MISCELLANEOUS BILLS

HEARING

BEFORE THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

NINETIETH CONGRESS

SECOND SESSION

ON

H.R. 5783

TO PROVIDE FOR CONFINEMENT AND TREATMENT OF OFFENDERS AGAINST THE UNIFORM CODE OF MILITARY JUSTICE

H.R. 10573

TO PROVIDE AUTHORITY TO INCREASE THE EFFECTIVENESS OF THE "TRUTH IN NEGOTIATIONS ACT"

H.R. 13050

TO AUTHORIZE AN INCREASE IN THE NUMBERS OF OFFICERS OF THE NAVY DESIGNATED FOR ENGINEERING DUTY, AERONAUTICAL ENGINEERING DUTY, AND SPECIAL DUTY

H.R. 13593

TO INCREASE THE NUMBER OF CONGRESSIONAL ALTERNATES AUTHORIZED TO BE NOMINATED FOR EACH VACANCY AT THE MILITARY, NAVAL, AND AIR FORCE ACADEMIES

H.R. 15789

TO AUTHORIZE CERTAIN CONTRACTS FOR SERVICES AND RELATED SUPPLIES TO EXTEND BEYOND ONE YEAR

JUNE 20, 1968

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MISCELLANEOUS BILLS

THURSDAY, JUNE 20, 1968

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

The Committee met, pursuant to notice, at 10:30 a.m., in room 212, Old Senate Office Building.

Present: Senators Stennis (presiding), Cannon, Young of Ohio, Inouye, McIntyre, Byrd, Jr., of Virginia, Miller, and Dominick.

Also present: William H. Darden, chief of staff; T. Edward Braswell, professional staff member; Charles B. Kirbow, chief clerk; H. S. Atkinson, assistant chief clerk.

Senator STENNIS. The committee will come to order.

We have on the agenda today several bills. I will call the first one.

Chairman Russell has other matters this morning that he is attending to, and he has asked me to proceed with the agenda that was scheduled for today.

H.R. 13593

This is an open hearing. The first bill is H.R. 13593, to increase from five to nine the number of alternates each Member of Congress is entitled to nominate for vacancies in the military academies. The stated purpose of this bill is to provide a larger number of fully qualified candidates to fill a class at the academies.

This bill is a legislative proposal of the Department of Defense and the Department of the Air Force has the responsibility for acting on behalf of the Department of Defense on the bill.

(H.R. 13593 referred to follows:)

[H.R. 13593, 90th Cong., second sess.]

AN ACT To amend title 10, United States Code, to increase the number of congressional alternates authorized to be nominated for each vacancy at the Military, Naval, and Air Force Academies

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 4342(a) (last sentence), 6954(a) (last sentence), 6956(a), and 9342(a) (last sentence) of title 10, United States Code, are each amended by striking out "five" and inserting in place thereof "nine".

Passed the House of Representatives May 6, 1968.

Attest:

W. PAT JENNINGS, *Clerk.*

Senator STENNIS. The witness on this bill is Col. William R. Jarrell, Jr., registrar, U.S. Air Force Academy.

Representatives of the Military and Naval Academies are also present for any questions.

Colonel Jarrell, am I correct, then, in saying that you represent the Department of Defense in this matter?

STATEMENTS OF COL. WILLIAM R. JARRELL, JR., USAF, REGISTRAR, U.S. AIR FORCE ACADEMY; RISDON J. WESTEN, DIRECTOR OF EVALUATION, OFFICE OF THE CADET REGISTRAR, U.S. AIR FORCE ACADEMY; DONALD A. SMITH, COMMANDER, USN, HEAD, NAVAL ACADEMY MIDSHIPMEN BRANCH; AND JOHN I. WOODRUFF, ACTING DIRECTOR OF ADMISSIONS AND REGISTRAR, U.S. MILITARY ACADEMY

Colonel JARRELL. That is correct.

Senator STENNIS. You are now the registrar at the U.S. Air Force Academy.

Colonel JARRELL. Yes, sir.

Senator STENNIS. That is a very important assignment. We are glad to have you here today.

Senator Smith, who has a special interest in this bill, asks that it be put on the agenda today. Senator Smith is a quality member of the committee, and we look to her for guidance. We are not going to pass on this bill until we have had the full benefit of her views.

Colonel, we are delighted to have you here. You may proceed in your own way.

Do you have a prepared statement?

Colonel JARRELL. Yes, sir; I do.

Senator STENNIS. You may proceed, Colonel.

Colonel JARRELL. Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today to testify on behalf of the Department of Defense on H.R. 13593, to amend title 10, United States Code, with respect to increasing the number of congressional alternates who may be nominated for each vacancy at the Military, Naval, and Air Force Academies.

The 88th Congress enacted legislation to increase the size of the Military and Air Force Academies from 2,500 cadets to over 4,400 cadets, making these two academies comparable to the Naval Academy in authorized strength. The buildup to full cadet strength has necessarily had to be gradual and in phase with the increasing physical facilities.

The Military Academy and the Air Force Academy have been gradually increasing the size of their entering classes. In June of 1967, 1,052 cadets entered West Point and 1,035 entered the Air Force Academy. Next week both academies will enter approximately 1,250 cadets, and in June of 1969, each expects to enter its first full strength class of about 1,360 cadets.

The expansion legislation increased the number of vacancies in each of the noncongressional competitions such as Regular, Reserve, and Presidential. The largest increase, however, was authorized to Members of Congress, an increase from four to five cadets for each Member. To accomplish this, half of the Members gained an additional vacancy for the Military Academy and the other half for the Air Force Academy in 1964, and the process was reversed in 1965.

Thus, for the classes that entered in the summer of 1965, every Member had the statutory authority to nominate six candidates for every vacancy available to him. The total number of congressional vacancies available each year, times six candidates per vacancy, estab-

lishes the maximum number of congressional candidates who may be in competition for an academy.

As you know, there is also a provision of the law that allows 150 qualified alternates to enter each academy. These qualified alternates must come from those young men nominated by Members of Congress. There is a further provision of the law that allows the service Secretaries to nominate additional qualified alternates if it has been determined that the number of cadets or midshipmen at the academies will be below the authorized number.

Three-fourths of these secretarial-qualified alternates must also come from those candidates nominated by Members of Congress.

To date, the Military and the Air Force Academies have experienced no difficulties in selecting entering classes as there have always been adequate numbers of fully qualified candidates from which to select principal appointees and qualified alternates. Such may not be the case, however, when the Military and Air Force Academies reach their first full strength entering classes of 1,360 cadets in 1969. In order to enter a class of 1,360, it is necessary to offer appointments to approximately 1,565 candidates to allow for our anticipated 13-percent declination rate.

In 1966 and 1967, respectively, the numbers of fully qualified candidates for the Air Force Academy were 1,639 and 1,554, and this year we have around 1,580 qualified candidates. Had the Air Force Academy been authorized to enter a full-strength class in June 1967, there would not have been enough fully qualified candidates to fill it; in 1966 and the current year we would have been very close to exhausting the pool of qualified candidates. While statistics from the Military Academy indicate their qualified candidate pool was a little larger each year than the Air Force Academy, West Point would have had few remaining fully qualified candidates if they had had to enter a full-strength class.

The Naval Academy has been authorized over 4,400 midshipmen for a number of years. While figures for the Military and Air Force Academies are projections, actual statistics on full-strength entering classes are available from the Naval Academy. For the class that entered the Naval Academy in 1966, there were only 148 candidates who were fully qualified for admission but not admitted. For the class that entered in 1967, this number dropped to 38.

It would be easily possible with only a minor reduction in the number of qualified candidates for the Naval Academy to reach the point where they could not fill a class with fully qualified candidates.

To increase the number of qualified candidates available for appointment, we request a change in the law increasing the number of candidates each Member is authorized to nominate against each of his vacancies from one principal and five alternates to one principal and nine alternates.

The last two Boards of Visitors to the Air Force Academy have recognized the need for, and urged enactment of, this proposed legislation. The Board of Visitors to the Naval Academy has also endorsed this proposal.

The Department of the Air Force, on behalf of the Department of Defense, recommends enactment of this bill.

It has been a pleasure to appear before this committee today. I will be happy to answer any questions you may have.

Senator STENNIS. Thank you, Colonel.

As I understand, this new proposed legislation does not affect in any way the present law with reference to the appointment, the selection of the principal appointee?

Colonel JARRELL. That is correct, sir.

Senator STENNIS. Now, is it correct to say that the sole purpose of this law is just to provide more alternates to be processed so that if need be you will have enough, or you will have a reservoir, a sufficient number there to fill your full quota for the year?

Colonel JARRELL. Yes, sir.

Senator STENNIS. Is that the primary purpose of the law?

Colonel JARRELL. Yes, sir; that is.

Senator STENNIS. And to your understanding, that is the only change that it makes?

Colonel JARRELL. That is the only change, sir.

Senator STENNIS. I have always been interested in the academies. I don't know exactly what the law says and what the guideline is supposed to be. But I never appoint anyone or suggest anyone for the principal appointment unless they write me in their own handwriting that as of now they plan to dedicate their careers to the military service. I believe that is the only purpose these slots over there are created for. I know a young fellow at 18 may not be able to make the final decision.

Do you gentlemen approve of that test?

Colonel JARRELL. Very strongly.

Senator STENNIS. I had a young man who said that he was going to be a general or an admiral, whichever academy it was. I remember a young fellow that came to my office in World War II who wanted me to recommend him to the Air Force. I looked him over and told him I would. I said, "They need a lot of good crewmen all the time."

And he said, "You misunderstood me. I would like to run the thing."

I like to appoint a fellow that likes to run the thing.

Colonel JARRELL. You get them, too.

Senator STENNIS. I hope that commonsense and character are the two top points, and that mental capacity comes at least third or below.

Let's have some questions.

Senator Miller, I will call on you.

To you gentlemen who have come in later, this is Colonel Jarrell, the registrar at the Air Force Academy, speaking not only for the Air Force, but the Department of Defense.

Senator MILLER. I thank you, Mr. Chairman.

Colonel, how much would the problem be relieved if, as you point out at the top of page 3 of your statement, instead of three-fourths of the secretarial-qualified alternates having to come from among the candidates nominated by Members of the Congress, this were reduced to one-half?

Colonel JARRELL. Sir, I don't believe that this problem would be relieved.

Senator MILLER. Where does this one-quarter that is left over come from?

Colonel JARRELL. Sir, they come from boys that have Presidential appointments or Regular or Reserve appointments, the noncongressional appointments.

Senator MILLER. How large a load do we have of those? How many are trying for this, and how many qualify, and how many are left out?

Colonel JARRELL. Sir, I have with me Mr. Risdon J. Westen, who is director of evaluation at the Air Force Academy. I believe he can answer this question.

Senator MILLER. I didn't mean to confine this only to the Air Force Academy, but we might get an idea if we concentrate on just one academy.

Do you understand my question?

Mr. WESTEN. Yes, sir.

In last year's competition, we had 70 young men who were nominated from sources other than congressional who were qualified but not selected. And that would be the size of the pool in terms of our best guess that we would be adding if we did not have the limitation.

Senator MILLER. That is 70 out of how many?

Mr. WESTEN. I do not have the exact number of nominations.

Senator MILLER. I don't mean nominations, I mean of those who came in and attempted to qualify and be appointed through the Secretarial system who were not congressional nominees, who represented the other one-quarter of those the colonel is referring to at the top of page 3 of his testimony—how many of those were there who made the application, took the examinations, and all qualified?

Mr. WESTEN. And were fully qualified? There were 70, sir.

Senator MILLER. You told me 70 were fully qualified but not appointed. I want to know how many were all qualified, and then we will talk about those who made it and those who didn't make it.

Mr. WESTEN. We appointed one of these qualified alternates from the Reserve military—I am sorry, I cannot be sure.

Senator MILLER. You see what I am trying to get at. Can you tell us how many were appointed under the secretarial system, how many were appointed by the Secretaries without anything to do with Congress?

Mr. WESTEN. Yes, sir. Nine in last year's class.

Senator MILLER. There were just nine?

Mr. WESTEN. Yes, sir.

Senator MILLER. That means there were 79 who were qualified and only nine got it?

Mr. WESTEN. Yes, sir.

Senator MILLER. I would guess that those 70 would be pretty well-qualified boys, most of them would; wouldn't they?

Mr. WESTEN. There would be, certainly, a number of well-qualified young men there.

Senator MILLER. And some of them better qualified than those who made it under other appointment procedure.

Mr. WESTEN. I do not think there would be many, sir. I do not have exact figures. I can supply that for the record.

Senator MILLER. Colonel Jarrell, maybe you or one of your counterparts can answer this. But I have the impression down to the last few years that the competition for a secretarial appointment is exceedingly severe, because there are relatively few who can be appointed by that means, and there are some of those who have qualified

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in that procedure who don't get the appointment who are better qualified than some of those who do get the appointment through the congressional route.

Colonel JARRELL. Sir, it may be helpful if I explain how we select these alternates. We are required to select 150 alternates from congressional——

Senator MILLER. Just a minute on that. The staff member has given me the figures for the Air Force class of 1971 showing 1,035 total appointees, 915 appointees with congressional nominations, leaving a balance of 120—120 appointees with no congressional qualification, from a pool of 190 qualified.

So I think that maybe you misunderstood my question. But I believe this answers my question. There were 190 qualified, 120 of them were appointed, and there were 70, as you said, who were qualified but not appointed.

Mr. WESTEN. Sir, as a point of clarification, the nine came in as qualified alternates. I did misunderstand you. The others came in under the regular quota for congressional appointees.

Senator MILLER. So, to get back to my original question, how many are there in the other quarter to make up the whole? Three-quarters was referred to by the colonel at the top of page 3 of his testimony, and the other one-quarter is represented by 120 appointees; is that correct?

Colonel JARRELL. I believe that is correct, sir.

Maybe I should explain that the qualified alternates, the first 150 are selected among the apparently best qualified congressional alternates. And past that, we are required to select at least three-fourths of the qualified alternates from the congressional appointees.

Senator MILLER. I understand that.

Colonel JARRELL. When we go through this process, we often select more than three-fourths from the congressional qualified alternates, depending on the qualities shown by the candidates.

Senator MILLER. In other words, that three-quarters is a minimum and not necessarily a maximum?

Colonel JARRELL. Yes.

Senator MILLER. So you first take that three-quarters?

Colonel JARRELL. Yes, sir.

Senator MILLER. And then you look to see how those who haven't yet gotten an appointment measure up.

Colonel JARRELL. That is not quite right, sir. When we go past 150, we take the first three from congressional qualified alternates, and then for the fourth boy we look and see if there is one from another source who is better qualified than the next congressional. If there is not one, then we keep taking congressional, so that we are sure of getting at least three-fourths congressional.

This year, I believe, we went well past 150 before we picked up another boy who was noncongressional. Here is a pool of candidates who are qualified but not——

Senator MILLER. To round out this picture, there were 190 qualified, and 120 of them received appointments through the secretarial route without any congressional affiliation, leaving 70 qualified who did not get appointments under the secretarial system because they did not have any other means of getting in.

Colonel JARRELL. They were not better qualified than the congressional alternates that were selected at that time.

Senator MILLER. Would you say that any of those 70 were better qualified than some who received congressional appointments?

Colonel JARRELL. Only in the case, sir, where a candidate was a principal nominee of a Congressman. In that case, a boy could be just barely minimally qualified and be selected.

Senator MILLER. I understand. That is why I use the competitive system myself. But, how many congressional appointees through this principal would you say were not as well qualified as, say, some of those 70 who didn't get appointments?

Colonel JARRELL. We have to develop this information, sir. I don't have that information.

Senator MILLER. Can you get it without too much difficulty?

Colonel JARRELL. Yes, sir. I believe I can.

Senator MILLER. I wonder, Mr. Chairman, if we could have that furnished for the record.

Senator STENNIS. Without objection, it will be included in the record.

(The information referred to follows:)

One hundred and ninety five (195) congressional appointees to the Air Force Academy's Class of 1971 had exam composites (academic plus leadership scores) which were below that of the highest scoring non-congressional qualified candidate in the group of 70 who were not selected. For the same class entering West Point, 154 congressional appointees were less qualified than the top individual of the 39 fully qualified, non-congressional candidates not admitted. Vacancies existed for all fully qualified, non-congressional competitive candidates in the U.S. Naval Academy's Class of 1971.

Senator MILLER. I would just say one thing. I see you have a problem, too, when we select under my system. I pick 10 top—I just call them by numbers according to their scores in the civil service examination. So there are 10. And theoretically, at least, it could be that there would be one happy boy and nine very unhappy boys. So we have got a problem with the unhappy fellows, too.

So we are now going to increase our number of unhappinesses from five to nine, under your proposal; that is about what it comes down to. It doesn't work out quite that way through my system, because I have such good men through my competitive system that we usually get two or three of these secretarials. But I am thinking in terms of those that are left.

I have no further questions.

Senator STENNIS. Thank you, Senator.

Senator McIntyre?

Senator MCINTYRE. Colonel, this bill means that the number of alternates is increased from five to nine. Does that mean that if you have two vacancies to suggest appointees for, to the Air Force Academy, that I will have to give you 18 names?

Colonel JARRELL. A maximum of 18 alternates, sir. You would have a maximum of two principals and nine alternates.

Senator MCINTYRE. At the Air Force? You have no principal system out there, do you?

Colonel JARRELL. Yes, sir. The three Academies we are talking about here today have essentially the same system.

Senator McINTYRE. I have been under the impression that only West Point and Annapolis had the principal system and alternates one, two, three, and four. You say the Air Force Academy does, too?

Colonel JARRELL. Yes, sir.

Senator STENNIS. You have your choice, don't you, Colonel?

Senator McINTYRE. You have your choice, you don't have to take the principal.

Colonel JARRELL. No, sir.

Senator MILLER. Would the Senator yield at that point?

Senator McINTYRE. Yes, sir.

Senator MILLER. If I understand it, if there is a year when I happen to have two vacancies at the Air Force Academy, I can send to the Academy just two names, or under this program I could send 20 names?

Colonel JARRELL. Yes, sir. It is your choice.

Senator MILLER. It is my choice, two, three, five, not in excess of 20?

Colonel JARRELL. Or you could choose to send none, sir.

Senator MILLER. Yes. And then next year maybe I would have three to make.

Colonel JARRELL. Yes, sir.

Senator McINTYRE. Just for clarification in my own mind, so that I can learn something here this morning, there is no necessity for me, is there, to send in 20 names—I can just pick the three best qualified?

Colonel JARRELL. That is your choice, sir. We have to do this, if you wish for us to do it.

Senator McINTYRE. Suppose I send over a group of 20 for the first position, and then a group of 10 for the second position, you would take the two men out of the whole 20, wouldn't you, the best, regardless of the way they are grouped?

Colonel JARRELL. It depends on how you ask us to do it.

Senator McINTYRE. Forget the principal system. I don't go for that. If I send over 20 names, and group them, you will say, in group A, for vacancy A, and the 10 names for group B, for vacancy B, and you take a look at those 20 men, you may pick the two best men from group A?

Colonel JARRELL. We would do whichever you told us, sir.

We would take the best men from each group or we would take the two best men from the whole group, depending on how you had designated these in your nominations.

Senator McINTYRE. You mean, then, that if I wanted to favor a man—suppose I had a fellow that got a 65 and I wanted to favor him, you mean I could just put him in a slow group?

Colonel JARRELL. Yes, sir.

Senator McINTYRE. And insist that you pick one from each group?

Colonel JARRELL. Yes, sir.

Senator McINTYRE. Do you think that is a good system?

Colonel JARRELL. I think that your judgment should determine that, sir.

Senator McINTYRE. The essence of this bill is just to get more material for you to look at and start increasing your census over there.

Thank you very much, Colonel.

Thank you, Mr. Chairman.

Senator STENNIS. Thank you, Senator.

Just for the record, and to refresh your recollections, I want to read out the categories of the present competitive groups. We have what is called the President's Group, the President's List, that come from the sons of Regulars.

The Secretary's list is from enlisted Regulars.

The Secretary's list, again, from the Enlisted Reserves.

And the Secretary's list, again, military schools.

And then, the next category, congressional qualified alternates.

And the next category, President—meaning the President of the United States—Medal of Honor sons.

Colonel, I understand that it all adds up that each 75 percent of the total are taken from the congressional nominees; is that correct?

Colonel JARRELL. Yes, sir; perhaps more than that, sir.

Senator STENNIS. The law requires at least 75 percent, is what I meant to say, that is the minimum.

Colonel JARRELL. Yes, sir. It is not stated that way, sir, but that is the way it works out.

Senator STENNIS. That is the way it works out. That is of interest to the committee, as well, and is why I brought it out.

Senator Young.

Senator YOUNG. Thank you, Mr. Chairman.

I have no questions.

Senator STENNIS. Senator Inouye.

Senator INOUYE. Thank you, Mr. Chairman.

Just as a matter of clarification, under the present system of appointment, it would be possible for one Senator to have six of his candidates appointed and another Senator just two?

Colonel JARRELL. That is correct, sir.

Senator INOUYE. In other words, if I submitted a whole lot of qualified alternates, I might enjoy a few bonuses?

Colonel JARRELL. Yes, sir.

Senator INOUYE. Thank you, Mr. Chairman.

Senator STENNIS. Thank you, Senator.

Now, just to get exactly what the wording of this change is before the committee, I will read from existing law. The law reads:

> Each Senator, Representative and Delegate in Congress, including the Resident Commissioner from Puerto Rico, is entitled to nominate a principal candidate and five alternates for each vacancy that is available to him under this section.

Now, this proposed law merely changes the word "five" to "nine." And that is the only thing in the law; is that correct?

Colonel JARRELL. Yes, sir; that is correct.

Senator STENNIS. Of course, the law speaks for itself, but that brings it out here in the record.

Are there any other questions, gentlemen?

Senator MILLER. In our previous colloquy, Colonel, we were talking about the Secretarial appointments, 120 out of 190 qualified. What about the Presidential appointments, sons of Regulars? I see for the class of 1971 in this book that the chairman handed me, that there were not appointed who were qualified?

75 appointed by the President as sons of Regulars. How many were not appointed who were qualified?

Colonel JARRELL. Probably Mr. Westen has that number.

Do you have the number of qualified or total candidates in the Presidential category?

Mr. WESTEN. Sir, I do not. And I made an error in terms of grouping the Presidential group with the Secretarial group, that was my error, sir, when we were talking about people who had no congressional nomination whatsoever who were qualified.

In the total number given you included both the Presidential and the Secretarial. I do not have a breakdown, but that can be supplied to you.

Then, to get this nailed down, we have the appointments by the President from sons of Regulars, by the Secretary from enlisted Regulars, by the Secretary from enlisted Reserves, by the Secretary from military schools. And those came to, roughly, 120 out of 190 qualified candidates.

Mr. WESTEN. That is correct, sir.

Senator MILLER. So that there were only 70 who were not better than the congressionally nominated alternates, because you dipped into those that were above three-quarters to make sure that you got the best men.

Colonel JARRELL. That is correct, sir.

Senator MILLER. I have one more question, Colonel.

Suppose, instead of making this one principal and nine alternates, we made it one principal and seven alternates, so that we would send over nine names instead of only six names how would that relieve the problem?

Colonel JARRELL. I don't have the exact figures on this, Senator. I can say that under the present system, with five alternates, the average number of nominations is about 4½ per vacancy. In other words, about 4½ names per vacancy, are given by the Congressmen. Some don't give us the whole six names.

Now, going to 10, one principal and nine alternates, we estimate that will increase by about three per vacancy. So that would, roughly, increase our pool by—what, about 2,000, 1,800 names, each year?

Now, if we started at seven instead of 10, there would be a proportionately smaller number.

Senator MILLER. I didn't mean seven, I meant one and seven, or a total of eight, versus a total of 10, which you propose here. I was wondering what the rationale was that caused you to hit on one principal and eight alternates, rather than one principal and seven alternates. Certainly somebody did some research on this.

Can you tell us how you happened to come up with one and nine, instead of one and eight or one and seven, or one and 11, can you tell us how you happened to arrive at that figure?

Commander SMITH. I am Commander Smith from the Bureau of Naval Personnel, Senator.

I believe that figure was arrived at because it was thought by looking forward into the future that we wouldn't need to come back and ask for additions. This year, for example, the Naval Academy had 501 instances in which a Senator or Representative gave us the full six nominees that he is permitted by law to give us. We could estimate that if we increased the number by two, that probably 60 or 80 percent of the Members of Congress would utilize that additional authority, and thus we would be receiving 300 or 400 more names for each additional vacancy that is made available.

Inasmuch as the Naval Academy had only 41 candidates who were fully qualified and not offered appointments this year, we felt that

to increase our pool by only 300, or even 600, would not be as desirable as increasing it by a thousand or 1,500 young men.

Senator MILLER. To be perfectly honest with you, one of my reservations on this is the question of whether or not we might be diluting the quality of the people you are going to get by increasing the number of these alternates. They may qualify. But you can have a qualified person who is pretty much on the margin.

And now you are going to increase the possibility of that, aren't you?

Commander SMITH. On the contrary, Senator. I think that this bill would enable us to improve the quality, because as it now stands, at the Naval Academy, where we are putting in a full-sized class, which the other academies will be coming up to, we are, in selecting our qualified alternates, going essentially to the bottom of the list.

If we had 400 to 500 more people in this pool the selectivity that is available in picking the young men to receive the qualified alternate appointments would be greater and we would not be reaching as close to the bottom as we are now.

Colonel JARRELL. The same with the Air Force.

Senator MILLER. The services were all agreed on this one, nine?

Commander SMITH. Yes, sir.

Senator MILLER. Thank you, Mr. Chairman.

Senator STENNIS. Thank you, Senator.

Colonel, you teach these cadets lessons in citizenship, I am sure, while they are there?

Colonel JARRELL. Yes, sir.

Senator STENNIS. Do you teach them to register and vote?

Colonel JARRELL. I can't answer that from complete knowledge of our courses, sir. But we have courses in political science, and I feel personally certain that the importance of voting, and so on, is stressed. But I can't say that for certain. I will be forced to inquire about this and put this in the record.

Senator STENNIS. Did you go to the Academy, or an academy?

Colonel JARRELL. Yes, sir. I went to the Military Academy.

Senator STENNIS. Did they teach you there that it was your duty to register and vote and take part in the elections?

Colonel JARRELL. I don't recall that being a subject there.

Senator STENNIS. I didn't mean to ask you a personal question.

You went to the Naval Academy, sir?

Commander SMITH. Yes, sir.

Senator STENNIS. I will ask you the same question. In the teaching of citizenship to the cadets while they are in the Academy, does that include encouraging them to register and vote, and at least to that extent take part in elections?

Commander SMITH. Mr. Chairman, I don't have the specific details to answer that. I could provide that for the record. It is my understanding that they do.

Senator STENNIS. May I ask if you are an Academy graduate?

Commander SMITH. Yes, sir.

Senator STENNIS. Did they teach you that point when you were there?

Commander SMITH. No, sir; they did not specifically. However, the curriculum has had startling changes in the last 20 years.

Senator STENNIS. What do you think is the requirement now, or the practice now on that subject at the Naval Academy?

Commander SMITH. I believe that they are instructed and taught that that is one of their obligations, sir.

Senator STENNIS. And encouraged to do so?

Commander SMITH. Absolutely, sir.

Senator STENNIS. What is the effect of that encouragement so far as you know? Generally, do the naval officers register and vote in the elections?

Commander SMITH. I believe that they do, sir.

Senator STENNIS. That is encouraging. Who is here from the West Point Military Academy?

Mr. WOODRUFF. I am, sir.

Senator STENNIS. What is your answer to that question, now? As a part of the teaching of citizenship, does the Academy actively encourage these men when they reach the proper age, of course, to register and vote, and to that extent take part in the elections?

First, will you give your name, please?

Mr. WOODRUFF. My name is John Woodruff. I am the Acting Director of Admissions.

I cannot answer that question specifically. I am not a graduate of the Military Academy. However, from my personal contact, I believe the officers I know take full advantage of this privilege that they have.

Senator STENNIS. Well, that is encouraging. I am glad to know that.

Senator MILLER. Would the chairman yield at that point?

Senator STENNIS. Yes, I will yield on that, but I have another question.

Senator MILLER. Do I understand that you are going to furnish for the record what the policy is on instruction on this point?

Colonel JARRELL. Yes, sir.

Senator MILLER. And in that connection, might I suggest that you find out whether it goes beyond just suggesting that they register and vote, and that they do some homework on the subject before they do that, so that they know whom and what they are voting for?

Colonel JARRELL. Yes, sir.

Senator MILLER. The extent to which you go into it, I think, would be important.

Senator STENNIS. I am not checking up on how anyone votes, or anything of that kind. I certainly think you ought to vote, regardless. But I want to know what the Academy teaches. That is the question that I asked.

Colonel JARRELL. Sir, I am certain that we teach the structure of the Government.

Senator STENNIS. You have already stated that you couldn't answer the question, with all deference to you. So I am going to ask you now to have some qualified person in the Academy answer my question. And I will direct the same request to each of you gentlemen, from the academies.

(The information referred to follows:)

The Military, Naval, and Air Force Academies attempt to instill in each cadet and midshipman a sensitivity to political issues and an appreciation of the importance of the right to vote. This objective is an integral part of the curriculum. At the Air Force Academy, cadets are required to take a course in American Government. This course covers such subjects as democratic theory, political opinions and participation, the role of political parties and the electoral

system. In this election year, topics include the personalities, appeals and platforms of the national candidates. Mock elections, panel debates and discussions enhance each cadet's understanding. The Military and Naval Academies provide similar, mandatory courses on the United States governmental system. The instruction stresses the importance of a politically interested and informed citizentry. The academies have additional courses which cover various aspects of the democratic process. Voting officers are designated at each academy. Cadets and midshipmen are instructed on the methods of absentee voting. Current information on each state is available, and all are encouraged to vote in local as well as national elections.

Senator STENNIS. Now, I want to inquire into another matter. You take over these young men and you do a good job with them. I want to know this: What, if anything, is ever said to them about how they were selected in addition to their general qualifications? Do they know that they were nominated by Congressman X or Senator Y? Is that ever brought up so far as you know? Are they ever reminded of that? What is the situation? What is done, if anything, along that line?

This is a little unusual, but I have noticed one thing. Are they taught anything about that?

Colonel JARRELL. Yes, sir, they are. In the case of the Air Force Academy, sir, there is a grade report that is sent out. I believe each gentleman from the Congress gets a copy of this from time to time. Now, that same report is sent to the parents. And that report includes the name of the Congressman or the Senator who made the appointment.

Senator STENNIS. I am talking about what, if anything, you teach that young fellow about who had something to do with him getting there. As I say, that is an unusual question. But I want an answer as best you can.

Colonel JARRELL. To my knowledge, this is not emphasized in an organized fashion, although informally—for instance, when Members of Congress visit there, very often we suggest that the boys that they have appointed be available for interview if the Congressmen so desire.

Senator STENNIS. That is very good.

Colonel JARRELL. Commander Smith has something to say on that.

Senator SMITH. Commander Smith.

Commander SMITH. In our papers that go to the nominee, they of course indicate which Member of Congress nominated him. And when he is appointed, his authority to report to the Academy indicates which Member of Congress appointed him.

In addition, upon the appointee's arrival for his first summer we have a formal indoctrination program in which we encourage each midshipman to write to the Member who nominated him and advise him that he is there and how he is getting along. We don't demand that he do it, because that wouldn't fulfill the purpose.

Senator STENNIS. I don't have any sense that they are obligated to me at all. I said at the beginning that I don't nominate anyone unless he says in writing that he expects to make a career of it. That is the only requirement I make.

But a Mississipian ordinarily will swim a branch or charter an automobile to come and thank you, or let you know in some way of his gratitude. I seldom hear from these young fellows in any way when they get there or when they graduate. Once in a while I do. I just have an idea maybe that you isolate them, without intending so much to isolate them, but in the process of making them a part of

your Academy, they just kind of get away from things at home and things here. I don't know. You don't teach them not to become voters. But I have noticed a tendency among graduates to say that they don't want to be identified too much as being from a certain State.

Do you ever notice that?

Colonel JARRELL. No sir; I don't. I see a lot of evidence that the people are very proud of the State or the region from which they have come.

Senator STENNIS. That is very good. I am glad to hear it.

(The following additional information was subsequently submitted:)

During the first summer at the Military, Naval and Air Force Academies, each cadet and midshipman is asked to write to his congressional sponsor. Each is encouraged to continue to keep the Congressman apprised through occasional personal reports of progress.

Senator MCINTYRE. Mr. Chairman.

Senator STENNIS. Yes, Senator.

Senator MCINTYRE. While we have these gentlemen here, I would like to ask a question or two. It may not be particularly germane to this.

I realize that many Senators and Congressmen have different methods of proposing these men to you. And I fall, probably, in the category that simply takes the highest grade from the civil service exam. It is my understanding that at some time or other these boys are interviewed or called to a certain Army post where they are interviewed thoroughly for their motivation, and all the aspects of it, and found they qualified. Are they brought to West Point or Annapolis to do this, or is it done near their homes?

How vigorous is this? What I am saying is, I could probably set up a civilian group in my State to go through them and make recommendations, but I don't. Perhaps, that is my fault. But I would like to have you assure me that these men are given a good going over before you say, "This man is it. This man is qualified, but no space available."

Colonel JARRELL. I can tell you how we do it at the Air Force. Of course, all Academies have the candidates go someplace for a physical and medical examination. In addition to this, there are programs at each Academy, I believe, to interview the boys, to make some determination as to what the motivation is. In the case of the Air Force Academy, we have this done by Reserve officers who are not on active duty.

We have most parts of the country covered by these officers. We can have one of them go to see a young man and his parents. And the preferable way to do this is to spend an evening, maybe 2 or 3 hours, with the young man and his parents, to discuss the type of life at the Academy, the type of training, and so on, and not just ask him directly, but try to ascertain what his motivation is.

Now, there are programs similar to this, I believe, at the other Academies.

Senator MCINTYRE. He is given a physical exam, and he is also interviewed by some representative of the Academy admissions system, right; not by some retired Air Force or Army officer who may be very interested in the Academy? This is good; I understand this. I

have men in my State who do this that have made themselves known to the men, and they have made their findings known to you.

But is that interview done by the admissions system? It would seem to me to be a very tough one. You would be looking for weaknesses, lack of motivation, lack of well-grounded personality, because sometimes a kid comes up with a 93.6, and I wonder if he just goes automatically through when he may not be the type that should be in the Academy.

Colonel JARRELL. We try to catch this. The liaison officer is the person who does this for the Air Force Academy. He is a Reserve officer who is not on active duty, but he has had some training in this. He is a typical one that has worked for the Academy maybe 2 or 3 years doing things like this, interviewing boys.

And he sends us a report on each boy, telling us what he thinks the boy's motivation is, and how he thinks the parents feel about the boy coming into the Academy, and giving a recommendation as to how he thinks the boy will succeed there, and why we should take him, and so forth.

Senator MCINTYRE. I just make the comment. I probably don't understand fully all that you do. But it doesn't seem to me that you do as much as the average college. I am thinking of my own school, where in every session we set up a group of six or seven that may rotate, and we sit down and meet with the boy and grade him, not just one Reserve officer, but five or six out of the community and the region.

We grade him as to the impression he makes. But I am going to drop that right there.

Senator STENNIS. Senator Dominick, I will call on you.

Senator DOMINICK. Thank you, Mr. Chairman.

I have had the privilege of being Senator Russell's representative on the Board of Visitors for the past few years to the Academy. Of course, we in Colorado are very proud of the Air Force Academy. And we are very pleased and happy with the ability Colonel Jarrell has shown in his work at the Academy. He has been a fine officer. And I just thought that you would be interested in knowing that one of the things that the Academy is now working on—and we were all tremendously interested in this in our last visit—is trying to find some kind of a definitive psychological and objective testing to determine why people leave the Academy—and I am not talking about the discipline cases, I am talking just about the dropout cases—to see if that can be applied as a system so that Members of Congress and people elsewhere can apply this in their analysis of the applications that come in to them.

They haven't gotten very far in this yet. But they are working on this. I thought this was tremendously interesting when we went there, because one of the great problems that I think we all have is trying to determine whether or not the youngster who comes in and applies really knows what he is up against and what he is trying to do before he gets into the Academy.

And I suppose that this is endemic to every Member of Congress in every area where it goes on, trying to pick these people.

Second, I do want to say that the academic work that goes on, at least in the Air Force Academy where I have had more acquaintance

than elsewhere, for obvious reasons, has in my opinion been very, very fine. They have go a very good course. Sometimes, I wonder if the load isn't almost too heavy. But by and large, I think that they get an education in all phases of manhood, put it that way, that perhaps they wouldn't get elsewhere.

I have been consistently and constantly impressed by the degree of maturity which these youngsters achieve in the 4 years that they are there.

That is all I wanted to say. I think the bill before us is something that we probably all realize is going to be needed as the number of people expand. I do want to say some things on behalf of the Academy which I think should be said.

With all the troubles of a new institution starting out, I think it has done a really exceptionally fine job.

Senator STENNIS. Thank you, Senator. We are glad to have your comments.

Are there any questions, gentlemen, from any of you?

Mr. Braswell, do you have any questions?

Mr. BRASWELL. No, Mr. Chairman.

Senator STENNIS. All right; Colonel, we thank you very much for coming in, and the others who have testified, too.

(The prepared statements of Commander Smith and Mr. Woodruff follow:)

PREPARED STATEMENT OF COMDR. DONALD A. SMITH, U.S. NAVY (HEAD, NAVAL ACADEMY, MIDSHIPMEN BRANCH)

The advantages which would accrue to the Navy and the Naval Academy by enactmentof H.R. 13593 have been strikingly demonstrated by experience gained in filling the class which entered the Naval Academy in 1967, and the class which will enter on 26 June 1968.

In 1967 a total of 1386 midshipmen were admitted to the Academy. Of these, 440 were authorized appointment as Qualified Alternates, and only 38 nominees were fully qualified but not appointed. A comparable situation exists for the class to enter this year. As of 19 June 1968, a total of 1380 nominees have been offered appointment and are expected to enter the Academy on 26 June. Of these, 476 are to enter as Qualified Alternates, and only 41 nominees have fully qualified and not been offered appointment. These statistics illustrate the possibility of a shortage of qualified nominees in future years.

Enactment of H.R. 13593 would permit additional nominees to compete for appointment as Congressional Qualified Alternates, and would insure against a shortage of qualified candidates in the future. Since large numbers of highly qualified young men are unable to obtain nomination under existing quotas, the proposed legislation would be advantageous both to many of these fine young men, and to each of the Service Academies.

PREPARED STATEMENT OF JOHN I. WOODRUFT, ACTING DIRECTOR OF ADMISSIONS AND REGISTRAR, U.S. MILITARY ACADEMY

Mr. Chairman and members of the committee, I am Mr. John I. Woodruff, Acting Director of Admissions and Registrar for the United States Military Academy and back-up witness for Colonel William R. Jarrell, principal witness for H.R. 13593.

The 88th Congress enacted legislation to increase the size of the Military and Air Force Academies to 4417 cadets. The increase in cadet strength authorized under this bill is gradually depleting the supply of full qualified candidates for admission to these service academies. The authorization to members

of Congress of an increase from four to five cadets for each member has been in effect for three years (classes). However, this increase in number of cadets has been offset by the admission of progressively larger classes annually since the new bill has been in force.

To illustrates the downward trend in numbers of qualified candidates for the Class of 1970, 1871 candidates were fully qualified for admission and of this group 1019 candidates were admitted leaving a balance of 852 candidates qualified and not selected for appointment. The class of 1971 had 1541 candidates fully qualified for admission and of these, 1054 were appointed and 487 candidates were qualified and not admitted. If this decline in the number of qualified candidates continues, as our authorized strength increases take place, it is apparent that the pool of qualified candidates becomes diluted and our selectivity is limited.

The Naval Academy has experienced a decrease in the number of fully qualified candidates during the past two years. It would appear that all three service academies need the assistance which would be provided by this proposed legislation.

In as much as members of Congress are presently authorized to nominate their full quota of candidates and the Air Force and Military Academies are continuing to increase the size of their entering classes, there is no possible way under current law to enlarge the service academies' candidate population. One solution is to increase the number of candidates each member is authorized to nominate for each cadetship available from one principal and five alternates to one principal and nine lternates. This proposed legislation would provide the depth in the number of qualified candidates annually for each service academy and also would insure that the quality of the entering classes remain at the high caliber desired.

During their recent inspection of the Military Academy, the Board of Visitors indorsed the enactment of this legislation and the Board of Visitors during their most recent visitations at the Air Force and Naval Academies agreed that this proposed legislation would be beneficial to their Admissions Programs.

The Department of the Army recommends enactment of this bill.

(Subsequently, in executive session, the committee voted to report H.R. 13593, without amendment, as covered by S. Rept. 1316.)

H.R. 15789

Senator STENNIS. The next bill is H.R. 15789.

(H.R. 15789 follows:)

[H.R. 15789, 90th Cong., second sess.]

AN ACT To amend section 2306 of title 10, United States Code, to authorize certain contracts for services and related supplies to extend beyond one year

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2306 of title 10, United States Code, is amended by adding the following new subsection after subsection (f):

"(g)(1) The head of an agency may enter into contracts for periods of not more than five years for the following types of services (and items of supply related to such services) to be performed outside the forty-eight contiguous States and the District of Columbia for which funds would otherwise be available for obligation only within the fiscal year for which appropriated—

"(A) operation, maintenance, and support of facilities and installations;

"(B) maintenance or modification of aircraft, ships, vehicles, and other highly complex military equipment;

"(C) specialized training necessitating high quality instructor skills (for example, pilot and other aircrew members; foreign language training); and

"(D) base services (for example, ground maintenance; in-plane refueling; bus transportation; refuse collection and disposal);

whenever he finds that:

"(i) there will be a continuing requirement for the services consonant with current plans for the proposed contract period;

"(ii) the furnishing of such services will require a substantial initial investment in plant or equipment, or the incurrence of substantial contingent

liabilities for the assembly, training, or transportation of a specialized work force; and

"(iii) the use of such a contract will promote the best interests of the United States by encouraging effective competition and promoting economies in operation.

"(2) In entering into such contracts, the head of the agency shall be guided by the following principles:

"(A) the portion of the cost of any plant or equipment amortized as a cost of contract performance should not exceed the ratio between the period of contract performance and the anticipated useful commercial life of such plant or equipment. Useful commercial life, for this purpose, means the commercial utility of the facilities rather than the physical life thereof, with due consideration given to such factors as location of facilities, specialized nature thereof, and obsolescence.

"(B) consideration shall be given to the desirability of obtaining an option to renew the contract for a reasonable period not to exceed three years, at prices not to include charges for plant, equipment and other nonrecurring costs, already amortized.

"(C) consideration shall be given to the desirability of reserving in the agency the right, upon payment of the unamortized portion of the cost of the plant or equipment, to take title thereto under appropriate circumstances.

"(3) In the event funds are not made available for the continuation of such a contract into a subsequent fiscal year, the contract shall be canceled or terminated, and the costs of cancellation or termination may be paid from:

"(A) appropriations originally available for the performance of the contract concerned;

"(B) appropriations currently available for procurement of the type of services concerned, and not otherwise obligated; or

"(C) funds appropriated for those payments."

SEC. 2. Section 2310(b) of title 10, United States Code, is amended—

(A) by inserting "section 2306(g)(1)," after the words "section 2306(c)," after the first time those words appear;

(B) by inserting after "(3)" the words "support the findings required by section 2306(g)(1), (4)";

(C) by striking out "(4)" and inserting in place thereof "(5)", and

(D) by striking out "(5)" and inserting in place thereof "(6)."

SEC. 3. Section 2311 of title 10, United States Code, is amended by striking out "under clauses (11)–(16) of section 2304(a) of this title" and by inserting in place thereof "(1) under clauses (11)–(16) of section 2304(a) of this title, and (2) authorizing contracts in excess of three years under section 2306(g) of this title."

Passed the House of Representatives May 6, 1968.

Attest:

W. PAT JENNINGS, *Clerk.*

Senator STENNIS. Our witness on this bill is Deputy Assistant Secretary of the Air Force, Mr. Racusin.

Mr. Racusin, have a seat, please.

This bill, members of the committee, would amend military procurement law by adding authority for the Department of Defense to contract for certain services, and items of supply related to such services, for periods longer than 1 year. This bill is also recommended by the Department of Defense.

It was amended in the House to limit its application to contracts outside the United States and to exclude contracts for supplies except those that are an incident to Service contracts.

As I have said, we are glad to have the Secretary with us.

STATEMENT OF HON. AARON J. RACUSIN, DEPUTY ASSISTANT SECRETARY (PROCUREMENT), OFFICE OF THE ASSISTANT SECRETARY OF THE AIR FORCE (I. & L.)

Senator STENNIS. Mr. Secretary, you do speak for the Department of Defense, is that right?

Mr. RACUSIN. I do.

Senator STENNIS. What is your position on this bill? I know you probably have it in your statement, but may I ask that now.

Mr. RACUSIN. I can summarize it, sir, by saying that we support the bill as far as it goes—and I made that position before the House Armed Services Committee—in the sense that we would very much like to have it applied to domestic use also.

But I want to be perfectly realistic about this, that if this is going to result in delays, and possibly having to send it to conference, if your body is opposed to extending it to domestic, and therefore we might not get anything at all, then we would like to get half a loaf rather than nothing at all.

Senator STENNIS. Proceed with your statement, and then we will have a question.

Mr. RACUSIN. Yes.

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before you today to discuss the bill to amend section 2306 of title 10, United States Code, to authorize certain contracts for supplies and services to extend beyond 1 year under specified circumstances.

Certain supplies and services now being procured each fiscal year with funds appropriated annually require substantial investment by the contractor in equipment with a useful life extending beyond 1 year, or require extensive investment in the hiring and training of personnel. We are referring to such activities as base maintenance, aircraft and equipment overhaul, vehicle repair, pilot training, et cetera.

In either case, if the contractor were required to rely on a 1-year contract, his price would have to cover all these expenses, or run the risk of never recovering his unamortized investment if he loses the contract for the ensuing year or years. However, once having been awarded the contract, in subsequent years he would be in a position to underbid any competitors, who would be obliged to include in their bid prices such startup or initial investment costs. As a result of the initial 1-year contract, competition would be reduced and the Government might be overcharged in subsequent years.

Further, many small business firms are unable to provide substantial initial investment needed to compete on a 1-year basis—again, competition is reduced.

The other alternative of prospective bidders "buying in" with the intention of recouping on follow-on contracts is also undesirable. Effective competition must be based upon sound business considerations, not upon speculation as to future contracts.

If 3- or 5-year contracts could be awarded, contractors could spread the initial costs over the entire contract term and offer the opportunity for a stabilized work force, thereby providing the Government sustained quality of performance from year to year.

Moreover, the increased quantities will interest firms otherwise unwilling to compete. In addition, multiyear procurement would avoid the very real disruption of frequent changes of contractors and the inherent problems of poor performance during the transition period, duplication of startup costs, repetitive security clearances, and the transportation costs of moving the old contractor out and the new contractor in. Finally, the use of the proposed technique would result in reduction of administrative costs through the elimination of frequent reprocurement.

The other aspect, however, the lack of competition which results from the inability to use multiyear contracts with annual appropriations, deserves emphasis. A typical example is the operation, maintenance, and support of the DEW line. Details of our last procurement reveal that the nonproductive phasein-phaseout costs associated with this contract were approximately $500,000.

Twenty-eight firms expressed interest in the procurement and 15 were represented at the bidders' conference. This contract was to be awarded under an Air Force procedure to derive the benefits of multiyear contracting under current legislation. This plan contemplates continuation of the Government's option for 2 additional years a competitively selected contractor who successfully completes the initial period of performance and whose price remains similar for similar work.

When advised that the phasein-phaseout costs were required to be amortized during the first year's contract due to single-year funds, however, only two contractors submitted bids and the award was made to the incumbent contractor who was the low bidder. It is apparent that increased competition could be achieved if true multiyear contracting were possible. Many other cases of this type exist and the situation is similar throughout DOD.

Attempts to meet the problem without congressional action have met with little success. Thus, single-year contracts coupled with options are relatively ineffective, since contractors are uncertain that the Government will take up the options beyond the first year. As a result, contractors must still bid to cover the first year.

The proposed legislation would allow contracts up to 5 years where the Secretary finds that there is a continuing requirement and a need for substantial investment or extended liability, such as is involved in the situations described when it is in the best interests of the United States to contract on this basis.

In summary, three major benefits are expected to flow from the proposed legislation; cost reduction, increased competition, and improved performance. We urge favorable consideration by your committee.

Mr. Chairman, I will try to answer any questions you or the members of your committee may have.

Senator STENNIS. Gentlemen of the committee, I want to experiment here a little and try to get the issue. I am going to call on the staff, just to give the argument of the other side.

What is the argument against this bill, Mr. Darden? Give the other side of the case as you understand it. You have studied the report of the House.

Mr. DARDEN. I suppose fundamentally, Mr. Chairman, it is whether the funds that are appropriated for military use are to be for a period

of longer than 2 years in violation of the constitutional provision. In connection with procurement that is funded from procurement appropriations, there is a holding by the Attorney General that major weapons, anything to be thrown at the enemy, are not subject to that constitutional provision, but that the appropriations for personnel and operations and maintenance are.

And in a sense, this is departing from the constitutional provision. I am not suggesting that it is unconstitutional, but it may be different from the spirit of the provision.

Senator STENNIS. And then we make appropriations on an annual basis.

Mr. DARDEN. Yes, sir; for operations and maintenance, and for personnel. Appropriations for procurement and research and development remain available until expended.

Senator STENNIS. Let's get the issue, too, about the House amendments. As I say, gentlemen, the House amended this bill. All Members were here when that was covered.

Mr. Darden, from your study of the bill, what is this issue, and why did the House do this, as you understand it?

Mr. DARDEN. I think the classic case that led to the bill, Mr. Chairman, was the *Wake Island* case, in which the contractor who was performing operation and maintenance services on Wake Island, incurred substantial startup costs that, once he had received the contract, discouraged competition in later years, and probably also caused his initial bid to be higher than it otherwise had to be, because he had to provide for amortizing the entire startup costs over a 1-year period.

The General Accounting Office ruled that without express congressional authority a multiyear contract in those circumstances was inappropriate. And I believe the House Armed Services Committee concluded that the instances supporting the bill were more likely to occur on contracts outside of the United States, and also perhaps that they wanted to proceed slowly and conservatively with what is a new authority.

Perhaps if the Department could demonstrate beneficial results with this relatively narrow bill, they might entertain a broadening in future years, although there is nothing in the record to indicate that that was their thinking; it is purely my guess.

Senator STENNIS. I was trying to get at the issue here. I think the Secretary made a good statement.

These House statements limit the bill in its application to contracts outside the United States, do they not?

Mr. RACUSIN. The 48 contiguous States, sir. So that Alaska would be included within the purview of the bill.

Senator STENNIS. I see. And it also excludes altogether contracts for supplies except those that are incident to service contracts.

Mr. RACUSIN. Yes, sir.

Senator STENNIS. How would you interpret that, except those that are incident to service contracts, Mr. Secretary?

Mr. RACUSIN. As an example, Mr. Chairman, we might have a contract for what is known as inspection and repair as necessary, or modification or maintenance of aircraft offshore. And in the performance of the duty of inspecting that airplane he may have to procure a part, an item of supply. That is the kind of situation we have in mind.

Senator STENNIS. All right, Senator Miller.

Senator DOMINICK. Will you yield to that point?

Senator STENNIS. Yes, I will yield briefly.

Senator DOMINICK. We have a question that I have raised already with respect to certain radio escape equipment which is being used in Vietnam and which I raised a little problem on, I guess, for everybody, on the ground that it was a noncompetitive bid, and it was simply awarded to a single manufacturer. And presumably radio escape-type equipment would be related to the work that is going on in Vietnam.

Would it be possible under this bill to simply negotiate a contract with one person and keep it in effect for 5 years without competitive bidding?

Mr. RACUSIN. No, sir; that is not what is contemplated by the bill at all, sir. What we are investigating here is obtaining broadened competition in contracts for services as to which supplies are merely incidental. The procuring of this escape hatch, or whatever it may have been, is not contemplated by the bill. It doesn't fall within the scope of the bill, and certainly is not an authorization for a sole source of procurement by any means.

Senator DOMINICK. Thank you, Mr. Chairman.

Senator STENNIS. All right; Senator Miller, we come to you now, sir.

Senator MILLER. Thank you, Mr. Chairman.

I happen to have personal knowledge of the problem that you are referring to here in the case of an equipment supplier of about 4 years ago. And my recollection is that this was checked out very thoroughly, and it was found that under the present procedure it was costing the Government considerably in excess of what it otherwise would have cost if we had had this apply, and the competition was lowered.

I think the arguments the Secretary has made are compelling. I don't have the constitutional problem with this. I find it very difficult to see the line between a weapons system and the DEW Line, for example.

I also can see where, if we ran into a constitutional problem on the appropriations, that one could very easily cover that by saying, well, we could certainly stop the contract, we might have to pay some damages, but we don't have to carry on with the contract.

I feel very strongly in favor of this bill. As a matter of fact, I wish that it did not have that limitation in it. I would like to see this apply in the United States as well as outside. And if we can't go that far, at least I would hope that we would be able to develop some data that would show us the compelling necessity for doing this statewide as well as outside of the contiguous States.

Senator STENNIS. Thank you, Senator.

If you are ready now, Senator McIntyre, I will call on you.

Senator MCINTYRE. No questions.

Senator STENNIS. Senator Dominick, you may proceed.

Senator DOMINICK. Mr. Secretary, under the terms of this bill, as it comes to us from the House, would it also cover the contract for the development of a new type aircraft or submarine, or whatever it may be?

Mr. RACUSIN. No, sir.

Senator DOMINICK. How do they know that?

Mr. RACUSIN. I direct your attention, sir, to page 2 of this bill, which talks about the situations that we are contemplating for its use, for the operation, maintenance, and support of facilities and installations, for the maintenance and modification or aircraft, ships, in a highly complex military—

Senator DOMINICK. That is exactly why I brought the question up. So we are talking about an aircraft or submarine that we have now got, that we want to substantially change around to make faster or slower, or whatever it may be. This is a modification of an existing type aircraft. Is it possible that under this we could give a 5-year contract for the development of this new type aircraft which is a modification of an older one?

Mr. RACUSIN. I could answer that by saying that if the funds to be used for the modification are 1-year funds—and I am inclined to doubt that that is the case—we are talking here about 1-year funds—if it is 1-year funds for the purpose that you describe, and to be performed overseas, it would fall within the scope of this bill; yes, sir.

But, generally speaking, my understanding is that the kind of work that you have just described would require the use of funds other than annual funds. And that is not what we are talking about in this bill.

Senator DOMINICK. I suppose we are talking about in-plane refueling, which is one of the things on page 2 that you refer to.

Mr. RACUSIN. Yes, sir.

Senator DOMINICK. Does this mean that as an incidental part of a contractor who is making the services that one oil company would have the right to provide all the fuel for 5 years?

Mr. RACUSIN. I can only answer that, sir, by saying that if the in-plane contract is going to be performed offshore, he would be subject to competition. Again, this is not an authorization for sole source procurement. If we can extend it toward domestic use, this kind of service of in-plane refueling would come within the scope of the contract, but on a competitive basis.

We are trying to get broadened competition. And the chief limitation is when you compel a man to amortize his heavy initial investment over 1 year, he has got an inordinate obstacle, or disadvantage, to overcome that we are trying to lessen, and thereby promote competition.

Senator DOMINICK. Why does the bill specifically refer to refuse collection and disposal?

Mr. RACUSIN. We have merely cited that, sir, as an example of our present experience.

Senator DOMINICK. Where?

Mr. RACUSIN. We have it, for example, at Andrews Air Force Base, where we have gone out repeatedly, year after year, to solicit bids for a contract which requires the investment of the relatively small sum of $37,000, which is a very insignificant sum when compared to the total business, and we have gotten only one proposal, year after year.

Senator DOMINICK. You couldn't do it at Andrews Air Force Base under this bill.

Mr. RACUSIN. That is quite true.

Senator DOMINICK. So what you are talking about is refuse collection at one of the overseas bases, or Vietnam.

Mr. RACUSIN. That is correct. And the Army does cite that as one of the examples where we would have that situation.

Senator DOMINICK. Are you saying that we should give the authority to go ahead with a 5-year contract with one person in Vietnam?

Mr. RACUSIN. Sir, if they win this in competition, and the benefits to be derived through the competition extend over 5 years, we believe it is in the best interest of the Government; yes, sir.

I might say, it doesn't necessarily follow that that is for 5 years. It is entirely likely that it will be less than that—2 or 3 years, for example—there is nothing requiring that it be 5 years. It is up to 5 years. And if it exceeds 3 years and up to 5, it will require a secretarial finding, as the bill provides.

Senator DOMINICK. Thank you, Mr. Chairman.

Senator STENNIS. Thank you, Senator Dominick.

Gentlemen, frankly, it has a lot to commend it, as I see it. But it certainly does raise serious problems, too.

Mr. Darden, do you have some questions you want to ask? This is a far-reaching policy question, it seems to me.

Mr. DARDEN. Mr. Racusin, as I read the bill, the secretarial determination that is required in the use of these contracts would be delegable. That doesn't result from the bill, but it results from procurement law generally that prescribes these determinations that are not delegable.

Mr. RACUSIN. No, sir. Section 3, which speaks of really the extent of delegation, if you look at the language of section 3, as it amends section 2311, you will find that we are talking here about delegability, when we are seeking to have authorizations between 3 and 5 years.

Now, in the proposed regulation, Mr. Darden, I should tell you that if it is going to be up to 2 years and not exceeding $350,000, that requires the approval of the head of the installation making the contract. If it is between 2 and 3 years, irrespective of the amount, that is why the head of a procuring activity has a very specific, definite connotation as spelled out in the ASPER—for example, in the Air Force, there are only two heads of procuring activities, the commander of the Air Force Logistics Command and the commander of the Air Force Systems Command.

The Army and Navy have corresponding heads of procurement activities as specifically designated in the Armed Services Procurement Regulations.

Mr. DARDEN. If it is for more than 3 years, the determination has to be made by an Assistant Secretary or above.

Mr. RACUSIN. Exactly right, nondelegable above that level.

Mr. DARDEN. Thank you, Mr. Chairman.

Senator STENNIS. All right, gentlemen. I have already emphasized the far-reaching consequences of this bill as I see it. So, I am not cutting you off when I ask that we pass on to another, because we have several more. I would like to leave the record open in this matter and not ask that we pass on it today. I think it is so important that it deserves some study.

Mr. Secretary, is there something else you wish to say?

Mr. RACUSIN. No, sir; except to hope and urge that it be passed.

Senator STENNIS. You had a good statement and we thank you for coming.

Mr. RACUSIN. Thank you, sir.

Senator STENNIS. We will pass on, gentlemen, to the next matter.

(Subsequently, in executive session, the committee voted to report H.R. 15789, without amendment, as covered by S. Rept. 1313.)

H.R. 13050

Senator STENNIS. H.R. 13050, would increase the number of Navy officers who may be designated for duty as full-time specialists in various technical and professional fields.

This is a legislative proposal of the Department of Defense.

(H.R. 13050 follows:)

[H.R. 13050, 90th Cong., second sess.]

AN ACT To amend title 10, United States Code, to authorize an increase in the numbers of officers of the Navy designated for engineering duty, aeronautical engineering duty, and special duty

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

(1) Section 5406 is amended by striking out "4⅘" and inserting "5⅘" in place thereof.

(2) Section 5407 is amended by striking out "2⅘" and inserting "3⅘" in place thereof.

(3) Section 5408 is amended by striking out "2⅘" and inserting "6" in place thereof.

(4) Section 5442(g) and 5447(g) are each amended by amending clauses (1), (2), and (3) to read as follows:

"(1) Engineering duty—11 percent.

"(2) Aeronautical engineering duty—7 percent.

"(3) Special duty—12 percent."

(5) Section 5587(c) is amended by inserting the following sentences at the beginning thereof: "The types of engineering duty for which officers may be designated include ship engineering and ordnance engineering. The types of aeronautical engineering duty for which officers may be designated include aeronautical engineering and aviation maintenance."

Passed the House of Representatives May 6, 1968.

Attest:

W. PAT JENNINGS, *Clerk.*

Senator STENNIS. The witness on this bill is Rear Adm. Robert R. Crutchfield, Assistant Chief of Naval Personnel for Plans and Programs.

STATEMENT OF ROBERT R. CRUTCHFIELD, REAR ADMIRAL, U.S. NAVY, ASSISTANT CHIEF OF NAVAL PERSONNEL FOR PLANS AND PROGRAMS, BUREAU OF NAVAL PERSONNEL

Senator STENNIS. Admiral, we are glad to have you here. You may proceed in your own way. I see you have a statement.

Do you want to put that statement in the record and summarize it for us, or do you wish to read all of it?

Admiral CRUTCHFIELD. I would be happy to put it in the record and summarize it.

Senator STENNIS. All right. Give us a complete summary of it, please. And that will serve a good purpose.

Mr. Reporter, put the entire statement in the record.

Admiral CRUTCHFIELD. The purpose of this bill is to authorize an increase in the number of line officers of the Regular Navy who may be designated for duty as full-time specialists in various technical and professional fields.

Under existing law, there are percentage limitations in this regard which in previous years have been adequate for the Navy, extending back some 20 years, when these percentages were established.

However, due to the increasing complexity of the Navy, and the added technical aspects of the Navy, we have found that we are unable to provide adequate numbers of officers in these technical and specialist fields. And what we are asking for is a percentage increase in these allowances so that we can add certain specialists that it has become apparent that we need, and to increase the numbers in certain others.

Very succinctly, Mr. Chairman, that is what this bill entails. It merely changes one percentage for a slightly larger percentage. We are trying in this instance to afford ourselves sufficient flexibility so that we won't have to come back next year to change the percentage again.

Senator STENNIS. What are the new categories you wish to add?

Admiral CRUTCHFIELD. We wish to add the category of aviation maintenance duty officer. This is a field that we have people working in, but we have not been able to provide an opportunity to adjust this particular function so that we could protect their promotion opportunities and let them compete among themselves.

These people are now in the unrestricted line category. They cannot compete effectively with an unrestricted line officer, because they cannot be rotated between jobs in the same fashion. So we want to give them a fair opportunity for development so that they will stay with us.

And many of them get discouraged and go into industry, seek other employment.

Senator STENNIS. Gentlemen of the committee, this is a House bill and the report is before you. On page 7, I find is a good table showing the existing law and the changes there by the bill as reported. It doesn't increase the number of bodies, or anything like that. It just gives recognition, to what the officers are actually doing; is that right?

Admiral CRUTCHFIELD. That is exactly right, Mr. Chairman. The total number of officers in the Navy—this is controlled by the authorization.

Senator STENNIS. And this law wouldn't affect it?

Admiral CRUTCHFIELD. No, sir; it does not affect the number of officers at all.

Senator STENNIS. So that this category you mentioned of these aviation maintenance personnel, that is just a new category.

Now, you want to increase the aeronautical engineers from 525 to 780, according to the table before me, in your memorandum to Mr. Braswell. So that is just a case where you have to have more aeronautical engineers.

Admiral CRUTCHFIELD. Yes, sir.

Senator STENNIS. You do have them, and you have them doing this work, but you have to put them in some other categories; is that right?

Admiral CRUTCHFIELD. Yes, sir. We have what we call a subspecialist, who is an unrestricted line officer who rotates from sea to shore. When he is on shore he may work in this subspecialty. However, we

find that this is inadequate; with the increasing demands of the aeronautical engineering duty officer, we need more of a specialist.

And this subspecialist doesn't fill the bill in the current environment.

Senator STENNIS. I will illustrate again, gentlemen.

Here is one under "special duty." And I am going to pass this one around, "Intelligence, Present Limitation 170." You actually want to make that 650. You have that 650 number, or approximately that number, engaged in this work now, but you have to carry them under some other category; is that right?

Admiral CRUTCHFIELD. Yes, sir; that is similar to the first instance I mentioned. An aviation intelligence officer is now working as an unrestricted line officer, but he is a true specialist. So we want to properly label him and let him compete among specialists rather than unrestricted line officers.

In effect, it protects his future.

Senator STENNIS. All right, Mr. Braswell, do you have anything at this point to get this thing at issue?

Mr. BRASWELL. I think it has been stated.

Senator STENNIS. Senator Miller, are you ready to be called on?

Senator MILLER. May I ask just this question? The big jump in special duty is intelligence, from 172 to 650. That seems like a very substantial jump. What are you doing about it now? How are you getting around the problem?

Admiral CRUTCHFIELD. We have people who are actually working in this category, but they are unrestricted line officers. There has been a big increase in recent years in the Defense Intelligence Agency requirements. These have gone up. In our carriers at sea, we have an increased additional requirement in this regard. So the requirement has gone up.

And we have accommodated it through the use of unrestricted line officers. As the chairman says, we actually have people working in this field right now. We merely want to transfer them to a category which will permit them to be competitive with each other, rather than competing with an officer who is flying an aircraft or an officer who is commanding an aircraft carrier.

Senator STENNIS. That is a good statement. If the Senator would yield to me, is that the only purpose of the bill?

Admiral CRUTCHFIELD. The only purpose of the bill, yes, sir, is to increase these percentages.

Senator MILLER. Thank you.

Senator STENNIS. Senator Dominick.

Senator DOMINICK. Admiral, what was the purpose of putting a limitation on these people to begin with?

Admiral CRUTCHFIELD. This happened a long time ago, and was done by Congress. And my research indicates that it was the desire of Congress not to permit wholesale expansion in any particular category. It is a restriction on our flexibility to manage the officer resources of the Navy. Up until the present time, it has not been a restriction that we couldn't live with. It filled the bill all right.

We had no objection to the limitation. We have just outgrown it.

Senator DOMINICK. The question I was bringing up, fundamentally, is this: Is there any particular reason why we shouldn't knock out the restrictions entirely and let the Navy assign the people wherever they are wanted?

Admiral CRUTCHFIELD. No, sir; there is no fundamental reason why this should not be done. Such a move would provide us maximum flexibility, of course. The Navy has written into law more restricted measures in this regard, I believe, than the other services. However, we had no difficulty operating under them until we found a situation such as this. Just at this point in time we have outgrown it. And it has been our belief that Congress wanted to maintain these limitations in these particular categories.

So we have not asked for a complete removal.

Senator DOMINICK. There is no particular benefit to the Navy, then, in having these restrictions?

Admiral CRUTCHFIELD. Sir, from a Navy point of view, there is no particular advantage in having them, especially.

Senator DOMINICK. Suppose we pass this bill and a person is then designated as a specialist, as an intelligence officer. Does this restrict the right of the Navy, then, to assign him to line duty?

Admiral CRUTCHFIELD. No; it doesn't restrict the right, if he wishes to apply and transfer.

Senator DOMINICK. Suppose he doesn't.

Admiral CRUTCHFIELD. Then we would not assign him to line duty, both from the point of view that he wouldn't be happy if we did so, plus the fact that he probably wouldn't be qualified. We do have a procedure, though, to be able to transfer from the line to these particular categories, and it can be done in the opposite direction if the man is qualified to do so.

Senator DOMINICK. The fact that he has a specialty in intelligence doesn't necessarily mean that you can't assign him somewhere else, does it?

Admiral CRUTCHFIELD. It means that he cannot command a ship or an aircraft squadron. He is restricted in that regard. We call this the restricted line. By choosing this specialty he has limited himself in certain command positions. But aside from that, we could assign him to any job that we thought he was qualified for.

Senator STENNIS. There is so much I don't know about this personnel matter that I hesitate to say anything on it. But I do observe this, that the Navy certainly does stay on top of their personnel problems, and I have never seen them exceeded in the way they anticipate their personnel problems and get an answer before there is an emergency. They have all this worked out. I would be slow to disturb it, except where they show that they have hit the ceiling on these matters and need a little help on it.

You usually swing around to their thinking in the end on those personnel problems.

Senator Byrd, do you have some questions?

Senator BYRD. Thank you, Mr. Chairman.

Admiral, if an officer goes EDO, or into any of the other specialist positions, does not that tend to restrict his promotional possibilities, particularly in the higher echelons?

Admiral CRUTCHFIELD. No, sir; it actually enhances them. Because the shortages that we have had in some of these categories, EDO in particular, have left practically a wide-open field.

Senator BYRD. What about when you get to the higher ranks, when you get to admiral, vice admiral, and rear admiral?

Admiral CRUTCHFIELD. Percentagewise, you might be able to say that there might be less of an opportunity. But there is an opportunity. If we can succeed in getting a request through to increase the number of flag officers that we may have, the situation can be improved.

Senator BYRD. One other thing. Is there any specific reason for the very large increase in intelligence?

Admiral CRUTCHFIELD. Yes, sir.

I believe this is because of the growing importance of intelligence throughout the military. And of course the Navy has had this increased requirement. We have had to provide more people over the years to the Defense Intelligence Agency to assist them with the operation of that agency. And we have had to put officers into this field from the unrestricted line.

As I explained, these people are already working in this area. It is merely a matter of putting them under the proper category.

Senator BYRD. Thank you.

Thank you, Mr. Chairman.

Senator MCINTYRE. Mr. Chairman.

Senator STENNIS. Senator McIntyre.

Senator MCINTYRE. I am an Army man. What is a line officer?

Admiral CRUTCHFIELD. A line officer—I am trying to put it in terms of the Army. I am not sure I can. But in the Navy, a line officer is one who may aspire to command and may command the fighting units of the Navy.

Senator MCINTYRE. If he isn't a line officer, what is he?

Admiral CRUTCHFIELD. If he is not a line officer, he is a staff officer or he is a restricted line officer. The people we are talking about here are restricted line officers. By choosing to specialize, they have removed themselves from the aspiration to command fighting units of the Navy.

Senator MCINTYRE. Do they have any counterpart in the Army? A field officer?

Admiral CRUTCHFIELD. I personally don't know of any. I suppose you would say your staff versus—I keep coming back to the term "line," but you don't use it, so I don't know what the term is.

An engineer would correspond to our staff.

Senator MILLER. Your staff command.

Admiral CRUTCHFIELD. Perhaps one of the Army officers here would help me on this.

Senator STENNIS. Yes; we would be glad to hear that further, but we do have two other bills, so we will have to pass on to them.

Senator, do you want to pursue that now?

Senator MCINTYRE. I was just curious.

Senator STENNIS. Your question about the Navy was helpful to me. I am glad you asked it. Do you want to pursue it further?

Senator MCINTYRE. No.

Senator STENNIS. If there are no other questions on the bill, Admiral, we thank you very much for your attendance here.

And, gentlemen, I hope we can have an executive session and pass on some of these matters anyway.

(The complete prepared statement of Admiral Crutchfield follows:)

PREPARED STATEMENT OF REAR ADM. ROBERT R. CRUTCHFIELD, U.S. NAVY, ASSISTANT CHIEF OF NAVAL PERSONNEL FOR PLANS AND PROGRAMS, BUREAU OF NAVAL PERSONNEL

Mr. Chairman and members of the committee, I am Rear Admiral Robert R. Crutchfield, the Assistant Chief for Plans and Programs in the Bureau of Naval Personnel. I am representing the Department of Defense on H.R. 13050.

The purpose of this bill is to authorize an increase in the number of line officers of the regular Navy who may be designated for duty as full time specialists in various technical and professional fields.

Under existing law 4½ percent of the regular line officers of the Navy may be designated for engineering duty, 2½ percent may be designated for aeronautical engineering duty, and 2½ percent for special duty which includes cryptology, intelligence, public affairs, hydrography, and photography. The proposed legislation will permit 5½ percent for engineering duty, 3½ percent for aeronautical engineering duty and 6 percent for special duty.

Present law also provides that the number of regular and reserve engineering duty officers serving in the combined grades of lieutenant commander, commander and captain may not exceed 9 percent of the unrestricted line officers serving in those grades. This percentage will be increased to 11 percent. Corresponding percentages for aeronautical engineering duty officers and special duty officers are both 5 percent. They will be increased to 7 percent and 12 percent respectively.

Due to increasing technical complexity of equipment and operations, a need for additional specialists in the Navy has been defined. However, present statutory limitations preclude any significant increase in numbers of officers in existing specialties. These statutory limitations are an absolute bar to establishment of new specialties.

Statutory limitations must be raised if the Navy establishes specialties which are needed in each of the three categories, engineering duty, aeronautical engineering duty and special duty. Specifically, the types of engineering duty for which officers would be designated would include ship engineering and ordnance engineering. The aeronautical engineering community would include aeronautical engineering and aviation maintenance. Other specialties could be added to either community within the new limitations on total numbers within these categories.

Present law authorizes establishment of new specialists within the special duty category. The existing limit on the total numbers, however, prohibits their establishment. Proposed legislation with respect to this category merely increases the authorized number that may be designated for special duty. There is a current need to not only increase the size of some present SDO communities but to create new categories. An increase in regular officer and combined grade ceilings are therefore needed.

The case for increased numbers of intelligence specialists rests on two bases, increased Joint and Navy requirements and the need to incorporate the air intelligence group into the intelligence specialist community. DIA requirements have increased from 27 to 89 in the past year. Integrated Operational Intelligence Centers in our modern attack carriers require a total of 180 specialists. New multisensor and Automatic Data Processing systems require additional operators as well as more training time. The present Air Intelligence officer (Code 135X) although ostensibly an unrestricted line officer is in truth a specialist and cannot successfully compete with the unrestricted line officer for promotion. Hence, industry is more attractive than the military to these officers. Most of them serve only one tour as an Air Intelligence Officer. They cost approximately $27,500 to replace. In order to absorb the air intelligence officers into the special duty intelligence community 485 additional regular numbers and 373 additional numbers in the combined grades are needed.

At the present time Meteorologists are within the legal category of Aeronautical Engineering Duty Officer. From either an educational or functional standpoint they are not related to aeronautical engineers. There is therefore no logical reason for their remaining within this category if spaces can be found elsewhere. Additional SDO numbers authorized would permit moving Meteorologists to the special duty officer category providing promotion protection and a logical group of their own. This will make the AEDO community a more homogeneous group at the same time permitting increased confidence and morale among Meteorologists serving to increase retention of these valuable specialists.

Ordnance engineering duty officers have been a recognized specialty for many years. However, this community has never achieved separate legal status. At one

time they were included within the engineering duty officer category. Later they were shifted to the legal category of AEDO at the time the Bureau of Naval Weapons was established combining the Bureaus of Ordnance and Aeronautics. This legislation will permit this community to enjoy separate legal status so that the officers will be readily identifiable as ordnance engineers and would compete among themselves for promotion. Currently, only one legal category can exist within the engineering duty or aeronautical engineering duty communities. This legislation would permit additional legal categories to be established within the general categories of EDO and AEDO. Thus, the ordnance engineers will be given a separate legal status within the general EDO category with all the attendant advantages.

For many years there has been a recognized need for specialists in aviation maintenance. This requirement has in the past been met by using unrestricted line officers, primarily officers in the aeronautical community who are not pilots. These officers, because they lack the broad background required of an unrestricted line officer have poor promotional potential. This type of duty therefore tends to be avoided. Capable and highly motivated officers are therefore not attracted to this field to the detriment of aviation maintenance. Compounding the problem, complex and expensive equipment has intensified the need for officers who will be continuously associated with the aviation maintenance program. Expertise of subspecialists is no longer adequate for most efficient operation of our maintenance system. To alleviate this problem a plan has been formulated to establish a separate restricted line category for the aviation maintenance duty officer.

H.R. 13050 will establish this category of specialist within the aeronautical engineering duty officer community. Provisions for separate promotion numbers are specified in the same manner as for Special Duty Officer categories. Raising regular officer and combined grade limitations within the Aeronautical Engineering Duty Officer category will provide adequate numbers for current requirements with room for modest growth.

Increased requirements in other restricted line categories are foreseen in the future. The percentage increases included in the legislation are therefore somewhat in excess of our current needs but will allow for future expansion.

Enactment of this legislation will not increase budgetary requirements but will provide the flexibility to manage our personnel to meet the increased technological advances experienced in recent years.

This concludes my statement. I appreciate the privilege of appearing before this distinguished committee.

(Subsequently, in executive session, the committee voted to report H.R. 13050, without amendment, as covered by S. Rept. 1315.)

H.R. 5783

Senator STENNIS. I will next call H.R. 5783, which is in substance a codification to attain uniformity in the laws covering the administration of miiltary correctional facilities and the treatment of persons convicted under courts-martial.

This bill is sponsored by the Department of Defense.

(H.R. 5783 follows:)

[H.R. 5783, 90th Cong., second sess.]

AN ACT To amend titles 10, 14, and 37, United States Code, to provide for confinement and treatment of offenders against the Uniform Code of Miltary Justice

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subtitle A of title 10, United States Code, is amended by inserting the following new chapter after chapter 47:

"Chapter 48.—MILITARY CORRECTIONAL FACILITIES

"Sec.
"951. Establishment; organization; administration.
"952. Parole.
"953. Remission or suspension of sentence; restoration to duty; reenlistment.
"954. Voluntary extension; probation.

"§ 951. Establishment; organization; administration

"(a) The Secretaries concerned may provide for the establishment of such military correctional facilities as are necessary for the confinement of offenders against chapter 47 of this title.

"(b) The Secretary concerned shall—

"(1) designate an officer for each armed force under his jurisdiction to administer military correctional facilities established under this chapter;

"(2) provide for the education, training, rehabilitation, and welfare of offenders confined in a military correctional facility of his department; and

"(3) provide for the organization and equipment of offenders selected for training with a view to their honorable restoration to duty or possible reenlistment.

"(c) There shall be an officer in command of each major military correctional facility. Under regulations to be prescribed by the Secretary concerned, the officer in command shall have custody and control of offenders confined within the facility which he commands, and shall usefully employ those offenders as he considers best for their health and reformation, with a view to their restoration to duty, enlistment for future service, or return to civilian life as useful citizens.

"(d) There may be made or repaired at each military correctional facility such supplies for the armed forces or other agencies of the United States as can properly and economically be made or repaired at such facilities.

"§ 952. Parole

"The Secretary concerned may provide a system of parole for offenders who are confined in military correctional facilities and who were at the time of commission of their offenses subject to the authority of that Secretary.

"§ 953. Remission or suspension of sentence; restoration to duty; reenlistment

"For offenders who were at the time of commission of their offenses subject to his authority, and who merit such action, the Secretary concerned shall establish—

"(1) a system for the remission or suspension of the unexecuted part of the sentences of selected offenders;

"(2) a system for the restoration to duty of such offenders who have had the unexecuted part of their sentences remitted or suspended and who have not been discharged; and

"(3) a system for the enlistment of such offenders who have had the unexecuted part of their sentences remitted and who have been discharged.

"§ 954. Voluntary extension; probation

"The Secretary concerned may provide for persons who were subject to this authority at the time of commission of their offenses a system for retention of selected offenders beyond expiration of normal service obligation in order to voluntarily serve a period of probation with a view to honorable restoration to duty."

SEC. 2. The analysis of subtitle A of title 10, United States Code, and the analysis of part II of subtitle A thereof, are each amended by inserting the following new item:

"48. Military Correctional Facilities ..... 951."

SEC. 3. The analysis of subtitle B of title 10, United States Code, and the analysis of part II of subtitle B thereof, are each amended by striking out the following item:

"351. United States Disciplinary Barracks ..... 3661."

SEC. 4. The analysis of chapter 631 of title 10, United States Code, is amended by striking out the following item:

"7215. Naval prisons, prison farms, and prisoners."

SEC. 5. The analysis of subtitle D of title 10, United States Code, and the analysis of part II of subtitle D thereof, are each amended by striking out the following item:

"851. United States Disciplinary Barracks ..... 8662."

SEC. 6. The following parts of title 10, United States Code, are repealed:

(1) Chapter 351.

(2) Section 7215.

(3) Chapter 851.

SEC. 7. The analysis of chapter 13 of title 14, United States Code, is amended by striking out the following item:

"509. Prisoners; allowances to; transportation."

and inserting the following item in place thereof:

"509. Persons discharged as result of court-martial; allowances to."

SEC. 8. Section 509 of title 14, United States Code, is amended to read as follows:

"§ 509. Persons discharged as result of court-martial; allowances to

"The Secretary may furnish persons discharged pursuant to the sentence of a Coast Guard court-martial suitable civilian clothing and a monetary allowance not to exceed $25 if the person discharged would not otherwise have suitable clothing or funds to meet immediate needs."

SEC. 9. The analysis of chapter 7 of title 37, United States Code, is amended by striking out the following item:

"426. Prisoners in naval confinement facilities."

SEC. 10. Section 426 of title 37, United States Code, is repealed.

Passed the House of Representatives May 6, 1968.

Attest:

W. PAT JENNINGS, *Clerk.*

Senator STENNIS. The witness is Maj. Gen. Carl C. Turner, the Provost Marshal General, Department of the Army.

Senator MCINTYRE. Mr. Chairman, may I ask a question

Senator STENNIS. Yes, sir.

Senator MCINTYRE. Why aren't these statements available to the committee members, and why can't we have them earlier?

Senator STENNIS. We ought to.

Senator MCINTYRE. I realize that sometimes they are not filed until the last minute.

Senator STENNIS. I don't know when these were sent in, but I imagine they came in this morning.

Mr. DARDEN. Mr. Chairman, the Departments have prepared statements on all the House-passed bills that are pending here. They will furnish them as early as the committee asks for them. So if Senator McIntyre would like them earlier, we can ask for them earlier next time. Perhaps this is our fault.

Senator MILLER. I think it would be helpful to have them.

Senator STENNIS. I think so. We will come back to that.

STATEMENT OF CARL C. TURNER, MAJOR GENERAL, U.S. ARMY, THE PROVOST MARSHAL GENERAL, DEPARTMENT OF THE ARMY; ACCOMPANIED BY CAPT. ROBERT J. TRIBBLE, CHIEF, CORRECTION DIVISION, BUREAU OF PERSONNEL, DEPARTMENT OF THE NAVY; LT. COL. DARRELL SCHLOTTERBACK AND LEIGHTON DUDLEY, PRISONER RETRAINING AND CORRECTION, RESOURCES MANAGEMENT DIVISION, DIRECTORATE OF SECURITY POLICE, OFFICE OF THE INSPECTOR GENERAL, DEPARTMENT OF THE AIR FORCE; JOHN MORRIS GRAY, PENOLOGIST, OFFICE OF THE PROVOST MARSHAL GENERAL, DEPARTMENT OF THE ARMY; AND LT. COL. NEWELL J. BERGER, OFFICE OF THE PROVOST MARSHAL GENERAL, DEPARTMENT OF THE ARMY

Senator STENNIS. General, will you proceed, please. Do you have a prepared statement?

General TURNER. I have a prepared statement that is rather short and, if you so desire, sir, I can summarize.

Senator STENNIS. Be sure to hit all the points.

This statement goes into the record.

General TURNER. The purpose of this bill, H.R. 5783, is to attain uniformity amongst the Armed Forces in the administration of military correctional facilities and the treatment of persons sentenced to confinement under the Uniform Code of Military Justice.

It would repeal the several sections of title 10 and section 426 of title 37, and amend other sections as they now individually pertain to confinement facilities and procedures of several departments. And it would provide the statutory framework for uniform administration of military correctional facilities and uniform treatment of personnel of all departments confined pursuant to the provisions of the Uniform Code of Military Justice.

Such treatment will encompass the education, training, rehabilitation, and welfare of the offenders, and the remission or suspension of unexecuted parts of sentences, and the restoration to active duty or reenlistment of selected offenders and the parole of offenders. The provisions of titles 10, 14, and 37 as they now apply to each of the Armed Forces are not compatible in content or terminology so as to insure or allow uniformity in the treatment of offenders sentenced to confinement.

For example, the Secretary of the Navy does not have the authority presently granted to the Secretary of the Army and the Secretary of the Air Force to establish a parole system for persons under their jurisdiction who are confined in a military correctional facility.

The Uniform Code of Military Justice has placed all the Armed Forces on the same category basis in the administration of military justice. The enactement of H.R. 5783 will accomplish the same desirable end with respect to the administration of military correctional facilities and the treatment of offenders.

Accordingly, the Department of the Army, on behalf of the Department of Defense, strongly supports H.R. 5783 and recommends its enactment.

(The complete prepared statement of General Turner follows:)

Mr. Chairman and members of the committee, I am Major General Carl C. Turner, The Provost Marshal General, U.S. Army. The Department of the Army has been designated as the representative of the Department of Defense for this legislation. I represent the Department of the Army for that purpose. I have with me today representatives of the other military departments for the purpose of answering any questions that you may have with particular reference to their service.

I have a brief prepared statement which I would like to present to the Committee.

The principal purpose of H.R. 5783 is to attain uniformity among the armed forces in the administration of military correctional facilities and the treatment of persons sentenced to confinement under the Uniform Code of Military Justice. The bill would accomplish this purpose in the following manner:

(a) It would repeal the several sections (3661, 3662, 3663, 7215, 8662, and 8663) of title 10 and section 426 of title 37, and amend section 509 of title 14, United States Code, as they now individually pertain to confinement facilities and procedures of the several departments; and

(b) It would provide the statutory framework for uniform administration of military correctional facilities and uniform treatment of personnel of all departments confined pursuant to the provisions of the Uniform Code of Military Justice. Such treatment will encompass the education, training, rehabilitation, and welfare of offenders; the remission or suspension of unexecuted parts of sentences and the restoration to active duty or reenlistment of selected offenders; and the parole of offenders.

The provisions of titles 10, 14, and 37 as they now apply to each of the armed forces are not compatible in content or terminology so as to insure or allow uniformity in the treatment of offenders sentenced to confinement. For example, the

Secretary of the Navy and the Secretary of Transportation, the latter in respect to the Coast Guard when it is not operating as a part of the Navy, do not have the authority presently granted the Secretary of the Army and the Secretary of the Air Force to establish a parole system for persons under their jurisdiction who are confined in a military correctional facility. There is also disparity among the services with respect to statutory authority for the restoration to duty of selected offenders. These disparate conditions are the result of separate and individual enactments pertaining to each of the armed forces over a period of years. The Uniform Code of Military Justice has placed all the armed forces on the same statutory basis in the administration of military justice. Enactment of H.R. 5783 will accomplish the same desirable end with respect to the administration of miliary correctional facilities and the treatment of offenders.

Accordingly, the Department of the Army on behalf of the Department of Defense strongly supports H.R. 5783 and recommends its enactment.

Enactment of this legislation will cause no apparent increase in budgetary requirements of the Department of Defense.

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

Senator STENNIS. Gentlemen, it seems to me this bill deserves some study.

Mr. Darden, do you want to say something now in response to the General's statement, to get the issues out here before us?

Mr. DARDEN. No, sir. I think this is, as you have indicated, Mr. Chairman, principally a codification, and it does not extend or expand authority except for the provision that General Turner mentioned, to enable the Navy to operate a parole system. But it is not any large matter of privileges or powers. It is essentially a codification.

Senator STENNIS. I am not against paroles. They have a great purpose. But I have said that the way it looks to me, about the only place that there is any discipline left anywhere is in the military. The trend is, let everybody do what they want to do.

I would like to have a chance to look into this a little myself. Let's see what questions we have.

Senator Miller.

Senator MILLER. I have no questions, Mr. Chairman. It just seems to me that this is a bill that would be complementary to the Uniform Code of Military Justice. And since all of the departments are in agreement on it, it sounds good to me.

Senator STENNIS. Senator McIntyre, do you have a question?

Senator MCINTYRE. It seems like it has been a long time coming up here. I would think this would have been taken care of years and years ago.

General TURNER. It was proposed 8 years ago, sir.

Senator MCINTYRE. I am delighted to hear that the chairman says we ought to have a chance to study it.

Senator STENNIS. I want to look into just what your system does with parole, different from the others, and compare them. They may all need some modifications. You don't seem to cover that or undertake to cover it. That is one thing.

Senator Dominick, any questions?

Senator DOMINICK. No questions.

Senator STENNIS. General, do you have something else to say about it?

General TURNER. I have nothing, sir.

Senator STENNIS. I am sure the committee will give it full attention. If we do pass it over today, that is certainly not defeating the bill. But we will have a chance to look a little further into it.

Thank you very much, General.

(Subsequently, in executive session, the committee voted to report H.R. 5783, without amendment, as covered by S. Rept. 1314.)

H.R. 10573

Senator STENNIS. The next bill that we have here for today is H.R. 10573, which would amend the military procurement law by adding a provision giving the Department of Defense the right to examine all records, documents, and other data of contractors or subcontractors that relate to the negotiation, pricing, or performance of certain contracts or subcontracts.

I note that our colleague, the Senator from Wisconsin, Mr. Proxmire, has introduced a companion bill, but since we have a House-passed bill on the same subject, we are considering the House bill.

(H.R. 10573 follows:)

[H.R. 10573, 90th Cong., second sess.]

AN ACT To provide authority to increase the effectiveness of the "Truth in Negotiations Act"

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

Subsection 2306(f) is amended by adding the following paragraph:

"For the purpose of evaluating the accuracy, completeness, and currency of cost or pricing data required to be submitted by this subsection, any authorized representative of the head of the agency who is an employee of the United States Government shall have the right, until the expiration of three years after final payment under the contract or subcontract, to examine all books, records, documents, and other data of the contractor or subcontractor related to the negotiation, pricing, or performance of the contract or subcontract."

Passed the House of Representatives May 6, 1968.

Attest:

W. PAT JENNINGS, *Clerk.*

Senator STENNIS. We are pleased to have with us today as a witness Mr. James E. Welch, Deputy General Counsel for the General Accounting Office.

STATEMENT OF JAMES EDWARD WELCH, DEPUTY GENERAL COUNSEL, GENERAL ACCOUNTING OFFICE, AND W. W. SNAVELY, BRIGADIER GENERAL, U.S. ARMY, DIRECTOR, PROCUREMENT POLICY, OFFICE OF THE SECRETARY OF DEFENSE

Senator STENNIS. Mr. Welch, we are glad to have you here today, sir. If you have a statement, we will be glad to hear your statement, or you can put your statement in the record and summarize it now.

Mr. WELCH. Perhaps the latter would be preferable, Mr. Chairman.

Senator STENNIS. All right.

Mr. WELCH. My name is J. Edward Welch, Deputy General Counsel of the General Accounting Office.

We appreciate this opportunity to express our views on this bill.

As you recall, in 1962, the so-called Truth in Negotiations Act was passed by Congress. This act amended the Armed Services Procurement Act to require the military departments, contracting agencies of the military departments, to obtain cost and pricing data in making all negotiated contracts over $100,000.

The reason for this requirement was that, as distinguished from normal advertised contracts, where prices are arrived at through full and free competition, full and free competition does not necessarily obtain in making negotiated contracts.

So it was felt that to assure the reasonableness of prices under negotiated contracts, contractors should be required to furnish cost and pricing data, and to certify that this cost and pricing data is current, accurate, and complete.

Of course, the purpose of the requirement is to enable a determination to be made as to whether the price is reasonable. And this can only be determined on audit after the contract is entered into.

Military departments do not have statutory authority to audit the performance records of negotiated contractors. The General Accounting Office does have such authority, but DOD does not have statutory authority.

As a result of some of our audits, where we found overpricing, and the military department failed to detect overpricing, we recommended that the military department should have this authority. This bill results from our recommendation.

As a result of our recommendations, the military departments did enact regulations which impose this audit requirement to provide for the contractual operating provision to audit the performance of negotiated contractors.

But we feel that this right would be statutory where, among other reasons, regulations can be changed. And if it is a statutory requirement, certainly this will be a continuing requirement, and will not be subject to change.

(The prepared statement of Mr. Welch follows:)

Mr. Chairman and members of the committee, I am pleased to be here today to give you our views on H.R. 10573, passed by the House of Representatives on May 6, 1968, a bill to provide authority to increase the effectiveness of the "Truth in Negotiations Act."

The bill would provide auditing rights under the "Truth in Negotiations Act" to determine whether the cost or pricing data required to be submitted by the contractor or subcontractor were accurate, complete and current. The contracting agency would be given the right to examine "all books, records, documents, and other data of the contractor or subcontractor related to the negotiation, pricing, or performance of the contract or subcontract."

Currently, auditing rights to implement the act are obtained by a contract clause as set forth in the Armed Services Procurement Regulation (ASPR 7–104.41). Until recently, the ASPR did not provide for obtaining access to the contractor's actual records of performance in the case of firm fixed-price contracts. (Of course, actual cost records must be submitted in order to obtain payments under other types of contracts). The Department of Defense felt, it appears, that it had no need to gain access to the actual records of performance in order to determine whether the data submitted at the time of the negotiation were accurate, complete and current. Also, it was feared that such access might have the effect of impairing the integrity of the firm fixed-price type of contract.

We found, based on our examination of defense contracts and subcontracts pursuant to 10 U.S.C. 2313(b) (which includes examination of actual performance records), that certain types of undisclosed information, such as make or buy plans and plans to purchase new equipment, were not being detected by the contracting agencies under their examinations. It was our belief that such undisclosed information could have been identified by the contracting agencies in a post-award audit of the contract or subcontract performance records. In a report to the Congress dated February 23, 1966, entitled "Need For Post-Award Audits to Detect Lack of Disclosure of Significant Cost or Pricing Data Available Prior to Contract Negotiation and Award," B–158193, we recommended that a clause be included

in all contracts required to be negotiated on the basis of cost or pricing data, giving agency officials the right to examine all data related to contract performance in addition to the data available to the contractor at the time of certification. (Recommendation No. 3, page 25 of the report.)

On July 27, 1967, when we furnished our comments on this bill, the Department of Defense had not yet acted on our recommendation. We noted that the proposed legislation would accomplish our recommendation, and we therefore urged its passage.

On September 29, 1967, however, the Department of Defense issued a Memorandum stating that henceforth the service departments would obtain contractual rights to audit contractor performance records in noncompetitive firm fixed-price contracts involving certified cost or pricing data. Thereafter, on November 30, 1967, implementing regulations were issued providing for such access in the case of both contracts and subcontracts. (Defense Procurement Circular No. 57 dated November 30, 1967.)

We are pleased, of course, that the Department of Defense has adopted our recommendation of February 23, 1966. We do not anticipate that the new regulations will soon be changed or will not be followed. At the same time, however, we believe that the matter of audit rights should be established in the act itself.

The "Truth in Negotiations Act" would be an ineffectual instrument without adequate audit implementation. Although we are satisfied with the current regulation, we think the matter of auditing rights is fundamental to the act and should be considered at the congressional level, not left completely for administrative determination.

Accordingly, we favor enactment of the current legislation.

Senator STENNIS. You are just asking to firm up by statute what you are already doing, or practicing, by regulation; is that right?

Mr. WELCH. That is correct.

Senator STENNIS. Well, how has it worked? How have the regulations worked out? Have they gotten the desired results?

Mr. WELCH. I would expect so, sir. But I do not have specific information on that. I am from the General Accounting Office.

Senator STENNIS. I know you are.

Mr. WELCH. I am sure that our audit people will be checking to see how this has been operating, if they haven't already done so.

Senator STENNIS. You say here at the bottom of page 3, "The Truth in Negotiations Act would be an ineffectual instrument without adequate audit implementation."

Well, the regulations have not shown up to be unworkable, at least.

Mr. WELCH. No, sir. The regulations do require this same type of contractual provision that the bill would require.

Senator STENNIS. All right.

Mr. Darden, to get the issue out here on the table before the committee, do you have anything to say pro or con?

Mr. DARDEN. I am not sure that I can contribute anything, Mr. Chairman, except to say that the change in Defense regulations occurred so recently that there probably hasn't been an opportunity to observe just what effect it has had. It was changed last fall, was it not, Mr. Welch?

Mr. WELCH. You are correct. That is a good point, Mr. Darden.

Senator STENNIS. I thought you said 1966, but that is all right.

Now, did you gentlemen in the General Accounting Office ask for this bill?

Mr. WELCH. Yes, sir, we did.

Senator STENNIS. And you think it will help you, as well as the Department of Defense; is that right?

Mr. WELCH. We do. It will help to insure more correct pricing in negotiated contracts.

Senator STENNIS. All right.

Senator Miller.

Senator MILLER. I am not sure I understand why you asked for the bill. As I read this explanation, if this bill is enacted, there is not going to be anything done that is not already being done now by regulation.

Mr. WELCH. That is correct. However——

Senator MILLER. Then, you are being helped by the regulation.

Mr. WELCH. The regulation was not promulgated until after we recommended this legislation. In the meantime, the regulation has been promulgated. But as I said—and I think as we say in the statement—we feel that this is a matter that should be treated by statute rather than by mere regulation.

Senator MILLER. Why?

Mr. WELCH. Well, as I said, regulations can be changed.

Senator MILLER. And they were changed to accord with your desires.

Mr. WELCH. Yes. But they could be changed again, sir.

Senator MILLER. Do you have any indication that they are thinking of changing them?

Mr. WELCH. No. We nowhere suggest that they would be changed.

Senator MILLER. I am sure you haven't suggested that they be changed, because you are delighted with the change they have made, which is in accord with your wishes.

Mr. WELCH. We don't suggest that the military departments change the regulations soon—perhaps not at all; we don't know.

Senator MILLER. Has there been any indication to you by anybody in the Defense Department that they were thinking of changing these regulations?

Mr. WELCH. No, sir.

Senator MILLER. Since they changed the regulations to meet your desires, why would this suggestion be made now that they might change them back, if there has been no intimation on the part of the Defense Department that they were going to change?

Mr. WELCH. I suppose the basis for the feeling is that they could be changed, whereas if we had the requirement posed by statute, they couldn't be changed.

Senator MILLER. I must say that if we operated on that basis, we would be codifying every regulation that is now on the books of the Defense Department, if we carried that point of view out. I am wondering if there is something behind this that hasn't been brought out yet, or whether there has been some resistance on the part of civilian contractors with the Defense Department, who are alleging that the Department does not have the authority by regulation to do this.

Have you heard of any resistance to opening up books and records to DOD auditors on the part of the contractors?

Mr. WELCH. Not opening them up, as required by this regulation; no, sir.

Senator MILLER. You have not?

Mr. WELCH. No, sir.

Senator MILLER. Are there any DOD representatives here who could enlighten us on that?

General SNAVELY. Yes. I am General Snavely, Director of Procurement Policy in the Office of the Secretary of Defense.

Insofar as this particular regulation was concerned, it was put into effect on the 30th of November last year, and it is too early to determine whether or not it is going to work the way we intended.

What this regulation does is establish a contractual right for the Government to examine the books, so that if we have a problem it will be at the time the contract is priced. Once the contractor has accepted the contract, he has accepted it with the provision in it that we will have audit access to the performance records for the purpose of verifying the cost and price data related to this particular bill.

Senator MILLER. Are you having any resistance on the part of any of these proposed contractors to including such a provision in the contract?

General SNAVELY. Not in the particular instance. On principle, the industry people have been generally opposed to this, but there has been no objection to the basis of the implementation.

Senator MILLER. You said, gentlemen, that you were not sure how these regulations are going to work out.

General SNAVELY. There is no indication that they will not work out.

Senator MILLER. Then, we would have no indication as to whether or not codifying the regulations would work either, would we?

General SNAVELY. That is right, sir. This is a new procedure, and we put it into effect after considering it for about 10 months. And it is relatively new as far as its implementation is concerned.

Senator MILLER. May I say that I like the regulation, and I certainly want to be helpful to the General Accounting Office, but to just say, as I heard the explanation here, the argument for the bill is that the regulation could be changed without congressional approval, and there is no indication of any intention on the part of DOD to change the regulation, it makes me wonder what we are doing with the bill.

If they change it, why that is something else.

Senator STENNIS. If I may intervene there, please, I am about to run out of time.

Senator MILLER. I have no further comments, Mr. Chairman.

Senator STENNIS. I was going to say, we can just carry it over to the next meeting. I do want to have an executive meeting.

Senator McIntyre.

Senator MCINTYRE. Are you going to hold this bill over to the next meeting?

Senator STENNIS. We certainly can. We might clear up some of it in executive meeting.

Senator MCINTYRE. I would like to ask a few questions, but if you are going to hold it over I won't ask them.

Senator STENNIS. Senator Dominick.

Senator DOMINICK. This is a fixed-price only negotiated contract?

Mr. WELCH. That is correct, fixed-priced negotiated contract.

Senator DOMINICK. And it is my understanding that the industries which are objecting to it are objecting because they don't want their books gone over by two separate sets of auditors, one from the DOD and one from the General Accounting Office.

Mr. WELCH. If they are objecting, as the general said, we don't really know yet if there is any objection to the general regulation.

Senator DOMINICK. But it would be a duplication to the work that you do.

Mr. WELCH. It could be, yes.

Senator STENNIS. Who said there was objection by the contractor?

Senator DOMINICK. General Snavely.

General SNAVELY. May I clarify that, sir. In commenting on this proposed regulation, the industry commented that they had objections to doing this because we were talking about auditing a firm fixed-price contract, and they have total responsibility for costs and profit results on firm fixed-price contracts.

And we have the option of using that type or another type of contract where we do have audit access. And we are not supposed to use fixed-price contracts if we cannot verify them.

Senator STENNIS. Not so much detail, please.

Do they object to this bill so far as you know?

General SNAVELY. I think they are unsympathetic to the bill.

Senator STENNIS. That is what we wanted to know.

Thank you very much, gentlemen.

Under the circumstances, and for the time being, gentlemen let's pass that bill over.

And we will go into executive session if it is agreeable to the committee.

(Whereupon, at 12:30 p.m., the committee proceeded in executive session.)

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