Without express legislative authority, the Department of Defense cannot afford any relief to these contractors.

The witness on the bill is Mr. Dale R. Babione, Deputy Executive Director for Procurement and Production, Defense Supply Agency.

Will you please have a seat at the table, Mr. Babione.

STATEMENT OF DALE R. BABIONE, DEPUTY EXECUTIVE DIRECTOR FOR PROCUREMENT AND PRODUCTION, DEFENSE SUPPLY AGENCY; ACCOMPANIED BY JULIAN F. ROSS, SMALL BUSINESS ADVISER AND ALBERT RABY, JR., ASSISTANT COUNSEL, DEFENSE SUPPLY AGENCY

Mr. BABIONE. Mr. Chairman and members of the committee, I am Dale R. Babione, Deputy Executive Director, Procurement and Production, Defense Supply Agency. I am accompanied by Mr. Julian F. Ross, on my right, Defense Supply Agency small business adviser and Mr. Albert Raby, Jr., assistant counsel, Defense Supply Agency, on my left.

We are pleased to have the opportunity to present to you the Department of Defense views on S. 3834, 89th Congress, a bill to amend chapter 141 of title 10, United States Code, to provide for price adjustments in contracts for the procurement of milk by the Department of Defense.

The purpose of the bill is to require the inclusion in future Department of Defense contracts for the procurement of milk of a provision for equitable price adjustments for increased or decreased prices paid by a contractor for such milk as a result of increases or decreases ordered by the Secretary of Agriculture in the producer prices of fluid milk for beverage purposes.

The bill would also provide relief for contractors, performing contracts for milk on or after March 1, 1966, who have suffered losses because of increases in producer prices for fluid milk for beverage purposes ordered by the Secretary of Agriculture on or after March 1, 1966, where the contracts contain no provision for such price adjustment.

The Department of Defense agrees with the objectives of the proposed legislation. Under Federal milk marketing orders in effect in parts of 35 States and the District of Columbia the minimum price which the handler (the dairy) is required to pay the producer (the farmer) for fluid milk for beverage purposes is regulated by the Secretary of Agriculture. In March 1966, and again in June 1966, the Secretary of Agriculture increased these minimum prices. Handlers subject to the orders, the holding long-term contracts with the Department of Defense on the effective date of the orders, were required to pay these increased prices to producers but could not obtain a corresponding increase in their fixed price Defense contracts. In the absence of legislation the Department of Defense is unable to afford these contractors any relief.

Milk prices have been rising this past year even in those market areas which are not regulated by Federal milk marketing orders. Under subsection (a) of the proposed section, however, only dairies regulated by Federal milk marketing orders would be covered. Other dairies could also suffer losses just as severe because of actions of the Secretary of Agriculture, such as an increase in the support price for manufacturing milk or because of the impact on the market price for milk of amendments or suspensions of Federal milk marketing orders.

The Department of Defense was, prior to the introduction of S. 3834 already in the process of exploring several methods for achieving the objectives of the legislation. Among the methods being considered are use of an escalation provision, shorter term contracts, and provisions for adjustment prices on contract extensions.

It might appear that escalation is an obvious method for accomplishing the objective. However, it is not only cumbersome to administer, but difficult to apply equitably to all contractors. Procurement of milk is made by formal advertising with award made to the low competitive bidder. Hence, an escalation clause would pose problems to which we do not at this point have ready answers. For example, there would be problems in evaluating bids between handlers in regulated areas and handlers in nonregulated areas and in assessing the impact of the marketing order on a particular contract without knowledge of the cost basis for the handler's bid.

These problems are compounded by the fact that the price of fluid milk is regulated by over 70 different Federal milk marketing orders and numerous State and local controls. Furthermore, enactment of provisions requiring the inclusion of escalation clauses in milk contracts would establish an undesirable precedent which would tend to undermine the benefits of competitive fixed price contracting. Producers and suppliers of many other commodities susceptible to cost change could be expected to seek similar legislation.

Accordingly, it is recommended that subsection (a) of the proposed section be deleted with the understanding that the Department of Defense will develop procedures in connection with the procurement of milk within existing administrative authority to avoid situations comparable to that which occurred as a consequence of the recent actions by the Department of Agriculture.

Subsection (b) of the proposed new section would provide relief for those Defense contractors required to pay higher prices to milk producers because of increases in producer prices of fluid milk for beverage purposes ordered by the Secretary of Agriculture. In areas not covered by Federal milk marketing orders this increase in the manufacturing milk price could have had an effect on the price paid by Defense contractors to producers for fluid milk for beverage purposes because of its impact on the general market price for milk. In order to provide equitable treatment for all Defense contractors adversely affected by orders of the Secretary of Agriculture in increasing the price of milk, it would be necessary to revise subsection (b) of the bill to provide for price adjustments on the basis of actions of the Secretary of Agriculture increasing the price of milk without limiting such action to increases in producer prices for fluid milk for beverage purposes. Regulations would provide that contractors seeking relief under such a provision would be required to show how these actions of the Secretary of Agriculture affected the price they were required to pay.

We have submitted for your consideration a draft of a bill incorporating the changes I have suggested. In addition, the revised draft includes a clarification in subsection (b)(3), line 22, page 2 of the bill. The revised language makes clear that an adjustment in the contract price is not authorized for loss of anticipated profits. Also the section should be numbered 2389 instead of 2390 since the last section in chapter 141, title 10 is now numbered 2388.

The cost to the Department of Defense of the price adjustments authorized by the bill cannot be ascertained at this time.

I will be happy to respond to any questions the committee may have.

Chairman RUSSELL. The bill that you suggested is retroactive only to March 1 of this year?

Mr. BABIONE. That is correct.

Chairman RUSSELL. I suppose your difficulty in getting the cost estimate derives from the fact that there are so many different increases in so many different areas, milk sheds?

Mr. BABIONE. Yes, Mr. Chairman. Also we have to determine the validity of how they were adversely affected, and so on.

Chairman RUSSELL. Down in the country from whence I came, when a man signed a contract and the prices changed on him, he was just unlucky, but our great and good Government has contracts for the manufacture of ships, tanks, and planes, so I don't know why we shouldn't do it for the producers of milk. Senator Saltonstall.

Senator SALTONSTALL. Mr. Chairman, after that remark, which seems to indicate that you believe in the bill—

Chairman RUSSELL. No, I didn't intend to create that impression, to try to influence any other members in their vote.

Senator SALTONSTALL. Mr. Chairman, I would like to ask several questions here. I know that the Senators from Colorado are very much interested in this subject. A letter was addressed from the General Counsel of the Department of Defense dated September 28, and that includes at the end a copy of a bill on this subject.

(A copy of the letter referred to follows:)

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., September 28, 1966.

HON. RICHARD B. RUSSELL,
*Chairman, Committee on Armed Services,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Department of Defense on S. 3834, 89th Congress, a bill "To amend chapter 141 of title 10, United States Code, to provide for price adjustments in contracts for the procurement of milk by the Department of Defense."

The purpose of the bill is to require the inclusion in future Department of Defense contracts for the procurement of milk of a provision for equitable price adjustments for increased or decreased prices paid by a contractor for such milk as a result of increases or decreases ordered by the Secretary of Agriculture in the producer prices of fluid milk for beverage purposes. The bill would also provide relief for contractors performing contracts for milk on or after 1 March 1966 who have suffered losses because of increases in producer prices for fluid milk for beverage purposes ordered by the Secretary of Agriculture on or after 1 March 1966 where the contracts contain no provision for such price adjustment.

The Department of Defense agrees with the objectives of the proposed legislation, Under Federal Milk Marketing Orders in effect in parts of 35 states and the District of Columbia the minimum price which the handler (the dairy) is required to pay the producer (the farmer) for fluid milk for beverage purposes is regulated by the Secretary of Agriculture. In March 1966 and again in June 1966 the Secretary of Agriculture increased these minimum prices. Handlers subject to

the orders and holding long term contracts with the Department of Defense on the effective date of the orders were required to pay these increased prices to producers but could not obtain a corresponding increase in their fixed price Defense contracts. In the absence of legislation the Department of Defense is unable to afford these contractors any relief.

Milk prices have been rising this past year even in those market areas which are not regulated by Federal Milk Marketing Orders. Under Subsection (a), however, only dairies regulated by Federal Milk Marketing Orders would be covered. Other dairies could also suffer losses just as severe because of actions of the Secretary of Agriculture such as an increase in the support price for manufacturing milk or because of the impact on the market price for milk of amendments or suspension of Federal Milk Marketing Orders.

The Department of Defense was, prior to the introduction of S. 3834, already in the process of exploring several methods for achieving the objectives of the legislation. Among the methods being considered are use of an escalation provision, shorter term contracts, and provisions for adjusting prices on contract extensions. It might appear that escalation is an obvious method for accomplishing the objective. However, it is not only cumbersome of administer, but difficult to apply equitably to all contractors. Procurement of milk is made by formal advertising with award made to the low competitive bidder. Hence, an escalation clause would pose problems to which we do not at this point have ready answers. For example, there would be problems in evaluating bids between handlers in regulated areas and handlers in non-regulated areas and in assessing the impact of the marketing order on a particular contract without knowledge of the cost basis for the handler's bid. These problems are compounded by the fact that the price of fluid milk is regulated by over 70 different Federal Milk Marketing Orders and numerous state and local controls. Furthermore, enactment of provisions requiring the inclusion of escalation clauses in milk contracts would establish an undesirable precedent which would tend to undermine the benefits of competitive fixed price contracting. Procedures and suppliers of many other commodities susceptible to cost changes could be expected to seek similar legislation. Accordingly, it is recommended that Subsection (a) of the proposed section be deleted with the understanding that the Department of Defense will develop procedures in connection with the procurement of milk within existing administrative authority to avoid situations comparable to that which occurred as a consequence of the recent actions by the Department of Agriculture.

Subsection (b) of the proposed new section would provide relief for those Defense contractors required to pay higher prices to milk producers because of increases in producer prices of fluid milk for beverage purposes ordered by the Secretary of Agriculture. However, the bill would not provide relief for those contractors required to pay higher prices to producers because of increases in the price of manufacturing milk ordered by the Secretary of Agriculture. In areas not covered by Federal Milk Marketing Orders this increase in the manufacturing milk price could have had an effect on the price paid by Defense contractors to producers for fluid milk for beverage purposes because of its impact on the general market price for milk. In order to provide equitable treatment for all Defense contractors adversely affected by orders of the Secretary of Agriculture in increasing the price of milk, it would be necessary to revise Subsection (b) of the bill to provide for price adjustments on the basis of actions of the Secretary of Agriculture increasing the price of milk without limiting such action to increases in producer prices for fluid milk for beverage purposes. Regulations would provide that contractors seeking relief under such a provision would be required to show how these actions of the Secretary of Agriculture affected the price they were required to pay.

There is enclosed for your consideration a draft of a bill incorporating the changes recommended above. In addition, a clarifying change is recommended in Subsection (b)(3), line 22, page 2 of the bill. The revised language in the enclosed draft makes clear that an adjustment in the contract price under the bill is not authorized for loss of anticipated profits. Also, the new section should be numbered 2389 instead of 2390 since the last section in Chapter 141, Title 10, is now numbered 2388.

The cost to the Department of Defense of the price adjustments authorized by the bill cannot be ascertained at this time.

The Bureau of the Budget advises that while there is no objection to the submission of this report, the Bureau is seriously concerned about the enactment of legislation to pay for losses incurred in the performance of a fixed-price government contract. In general, the Bureau of the Budget thinks the reasons cited

earlier in the report against inclusion of escalation clauses in future contracts are equally valid arguments against provision of relief for losses sustained under past contracts. In particular, it appears to the Bureau that long-term suppliers of milk under the contracts covered by the bill assumed the risk of rising milk prices during the contract period; signs of rising prices evidently appeared in the latter part of 1965, and the actions of the Secretary of Agriculture not only tended to follow rather than force price rise but also were only one element in the extremely complex play of market forces determining the price of milk. To grant relief to the suppliers covered by this bill could easily lead, in the opinion of the Bureau, to demands for similar relief by suppliers of milk to other Federal and to non-Federal consumers as well as by all suppliers of commodities and services who assert their losses are due to official actions of the Federal Government.

Sincerely yours,

PAUL C. WARNKE.

A BILL To amend chapter 141 of title 10, United States Code, to provide for price adjustments in contracts for the procurement of milk by the Department of Defense

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 141 of title 10, United States Code, is amended—

(1) By inserting at the end thereof the following new section:

“§ 2389. Contracts for the procurement of milk; price adjustment

“Under regulations prescribed by the Secretary of Defense, any contract for the procurement of fluid milk for beverage purposes which was being performed on or after March 1, 1966, may be amended to provide a price adjustment for losses incurred by a contractor because of increased prices paid to the producers for such milk as a result of action by the Secretary of Agriculture on or after March 1, 1966, increasing the price of milk. A price adjustment shall not be made unless it has been determined by the Department that—

“(1) such amount is not included in the contract price;

“(2) the contract does not otherwise contain a provision providing for an adjustment in price; and

“(3) the contractor will suffer a loss, not merely a diminution of anticipated profit, under the contract because of such increases in producer prices.”; and

(2) By inserting the following new item in the analysis thereof:

“2389. Contracts for the procurement of milk; price adjustment.”

Senator SALTONSTALL. It is my understanding, or I am told, that the subcommittee in the House has reported out the Defense Department bill as it is written, is that correct?

Mr. BABIONE. That is our understanding; yes, Senator.

Senator SALTONSTALL. So really, if the Department of Defense approves of this bill, and if the House passes it, then what you would like to have the Senate do would be to pass the same bill, and that would be agreeable to the Department of Defense.

Mr. BABIONE. Yes, sir.

Senator SALTONSTALL. Now there are several things that I would like to ask about. You say here—

A price adjustment shall not be made unless it has been determined by the Department that, one, such amount is not included in the contract price.

Now, just what do you mean by that?

Mr. BABIONE. What we mean by that is that the amount which the contractor initially offered the Government did not provide a sufficient amount of cost to pay the additional cost that is now in effect as a result of a Federal milk marketing order.

Senator SALTONSTALL. Then the contract wouldn't be a fixed price contract, would it? I called that to the chairman's attention. That word “such amount” is not clear to me, because if it is a fixed price contract and they are making somewhat of a profit, then this bill

wouldn't apply, necessarily, even if the cost to the producer had gone up and the contractor had to pay more.

I just am not clear what you mean by that No. 1—

Price adjustments shall not be made unless it has been determined by the Department that, one, such amount is not included in the contract price.

There may be a very simple explanation to that, but I just wondered what it was?

MR. BABIONE. Our intent is to examine after the fact the claim of the contractor that at the time he submitted his quotation he took into effect reasonable forecast of what would be the producer prices—

Senator SALTONSTALL. I see what you mean.

MR. BABIONE. As regulated by the Department of Agriculture, and that subsequent to that time action was taken that he could not have forecast and that adversely affected him and caused him to suffer a loss, and that he is seeking relief in that amount.

Senator SALTONSTALL. In other words, that the amount of the increase or the amount of the increased cost to the contractor, if he knew of that when he made the contract and still made a fixed contract, then this No. 1 would apply.

MR. BABIONE. That is right; yes, sir.

Senator SALTONSTALL. Now the second question I would ask is on No. 3—you say—

The price adjustments shall not be made unless it has been determined by the Department that the contractor will suffer a loss not merely a diminution of anticipated profit under the contract because of such increases in producer prices."

Isn't that pretty rough? In other words, not only will the contractor have no profit, but he has actually got to show a loss before the Department will change that contract. That seems to me a little rough.

MR. BABIONE. That is the intent, and the reason that we recommend that is because that has been the consistent policy followed by the Department of Defense in granting the relief under other administrative remedies available to the Department. The position of the Department of Defense has been that we are not in a position of guaranteeing profit simply because you deal with the Department of Defense, and that when cases arise where we feel there is a valid claim for relief, those cases have been adjudicated on the basis of only restoring losses.

Senator SALTONSTALL. But don't you personally think that that is a little tough? I make a contract with you, and then, if I may say most respectfully to my chairman and the gentleman on the other side of the aisle, a bureaucrat in the department of government increases the price to the producer, so that the man with whom I make a contract now not only has no profit, but he has got to show a loss before another department buying the milk will allow a change in price.

MR. BABIONE. I think it is a matter of judgment, Senator, and I think that reasonable people will have varying opinions on this point, but that is the policy we have followed in the past in granting relief in other situations.

Senator SALTONSTALL. Thank you, Mr. Chairman.

Chairman RUSSELL. Senator Symington.

Senator SYMINGTON. Thank you, Mr. Chairman. Missouri people are interested in this. I refer back to what Senator Saltonstall said to the effect that price adjustments shall not be made unless it has been determined by the Department that such amount was not included in the contract price. What amount are you talking about?

Mr. BABIONE. The amount of the claimed loss resulting from increases in producer prices required by the milk marketing order.

Senator SYMINGTON. How could the amount be included in the contract if the contract was made before the decision from the Department of Agriculture?

Mr. BABIONE. He could have been paying more than the minimum required. The Federal milk marketing orders only establish a minimum price. Suppose the minimum price established was \$5 a hundred-weight and he already was figuring \$5.50 a hundredweight. Maybe the milk marketing order did not even adversely affect his cost because he was paying more than the minimum, as opposed to the case paying right at the minimum.

Senator SYMINGTON. Then the whole situation is theoretical, is it not?

Mr. BABIONE. I believe each case will have to be adjudicated on the information and circumstances surrounding that particular contract.

Senator SYMINGTON. I don't want to labor it, but I just don't see why you have that in. If the amount was not included in the contract price, why is there any problem? If it is included in the contract price, why is there any problem? Let's skip that for a minute and go to the point the Senator from Massachusetts made.

Suppose the Government has a contract to build airplanes, and agrees to take aluminum from the Government stockpile at say 30 cents a pound. Certainly, the Government wouldn't expect the contractor to absorb a higher price if another Government agency increased the price of the aluminum being supplied to the contractor to, say, 40 cents a pound. That is what we are talking about, aren't we?

The action of the Secretary of Agriculture was an executive action which automatically increased the price, action by another Government agency, after the contractor in good faith has made a contract with a second Government agency.

If you make a contract based on the position of the Department of Agriculture, and then the Department of Agriculture arbitrarily increases cost, you would be in the same position as if the Office of Emergency Planning automatically increased the cost of aluminum they were supplying to a contractor to produce airplanes; isn't that correct?

Mr. BABIONE. It would be a similar situation. It would seem so.

Senator SYMINGTON. If that is true, inasmuch as the contractor himself had nothing to do with the increase in price, and the supplier to the contractor had nothing to do with the increase in price, and the increase is the result of a Government directive which neither of the two parties incident to the contract had anything to do with or knew about, it would seem only logical and fair that those facts should be recognized in the contract; isn't that correct?

Mr. BABIONE. Yes, sir.

Senator SYMINGTON. Thank you, Mr. Chairman.

Chairman RUSSELL. Senator Cannon.

Senator CANNON. Mr. Chairman, I certainly agree with the points that have been made by the distinguished Senator from Massachusetts and the Senator from Missouri that if you have a fixed-price contract, and I would like to ask the witness, if you have a cost-plus contract and the cost goes up through no fault of the contractor, you don't reduce the contractor's profit on it, do you?

Mr. BABIONE. No, sir.

Senator CANNON. And you pay him the agreed percentage of profit no matter how much the cost goes up, not necessarily whether he is or is not losing money on the contract.

Mr. BABIONE. In a cost-plus-fixed-fee contract, the contractor has a fixed fee and does not assume the risks of rising costs. The difference is that we pay a higher profit on firm fixed-price contracts than on cost type for the very reason that the contractor assumes risk of fluctuating markets that could adversely affect him under normal circumstances. The problem is in determining what is an abnormal risk or a normal business risk, and to the extent that the contractor can forecast or is willing to risk future market fluctuations, he does take on a responsibility for normal business risks which does affect his profit one way or the other.

Senator CANNON. Would you say it is a normal business risk when the Government steps in and fixes the price that raises his costs very materially, that that is a normal business risk?

Mr. BABIONE. I think that we have to examine each situation in the light of the events that affected it. It is very difficult to say.

Senator CANNON. That doesn't answer my question. Do you think that when the Government steps in and takes action that raises the contractor's costs, that you would assume that to be a normal business risk?

Mr. BABIONE. In the context of the cases involving milk marketing orders and complaints we have received, we agree that there have been some abnormal risks that have taken place, and we are recommending a revision to the proposed legislation to correct it.

Senator CANNON. All right. Then if it is an abnormal risk, wouldn't you say that it should depend on whether the fact actually occurred rather than whether the contractor lost money or reduced his profit?

Mr. BABIONE. There are two things that we are talking about here. One is to establish that he was adversely affected by whatever happened.

Senator CANNON. That is right.

Mr. BABIONE. And the second part is the policy of not granting relief in excess of his actual loss. Now the part about not granting relief in excess of his loss is based on the policy that contracting with the Department of Defense does not guarantee a profit, and it is based also on other types of relief that we have provided under other administrative remedies, we have followed this policy.

Senator CANNON. Are you saying that any time you renegotiate a contract with a contractor, that you only allow him to recoup his loss and not to recoup any profit?

Mr. BABIONE. We are talking about extraordinary relief versus negotiation.

Senator SYMINGTON. Will the Senator yield?

Senator CANNON. I will be very happy to yield.

Senator SYMINGTON. What you are saying is that, if a man puts a contract in and estimates a profit of 8 percent, and after he makes the contract the Secretary of Agriculture makes a decision that eliminates his profit, you are going along with that elimination. That is clear. You say "The contractor will suffer a loss under the contract because of such increases in producer prices." In effect you are letting the Secretary of Agriculture, without a hearing, renegotiate this price for milk downward to the point where the contractor could lose all his profit; isn't that correct?

Mr. BABIONE. The circumstances that you outline could take place.

Senator SYMINGTON. "Could take place"? It does take place. You ask us to pass a law which would insure it would take place. You say "A price adjustment shall not be made unless it has been determined by the Department the contractor will suffer a loss." The obvious implication is he can only recover loss.

Mr. BABIONE. That is correct.

Senator SYMINGTON. Not any profit.

Mr. BABIONE. That is correct.

Senator SYMINGTON. So let the Department of Agriculture renegotiate a contract made by the Department of Defense. That would appear plain silly.

I thank the able Senator for yielding.

Senator CANNON. Following up on the example that the Senator from Missouri gave, the Senator took an example of a man figuring in an 8-percent profit. Let's assume, because of the action of the Secretary of Agriculture, he doesn't have his 8-percent profit in this fixed price contract, but he has one-tenth of 1 percent profit. You are in effect saying, if this legislation were to pass, that this contract then could not be renegotiated because he didn't sustain a loss, but he is limited to his one-tenth of 1 percent profit, is that correct?

Mr. BABIONE. The relief would be granted to his actual loss, yes, sir.

Chairman RUSSELL. Is there anything in this bill that would protect the interests of the Government if a bureaucrat lowered the price of milk greatly?

Mr. BABIONE. No, sir, not under the relief provision.

Chairman RUSSELL. His profits would be greatly enhanced and the Government would be without any recourse whatever in that event, would it not?

Mr. BABIONE. That is correct.

Chairman RUSSELL. Senator Smith.

Senator SALTONSTALL. Would the Senator yield for a comment? Have you ever heard, as chairman of this committee now for a great many years, a bureaucrat lowering the prices?

Chairman RUSSELL. Yes. Milk has been lowered in a number of instances in these milk shed hearings. Senator Smith.

Senator SMITH. I have no questions.

Chairman RUSSELL. Senator Young.

Senator YOUNG. Thank you, Mr. Chairman. If you are a knowledgeable contractor, say you are dealing in milk or in any other product, before you enter into a long-term contract you are obligated to figure out the risks, aren't you, whether they are normal or abnormal risks?

Mr. BABIONE. Yes, sir.

Senator YOUNG. By the way, in your statement you refer to handlers subject to the orders holding long-term contracts. How long are those contracts as a rule?

Mr. BABIONE. They vary from 3 months to a year. They are mostly 6 months. There are very few that last for a year.

Senator YOUNG. That is not much of a long-term at all—3 months to a year. You say milk prices have been rising in the past year, even in those market areas not regulated.

Mr. BABIONE. That is correct.

Senator YOUNG. How do we know that milk prices will not fall during the next months? They have risen so much you say. How do you know they won't fall? You can't assume they are going to remain static or go up, can you?

Mr. BABIONE. No, sir, we cannot assume that.

Senator YOUNG. Do we understand that a bill identical with S. 3834 has passed in the House of Representatives?

Mr. BABIONE. Our suggested revision to the bill that was offered to the House subcommittee was reported out.

Senator YOUNG. And if the price of milk, instead of rising as it has in the past year, had dropped, you don't think the milk people would be coming in and saying they would take a lesser profit and ask for a reduction in their contract, do you?

Mr. BABIONE. Definitely not.

Senator YOUNG. Knowledgeable milk producers and handlers should know the risk they are taking, should they not—risks they take of loss as well as profit?

Mr. BABIONE. Generally speaking, yes. The problem is determining over a long period of time, over a year, what might happen to the supply-demand situation in milk.

Senator YOUNG. Yes, but if you are dealing in milk, you are knowledgeable in that line of work as you should be if you are going to enter into a contract with any Government agency. You also should know something of the pitfalls and the fact that some bureaucrat could make things tough for you. You should take that into consideration, shouldn't you?

Mr. BABIONE. Yes, sir.

Senator YOUNG. I want you to know, sir, that very definitely I am going to oppose this bill. I am going to oppose any part of it, and particularly when you talk about long-term contracts. I believe that that might be 3 years or 5 years—something really long-term. Very few of them are more than a year if any; is that right?

Mr. BABIONE. There are none more than a year.

Senator YOUNG. None more than a year. No other questions, Mr. Chairman.

Chairman RUSSELL. Senator Inouye.

Senator INOUE. Thank you, Mr. Chairman. Mr. Babione, if this bill ever becomes law, will the Department of Defense be prepared to submit and recommend similar bills to cover other commodities under fixed price contracts?

Mr. BABIONE. I don't think I can answer that question at this time. We are concerned over the possible precedent of this type of legislation over a wide spectrum of commodities and products.

Senator INOUE. If you are concerned about the precedent, why did you approve this?

Mr. BABIONE. We felt that this situation was unique enough in the equities of the situation that we should grant relief in the cases cited.

Senator INOUE. Should you grant relief to cases cited by Senator Symington, let's say, if the Senate committee decides to release certain commodities in the stockpile at higher prices?

Mr. BABIONE. I would like to be able to examine the situation in each case before I would ever make a judgment as to whether it represents an abnormal risk or a normal risk. That is the problem in all of these cases.

Senator INOUE. Over the period of let's say the last 5 years, have these contractors made a profit or a loss in their dealings with the Department?

Mr. BABIONE. We don't know, but my judgment on it would be that it is like the stockmarket. Some have made money, some have lost money. It depends on what their conditions were, and many of the things that went into the cost of producing the product.

Senator INOUE. What you are telling us is that you are not in favor of this bill because of the precedent-setting possibilities.

Mr. BABIONE. No, sir. I am saying that we are in favor of this bill. You asked me whether we would be prepared to recommend other bills, and I said we are concerned about the precedent of this bill encouraging other bills, and we would have to examine other bills on the merits of each case.

Senator INOUE. I would think that if you suggest this bill, I can't see how you could deny relief for other contractors dealing in other commodities, if one is thinking of equity and justice. I think we are opening up a Pandora's box. That is my personal view.

Thank you, Mr. Chairman.

Chairman RUSSELL. Senator Byrd.

Senator BYRD of Virginia. No questions, Mr. Chairman.

Chairman RUSSELL. Any further questions?

Senator SYMINGTON. Mr. Chairman, I would read into the record a paragraph from a letter received from a creamery company. These are mostly small companies we are talking about. What this bill does is try to protect little people who don't have the setups to handle a situation of this character when it develops against them. They just can't carry that kind of overhead.

This letter says:

We are familiar with the fact that throughout Missouri and in particular Southwest Missouri, dairies are being forced to bear an unreasonable burden because they negotiated contracts earlier last spring upon estimated prices that historically were much lower than they are now. Historically, the average profit to a dairy on Defense milk contracts is about two cents a gallon. With recent increases in milk prices, several dairies in Missouri are holding contracts of six to twelve months' duration where they stand to lose five to six cents per gallon. I recognize that milk companies bear reasonable risk when they make estimates of prices, but I doubt in the current situation if anyone could have foreseen the substantial increases that have been forthcoming.

Some dairies in my State are going bankrupt as a result of this directive from the Department of Agriculture. Naturally they didn't have any idea it was coming when they made their contract.

So far as you know, assuming the figures are correct, this states the problem, does it not?

Mr. BABIONE. Yes, sir.

Senator SYMINGTON. Thank you.

Chairman RUSSELL. Is there anything further?

Senator CANNON. Mr. Chairman.

Chairman RUSSELL. Yes, Senator Cannon.

Senator CANNON. I am sorry to belabor this point. Mr. Chairman under this provision, there are some milk suppliers that on occasion bid a Defense contract at a loss, in order to take care of the surplus milk that is generated by their producers, the people that sell to them. In that type of situation, let's assume that the particular contractor provides for a contract at a loss to himself. This would increase his loss because of the milk marketing order. Now under that type of situation, would he be entitled to any relief under this provision? In other words, the contractor already was suffering a loss. He was bidding it in below his actual cost to take care of his surplus producers.

Mr. BABIONE. He would be granted relief to the extent he could demonstrate that his loss was increased by the action of the Department of Agriculture.

Senator CANNON. Thank you, Mr. Chairman.

Chairman RUSSELL. Anything further? If not, we thank you gentlemen for your testimony. There will be inserted in the record at this point a joint statement of Senator Allott and Senator Dominick and also a statement of the National Milk Producers Federation.

JOINT STATEMENT OF SENATORS GORDON ALLOTT AND PETER DOMINICK IN
SUPPORT OF S. 3834

Mr. Chairman, we appreciate this opportunity to make this statement in support of our bill, S. 3834.

A situation has developed with respect to Defense Department contracts for the furnishing of fluid milk. A particular case in Colorado has brought the situation to our attention, however, we are informed that similar situations exist in other states. This particular dairy in Colorado happened to be a dairy which qualified for a Small Business set-aside under the Small Business Act of 1958, however, its contract is not a set-aside contract, as the dairy was low bidder.

As members of the Committee know, the Secretary of Agriculture, through milk marketing orders, has promulgated new milk support prices which have resulted in a price increase for bulk milk of seventy-five cents per hundredweight over the bulk price in February of this year. This amounts to more than a 13% increase in less than seven months. For example, in the eastern Colorado milk marketing order area, the bulk price for Class I milk for February was \$5.55 per hundredweight; in March it was \$5.68 per hundredweight; in April it was \$5.78 per hundredweight; for the period July 1 through July 4, the price was \$5.92 per hundredweight; for the period July 5 through July 31, the price was \$6.10 per hundredweight; for the month of August the price was \$6.15 per hundredweight; and, the present price (for September) is \$6.33 per hundredweight.

It is significant to note that the average price for 1965 was \$5.356 per hundredweight and while the price fluctuates some during the year, the price was \$5.39 for December of 1964, as compared with \$5.49 for December of 1965—merely a ten cent per hundredweight increase.

We would agree that price fluctuations attributable to the free interplay of the forces of supply and demand in the market place would be an ordinary risk of doing business; but, we believe that requiring a contractor to foresee and anticipate administrative orders by the Secretary of Agriculture is not ordinary but is extraordinary, and would require a quality of foresight that is far beyond what the Government might reasonably expect of its contractors.

An extreme hardship has been worked upon some of the dairies contracting with the Department of Defense. The small dairy in Colorado indicates that it is now losing in excess of \$15,000 per month under its contract, which was negotiated in November of 1965 and upon which performance began in January of 1966 to continue until January of 1967. The contract contains no renegotiation clause.

To deal with this problem and to help alleviate the hardship brought upon such contractors we introduced our bill, S. 3834. We are informed that a companion measure, H.R. 17483, is presently pending in the House of Representatives.

We appreciate the Committee's expeditious action in calling hearings on this measure so late in the session; however, we feel that the circumstances are extraordinary and in light of the losses being incurred by the contractors, we fear that to defer action may seriously jeopardize their ability to survive. In the long run, the non-survival of such small contractors would be to the detriment of the Government, since it is recognized that they are instrumental in keeping costs down through competition.

Again, we wish to thank the Committee for its early consideration of this matter and for this opportunity to express our views.

STATEMENT OF THE NATIONAL MILK PRODUCERS FEDERATION

The National Milk Producers Federation is a national farm organization. It represents dairy farmers and the dairy cooperative associations which they own and operate. Through these associations, farmers act together to process and market for themselves, on a cost basis, the milk and butterfat produced on their farms.

The Federation was organized in 1916 and is celebrating its 50th anniversary this year.

Practically every form of dairy product made in the United States in any substantial volume is processed and marketed by dairy farmers in their own dairy cooperative plants.

Dairy cooperatives acting as bargaining agents for their farmer members supply the major portion of raw milk used by the dairy processing plants in the United States.

Many dairy cooperatives represented through the Federation supply substantial quantities of milk and dairy products to establishments operated by the Department of Defense. They also supply raw milk to dairy processing plants bidding on contracts to supply such establishments.

These contracts run for periods usually ranging from three months to a year and call for fixed prices for the full term of the contract.

The price of raw milk to the farmers is a primary cost factor in practically all of the items supplied under the contracts.

Bidding under the contracts is very close, and the bidders assume the risk of market price fluctuations and also the risk of changes in labor costs.

In addition, under the present system, there is a possibility, generally unpredictable, of changes in the cost of raw milk brought about by government action.

During the current year, a very sharp downturn in the total production of milk in the United States made it necessary for the government to take emergency action to increase by substantial amounts the price of milk to dairy farmers.

Whether this action will be sufficient to avert a threatened shortage still remains to be seen. It may be necessary to take additional action to stem the sales of dairy herds that are still taking place.

The price increases ordered this year have caused severe hardships to bidders on government contracts. This has served to bring home to all of us the need for price adjustments in government contracts to relieve hardships caused by price increases ordered by the government itself.

The bidders have no control over these prices, and the amount of the increases ordered this year could not reasonably have been anticipated in the bidding.

The price of milk to dairy farmers is supported at not less than 75 nor more than 90 percent of parity under the Agricultural Act of 1949 (7 U.S.C. Sec. 1446). The support price at the farm is obtained by government purchases of butter, nonfat dry milk solids, and cheese at price levels designed to return to farmers the desired support level for milk used for dairy products. Fluid milk prices ordinarily are higher. While they are not supported directly under the 1949 Act, they are supported in fact because the fluid milk prices tend to adjust to the basic support price.

On April 1, 1966, the Secretary of Agriculture increased the support level for milk to farmers from \$3.24 to \$3.50 per hundredweight.

This failed to stop the downward trend in production, and on July 1, 1966, the support level was further increased by action of the Secretary from \$3.50 to \$4.00 per hundredweight.

Prices for milk at the farm level are also controlled in Federal milk marketing orders under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. Sec. 608c (5)). Under this Act, minimum prices to farmers are prescribed for milk in

the designated marketing areas. A classified pricing system is used, with a higher price set for milk used for beverage purposes and a lower price set for milk used to make manufactured dairy products such as butter and cheese.

Prices in the Federal order markets are set by the Secretary of Agriculture after public hearings at which interested parties may appear and present statements. Here again, once the order prices are announced, the bidder has no control over them.

During the current year, the Secretary of Agriculture made sweeping decisions on three occasions to increase milk prices, or prevent scheduled decreases, throughout the system of Federal milk marketing orders. These changes affected substantially the farm price for milk, particularly that used for beverage purpose and including milk supplied under government contracts.

In addition to these increases in the order prices, the support price increases made April 1 and July 1 were reflected in the Federal order markets through the operation of pricing formulas based in varying degree on the price for manufacturing milk.

There is another area in which the cost of raw milk may be changed because of Government action. Where an increase in price support levels announced by the Secretary of Agriculture has caused an increase in class prices, including class prices administered by a state agency, for milk under contract to Federal installations, then a price adjustment should be made. Such an adjustment should be made, however, only where it can be demonstrated that the increase in price is passed through the handler to the producer supplying the milk.

In any of these cases, the only contract adjustment which would be made would be one justified by the fact that the increased cost of milk at the farm level was the result of governmental action, either state or Federal, prompted by considerations of general welfare and made in the public interest. And in the case of Federal price increases, the government would simply be adjusting its supply contracts to reflect milk cost increases which it had itself ordered.

The proposed legislation over the long run may well result in a net benefit to the government, because bidding can be closer if the risk of price change by government action is relieved by an appropriate escalation clause.

We believe the request for such a clause, plus relief for bidders caught by the government price increases made this year, is reasonable and fair, and we urge you to report legislation to accomplish these objectives.

(Subsequently, in executive session, the committee voted to report S. 3834 with amendment as covered by S. Rept. No. 1668.)

H.R. 16646

Chairman RUSSELL. The next bill is H.R. 16646, which would authorize the Secretary of Labor to issue exemplary rehabilitation certificates to persons who earlier had received military discharges that are other than honorable, if the persons could show that their post-service conduct and character have been good.

(The bill referred to follows:)

[H.R. 16646, 89th Cong., 2d sess.]

AN ACT To amend title 10, United States Code, to authorize the award of Exemplary Rehabilitation Certificates to certain individuals after considering their character and conduct in civilian life after discharge or dismissal from the armed forces, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That part II of subtitle A of title 10, United States Code, is amended by inserting immediately after chapter 79 thereof the following new chapter:

“Chapter 80.—EXEMPLARY REHABILITATION CERTIFICATES

“Sec.

“1571. Establishment of Exemplary Rehabilitation Certificates.

“1572. Consideration and issuance of certificate.

“1573. Matters considered.

“1574. Other benefits.

“1575. Job counseling and employment placement.

“1576. Reports.

“§ 1571. Establishment of Exemplary Rehabilitation Certificates

“The Secretary of Labor shall act on any application for an Exemplary Rehabilitation Certificate received under this chapter from any person who was discharged or dismissed under conditions other than honorable at least three years before the date of receipt of such application.

“§ 1572. Consideration and issuance of certificate

“In the case of any person discharged or dismissed from an armed force under conditions other than honorable before or after the enactment of this chapter, the Secretary of Labor may consider an application for, and issue to that person, an ‘Exemplary Rehabilitation Certificate’ dated as of the date of issuance, if it is established to his satisfaction that such person has rehabilitated himself, that his character is good, and that his conduct, activities, and habits since he was so discharged or dismissed have been exemplary for a reasonable period of time, but not less than three years. The Secretary of Labor shall supply a copy of each such Exemplary Rehabilitation Certificate which is issued, to the Secretary of Defense, who shall place such copy in the military personnel record of the individual to whom the certificate is issued.

“§ 1573. Matters considered

“(a) For the purposes of section 1572, oral and written evidence, or both, may be used, including—

“(1) a notarized statement from the chief law enforcement officer of the town, city, or county in which the applicant resides, attesting to his general reputation so far as police and court records are concerned;

“(2) a notarized statement from his employer, if employed, giving the employer’s address, and attesting to the applicant’s general reputation and employment record;

“(3) notarized statements from not less than five persons, attesting that they have personally known him for at least three years as a person of good reputation and exemplary conduct, and the extent of personal contact they have had with him; and

“(4) such independent investigation as the Secretary of Labor may make.

“(b) Any person making application under this chapter may appear in person or by counsel before the Secretary of Labor.

“§ 1574. Other benefits

“No benefits under any laws of the United States (including but not limited to those relating to pensions, compensation, hospitalization, military pay and allowances, education, loan guarantees, retired pay, or other benefits based on military service) shall accrue to any person to whom an Exemplary Rehabilitation Certificate is issued under section 1572 unless he would be entitled to those benefits under his original discharge or dismissal.

“§ 1575. Job counseling and employment placement

“The Secretary of Labor shall require that the national system of public employment offices established under the Act of June 6, 1933 (48 Stat. 113), accord to any person who has been discharged or dismissed under conditions other than honorable but who has been issued an Exemplary Rehabilitation Certificate under this chapter special counseling and job development assistance.

“§ 1576. Reports

“The Secretary of Labor shall report to Congress not later than January 15 of each year the number of cases reviewed by him under this chapter, and the number of Exemplary Rehabilitation Certificates issued.

“§ 1577. Administration

“In carrying out the provisions of this Act the Secretary of Labor is authorized to (a) issue regulations; (b) delegate his authority; (c) utilize the services of the Civil Service Commission for making such investigations as may be mutually agreeable.”

SEC. 2. The analysis of part II of subtitle A of title 10, United States Code, is amended by inserting immediately below

“79. Correction of military records..... 1551’

the following:

"80. Exemplary Rehabilitation Certificates..... 1571".

Passed the House of Representatives August 15, 1966.

Attest:

RALPH R. ROBERTS,
Clerk.

Chairman RUSSELL. I am sure that all of you who have been on this committee for any length of time will recall that in previous Congresses we have had somewhat similar legislation sponsored by the late Congressman Doyle, of California. The pending bill is different from the earlier ones in that the Department of Labor, instead of the Department of Defense, would grant the certificates.

The bill contains an express provision that no benefits would accrue to a person to whom an exemplary rehabilitation certificate is issued unless the person was entitled to those benefits under his original discharge or dismissal. The Secretary of Labor, under the bill, could also provide special job counseling and employment placement assistance to persons to whom certificates are issued.

We have been informed as to the special interests of a number of members of the other body in this bill, particularly Congressmen Bennett, of Florida, and McVicker, of Colorado, and Congressman McVicker has sent over a statement to be inserted in the record. (See page 23.)

We also have a statement from the Reserve Officers Association in support of the bill (see page 24), and a statement from the Veterans of Foreign Wars, which will appear in the record. (See page 24.)

The witness on this bill is Mr. Marshall Miller, Assistant Director for Veterans Employment, Department of Labor. We also have present from the Department of Defense, the Office of the Assistant Secretary of Defense for Manpower, Lt. Col. William A. Temple.

Mr. Miller, I assume you are going to present the statement on this bill. You may proceed.

STATEMENT OF MARSHALL C. MILLER, ASSISTANT CHIEF, VETERANS EMPLOYMENT SERVICE, DEPARTMENT OF LABOR; ACCOMPANIED BY PAUL A. TERREY, ATTORNEY, DEPARTMENT OF LABOR, AND COL. WILLIAM A. TEMPLE, OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MILITARY PERSONNEL POLICY, DEPARTMENT OF DEFENSE

Mr. MILLER. Mr. Chairman and members of the committee, I appreciate the opportunity to testify before you on H.R. 16646 authorizing the award of exemplary rehabilitation certificates to certain persons who have been discharged or dismissed from the armed services under conditions which were less than honorable.

The bill is drafted to deal with a comparatively small, but nevertheless difficult manpower problem. There are over 500,000 people in this country who have less than an honorable discharge from the Armed Forces. Figures from the Department of Defense show that 215,255 discharges were awarded under other than honorable conditions from 1957 to 1965. This is about 3.2 percent of all military discharges awarded during this span of 9 years.

It is a hard fact that many of these men have difficulty in obtaining employment or anything more than menial employment. This results

from the stigma or "black eye" which the less than honorable discharge represents. Many of the men with these discharges have employment difficulties which far exceed those which result from the commission of identical offenses by civilians. Too often, a prospective employee will lack the time, patience, or interest to do more than superficially inquire about the nature of the discharge, whether it be a dishonorable discharge, an undesirable discharge, or a bad conduct discharge. No ameliorating factors such as conduct in civilian life since the discharge are considered.

H.R. 16646 tackles the problem by permitting the Secretary of Labor to issue exemplary rehabilitation certificates. The holder of a certificate is entitled to special counseling and job development assistance in the numerous public employment offices established under the Wagner-Peyser Act. A copy of the certificate is sent to the Secretary of Defense for placement in the holder's military personnel record. Perhaps most importantly, however, is the fact that the holder of a certificate has tangible and objective evidence as to his rehabilitation for presentation to a prospective employer. This should be of some help in breaking existing prejudices to which I have already alluded.

The value of the certificates will depend in large part upon how carefully they are issued. They would not be given lightly. The bill contemplates the following:

1. At least 3 years must elapse between the military discharge and the date the young man applies to the Secretary of Labor for a certificate.

2. The Secretary must consider relevant evidence which would establish to his satisfaction that the person has: (a) rehabilitated himself, (b) that his character is good, and (c) that his conduct, activities, and habits since he was discharged have been exemplary. This evidence would be written or oral, and could include such documentary evidence as (1) a notarized statement from the chief law enforcement officer of the community where the applicant resides attesting to this general reputation so far as police and court records are concerned; (2) a notarized statement from his employer, if any; (3) notarized statement from not less than five persons attesting that they have personally known him for at least 3 years as a person of good reputation and exemplary conduct, and the extent of their personal contact with him; and (4) any evidence which the Secretary might obtain under discretionary authority to make an independent investigation of the application. The Secretary of Labor's investigation would use the services of the Civil Service Commission under mutually agreeable arrangements.

Any increased costs occasioned by the bill may be considered negligible. Although the problem involved is serious, it is not large.

The bill does not in any way alter existing law regarding veterans' benefits for pensions, compensation, hospitalization, et cetera. This should be emphasized.

Mr. Chairman, I would like to depart from my prepared statement for a minute if I may. I do not feel that we should confuse the image of a veteran with certain preferences afforded by law with the image of the veteran with less than an honorable discharge seeking proof of his rehabilitation and trying to solve his serious employment problem.

As indicated earlier, I am here as a representative of the Department of Labor, and am expressing its views on a bill designed to remedy a manpower problem in a practical way. I am not here as a moralist. Yet, in closing I am reminded of the Biblical observation that man is lower than the angels. He makes mistakes, particularly when he is young and has been impeded by a background of poverty or deprivation. That he be permitted to correct his mistakes and contribute fully to society is one of the tenets of our culture and our Nation.

Time has not permitted us to obtain the view of the Bureau of the Budget on this statement. That is my statement, Mr. Chairman.

Chairman RUSSELL. Lt. Col. William A. Temple is here, and his statement is one page in length, and before each Senator asks questions, his statement indicates that the Department of Defense recognizes this problem and has no objection to this bill. I will have that statement printed in the record.

(The statement referred to follows:)

STATEMENT OF LIEUTENANT COLONEL WILLIAM A. TEMPLE, OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MILITARY PERSONNEL POLICY

Mr. Chairman and Members of the Committee, I am Lieutenant Colonel William A. Temple, Executive for Disciplinary and Separation Matters in the Office of the Deputy Assistant Secretary of Defense for Military Personnel Policy.

The Department of Defense is fully aware of the seriousness of the problem created in civilian life for an individual who has received an other than honorable discharge. We recognize, also, that in many instances an individual with the desire to do so can overcome the effects of a period of misconduct and take a useful place in society.

The Department has, therefore, no objection to the award of an exemplary rehabilitation certificate attesting to a period of demonstrated rehabilitation in his civilian community following separation from the military service. We would likewise have no objection to incorporating a copy of each certificate in the individual's permanent personnel file within the appropriate Military Department.

The Department of Defense believes that the bill before you properly places the function of issuing such certificates in a civilian agency and understands that the Department of Labor stands ready to assume it. We defer, of course, to the views of that Department on the substance of H.R. 16646 as it relates to the performance of that function.

Thank you, Mr. Chairman. This concludes my statement.

Chairman RUSSELL. Senator Saltonstall.

Senator SALTONSTALL. Mr. Chairman, the only question that I have is it seems to me that this bill may go awfully far in requiring the man in question to get certain certificates, notarized statements, before he can qualify before the Secretary of Labor—five statements from people, notarized, from his employer, and from the chief law officer of enforcement in the city or town.

In a big city, such as St. Louis, Portland, Maine, Atlanta, Ga., or Boston, it is pretty hard for the chief law enforcement officer to be able to give a certificate, we will say, to me, if I am a citizen of the city of Boston, with its some 700,000 people there. Shouldn't you qualify that in some way?

Mr. MILLER. Senator Saltonstall, I think inherent in the provisions is an elasticity. In other words, this is discretionary in terms of a number of statements or the number of people, or even who is to supply the evidence. Certainly we would expect that the local employment office and the people handling this would proceed on the basis of the situation as it appeared.

Senator SALTONSTALL. May I ask one more question. In administering this act, you want to use the services of the Civil Service Commission. Do they approve of the act?

Mr. MILLER. I am informed that we understand they have no objections.

Senator SALTONSTALL. No objections.

Mr. MILLER. That is right.

Senator SALTONSTALL. They have been consulted.

Mr. MILLER. Yes, sir. They were consulted when the House considered the bill.

Senator SALTONSTALL. Thank you, Mr. Chairman.

Chairman RUSSELL. Senator Symington.

Senator SYMINGTON. I would ask one question. You say you have had over 500,000 less than honorable discharges. Then you put them in categories, "dishonorable discharge, undesirable discharge, bad conduct discharge." Have you the figures as to what number of the 500,000 come into each of those categories?

Mr. MILLER. I do not at this point, sir. I will be very happy to get it.

Senator SYMINGTON. Would you supply that for the record?

Mr. MILLER. I will be happy to. (See p. 23.)

Senator SYMINGTON. Thank you, Mr. Chairman.

Chairman RUSSELL. Senator Cannon.

Senator CANNON. Doesn't this also include the so-called "general" discharge?

Mr. MILLER. Any discharge other than honorable.

Senator CANNON. So it would take care specifically of those who have a general discharge who are really the lightest offenders, if they are considered offenders.

Mr. MILLER. I am not sure.

Senator CANNON. I have seen many instances myself where these young boys have been in the service and gotten so many "black marks" let's say the first year that with exemplary conduct after that time were still unable to get an honorable discharge, and yet they can't go to work for any of the classified agencies of the Federal Government now because of that situation.

With this type of a certificate, would this enable a man to qualify let's say for a clearance for any of the classified agencies?

Mr. MILLER. When it gets into the field of classified agencies, this is a matter which I couldn't answer at this time. The real emphasis, gentlemen, if I can resort to the actual field experience, is there is nothing that this boy has that he can take in his hand, or a girl, as far as that is concerned, to a prospective employer.

We do not want to confuse this issue. It in no way, shape, or form relates to veterans' benefits. This is not the point. This boy is suffering under a stigma, and one which is very real, and in some people's minds proper. But here is a problem of trying to create for him an opportunity to regain his dignity and to become a self-supporting citizen in his community, and this bill has had the support of Secretary Wirtz from the start, and we recommend it to you for your consideration.

Senator CANNON. I have nothing further, Mr. Chairman.

Chairman RUSSELL. Senator Young.

Senator YOUNG. Mr. Chairman, carrying it a little further, Senator Cannon's observations, it appears to me that all of us know about the way things are run in the Armed Forces, that in some outfits the stigma that is attached, or perhaps a dishonorable discharge might be given out in some outfits while in another outfit they are given an undesirable or a bad conduct discharge. There is a great diversity in punishment in these matters in the branches of the services in different outfits.

Mr. MILLER. I will have to confer with the Department on that, Senator. Actually, if I could say this to you, we don't want to confuse this. We are not attempting to change the character of the discharge.

Senator YOUNG. I understand that.

Mr. MILLER. I think your observations, sir, are accurate.

Senator YOUNG. Personally, I think this is a very good bill. I will be glad to support it. It will be very helpful to a lot of youngsters who perhaps got off with a bad start. I think this is just as good a bill as the bill we just considered was a bad bill, where it wants the Government to guarantee to the milk dealers in Ohio—and we have a lot of them and some of them have written me—want us to legislate to guarantee them a profit in getting a 6-month or a 12-month contract.

I will vote against the last bill, but I will enthusiastically support this bill. That is all I have.

Chairman RUSSELL. Senator Inouye.

Senator INOUE. No questions, Mr. Chairman.

Chairman RUSSELL. Senator Byrd.

Senator BYRD of Virginia. Thank you, Mr. Chairman. It seems to me this is a very desirable and perhaps necessary piece of legislation. Let me ask you this question, if I may. I note here that during the past 8 years, the number of discharges, less than honorable discharges was 3.2 percent. Is that considered about normal, more or less?

Mr. MILLER. The answer is "Yes", Senator.

Senator BYRD of Virginia. I would have thought 3.2 percent would be high. You feel it is normal?

Mr. MILLER. Yes, sir.

Senator BYRD of Virginia. Thank you, Mr. Chairman.

Chairman RUSSELL. Do any further questions occur to any other members of the committee?

Senator SYMINGTON. Mr. Chairman, I would, if I may.

Chairman RUSSELL. I want to clarify the record. A general discharge is not a dishonorable discharge. It is considered as an honorable discharge, and it does not deny the recipient of any of his rights as an exserviceman.

Senator CANNON. Mr. Chairman, I think the general discharge is considered as a discharge other than honorable.

Chairman RUSSELL. It is considered as an honorable discharge. An undesirable discharge is considered as one under conditions other than honorable, but a general discharge is often given in cases where the man just doesn't have the mental capacity to be a soldier or a sailor. I am quite sure I am right about that.

Senator CANNON. I just handled one where the man can't get a job working for the AEC because he has a general discharge.

Chairman RUSSELL. Well, that may well be, because the general discharge shows that the service thought there was something wrong

with him, either mentally or otherwise, or from the standpoint of character, but it does not even bar him from veterans' benefits if he is entitled to them otherwise.

Senator CANNON. Would a general discharge come under this category? Would they be included in this?

Chairman RUSSELL. I don't know whether they would, or not. It wouldn't be necessary because it is not a dishonorable discharge.

Mr. MILLER. Mr. Chairman, could we refer this to Colonel Temple.

Chairman RUSSELL. Yes, Colonel.

Colonel TEMPLE. Sir, a general discharge is a general discharge under honorable conditions. This bill deals with discharges other than under honorable conditions.

Chairman RUSSELL. This bill would not affect them at all, because this is considered to be under honorable conditions.

Senator BYRD of Virginia. Mr. Chairman, may I ask Colonel Temple a question in that connection?

Chairman RUSSELL. Yes.

Senator BYRD of Virginia. The 500,000 involved in this, or 3.2 percent, there is no general discharge included in that figure?

Colonel TEMPLE. That is correct, sir. This reflects undesirable, bad conduct, and dishonorable discharges.

Senator BYRD of Virginia. Thank you.

Chairman RUSSELL. Senator Symington has another question.

Senator SYMINGTON. In the theory of it, Colonel, if a general discharge is an honorable discharge why give him the stigma of not having an honorable discharge?

Colonel TEMPLE. Sir, in effect, although it is perhaps an oversimplified analogy, a general discharge is A, B, C, or D grade, where an honorable discharge reflects an A grade for a man who has faithfully performed his service to his country in an outstanding manner.

Senator SYMINGTON. I am very sympathetic with what Senator Cannon said, however. It seems to me you stigmatize a man who could be a good man. I don't understand the difference. When did the general discharge aspect come up, the law?

Colonel TEMPLE. Sir, I would have to research the point historically, but the general discharge has been in effect at least 10 years.

Chairman RUSSELL. The general discharge is usually given, I believe it is said, for the convenience of the Government; is it not?

Colonel TEMPLE. It is given under a variety of circumstances, sir. Convenience of the Government is one.

Senator SYMINGTON. So you don't draft say the world's champion heavyweight for reasons you know more about than I do, but if you did draft him you would give him a general discharge because his mental capacity wasn't up to—

Colonel TEMPLE. No, not necessarily.

Chairman RUSSELL. Not necessarily at all.

Colonel TEMPLE. If his service were up to the best of what he was capable, and he wasn't guilty of a substantial amount of minor misconducts, he might very well earn an honorable discharge.

Senator SYMINGTON. I have so many more questions, Mr. Chairman, I will pass.

Senator INOUE. Mr. Chairman.

Chairman RUSSELL. Senator Inouye.

Senator INOUE. Colonel Temple, what are some of the circumstances for a general discharge?

Colonel TEMPLE. Sir, a general discharge may be issued for discharges for unsuitability. I might refer specifically to the Department of Defense directive on the subject.

Mr. MILLER. Mr. Chairman, I was just going to say a statement could be included as to general discharges.

Chairman RUSSELL. I have no objections. There are any number of reasons why the general discharge is used, instead of one under honorable conditions. It is sort of a second-class discharge but not a bad conduct discharge, often given where a man has committed a number of petty offenses, and the service thinks that he is perhaps not all there mentally, and they don't want to try him and court-marshal him, and they just discharge him for the convenience of the Government.

Any further questions? Thank you, gentlemen.

(A statistical table of discharges follows:)

Department of Defense

Fiscal year	Total	Total discharges (all services)										Total, other than honorable and general
		Honorable	Per cent	General	Per cent	Undesirable	Per cent	Bad conduct	Per cent	Dishonorable	Per cent	
1957	803,859	743,050	92.4	123,371	2.9	27,786	3.5	6,633	0.8	3,019	0.38	37,438
1958	899,153	798,761	88.8	127,379	3.2	31,460	3.6	6,714	.8	1,839	.21	40,013
1959	761,004	710,534	93.4	120,636	2.7	23,491	3.1	5,331	.7	1,012	.13	29,834
1960	814,190	566,142	69.5	26,433	4.3	16,239	2.6	4,327	.7	749	.12	21,315
1961	658,009	611,849	93.0	27,148	4.1	14,601	2.2	3,742	.6	669	.10	19,012
1962	853,074	638,284	74.8	27,528	4.0	13,219	1.9	3,361	.5	682	.10	17,262
1963	710,881	668,666	94.1	25,069	3.5	13,555	1.9	3,053	.4	538	.08	17,146
1964	787,289	745,961	94.8	24,325	3.1	13,757	1.7	2,799	.4	447	.06	17,003
1965	730,598	688,889	94.3	25,477	3.5	13,199	1.8	2,721	.4	312	.04	16,232
Total												215,255

¹ Marine Corps general discharges unavailable.

² Total Marine Corps exceeds detail items by 300.

STATEMENT OF ROY H. McVICKER, MEMBER OF CONGRESS, SECOND DISTRICT OF COLORADO

I am here to emphasize my strong feelings in support of H.R. 16646 to provide exemplary rehabilitation certificates to veterans with less than honorable discharges. Earlier this year I introduced a bill, almost identical to H.R. 16646. I would like to join with my distinguished colleague, the Honorable Charles E. Bennett of Florida, in urging your favorable consideration of his excellent bill.

A questionable detachment from our armed services represents a black cloud which hangs over a man for the rest of his life. He carries a stigma wherever he goes. People in his community turn their backs upon him. Our Federal Government will not help him, while it gladly and gratefully aids other veterans. Even his wife and children know there is shame in his past. Some men may successfully hide their pasts from others, yet they know within themselves that their record is not something to take pride in.

This is the plight of a half million men and women in our country. How tragic that a man cannot rid himself of this blot, regardless of how admirable a life he leads. I am not saying dishonorable discharges are handed out unjustly or indiscriminately. But many times offenders are young and immature men, who are sorry soon after. Other youths in civilian life or at college are forgiven deeds which are less rapidly forgiven in a soldier. No, injustice is not the point, though we all know unjust decisions occur in military courts as well as in civilian.

My point is that a rehabilitated person deserves an opportunity to clear his record of old stains. A man who has owned up to his past mistakes and overcomes

his weaknesses, deserves a chance to erase this last enduring obstacle to advancement. An exemplary rehabilitation certificate holds out this hope.

Our bill would have the Secretary of Labor appoint review boards which would pass judgment on applications for these certificates. They would not be given out lightly. Three years would have to elapse before any application would be in order. Evidence of rehabilitation would have to be strong. Acceptable evidence would include notarized statements from the chief law enforcement officer of the applicant's community, from his employer, and from people who have known him well. The reviewing board would use these statements and its own independent investigations to determine an applicant's reliability, good character, and general reputation.

If the decision of the board is favorable, an applicant's military personnel record would thereafter include a copy of his certificate. He would not become eligible for Federal benefits which would be his under an honorable discharge. However, he would be given job counselling and help in finding a job. He would be a prouder man through the effort he had made to reform himself.

The days are rapidly disappearing when men can be branded for one mistake, and victims of circumstance shoved aside without compassion. Congress has an important task to help people help themselves in achieving a full measure of dignity. I urge Congress to endorse these certificates for they reflect concern for this task.

STATEMENT OF COLONEL JOHN T. CARLTON, EXECUTIVE DIRECTOR, RESERVE OFFICERS ASSOCIATION OF THE UNITED STATES

Mr. Chairman and members of the committee, we appreciate this opportunity to express our views to you concerning H.R. 16646, a Bill introduced and supported by The Honorable Charles E. Bennett, Congressman from Florida, to authorize the award of Exemplary Rehabilitation Certificates to certain veterans of the military services.

We strongly support this Bill and recommend that it be favorably considered by your Committee.

A number of attempts have been made to pass similar legislation in the past, but we are pleased to find support both from the Department of Defense and Department of Labor for this particular Bill.

This Bill would open up the door to gainful employment to many men, whose youthful indiscretions and carelessness has, in the past resulted in a discharge from the Armed Services under other than honorable conditions, yet whose exemplary conduct since that time gives positive evidence of having gained the maturity to take this rightful place in society.

This is entirely in the American tradition. Further, in addition to affording a real chance of rehabilitation to those who deserve it, the Bill aids our economy by providing gainful employment to a significantly large group of persons on the labor market.

For the foregoing reasons, we recommend this Bill to your Committee and urge its enactment.

VETERANS OF FOREIGN WARS OF THE UNITED STATES,
Washington, D.C., September 26, 1966.

Hon. RICHARD B. RUSSELL,
*Chairman, Armed Services Committee,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reference to H.R. 16646, which has been approved by the House, and referred to your Committee for further consideration.

H.R. 16646 will establish Exemplary Rehabilitation Certificates to be furnished to any person discharged or dismissed from the Armed Forces under conditions other than honorable upon being able to establish that he has rehabilitated himself and that his character, conduct, and other characteristics have been exemplary for the last three years.

The bill in no way alters, amends, or allows any veterans' benefits. It confers no new rights, privileges, or preferences to these persons because of the granting of the Exemplary Rehabilitation Certificates.

Further and most important to the Veterans of Foreign Wars of the United States is that the bill, as amended by the House, struck out a section of the bill which would have given the responsibility of rehabilitating these less than honorably discharged veterans to the Veterans Employment Service of the Department of Labor. Since the early 1930s under authority conferred by the Wagner-

Peyser Act, honorably discharged war veterans of this nation have been provided job counseling and assistance when in need of employment. This veterans preference was further expanded and refined with the passage of the GI Bill of Rights of 1944. It was again reaffirmed and approved by the two succeeding GI Bills for the Korean war veterans and most recently the so-called Cold War GI Bill.

The bill, therefore, as it was passed by the House was amended to conform to all V.F.W. recommendations. Consequently, H.R. 16646 has the approval of the Veterans of Foreign Wars in that we have no objections to the bill.

Should your Committee hold hearings or have other formal consideration of this bill, then it is hoped and strongly recommended that if the bill is reported to the full Senate that the section of the bill relating to veterans' benefits provide that there shall be no special veterans' benefits accrue to the veteran by reason of his obtaining of the certificate.

Secondly, it is recommended that in no event shall the Veterans Employment Service of the Department of Labor be utilized in the rehabilitation program contemplated by this bill. The Veterans Employment Service was created to render counseling and assistance to honorably discharged veterans and for that reason it is hoped that this bill will in no way alter or change that policy.

Your favorable consideration of these views will be deeply appreciated by the membership of the Veterans of Foreign Wars.

With kind regards, I am,
Sincerely,

FRANCIS W. STOVER,
Director, National Legislative Service.

(Subsequently, in executive session, the committee voted to report H.R. 16646, with an amendment, as covered by S. Rept. 1669.)

H.R. 9916

Chairman RUSSELL. The next bill is H.R. 9916. This bill would permit the sons of Reserve officers on active duty to compete for Presidential appointments to the military academies, and it would permit the sons of members who were killed or totally disabled in line of duty to compete under a quota for sons of deceased veterans. This quota is now limited to sons of veterans of World Wars I and II or Korea.

(A copy of the bill referred to follows:)

[H. R. 9916, 89th Cong., 2d sess.]

AN ACT To amend title 10, United States Code, with respect to the nomination and selection of candidates for appointment to the Military, Naval, and Air Force Academies, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 10, United States Code, is amended as follows:

(1) Sections 4342(a)(1), 6954(a)(1), and 9342(a)(1) are each amended as follows:

(A) By inserting "or have a service-connected disability rated at not less than 100 per centum resulting from," after "died of", and by striking out "active service" and all that follows through "1955" and inserting in lieu thereof "active service."

(B) By inserting "or disability, and the percentage at which the disability is rated," after "death" in the last sentence thereof.

(2) Sections 4342(a)(2), 6954(a)(2), and 9342(a)(2) are each amended by inserting before the period at the end thereof "or, if there is no Vice President, by the President pro tempore of the Senate".

(3) Sections 4342(b)(1), 6954(b)(1), and 9342(b)(1) are each amended to read as follows:

"(1) one hundred selected by the President from the sons of members of an armed force who—

"(A) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;

“(B) are, or who died while they were, retired with pay or granted retired or retainer pay, other than those granted retired pay under section 1331 of this title;

however, a person who is eligible for selection under clause (1) of subsection (a) may not be selected under this clause.”

(4) Section 4342(b)(3) is amended by striking out “the Army Reserve” and inserting in place thereof “reserve components of the Army”.

(5) Section 9342(b)(3) is amended by striking out “the Air Force Reserve” and inserting in place thereof “reserve components of the Air Force”.

Sec. 2. Notwithstanding any other provision of law, none of the additional appointments authorized in sections 4342(b)(1), 6954(b)(1) and 9342(b)(1) as provided by this Act shall serve to reduce or diminish the number of qualified alternates from congressional sources who would otherwise be appointed by the appropriate service Secretary under the authority contained in sections 4343, 6956, and 9343 of title 10, United States Code.

Passed the House of Representatives July 18, 1966.

Attest:

RALPH R. ROBERTS,
Clerk.

Chairman RUSSELL. The witness on this bill is Lt. Col. William J. Mahon, Chief of the Air Force Academy Activities Branch. All right, Colonel.

STATEMENT OF LT. COL. WILLIAM J. MAHON, CHIEF, AIR FORCE ACADEMY ACTIVITIES GROUP, DIRECTORATE OF PERSONNEL TRAINING AND EDUCATION, DEPUTY CHIEF OF STAFF, PERSONNEL, HEADQUARTERS, U.S. AIR FORCE; ACCOMPANIED BY LT. COL. F. G. ROCKWELL, OFFICE OF THE DEPUTY CHIEF OF STAFF FOR PERSONNEL, DEPARTMENT OF THE ARMY; COMDR. DONALD A. SMITH, HEAD, NAVAL ACADEMY MIDSHIPMAN'S BRANCH, BUREAU OF NAVAL PERSONNEL, DEPARTMENT OF THE NAVY; AND LT. COL. CHARLES C. ANDERSON, DEPUTY REGISTRAR, AIR FORCE ACADEMY, DEPARTMENT OF THE AIR FORCE

Colonel MAHON. I have other people accompanying me this morning. From the Army, Lt. Col. Frederick G. Rockwell, chief of the OCS, Military Academy Branch, deputy chief of staff, Personnel, Headquarters, U.S. Army. We have Comdr. Donald A. Smith from the Navy. He is the head of the Naval Academy Midshipman's Branch, Bureau of Naval Personnel, U.S. Navy. From the Air Force we have Lt. Col. Charles C. Anderson, the deputy registrar of the U.S. Air Force Academy.

Chairman RUSSELL. We have a degree of unification with respect to this bill. You may proceed, Colonel.

Colonel MAHON. I appreciate the opportunity to appear before you today to testify on behalf of the Department of Defense on H.R. 9916, to amend title 10, United States Code, with respect to the nomination and selection of candidates for appointment to the Military, Naval, and Air Force Academies.

In summary, this bill includes provisions which will:

1. Establish eligibility in the sons of deceased veterans category for sons of members of the Armed Forces who died or were 100-percent disabled as a result of active service.

2. Establish authority for the President pro tempore of the Senate to nominate candidates for vacancies available to the Vice President, if there is no Vice President.

3. Establish eligibility in the Presidential category for sons of all career members of the Armed Forces who are on active duty and have been continuously on active duty for 8 years, or who are retired or who die while retired, and to enlarge the quota in this category at each academy from 75 to 100 per year.

4. Clarify the eligibility in the Reserve category for members of the National Guard, of the Army, and Air Force.

I will discuss each of these proposed changes separately.

The Department of Defense favors extending the eligibility in the sons of deceased veterans category to sons of veterans who are 100-percent disabled, and to sons of veterans who are killed or disabled as a result of active duty. This will include sons of veterans killed or disabled in time of declared war, in time of cold war such as Korea or Vietnam and in peacetime. The families of those servicemen who are killed or disabled in line of duty during peacetime suffer the same hardships and are handicapped to approximately the same extent as the families who have suffered the loss of a husband and father in combat.

The Department of Defense believes it to be both logical and proper that our country afford the same opportunity to these young men that they afford to the sons of men who are killed or disabled in time of war. The determination of the Veterans' Administration as to service connection of the cause of death as well as the percent of disability will be binding upon the service Secretaries.

Little discussion is needed on the proposed change allowing the President pro tempore of the Senate to nominate candidates for vacancies authorized to the Vice President on those rare occasions when there is no Vice President. It parallels other arrangements to continue the functions of this office. The Department of Defense supports this change.

Another provision of this proposed bill would recognize the valuable service rendered by career members of Reserve components who are on active duty, making their sons eligible to compete for appointment in the Presidential category in the same manner as sons of Regular members. For many years, members of Reserve components of the armed services have been serving their country side by side with members of the Regular Establishment. Historical precedent in law has established 8 years of continuous active duty as a basis for considering a member of the armed services to be in a career status. The bill also provides eligibility for sons of those members who retired or died while retired.

The Presidential nomination category is already quite competitive. As the bill would increase the number of young men eligible in this competition, it also increases the number of annual vacancies for each academy from 75 to 100. Theoretically, this would increase the total authorized strength of each academy from 4,417 to 4,517.

It is not the intent of this bill, however, to increase the total number of cadets or midshipmen actually attending an academy. Existing and planned facilities are geared to the maximum presently authorized by law. To offset the proposed increase of up to 25 per year, there will be a corresponding decrease in the number of young men appointed

in either the Regular or Reserve category, or appointed to fill these vacancies allocated to the service Secretaries. In no instance will the additional 25 Presidential appointees diminish the 75 percent of the secretarial qualified alternates that must come from those young men nominated by Members of Congress.

The Department of Defense supports an expansion of the Presidential category to include sons of all career members of the armed services and the increase in the quota from 75 to 100.

The current law states that the Secretaries may nominate members of the Army and Air Force Reserve. The proposed changes in H.R. 9916 amend the language to read "Reserve components of the Army," and "Reserve components of the Air Force." The purpose of this technical change is to insure that members of the respective National Guards are eligible for competition to the academies in the Reserve category. The Department of Defense supports this change.

It has been a pleasure to appear before this committee today.

I shall be happy to answer any questions you may have.

Chairman RUSSELL. Colonel, section 2 under this title, as I understand it, is designed to protect the congressional appointments from any encroachment.

Colonel MAHON. Yes, sir.

Chairman RUSSELL. But this new category authorizes an additional 25 for each service academy.

Colonel MAHON. That is right, sir.

Chairman RUSSELL. Where will they come from? Who will you diminish to get these 25 extra?

Colonel MAHON. The Secretarial qualified alternates.

Chairman RUSSELL. In other words, this will come out of those alternates which he calls up.

Colonel MAHON. Yes, sir.

Chairman RUSSELL. To fill in. None of the schools are now up to fully authorized strength, are they?

Colonel MAHON. The Navy is, sir.

Chairman RUSSELL. Pardon?

Colonel MAHON. The Navy is almost up to full strength.

Chairman RUSSELL. The Navy is almost?

Colonel MAHON. Right, sir. The Army is not and the Air Force is not.

Chairman RUSSELL. There would be no difficulty in handling these extra 25 cadets at each academy?

Colonel MAHON. No, sir.

Chairman RUSSELL. Senator Saltonstall.

Senator SALTONSTALL. Mr. Chairman, just two or three questions. I assume that you mean by this that if a man is in the service, and we will say he is run over by a truck, or is killed in an airplane accident or something of that character in peacetime, his son would be qualified.

Colonel MAHON. Yes, sir, he would be eligible.

Senator SALTONSTALL. That would have to be certified by the Department of Defense.

Colonel MAHON. By the Veterans' Administration, sir.

Senator SALTONSTALL. Now there is one thing that I question a little bit, perhaps sentimentally as much as anything else. You have given the President pro tempore of the Senate the appointments of the Vice President. Now personally, perhaps by way of sentiment

or in any other regard, I hate to think that we will have no Vice President because that means either that he is killed or died.

Shouldn't those appointments lapse for a year or two years? I just don't like the idea of providing for a President to be assassinated, or for a Vice President to die.

Colonel MAHON. We do not either, sir.

Chairman RUSSELL. As a matter of fact, it was put in there because the President was killed, wasn't it?

Colonel MAHON. Yes, sir.

Chairman RUSSELL. And the vacancies couldn't be filled. I don't see any objection to it personally.

Senator SYMINGTON. Neither do I.

Senator SALTONSTALL. I say it is purely from sentiment as much as anything. I don't like the idea. I think those are the only two questions I have. The Reserve officer would have to be serving for 8 years.

Colonel MAHON. Eight years, sir.

Senator SALTONSTALL. Thank you, Mr. Chairman.

Chairman RUSSELL. Senator Symington.

Senator SYMINGTON. Thank you, Mr. Chairman. What is the definition of 100-percent disability?

Colonel MAHON. That is decided by the VA, sir.

Senator SYMINGTON. By whom?

Colonel MAHON. The Veterans' Administration.

Senator SYMINGTON. Why aren't the Army and Air Force Academies up to full strength?

Colonel MAHON. The Army and Air Force are on their way up now, sir. Actually, the physical facilities would not handle the increase.

Senator SYMINGTON. Is it the physical facilities?

Colonel MAHON. Yes, sir.

Senator SYMINGTON. When do you expect that to be cleared up?

Colonel MAHON. Approximately 1969, sir.

Senator SYMINGTON. For both?

Colonel MAHON. We expect our first full complement of cadets in 1971, and the Army expects their's in 1972.

Senator SYMINGTON. The Navy has been pretty tight on space down at Annapolis, but they seem to have been able to work it out.

Colonel MAHON. Yes, sir.

Senator SYMINGTON. This bill would not in any way preclude competition, would it? If these men are given a chance, they will have no better chance than anybody else?

Colonel MAHON. No, sir.

Senator SYMINGTON. They are just given the opportunity, is that correct?

Colonel MAHON. Right, sir.

Senator SYMINGTON. Thank you, Mr. Chairman.

Chairman RUSSELL. Senator Cannon.

Senator CANNON. No questions, Mr. Chairman.

Chairman RUSSELL. Senator Young.

Senator YOUNG. No questions, Mr. Chairman.

Chairman RUSSELL. Senator Inouye.

Senator INOUE. Mr. Chairman. When you speak of retired members, do you cover persons retired because of disability also?

Colonel MAHON. Yes, sir.

Senator INOUE. I realize this matter is not in the bill, Mr. Chairman, if I may bring up this subject, I recall quite some time ago the administration submitting a bill authorizing the Secretary of Defense and the Secretary of State to nominate young men from selected foreign countries for admission to the service academies. Would you object to including it in this bill?

Colonel MAHON. No, sir.

Senator INOUE. I have no further questions.

Chairman RUSSELL. Thank you very much.

Any further questions by members of the committee? If not, we thank you very much for your presence here.

Colonel MAHON. Thank you.

(Subsequently, in executive session, the committee voted to report H.R. 9916 without amendment, as covered by S. Rept. 1670.)

H.R. 7973

Chairman RUSSELL. The next bill on the agenda this morning is H.R. 7973, which would permit certain civilian instructors at the Military Academy to occupy public quarters without charge.

(The bill referred to follows:)

[H.R. 7973, 89th Cong., 2d sess.]

AN ACT To amend section 4339 of title 10, United States Code

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4339 of title 10, United States Code, is amended to read as follows:

“§ 4339. Organist and choirmaster; civilian instructors in departments of foreign languages and tactics: quarters, fuel, and light

“(a) The organist and choirmaster of the Academy is entitled to public quarters without charge when they are available, and to fuel and light without charge when he occupies public quarters.

“(b) The civilian instructors in the departments of foreign languages and tactics are entitled to public quarters without charge and fuel and light therefor without charge.”

SEC. 2. This amendatory Act shall be effective as of October 29, 1949.

Passed the House of Representatives August 1, 1966.

Attest:

RALPH R. ROBERTS,
Clerk.

Chairman RUSSELL. The witness to present this bill is Lt. Col. Frederick G. Rockwell from the Office of the Army Deputy Chief of Staff for Personnel.

You may proceed colonel.

STATEMENT OF LT. COL. FREDERICK G. ROCKWELL, OFFICE OF THE DEPUTY CHIEF OF STAFF FOR PERSONNEL, DEPARTMENT OF THE ARMY

Colonel ROCKWELL. I am Lt. Col. Frederick G. Rockwell, Office of the Deputy Chief of Staff for Personnel, Department of the Army. The Department of the Army has been designated as the representative of the Department of Defense for this legislation. I represent the Department of the Army for that purpose.

I have a brief prepared statement which I would like to present to the committee. The purpose of the proposed legislation is to entitle the organist and choirmaster and the civilian instructors in the departments of foreign languages and tactics at the U.S. Military Academy to public quarters without charge when they are available and to fuel and light without charge when quarters are occupied.

The existing law, section 4339, title 10, United States Code, provides that the organist and choirmaster of the Academy and the civilian instructors in the departments of foreign languages and tactics are entitled to public quarters when they are available and to fuel and light therefor. Until January 1963 this law was interpreted by the Department of the Army to authorize quarters, fuel and light without charge to the individuals in question.

On 17 January 1963 the Comptroller General of the United States ruled that the compensation of each of the employees in question must be reduced by the reasonable value of the Government quarters furnished. This was based on an interpretation that the effect of Public Law 429, 81st Congress, the Classification Act of 1949, was to require that the compensation of the Government employees in question be reduced by the reasonable value of quarters furnished so that the total compensation, cash and value of allowances furnished in kind, does not exceed the Classification Act rate for the position. The civilian instructors and the organist were hired with the understanding that the quarters, heat and light would be furnished without charge, but since February 1963 they have been losing the value of the quarters rental, heat and light from their pay. This situation has caused two employees to seek employment elsewhere, and others have indicated a desire to leave if they do not receive relief.

The Department of the Army on behalf of the Department of Defense assumes that the enactment of H.R. 7973 will reaffirm the congressional intent as established by section 4339, title 10, and provide authority to furnish quarters, heat and light without charge to the organist and choirmaster and the civilian instructors in the departments of foreign languages and tactics at the U.S. Military Academy. For the foregoing reasons, the Department of the Army on behalf of the Department of defense recommends that the bill be favorably considered.

I have appreciated the opportunity of appearing before the committee and shall be happy to answer any questions you may have on this bill.

Chairman RUSSELL. I have one. I don't understand this section 2 on page 2, where it says "This amendatory act shall be effective as of October 29, 1949." That is one of the most retroactive acts I have ever seen in my experience of the Congress.

Colonel ROCKWELL. Yes, sir, I appreciate your concern. However, I think I can explain the technical language here. The Classification Act of 1949 is the basis for the Comptroller General's decision. Technically, we propose to make the bill retroactive to that date so that during the period 1949 to 1963, when these individuals in question did in fact receive quarters, heat and light free, based on the Army's determination, that they would not now be subject to payment to the Army to make up for this amount that they had received.

In other words, we just want to protect the individual, sir, during that period.

Chairman RUSSELL. I am not as much concerned about getting money out of the individual as I am the individual coming in and presenting some bill for commutation of quarters or allowances.

Colonel ROCKWELL. Yes, sir. For the period 1949 to 1963, the individuals were provided quarters, heat, and light.

Chairman RUSSELL. How about from 1963 to date?

Colonel ROCKWELL. From 1963 to the present date, based on the Comptroller General's decision, there could be a claim against the Government. This claim would amount to some \$60,000 to \$70,000 for that period.

Chairman RUSSELL. I can't approve of this bill with that retroactive provision. I think they should have this right, but I am not going back to pay \$60,000 or \$70,000, so far as I am concerned.

Colonel ROCKWELL. Sir, if I may state, the basic rationale by the Department of the Army and the Department of Defense was that these people were hired with an understanding that they would receive free quarters, light, and heat. This has been, by administrative action, denied them. Hence they have been losing this money since 1963. So, for those people who were hired prior to that time, it is in a sense a breach of contract on the part of the Department of the Army.

Chairman RUSSELL. They have known it and they didn't leave. They weren't enlisted. They weren't officers. They didn't have to resign from the Army. They could have quit any day they wanted to, couldn't they?

Colonel ROCKWELL. That is correct, sir. However, I believe that it is in the best interests of the Academy that they did remain, since these people are highly qualified individuals that we would have a hard time replacing. It is in our best interests to, in effect, talk them into staying there, because they perform a service to the Academy and to the cadets that would be very difficult to be performed by other personnel.

Chairman RUSSELL. Who is authorized to speak for the Government in promising they would get this rebate of \$60,000, or \$70,000?

Colonel ROCKWELL. Sir, we have not promised them anything.

Senator SYMINGTON. Will the chairman yield?

Chairman RUSSELL. Yes.

Senator SYMINGTON. But you said that you did. In other words, you said when you hired them you promised them something.

Colonel ROCKWELL. They were hired prior to 1963, sir.

Senator SYMINGTON. Whenever they were hired, somebody promised them something that they are not getting; did they not?

Colonel ROCKWELL. That is correct, sir.

Senator SYMINGTON. The Chair's question was, who promised them?

Colonel ROCKWELL. The Department of the Army. When they were hired prior to the Classification Act, and prior to the decision by the Comptroller General, they were hired specifically with the understanding they would receive quarters, light, and heat.

Senator SYMINGTON. Have they been receiving it?

Colonel ROCKWELL. Not since 1963, sir. They have been paying for their quarters, heat, and lights since 1963. Prior to that time they were furnished free. This historically goes back to the 1940's.

Senator SYMINGTON. So what you are saying then is whoever did promise them kept the promise until the General Accounting Office said it was illegal to keep the promise; is that right?

Colonel ROCKWELL. That is correct.

Senator SYMINGTON. Thank you.

Chairman RUSSELL. Senator Saltonstall.

Senator SALTONSTALL. Mr. Chairman, I would like to ask two questions. Why do you draw a distinction between the choirmaster and the civilian instructors in the departments of foreign language? The organist and choirmasters are entitled to quarters without charge when they are available, and yet you don't make that distinction with relation to the civilian instructors. They are entitled to private quarters. If the choirmaster is going to be given public quarters why shouldn't you strike out "when they are available"?

Colonel ROCKWELL. Sir, when the bill was introduced, it was intended to reaffirm that which is presently stated in the law, and the law reads just as you have indicated. There is a distinction at present. The only addition provided by this bill is the inclusion of "without charge." But as far as a distinction between whether he is given quarters when available or entitled to quarters as in the case of the foreign language instructors and—

Senator SALTONSTALL. Mr. Chairman, it simply seems to me that if we are going to change the law because of the necessity, we ought to make it clear that he either is going to get the quarters or he is not. Are there quarters available for the choirmaster up there now?

Colonel ROCKWELL. There are none at this time because the complement of the Military Academy is full.

Senator SALTONSTALL. They are available now?

Colonel ROCKWELL. They would have to be made available by the Superintendent, sir. There are no empty quarters as such there now.

Senator SALTONSTALL. Where is the choirmaster living now?

Colonel ROCKWELL. He, in fact, had quarters on the post and elected to move off the post when he had to start paying rent, because he could, I believe, find cheaper quarters off the post.

Senator SALTONSTALL. Now this other question. In the committee report, the Bureau of the Budget is opposed to this in its present form. Is that because of what the chairman has brought out?

Colonel ROCKWELL. Sir, I am not sure specifically as to the position of the Bureau of the Budget. However, they indicated in their comments that this would establish, in the future, not in retroactive respect but in the future, a different category of civil service personnel—that is, instructors at the Military Academy, civilian instructors, professors, of which there are some 16 at present.

Senator SALTONSTALL. Do the laws of civil service come into this question then? If we give these quarters, are we going to run into the question of civil service?

Colonel ROCKWELL. These are civil service employees, sir.

Senator SALTONSTALL. And so, if we do this, then we are making a distinction from other civil service employees?

Colonel ROCKWELL. In that sense, yes, sir.

Senator SALTONSTALL. And have you consulted the Civil Service Commission on this?

Colonel ROCKWELL. To my knowledge, no, sir—not the Commission as such.

Senator SALTONSTALL. Now, Mr. Chairman, shouldn't we, in view of what the lieutenant colonel has said, get some statement from the Civil Service Commission? It seems to me we should. If this is going to draw a distinction between the organist and the foreign

language instructors who are civil service employees, if they are going to be in a different group from their colleagues who are under the civil service laws, shouldn't we get some ruling from them?

Colonel ROCKWELL. Sir, I am sure we could. I would like to interject a thought, sir, as to why we consider that they are different. First of all, these individuals wear a uniform at the Academy and perform the duties of an officer. They are civilians only because they have a specific talent that is very difficult, if not impossible, to obtain from the officer corps. In physical education, for example, they are specialists in this field.

Senator SALTONSTALL. I agree with all of that.

Colonel ROCKWELL. Yes, sir; so we feel that in essence they are separated by their duties, by the fact that they are required to work with cadets, not only on the 8-hour day, but as any officer at the Academy works with them.

Senator SALTONSTALL. But they aren't differentiated. Certainly, every member of this committee knows that mighty few people in this country can play the organ and play it well.

Mr. Chairman, I don't know why that is funny. I know it is true.

And I don't believe there are many people around this table who can talk a foreign language, but that doesn't mean that the Civil Service Commission, with whom we have a great deal of trouble all along on changing laws, and so on, would put them in a separate category. That is all I am trying to bring out.

Chairman RUSSELL. To state this in its simplest terms, Colonel, the other instructors there are military personnel.

Colonel ROCKWELL. That is correct, sir.

Chairman RUSSELL. And they are furnished houses.

Colonel ROCKWELL. Yes, sir.

Chairman RUSSELL. And quarters.

Colonel ROCKWELL. Yes, sir.

Chairman RUSSELL. These people who are specialists are not military personnel, though they perform the same services as the military personnel, and the object of this bill is to let them enjoy the same benefits.

Senator SALTONSTALL. That is right.

Chairman RUSSELL. As their fellow faculty members who are military personnel.

Colonel ROCKWELL. That is correct.

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

Chairman RUSSELL. Yes.

Senator SALTONSTALL. Assuming everything that the Chairman has said is true, and I know it is true, why do you still make a distinction by saying to the organist that he is entitled, when they are available? Shouldn't we, if we are going to change the law, why shouldn't we strike those words out?

Colonel ROCKWELL. Sir, I don't believe there would be any objection to doing so. The only reason I can give you, sir, for it being that way is that the bill attempts to reaffirm the law as it now is stated in title 10.

Senator SALTONSTALL. But that isn't fair to him as compared to the foreign-language instructors.

Colonel ROCKWELL. That is true sir. There is a distinction there.

Senator SALTONSTALL. Thank you, Mr. Chairman.

Chairman RUSSELL. Senator Symington.

Senator SYMINGTON. Why do you limit it to civilian instructors of foreign language and civilian instructors in tactics? How about history instructors, English instructors?

Colonel ROCKWELL. Sir, these are in sum total all the civilian instructors at the Military Academy.

Senator SYMINGTON. The rest are officers?

Colonel ROCKWELL. That is right, sir.

Senator SYMINGTON. I see.

Colonel ROCKWELL. In other words, these are specialists in their particular field that we consider over the long haul we cannot provide continuing input from the officer corps for them.

Senator SYMINGTON. You say \$70,000. How much does this amount to per family?

Colonel ROCKWELL. Sir, it is around—it depends on the size of the quarters—around \$1,000 to \$1,500 a year.

Senator SYMINGTON. \$1,000 to \$1,500 per year per family, is that right?

Colonel ROCKWELL. Yes, sir; which they are presently paying back to the Government for their quarters, heat, and light.

Senator SYMINGTON. Then I think the suggestion of taking it up with civil service is a good suggestion. You could solve this problem without legislation if you could get the civil service rating of the people in question increased to take care of the broken promise, couldn't you?

Colonel ROCKWELL. That is correct, sir. However, I feel that the basic reason for not doing this artificially is—

Senator SYMINGTON. That wouldn't be artificial. You would just get their rating increased.

Colonel ROCKWELL. Yes, sir.

Senator SYMINGTON. To take care of what you think is right.

Colonel ROCKWELL. Yes, sir. The problem is, under the Classification Act which establishes specific pay for a specific job, no matter where the job is done, these people are classified in a certain grade. Now, true, we have but one Military Academy and we have but one corps of civilian instructors there. But still the job has been classified across the board.

Senator SYMINGTON. What is the rating of a civil service instructor in a foreign language, and how much salary does he get?

Colonel ROCKWELL. Sir, there is a variance depending on the number of years they have been there. But within the Foreign Language Department we have GS-11's whose annual pay is something around \$10,800.

Senator SYMINGTON. And you could handle this if you could get the civil service to increase that to \$11,800 or \$12,300, is that right?

Colonel ROCKWELL. Yes, sir. However, I am not familiar with the steps through which the civil service would have to go and what grade we would have to give this man to do it.

Senator SYMINGTON. Don't you think it might be a good idea to look into that with the Civil Service Commission instead of coming up with a new law, sort of a restrictive law?

Colonel ROCKWELL. Sir, the reason for not doing so is this. In a sense the law exists. The problem is that the Comptroller General

has ruled that the provisions of title 10 are now outdated, so to speak. We seek to reaffirm those provisions of title 10 rather than provide an artificial grade increase to take care of the loss of pay.

Senator SYMINGTON. In other words, you say that by law you cannot pay more than \$10,800; is that correct?

Colonel ROCKWELL. No, sir. The provisions that I have discussed this morning are in the code right now; the exact wording, with the exception of the two words "without charge."

Senator SYMINGTON. Let me be sure I understand. Could you raise the salaries \$1,000 to handle this problem by executive action at the Military Academy with the approval of the President?

Colonel ROCKWELL. No, sir; not without the concurrence of the Civil Service Commission.

Senator SYMINGTON. If the Civil Service Commission approves, then could you do that?

Colonel ROCKWELL. Yes, sir; I believe we could. I would have to confirm it.

Senator SYMINGTON. Why don't you try it out?

Colonel ROCKWELL. Basically, sir, the very direct answer is we feel that the law is there now to be used in the exact words that we would like it to be used. We have just been told that it is no longer appropriate, by the Comptroller General.

Senator SYMINGTON. I won't pursue it, but if I were you, I would have somebody talk to the head of the Civil Service Commission.

One other point. You say that you can't get anybody but civilians to teach in tactics?

Colonel ROCKWELL. No, sir; this is not tactics, sir, in that sense. This is the overall Office of Physical Education, which is within the Department of Tactics. The Department of Tactics, also has tactical instructors who are military.

Senator SYMINGTON. Yes.

Colonel ROCKWELL. All the people we are talking about here in the Physical Education Office are PE specialists.

Senator CANNON. Coaches?

Colonel ROCKWELL. No, sir; not coaches at all.

Senator SYMINGTON. I have no further questions.

Chairman RUSSELL. Senator Cannon.

Senator CANNON. No questions.

Chairman RUSSELL. Senator Inouye.

Senator INOUE. Mr. Chairman. What is the situation in the other service academies? What is the situation there? Are they civilians?

Colonel ROCKWELL. There are some; yes, sir. However, at the Air Force Academy there is no provision in the law for an organist or civilian professors. The Naval Academy is specifically excluded from the Classification Act, so that the personnel there are not under civil service in the sense that our people are. They were excluded by the Classification Act, and our view was that we were already protected by the law. Now the Comptroller General has said the law is no longer appropriate, so maybe at the time in 1949 when the Classification Act was passed, we should have asked to be excluded also.

Senator INOUE. What you are trying to tell me is that the organist, the choirmaster, and physical education directors at the Naval and Air Force Academies are civilians?

Colonel ROCKWELL. That is correct for the Naval Academy.

Senator INOUE. And they receive quarters?

Colonel ROCKWELL. No, sir. We have two separate situations. The Naval Academy is entirely separate from the other two academies, because they were specifically excluded in the Classification Act, which gave rise to this question—they were specifically excluded from that act. The Air Force and military academies have no similar laws in the Code, with respect to the organist and civilian professors. They have no civilian instructors at the Air Force Academy in the sense that we do. The Naval Academy has them, but they are under an entirely different set of excluded employments.

Senator INOUE. The Air Force Academy has military officers—throughout.

Colonel ROCKWELL. Instructors, not the organist. The organist is a civilian.

Senator INOUE. Thank you very much.

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

Chairman RUSSELL. Yes, indeed.

Senator SALTONSTALL. (Off the record.)

Chairman RUSSELL. I don't know that there is anything here to be highly classified, Senator.

(Off the record.)

Chairman RUSSELL. Colonel, you state that at the Air Force Academy it is entirely military personnel.

Colonel ROCKWELL. To the best of my knowledge the Air Force Academy has no civilian personnel as we have at the Military Academy.

Chairman RUSSELL. But the Navy does, doesn't it.

Colonel ROCKWELL. Yes, sir.

Chairman RUSSELL. Why aren't they affected by this?

Colonel ROCKWELL. Because they were excluded. When the Classification Act was passed in 1949, they were excluded from that Act. The Secretary of the Navy has the authority to set the wages of those civilian personnel who are part of the Naval Academy faculty.

Chairman RUSSELL. The Navy was a little more on the ball when the bill went by than the Army, wasn't it?

Colonel ROCKWELL. No, sir, because we had the law already there. We thought we were in business. Now, subsequent to that time, the Comptroller General says we are outdated, so in retrospect we should have gotten on the bandwagon.

Chairman RUSSELL. There being no more questions, Colonel, we thank you, sir.

Colonel ROCKWELL. Yes, sir.

Chairman RUSSELL. The committee will now go into executive session.

(Whereupon, at 12:03 p.m., the committee went into executive session.)

(In executive session on October 18, 1966, the committee voted to report H.R. 7973, with an amendment, as covered by S. Rept. 1878.)

