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CAREER STATUS FOR CERTAIN TEMPORARY EMPLOYEES

GOVERNMENT

Storage

HEARINGS

BEFORE THE

SUBCOMMITTEE ON
POWER AND CIVIL SERVICE

OF THE

COMMITTEE ON
POST OFFICE AND CIVIL SERVICE
HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

FIRST SESSION

ON

H.R. 8495

A BILL TO AMEND TITLE 5, UNITED STATES CODE, TO PRO-
VIDE FOR ACQUISITION OF CAREER STATUS BY CERTAIN
INDIVIDUALS SERVING IN POSITIONS IN THE COMPETI-
TIVE SERVICE UNDER TEMPORARY APPOINTMENTS PEND-
ING ESTABLISHMENT OF REGISTERS, AND FOR OTHER
PURPOSES

MAY 2 AND 3, 1967

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CAREER STATUS FOR CERTAIN TEMPORARY EMPLOYEES

TUESDAY, MAY 2, 1967

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

The subcommittee met at 10 a.m., in room 2251, Rayburn House Office Building, Hon. David N. Henderson (chairman of the subcommittee) presiding.

Mr. HENDERSON. The subcommittee will come to order.

This morning we are beginning public hearings to consider H.R. 8495, a bill to provide for the conversion to career status for certain individuals serving in positions in the competitive service under temporary appointment pending establishment of registers, more commonly known as TAPER's.

The members and staff of this subcommittee in recent months have witnessed an increased concern by Federal employees in TAPER's. Working with the Civil Service Commission, we have learned from a statistical sampling that there are about 19,200 Federal employees serving without status under temporary appointments who, through no fault of their own, are working in jobs that are considered to be permanent. Of the 19,200, some 8,200 have been working in such jobs for more than 3 years.

These individuals lack reduction-in-force protection. They have no opportunities for advancement or transfer. The TAPER appointee does not have retirement privileges under the civil service retirement system.

H.R. 8495 is designed to provide competitive status for such Federal employees. An individual meeting the following four conditions may gain, status, if—

- (1) He has completed, without a break in service of more than 30 days, a total of continuous, part-time, or intermittent service aggregating at least 3 years in such a position.

- (2) He request the appointing authority for an opportunity to take a suitable noncompetitive examination.

- (3) The appointing authority (a) recommends to the Civil Service Commission that the appointment be converted to a career appointment, and (b) certifies to the Civil Service Commission as to adequacy of the work performance of the individual.

- (4) The individual meets current Commission qualification requirements for the position, the requirements of the noncompetitive examination, and is otherwise eligible for career appointment.

The individual who fails to request a conversion or who fails to meet the position requirements shall be terminated by not later than 90 days after he has completed 3 years on the job.

H.R. 8495 becomes effective 60 days following the enactment of this bill, which is to provide the Commission sufficient time to prescribe regulations for its administration.

Without objection, the bill, H.R. 8495, will be made a part of the record at this point.

(The bill referred to is as follows:)

90TH CONGRESS
1ST SESSION

H. R. 8495

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 1967

Mr. HENDERSON introduced the following bill; which was referred to the Committee on Post Office and Civil Service

A BILL

To amend title 5, United States Code, to provide for acquisition of career status by certain individuals serving in positions in the competitive service under temporary appointments pending establishment of registers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 That (a) subchapter I of chapter 33 of title 5, United States
4 Code, is amended by inserting after section 3304 the fol-
5 lowing new section:

6 "§ 3304a. Competitive service; career appointment after
7 three years' temporary service

8 "(a) Except as provided by subsection (b), and sub-
9 ject to subsection (d), of this section, an individual serving

2

1 in a position in the competitive service under an indefinite
2 appointment or a temporary appointment pending establish-
3 ment of a register (other than an individual serving in GS-
4 16, GS-17, or GS-18 of the General Schedule in section 5332
5 of this title) may acquire competitive status and have his
6 appointment converted to a career appointment, if—

7 “(1) he has completed, without a break in service
8 of more than thirty days, a total of continuous, part-
9 time, or intermittent service aggregating at least three
10 years in such a position;

11 “(2) he requests the appointing authority for an
12 opportunity to take a suitable noncompetitive exami-
13 nation;

14 “(3) the appointing authority (A) recommends to
15 the Civil Service Commission that the appointment be
16 converted to a career appointment, and (B) certifies to
17 the Commission that the work performance of the in-
18 dividual is at least equivalent to that of others who are
19 serving at the same grade level with comparable respon-
20 sibilities and who qualified through competitive exami-
21 nation; and

22 “(4) he meets current Commission qualification
23 requirements for the position, passes the noncompetitive
24 examination, and is otherwise eligible for career
25 appointment.

3

1 “(b) Subject to subsection (d) of this section, an in-
2 dividual serving in a position in the competitive service in
3 the postal field service under a temporary appointment with-
4 out a definite time limitation (other than an individual serv-
5 ing in a postmaster or rural carrier position) may acquire
6 competitive status and have his appointment converted to a
7 career appointment, if—

8 “(1) he has completed, without a break in service
9 of more than thirty days, at least three years in such a
10 position during each of which he has been paid for at
11 least seven hundred hours of work;

12 “(2) he requests the appointing authority for an
13 opportunity to take a suitable noncompetitive exami-
14 nation;

15 “(3) the appointing authority (A) recommends to
16 the Civil Service Commission that the appointment be
17 converted to a career appointment and (B) certifies to
18 the Commission that the work performance of the in-
19 dividual is at least equivalent to that of others who are
20 serving at the same basic salary level with comparable
21 responsibilities and who qualified through competitive
22 examination; and

23 “(4) he meets current Commission qualification
24 requirements for the position, passes the noncompetitive

4

1 examination, and is otherwise eligible for career appoint-
2 ment.

3 Section 3302 of title 39, United States Code, does not apply
4 with respect to the operation of this subsection.

5 “(c) In computing years of service under subsections
6 (a) (1) and (b) (1) of this section for an individual who
7 leaves a position in the competitive service to enter the
8 Armed Forces and is reemployed in such a position within
9 one hundred and twenty days after separation under honor-
10 able conditions, the period from the date he leaves his posi-
11 tion to the date he is reemployed is included.

12 “(d) The appointment of an individual who does not
13 request the opportunity to take a noncompetitive examina-
14 tion under subsection (a) (2) or (b) (2) of this section,
15 who is not recommended for conversion to career appoint-
16 ment under subsection (a) (3) or (b) (3) of this section,
17 or who fails to qualify under subsection (a) (4) or (b) (4)
18 of this section, shall be terminated not later than ninety
19 days after he has completed the three-year period referred
20 to in subsection (a) (1) or (b) (1) of this section.

21 “(e) The Commission may prescribe regulations neces-
22 sary for the administration of this section.”.

23 (b) The analysis of subchapter I of chapter 33 of title

5

- 1 5, United States Code, is amended by adding the following
- 2 new item immediately below item 3304:
- "3304a. Competitive service; career appointment after 3 years' temporary service."
- 3 SEC. 2. This Act shall become effective on the sixtieth
- 4 day following the date of enactment of this Act.

Mr. HENDERSON. Our first witness this morning is the Chairman of the Civil Service Commission, Hon. John W. Macy, Jr. We are always glad to have Chairman Macy and I might add that Mr. Macy and the other Commissioners have recently taken action which should, in my opinion, greatly improve the TAPER situation in the future. I have in mind the establishment of some 65 interagency boards of examiners, with one-stop employment centers in our larger metropolitan areas. Likewise, I hope the Civil Service Commission will, in due time, bring these metropolitan employment centers closer together by computer and/or other electronic data apparatus. All this should speed up our recruiting efforts and, in turn, reduce the TAPER's.

Before we hear from Chairman Macy, I would like to say that he will be followed by the national president of the American Federation of Government Employees, Mr. John F. Griner, and the operations director of Government Employees Council, AFL-CIO, Mr. John McCart.

Mr. Macy, it is my understanding that you are demanded by another one of our subcommittees by 11 o'clock, and it is for this reason that we tried to start as promptly as we could.

Welcome, sir.

STATEMENT BY HON. JOHN W. MACY, JR., CHAIRMAN, U.S. CIVIL SERVICE COMMISSION

Mr. MACY. The Civil Service Commission supports the purposes and objectives of H.R. 8495. It offers a timely solution to a recurring problem—the appropriate appointment arrangements for those employees who serve for an extended period in a temporary status without prospect of regular status or benefit.

The Commission has a few amendments to suggest to perfect the bill, to safeguard merit principles, and to extend the scope to dispose of related problems. We have one further suggestion of major significance to permit the bill to become truly operative.

The principal group to be benefited by this bill are those employees with TAPER appointments—temporary appointments pending establishment of a register.

The problem to which this bill is addressed is that such a temporary appointment may continue indefinitely if a register is not established.

A TAPER appointment is given when a job has to be filled and no register of eligibles with the required qualifications is available from which to fill it. The appointment is given to any person selected by the appointing officer.

There are several reasons why no register may be available at the particular time of appointment and why one may not become available for a long time in the future.

An examination may not have been conducted in the recent past, the time necessary to conduct an examination and establish a register may be too long in relation to the need to fill the job, and the kind of position to be filled is vacant so infrequently that it is not feasible to conduct an examination to fill it.

Each year, since 1955 when this form of appointment was created, a number of TAPER appointments have had to be made. We are continuing to make them today.

In a service as large and diversified as the Federal civil service, this situation must be expected. It does not mean, however, that all of these appointments run on and on without limit. Only a relatively few do.

Most of the people who receive such appointments do acquire career status through the normal process of becoming eligible on an examination—on one held after their appointment.

As they come within reach of certification for appointment on the register resulting from the examination, they are converted to a career-conditional appointment, and 3 years later this in turn becomes a full career appointment.

Even though the Commission recognizes the need to deal fairly with the employees affected by this bill and supports the basic remedy proposed, it also realizes that a continuing arrangement to provide non-competitive entry into the career service entails some risks.

We do not want to create a form of back-door entry into what is otherwise a competitive career service. Most relevant to this situation is the reform underway in our whole examination system.

Far-reaching improvement in examination scheduling and coverage will so reduce the problem of TAPER's in the early future that we can now properly accept a continuing means for handling the few unavoidable cases that may arise in the future.

In a sense, this bill provides another one-time cleanup, but this time we see it as the final action.

In the past, and to some extent right now, the TAPER problem arises out of inability to schedule enough examinations. We have had a large number of examining boards located in the agencies and staffed by them. There were 661 boards, not counting other examining arrangements made with the Post Office Department.

The resources of many of them were small. The examinations they were able to hold turned out to be highly specialized.

We have recently reorganized the entire examination setup. We now have a network of 65 interagency boards. Each one is under the immediate direction of a Commission employee. Each board has broad geographical coverage and comprehensive occupational coverage.

The old boards are now being phased out. Much of the workload has already been assumed by the new interagency boards and by the end of the year the new system will be fully operative.

At the same time, we are developing additional nationwide examinations which group together into a single examination related positions for which recruiting sources and basic qualifications are similar.

This reduces the number of examination announcements, but makes it far more likely that appropriate registers can be found to avoid TAPER appointments or to bring about the timely conversion to career status of people who are given TAPER appointments.

The phrase "pending establishment of a register" will now have its literal and true meaning.

It is obvious that the existence of long-lasting TAPER's has reflected an inadequacy in our examination system. Under a competitive merit system, ideally all appointments should be from a competitively established register.

But, even with extensive improvements in the examination system, absolute perfection will still escape us. There will always be a few occasions in the future when the device of temporary appointments pending establishment of a register will have to be used because it will prove impractical to hold the desired examination within a reasonable time. Hence, the need for the continuing conversion feature of the bill.

One of the amendments the Commission suggests for H.R. 8495 is to increase the required length of service as a temporary from 3 to 4 years before conversion to a career appointment becomes possible.

Since people who are selected through the competitive process must serve 3 years as career-conditional employees before they get a full career appointment, it does not seem appropriate for those who entered without any examination to be put on the same basis.

Some distinction seems appropriate between those who achieve appointment through the examination system and those who come in without any examination and who become career people through non-competitive action. A 4-year period places greater emphasis on the merit system improvement purpose of this bill.

One of the features of H.R. 8495, which illustrates the merit purpose of the bill, relates to the prerequisites a temporary employee must meet to be granted a career appointment. He must be recommended for it by the head of the employing agency or his designee.

At the same time, the official making the recommendation must certify to the Commission that the work performance of the individual is at least equivalent to that of others who are serving at the same basic salary level with comparable responsibilities and who are qualified through competitive examination. This provision serves to emphasize the importance of the action that is being recommended.

The bill has one provision I am sure the subcommittee will want to consider with special care. This is the statement among those dealing with the postal field service that section 3302 of title 39 will not be applicable.

This provision of law restricts the ratio of regular employees to substitutes to 5 to 1. To state it another way, one substitute can be hired for every five regulars.

I realize that this may be a debatable point. Let me explain briefly the Commission's preference for letting the provision for an exception to the quota system stand as it now is in the bill.

Our approach to the whole bill, to the total problem, has been this:

Let's clean up the whole situation now and for good. Let's make it possible to give every employee what he deserves in equity and justice after long service as a temporary. Give him what has been withheld—through no fault of his own—because of the flaws in our examining system.

This approach is the reason for our preference for an exception to the quota system. We want to solve as much of the problem as possible.

The long-service postal temporaries are as worthy of their full rights as career employees as are any of the people for whom the bill is intended.

The alternative to an exception to the quota is to make the people eligible for conversion to career status whenever a regular position under the quota opens up. This stockpiling of employees, waiting in turn for conversion to career status, has been done in the past.

It has one very serious disadvantage as we see it. In some situations where turnover in the ranks of regulars is very low, a temporary may never get his chance for a career appointment.

This puts us right back where we started with an appointment called temporary that goes on forever. We think that any difficulties that go with the quick cleanup are of a less serious nature.

I note that H.R. 8495 provides for the termination of a person who does not request the opportunity to take a noncompetitive examination or who is not recommended for conversion to career appointment or who fails to qualify in a noncompetitive examination.

This is an important provision for keeping the conversion arrangements as fully consistent with merit system requirements as they can possibly be made.

Competitive entry into the service is a basic feature of the merit system. Any kind of noncompetitive entry should be made only in accordance with strict standards that safeguard against dilution of merit principles. Since this bill is establishing a permanent procedure, the termination provision is especially important.

I do not foresee any difficulties with this provision in the large number of cases that we must first convert when this bill takes effect. The bill has been carefully drawn to provide for suitable noncompetitive examinations.

We are proposing that the bill not require individuals to meet current qualification requirements. We would have it say simply that they must meet qualification standards prescribed by the Commission. This will give the Commission the necessary flexibility to do justice to people who might find recruitment standards had been raised or changed in some way since they entered the service years ago.

The Commission proposes that the bill include an amendment of section 1310(a) of the Supplemental Appropriations Act of 1952 whereby the absolute numerical ceiling in the Whitten amendment is repealed. This can be accomplished by reenacting the provision without mention of the numerical ceiling.

This action is necessary in order to make the provisions of H.R. 8495 at all effective. The bill would permit conversion of temporary ap-

pointments to regular status in such a number as to exceed the ceiling created by the original legislative action and its subsequent modifications.

In our letter of March 16, 1967, to the Speaker, a legislative proposal was presented to accomplish the necessary repeal.

I believe, Mr. Chairman, you introduced this proposed bill as H.R. 8494. What we are proposing here is that H.R. 8494 and H.R. 8495 be merged in single action in order to carry out the purposes of the latter bill.

It was explained in the letter to the Speaker that we would soon have to stop converting career-conditional employees to career status promised them. There were some 14,000 spaces under the ceiling at the end of November 1966. This was the latest figure available to us when we drafted the March proposal.

The number of spaces fluctuates from month to month. Obviously, if relief from this ceiling is not part of the bill, the bill's purposes would be nullified.

One of the administrative actions that the Commission must take upon enactment of this bill is to convert to career status those former TAPER's who are currently serving in the career-conditional period, but who had enough service so they would have benefited from the bill had they remained as temporaries.

Obviously the equities of these people are at least equal to those of the direct beneficiaries of the bill. At the same time the Commission will also take care of any other types of temporary appointees whose interests are comparable to the people directly affected by the bill and who can be handled by administrative action.

I will not take the time of the subcommittee to explore all of these appointment possibilities.

Let me emphasize that the repeal of the Whitten amendment is limited to the numerical ceiling. The other provisions, such as the required time in grade for promotion, have served and are still serving a useful purpose. They are left untouched.

The amendment to section 8331(3) of title 5 of the United States Code affects a retirement provision. It has been brought to our attention by the Post Office Department that there is a theoretical possibility that a person might sometime become entitled to an annuity in excess of his earned income.

The possibility arises in the case of certain clerks in third- or fourth-class post offices who were appointed as substitutes and who have worked an hour or two a day for many years. If these people ever accumulate enough time for conversion to career status they could come into the retirement system.

If they bought annuity credit for past service by paying the appropriate salary deductions into the fund, they would also gain the benefit of the provisions designed to give more generous pensions to lowest income groups.

Our amendment would base the annuity computation on the pay actually received for service. Obviously the post office job was never the principal source of livelihood for these people, and the pension would not be their support for old age.

Now they get no annuity for their Government service. In the future they would get a small amount proportioned to their service.

All we are doing with the proposed amendment is preventing the possibility of inequitable amount.

One final suggestion. It would be a convenience to the Commission to have 120 days after enactment, rather than 60 days in which to make administrative arrangements necessary to apply the new law.

Otherwise we will be hard-pressed to prepare and distribute instructional material to the officials with the authority and responsibility for recommending conversions.

It will also take time to advise the employees concerned of their new rights and of their responsibility to initiate a request for a career appointment if they wish one.

Thank you for the opportunity to review this bill with you. I will be glad to try to answer any questions you may have.

Mr. HENDERSON. Thank you, Mr. Chairman.

For the benefit of the record, on the point of the Whitten amendment, I might say that I have contacted Congressman Whitten with regard to the enactment of H.R. 8494, and have received a letter from him that he has no objection to the proposed action you spoke of this morning.

I am going to yield to my colleague, Mr. Gross, because he has informed me that has to go at 11 o'clock, and I certainly want to afford him the opportunity to ask questions.

Mr. GROSS. Off the record.

(Discussion off the record.)

Mr. HENDERSON. For the record—this may be repetitive—but your statement this morning is that you do favor including the provisions of H.R. 8494, as an amendment to this bill?

Mr. MACY. Yes, sir; that is my recommendation.

Mr. HENDERSON. Mr. Gross, any questions?

Mr. GROSS. Thank you, Mr. Chairman. I appreciate your permitting me to ask a few questions at this point.

Mr. MACY. I believe you have made it clear in your statement, but let me ask the question, this is not a one-shot affair, this is permanent legislation, is it not?

Mr. MACY. That is correct, Mr. Gross. What is proposed here would set up a system for handling cases of this kind indefinitely in the future and avoid future one-shot legislative or executive actions to achieve this purpose.

Mr. GROSS. I have not had time to fully peruse this legislation. I think there is some equity in it, and I think probably some inequity in the bill as proposed.

Now, these temporary employees took their positions with the knowledge that they were only temporary, and were subject to the establishment of registers from which the most qualified person could be appointed. Is that not true?

Mr. MACY. Yes, sir; that is true. They had an understanding at the time they were appointed, that their appointments were temporary because there was no competitive register in existence from which they could be selected, and the Government, on the other hand, had at least an implied commitment to provide, at some future date, a means for them to enter employment competitively through the announcement of an examination, and through the creation of a register. And in fact, the great bulk of those who received these appointments subsequently are appointed by competitive means, but there are certain individuals

in certain occupations and at certain locations who have not been afforded this opportunity because of the workings of the examining system. Those are the individuals we are endeavoring to reach in this bill.

Mr. GROSS. How many employees will be affected this year and in the future by H.R. 8495? In other words, how many employees will be blanketed into career appointments through noncompetitive appointment?

Mr. MACY. On the basis of the information that we have obtained from a 10-percent sample of Federal employment, there are now approximately 19,000 Federal employees with appointments of this type. It is our estimate that approximately 50 percent of those in that category will be eligible for conversion under this bill.

Our view is that in the future this number will be substantially reduced through the improved working of our examining system, and through the elimination of future TAPER appointments because of the broader coverage of the examining system. There will also continue to be considerable elimination of those who are presently in TAPER appointments through their regular competitive appointment.

Mr. GROSS. Do you have a breakdown of the grades and positions involved?

Mr. MACY. I have some general information on that, showing the grades—showing some of the grades and occupational fields in which these people are involved.

Mr. GROSS. Could you supply that for the record, Mr. Macy?

Mr. MACY. I would be happy to. I have a number of tables showing the occupations in which these appointments have been made, and agencies in which they have been made, the length of service involved. I should point out that these are not only Classification Act employees, but they are postal field service and wage board employees.

Mr. HENDERSON. Would the gentleman yield at that point?

Mr. GROSS. Yes.

Mr. HENDERSON. I have a table of the distribution of TAPER's here based on the statistical sample by the Civil Service Commission. I also have a listing as to the status of the Federal Government personnel working as TAPER's, showing the privileges that they do and do not have, and Mr. Macy, if it is agreeable, I will ask our staff to put the other appropriate tables and information that you have subsequent to this material.

Mr. MACY. Very good. I will provide an exhibit which will be an analysis of statistical data which the Civil Service has collected with the compilation of the group of TAPER employees, as of June.

Mr. GROSS. And would it be possible for us to have this information before we complete these hearings?

Mr. MACY. I will have it for you this afternoon.

Mr. GROSS. I don't want to apply undue pressure, but I would like to see this information before we conclude the hearings.

Mr. MACY. I would be happy to provide it this afternoon, because the Commission collected such data before it took its position with respect to this legislation.

Mr. GROSS. Now, you touched on this in your statement. Explain why the Civil Service Commission has been unable to conduct competitive examinations for these positions so that the most qualified person could be appointed.

Mr. MACY. The Commission has been unable to conduct a sufficient number of examinations in order to avoid appointments of this kind for the following reasons.

A number of these appointments are in occupations where there is relatively little employment, and the preparation of a special examination for such a limited number was not judged to be feasible or economical.

Secondly, in some instances, it was important to the operation of the agency that an appointment be made quickly, and there was not an adequate time for announcing and conducting a competitive examination.

Third, because in a number of instances the installation board of examiners held specialized examinations and not examinations in the occupations where they needed to fill just a few positions.

Mr. GROSS. Well, now, even with the enactment of this bill, will the blanketing-in process be continued in the future by the failure of the Civil Service Commission to provide registers of qualified people?

Mr. MACY. As I indicated in my statement; it is my belief that the improved board of examiners system, which the Commission is in the process of establishing at the present time, and will complete by the end of the calendar year, will afford much broader occupational coverage over a much broader geographical area, and that this in turn will cover the existing supply of TAPER's, and will avoid the build-up of a significant number in the future, so the purpose of this bill will be primarily to take care of those who have been in this status for 3, or as we recommend, 4 years, and that there will be a decided falloff, but always a few TAPER appointments in the future.

Mr. GROSS. Does the Commission—

Mr. MACY. Let me add, Mr. Gross, if I may, that really in the view of the Civil Service Commission, this does not constitute blanketing-in, because we are providing a number of standards which must be met as prerequisites for conversion to regular career appointment.

Mr. GROSS. Well, does the Commission intend to relax its competitive examination program on the basis of future conversion to career status as provided in this legislation?

Mr. MACY. No; the reverse would be the case under our examining program. It would be our belief that the number of TAPER appointments in the future, and therefore the number eligible for conversion under this legislation, would be smaller rather than greater.

Mr. GROSS. And therefore, the Commission intends to conduct open competitive examinations in the future for positions where no register of eligibles has been established at the present time?

Mr. MACY. That is correct; the Commission under its new system will be in a better position to determine where there are gaps in the existing examinations that need to be plugged with new examination announcements to block the buildup of the number of TAPER appointments.

Mr. GROSS. Now, how much cost to the Government is involved in the enactment of this bill?

Mr. MACY. The view of the Commission is that this will not entail any measurable increase in cost, because on the one hand, it will slightly reduce cost, because it will not need the creation of special examination machinery to eventually convert these people, and on

the other hand, the amount of paperwork involved here is sufficiently limited so it should not necessitate increased staffing or cost.

Mr. GROSS. One final question, Mr. Chairman, if I may, and it is not directly related to this bill, but yesterday I came into possession of a letter put out by the Department of Health, Education, and Welfare, Public Health Service, addressed to "Dear Westwood Area Resident," Westwood being in the Washington area. It reads:

Are you a typist or stenographer; have you been thinking about a job that would bring in extra money? There is no need to take the long trip downtown to find a rewarding job. National Institutes of Health has many new jobs at the Westwood Building, 533 Westbard Avenue, Bethesda, Md. Why not look into them today? Come in and see us any time today. Our special interviewing facilities are located just off the main lobby. We will be happy to tell you about how many fine opportunities we have. The Westwood Building is across the street from the Westwood shopping center. Sincerely yours, Edward G. Nicholas, Employment Officer.

Is this going on in all departments and agencies of the Government?

Mr. MACY. I am interested that you bring this up, because an identical letter was received by my secretary, and I am hoping that such blandishments will not attract her away to other employment.

Mr. GROSS, what is involved here is an effort on the part of the National Institutes of Health to meet their clerical staffing out in the Bethesda area through regular civil service machinery. These people would still have to go through the competitive examining processes if they did present themselves in response to that circular.

Throughout the Washington area, we continue to be in short supply as far as clerical personnel is concerned, and we are endeavoring to conduct recruiting efforts. I think this is a rather unique one. I would hope that it would be coordinated with the interagency board here in Washington.

Mr. GROSS. Of course, Mr. Macy, this isn't the only agency or department that is using this device. My wife was solicited by letter for employment by one of the departments in the Washington area. I don't want to lose her, either.

Mr. MACY. I think you have topped me, Mr. GROSS.

Mr. GROSS. But I thought you were the recruiting agency, and I wonder what the cost of sending these letters out to people, apparently pretty promiscuously. I wonder what the cost, but perhaps we should leave this subject for another day.

I would be interested in talking to you further about it.

Mr. MACY. Fine. Well, as I say, I think this is a reflection of the shortage situation that we have, and an action by a particular agency. I will check to see whether this was cleared with the Commission.

Mr. GROSS. Let me just conclude by asking—this does have the approval of the Civil Service Commission, this method of recruitment?

Mr. MACY. The method has the approval of the Commission if the agency in fact does not have names on an existing register. Where there is a shortage, we are trying to reach as many people as we can.

Mr. GROSS. Are these cleared by you before these recruitment drives?

Mr. MACY. I am not able to respond precisely. I will find out whether this was cleared by the Commission before it was circulated.

Mr. GROSS. Thank you, Mr. Chairman.

Mr. HENDERSON. Thank you, Mr. Gross.

Mr. MACY, I have interpreted the language, "suitable noncompetitive examinations" as found in lines 11 to 13 on page 2 of the bill, as meaning an unassembled examination. Do you concur in that interpretation?

Mr. MACY. I concur in it with this one reservation. If there was need for a written test, or an assembled examination as part of the normal entry process, it might be—it might be viewed as necessary by the Commission that a noncompetitive passing of that test be a part of the noncompetitive examination, but for the most part, it would be the Commission's view that the noncompetitive examination, so-called, would be a review of the employees' qualifications to ascertain whether or not they met the qualifications for the job.

Now, in most of these cases, the Commission's review of qualifications will be relatively routine, because the agency head will have certified that the individual so recommended did meet the requirements of the job in performance, and we haven't yet devised a test that is any better than performance of a particular task.

Mr. HENDERSON. Fine, sir.

The second prerequisite for an individual to have his appointment converted to a career status is that he requests the appointed authority for an opportunity to take the suitable noncompetitive examination. You like the idea of placing the initiative in the hands of the particular individual?

Mr. MACY. Yes. Our feeling was that in some of these cases the individual really has no intention of making a career, that this is truly to be a short-term job for him. We have a high turnover in some of the lower ranks of the service, and the view would be that some of these people have no desire for conversion. Therefore, it seems appropriate that the employee should take the initiative if he is interested in continuing employment. Then the response to that initiative should be a review by the management and assertion that the individual is performing at the same level of competence as the employees who entered the same job through the competitive route.

Mr. HENDERSON. Well, with that in mind, do you envision any kind of appeal procedure that would be necessary to protect those employees who are applying for status or, for example, if the head of the agency did not recommend to the Commission that the appointment be converted to a career appointment, the employee felt he was entitled to such recommendation?

Mr. MACY. There is no appeal provision in the bill as it stands. Ordinarily, personnel actions involving temporary employees do not have the same appeal due process that we have for regular employees.

Mr. HENDERSON. Have you considered giving them such?

Mr. MACY. I would consider some review of denials by the Commission as a proper part of the procedure, but I would caution against

building up too much due process on this so that we would take a long period of time. You will notice that in the bill there is a provision for termination of those that do not meet the standards. This again is one of the merit steps necessary in order to make sure that we are not bringing into the service by the back door those who really do not meet the qualification standards.

Mr. HENDERSON. Let's assume that an employee has a TAPER status for 5 years. As I understand, he has not built up his retirement credits under the civil service retirement program. How would this individual recapture those 5 years toward retirement?

Mr. MACY. He would be permitted, by making the contribution equivalent to the deductions that would have been contributed during the 5 years of service in order to gain credit for that period of time.

In other words, the 6½ percent of his pay during that period. He would then establish retirement credits for the 5 years to add to whatever period of service he had under a regular appointment subsequently.

Mr. HENDERSON. Even though this action by this subcommittee would have this effect with regard to retirement, I could see no objection so long as it is on a contribution basis, could you?

Mr. MACY. No; it would mean that the Government would build up some additional obligation for the matching part, because the agencies have not contributed their 6½ percent, but my view is, Mr. Chairman, that the numbers in terms of the numbers in the retirement system are so small that this is not a significant cost feature.

Mr. HENDERSON. Mr. Macy, I note on page 4 of your statement, your remarks with regard to the net worth of the 65 interagency boards, I believe that you were also speaking here of what I call the one-stop employment information centers in the cities.

Mr. MACY. Right.

Mr. HENDERSON. Will you furnish the subcommittee staff the names of these cities?

Mr. MACY. I would be happy to. I should have brought that with me, but I will make sure Mr. Bray has it this afternoon.

Mr. HENDERSON. Do you envision some actual linking of these centers for information purposes?

Mr. MACY. Yes. Your point was very well made. We definitely intend this. We also find, Mr. Chairman, through the marvels of electronics and automatic data processing that many of these examinations will be able to be scored centrally. We will then send back a printout of the register. This will give us a broader picture Government-wide through these 65 points as to just what the status of our examination system is. It is our hope that we will also have information in these boards with respect to current employees so that we can be of some help to the agencies and the employees in indicating the skills that are already available within the Federal family to permit transfer and promotion of individuals. This is not possible now, because we do not have in a metropolitan area sufficient information about the total work force that is there.

Mr. HENDERSON. I don't want to take all the time, and I know that your time is limited. I am going to yield to Mr. Hamilton.

Mr. HAMILTON. I have no questions, Mr. Chairman.

Mr. HENDERSON. I might conclude, since we do have another minute, Mr. Chairman, the first experience I had with our 65 interagency boards, was the fact that the interagency board in Chicago was the examining board for tobacco graders, all of whom were going to be working in about five States—Virginia, South Carolina, Georgia, and Kentucky. The staff has been into that with your people, and we understood that the actual expertise of studying the examination was done back in Louisville, Ky., for Burley and in Raleigh, N.C., for the Bright Leaf, so that even with the improvements we see here, we still have a great deal of bureaucracy built in. I mention this because I thought that you would be interested in our follow-through.

Mr. MACY. Well, I hope you will. You would be interested to know that in testifying before one of your cosubcommittees last week, I described this system and the distinguished member responded by saying, "Well, that wasn't a plan of the Civil Service Commission, that was a plan of Chairman Henderson of the Manpower and Civil Service Subcommittee," and I responded that I would certainly give him a very substantial share of the credit for the establishment of the program.

Mr. HENDERSON. Well, if it works well, we will claim credit. If it doesn't, I don't know who we will blame.

Mr. MACY. Well, keep your criticism up. This is the only way we can improve the new system.

Mr. HENDERSON. Mr. Chairman, thank you very much. I am delighted that we are able to complete your testimony in this time.

Mr. MACY. You are very gracious, and I always enjoy testifying before you.

Mr. HENDERSON. Thank you, sir.

(The material referred to in the previous statement is as follows:)

Distribution of TAPER's as of June 30, 1966

[Based on statistical sample by Civil Service Commission]

Agency	Total	Length of service				
		0 to 11 months	12 to 23 months	24 to 35 months	36 to 59 months	60 or more months
State.....	100	10		10	40	40
Treasury.....	470	210	30	30	90	110
Defense.....	5,690	1,630	440	590	1,130	1,900
Post Office.....	7,000	2,390	1,210	1,000	1,470	930
Interior.....	870	260	150	100	150	210
Agriculture.....	730	300	100	20	100	210
Health, Education, and Welfare.....	760	200	100	150	160	150
General Services Adminis- tration.....	1,660	800	50	200	360	250
Veterans' Administration.....	790	310	120	100	140	120
All others.....	1,070	240	130	150	210	340
Total.....	19,140	6,350	2,330	2,350	3,850	4,260

NOTE.—The above data were developed from a 10-percent sample of the records of the Federal personnel. The data as shown reflect the projected totals.

Distribution of TAPER's as of June 30, 1966

Length of service	Total		Classification Act		Wage board		Postal field service ¹	
	Full time	Part time	Full time	Part time	Full time	Part time	Full time	Part time
0 to 11 months.....	3,680	2,670	2,010	140	1,640	170	30	2,360
12 to 23 months.....	1,020	1,310	680	60	330	50	10	1,200
24 to 35 months.....	1,330	1,020	600	40	650	60	80	920
36 to 59 months.....	2,380	1,470	1,190	90	1,020	80	170	1,300
60 or more months....	3,400	860	1,830	40	1,440	30	130	790
Total.....	11,810	7,330	6,310	370	5,080	390	420	6,570

¹ Includes substitute employees

NOTE.—The above data are projected from a 10-percent sample of Federal personnel records.

STATUS OF FEDERAL GOVERNMENT PERSONNEL WORKING AS TAPER'S (TEMPORARY APPOINTMENTS PENDING ESTABLISHMENT OF REGISTER)

Federal Government personnel working as TAPER's even though the job is classified as permanent, face the following personnel administrative issues:

- (1) No retirement privileges.
- (2) May be separated at any time by employing authority.
- (3) No appeal rights under Civil Service Commission regulations. However, the Commission has urged the departments and agencies to make a provision for these employees.
- (4) In case of a reduction in force, the only class lower in priority is the temporary employee, Class I. Career. Class II. Career-conditional. Class III. (a) TAPER's; (b) Temporaries.
- (5) TAPER's can be promoted only to positions the agency has been given authority to recruit outside a register.
- (6) Cannot transfer to another job.
- (7) Not covered by Universal Military Training and Service Act. However, TAPER's do have reemployment rights under the Reserve program.

TAPER's do have the following:

- (1) Within-grade promotions.
- (2) Leave privileges.
- (3) Health and life insurance benefits.
- (4) Subject to social security deductions.
- (5) Covered by Bureau of Employees Compensation, Department of Labor.
- (6) Veterans have preference in TAPER appointments.

PROJECTION OF TAPER DATA FURNISHED BY THE CIVIL SERVICE COMMISSION, AS OF
JUNE 1966

Total TAPER's.....	19,140
Percentage of total employment (2,726,000).....	0.7
Number of TAPER's employed 3 years or more.....	8,110
Number of TAPER's employed 5 years or more.....	4,260
Number of TAPER's employed full time for 3 years or more.....	5,780
Number of TAPER's employed full time for 5 years or more.....	3,400
Number of TAPER's employed full time for 3 years or more under Classification Act.....	3,020
Number of TAPER's employed full time for 3 years or more under wage board.....	2,460
Number of TAPER's employed full time for 3 years or more under postal field service.....	300

Distribution of TAPER's included in Federal personnel statistics sample, as of June 30, 1966, by major occupational categories and employment status

Major occupational group	Number full time	Number part time	Total
Post office field positions associated with mail service operations.....	19	626	645
Post office field positions in blue-collar trades.....	19	31	50
Blue-collar trades (except post office).....	508	39	547
Classification Act occupations, subtotal.....	635	37	672
Safety, security, and fire protection.....	30	1	31
Social sciences and economics.....	22	1	23
Personnel management.....	4	—	4
General administration and management.....	88	5	93
Data processing and EAM positions.....	35	2	37
Stenographic, typing, and secretarial.....	24	8	32
Clerical and office machine operation.....	92	4	96
Agricultural and biological scientists and technicians.....	28	—	28
Accounting and budget.....	12	—	12
Medical and paramedical.....	75	6	81
Engineers and engineering technicians.....	35	—	35
Claims examining and clerical.....	6	—	6
Information and arts.....	37	4	41
Business and industry.....	27	—	27
Physical scientists, mathematicians, and space and math technicians.....	23	3	26
Librarians and library technicians.....	8	1	9
Equipment specialists.....	13	—	13
Education and instruction.....	18	—	18
Investigative.....	17	—	17
Quality control and inspection.....	9	—	9
Supply and transportation.....	32	2	34
Total.....	1,181	733	1,914

TAPER'S AT WARNER ROBINS AIR FORCE BASE, AS OF APR. 15, 1967

A recent questionnaire to a military establishment by the subcommittee in a fairly large metropolitan area (Warner Robins Air Materiel Area, Macon, Ga.) showed TAPER appointments for such positions as: photographer, mess attendant, boiler fireman, forklift operator, meat cutter, plasterer, painter, steam fitter, electrician, etc. There are 56 employees with TAPER appointments, dating as follows:

Year:	Number
1961.....	2
1962.....	4
1963.....	1
1964.....	3
1965.....	6
1966.....	28
1967.....	12

Mr. HENDERSON. Our next witness is Mr. John F. Griner, of the American Federation of Government Employees.

Mr. Griner, it is always a pleasure for the subcommittee to have you before us, and there are many things we can talk about this morning, but I am sure you are prepared to talk on the bill H.R. 8495, that is before us.

Mr. GRINER. Thank you, Mr. Chairman.

I might say it is always a pleasure to appear before this subcommittee, because you are always interested in what we are talking about, and I might say the subcommittee always knows its subject.

Mr. HENDERSON. I think, for the record, that I could also say that this is very typical of most of the problems and particularly legislation. We never get to the hearing stage, that we haven't had many conversations with you and many of your members with regard to the legislation. I am sure that you are as delighted to be here testifying on this, as I am to see you this morning.

Mr. GRINER. Thank you. I certainly am.

STATEMENT OF JOHN F. GRINER, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, ACCOMPANIED BY STEPHEN KOCZAK, ASSISTANT DIRECTOR OF RESEARCH FOR AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. GRINER. Mr. Chairman, and members of the subcommittee, for the record, my name is John F. Griner. I am national president of the American Federation of Government Employees, and to my left is Mr. Stephen Koczak. He is the assistant director of research for the American Federation of Government Employees.

The American Federation of Government Employees welcomes the opportunity to testify in favor of H.R. 8495, a bill introduced by the distinguished chairman of the Subcommittee on Manpower and Civil Service. This bill would provide the means for the acquisition of career status by certain individuals serving in positions in the competitive service under temporary appointments pending establishment of registers.

The AFGE endorses with special enthusiasm the provision that a TAPER employee will be able to convert his status to a career employee if, "He has completed, without a break in service of more than 30 days, a total of continuous, part-time or intermittent service aggregating at least 3 years in such a position." This provision has been advocated by the AFGE in the past as equitable because it is equivalent to the 3-year probationary time which career conditional employees must serve to qualify for permanent status.

The AFGE also endorses the provision that the TAPER employee should be allowed, after 3 years of service, to qualify by taking a suitable noncompetitive examination. It is the considered view of the AFGE, however, that this noncompetitive examination should be unassembled. After all, these temporary employees will have been working at least 3 years, and in many cases as much as 4 to 8 years, for their agencies before taking these examinations. The agencies should have had enough time to judge their abilities on the job during all that time and they do not need complicated or formal examinations to establish the abilities of these employees to perform the work satisfactorily.

I might say that this point, in most cases, when a competitive assembled examination is given, that the examination does not in any way relate to the work that they have been performing over a period of years. Usually, it is something designed so that a high school graduate might pass; but it is something not designed for a person who has the experience and is otherwise qualified, so that it would be rather difficult for them to pass. For this reason, the AFGE respectfully submits the proposal that the word "unassembled" be inserted between

the adjective "suitable" and the noun "examination" on line 12 of page 2 of the printed text of H.R. 8495.

Under our proposal, if it is accepted by the subcommittee, paragraph (2) would read as follows:

(2) he requests the appointing authority for an opportunity to take a suitable noncompetitive unassembled examination;

Regarding paragraph (3), beginning on line 14 of page 2, of the printed text, the American Federation of Government Employees is satisfied that the portion of paragraph (3) which relates to, "(A) is all that is needed to assure that only qualified TAPER personnel are converted to career status." That portion of paragraph (3) which now appears as (B) appears not only useless but actually pernicious and arbitrary since it introduces all kinds of subjective factors, biases and prejudices which can only lead to discord, contention and grievances. Instead of fostering an efficient cooperative Federal service, this paragraph would open the door to suspicions, charges, countercharges, and litigations between employees and agencies. For this reason, the American Federation of Government Employees proposes to the subcommittee that it eliminate all the language of (3) (B) from this bill. The new paragraph (3), under our proposal, would then read as follows:

(3) the appointing authority recommends to the Civil Service Commission that the appointment be converted to a career appointment; and

Mr. HENDERSON. Mr. Griner, if you don't mind me interrupting here on that point, how would you react to this wording, "And, (B) certifies to the Commission that the work performance of the individual has been adjudged satisfactory or better for the prior 12 months"?

Mr. GRINER. Congressman, I wouldn't object to that as much as I do the language in it, and I will tell you why I object to the language now in the bill. It appears to be the red herring—

Mr. HENDERSON. This would be a determination by the agency at the time of the request, would it not?

Mr. GRINER. That's right.

Mr. HENDERSON. Now, is his rating of "satisfactory," "unsatisfactory," or "excellent," as a rating that has already been determined, and would be on the record?

Mr. GRINER. That's right.

I wouldn't object to that, because the language as now written, I think could very well be interpreted as the "acceptable level of competence" that gave us so much trouble over a period of years.

Mr. HENDERSON. Thank you.

Mr. GRINER. In order to assure uniformity throughout the Federal service and to provide that all agency heads conform to the same universal standards when recommending conversions to the career service, the American Federation of Government Employees feels that, where an employee has requested and has passed an unassembled non-competitive examination, the appointing authority must recommend his conversion and, if he does not, he must make available to the employee concerned the reason he is not recommending the conversion.

of the TAPER employee concerned to career status. To provide a legislative basis for this equitable requirement, the AFGE recommends to the subcommittee the following new paragraph, which can appear as a new (3) (A) :

(3) (A) The appointing authority may recommend to the Civil Service Commission against the conversion of a TAPER appointment, even though provisions of paragraphs (1) and (2) of this section have been fulfilled by the employee, provided that the appointing authority inform in writing both the employee and the Civil Service Commission of his reasons for not recommending the conversion of the appointment from a TAPER to career appointment. The employee, in turn, may appeal within 30 days to the Civil Service Commission for a review by the Civil Service Commission of the findings of the appointing authority.

As we have said repeatedly in the past, the American Federation of Government Employees considers this bill on TAPER conversions as a landmark bill; and as a landmark bill we would like to see two other essential features to be incorporated.

First, we would like to see its provisions apply to all kinds of Federal employees not now in career status, whether they are TAPER employees or term employees, status quo employees, overseas limited appointment employees, or any other type of noncareer employees.

In this connection, we recommend the phasing out of overseas "local hire" categories of appointments and their conversion to career status appointments.

We believe that it is length of service and not type of appointment which is important. Therefore, we believe that time of total service, under any and all types of noncareer appointments, should be collectively and cumulatively credited to qualify an employee for the benefits of this bill. And if a Federal employee otherwise meets the 3-year rule requirement, which we have suggested, the type or types of his appointment or appointments should have no bearing whatsoever to bar him from the enjoyment of the provisions of this bill.

Now, I think if we accepted the language which you have just suggested, that maybe this might not be necessary.

Mr. HENDERSON. Well, let me say that I have some questions about opening it up. The question I asked of Chairman Macy with regard to appeal, I believe he responded to by saying he envisioned that the Commission would review the agency action if they declined the request. I believe that that would be satisfactory, particularly with the fact that our subcommittee certainly would have continuing interest, and if we find that any agency head arbitrarily refused to grant the request, we would certainly be interested in knowing that. I am sure your organization would bring that to our attention.

Mr. GRINER. Well, I hope that Chairman Macy had in mind that, in case of the review of one of these cases, that the employee organization, the American Federation of Government Employees, for example, might represent its membership. In other words, a unilateral review sometimes is not as effective as the review with representation. But he usually—I will say this for Chairman Macy—he is usually pretty fair in matters of this nature.

Mr. HENDERSON. I think if we used the satisfactory qualification, that there would be very little to be in dispute here. You have got length of service and a rating.

Mr. GRINER. That is right.

Mr. HENDERSON. So we probably would not have many cases.

Mr. GRINER. I envision very few cases.

Mr. HENDERSON. Thank you.

Mr. GRINER. Mr. Chairman, we know of cases, and I could name a considerable number of them, of a person being on what they call a temporary appointment, which is limited to the maximum of 1 year for a period of 8 and 10 years. In other words, at the end of each year, they lay them off for 1 day, and can then put them back on for another year. Now, these people will have an interest in the Government. They have hopes of being career employees. They have been tried over a period of years, and I think they should be treated the same as a TAPER employee.

Mr. HENDERSON. Mr. Griner, let me ask you a question there. Looking at the language of the bill on page 2, it says—

“May acquire competitive status and have his appointment converted to a career appointment, if (1) he has completed without a break in service of more than 30 days.

Would your illustration of a 1-day break not be covered by the bill?

Mr. GRINER. It would be covered. That is right.

Mr. HENDERSON. I believe if they laid him off for 60 days and put him back on—

Mr. GRINER. Then that would be a definite break in service. In other words, you would be treating these temporary appointments, Mr. Chairman, the same as you would the TAPER. If you had a 60-day break in the TAPER appointment, they would not qualify. In other words, as the bill is now written, it only refers to TAPER's, and not to temporaries or other types of appointments other than career appointments.

Mr. HENDERSON. Thank you.

Mr. GRINER. Let me explain just a minute here. My next recommendation here, I know, is more or less unrelated to this particular bill. But for the last 2 years we have had a rash of downgradings; more so in the wage board category than we have in the classified category. And I think it all stems from a directive of the Bureau of the Budget to arrive at some average grade—political average grade within an installation or an agency. Money is not involved in most cases, because people when they are downgraded hold their salary for a period of 2 years, so it is not a saving of money. Some of these people have been in positions for 10, 15, and 20 years. There has been no material change in their duties, and yet all of a sudden, out of the clear sky, the people are downgraded. The wage board employees have no appeal rights except to the agency, that is, with the same group that downgraded him, and I believe that that is one of the principal reasons why we have more downgrading in the wage board groups than we do in the classified groups, because they do have an appeal to the Commission. And I am hoping that this subcommittee will give consideration to my recommendation which I hope to go into now.

Mr. HENDERSON. Mr. Griner, let me say that it is a subject that merits our attention, and has had thinking on the part of the staff and the Chair. I am not sure of the wisdom of taking that up in connection with this bill. One of the things that has concerned me in

this area, and one of the things that I think we need to explore as we would get into this problem is that as I have observed these downgradings, there has been an effort on the part of the supervisors or the operating agency to reorganize and to add the necessary responsibilities to the individual. This is particularly true where it is obvious that the individual can do the job. With that in mind, we certainly will do what we can this year to take a look at appropriate legislation and certainly would be glad for the staff to work with your staff to see if we can come up with a separate bill perhaps on that subject alone.

Mr. GRINER. I have discussed this with the staff of the Subcommittee on Position Classification, and I know they are somewhat disturbed about the same matter. What I was hoping was to get a moratorium on this downgrading as early as we could possibly do it in order to head off this avalanche.

Let me give you a classic example. Out at Mathis Air Force Base we had some downgrading of some warehousemen, and some auditors or accountants from a grade 7 to, I believe, a grade 6. Now, we are paying premium pay for accountants, and I believe it is in the State of California, and yet we are downgrading a group of accountants not only in Mathis, but in all other installations coming under this same command. I forgot what command Mathis Air Force Base is, and it just doesn't seem reasonable. Two and two don't make four in this case.

Mr. HENDERSON. Well, Mr. Griner, I would suggest that we let your full statement as prepared be entered into the record so that you could make your point here.

Mr. GRINER. Thank you, sir.

Mr. HENDERSON. And we will get together with the Position Classification Subcommittee, because I expect that is within that subcommittee's jurisdiction.

Mr. GRINER. I would think so, but I don't want to miss a chance of bringing it to your attention.

Mr. HENDERSON. Well, we are always interested in your problems.

Mr. GRINER. Thank you, sir.

Mr. HENDERSON. Go right ahead.

Mr. GRINER. I believe the balance of this refers to the recommendation, but if you don't mind, I will go ahead and read it.

Also, to perfect this landmark bill, we request the subcommittee to add an additional amendment, an amendment which would be welcomed by every Federal employee, whether in the classified service or wage board, whether career or noncareer, whether holding a permanent or a temporary job. This amendment, which could be a new section 2, could read as follows:

During the current review by Congress, or by one of its committees or subcommittees, of the Federal classification system, and pending the publication of the results of this review, the Civil Service Commission will enforce a moratorium on the downgrading of Federal employees solely because of classification or reclassification determinations.

Furthermore, the pay of any Federal employee shall not be reduced nor shall the position to which he is assigned be placed in a lower grade unless there is a positive showing that a material change of duties has occurred during the occupancy of that position by the then incumbent employee.

I might say that we asked the Commission for a 2-year moratorium on this downgrading, and it is my understanding that our request was seriously considered, but they had some questions as to whether they had the legal authority to issue a moratorium in this connection.

The American Federation of Government Employees urgently and earnestly proposes this amendment so as to stabilize the Federal work force, to raise its morale and to save the Federal Government money. The AFGE had sought to obtain the same effect through a unilateral undertaking by the Civil Service Commission to maintain such a moratorium. For reasons of alleged inconsistency with current law, the Civil Service Commission has not taken this forward-looking step. Therefore, we are petitioning the legislative branch to take this wise move by giving a legal basis to it.

In addition, the American Federation of Government Employees believes the time has come to take seriously the requirement, now largely ignored, that all downgraded persons, whether in the classified service, wage board, status quo, et cetera, be restored to the rank and class they had within 2 years from the date of their downgrading. To assure this, the AFGE proposes that, as a new section 3, this bill incorporate the following language:

Whenever an employee has been downgraded solely because of classification or reclassification determinations, his name shall be placed at the head of all promotion rosters maintained in the agency executing the downgrading and no promotions, either normal or merit, may be made to the classification category from which the employee was downgraded without his being first offered the promotion back to his original grade.

Mr. Chairman, I believe this is something that maybe this subcommittee could do something about, and not cross the jurisdiction of this Position Classification Subcommittee.

What is happening at the present time, that we have had numerous cases where people have been downgraded, and they have the 2-year guarantee of pay, without loss of pay for a period of 2 years. Now, after 2 years they are actually losing pay. In the meantime, there have been numerous cases where these people could have been promoted back to the grade from which they were downgraded, but no action is being taken. In other words, no special consideration is being given to these people, and they are certainly entitled to it.

Now, some of the agencies have a meager—and I mean meager—regulation which said that in effect that they “may be considered.”

I don't think I have to tell you folks what I think about the present merit promotion system, and the question of “may” gives them an alternative to consider them or not consider them, but we need something binding to get these people back into the grade from which they were demoted or given an opportunity to do that. They should not have to lose money after 2 years without any increase, in most of the cases.

Before concluding, I should like to recapitulate. This bill, in our opinion, is a landmark bill. It will be regarded as such by all Federal employees. Our own several amendments were made in the light of our estimate of the importance of this bill. The American Federation of Government Employees has the fullest confidence, for this reason, that the subcommittee will preserve the integrity of this bill's land-

mark features and the Congress will pass it with speed. We certainly commit ourselves to cooperate to this end.

I wish to express again our sincere appreciation to the chairman of this subcommittee for introducing this bill and for his kind permission allowing the American Federation of Government Employees the opportunity to testify in its favor.

Mr. HENDERSON. Thank you, Mr. Griner.

I believe that it would be in order and helpful at this point to insert in the record at least six selected cases of TAPER's that are on file in the subcommittee's office. I make this suggestion at this point because I recognize that some of these came from your organization, Mr. Griner, and without objection I will order that these excerpts from letters or communications to us be inserted in the record at this time.

(The material referred to is as follows:)

SELECTED CASES OF TAPER'S

CASE NO. 1

I have been stuck with a TAPER appointment for 3½ years. A mere drop in the bucket compared to some. I am employed as a Crypto Equipment Operator at ——— Army Depot. Although I have been in the Communications Section longer than most operators, I have no seniority, no promotion opportunities, no transfer rights and no civil service retirement. If we ever have a RIF, I would be the first to go, as most of the other operators were transferred here from other Defense activities with status. I am a TAPER here simply because the Commission has not established a civil service register for Cryptographic Equipment Operators.

CASE NO. 2

I have been employed at the Veterans' Administration Center ——— as a Manual Arts Therapist, GS-8, four years this month and I am still classified in a temporary status, simply because there has not been a register. Including my four years in the military, I have eight years credit. Acutely aware of the fact that should there be a reduction-in-force, with my low retention rights, this insecure position has caused me to seriously consider leaving VA for employment where I could find a more secure situation.

CASE NO. 3

Mr. Y has served as a Radio Operator in the Immigration and Naturalization Service since March 1961, on a TAPER appointment. He had made many attempts to obtain competitive status, and so have several others here, but to no avail.

CASE NO. 4

I have been employed for 4½ years as a Telephone Lineman at a Department of Defense Field Activity, as a TAPER employee. I have been inquiring into the problem of a permanent appointment for 4 years and received different answers on the subject. When inquiring of the Civil Service Commission, they told me registration should be started at my Personnel Office. My Personnel Office passed the buck to the Civil Service Commission, saying they start registration.

CASE NO. 5

I am working as a TAPER at Fort ——— as a Heating Equipment Mechanic Helper and have been since April 1960. I do not pay into the pension fund. I have tried, and believe me I have tried, to become permanent and have been unsuccessful. The Vacancy List put out by Fort ——— has a notation that Temporary employees cannot apply for posted jobs. I have been to Civilian Personnel and they say that nothing can be done.

CASE NO. 6

May I add my support to H.R. 8495, with the recommendation, that TAPER appointees also be granted career status on the basis of an unassembled examination. Please permit me to advise you that I have been serving in TAPER appointments for a period of about 10 years and I have approximately 23 years of Government service to my credit

Mr. HENDERSON. Mr. Hamilton, any questions?

Mr. HAMILTON. Yes, Mr. Griner, I noted, in your second paragraph, that you endorse with enthusiasm the 3-year provision in this bill. I also noted, in Mr. Macy's statement, that he disagrees with you and says since people who are selected through the competitive process must serve 3 years as a career-conditional employee before they get a full career appointment, it does not seem appropriate for those who entered without any examination to be put on the same basis. He points out that some distinction ought to be made between these two. I would like to have your reaction to the Chairman's viewpoint.

Mr. GRINER. Congressman, speaking especially to the TAPER appointments, the only reason that these people did not come in off of a register was the fact that there was no register in existence. It was not the problem of the people. It was the problem of the Commission. In other words, the people are having to suffer for what the Commission did not do, and which they should have done, and I don't believe it is equitable or right.

Mr. HAMILTON. Thank you very much.

Mr. HENDERSON. Thank you, Mr. Hamilton.

Thank you very much, Mr. Griner.

It is always a pleasure to have you before the subcommittee, Mr. Griner.

Mr. GRINER. Thank you.

Mr. HENDERSON. Our next witness is Mr. John McCart, representing the AFL-CIO Government Employees' Council. Mr. McCart has the title of operations director. I have never figured out what that is, but John, it is always a pleasure, and you are always effective before our subcommittee.

STATEMENT OF JOHN McCART, OPERATIONS DIRECTOR, GOVERNMENT EMPLOYEES' COUNCIL, AFL-CIO

Mr. McCart. Mr. Chairman, we have supplied the subcommittee with a prepared statement, and with your permission, I would like to have it incorporated in the record, and I would like to proceed extemporaneously.

Mr. HENDERSON. The prepared statement will be printed in the record in full at this time.

(The statement is as follows:)

PREPARED STATEMENT OF JOHN McCART, OPERATIONS DIRECTOR, GOVERNMENT EMPLOYEES' COUNCIL, AFL-CIO

Mr Chairman and members of the subcommittee, the 34 AFL-CIO unions associated with our Council representing wage board, classified and postal employees in Federal Service join in endorsing the purpose of the pending bill, sponsored by the distinguished Chairman of the Subcommittee, Representative David N. Henderson.

One of the fundamental purposes of the Civil Service Act of 1883 was to establish a career system in the Federal Government. Under it, Federal employees would be able to progress in an orderly manner through stages of tenure culminating in permanent status. A corollary of this principle is that instances where individual employees would occupy less than full career standing would be retained at an absolute minimum. Otherwise the merit system would offer little incentive to applicants to seek careers and the job safeguards necessary to assure a career would not be available.

One application of this system is participation by those seeking Federal employment in examinations and selection on the basis of competitive scores.

Another expression of the merit principle is found in advancement of new employees through the probationary and career-conditional stages to full career status.

Thus, over almost 85 years there has evolved a civil service program rooted in recognition of qualifications and merit for acquiring Federal jobs and the assurance of a career in public service to those who perform satisfactorily.

To meet the unusual needs of agencies for a few employees on an intermittent or seasonal basis or for a small number of employees who will serve for a limited period, the system permits appointment of individuals as temporary employees. Included in this category are those given temporary appointments to perform urgent work until sufficient applications are received to establish a competitive register. Approximately 20,000 such appointments exist today.

Unfortunately, a small number of employees with this classification are retained in that status for a number of years without having an opportunity to advance to career status.

There are three principal disadvantages in this situation. First, failure to offer these individuals advancement to regular status contradicts the philosophy of the civil service system itself. Second, it constitutes a serious inequity to the individuals involved because they have no opportunity to progress towards the type of tenure envisioned by the Civil Service Act. Third, despite the fact that they may serve the same or a greater number of years than the other Federal employees who attain career status, they do not have retirement entitlement, retention rights for separation or promotion opportunities.

In general, the solution to this problem advanced in H.R. 8495 is logical and equitable.

The bill makes available to the employee who has held a TAPER appointment for 3 years an opportunity to obtain career status.

For applicants who enter Federal Service through the normal method of competitive examination, progression to career status involves 3 years of satisfactory service. An individual who has been employed for a similar period as a TAPER appointee will normally have acquired the same proficiency as the regular worker who entered Federal Service at the same time. Thus, we support this section of H.R. 8495.

Under the bill two of the conditions necessary for eligible employees to acquire career status are recommendation by the head of the agency and a specific certification about the applicant's performance in relation to other employees who occupy the career category through competitive examination.

We believe the second condition is superfluous and unjustified. If the agency is willing to recommend the temporary employee's conversion it is clear that his performance must be satisfactory. We urge therefore that the second requirement be discarded as unnecessary.

In addition the Council feels the right of the agency head to withhold a recommendation on the basis of caprice or whim should be avoided at all costs. Where the agency determines that a favorable recommendation is not in order, its specific reasons for not seeking the individual's transfer to career status should be a matter of record, available to the affected employee upon request.

Several of the bill's features refer specifically to the Post Office Department.

The situation in this agency differs markedly from that in other Federal departments. A relatively large number of temporary employees has been customary for many years. They serve as a reservoir of individuals available for peak loads or other sudden changes in workload. These occurrences are not at all uncommon in the Post Office. Because of this peculiar circumstance, the Department cannot operate efficiently under the same regulations as other agencies.

Those qualifying otherwise under the terms of the bill should undergo the regular Civil Service examination applicable to their occupations. If this is not done, there is danger of diluting the qualification requirements for postal jobs. In addition, failure to utilize the usual examination will prove inequitable to regular workers who have entered career ranks through the normal examination route.

In the case of substitutes, the 700-hour requirement is realistic and acceptable. However, for hourly rate temporary employes in custodial and maintenance activities, this period should be reduced to 500 hours. Many of these employes work consistently up to 20 hours weekly for a long period of years, principally in small post offices. In many instances, the workload is insufficient to warrant a full-time position. Frequently, these employes are assigned to such jobs on a temporary basis because no Civil Service register exists.

The Council emphatically opposes repeal of the quota restriction on career substitutes so that they can move immediately into career regular status, as provided on page 4, lines 3 and 4. The present statutory ratio of 1 career substitute to 5 career regular employes was enacted by Congress specifically to protect the career postal service. We are apprehensive that discarding the ratio will lead at some future date to converting thousands of temporary individuals to career status outside normal channels. As a matter of fact, several Executive Orders arranging conversion of postal employes into the career complement have specified that the transfers occur only as career vacancies occur. For the benefit of the postal service, as well as the career employes already on the rolls, the quota should not be disturbed.

We believe regulatory authority is necessary, and anticipate that if approved by Congress, consultation would occur between the Commission and interested unions on the contents of such regulations.

One example will illustrate the desirability of such authority. When conversion programs have been put into effect in the past, numerous instances have occurred in which employes were barred from qualifying for career status because of errors in processing their requests. In some cases, agencies have made errors in computing the creditable service of individuals necessary to move into the career ranks. In others, an employe's papers requesting career status have been misplaced, so that the application failed to reach the Commission. Such administrative errors should not result in denying employes, otherwise qualified, access to the career complement. Granting authority to the Commission to devise necessary regulations should eliminate such obvious inequities.

Pending before the Subcommittee also is H.R. 8494, introduced by its highly competent Chairman, Representative David N. Henderson, repealing the statutory limitation on the total number of Federal, non-postal jobs, established by the Supplemental Appropriation Act of 1952. That portion of the statute is known as the "Whitten Amendment." For years the Council has maintained that this personnel ceiling is an unrealistic, arbitrary method of dealing with governmental functions. While the intent of the provision to maintain permanent Federal employment at a minimum is laudable, the Council believes that this matter can be controlled more effectively by improved executive management on the one hand and Congressional review of budget requests for appropriations on the other.

Last year, the House and Senate recognized the validity of our reasoning by repealing the application of the "Whitten Amendment" in the case of the Post Office Department.

Existence of the ceiling on permanent jobs has led agencies to use other means of accomplishing their missions—contracts to private firms for work normally performed by Federal employes, and, in the case of defense activities, use of military personnel on assignments usually accomplished by non-military employes.

We strongly urge favorable action by the Committee in eliminating an unnecessary limitation on performance of approved agency functions. So long as Congress retains control over the number of permanent jobs through review of budget requests by the appropriations process, we envision no danger that the Federal workforce will swell beyond the actual needs of the service.

With the amendments we recommend, the Council urges that the Subcommittee approve H.R. 8495 at an early date.

Mr. HENDERSON. Go right ahead.

Mr. McCART. The council, of course, represents 34 AFL-CIO unions, with wage board, postal, and classified employees in these organizations.

The first part of our statement, Mr. Chairman, is devoted to our view of the philosophy of the Civil Service Act, and the career merit system. I will pass over that and proceed to deal with some of the details.

There are some 20,000 TAPER employees who would be affected initially by this bill and who now suffer a serious inequity.

First, the failure to accord them career status is contrary to the philosophy of the entire career system, and the Civil Service Act itself.

Secondly, as individuals, they are prevented from an orderly progression through the various stages of tenure to career status.

And, third, from a practical standpoint, as temporary employees they are ineligible for retirement benefits, they have no retention rights as far as separation is concerned, and they have no promotion opportunities.

And so we come to H.R. 8495 as a solution for this problem. We endorse the legislation. We think it is a logical and necessary approach in solving the problem.

Let me deal first with the question of their eligibility to move into the career service with 3 or 4 years' service. It is important, because a conflict between our position and that of the Civil Service Commission is involved.

The inability of these individuals to acquire career status is for reasons totally beyond their control. It is because of the inability of the Civil Service Commission to provide the necessary examinations and the necessary registers to give them an opportunity to move into the career ranks.

We assume that in a given 3-year period a temporary employee covered by the bill would be able to acquire the same degree of proficiency as his colleagues who have career status. And so we advocate a 3-year period of service to acquire eligibility.

We see no reason why these individuals should have to meet some other criterion simply because of their inability to travel the regular route of a competitive examination.

Mr. HENDERSON. Mr. McCart, right on that point that you made there, did you hear Mr. Macy's comment that the best test of ability to do the job is performance on the job?

Mr. McCART. I didn't, Mr. Chairman, but I concur with it.

Mr. HENDERSON. And how would you feel about an amendment to the bill that would show that the employee's performance—if his performance has been satisfactory, that that would be sufficient with regard to the clause (B) qualification in the bill, where the appointing authority certifies, rather than the language that now reads, to the Commission that the work performance of the individual is at least equivalent to that of others who are serving at the same grade level with comparable responsibilities and who qualify through the competitive examination, that we change that by amendment to provide certification to the Commission that the work performance has been rated satisfactory in the past 12 months?

Mr. McCART. I am glad you raised the question, Mr. Chairman, because it is one that I intended to treat next.

Let me invite your attention to the fact that the same language to which you allude occurs in two places in the bill. First, with respect to the classified and wage board employees, and then with respect to the postal service.

Mr. HENDERSON. Yes.

Mr. McCART. Now, so far as the postal service is concerned, this language amounts to an introduction of an entirely new concept. As you are well aware, the acceptable level of competence requirement does not now apply to the Post Office Department. The suggestion you have offered, I think, is much more acceptable than the language as it appears now in the bill.

On the other hand, Mr. Chairman, you will note under clause (A) of subparagraph 3 on both pages 2 and 4, in order for the employee to qualify he must be recommended to the Civil Service Commission by the appointing authority. It seems to me that the head of the agency is not likely to recommend for career appointment one whose service is not satisfactory.

In my opinion clause (B), in both cases, is superfluous. I find some difficulty in seeing why there should be anything to replace it, since the recommendation is totally in the hands of the head of the agency in the first instance.

Let me reemphasize that your proposal is certainly more acceptable than the present language.

Mr. HENDERSON. Thank you.

Mr. McCART. Now, if I may, Mr. Chairman, I would like to address a comment or two to the Post Office Department, because the situation there is quite different than in the other Federal agencies.

As you know, part of the postal operation involves the employment of a relatively large number of temporary employees, many of whom serve in that status for a good number of years. This practice has grown because of the peaks and valleys in the workload of the postal service, and the fact that it is not always possible to provide a full days' work to accommodate employees on a full-time basis. And so we have this large pool, this large reservoir of temporary employees available to meet these unusual workloads.

Where the examination would be administered to these temporary workers, we believe they should undergo exactly the same type of test as is applicable to the job they are performing.

I say that for this reason. In certain places in the Post Office Department there are serious manpower shortages. In some instances, examinations have been administered below the level of the quality normally required for the job in question in order to acquire manpower. So in the case of the postal service, we advocate that the qualifications not be lowered, and that the temporary employees undergo the same examination as career employees do for their jobs.

In the nonpostal service, the situation is different again. Here we have temporary individuals who have occupied positions for 8 or 10 years. In the interim, their ability to handle examinations is likely to decline with the passing years. So it would be perfectly appropriate for their tests to be unassembled so long as the quality is maintained.

Mr. HENDERSON. May I make this comment, that I will ask our staff to contact the personnel people in the Post Office Department, inasmuch as I do not believe as of this moment we have an official position

from them, and we will very seriously consider the points you have raised.

Mr. McCART. Thank you.

The bill refers to the service requirement employees must meet to acquire career status. You will note on page 3 that the person in the postal service can be eligible after 3 years of service, or after performing 700 hours of work in 3 years. This is to take care of the substitutes who do not work the full workweek.

This is completely acceptable, Mr. Chairman, but I would point out to you that there is another group of postal workers in the custodial and maintenance forces, the hourly rate employees, many of whom work 20 hours a week consistently over a long number of years, because the Civil Service has been unable to provide examinations. In those cases we believe that the 700-hour requirement should be reduced to 500, because these persons do not have an opportunity to work 700 hours annually.

Continuing with the post office problem, Mr. Chairman, I refer to the question of the quota. Here again we come to a direct conflict between our position and that of the Post Office Department.

First, let me advise the subcommittee that the quota is a matter of statute, as is apparent from the bill. It was enacted by the Congress in order to protect the career postal system, so that you have an orderly progression of employees from temporary to substitute to career.

Now, our unions want to maintain the number of temporary employees at a minimum because of the reasons I have outlined earlier.

On the other hand, we believe that the retention of the statutory ratio is essential, because of the unique situation in the Post Office Department. We are fearful that despite Chairman Macy's very sincere statement that the Commission does not contemplate this legislation as a back-door approach to violation of the merit system, we are concerned that his desire may not always be the practice.

We are concerned that a large number of temporary employees will be moved into the substitute ranks, and then into the career ranks, without having to have gone through the regular route that all other employees must experience.

Finally, Mr. Chairman, on the question of the Commission's regulatory authority, we approve the language in the bill. We assume that in developing these regulations the Commission will want to consult with our council and the interested unions. Let me point out to you some of the experience that we have had under previous Executive orders, where groups of temporary employees have been brought into the career service.

There have been instances where agencies have failed to compute their service properly so that they were deprived of eligibility.

There have been numerous instances in the past where papers have been lost, and as a consequence there are some people today who should have been career employees who have been denied that status.

There is just no way to remedy the situation under the previous Executive orders. We certainly believe regulatory authority should be provided the Commission, and that it will enable the Commission to take care of problems like this that have arisen in the past.

We join, Mr. Chairman, with the American Federation of Government Employees, and other unions, and the Commission, in advocating enactment of H.R. 8494.

There is little need for me to emphasize to the subcommittee some of the practices that have resulted from the ceiling on permanent employees, dealt with in your bill, H.R. 8494. The reports you have presented to the Congress have told about them on more than one occasion.

Such practices as contracting work normally performed by employees, and utilization of civilian employees in Government jobs because of the ceiling.

With respect to that bill, H.R. 8494, as you know, Mr. Chairman, we have maintained over a long number of years that the proper way to control the growth of Federal employment is first through good management, and second, through the regular budgetary appropriations approach.

That is where Congress can continue to maintain an effective oversight on the number of permanent employees in the Federal service.

So, in summary, Mr. Chairman, we commend you for the introduction of both these bills. None of the recommendations that we made for amendments detracts from the merit of H.R. 8495. We strongly recommend the subcommittee strongly consider incorporating H.R. 8494 with the pending legislation.

Mr. HENDERSON. In any event, it is your position that H.R. 8494 should be enacted into law?

Mr. McCART. Yes, Mr. Chairman.

Mr. HENDERSON. Mr. Hamilton?

Mr. HAMILTON. No questions, Mr. Chairman.

Mr. HENDERSON. Mr. White?

Mr. WHITE. No questions, Mr. Chairman.

Mr. HENDERSON. Mr. McCart, it is always informative and helpful to have you before the subcommittee. Thank you.

Our next witness is Mr. Ross A. Messer, of the National Association of Post Office and General Services Maintenance Employees.

Mr. Messer, it is good to have you.

**STATEMENT OF ROSS A. MESSER, LEGISLATIVE REPRESENTATIVE,
NATIONAL ASSOCIATION OF POST OFFICE AND GENERAL SERVICES
MAINTENANCE EMPLOYEES**

Mr. MESSER. Thank you, sir. I am sorry I don't have a prepared statement.

Mr. HENDERSON. That is quite all right.

Mr. MESSER. I would like to endorse the general provision of H.R. 8495, and the purpose for which it has been introduced to provide continuing legislation for the conversion of indefinite or TAPER employees.

The general provisions of the bill are very similar to past legislation and Executive orders on this subject requiring 3 years of continuous service and 700 hours of service in each year.

I would like to suggest a couple or three changes in the bill, if I may.

Under the wording of the bill on page 2, in the first and second lines, it appears that it would only apply to indefinite appointments or temporary appointments pending the establishment of a register.

As has been previously pointed out, we believe it should also include temporary employees. Many of these employees have an appointment

for 1 year. They are reappointed the next day for another period of a year, and this goes on indefinitely in some instances.

So if the word "temporary" were also included there as the type of an appointment, that would cover a number of employees who would be excluded otherwise.

Mr. HENDERSON. In response to that, let me say, Mr. Messer, that we recognize this is a problem, but we have not been able to date to develop a sufficient background of information on the temporaries. We feel that we could act at this time, but your point is well received and even though we may enact legislation without covering them, we would be glad to work with you and hear from you later with regard to that group.

Mr. MESSER. Well, at the time of the last Executive order, allowing conversions in the post office, it called for indefinite appointments or TAPER appointments, and the Post Office at that time, if I recall correctly, in issuing their regulations, stated that any employee who had a temporary appointment that had been more or less a continuing appointment without a break of more than 3 days would be considered as having an indefinite appointment.

Now, something on that order might be worked out under this.

Mr. HENDERSON. Yes.

Mr. MESSER. On page 3, line 11, where it calls for the 700 hours, we have a peculiar situation in the maintenance service of the Post Office Department in the smaller cities. It does not apply to any of the larger cities. The building is not large enough for two men to maintain the building. So they have a full-time man and what is called an hourly rate regular position. He has a stipulated number of hours that he works each week. He has a regular schedule that he follows the same as the regular full-time employee does, but it is on a reduced rate.

Therefore, in order to include these employees who are working 20 or less hours a week, and there are quite a few of them who are working as little as 12 hours a week, we would like to have the 700 hours reduced to 500 hours, because as temporaries they are not in line for promotion.

In other words, a full-time position opens up, maybe this temporary has been there for 2, 3, or 4 years. He cannot be promoted to the full-time position because he is a temporary. So if it were provided so that this employee could get career status, it would then make him in line for promotion when the full-time employee retired or resigned, or left the service.

Mr. HENDERSON. Let me ask you a question on that point.

Mr. MESSER. Yes, sir.

Mr. HENDERSON. Did those temporaries, whom you are speaking of, enter into their position by taking a merit exam?

Mr. MESSER. No, sir; they were hired outside of a register.

Now, we have had quite a few discussions with the Civil Service Commission on this subject as it applies to the smaller cities as to why they could not hold exams. The answer has been that there are always more important positions for which the examinations are needed which would cover a larger group of employees.

Now, we had a vacancy, I believe it was in Huntsville, Ala., back about 1958 or 1959. The man is still serving as a temporary because

that is the only vacancy that has existed in that office since that time, and they will not hold an examination just for one part-time employee. He may continue as a temporary for a number of years. They may eventually get around to holding an exam for it, but that is the only position, and that is the only vacancy they have had in that office in a number of years, so there is very small possibility of using the register for anything else other than this one position, so it would be the cost of setting up an examination and holding the examination with a chance of one appointment and nothing then for a number of years.

Mr. HENDERSON. Thank you.

Mr. MESSER. The other suggested change I have is on page 3, line 15. After the man makes his request for a noncompetitive examination for appointment, where the appointing authority may recommend him. I would like to suggest that if the man qualifies on the noncompetitive examination, that the appointing authority shall recommend him. The reason for this is that the man would have had 3 years of service. If his service were not satisfactory, the appointing official has had 3 years to get rid of him, and during this 3-year time, if his service has not proved satisfactory, the appointing official is derelict in his duties in not terminating his services and securing the services of another employee.

Mr. HENDERSON. Let me ask you this—do you know of any temporaries or TAPER's that are working under an unsatisfactory rating?

Mr. MESSER. No, sir. We have under the last Executive order several cases in which the postmaster did not recommend the man, and under the last Executive order, if I recall correctly, the instructions were if they had a satisfactory service, and had completed the time requirements and qualified, they shall be recommended. We had a number of instances where we had to go to the Department in order to get the postmaster to recommend the man because the postmaster wouldn't recommend him.

We had one where the man had been there 8 years, but the postmaster still would not recommend him. He had never had a letter of charges or a letter of warning against him during the 8-year period, but the postmaster said, "I want a list to select from."

Mr. HENDERSON. Do you recall whether his rating was satisfactory or unsatisfactory?

Mr. MESSER. His rating was satisfactory. The man was converted after we went to the Department and they advised the postmaster that he had to recommend him because his services had been satisfactory.

Mr. Macy mentioned something about the temporaries in the postal service picking up their temporary time for retirement credit, which can be a drain on the retirement system, or something of that nature. I didn't quite catch all that he brought out on that.

However, I would like to state that from the information I have, that the temporaries in the postal service have been covered by social security since 1956, and when they come under the retirement act upon receiving a career appointment, the time covered by social security is not creditable for retirement.

In other words, they have the social security coverage for that time. Therefore, it is not creditable as retirement time.

It is my understanding also that this prohibition against retirement coverage for the temporary time applies only to the postal service, and not to the other Government agencies.

I wish to thank you, Mr. Chairman, for letting me make these remarks.

Mr. HENDERSON. Thank you, Mr. Messer. It is always good to have you.

Mr. White, any questions?

Mr. WHITE. No questions.

Mr. HENDERSON. We appreciate your appearance, Mr. Messer.

The subcommittee will stand adjourned until 10 o'clock tomorrow morning.

(Whereupon, at 11:50 a.m., the subcommittee adjourned, to reconvene at 10 a.m., Wednesday, May 3, 1967.)

CAREER STATUS FOR CERTAIN TEMPORARY EMPLOYEES

WEDNESDAY, MAY 3, 1967

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

The subcommittee met at 10:06 a.m., in room 2251, Rayburn House Office Building, Hon. David N. Henderson (chairman of the subcommittee) presiding.

Mr. HENDERSON. The subcommittee will please come to order.

We are today continuing our public hearings on H.R. 8495, a bill to provide for career status to certain individuals serving in positions in the competitive service under TAPER appointments.

Yesterday we heard from Hon. John W. Macy, Jr., Chairman of the Civil Service Commission, Mr. John Griner of the American Federation of Government Employees, Mr. John McCart of the Government Employees' Council, AFL-CIO, and Mr. Ross Messer of the National Association of Post Office and General Services Maintenance Employees.

Today we are scheduled to hear from Dr. Nate Wolkomir of the National Federation of Federal Employees, to be followed by Mr. William Ryan of the International Association of Machinists and Aerospace Workers, Mr. Patrick Nilan of the United Federation of Postal Clerks, Mr. James Rademacher of the National Association of Letter Carriers, and Mr. Alan Whitney of the National Association of Government Employees.

I understand that Dr. Wolkomir could not be here, but Mr. Ben Hinden, legislative counsel, will deliver his statement for him.

And without objection, if you would prefer, we will let Dr. Wolkomir's statement be entered into the record as if you gave it or read it for him, if you prefer.

Mr. HINDEN. Mr. Chairman and members of the subcommittee, my name is Ben Hinden. I am on the legislative and legal staff of the National Federation of Federal Employees.

Dr. Wolkomir was hoping to be here this morning, but he was called out of town. He will be back today, but not in time for this hearing. He asked me to come over here in his place.

I will, with the permission of the chairman, read his statement to the subcommittee.

Mr. HENDERSON. Certainly.

**STATEMENT OF NATHAN T. WOLKOMIR, PRESIDENT, NATIONAL
FEDERATION OF FEDERAL EMPLOYEES, AS PRESENTED BY BEN
HINDEN, LEGISLATIVE COUNSEL**

Mr. HINDEN. The subcommittee is addressing itself at this time to H.R. 8495, a bill to amend title 5, United States Code to provide for acquisition of career status by Government employees who serve 3 years without a break in service of more than 30 days under indefinite or temporary appointments pending establishment of registers. The bill provides for such employees to acquire career status by passing noncompetitive examinations. The NFFE testified recently at a hearing before the Senate Post Office and Civil Service Committee on S. 1320, a bill with similar objective, that is, acquisition of career status by individuals serving under the temporary appointments. We testified generally in favor of S. 1320.

We are in favor of the objective sought to be accomplished by the enactment of H.R. 8495. Presently, Civil Service Commission examinations are not offered when the principal purpose of the examination would be to confer permanent status on employees serving under temporary appointments. Therefore, a temporary employee may serve for a number of years without an opportunity to take an examination for the position in which employed. We know of cases where temporary employees have served continuously for as long as 9 years without having the opportunity to be converted to permanent status due to the inability of the Civil Service Commission to announce an appropriate examination. The Civil Service Commission concedes this inability. There have been Executive orders issued in the past providing for conversion of temporary appointments. However, I believe that legislation, such as H.R. 8495, is the best means of accomplishing the conversion from temporary service to career status.

H.R. 8495 provides that—

The appointing authority (A) recommends to the Civil Service Commission that the appointment be converted to a career appointment and (B) certifies to the Commission that the work performance of the individual is at least equivalent to that of others who are serving at the same grade level with comparable responsibilities and who qualified through competitive examination.

This bill also provides that—

The appointment of an individual who does not request the opportunity to take a noncompetitive examination under subsection (a) (2) or (b) (2) of this section, who is not recommended for conversion to career appointment under subsection (a) (3) or (b) (3) of this section, shall be terminated not later than 90 days after he has completed the 3-year period referred to in subsection (a) (1) or (b) (1) of this section.

We would like to see the language of this bill definitely state that, "The appointing authority (A) recommends to the Civil Service Commission that the appointment be converted to a career appointment" or justify why the appointment should not be converted to a career appointment. Further, we feel that the H.R. 8495 should contain positive language to the effect that the appointment of an individual may not be terminated without cause after he has completed the 3-year period.

We feel that under the language quoted above it is conceivable that some might use these provisions to arbitrarily refuse conversion to a career appointment, or effect the termination of employment of an individual without cause. We do not think that this would occur too frequently but, nevertheless, it could occur. In order to avoid such possible occurrence, with its consequent inequity, and in order to carry out the intent of this legislation, we recommend that some cautionary language be incorporated in the legislation itself which will not permit arbitrary refusal of conversion to a career appointment, or termination of employment without cause under the terms of this bill. We note that "The Commission may prescribe regulations necessary for the administration of this section." In the event that this language, as we have suggested, is not included in the bill, we feel that it most certainly should be included in the regulations to be issued by the Commission.

Our support of this bill is not intended to imply that we favor certain practices in the Federal departments and agencies to remove permanent employees, presumably because of lack of budgetary funds, and to replace them with temporary employees. Such employees under the provision of this bill, if enacted into law, after 3 years of service may acquire career status. Particularly, I am thinking about the situation that occurred about a year ago at a Government installation when permanent employees were removed and temporary employees were hired. This, of course, was unjustified abuse of hiring practices. Possibly this bill might contain appropriate language cautioning against such practice. Such language also would be useful in the committee report.

On behalf of the National Federation of Federal Employees, I express appreciation to your subcommittee to allow presentation of the NFFE stand on H.R. 8495.

Mr. HENDERSON. Thank you very much, Mr. Hinden.

I assure you that recommendations of the federation will be considered by the subcommittee either for amendments to the bill or inclusion in the committee report if we decide to report the bill.

Mr. White, do you have any questions?

Mr. WHITE. I am sorry I was a little late, Mr. Chairman.

I judge, then, from what you said that your organization does not believe in the policy of up or out?

Mr. HINDEN. That is right.

Mr. WHITE. That is all, Mr. Chairman.

Mr. HENDERSON. Mr. Gross.

Mr. GROSS. No questions, Mr. Chairman.

Mr. HENDERSON. Mr. Hamilton.

Mr. HAMILTON. No questions, Mr. Chairman.

Mr. HENDERSON. Thank you for a very fine statement, Mr. Hinden, and for your appearance today. And give our best regards to Dr. Wolkomir.

Mr. HINDEN. Thank you very much, Mr. Chairman.

Mr. HENDERSON. Our next witness is Mr. William Ryan, the International Association of Machinists and Aerospace Workers.

**STATEMENT BY WILLIAM H. RYAN, NATIONAL COORDINATOR OF
THE GOVERNMENT EMPLOYEES DEPARTMENT OF THE INTER-
NATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE
WORKERS, AFL-CIO**

Mr. RYAN. Mr. Chairman and members of the subcommittee, my name is William H. Ryan. I am national coordinator of the Government employees department of the International Association of Machinists and Aerospace Workers, with offices located at 1300 Connecticut Avenue NW., Washington, D.C.

At the outset, I wish to commend the chairman of this subcommittee for the introduction of H.R. 8495 which is designed to correct a very glaring inequity and unfair personnel practice in the Federal civil service.

Our organization recognizes that some personnel hiring system must be available to agencies to employ needed skills for short periods of employment to meet the needs of the agencies during extraordinarily high workloads.

However, the TAPER, temporary, intermittent, and part-time employment practice has been grossly abused in recent years by the Federal agencies.

The employees covered by such employment status have in the main been employed for long periods of Federal employment without the benefit of the usual Government fringe benefits, and also, they are deprived of any appellant procedures for unjustified suspensions or discharges.

A large number of such employees who have completed 3 years of service under such appointments, if given the opportunity, could qualify for career appointments in the civil service; and our organization strongly endorses the principle that such opportunity should be given them at the earliest practicable date.

The fact that these employees are not recipients of the usual fringe benefits and appeal procedures afforded career employees, has resulted in a high employment turnover, which is costly to the taxpayers.

When job opportunities are available in the private sector of employment, these employees will quite naturally leave the Federal service to secure acquisition of fringe benefits and job security.

The practice of temporary appointments is being extensively utilized by some agencies in lieu of making appointments from established registers of qualified jobseekers.

As an example, at the Naval Air Station, Alameda, Calif., several hundred temporary appointments have been made in the ungraded category, blue-collar, and these employees are not permitted to work in excess of 39 hours a week. After they have completed 39 hours of work, they must clock off the job. This employment gimmick forestalls them from accumulating continuancy of employment to qualify for a career job appointment.

Mr. HENDERSON. If I may interrupt your statement right at this point, I would suggest that our staff confer with you and get the details of this and look into the specifications. I think that you made a point here that deserves immediate attention.

Mr. RYAN. I would be very happy to cooperate with the staff, Mr. Chairman.

Mr. HENDERSON. Thank you.

Mr. RYAN. Our organization also recommends that the mandatory personnel ceilings be lifted so as to provide sufficient career job opportunities for these employees. Mandatory career job ceilings are an unrealistic method of employment control when such mandatory ceilings have the effect of discriminatory job status being predicated upon qualified employees whose services have been in constant demand for 3 years or longer.

The organization that I am privileged to represent wholeheartedly supports this bill introduced by Hon. David N. Henderson, and we urge this subcommittee to favorably report same.

Mr. HENDERSON. Thank you very much, Mr. Ryan. I think the statement is very much to the point. I have no questions.

Mr. White?

Mr. WHITE. No questions, thank you, Mr. Chairman.

Mr. HENDERSON. Mr. Gross?

Mr. GROSS. No questions, Mr. Chairman.

Mr. HENDERSON. Mr. Hamilton?

Mr. HAMILTON. I would like to ask one. In the first full paragraph on the second page of your statement you speak about the high employment turnover in this category. Do you have any statistical information on that?

Mr. RYAN. I believe that the Civil Service Commission does have the statistical information on this particular point. I do know that the turnover rate on temporary employees is much higher than in the career status employees, the reason for it being that they don't have the fringe benefits. And as soon as there is a job opportunity available to them for their skills in the private sector, they quite naturally leave.

Mr. HAMILTON. I readily understand the reasons for it. I just wanted the factual information on it. And presumably, Mr. Chairman, we have access to that.

Mr. HENDERSON. Yes.

Mr. BRAY, do we have statistics on the high turnover in temporary employees?

Mr. BRAY (counsel). The turnover now in Federal employees has reached 26 percent, which I would say is at least 8 percent higher than it was 2 or 3 years ago. I do not have it broken as to temporaries or TAPER's, but I do know that it is rising.

Mr. HENDERSON. Would you get that information as soon as convenient from the Civil Service Commission for the use of the subcommittee members?

Mr. WHITE. May I ask counsel one question. How does that compare with the turnover rate of the employees who are under civil service?

Mr. BRAY. We find that it varies as to the type of employment in the lower grades. Where the people have not been with the Government very long there is a greater tendency, with the tighter labor market today, to go out of the Government, and the young ladies, of course, when they get married, move away with their husbands. With professional people, those with long-time careers, it is oftentimes no

more than 8 percent. As Mr. Ryan has indicated, we have found in some tight labor areas—for example, on the west coast around Sacramento—that they can't even now offer temporary jobs, because the people aren't attracted to temporary jobs. They will go to private industry.

Mr. WHITE. What is the comparison as to permanent jobs and temporary employees?

Mr. BRAY. I don't have that, but I will get it.

Mr. HENDERSON. Mr. Gross?

Mr. GROSS. I am not quite clear as to your meaning when you say that your organization also recommends that the mandatory personnel ceiling be lifted so as to provide sufficient career job opportunity for these employees.

Mr. RYAN. I am thinking, Mr. Gross, of the Whitten amendment.

Mr. GROSS. I wondered if you are thinking of the Whitten amendment, or the employment of the consultants?

Mr. RYAN. I was thinking of the Whitten amendment, Mr. Gross.

Mr. HENDERSON. On that point, Mr. Ryan, as I mentioned yesterday, we have that bill, H.R. 8494, as something of a companion bill to H.R. 8495. And we have been in touch with Mr. Whitten and with the Senate committee with regard to the wisdom of combining the two bills in this legislation. I assure you that that will be considered by the subcommittee. I will not say what the action may be.

Thank you very much, sir, for your appearance and very fine presentation.

The next witness is Mr. James Rademacher, vice president, National Association of Letter Carriers.

It is always a pleasure to have you, Mr. Rademacher.

STATEMENT OF JAMES H. RADEMACHER, VICE PRESIDENT, NATIONAL ASSOCIATION OF LETTER CARRIERS, ACCOMPANIED BY JEROME J. KEATING, PRESIDENT

Mr. RADEMACHER. Mr. Chairman and members of the subcommittee, my name is James H. Rademacher. I am vice president of the National Association of Letter Carriers. Our headquarters is located at 100 Indiana Avenue NW., Washington, D.C. We have approximately 195,000 members in 6,500 branches located in every State and possession of the United States. I am privileged to have with me today our very able national president, Jerome J. Keating, who has joined me at the witness table because of the seriousness of the legislation now before this subcommittee.

Mr. HENDERSON. Mr. Keating, it is always a pleasure to have you before the subcommittee.

Mr. KEATING. Thank you.

Mr. RADEMACHER. We appreciate very much this opportunity of appearing before the important House Subcommittee on Manpower and Civil Service to testify in support of continuation of sound civil service practices. We are fearful that the exact language of H.R. 8495 would cause eventual chaotic conditions among substitute workers in the postal service. We further are fearful that any law which would merely blanket in by route of a "suitable noncompetitive examination" would be contrary to sound civil service practices and procedures.

There are today several thousand temporary postal workers who have been appointed to their positions in the postal service from a civil service register. They were advised that their appointments are temporary in nature, and that they might be converted to career status when a vacancy exists in the career complement of their respective post offices. They were given no other assurance such as the possibility of future legislation which would blanket them into such career service in excess of any existing legal quotas.

The temporary substitute in the postal service, in many instances, has been relegated lower and lower on civil service registers because of the fact that examinations have been reopened since his appointment. For example, a temporary postal worker who successfully passed the civil service examination with a grade of 85 finds that he is No. 1 on the register for appointment to the next career vacancy which exists in his post office. He looks forward to that career status but, in the meantime, the examination is reopened by those who have such privileges. Three of those who have reopened the examination receive ratings higher than 85 and are therefore placed ahead of this temporary worker.

A vacancy then exists in the career complement, and, despite the temporary worker's length of service, he cannot be considered—and the postmaster selects the No. 1 eligible from the register. Particularly, in the State of Florida do we have such instances reported; and many of our temporary workers in that State are actually in position where they shall never gain career status.

Our concern at this time is twofold. First, we feel that any such temporary postal worker who does have no less than 3 years of postal service, or 700 hours of employment annually, should be converted to career status only at such time as when the next career vacancy exists. He would then have priority of appointment to career status over those who have higher grades on the civil service register, but who have not been employed for the period designated above. Second, for many years the quota system established by law, and which governs the appointment of career substitutes in proportion to career regular employees, generally has worked satisfactorily. In the beginning it was found that a quota system of one substitute for every eight regular workers was inadequate because of the increased annual leave. As time went on, and in accordance with the exigencies of the service, Congress determined that the complement should contain one career substitute for each five regular workers. Even under this arrangement, according to information supplied the House Appropriations Committee by Assistant Postmaster General Ralph W. Nicholson, "The average substitute today is working about 28 hours weekly." Any deviation from the present quota system would certainly be even more harmful to the limited employment now offered substitute workers. Career personnel should be provided 40 hours' employment weekly, and the influx of temporary employees has caused severe hardships in many post offices.

The provisions of H.R. 8495 which relate to the granting of career status to temporary employees are not guided by substitute quotas which have been established by law. Every temporary employee who qualified under the provisions of this proposal would be converted to career status thereby causing the career substitute complement to be

far in excess of the authorized quota which has been established by public law.

Relative to the granting of career appointments to those employees who have been appointed pending the establishment of a register, we wholeheartedly concur that equal treatment should be rendered, and career status authorized only at such time as such employee successfully passes an examination appropriate to his employment.

In other words, the type of examination should be identical with the examination given for that particular classified position. The mere fact that a register had not been established should not exempt any temporary Federal employee from successfully passing a legitimate and appropriate civil service examination.

We commend Chairman Henderson for his concern of the competitive Federal service, and for his keen desire to correct inequities which are pointed out in H.R. 8495. With the amendments suggested above, our organization can support this legislative proposal.

Mr. Chairman, Mr. Keating would like to comment on this subject, if he may.

Mr. HENDERSON. We certainly will afford Mr. Keating every opportunity.

What assurance is given these temporary employees that you speak of? Do they have any assurance under the law?

Mr. RADEMACHER. There are no assurances spelled out in the law, Mr. Chairman. But when a postmaster goes to the register, which he is required to do, to appoint a temporary postal worker, he advises the postal worker that all he has to offer is temporary employment. He tells them that when a vacancy exists that he then can be considered for career appointment. And the temporary worker must understand that, that he is not covered under the retirement system, and he gains no seniority whatsoever. But he does have the assurance generally that when a career vacancy does exist he will be considered for that vacancy.

Mr. HENDERSON. And if he is on the register and in a position to be appointed he may be under the present law if he is selected by the postmaster?

Mr. RADEMACHER. Yes, sir.

Mr. HENDERSON. If the postmaster carries through those assurances?

Mr. RADEMACHER. Yes, sir.

Mr. HENDERSON. Suppose we would strike from this bill the provisions relating to the postal service, would it make any difference?

Mr. RADEMACHER. We would like to have our temporary employees converted, as they have been under two or three Executive orders in the past. It is only fair that they be, because of some of the examples that I have cited here.

Our only difference is in the attempt being made apparently to blanket-in these temporary workers and disregarding the current substitute ratio system which has worked very well in the postal service.

Mr. HENDERSON. Let me get to that point, then. That is the reason that I included them in the bill. It seemed to me that if they had been working in a temporary status in the post office, that they were just as entitled to be brought into permanent status as other employees in the other agencies. Now, with regard to the quota system, this is something of a problem for me. Just as it is, the quota system in the

other agencies or the ceilings would keep them from coming in. And it is for that reason that we are considering removing ceilings, certainly as applied by the Whitten amendment.

Is it your contention that the quota system as now established should not be disturbed?

Mr. RADEMACHER. Yes, sir, that is our firm belief.

Mr. Keating has some figures on the number of temporaries.

Mr. HENDERSON. Please go ahead.

Mr. KEATING. What we are referring to perhaps is the ratio system rather than quota.

The ratio system was established a number of years ago to take care of chaotic conditions. When I first came in the postal service there was no ratio, postmasters could hire as many substitutes as they wanted to. And we found some cities with twice as many substitutes as they had regular carriers. We conducted a survey a good many years ago. We sought a ratio law then—and the original ratio, as Mr. Rademacher pointed out, had a 1 to 8 ratio—it was 12 and 10 in the larger cities. And that has been changed because of the shorter workweek and longer vacations. So now it is 1 to 5. We are willing to change the ratio from 1 to 4. But we are not willing to do away with it, because there is a tendency on the part of many people running post offices—postmasters, supervisors—to overload the post office with what they call flexible people. It is a very expensive operation. And it is a very inefficient operation.

Now, as of today—this is the June 30 figure, which is the last complete publication of the number of people in various levels—there were 229,362 regular career employees in level 4 in the post office.

Mr. GROSS. How many career employees?

Mr. KEATING. 299,362; but there were 131,072 substitutes.

Now, of course, that is more than 1 to 5. But the temporaries have been added to those substitute figures. There were 61,000 temporaries 3 weeks ago in the clerical ranks, and there were 21,000 in the carrier ranks.

We believe that we can handle the mail with nothing but career employees, because prior to World War II the Post Office was operated without the use of temporaries as a permanent thing. But following World War II, the Civil Service Commission was way behind in the examinations, and subsequently they granted the Post Office authority to conduct the examinations. On one occasion, they passed legislation, and on another occasion there was an Executive order that converted a lot of temporaries to career positions. But the presence of the temporaries have kept the Post Office Department from converting substitutes to regulars at the rate they should.

They tell us now at the Department that they are now opposed to the use of temporaries, and they are trying to eliminate them.

Of course, in the meantime there is a lot of other legislative history or administrative history. We had the Whitten rider, for example. And the Bureau of the Budget has put ceilings on the number of career people. But these ceilings have always been a little ridiculous, because they only applied to career people, they did not apply to total people, just to career people.

Mr. HENDERSON. As I understand the quota system, Mr. Keating, it says you shall not have more than 5 to 1. It used to be 8 to 1.

Mr. KEATING. One substitute to every five regulars, not more than one substitute to every five regulars.

Mr. HENDERSON. One to five?

Mr. KEATING. Yes.

Mr. HENDERSON. You would like to see it go to 1 to 4?

Mr. KEATING. We would agree to 1 to 4.

Mr. HENDERSON. Suppose it was none, you couldn't have any temporary substitutes. This would be the ideal, wouldn't it, having every carrier full time?

Mr. KEATING. If we had no temporaries with a quota 1 to 4, I think the Post Office Department could operate very efficiently.

Mr. HENDERSON. I am trying to get clear in my mind just what this bill would do to that.

Mr. GROSS. It is 1 to 5 now, isn't it?

Mr. RADEMACHER. One to five.

Mr. KEATING. It is 1 to about 2½ actually, that is really what the quota is now.

The Department is overloaded with substitutes. The fact that the substitutes are averaging, according to Mr. Nicholson, 28 hours a week indicates that they have too many substitutes.

Mr. HENDERSON. If this bill converted the TAPER's, and as I understand it, we are only converting those that are in the establishment of a register—

Mr. KEATING. We don't have TAPER's, they don't use that term in the Post Office Department. Occasionally they are appointed, but they are appointed on a little bit different basis in the Post Office. We don't use the term "TAPER" in the Post Office.

Mr. HENDERSON. What would the effect of the bill be on changing your ratio? How many would we blanket in?

Mr. KEATING. It would permit the increase in the number of career substitutes to a point where they could handle all the necessary work, the 1 to 4 quota.

Mr. HENDERSON. What would H.R. 8495 do to this?

Mr. RADEMACHER. May I cite an example, Mr. Chairman?

Mr. HENDERSON. Can you tell me how many are covered by our bill?

Mr. RADEMACHER. There aren't too many. And now we are talking in terms of a few thousand, because an Executive order recently took care of many. But there still are a few thousand.

Now, an example would be an office of 10 regular carriers in Florida. That office today is entitled to two career substitutes. But because of increased mail volume and attempts to keep the substitutes' work hours down, the Postmaster has had on the rolls for the last 3 years, two temporary employees.

Bear in mind, there are 10 regular, there are two career substitutes, and two temporaries have been used to keep down the hours of the career workers.

Mr. HENDERSON. How many of these would this bill convert?

Mr. RADEMACHER. This bill of yours would blanket in the other two and you would then have four—

Mr. HENDERSON. Are there temporaries now pending the establishment of a register? Now, there aren't such TAPER's in the post office, where every employee that we know of has been appointed

from a register. Would the language of H.R. 8495 blanket those in? I will ask the counsel.

Mr. BRAY. The bill now provides, "The postal field service under temporary appointment without a definite time limitation."

Mr. RADEMACHER. In the example I cited, Mr. Chairman, there were four career substitutes for 10 regular workers, which would be twice the authorized ratio under the law.

Mr. KEATING. The latest figures give 61,000 temporary clerks and 21,000 temporary carriers; so that is 82,000.

Mr. HENDERSON. It is my understanding that this bill does not convert temporary employees, it is only temporary employees pending the establishment of a register.

Mr. RADEMACHER. The bill goes a little further.

Mr. HENDERSON. In the postal service.

Mr. KEATING. It takes in the temporary worker who has been with us for 3 years, and he hasn't been appointed to a career status for the reason I cited. His name is on the register, but others keep taking the examination and he hasn't been reached, but he does have 3 years of service as a temporary employee. H.R. 8495 would then convert this employee to permanent status.

Mr. HENDERSON. I won't ask you, but I will ask the Post Office Department why don't they get rid of this employee if they can't give him permanent status? And I think that is our objective, too.

Mr. RADEMACHER. That is what we are concerned about, too, Mr. Chairman.

Mr. KEATING. There is a resistance in the local post offices. Those recommendations are made on a work basis in the local offices. And understandably, particularly in a small office, a postmaster hires a temporary, and some of them are off the register, and some are not. And if it is his nephew, he might keep him a little longer.

Mr. HENDERSON. I was going to ask just that question. Isn't it the usual practice from your experience—and it has been from mine—for them to appoint their kin or some person who they are particularly close to?

Mr. KEATING. There is some of that, a lot of them at times when they are compelled to hire off the register. If there are no names on the register they have to hire off the register. If there are no more people on the register, then they can hire anybody. And some of the people in smaller offices, particularly, there is a tendency to keep them working regardless of whether the workload justifies it or not.

Mr. HENDERSON. I might insert in the record at this time that our table of distribution of TAPER's indicates that there are 1,470 TAPER's within the Post Office Department with over 36 months of service, and 930 that have over 5 years. And our concern is trying to get at this group, not only in the Post Office Department, since our primary interest is in the other agencies, but we thought that certainly the same rules would apply to the Post Office Department.

These people who have been working over 5 years, or 4 years, or 3 years—and by the bill we cut it off at 3 years—ought to be given status with all the benefits, or they ought to be replaced by appointees from a register. And, of course, as Mr. Macy said yesterday, the proof of the performance ordinarily is in doing the job. Of course, you have got some peculiar situations in small offices where you are not authorized full-time positions, and you are using temporary personnel.

But, I see no reason that these people, even if they are only working 28 hours a week, shouldn't be given opportunities to acquire career status.

Mr. KEATING. In the smaller offices I have known men who were substitutes for 20 or 30 years. But if you have an office where there are two city carriers, and they are relatively young, and another man comes in about the same age, they could outlive him, for that matter. They could live to the same period, and if the town doesn't grow, these men don't become regular. They sub. Some of them have subbed all of their total postal career and retire as substitutes.

Mr. HENDERSON. For the benefit of the subcommittee members, and for you, I requested yesterday that Mr. Bray get in touch with Mr. Murphy, Assistant Postmaster General for Personnel of the Post Office Department, to get at least his written opinion. We may want him to come and testify with regard to the effect that the bill would have there. And, also this morning I asked that Mr. Bray keep in touch with you fellows, because we certainly don't intend to enact any legislation that would disrupt the orderly procedures of the Post Office Department and what is primarily within your interest.

(The report requested of the Post Office Department is as follows:)

THE POSTMASTER GENERAL,
Washington, D.C.

HON. DAVID N. HENDERSON,
Chairman, Subcommittee on Manpower, Committee on Post Office and Civil Service, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As requested, we have carefully reviewed the provisions of H.R. 8495, a bill to provide for the acquisition of career status by certain individuals serving in positions in the competitive civil service in noncareer appointments.

I fully endorse the intent of this bill, viz., to provide a means whereby persons holding certain temporary appointments in the competitive service might be converted to career status. It is totally inappropriate for employees to be kept for extended periods of time in an uncertain status regarding their employment. One of the major attractions of Federal employment is job security. This essential ingredient of employment must be maintained if the Post Office Department expects to keep ahead of the increasingly complex problems of managing the postal service.

Regarding the specifics of H.R. 8495, we have the following suggestion:

Page 3, lines 17 through 22. A certification by the appointing authority regarding the work performance of the candidate for conversion is proper and necessary. However, there is no point in requiring the certification to be written in terms of comparison with other employees in the same grade level. In a large number of our small post offices the person being considered might well be the only employee in his grade level. I suggest that (B) be revised to read substantially as follows: "certifies to the Commission that the work performance of the individual is satisfactory and that his conversion to career status would be a benefit to the service."

With respect to page 4, line 3, we concur that persons converted to career status under this act should have their conversion excepted from the substitute restrictions of section 3302, title 39, United States Code. If we were to wait for career opportunities to occur within the limitations of section 3302, many, many employees otherwise fully eligible for conversion would have a prolonged wait for career status much beyond the 3 years required for basic eligibility under part (a) (1) of H.R. 8495.

If H.R. 8495 is amended as indicated above and as recommended by the Civil Service Commission, this Department would favor its enactment.

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

Sincerely yours,

LAWRENCE F. O'BRIEN.

Mr. KEATING. We want to see the ratio maintained.

Now, a substitute—and this is something I don't think is always understood as well as it should be—a substitute, a man coming into the postal service comes in as a substitute. So he has no guarantee of 8 hours a day or any hours a day. There is a 2-hour quota law, but that is fairly well evaded, that provides 2 hours a day. But the substitute comes in, and he works on certain hours at certain pay. And it goes at the present time from about 1 to 3 years. During the depression it went as long as 10 years. That is in the larger offices, not in the smaller offices, but in the larger offices. But a man substitutes from 1 to 3 years.

Now, if you are going to spend that much time on an indefinite basis where you have no guaranteed hours, no specific hours of work, and no specific amount of pay, of course, you would like to be protected so that there are not too many competitors. But with temporaries, without any quota, they have too many people on the rolls. And then there are an awful lot of people that are not even getting a basic standard pay, because they are not working, in many instances, a full week.

For a while there, there was a situation where the substitutes were working unlimited time. But since time and a half has been put on the books, the average substitute works 28 hours a week. And you can't get people this day and age to stay in the post office and work 28 hours a week for 3 years. And we think that we have to have some control of the number of substitutes, because some of them go wild in hiring if you don't.

Mr. HENDERSON. Let me ask this question before I yield to the other members.

The quota is less than 1 to 4 now, is that correct?

Mr. KEATING. It is by the use of temporaries only. You see, the quota doesn't apply to the temporaries. It only applies to the career substitutes. So they ruin the set up, really, by the use of the temporaries.

Mr. HENDERSON. Suppose that we would write into our report, or consider writing into the act itself, that certainly we do not intend by this action to disrupt the quota, and we would cite the fact that the Post Office Department has not been complying strictly with the 1 to 5 quota by the "use of the temporaries" technique, and that by the passage of this act as we do not intend for them to use this to further inflate, but rather urge that they come in compliance with the 1 to 5 quota and recognize the recommendations that you made that the quota ought to be reduced from 1 to 4.

Mr. RADEMACHER. That would be very helpful.

Mr. HENDERSON. We are not trying to pervade the jurisdiction of the Postal Operations Subcommittee here. So we want to be very careful that we certainly do not include anything in this legislation that would further aggravate the situation that you pointed out.

Mr. RADEMACHER. For 3 years now, Mr. Chairman, Mr. Keating has been asking the Department if they would go along with this 1 to 4. And there was some sympathy, but they never got around to doing it. Instead of that, they just keep appointing more temporary workers, which makes a farce of the whole thing. Because if you are allowed under the law to have 1 in 5—and the statistics which Mr. Keating just read indicates that there are 1 for every $21\frac{1}{2}$ —then there are some shenanigans going on somewhere.

Mr. HENDERSON. Mr. Keating, isn't this situation further aggravated by the technique which was mentioned the other day, I believe, with

regard to the pay hearings, that in certain areas where there is a shortage of labor that they are not giving the same examinations or requiring the same high standards of their employees?

Mr. KEATING. Yes; they have lowered the standards of the examination substantially. In the New York area the clerks and carriers get a mail handlers examination. And in other areas they have lowered the standard on the general examination, the Commission lowered the requested correct answers from 30 to 25. There has been a breakdown in standards.

Mr. HENDERSON. If they are going to use that technique, they certainly ought not to use the temporary appointing technique to the extent that they have.

Mr. KEATING. I think that these problems are at the bottom of the poor service, the proper recruitment, and the proper pay and the proper balance of substitutes. If you have too many temporaries, if you hire too many men, there is a lot of waste created. If you have enough people to do a job and they all have a specific responsibility, you get a good job. But if you overload it and hire extra people, then there are going to be a lot of wasted hours. And we think that a proper ratio in the Post Office—we have a fluctuation situation, where people have to work different hours—but the proper ratio in the Post Office Department has a lot to do with administration.

It requires more responsibility on the part of the supervisors. They have to schedule better. But I think they ought to schedule better.

Mr. HENDERSON. Thank you very much.

Did you complete your statement, Mr. Rademacher?

Mr. RADEMACHER. I did, Mr. Chairman.

Mr. HENDERSON. Mr. Brasco?

Mr. BRASCO. I would like to know the differences between a temporary and a substitute.

Mr. KEATING. Well, a career substitute is appointed under civil service, he has a career position. He has a civil service status. A temporary doesn't have civil service status. A career employee has job rights, a temporary doesn't, he never has them. He can be let go almost any time. If he is let go for disciplinary reasons after he has worked 6 months he can call for a hearing. But if he is let go for any other reason there is no hearing involved.

Now, the temporary substitute is under social security, for example, and the career substitute is under the civil service retirement law.

Now, that may not seem important, but it is. Because the temporary may work 5 years and not qualify, build up his retirement, or he may work a number of years that isn't enough to qualify him for social security, but they are wasted years as far as retirement credits are concerned.

And then there are a number of other ways that they are discriminated against, sir, a number of other rights that a temporary doesn't have.

But in addition to that he doesn't have incentive. It is not a job. When there is a vacancy, the man on the register who got the highest mark, he is called to take the vacancy. Well, the temporary that has worked 3 years, he feels, well, he is more experienced, he ought to get the vacancy rather than the career man.

We don't think it is necessary now to use the temporaries in the postal service. There are enough people on the registers. They could hire them as career employees.

And then you have a more stable situation when you have career employees. You have employees with greater incentive. They look forward to being regular. This other fellow looks forward to nothing.

Mr. BRASCO. Isn't it a fact, Mr. Keating, that the role of the temporary worker has been during the rush periods of the post office?

Mr. KEATING. The career subs used to always take care of that. Prior to World War II temporaries were unheard of except during the Christmas period. But there are a number of things that have happened. There is, of course, the rapid growth of population and the failure to measure up to creating enough positions to take care of it. And the growth is going to continue. You are going to have a million new homes for a number of years now and if prosperity continues as it has for over 6 years, there isn't anything the Post Office Department can do except take care of the mail that is put in the post office. They have to have manpower. And to think in a couple of weeks the mail is going to fall off—it hasn't fallen off in a number of years, since World War II there has been no decrease in volume. It has increased, the depression was the only time that we have had a fall-off of mail. And I think we have to be more forward looking and anticipate what the developments are, be more realistic, so to speak.

Mr. GROSS. Mr. Chairman, I wouldn't deliberately invade the prerogatives of the Postal Operations Subcommittee, but I don't think that we should approve legislation here that condones inequities simply because the Postal Operations Subcommittee has not gone into the subject. I am more concerned with what we do here than some invasion of committee prerogatives after listening to the testimony of Mr. Rademacher and Mr. Keating. Apparently the Post Office Department has either winked or used gimmickry in avoiding the 1 to 5 ratio. Isn't that what you are saying?

There is a law on this subject, is there not?

Mr. Keating. Well, to an extent, yes; they have. But it hasn't been entirely their fault, because you had the Whitten rider that held them down for a while. And they did get some career appointments from other agencies. And then the Bureau of the Budget has put artificial ceilings on the appointment of career people.

Mr. GROSS. But there is law on this subject, is there not?

Mr. KEATING. It is law, yes; it is absolutely law.

Mr. HENDERSON. And, of course, I might point out that the Congress removed the Whitten amendment as it affected the postal service in the last Congress. Let me ask this, Mr. Gross, if you will yield to me.

Mr. GROSS. Of course.

Mr. HENDERSON. Would you prefer that the bill, as introduced, be enacted; or that we take the provisions with regard to the postal service out and leave this problem up to the Postal Operations Subcommittee?

Now, I advised the chairman, Mr. Nix, that we did have the provisions in this bill, because I thought that it was a subject that should be treated with the others. But I deferred to his response and I have not heard from him one way or the other. But we would certainly not try to invade the jurisdiction of that subcommittee.

Mr. KEATING. We would prefer, if you are going to interfere with the ratio law, or the quota of substitutes, you leave that to the Postal Operations Subcommittee rather than make it a part of this bill.

Mr. HENDERSON. Again, let me say that I agree with Mr. Gross, if the Post Office Department hasn't been paying any attention to the quota law, I don't know whether our little bit of effect on it will make much difference or not.

Perhaps we should insist that they comply with the quota, or come up here and get it changed.

Mr. GROSS. I am not so sure, as suggested by these gentlemen, but what the quota ought not to be changed in this law, or something done by some committee rather expeditiously to change it. But I don't see how we can shut our eyes to this situation in the consideration of this legislation. I am not willing to leave it to language in a report, because we already have a demonstration that the present law is not being adhered to as intended. And I don't know that we can rely upon language in the report.

Mr. KEATING. Language in a report is very easily evaded.

Mr. GROSS. Of course. We have plenty of evidence of that.

Mr. KEATING. I could document it pretty well, too.

Mr. GROSS. And in other areas.

Mr. RADEMACHER. Mr. Gross, the temporary postal worker is an expensive luxury. He has been hired in recent days because of the impact of Public Law 89-301, which allowed overtime for substitutes. And so rather than pay the overtime, which would not be too expensive, the Department has hired these thousands of temporary workers at shorter work weeks at a tremendous cost, because each of these people are entitled to certain fringe benefits. So as I say, it is an expensive luxury which some postmasters enjoy. They can manipulate temporary workers around where they can't career employees.

Mr. GROSS. I don't see how a man can continue on a job that is limited to pay for only 28 hours per week.

Mr. KEATING. I don't either.

Mr. GROSS. I am not fully acquainted with the situation but this must be terribly expensive in the operation of the Post Office Department, the policy that they have adopted in this respect.

I am surprised to hear you say that the standards have been lowered as they have been. I believe you spoke of New York as one place. I am surprised to hear that the standards have been lowered to the extent that they have.

Mr. RADEMACHER. There is one other shocking thing which we probably should bring out, because this is the Manpower and Civil Service Subcommittee and we are concerned about it. And that is a report that the Government has sent \$122,000 to the school system of San Francisco to coach certain people on how to pass an examination. And we think that this is ridiculous, that if the pay is so inadequate that it requires such activity on the part of the Government they ought to face up to it and raise the pay so that you attract people rather than have to subsidize the education of people to pass an examination.

Mr. GROSS. Who provided this subsidy?

Mr. RADEMACHER. The Government of the United States.

Mr. GROSS. What department of it?

Mr. RADEMACHER. I got this information from a San Francisco newspaper dated last week. And I will be happy to supply it for the subcommittee staff.

Mr. GROSS. Thank you, Mr. Chairman.

Mr. HENDERSON. Let me ask this—turning to page 4 of the bill—

Mr. WILSON. Excuse me, Mr. Chairman. Was that the Office of Economic Opportunity? Or do you recall the agency?

Mr. RADEMACHER. That was no agency, Congressman Wilson, it was just a criticism on the part of a newspaper columnist that the Government would go this extent to try to educate a few people on how to pass an examination. And we are concerned, as we have indicated today, about lowering the standards of civil service. We are defenders of civil service, this subcommittee is. And we are upset by some of the things that have been happening.

Mr. HENDERSON. We certainly want to get into that.

You may not be prepared this morning, but we would be glad to hear from you in regard to what the effect of striking lines 3 and 4 on page 4 would be, which now read, "Section 3302 of title 39, United States Code, does not apply with respect to the operation of this subsection." And Mr. Bray points out that this is a provision that would relieve the Post Office Department of the effect of the quota system.

You may want to recommend that this language be stricken from this bill which would still permit the conversion of those temporaries who otherwise would meet the qualifications of the bill, but still would leave the quota system as is. It was my thinking that if we were going to do this we ought not to burden the Department with the problem, and we should afford them the opportunity to come back into compliance with the quota system without taking into account those that were converted under the bill. But, if they haven't been complying from the quota, we would be glad to hear from you on this point. And I would also ask the staff to specifically direct an inquiry to Mr. Murphy, the Assistant Postmaster General, in regard to their ramification on this point.

Mr. Wilson?

Mr. WILSON. Mr. Chairman, I want to apologize for being late this morning. We are conducting a hearing on the draft in the Armed Services Committee, and I have been tied up in that. I was wondering whether there was any difference in the opinion of the two organizations toward the legislation?

Mr. KEATING. I don't think so.

Mr. WILSON. We will hear from Mr. Nilan later, then.

Mr. KEATING. Mr. Nilan says he is in agreement with what we said. I read his statement, and I don't see anything to disagree with in his statement.

Mr. WILSON. It is always good to know in the beginning that two very fine organizations are together on something so that we don't have to make a tough decision between them.

On this matter of jurisdiction, I would suggest, Mr. Chairman, that if there is some question about whether we are getting into Postal Operations Subcommittee work, that we invite Mr. Nix's subcommittee to meet with us on this matter. And I agree with both you and Mr. Gross that if there is a matter here that requires legislation and cor-

rection, that it is more important that we accomplish this rather than get bogged down in this jurisdictional thing, as long as we are all on the same committee anyway. And I would think that if we have any serious problems, we should, if necessary, have the two subcommittees meet together, but at least accomplish the solution to the problem. I have no further questions.

Mr. HENDERSON. Thank you very much, Mr. Wilson.

Mr. WHITE. I wonder if you give grade points to a temporary employee in service such as the veterans get, you know, when they are seeking postal positions, Government positions, if that would solve your problem—in other words, that way a man who is in service gets a certain competitive advantage when he takes the test from some one who is not already in the service.

Mr. KEATING. We believe that as a permanent thing that that would be a dangerous thing. It has some merit as far as the people that are here now are concerned, but we see no necessity of employing temporaries. I think that our position is sound, and it is borne out by the fact that many of the offices around the country, big offices, don't have any temporaries, and others are just flooded with them. It is a question of local administration to an extent, how well they schedule their work, and how well they handle their procedures.

The well-run offices have few or no temporaries. Some of the others are just flooded with them.

If it would be on a temporary basis, we would look with some favor on it; on a permanent basis we wouldn't.

Mr. GROSS. If the chairman would yield, I would like at this point to put in a plug for my two bills that are pending to take the Post Office Department out of politics.

Mr. RADEMACHER. Could we also add a couple of plugs for those two bills?

Mr. HENDERSON. Mr. Hamilton?

Mr. HAMILTON. I want to clarify in my own mind your attitude toward the bill.

Your statement indicates that you accept the bill with certain amendments. The direction of the discussion seems to me to be that you might feel better about it if you struck the postal workers from this completely.

Mr. KEATING. They are fairly large amendments that we suggested. For instance, the protection of the quota, which would change the intent of the bill, but we would be agreeable to seeing the temporaries with long service given a chance to get career status.

So I couldn't say we are against the bill, but we would rather not have the bill passed, than have it passed the way it is now.

Mr. RADEMACHER. The language, Mr. Chairman, in response to Congressman Hamilton, would be to just have a stipulation that whatever you are doing is in accordance with existing ratio laws. Because certainly these people ought to be protected, but so should the system.

Mr. HENDERSON. We were going under the assumption that that would be the case, and that the Postmaster General who is carrying out the law is complying with it. But when it is brought to our attention that it is not being complied with, we certainly want to look into that situation.

I think that is what disturbs us here. If they were within the quota, would you have any objection to the bill as such?

Mr. KEATING. That is our biggest objection, the quota thing. That is our major objection.

Mr. HENDERSON. That is something that we didn't envision or didn't know about.

Mr. KEATING. Frankly, I have read several bills on this and there is a tendency in one of them to make this conversion a permanent situation.

We deplore any such provision wherein a man could go in as a temporary and work for a while and then be converted to a classified status solely on the basis of working. We think that the standard has to be maintained by having examinations that get qualified people.

Mr. HENDERSON. Certainly the back-door approach would be deplorable to all of us.

Mr. KEATING. The back-door approach we are very much opposed to.

Mr. HENDERSON. Do you think that a large number of temporaries such as you speak of in certain offices are being used as a back-door approach?

Mr. KEATING. Well, that has been avoided up until now, because of the fact that they require them to be within reach on the register before they could be appointed. A noncompetitive examination would provide sort of a back-door approach.

It would enable somebody who got a mark of 65 on the examination plus 5 points to be employed above somebody who had a grade of 95. I think that ought to be guarded against.

Mr. HENDERSON. It seems to me that there is a clear violation of what we all envision temporary appointments to be used for, that is, as temporary appointments to carry out a temporary workload.

The most drastic example in the Government is the Christmas season for the postal service. I don't think anybody would want to argue today that you wouldn't use temporaries for that period of time. On the other hand, when you put them on under the guise of temporaries in July and keep them on there for 5 years, I think you have made the point that the appointment in the first instance, or some time, a reasonable time thereafter, should have been made as a career appointment.

Mr. KEATING. We don't object either to the use of temporaries in the summer to help take care of vacations on a limited basis. And at the Christmas season, of course, you have to use extra people. We don't object to that type of thing. But the idea of keeping people on permanently—and a lot of time it is just because they want to keep an individual on permanently.

Mr. GROSS. Apparently Christmas came early to Chicago last year.

Mr. BRASCO. Mr. Chairman.

Mr. HENDERSON. Mr. Brasco.

Mr. BRASCO. I am wondering if you could answer this question. This is something that has always disturbed me. I have seen on many occasions that a list would be published after an examination, and a number of people have their placement on the list. And before they are appointed from that particular list another examination is given and another list comes out and the prior one expires. What is the rationale for that?

Mr. KEATING. Well, they have had no exact formula that they follow. They have extended examinations and used them for several years. And the purpose of calling for the new examination is that there are not too many people available—they may call 10 or 20 people, depending on the size of the city, and none of them will be appointed.

Mr. BRASCO. But on the contrary, if there are people that are on the list and are just waiting to be called and begging to be called, and their biggest problem in life, which adds to the tranquilizer business, is that the list is going to be superseded by the next list, which means that they have to start all over again from scratch, it doesn't make sense.

Mr. KEATING. It is left to administrative decisions, there is no exact formula.

Mr. BRASCO. Would you think that once a list that comes out with people on it they should be appointed from that list?

Mr. KEATING. They used to have a 1-year rule, and then a 2-year rule. For a while, of course, they had an unlimited rule. Now, they are having examinations more often. But there is another factor that comes up. And we have a different type of operation. A man takes an examination, and he is working. And they announce another examination, on some occasions they will take the people that have been successful in the first examination and keep them on the register even after the second examination is being held. And others, they just do away with the original register and start with the new ones.

Mr. BRASCO. That is what I mean. This is a great area of confusion.

Mr. KEATING. It creates a lot of confusion. I think they ought to have a consistent rule.

I have a complaint—I have taken it up with the Civil Service Commission—of a fellow that had taken the examination, and he was on the register. And they announced another examination, and he asked his supervisor if he had to take it and he said, "No, you don't have to take it, you are on the register already." Then after they had the examination, he was told that he was no longer on the register because he didn't take the examination. Now, of course, that is most unfair to the individual, and that practice is certainly improper in my opinion.

Mr. BRASCO. So that you would agree that once a list comes out that those people who are on the list and who want work should—

Mr. KEATING. As long as they are available.

Mr. BRASCO. As long as they are available.

Mr. HENDERSON. If the gentleman would yield to me—the purpose of reopening an examination, even though you have a register—if you are going to take the position that once you establish a register you are going to go to the bottom of that register and get people who only scored 70 or 75—do you mean you are going to take the position that you are not going to reopen it and let people that score 90 or 95 come in? We don't want to close the Government to the most competent people, do we?

Mr. KEATING. No; but I think they ought to have a certain period.

Mr. HENDERSON. The rule of reason should apply here.

Mr. KEATING. It was always a policy that when they started getting down to the lower grade they would close down the list. They have not always been able to do this in this period of difficult employment. This is where a lot of trouble develops.

Mr. BRASCO. I have situations where people come to me that are No. 3 and No. 4 on the list, and it is expiring. That is something that is unfair in my opinion.

Mr. KEATING. In some places they have examinations every week, and in some places they have them where you can go in and take them any time. Then your register gets awfully confused, because there are people coming on all the time.

Mr. HENDERSON. It is the responsibility of the Civil Service Commission to determine whether or not there is a sufficient register with available and qualified people on it to meet the needs.

Mr. KEATING. They have given the Post Office Department substantial authority in making that decision.

Mr. HENDERSON. Within the postal service.

Mr. KEATING. Because of the difficulty of conducting examinations; and the Post Office Department holds the examinations for post office employees.

Mr. HENDERSON. I agree with the gentleman from New York that there certainly has been some hanky-panky in this area, but I don't think we ought to say that we have to exhaust the register before we hold more examinations.

Mr. KEATING. I agree with you 100 percent on that.

Mr. BRASCO. Obviously there should be some kind of medium ground, because the complaints that I have had have been fast and furious. In one instance the Civil Service Commission approved—and I am not going to go into that again specifically—an individual for a job in New York, who had never completed one moment of postal service, over a man who has 20 or 27 years of postal employment. That leads me to believe that they are doing a totally inadequate job in terms of what they should be doing, namely, passing upon the qualifications of people and setting up qualifications which are adequate.

Mr. GROSS. In other words, we can't always legislate to provide good administration.

Mr. HENDERSON. Any other questions of the gentleman?

Thank you, very much. We will look forward to working with you to work out these problems before we pass on the legislation.

Mr. KEATING. Thank you, Mr. Chairman.

Mr. RADEMACHER. Thank you, Mr. Chairman.

Mr. HENDERSON. Thank you for coming. It is always nice to have you.

Our next witness is Mr. Pat Nilan, national legislative director of the United Federation of Postal Clerks, AFL-CIO.

Mr. Nilan, it is always good to have you.

STATEMENT OF PATRICK J. NILAN, NATIONAL LEGISLATIVE DIRECTOR, UNITED FEDERATION OF POSTAL CLERKS, AFL-CIO

Mr. NILAN. Thank you very much, Mr. Chairman.

I would like to say at the outset, as to the statements made by my colleagues, Mr. Keating and Mr. Rademacher, that generally our organization agrees with them, we have very little difference of opinion except we are opposed to any increase in the ratio of substitute employees to regulars.

May I proceed with my statement, Mr. Chairman?

Mr. HENDERSON. Certainly. If you would prefer to have it printed and just talk extemporaneously, you may do so. You may proceed any way you would like.

Mr. NILAN. I would like to go into it, because I think some of the material I have in the statement would help answer some of the questions that have been raised.

Mr. HENDERSON. Go right ahead.

Mr. NILAN. For the record, I am Patrick J. Nilan, national legislative director of the United Federation of Postal Clerks, AFL-CIO. I am very pleased to appear before this subcommittee in regard to the pending legislation, H.R. 8495.

Mr. Chairman, I speak in behalf of the Nation's 319,000 postal clerks whom we represent as the exclusive national union in labor management relations with the Post Office Department. Our membership is exclusively in the postal clerk craft and is employed in post offices in the 50 States, the District of Columbia, Puerto Rico, Virgin Islands, and Guam.

I would like to comment on a couple of points before I proceed with the statement.

If I understand correctly the question on temporary employees in the postal service and I have reviewed existing law in this regard myself, because our organization is very much concerned with temporaries, and as far as I can tell, there is no existing law which in any way restricts the number of temporary employees in the postal service.

Existing law presently provides that not more than one career substitute employee may be employed for every five career regular employees. But there is no existing law that I know of which states that the Postmaster General may not hire temporary employees regardless of the number or any ratio limitation. I do believe that the Civil Service Commission does have some control over this with the Post Office Department. But in my opinion the Postmaster General has not violated any law, although he may have certainly violated the intent of the substitute law. But the fact that the Department has hired excessive, hundreds and thousands of temporaries under present law, is not any violation of law as far as we know. As a matter of fact, we made a strong point of this in 1965 when we testified before the House Subcommittee on Compensation. We pointed out at that time the unfortunate temporary employee situation in the postal service. The House committee, in preparing the report that accompanied the legislation that eventually became Public Law 89-301, did have a very strong statement opposing the present Department employment practices of temporary employees.

So I do suggest for the committee, that while there may not have been any violation of law we would be very interested in restricting the Department from hiring temporaries.

The United Federation of Postal Clerks generally agrees with the purposes of the pending legislation, H.R. 8495, as introduced by the distinguished chairman of this subcommittee, Representative David N. Henderson. Our organization has given considerable thought to this legislation, as well as similar legislation in the U.S. Senate, namely S. 1320. I mentioned that we generally support the intent and provisions of H.R. 8495, but we do have a number of suggestions to be

considered by this subcommittee as amendments to the pending legislation.

Unfortunately, we have not been able to secure any figures or data from the Post Office Department concerning the number of TAPER employees or other temporary employees that, potentially, could be converted to career status under the proposed legislation. We do feel this information is important, not only to us but to the committee, in considering the impact of this legislation, if enacted into law, upon both the postal service and the postal employees.

For example, at the present time, we have a considerable number of mobile clerks, that is post office clerks who work on trains and highway post offices, that are in the process of being surplussed into post offices of all sizes throughout the country because of the continuing elimination of railway mail service on trains and highway post offices.

As a matter of fact, we have every reason to believe that up to 2,000 of these dedicated career railway mail clerks, both regulars and substitutes, will be surplussed from their mobile units and reassigned into post offices within the next 6 to 8 months. It could very well be that 700 to 800 of these railway mail clerks will be reassigned into post offices within the next 90 days. As a result, we have deep concern that the enactment of any legislation which would automatically convert temporary employees to a career status and allocate a career position into post offices may very well eliminate the possibility of many of these career regular mail clerks being assigned to post offices within their general home geographical area. I am sure, Mr. Chairman, that you and the subcommittee can well understand our concern in this regard.

Mr. HENDERSON. Mr. Nilan, may I interrupt you just at that point?

I will say for the record that Mr. Gross had to leave to go to another committee meeting, but he expressed to me his deep concern over your statement here. And, certainly in some areas of the country—I know in North Carolina—we have already had this problem that you mention. And in Iowa, Mr. Gross says that this is a problem they have out there with the reduction in train service. Your point is well made. We will do our best to take this into consideration.

Mr. NILAN. Thank you, Mr. Chairman.

We also have an interest in the conversion of TAPER and other temporary employees in the postal service, because of a sharp reduction in hours of employment for many of our career substitutes in certain post offices throughout the country as a result of the Department's program of mechanization and presort mail.

In other words, Mr. Chairman, what I am trying to point out is, that at this particular period in the postal service, we are experiencing an era of ever-changing programs, policies, and mail operations which make it difficult to predict the necessity to reassign career regular and substitute employees, both from mobile units and post offices, to other post offices in order to permit these employees to maintain a job and earn a living for their families.

As we understand H. R. 8495, it would permit TAPER and other temporary employees to acquire competitive career status, regardless of any vacancies existing within a post office, and regardless of the ex-

isting one substitute to five regular employee complement quota which exists under present law.

And I might say at this point, Mr. Chairman, that we certainly do not agree with our colleagues from the letter carriers, in any amendment to law which would increase the number of career substitute employees from the present 1 to 5 ratio to a 1 to 4 ratio because of the conditions that we are equally concerned about. Instead we would recommend the substitute to regulars ratio be reduced to 1 to 6 or 1 to 7.

This opportunity for conversion to a career appointment would, of course, be predicated upon such temporary employees having worked, at least 700 hours in each of at least 3 years, without a break in service of more than 30 days.

We have no objections to such a program as it affects Federal employees other than those in the postal service. However, we do feel that the postal service has different employment practices, different needs, and certainly different and varying types of installations, that is, post offices where such employees could be almost automatically converted to career status in lieu of any quota restriction or vacancies existing within such post offices.

We noted yesterday, Mr. Chairman, in listening to Mr. John W. Macy, Jr., Chairman of the Civil Service Commission, when he testified before this distinguished subcommittee that he indicated that the subcommittee should take special care in considering the effects the proposed conversion policies as affecting the postal service, and as outlined in the legislation, particularly the 5 to 1 ratio of regular employees to substitutes.

We regret that Mr. Macy, apparently without thoroughly understanding the problems which this legislation, as presently constituted, would impose on the postal service, recommended that postal temporaries should be automatically converted, similar to Federal employees, on the basis of taking care of the total problem by requesting the Congress to, "Let's clean up the whole situation now and for good."

Apparently Mr. Macy is not conversant with the service needs of the postal service and the relationship to conversion of temporary employees. Mr. Macy cannot be concerned with the very real possibilities of adversely affecting both career regular and substitute postal clerks as well as other postal employees if such automatic conversions are permitted.

If I may at this point deviate from the prepared statement, Mr. Chairman, at the present time temporary substitutes in post offices throughout the country are usually employed only when the career substitute is either already working or is getting in up to 40 hours a week. The Post Office Department has agreed to this in our national contract. We believe it is a solid policy, and we wholeheartedly concur in it. However, if this temporary would be converted into an office, say, where there is one career substitute already—let's assume that there is only 40 hours of work or 35 hours of work for the career substitute, once that temporary would automatically be converted into career status, then he or she should be entitled to have the work hours split. The postmaster would then be required to split up the 35 hours between the two substitutes, and neither one of them would be able to make a living wage. This is one of our basic concerns in any automatic conversion program.

We would agree, Mr. Chairman, that in the larger post offices where temporary employees meet the qualifications as outlined and are converted to permanent status, that there would be comparatively few problems involved. However, this would not necessarily be true in the smaller first-class, second-class, and third-class post offices where even now many career substitute employees are having difficulty being employed for 40 hours a week necessary to provide a living for the employee's family. Mr. Chairman, we suggest that the pending legislation, H.R. 8495 be amended, insofar as the postal service is concerned, to provide that temporary employees generally be permitted conversion in the postal service, consistent with the last Executive order, 11187, promulgated by President Lyndon B. Johnson on October 24, 1964. I am attaching a copy of this Executive order for the information of the subcommittee.

You will note under paragraph (3), subsection (b), that Executive Order 11187 provided—

The conversion of the appointment of a substitute employee shall be effected only as career substitute vacancies are available, under 39 U.S.C. 3302, in the postal field service.

We also suggest, Mr. Chairman, that language be written into the final draft of this legislation providing that the Postmaster General, prior to converting any temporary employees in post offices to career positions, shall first give consideration to the possible need for reassigning surplus career regular and substitute postal clerks from the mobile service and post offices to other post offices for the reasons which we outlined earlier in our testimony.

I suggest the language in the legislation, but perhaps the report of the committee accompanying the legislation could spell this out, because I know it would be difficult to put a section in the law which would cover this type of congressional intent.

We also notice, Mr. Chairman, that H.R. 8495 would provide that an employee, to be eligible for conversion, would be permitted a break in service up to 30 days, and still be eligible for conversion under the other provisions of the legislation. While the 30-day break in service is perhaps desirable, as for the Federal service generally, it would appear that the 3-day break in service, as proposed in other similar legislation which has been introduced in the 90th Congress would be more appropriate for the postal service. We offer this suggestion because we have witnessed, in recent years, the manipulation of employment of temporaries in many post offices throughout the country, as well as the many different types of temporary employees utilized in the postal service which, I might add, are almost too numerous to mention.

We do feel that a 3-day break in service would be adequate, as far as the postal service is concerned.

Our organization is on record as in complete opposition to any extension of the substitute employee position in the postal service. Existing law provides that not more than one substitute employee may be hired for each five regular employees. Actually, we believe even this quota is too liberal, but certainly we could not support any conversion of TAPER or other temporary employees to postal substitute career positions outside of the 1 to 5 quota.

If I may suggest in regard to this temporary employee situation, Mr. Chairman, it may be well for the subcommittee to consider placing

the number of temporary employees also under the existing substitute 1 to 5 quota in the postal service. I am confident that the Post Office Department would eliminate the temporary employee system practically overnight if such employees came under the general 1 to 5 quota system of career substitutes to regular employees.

We say this very sincerely, Mr. Chairman, in the best interests of the postal service, as well as our career employees, because it is our understanding that there is an estimated 100,000 temporary employees presently in the postal service. I was interested in Mr. Keating's remarks, because we have been unable to get any firm figure on the number of temporaries in the postal service. We have no way of knowing how many of these temporary employees potentially would be eligible for conversion. However, since this legislation proposes to convert temporaries as soon as they meet the qualifications outlined in the legislation, it would be entirely possible for a large majority of these present temporary employees to be converted to career status outside of the normal civil service competitive system in the years ahead.

In addition to this problem, as I mentioned previously, within the next 6 to 8 months we anticipate approximately 2,000 career railway mail clerks, both substitutes and regulars, and another 8,000 to 10,000 such career employees will lose their mail distribution jobs on the Nation's trains and in highway post offices and will be reassigned to stationary post offices.

Mr. Chairman, we have got the unfortunate word that a very definite possibility exists that within the next 2 to 3 to 4 years the entire railway mail service and highway postal service, as we understand it, which has provided such tremendous mail service to this country over many years, will practically become an extinct service operation. As a matter of fact, our people already refer to themselves in the railway mail service as the "Vanishing Americans."

This means, basically, that approximately 10,000 to 12,000 career regular and substitute mail clerks will have to be reassigned to other post offices throughout the country, and I certainly believe that this subcommittee and the Congress share our concern for this situation, and also believe that the dedicated career employee should be protected, be he a substitute or a regular employee.

Mr. Chairman, the postal service has its own type of probational period for employees, namely, 1 year. While we are confident this legislation does not intend to establish the 3-year, career-conditional type of appointment for employees in the postal service, we would hope that this legislation would not inadvertently establish the 3-year, career-conditional employee appointment in the postal service.

The 1-year probational employment period for a new employee in the postal service has protected both the employee and the postal service, and it is our recommendation that this policy continue. We also would oppose the recommendation by Civil Service Commission Chairman, John W. Macy, that this subcommittee amend H.R. 8495 to increase the required length of service as a temporary employee from 3 years to 4 years, before conversion to a career appointment becomes possible.

We support the basic provision of past Executive orders permitting a temporary with 3 years of continuous service and 700 hours of

employment in each year to be eligible for conversion, providing he meets the other basic criteria and a career vacancy exists in a post office.

Mr. Chairman, we will appreciate the consideration by yourself and the other members of this subcommittee of our suggestions for amending the pending legislation, H.R. 8495, in view of the thoughts we have expressed in this testimony. It is our understanding that the Post Office Department did not present testimony, or a statement to the Subcommittee on Civil Service of the Senate Post Office and Civil Service Committee when this committee considered similar legislation.

We do not know if the Post Office Department will offer to testify on this legislation or not. However, we do suggest that if the subcommittee recognizes the validity of our proposed amendments, as well as our concern over this legislation, that consideration will be given to inviting the Post Office Department to submit a statement or appear before this distinguished subcommittee in regard to the legislation, H.R. 8495.

(The Executive order referred to is as follows:)

THE WHITE HOUSE,
October 24, 1964.

EXECUTIVE ORDER NO. 11187

PERMITTING CERTAIN EMPLOYEES OF THE POSTAL FIELD SERVICE TO BE GIVEN CAREER APPOINTMENTS

By virtue of the authority vested in me by section 2 of the Civil Service Act (22 Stat. 403) and section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) and as President of the United States, it is hereby ordered as follows:

Section 1(a). Except as provided by section 3 hereof, any employee of the Postal Field Service who on the date of this order is serving in a position in the competitive service under an indefinite appointment or a temporary appointment may have his appointment converted to a career appointment: *Provided*, that such employee—

(1) shall be recommended for appointment to a career position by his appointing officer within one year after the date of this order;

(2) during each year of the three-year period ending on the date that conversion of his appointment is recommended, shall have been paid for at least 700 hours of satisfactory work in a position or positions in the Postal Service;

(3) shall have passed a qualifying examination for a position in the competitive service in which he served during such three-year period, or shall meet such noncompetitive standards as the Civil Service Commission shall prescribe with respect to the position held at the time of the agency recommendation for conversion of his appointment.

(b) The conversion of the appointment of a substitute employee shall be effected only as career substitute vacancies are available, under 39 U.S.C. 3302, in the Postal Field Service.

Section 2. Any person who left a competitive position to enter the armed forces of the United States who would meet the requirements of section 1 except for absence in the armed forces on the date of this order and who is re-employed in a competitive position in the Postal Field Service within 120 days after discharge from the armed forces under honorable conditions may have his appointment converted if he is recommended by his appointing officer within ninety days after his re-employment and qualifies in such examination as the Civil Service Commission may prescribe.

Section 3. This order shall not apply to postmasters or rural carriers.

Section 4. The Civil Service Commission may prescribe such regulations as may be necessary for carrying out the provisions of this order.

LYNDON B. JOHNSON.

Mr. NILAN. Before I continue, Mr. Chairman, since we are on the general question of part-time help in the postal service, specifically, temporaries, I would like to introduce into the record the position of our organization in opposition to a new type of part-time employee that the Post Office Department is now introducing in the Hartford, Conn., post office, and soon perhaps many other post offices throughout the country. That is, they are appointing what they call hourly rate regular employees. They are appointing them in Hartford, Conn., for example, on a 4-hour basis. Yet, they would be regular career employees and they would have the full status of other regular career employees.

We cannot believe that the Congress ever intended that the Department would establish such a position, as far as the postal clerk, letter carrier and mail handler crafts are concerned, because it has never been done before, as far as we know, in the history of the postal service and we do oppose it most vigorously. We urgently suggest that the subcommittee look into this new type of position that is being established by the Department, because as I say again, it simply extends the employment practice of additional part-time and/or temporary employees in a service which we believe should be serviced by career employees, be they regular or be they substitutes.

Thank you, Mr. Chairman, for this opportunity to present the views of our organization on this important legislation. If we can be of any further assistance to the subcommittee, certainly we would appreciate the opportunity to do so.

Mr. HENDERSON. Thank you, Mr. Nilan.

I believe I can say that I think it is the consensus of the members of the subcommittee that the representatives of the Post Office Department should be invited to testify on this legislation. I assure you that the recommendations you make will be seriously considered.

Let me ask, how well have the past Executive orders permitting this conversion of temporary employees worked in recent months?

Mr. NILAN. We felt that the Executive order has generally been an excellent vehicle to give recognition to the dedicated temporary employee who, through no fault of his own, has not been able to secure career status.

Mr. HENDERSON. How many have they converted under the Executive orders?

Mr. NILAN. I regret very much that I can't give you the figures on the latest Executive order which was No. 11187 in 1964. I have heard the figure mentioned and I could get it for you. However, I am sure the staff could get it from the Department. But it has worked satisfactorily, because they have only converted in post offices where career vacancies existed. It wasn't an automatic procedure, there had to be a career vacancy, and the temporary employee had to meet the qualifications for conversion.

Mr. HENDERSON. Let me ask this: Should we create career vacancies to accomplish this? Why should we not have the conversion made; because there is some temporary or arbitrary ceiling on the career vacancy?

Mr. NILAN. My position would be that I don't believe it would be in the best interests of the postal service as a whole. I think this be-

cause in the areas where generally you will find temporaries—we mention, for example, the larger cities where there is no real problem—but in smaller first-, second-, and third-class post offices there would be.

Mr. HENDERSON. There are 930 temporaries that have been working over 5 years in the Post Office Department.

Mr. NILAN. Those are the TAPER's, I believe.

Mr. HENDERSON. And these are the ones that this bill would intend to convert? There are 1,470 with over 3 years.

Mr. NILAN. We have no objection to it, except that most of these people you are talking about are in the smaller post offices, where they have not conducted a civil service examination or established a register for employment. Now, if there was a career substitute already in that office, as I mentioned in my testimony, who is having a tough time getting 25, 30, or 35 hours a week of employment, and you convert that TAPER, temporary employee, simply because he has had 3 years or 5 years or 6 years of service, and put him on the temporary career status, then the requirement is that he shall share the total hours with the other employees and all would starve.

Mr. HENDERSON. Why should you have a temporary in the office if you have a career substitute?

Mr. NILAN. Part-time work, relief work—often these people get no work except when the postmaster or a substitute clerk is on leave. Usually they will only call in the temporary employee to work 2 or 3 hours in the evening. It is spasmodic work, it is not a continuing, regular job. It is usually used primarily to replace work hours of the career force.

Mr. HENDERSON. Of course, under the bill it would require a recommendation of the supervisor. There is nothing compulsory about it, and it would be my understanding that if you had the situation that you are speaking of, then the supervisor would not recommend it. The bill does not automatically convert these TAPER's into career employees.

Mr. NILAN. Mr. Chairman, as I understand the bill—and I did go over it in some detail—if the individual, the temporary, met the criteria which are established in the bill for conversion, while I agree that there may be some discretionary authority about it, I question whether a postmaster would be in a position to deny conversion of the temporary employee.

Mr. HENDERSON. If you will look on page 2, there are one, two, three, four categories. He may have his appointment converted to a career appointment if—

(1) He has completed, without a break in service of more than 30 days, a total of continuous, part-time, or intermittent service aggregating at least 3 years in such a position;

(2) He requests the appointing authority for an opportunity to take a suitable noncompetitive examination;

(3) The appointing authority (A) recommends to the Civil Service Commission that the appointment be converted to a career appointment, and (B) certifies to the Commission that the work performance of the individual is at least equivalent to that of others who are serving at the same grade level with comparable responsibilities and who qualified through competitive examination; and

(4) He meets current Commission qualification requirements for the position, passes the noncompetitive examination, and is otherwise eligible for career appointment.

And I would assume that the appointing authority in the Post Office Department would be the Postmaster General. But I certainly hope he would exercise some discretion. And of course we will ask Post Office Department officials their reaction to these issues. I agree that there is a great concern, and likewise the subcommittee members are concerned about the point that you make on the conversion and reassignment of your mobile clerks in either highway or rail.

Mr. NILAN. I might also add, Mr. Chairman—I point out particularly the mobile people, because they are immediately concerned, but the way we see the new mail operation setup in the postal service, they have got what they call satellite post offices, and these are in the post offices on the fringe of a sectional center. The plan, as we understand it, is to pull the outgoing mail out of all these post offices in the surrounding area into the sectional center to work. If this happens, of course, then career regular clerks that normally would be distributing that mail in these offices will wake up some morning and find out that they no longer have any work to perform. So then you have the necessity of reassigning these people. Some of them potentially would be assigned 40 or 50 or up to several hundred miles from their own home.

Mr. HENDERSON. Is that outgoing mail or incoming mail, or both?

Mr. NILAN. Outgoing only. The incoming mail would still be distributed, but that would be perhaps up to 50 percent or varying percentages of the amount of distribution work in the office.

Mr. HENDERSON. This is perhaps off of our subject here, but what experience have you had in the necessity of the satellite offices working the mail for the sectional centers? In some instances the sectional centers haven't been able to carry the workload already assigned to them.

Mr. NILAN. Mr. Chairman, we have very definite opinions on that—the Department doesn't recognize them as valid—but exactly what you are saying we find true. And there is also the fact that that mail may have to leave the satellite office 40 or 50 miles or even much further away, and if it is worked in the outgoing section of that office it can be dropped off in the post offices between the satellite offices and the sectional center, depending on the time of the day or the time of the night of dispatch. The fact that mail can be dropped at intervening offices instead of going into the sectional center, being worked and back-hauled out again does, in our opinion at least, impose certain delays on the mail service. The system, overall, will improve service generally. Unfortunately, the smaller communities, the small second- and third-class post offices, will often get poorer service. Some are going to get better service, and some poorer—not all the best possible.

Mr. HENDERSON. I am not going to trespass on the subcommittee's time, but my experience in my own district is that if I don't have the sectional center I am surrounded by, I have got the tail end of all the routes. We have mail worked a hundred miles away from the originating office, only going 10 to 20 miles in distance. That has been quite a problem with us, but it has improved.

Mr. NILAN. May I just comment on one other point? I was very interested when you asked the question, and I believe Congressman

Brasco, on the question of the civil service examination and the reopening of examinations. We frankly, as interested organizations, want the very best possible type of employee to come in the postal service, be he carrier, clerk, mail handler, or whatever the classification is. Mr. Keating mentioned that the Civil Service Commission normally had a rule of 1 year for eligible appointment registers. This is true. And they did extend it to 2 years for the life of the civil service register. It used to be that the Post Office Department and the Commission would agree to initiate a new examination when potential employees on the list got below a certain score. For example, I believe in my own case I took the clerk-carrier examination in 1935. I waited until 1941 to get an appointment, and yet I had a 96.5 percent score. And this was the case for many years. But at that time the Post Office Department had a policy of never going below 95 percent. And as a result—not thinking of myself particularly—but as a result they were getting people that had the basic knowledge to become good, qualified employees.

Now, I think that the Department has a policy of reopening examinations, or some examinations on a continuing basis. First, in the larger cities it is difficult to recruit and difficult to get people to accept the jobs, even though they are on the register, because of the much higher competitive salaries being paid in private industry versus the postal service, and, secondly, they have recognized that when they have to accept employees off of registers that are in the seventies and even the low eighties in examination scores that as a general rule this does not provide an employee who has as good an aptitude for learning or as good an ability to adjust, as one who is in the high eighties or the nineties.

I agree, certainly there should be a general policy for the usual life of a civil service register. But I would hope that some day the postal service will get back to the point where high appointment scores must be used in the appointment of employees, particularly of clerks, whom I represent. Particularly, because the scheme knowledge that is required of a clerk today, and the ability to handle money, and the regulations are such that unless you have some basic knowledge and ability to comprehend the involved scheme distribution, regulations, and so forth, why the employee is lost. And this, of course, directly results in this tremendous turnover of postal clerks that is going on.

Mr. Murphy acknowledged that among the career substitute employees some 24 percent of the career substitutes every day of the week, and every week of the month, are constantly leaving the postal service during their early months of employment. In our opinion a great deal of this fault lies with the fact that they are selecting people who, once they are appointed, cannot pass or qualify on scheme examinations. They can't meet the requirements of their jobs after they have been appointed.

I would like to make this point, that we certainly concur with your thinking, and the thinking I am sure, of the subcommittee, that we do want the very best possible type of employee in the postal service.

Mr. HENDERSON. Mr. Broyhill.

Mr. BROYHILL. Thank you, Mr. Chairman.

I am certainly glad that I had the opportunity to hear this testimony. I was tied up in another committee.

I, too, have been concerned over what is going to happen to these career employees who are working in the mobile post offices, the trains, and the highway post offices.

Now, you represent most of these people whose jobs are being affected?

Mr. NILAN. We represent them all.

Mr. BROYHILL. If they lose their jobs, what rights do they have for employment in a post office?

Mr. NILAN. If they are surplused, if a railway mail train is discontinued, which is happening right now. The chairman mentioned Iowa, where Congressman Gross is very much concerned about the situation. There was a meeting just 10 days ago where some 127 of our regular substitute mobile people are going to lose their distribution jobs on trains. The Post Office Department will advise these employees of the post offices where there are existing vacancies for reassignment. And this is why we are concerned; namely, existing vacancies. These employees have the right to request assignment to that office where a vacancy exists.

Mr. BROYHILL. Do they go to that post office with their present seniority, or at the bottom of the list?

Mr. NILAN. They go in with their seniority. That is part of our national agreement that we have written in with the Post Office Department. The rule is that a surplused employee comes into the post office with his complete seniority. He has salary protection for 2 years. Congress acted on this several years ago, to protect our people. After 2 years he suffers a loss in pay of approximately \$500 a year, directly as a result of this. They are protected where other jobs are available.

The big problem is in the more rural States like Iowa, the Dakotas, Nebraska, Wyoming, and the Western States. These are the areas in which the mobile employee has his home. In those States most of the time the Post Office Department cannot provide him with a job in his home post office. He is faced with the question of moving to Salt Lake City or to Denver or very extended mileage, in order to get new employment.

Mr. BROYHILL. You are saying that if this legislation is passed that the surplused employees will have a more difficult time in being located?

Mr. NILAN. We say the way it is written, which provides for automatic conversions of temporaries to career substitute positions without an existing vacancy. If this happens it is going to sharply reduce the number of offices that these mobile people can expect to transfer into, because there will probably already be too much help in some of these offices because of temporary employee conversions.

And, secondly, if there had been a vacancy, this temporary that is converted would already have the permanent career position, and once they have that you can't displace them.

Mr. HENDERSON. Isn't it true that these mobile employees have a home base, an office to which they are assigned?

Mr. NILAN. A head-out, they call it.

Mr. HENDERSON. And they have seniority in that office?

Mr. NILAN. No; they are on the railroad.

Mr. BROYHILL. I was called the other day by one of these people. He was living in the Charlotte, N.C., area. He indicates that now

Washington—because of certain changes that have been made in his employment situation in the last year—is his home base, and that he is being surplused, and as a result he can only find employment in the Washington area, and he does not have an opportunity for employment in North Carolina.

Mr. NILAN. That is correct. If there are no positions or vacancies available to him in that area, of course he has to go to the next large head-out office. His former head-out was probably Charlotte. We have had rail clerks for many years, because of the arbitrary reduction of mail clerks that have had to deadhead. In my home city of Minneapolis they would have to travel all the way to LaCrosse or Madison, 200 or 300 miles to get their trains to go out on a particular run. And they have done this in order to retain their jobs in the railway mail service. But now, because of the sharp and continuing reduction—I mean, this is happening so fast, it is fantastic the way they are taking off railway mail trains, there are no other mobile jobs available to transfer to. For example, on a Monday the Post Office Department will call over our labor-management team that works with this problem, and they will tell them: Well, this is the 5th of April; the 18th of April trains 57 and 58—just using that as an example—are going off. Within 10 to 12 days these employees who have been employed in this railway post office for maybe 15 or 20 years suddenly, with 10 or 12 days' notice, no longer have jobs.

Of course, you anticipate that some of these things are going to happen, because we have found that as soon as the Post Office Department sends out a survey team to survey a run, a railway mail run, 99.99 percent of the time that is the beginning of the end. It is just a matter of time. Because, in our opinion, when they go out to survey a run, they are not always concerned with the efficiency of the service, they are out there to find out how can they eliminate that train mail service, how quickly, and what adjustment is necessary to do it. In other words, there is a predetermined decision that the railway mail service is going out fast. This has been done in the last 2 or 3 years, in our opinion, and the top-level decision was made independently of the Congress, to the best of our knowledge. And this is it. That is the way it goes.

Mr. HENDERSON. Mr. Nilan, let me pose another case to you. I may not be exactly accurate in my example; but Mr. Broyhill mentioned Charlotte, N.C. The case was brought to my attention a few days ago where one of the railway clerks had left the Charlotte office, which had been his main base or was his head-out for a while. I was informed that he chose to take a run out of Washington, D.C., and even deadheaded out there for a short time in order to get a favorable run, one that paid him well, and was work that he wanted to do, and it was where he wanted to work. This was his choice. The complaint that came to me from the clerk was that after the train was taken off he came back to his old post office and pulled his seniority, and they didn't think this was quite fair.

Applying that situation to this bill, let's suppose that this particular employee had been a short-term employee, relatively speaking, and he bumped some temporary that had been working on it for more than 5 or 6 years. You can build inequities in all sorts of situations.

So we want to be careful as we go into this. I think our basic problem is the use of so many temporaries in the postal service when

they obviously are not the temporary-type employees. They are putting them in slots which ought to be career appointments.

Mr. NILAN. Let me just submit this for the record, if I may, Mr. Chairman. You may be interested in it. And I brought it along without knowing that it might be of interest to you. I have got enough copies for the three subcommittee members and also the record.

This is based on the Department's figures of July 1, 1966, that we worked up from sources of information that I would prefer not to comment on at the present time; but these figures are accurate.

Mr. HENDERSON. Let me ask you this. Would you like it to be printed in the record?

Mr. NILAN. I will leave it up to the discretion of the subcommittee. It is for your information, and actually these are offices where the temporary employees exceed the career substitute employees. In other words, there are more temporaries in the office than there are career substitutes. Now, that is not true, to start off with, in New York and Chicago. But this gives you the relationship of the number of temporary substitute clerks as against career substitute clerks. But all of these various offices—you might even find some in your home State, I don't know—but these are offices where the temporary substitutes. I will say this, when we finally got to Postmaster General O'Brien with our criticisms in the last 6 months of the extensive unneeded number of temporary employees there has been developed a program of reducing temporary employees.

Those are the hard fact situations. When you have got, for example, people on the civil service register wanting career appointments, and they come into an office—and picking out Alhambra, Calif., for one, there are 49 temporary substitutes in that office, and yet there are only 29 regular substitutes. A man that wants a job—again not knowing the labor market in Alhambra—a man that wants a job, and he sees these temporary workers, and he can't get a job on a permanent basis, it does cause distrust and hard feelings. And when they get around to asking that man he might say, "6 months ago I would have taken it, but the way you operate, I don't want it now."

Mr. HENDERSON. Would you say that most of those are caused by the sectional center concept?

Mr. NILAN. I couldn't even make an educated guess on that, Mr. Chairman.

Mr. HENDERSON. The only reason I asked that question is, I notice that Raleigh, N.C., has 88 temporary subclerks as compared to 44 career subclerks. I know of no explanation for this, but if I were going to guess, it would be because of the establishment of a sectional center there when rail service in the State broke down. I know that that sectional center was one that was given additional help, but fast, at the insistence of the North Carolina congressional delegation.

Mr. NILAN. I am confident of that. As I mentioned, this record is as of July 1 of last year.

Mr. HENDERSON. My colleague points out that Hickory, N.C. has 16 tempos as compared to 10 career, and that is a sectional center.

Mr. NILAN. There is this problem, too. I know in the sectional centers out in my own area in Minneapolis and the Midwest, which I am

more familiar with, we have had considerable problems getting the Department to establish career positions in view of the temporaries that they originally hired to man these sectional centers under the changeover. And of course the reasons they kept telling us, were because of budgetary restrictions. You know, on one hand the Department will say that they can't get the money for these positions, but then when the money is authorized, instead of using them for career positions, we find them hiring excessive temporaries. It is a vicious circle as far as we are concerned.

Mr. HENDERSON. Mr. Wilson.

Mr. WILSON. How do they determine what union they belong to, Pat, whether they are members of the Brotherhood or members of the Postal Clerks?

Mr. NILAN. All of the railway mail clerks; that is, the railway mail clerks and highway post office clerks, we are the exclusive bargaining representative for them. We have the exclusive bargaining representation recognition. I mentioned that there were about 12,000 mobile people. I believe our latest figures show that we have close to 10,500 as members of the organization. So they don't belong to the Railroad Brotherhood, most of them are members of our organization.

Mr. WILSON. Which ones would be Brotherhood members? I guess, Railway Express?

Mr. NILAN. Non-Federal employees. We represent all the postal employees that are in the clerk craft. We don't cross craft lines. We have enough problems trying to represent our postal clerks without getting involved in others.

Mr. HENDERSON. Thank you very much, Mr. Nilan.

Mr. NILAN. Mr. Chairman, thank you and the other members for your interest in our problems.

Mr. HENDERSON. Our last witness is Mr. Alan J. Whitney, executive vice president of the National Association of Government Employees.

Mr. Whitney, it is good to have you before the subcommittee.

**STATEMENT BY ALAN J. WHITNEY, EXECUTIVE VICE PRESIDENT,
NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES**

Mr. WHITNEY. Mr. Chairman, it is a pleasure to be here.

Mr. HENDERSON. Mr. Whitney, will you give us some background?

Mr. WHITNEY. I have been with the National Association of Government Employees about 2 months, sir, and the previous 1½ years I was associate editor of the Federal Times.

Mr. HENDERSON. And you are here in the city of Washington on a permanent basis?

Mr. WHITNEY. I am the Washington representative of our organization.

Mr. HENDERSON. Very fine.

Mr. WILSON. Could we have a little more information about the organization as a whole?

Mr. HENDERSON. I think it would be interesting if you would tell us a little more about the organization.

Mr. WHITNEY. Keeping in mind the fact that I have been on the job just about 2 months now, let me say this. It is the largest of the independent unions in the Federal service. And up until practically 2

years ago we were considered predominantly an east coast organization. However, in the past year and a half we have been branching out, until we now are full-fledged national organization, with very strong membership in such agencies as the Navy Department, the Federal Aviation Agency, the Army, and Air Force.

Mr. HENDERSON. Mr. Whitney, you were with the Federal Times, you said. Is your career in journalism or public relations, or what general field?

Mr. WHITNEY. My experience has been 8 years as a Navy information specialist, and then followed by a brief period of about 6 months as a reporter for Navy Times. Then subsequent to that, I reported for the Federal Times, where I worked for 2½ years.

Mr. WILSON. We will have an opportunity some other time, Mr. Chairman, when there is more time, and when these gentlemen have more time, to get better acquainted with them.

I have had several instances brought to my attention of rather questionable practices used by your organization in some of the elections for jurisdiction. I think it is something that should be of interest to our subcommittee. But in all fairness to you, Mr. Whitney, you have only been with the group for 2 months, and so you may not be aware of much of this.

Mr. WHITNEY. Well, I am aware of certain instances in which we have seen charges of unfair labor practices brought after an election had been concluded, by certain competitors. Without naming any specifically, I will note that one of our major competitors is making this a common practice, after having lost an election, just simply as a matter of course, to file charges.

Mr. WILSON. And you have been using some retired Air Force Reserve lieutenant colonel, who now is on your payroll, and was using the Defense Department seal while he was on your payroll—

Mr. WHITNEY. No, sir; he was not using the Defense Department seal.

Mr. WILSON. There was an inference that it was being used.

Mr. WHITNEY. The charge was made.

Mr. WILSON. That that misrepresentation was being practiced, but again, that is something that we should get into at a later time.

Mr. HENDERSON. Let me ask you this: How many Federal employees do you have in your membership?

Mr. WHITNEY. I was told last week by our national president, Ken Lyons, that in the past 6 months we broke the 100,000-member mark.

Mr. HENDERSON. Thank you. Go right ahead, Mr. Whitney.

Mr. WHITNEY. My comments will be brief. However, I would like to preface them by saying that having sat here and listened to the prior testimony, it seems to me quite obvious that the Post Office Department has problems unique to itself, and therefore as to the bill itself, we will defer to them.

Mr. WILSON. You do not have any postal employees in your organization?

Mr. WHITNEY. They are scattered through it; none of them are organized into locals.

First, the National Association of Government Employees wholeheartedly supports this bill. It will, we believe, answer a long-standing

need and afford a much-needed cure to what we consider one of the Government's more blatant inequities as an employer.

We have only one change to H.R. 8495 to recommend, dealing with the wording of the proposed amendment to section 3304(a), subsection 3, of title 5, of the United States Code.

This provision would permit an employee's conversion providing he otherwise qualifies, when "the appointing authority (a) recommends to the Civil Service Commission that the appointment be converted to a career appointment."

This provision's wording, we submit, is too broad and too subject to misuse by an activity in perpetrating an unjustified dismissal of a qualified and competent worker. An employee could, through lack of positive action by his agency, be dismissed outright for reasons entirely unrelated to his work performance. The activity would not be held accountable and the individual would have no recourse.

While we have been assured by the Civil Service Commission that it could, through its regulatory authority in this area, require an agency to explain why it does not recommend an employee for retention and conversion to career status, the Commission would have no authority to correct an example of unjustified dismissal. In short, it could listen to the agency's explanation, but if it felt the agency had erred, it could do nothing to right the wrong.

We suggest, Mr. Chairman, that this subcommittee, in consonance with the general thrust of this bill, incorporate such wording in the quoted subsection as to hold agencies accountable for their actions in situations where they do not recommend a temporary employee for conversion to career status.

In short, an agency should not have the authority to arbitrarily and without justified reason force the dismissal of an employee by failing to recommend him for conversion after 3 years of satisfactory work.

That concludes my statement, Mr. Chairman. I would be happy to attempt to answer any questions you or other subcommittee members may have on it.

Mr. HENDERSON. Do you want to comment on the question that was raised yesterday with regard to section (b) following the section (a) that you quoted from?

It now provides for certification that the work performance of the individual is at least equivalent to that of others who are serving at the same basic salary level with comparable responsibilities and who qualified through competitive examination.

Do you have any comment on changing that language to read that the employee has had a satisfactory rating for a 12-month period?

Mr. WHITNEY. In using that previous work performance as certification?

Mr. HENDERSON. Yes.

Mr. WHITNEY. I think that would probably be the best simple answer to the problem; yes, sir. As Mr. Macy noted before this body yesterday—

Mr. HENDERSON. With that recommendation and your general recommendation here, I think the effect would be that all the employees who have performed regular service for 3 years satisfactorily within the last 12 months would automatically be converted. I think that cer-

tainly this was envisioned by the author of the bill, except in exceptional cases, so I think your point is well made.

Mr. WHITNEY. We find that in analogous situations—and this has happened time and time again—insofar as the probationary period applies to employees who are hired, the Civil Service Commission tells us and also the agencies, that this probationary period is supposed to be used as an extension of the examining process. In other words, during this 1-year period the employee's capability and potentialities and so on are still being evaluated. If he is to be dismissed during this probationary period, it is supposed to be for reasons related to his work. However, agencies are in a position now where they simply let the man go, and if asked they can say, "Well, we just didn't feel he had the potential, and so forth." There is nothing specific to which the employee can respond. In other words, it is simply an arbitrary, outright dismissal, and the employee has no recourse. That is what we are concerned with.

Mr. HENDERSON. Any questions, Mr. Wilson?

Mr. WILSON. No questions.

Mr. HENDERSON. Mr. Whitney, we thank you for your presentation. It will be very helpful to us. I am sure it will have the full consideration of the subcommittee.

I will adjourn this subcommittee subject to the call of the Chair, if there is no objection.

(Whereupon, at 12:10 p.m. the subcommittee adjourned, subject to the call of the Chair.)





