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FIVE-PERCENT INCREASE IN CERTAIN ANNUITIES

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ITTEE ON RETIREMENT, INSURANCE,
AND HEALTH BENEFITS

OF THE

COMMITTEE ON
OFFICE AND CIVIL SERVICE
USE OF REPRESENTATIVES

NINETY-FIRST CONGRESS

FIRST SESSION

ON

H.R. 15024

A BILL TO AMEND SECTION 8340 OF TITLE 5, UNITED
STATES CODE, TO PROVIDE A 5-PERCENT INCREASE IN
CERTAIN ANNUITIES

DECEMBER 5, 1969

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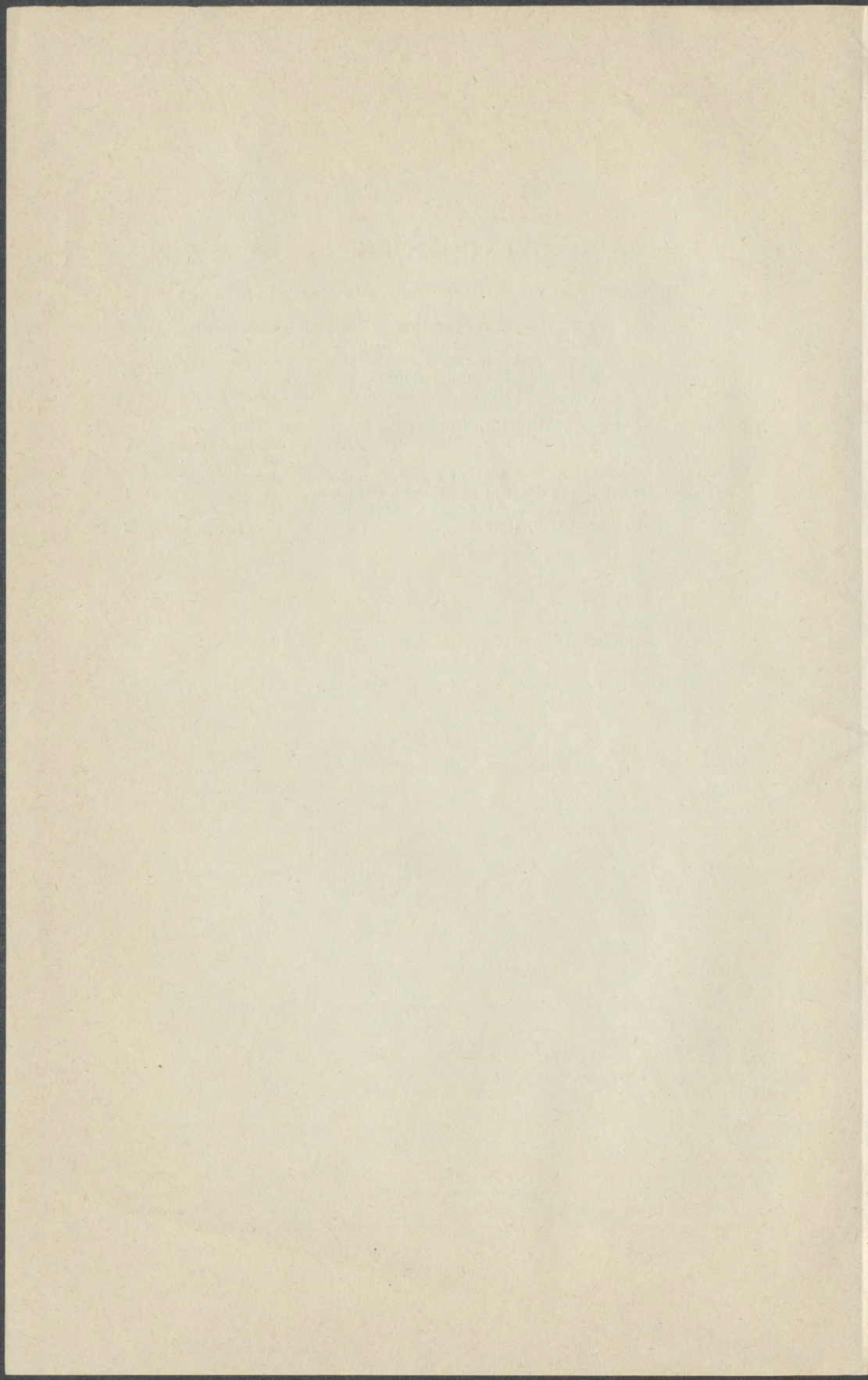
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(Ralph J. Devlin, Staff Assistant, Room 207, Cannon Building—Ext. 6831)

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FIVE-PERCENT INCREASE IN CERTAIN ANNUITIES

FRIDAY, DECEMBER 5, 1969

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON RETIREMENT, INSURANCE,
AND HEALTH BENEFITS,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:40 a.m., in room 210, Cannon House Office Building, Hon. Dominick V. Daniels (subcommittee chairman) presiding.

Mr. DANIELS. The Subcommittee on Retirement, Insurance, and Health Benefits will come to order.

The subcommittee is meeting this morning to receive testimony from representatives of the executive branch on H.R. 15024, a bill which the chairman of the Committee on Post Office and Civil Service, Mr. Dulski, and I recently introduced upon the request of the Department of Defense.

The purpose of H.R. 15024 is to extend the November 1, 1969 5 percent cost-of-living annuity adjustment provided under the civil service retirement law to those Federal employees having become entitled to immediate annuity based upon involuntary separations occurring in the months of November and December, 1969.

Without objection, the bill and the letter of November 17, 1969, transmitting the recommendation of the Secretary of Defense to the Speaker of the House of Representatives, and the administrative report by the Chairman of the U.S. Civil Service Commission on a similar bill, H.R. 14934, will be inserted into the record at this point.

(The letter and report referred to follow:)

THE SECRETARY OF DEFENSE,
Washington, D.C., November 17, 1969.

Hon. JOHN W. McCORMACK,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is forwarded herewith a draft of legislation "To amend section 8340 of title 5, United States Code, to provide a five percent increase in certain annuities."

The proposal is part of the Department of Defense Legislative Program and the Bureau of the Budget has advised that there is no objection from the standpoint of the Administration's Program to the submission of this proposal. It is recommended that the proposal be enacted.

The proposal would authorize a five percent cost-of-living annuity increase for those who retire after November 1, 1969, and before January 2, 1970, and whose retirement is based on involuntary separation.

In order to adjust to reduced expenditure levels in this fiscal year, the Department of Defense is closing a number of bases and reducing the overall size of its civilian work force at many installations. In connection with these necessary reductions, a series of actions was announced on October 29 eliminating about

27,000 civilian and 37,800 military positions. Unfortunately the timing of this announcement was such that it occurred only two days before the final date by which employees had to elect to retire in order to obtain the five percent cost-of-living benefit authorized by subsection 8340(b) of title 5, United States Code, as amended by Public Law 91-93, approved October 20, 1969. While the Department took expeditious action to notify all employees affected by these closures and reductions of the necessity to make a prompt decision if they wished to benefit from the five percent cost-of-living adjustment it was not possible for many employees to make a reasoned decision of this importance in a two-day period.

This situation could be remedied if eligibility for the five percent cost-of-living adjustment available to annuitants on the rolls as of November 1, 1969, were to be extended for a two month period for those employees whose retirement is based on involuntary separation. A draft of legislation which would accomplish this extension is attached.

We are unable to estimate the number of employees faced with involuntary separation who would take advantage of this extension and therefore cannot determine the cost of this legislation, but the costs would be minimal in relation to overall retirement costs. If enacted, the proposal would have Government-wide application.

If this legislation is to be of benefit during the current reductions, it would be necessary for the Congress to take prompt action on the proposed legislation.

Sincerely,

MELVIN R. LAIRD.

Attachment.

A BILL To amend section 8340 of title 5, United States Code, to provide a 5-percent increase in certain annuities

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8340 of title 5, United States Code, is amended by adding the following at the end thereof:

"(g) Each annuity payable under this title based on involuntary separation and having a commencing date after November 1, 1969, but before January 2, 1970, shall be increased by 5 percent."

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., December 2, 1969.

HON. THADDEUS J. DULSKI,
*Chairman, Committee on Post Office and Civil Service,
House of Representatives.*

DEAR MR. CHAIRMAN: This refers further to your request for the Commission's views on H.R. 14934, a bill "To amend title 5, section 8340, United States Code."

This bill was introduced in response to recommendation contained in letter dated November 17, 1969, from Secretary of Defense Laird to the Speaker of the House of Representatives. To properly carry out its intent, certain technical changes in the bill are necessary. We therefore recommend that it be reworded to read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That section 8340 of title 5, United States Code, is amended by adding the following at the end thereof:

"(g) Each annuity payable under this title based on involuntary separation and having a commencing date after November 1, 1969, but before January 2, 1970, shall be increased by 5 percent."

The amended bill would extend for 2 months the period within which certain civilian employees of the Government could retire and receive an increase equal to the current 5 percent cost-of-living increase authorized by the civil service retirement law provision (5 U.S.C. 8340(b)) as amended by Public Law 91-93 approved October 20, 1969. In order to receive the cited increase, it was necessary that employees have retired by October 31, 1969, or earlier.

The current problem arose because the Defense Department is closing a number of bases and reducing the overall size of its civilian work force at many installations. In connection with the necessary reductions, the Department on October 29th announced a series of actions eliminating approximately 27,000 civilian positions. Many of the affected employees were old enough and had sufficient service to retire, but the shortness of the period (October 29-31) generally prevented reasoned decisions as to retirement by October 31st.

This matter was the subject of full discussion between the Department and the Commission late in October. The Commission instantly recognized the problem and advised Defense Department that it concurred in a 2-month extension of the 5% cost-of-living adjustment for these persons who would be involuntarily separated due to the curtailment of activities.

We cannot of course lose sight of the fact that any extension of time in this area constitutes a discrimination and an inequity against the thousands of employees who retired October 31, 1969. Each additional month that service is extended accords a three-pronged benefit in these cases. The retiring employee's basic annuity is increased by (1) the additional time, (2) his having a higher 3-year average salary, and (3) application (generally) of a lower percentage reduction factor because of his being a month older. In addition, according the five percent increase heightens this advantage because it is applied to a larger annuity base. Also, the advantage would continue to grow with each future cost-of-living adjustment, one of which, if the present trend in the Consumer Price Index continues, could well come about the middle of 1970. However, in the light of the existing emergency situation, the Commission believes that stretching the availability of this increase to cover persons involuntarily separated by December 31st would be reasonable and warranted.

With the technical amendments suggested, the Commission urges prompt approval of H.R. 14934.

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

By direction of the Commission:

Sincerely yours,

(Signed) ROBERT E. HAMPTON,
Chairman.

Mr. DANIELS. I would also like to note that a similar bill, H.R. 15006, was introduced by one of the members of this subcommittee, my colleague, Mr. Hogan. That bill is slightly different in that it would extend until April 2, 1970, the same 5-percent cost-of-living increase proposed in H.R. 15024.

The subcommittee welcomes as its first witness on this proposal the Honorable Roger T. Kelley, Assistant Secretary of Defense for Manpower and Reserve Affairs. Mr. Kelley is accompanied by his deputy, Mr. Carl W. Clewlow, and Dr. William C. Valdes, Staff Director, Office of Civilian Personnel Policy, Department of Defense.

Mr. Kelley, I note you have a prepared statement. You are free to read your statement or to give your oral testimony in the manner that you see fit.

TESTIMONY OF HON. ROGER T. KELLEY, ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS, ACCOMPANIED BY CARL W. CLEWLOW, DEPUTY ASSISTANT SECRETARY (CIVILIAN PERSONNEL POLICY) AND DR. WILLIAM C. VALDES, STAFF DIRECTOR, OFFICE OF CIVILIAN PERSONNEL POLICY

Mr. KELLEY. Yes, sir.

It is fairly brief, Mr. Chairman, so if you don't object, I will read it into the record.

Mr. DANIELS. I have no objection, sir.

Mr. KELLEY. I appreciate the opportunity to present the views of the Department of Defense on proposed legislation that would amend section 8340 of title 5, United States Code, to provide a time extension of a 5-percent increase in certain annuities. This 5-percent annuity increase for persons on the civil service retirement rolls as of November 1, 1969 results from the operations of section 8340, title 5. Section 8340 provides for adjustments in annuities as the cost-of-living in-

creases. This is an excellent feature of the Civil Service Retirement Act and one that is of particular importance in this period of rapidly rising living costs.

My testimony today will include an explanation of the reasons we have advanced this proposal to extend the recent 5-percent cost-of-living adjustment to a group of employees not now eligible, and what its beneficial effects would be.

The Secretary of Defense announced on October 29, 1969 a number of base closures and personnel reductions at other installations. Together, these involved the elimination of approximately 27,000 civilian positions. Following that announcement, the Departments of the Army and Navy announced the elimination of an additional 6,300 civilian positions, and most of the latter announcements occurred shortly after October 31.

October 31 is a key date. This was the final date on which employees had the opportunity to elect retirement and also qualify for the 5-percent cost-of-living additive authorized under section 8340 of the Civil Service Retirement Act.

Now let us consider the effect of the present law as it applies to the more than 33,000 Department of Defense civilian employees whose positions were eliminated. At best, some eligible employees had 2 days—from October 29 to October 31—to decide whether to retire and thus qualify for the 5-percent additive. At worst, some other eligible employees had no opportunity to consider retiring with the 5-percent additive in light of these reductions, because they were not notified of them until after October 31.

Now, as to the benefits of extending the 5-percent increase beyond the October 31 deadline in the present law. The legislation submitted would increase by 5 percent each annuity based on involuntary separation, that has a commencement date after November 1, 1969 but before January 2, 1970. This would permit those employees who face involuntary separation a reasonable period of time in which to consider retiring on a basis that would entitle them to the 5-percent cost-of-living adjustment. We believe this extension of time is desirable for the employees who were the victims of these reductions, particularly when considered against the tightly compressed calendar of events in which retirement decisions had to be made.

We estimate that there are approximately 80,000 civilian employees in the Department of Defense who are currently eligible for retirement. As a higher percentage of these 80,000 elect to retire now, it has the effect of reducing the number of civilian employees who must otherwise be forced out of their jobs. In October, about 8,100 Department of Defense employees retired compared with a normal monthly average of about 2,000. We anticipate that the number of October retirements would have substantially exceeded 8,100 if those employees facing involuntary separation had more time to make retirement decisions and qualify for the cost-of-living adjustment.

Based on the best available current estimates, during the period October through December 1969, 10,000 Department of Defense employees will have been issued notices of involuntary separation. Of this number, an estimated 2,200 would be eligible for retirement and could take advantage of the extension. It is expected that a high proportion of these 2,200 would elect retirement.

The Department of Defense respectfully urges early and favorable consideration of this proposal by your committee. If the new legislation is to serve its purpose, prompt action is essential so that employees can make reasoned retirement decisions before the end of this calendar year.

We are most appreciative, Mr. Chairman, of this early hearing to receive our views and those of others on the subject. This concludes my formal statement, and I shall be glad to answer your questions.

Mr. DANIELS. Thank you, Mr. Kelley.

Mr. Kelley, it occurs to me from your statement that the Department of Defense is, in fact, asking for an extension of the November 1 cost-of-living adjustment, but that the proposed draft, while amending the section of the code which deals primarily with cost-of-living adjustments, is couched in terms which make it appear that it is not an extension of that. Do you find any fault with that observation?

Mr. KELLEY. If I understand your statement, Mr. Chairman, our recommendation is couched in terms of that it would extend the opportunity for making the decision through the end of this calendar year. We find no fault or inconsistency in that recommendation.

Mr. DANIELS. But you are adding an extra paragraph to that section of the law which deals, primarily, with cost-of-living adjustments, are you not?

Mr. KELLEY. Yes, sir.

Mr. DANIELS. Mr. Kelley, in the second paragraph of your statement on page 2, you speak of the opportunity of employees to elect retirement. Ordinarily when an employee elects to retire, that election is voluntary on his part, is it not?

Mr. KELLEY. Yes, sir.

Mr. DANIELS. In the next paragraph you state that eligible employees—and I assume that you are speaking of those who are eligible to retire voluntarily—had only 2 days to make a decision. Yet you admit that over 8,000 employees made the decision to retire prior to November 1.

Would you hazard a guess that most of those 8,000 had contemplated retiring in late October—before the Senate action of October 3 and the House subsequent concurrence in the Senate amendments to the recent retirement bill on October 7, and the President's approval of it on October 20?

Mr. KELLEY. Yes, sir. I think most of the—the reason for the relatively high number of voluntary retirees during the month of October is because these people anticipated the October 31 deadline for qualifying for the 5-percent additive.

The eligible employees to whom I refer in my statement on page 2 are those who would be eligible to retire. But those who were forced out of their jobs by reason of the announcements of base closures and personnel reductions—the announcement made on October 29—those people would not have contemplated retirement, at least a retirement decision by October 31. And suddenly they were faced with the need to consider the retirement decision in light of their jobs being eliminated.

Mr. DANIELS. These 8,000 cases to which you refer, weren't most of those voluntary retirements?

Mr. KELLEY. Yes, sir. Most of them were.

Mr. DANIELS. Now, if they were not, how many would you estimate were involuntary retirements?

Mr. KELLEY. I don't have that figure at the moment. But certainly we could provide our best estimate for the record.

Mr. DANIELS. The top of page 3 of your statement leaves me at somewhat of a loss to understand. You state that the enactment of this bill would permit employees involuntarily separated last month and in the current month a reasonable time in which they might consider retiring.

I have some difficulty in understanding how an employee whose services are terminated by reduction in force is presented with the opportunity to consider retiring. If he is involuntarily separated, he has no choice in the matter. Isn't that true?

Mr. KELLEY. Well, quite a number of those—

Mr. DANIELS. What is left for him to elect or consider?

Mr. KELLEY. Quite a number of these employees who are affected by the reductions in force would be bumped or downgraded to lower rated positions and are given the choice between movement to another lower position and retiring on a basis that would qualify them for their full retirement annuity plus 5 percent. Many undoubtedly would elect to retire on the basis of the 5-percent additive.

Mr. DANIELS. Is he really doing it voluntarily? Isn't it as a result of the reduction in force, or your notice of a demotion or transfer to some other job, that gives a man really no choice, and so he may decide to resign?

Mr. KELLEY. That is correct. And it is only under these circumstances that we would have recommended the extension of the 5-percent factor.

Mr. DANIELS. In your statement you said the employees in the Department of Defense really had only 2 days to take advantage of the recent Daniels-McGee Retirement Act of 1969. When you stop to consider that today is December 5, and also the fact that it is highly likely that the Congress will adjourn sine die in about 2 weeks, and the fact that the Senate has not taken any action on this bill or any similar legislation, do you think that there is a reasonable period of time left between the time final action would be taken on this bill and the end of the year?

Mr. KELLEY. Mr. Chairman, that depends entirely on how quickly the Congress could act favorably on the bill. If there is a several-week period, or even a 2-week period, between the enactment of the bill and the end of the year, I should think this would afford employees a reasonable period of time in which to decide.

Mr. DANIELS. The procedure is to conduct a hearing such as we are having at this very moment; thereafter, for the subcommittee to meet to mark up the bill; and, even presuming that it was given favorable consideration by the subcommittee, it would then have to go to the full committee for consideration. Thereafter, it would have to be scheduled for floor action.

In the light of the fact that there remains only 2 more weeks of time before this season of Congress might adjourn, I think it is going to be pretty difficult to try to get this bill through and afford the benefits of the proposed legislation to these employees who will become subject to these reductions-in-force.

Mr. KELLEY. Well, if these time factors closed in to the point of defeating the whole purpose of the bill, then it would certainly be the position of our Department, the Defense Department, that an extension beyond the end of the year might be considered by the authors of the bill.

Mr. SCOTT. Mr. Chairman, will you yield? Mr. Kelley, are you saying beyond the first of the year in extending this, from November 1 beyond the first of the year?

Mr. KELLEY. I hoped it wouldn't be necessary, sir. But I said that in the context of the chairman confronting me with the time factor delays, which might close in on the bill and might prevent those who are victimized by these reductions, any opportunity to act in light of this bill before the end of the year.

Mr. HOGAN. Will the gentleman yield?

Mr. SCOTT. Yes, but I would like to explore this later.

Mr. HOGAN. I would like to point out that my bill, H.R. 15006 which is also before the subcommittee, would extend the time to April 2, not only because of the unlikelihood that this bill can be enacted and signed by the President before the end of the year but also because it is anticipated that the Department of Defense, and presumably other agencies, will have other reductions-in-force extending through April 1. They are already in contemplation, even though the employees have not received notice.

To me, if we are going to correct what appears to be an inequity, it should be extended to April 2 rather than the end of the year.

Mr. KELLEY. Do you wish me to comment on that?

Mr. HOGAN. If you would.

Mr. KELLEY. I think we must guard against correcting one inequity and perhaps creating another one.

To the extent that the 5 percent factor is extended for too many months beyond the provision of the existing law, it does have the effect of improving the annuity result for those persons who retire after October 31 versus those people who retired prior to October 31.

Now, this is because, among other reasons, their 3-year salary average, upon which their retirement annuity is based, becomes a higher base than for those who retired before October 31.

So we are prompted by considerations of equity to recommend that a reasonable but brief period be allowed for those who were caught in the squeeze between the October 29 announcement of these reductions and the October 31 deadline, which was the last date for their consideration of retirement to qualify for the 5 percent.

Mr. DANIELS. I will call upon the honorable chairman of the full committee, Mr. Dulski. Do you have any questions.

Mr. DULSKI. Yes, Mr. Daniels. Thank you very kindly.

Mr. Kelley, I understand that there is a similar bill introduced in the Senate. I believe that Senator Spong introduced a bill that extends it—I don't know whether it is to April 2 or some other date. Is there a bill pending in the Senate which corresponds to the same date of the bill that Mr. Daniels and I have introduced?

Mr. KELLEY. I believe not, Mr. Dulski. I don't think any of the Senate-introduced bills are identical in terms of the time effect as the bill that has been introduced here.

Mr. DULSKI. In the same vein that Mr. Daniels spoke about the time element, do you feel the Senate would accept a bill from the House? If we passed H.R. 15024, do you think Secretary Laird would prevail upon the Senate committee on the same justification as you are presenting here?

Mr. KELLEY. I can assure you that the best energies of our office, including Mr. Laird, would be directed to bring about that result. I don't think I am expert on predicting what the Senate reaction may be.

Mr. DULSKI. I have one question regarding the 80,000 that are eligible for retirement as opposed to those who might qualify under the involuntary provisions of the law.

Are the 2,200 employees estimated to be eligible in November and December only involuntary retirees, or does this figure include those eligible to retire of their volition?

Dr. VALDES. Yes, it would.

Mr. KELLEY. Excuse me just a moment. I want to be sure that I answered your question correctly.

The 2,200 figure does include those who would be eligible to retire on a voluntary basis.

Mr. DULSKI. It does?

Mr. KELLEY. Yes, sir.

Mr. DULSKI. Just for the clarification of my colleagues on the other side of the aisle, if a bill were reported I would expect we would have to request the Rules Committee for a closed rule. Because, if we had an open rule we couldn't pass a bill in that House for weeks, for the simple reason that numerous Members would have an amendment to try to include a different date or situation in the bill.

I just want to put you on notice, that after the subcommittee makes their decision and the full committee makes a decision, that I don't intend to go over and ask the Rules Committee for an open rule. I would have to request a closed rule and have the cooperation of our committee so this couldn't be extended for an additional period of time. The Bureau of the Budget would disagree, and, otherwise, would risk passing a bill that would be vetoed by the President. But the Bureau of the Budget would oppose it, including various other departments which might have given ample notice.

I just want to be on record as to what I intend to do, should this bill clear this subcommittee and the full committee.

Mr. KELLEY. Yes, sir.

Mr. DANIELS. Mr. Scott from Virginia.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Dulski was just talking about extension to other departments. Doesn't this apply equally to all departments of government?

Mr. KELLEY. Yes, sir; it does.

Mr. SCOTT. It is not just to the Department of Defense?

Mr. KELLEY. No, it is not.

Mr. SCOTT. Lawyers have a phrase which says, hard cases make bad law. And I am just afraid this applies to this bill. I am afraid we are getting into a can of worms. This really isn't part of our retirement system, this cost of living, as I understand it. The 5 percent that was effective the 1st of November is to compensate the retiree when there has been a rise in the cost of living since he retired. Isn't that your concept?

Mr. KELLEY. It is to compensate for rises in cost of living to become effective for those who are annuitants as of a certain date—in this case November 1.

Mr. SCOTT. We are talking about people who have not yet retired, are we not?

Mr. KELLEY. Yes, sir.

Mr. SCOTT. Have any people—or how many people, if any, have elected to retire since the 1st of November where they wouldn't? We have got a whole month that has already expired. How many people in your department have retired in November that this bill would give windfall to?

Mr. KELLEY. Sir, I don't have that information.

Mr. SCOTT. We are talking in this bill about 2 months. Is that correct, sir?

Mr. KELLEY. Yes.

Mr. SCOTT. And 1 month.

Mr. KELLEY. As a practical matter, we are talking about a less period than that because more than 1 month has expired.

Mr. SCOTT. Over a month has already expired. Only the involuntary retirees would take advantage or would benefit from this bill.

Mr. KELLEY. Could take advantage of this, yes, sir.

Mr. SCOTT. How many involuntary retirees have we had to date? Or do you have some estimate as to how many? Have we had any?

Mr. KELLEY. Yes, we have had. The current announcements of reductions of civilian positions for this fiscal year total about 36,000 in DOD.

Mr. SCOTT. You are talking about a whole year—12 months?

Mr. KELLEY. Yes, I am. But these are announcements that have already been made. The estimated figure by the end of the current fiscal year would be more like 70,000.

Mr. SCOTT. 70,000?

Mr. KELLEY. Yes, sir. By the end of the fiscal year.

Mr. SCOTT. How many of those are people who die or who get other jobs? How many of these would come under this bill?

Mr. KELLEY. Well, the number who would come under the bill are those who have been affected by the reductions already announced, plus those that may be announced between now and December 31. And the bulk of those people are those who received notice of the reductions affecting them on October 29. A lesser number of those people are those who were affected by the Army and Navy reductions announced shortly after October 30.

Mr. SCOTT. You are saying, Mr. Kelley, that some of these people received their notice on October 29 and did retire immediately? Would that be a fair statement?

Mr. KELLEY. A small number of them, Mr. Scott.

Mr. SCOTT. A small number?

Mr. KELLEY. And I don't have that figure.

Mr. SCOTT. Mr. Kelley, let me assure you that I am sympathetic to all of the problems of the Government employees. I am just afraid of this bill.

How about the ones who retired in October? Would it be fair to those?

No—I am getting on a false premise here. I am just thinking about these dates that we are talking about. A few months ago we mentioned about the possibility of extending the bill beyond the first of

the year and Mr. Hogan indicated that he had a bill to do that and you commented with regard to it. When would you anticipate, or would you have any way of making any educated guess, as to when we would have another cost-of-living increase?

Mr. KELLEY. I think Mr. Ruddock is better able to comment on that than I. Mr. Ruddock is Director of the Retirement Division of the Civil Service Commission.

But in all probability, another cost-of-living increase would not be eligible under this system until sometime in the latter part of calendar 1970.

Mr. SCOTT. Why do you say this? Isn't it true that every time there is a 3-percent rise in the cost of living that there is a cost-of-living increase that would be a minimum of 4 percent?

Mr. KELLEY. Well—

Mr. SCOTT. That it could be done as often as every 90 days?

Mr. KELLEY. There has to be at least a 3-percent increase over the base month, which in this case is November.

There has to be a 3-percent rise over that base figure maintained for at least 3 months. And then at the beginning of the third month following such 3-month period the new cost-of-living increase would go into effect.

Mr. SCOTT. You are saying it has to be a minimum of 6 months then?

Mr. KELLEY. So it would have to be a minimum of 6 months from the November base period.

Dr. VALDES. I think the base period is August.

Mr. KELLEY. Excuse me. Yes, that is correct.

Mr. DULSKI. Mr. Kelley, if I might just pursue this.

Mr. KELLEY. Excuse me, Mr. Scott.

Mr. SCOTT. Yes.

Mr. KELLEY. I am getting into deep water on that one. I would rather that you ask that question of Mr. Ruddock, because I don't think I am qualified to estimate when the next cost-of-living adjustment might be.

Mr. DULSKI. Let me say, Mr. Kelley, that this subcommittee and Mr. Ruddock work very closely and hard together to try to make this retirement system actuarially sound. And now it looks to me as though you propose doing something that is going to take away from that actuarial soundness. Is additional money going into the retirement fund if this bill is passed?

Mr. KELLEY. Well, there is no question that the anticipated retirements under the 5-percent extensions would cost some additional money.

Mr. DULSKI. Where would the money come from?

Mr. KELLEY. I don't know what the funding arrangement is.

Mr. DULSKI. Would these increases be paid out of the retirement fund?

Mr. KELLEY. It would come out of the retirement system.

Mr. DULSKI. It would be a drain on the fund, is what I am getting at.

Mr. KELLEY. Yes.

Mr. DULSKI. Thank you, Mr. Chairman.

Mr. DANIELS. The gentleman from Maryland, Mr. Hogan. Do you have any questions?

Mr. HOGAN. Yes.

The chairman, Mr. Dulski, referred to a bill which Senator Spong has introduced in the other body. If the press accounts are accurate, it is my understanding that that applies to voluntary as well as involuntary retirees. Is that true?

Mr. KELLEY. Yes, sir.

Mr. HOGAN. And I would assume his rationale is that the more you can motivate people to voluntarily retire, the better able you are to absorb the reduction in force. What would your position be on applying it to voluntary retirees?

Mr. KELLEY. Our position would be that this is not fair to those who voluntarily elected to retire prior to October 31. There is no need to extend the opportunity for those who are in a strictly voluntary situation because they knew prior to October 31 what the facts were and they could have elected, as others did, to retire before October 31 and thus qualify for the 5-percent additive.

Mr. HOGAN. I was thinking of the other benefit, of being able to absorb your reduction in force without disrupting people who need to be in active employment.

Mr. KELLEY. Well, there is no question it could have that effect. But we are compelled by the fairness of the situation to recommend that only those who are confronted with mandatory separation should be eligible for the extension, and not those who are in a strictly voluntary situation.

Mr. HOGAN. I am curious. I know, as the chairman very accurately observed, if this came to the floor under an open rule, everybody would want to extend the ramifications of it, the date, and everything else.

The reason I chose April 2 rather than January 31 is because the Department of Defense now contemplates phasing these reductions in force through the 1st of April. And yet the people who are going to be RIF'd have no knowledge of this. They are going to be in the same kind of situation as the people you are now trying to help out. So since we know that is going to happen, it seems to me fair to extend it to April 2 rather than just to January 31. I cannot really understand that. Could you explain why the Department arbitrarily chose the first of the year?

Mr. KELLEY. Well, it wasn't an arbitrary selection, Mr. Hogan. It was just a selection of a date that would provide to those who would be eligible for this extension a limited, but nonetheless reasonable, period of time in which to opt for retirement and thus qualify for the additional 5 percent.

Now, the longer we extend the additional time, the greater becomes the effect on the annuity amount received by the retiree. And to extend it as far as the end of March or April it gives those people who opt to retire in the first quarter of 1970 an annuity advantage over those who retired prior to the first of November.

The period of time involved becomes significant in terms of the effect on the retirement annuity.

I think here again Mr. Ruddock could cast some additional light on that factor.

But the reason that we limited the time is because of that factor alone.

Mr. HOGAN. Primarily cost?

Mr. KELLEY. Not just cost but equity.

Mr. HOGAN. But the people who volunteered before November 1, they were voluntary, right? We are trying to help these people out.

Mr. KELLEY. There were some people who made the decision between October 29 when they were notified of the RIF and October 31.

Mr. HOGAN. I see. They were actually involuntary?

Mr. KELLEY. Yes, sir.

Mr. HOGAN. Thank you, Mr. Chairman. I have no other questions.

Mr. DANIELS. To pursue Mr. Hogan's question a step further, if there are going to be further reductions in force in the first 6 months of 1970—which constitutes part of the present fiscal year—do you propose to come back here to this committee to request the enactment of similar legislation, giving those people the 5 percent cost-of-living increase?

Mr. KELLEY. No, sir. We do not.

Mr. DANIELS. Well, now, if you do not intend to do that, those people who would be affected by the reduction in force, wouldn't they be discriminated against because no action has been taken for them at the present time?

Mr. KELLEY. Well, of course, as related to how they compare with those who retired on or before the end of October.

Mr. DANIELS. No; let's take it to December 31. Assume that the bill under consideration is enacted into law. Those affected by the reduction in force between November 1 and December 31; it is supposed by this bill to give them an extra 5 percent cost-of-living benefit which they would not have been entitled to under existing law? We take that group. Let's compare them to those who would lose their jobs by virtue of a reduction in force in the first 6 months of 1970.

My question is, do you propose to come back to Congress and ask Congress, as to those affected next year, for similar legislation to benefit them? And if you don't, why not?

Mr. KELLEY. Well, my answer was, and still is, no, we do not intend to. And the reason we do not intend to is because we hope that by effective planning of these announcements to avoid the unfortunate coincidence of time which occurred in this last event, between the October 29 announcement and the October 31 deadline for opting for retirement to qualify for the 5 percent.

If there is a longer period of time than that, Mr. Chairman, in the event of future reductions, it would afford those people who are mandatorily retired an opportunity to make their election in time to qualify for whatever the cost-of-living factor might be.

Mr. DANIELS. Mr. Scott, did you want me to yield?

Mr. SCOTT. Yes, Mr. Chairman. I was not sure that I understood fully your question and response. Is it your statement, Mr. Kelley, that if there is a similar cost-of-living increase, say on the first of July of next year, that you would not come back after that time and ask for some sort of similar relief for the employees, you wouldn't be back in 1970 or 1971 or 1972? This would not constitute any precedent for any future action?

Mr. KELLEY. It would not constitute a precedent. I would hope, however, that a matter of budget and authorized spaces would have been resolved sufficiently in advance of these cost-of-living deadlines that people who were victimized by their jobs being eliminated would

have more of an opportunity than these who were affected in the October reductions were given.

Mr. SCOTT. But now it is your statement that this would be a one-shot operation. You don't intend to be back before this committee for similar legislation any years in the future then?

Mr. KELLEY. I would have to say that this is not intended as a precedent. I would not be able to forecast all the circumstances which might make it necessary for us to request special consideration on behalf of some group of employees in the future.

Mr. SCOTT. Mr. Chairman, I go back to my original statement, that hard cases make bad law. And I am just afraid this is a bad law that we are considering.

Thank you, Mr. Chairman.

Mr. DANIELS. The gentleman from Montana, a member of the full committee, is present this morning. Mr. Olsen, do you have any questions?

Mr. OLSEN. Mr. Chairman, I have no questions. I think the witness has done a splendid job of presenting his position in support of the bill.

But, like Mr. Hogan, and Senator Spong in the other body, I think there is justification for retirees for voluntary retirement to get a bonus in order to make room for other people.

But then, like Mr. Scott says, you really open up a keg—a really big keg of worms, not a can.

I think the big problem, Mr. Chairman, is how we are going to pay for it. I think we have got to be pretty sympathetic to what the Civil Service Commission thinks, and particularly to the job of Andrew Ruddock, and how it is paid for. Really, when we pass out these new benefits, I would hope that we would give more and more attention to some new contributions to the fund, and preferably in this kind of instance from the general fund, to pay for these new benefits.

In any event, I think that you presented the best case you could for your bill. I thank you very much, Mr. Chairman. Thank you, Mr. Kelley.

Mr. DULSKI. I just wanted you to know, Mr. Kelley, they are four lawyers. I am a layman on your side.

Mr. KELLEY. That makes two of us, Mr. Chairman.

Mr. DANIELS. Mr. Kelley, one further question.

As to those employees involuntarily separated but who would not be entitled to an immediate annuity, they would be entitled to severance pay, would they not?

Mr. KELLEY. Yes, sir; most of them would.

Mr. DANIELS. I make the observation, as to those employees who would obtain severance pay but who are not entitled to an annuity, that they would not be affected by this legislation—in other words, that they would not get the 5-percent increase. Is that correct?

Mr. KELLEY. That is correct.

Mr. DANIELS. Let us take the case of an employee who has worked for the Federal Government for 19 years and he is only 49 years of age. He would be one of those employees who would be entitled to severance pay. He is shy by 1 year of service and also 1 year in age.

Mr. KELLEY. Yes, sir.

Mr. DANIELS. He is just a victim of circumstances there, isn't he?

Mr. KELLEY. Yes, sir. Which is the way the ball bounces in the application of retirement systems anyway.

Mr. DANIELS. So you would not extend the 5 percent cost-of-living increase to him?

Mr. KELLEY. No, sir.

Mr. HOGAN. Will the gentleman yield?

Mr. DANIELS. Yes, sir.

Mr. HOGAN. Related to the concern of our chairman, I have had assurances from the Department of Defense and the Civil Service Commission that they are going to make a real concerted effort to try to place these people who are RIF'd in other jobs, in other agencies or elsewhere in the Department of Defense. I think this is really a better solution than the kind of thing that we are trying to do today, which is a piecemeal corn plaster approach to a real serious problem. If the Civil Service Commission can find jobs elsewhere, this is a much more satisfactory solution, at least from the employees' point of view.

Mr. KELLEY. There is no question of that, Mr. Hogan. This is a patch quilt or corn plaster remedy to a unique situation. Unfortunately, these reductions in force and base closures are occurring at a time that the overall employment of the Defense Department is declining rather than increasing.

Because of the fact that it is declining, plus the fact that we had to accommodate to these adjustments very quickly, there was not as much opportunity as we would hope for in placing these employees whose jobs are eliminated.

But we are working closely with the Civil Service Commission who have been most cooperative in making available on other employment registers the names and qualifications of these people who are affected by our reductions in DOD.

Mr. SCOTT. Mr. Chairman, will the gentleman yield?

Mr. HOGAN. Yes.

Mr. SCOTT. Mr. Chairman, isn't it a fact, Mr. Kelley, that actually these folks, even though they are involuntarily separated, that they have the most liberal retirement law at the present time that we have ever had in the history of the Civil Service?

Mr. KELLEY. I believe that is correct, sir. Yes, sir.

Mr. SCOTT. Thank you.

Mr. DANIELS. Mr. Kelley, I take it from your answer to the previous question presented by Mr. Hogan that it is the policy of the DOD, that in connection with these employees who lose their jobs by virtue of reduction in force, that you offer them an opportunity of placement elsewhere in Government service?

Mr. KELLEY. We do not guarantee them placement elsewhere in the service. In earlier years we were able to assure employment elsewhere to those employees whose jobs were eliminated through base closures, for example, but these guarantees were possible because these were occurring at a time when the employment of the Defense Department was increasing overall and there were opportunities for placement. There will be some opportunity for placement and we wish there were opportunities for placing all of these people. But, unfortunately, there will not be.

Mr. OLSEN. The same situation is happening in the space program; is it not?

Mr. KELLEY. I do not know.

Mr. OLSEN. At Cocoa Bay and some other places in the space program, hundreds of people, whole communities, are affected by layoffs in the space program. In the Department of Defense there are other program curtailments that are affected in the same manner, is that true, and there is no place to put them?

Mr. KELLEY. That is true. Of course, it is also true that in periods when reductions have occurred or are being talked about or contemplated, they were not closed down suddenly and substantially. Therefore, the opportunity to accomplish more through attrition than through force reduction is a declining opportunity here. That is the climate in which we find ourselves at the present time.

Mr. DANIELS. I should like to make one final observation. Would you say that this legislation, rather than solving a problem or being a panacea, is nothing more than adding "just a little bit of sugar to make the medicine go down?"

Mr. KELLEY. I do not believe I would characterize it that way, Mr. Chairman. As it applies to any one individual who might be able to take advantage of this extension, for that individual who is already in unfortunate circumstances, it is a substantial improvement on what his situation would otherwise be. As it applies to the overall picture, I think it would be fair to say—

Mr. DANIELS. In answer to a previous question that the cost-of-living increase would not apply to those who failed to qualify for the annuity but they would receive severance pay, your answer to me was that "that was the way the ball bounces." As to those who are affected by the reduction in force, and not eligible for annuity, why is this not applicable to them? Or is that the way the ball bounces?

It seems to me you are coming before this committee to add a little sugar to the distasteful task of reduction in force.

Mr. KELLEY. Only because of the very limited time opportunity that these people who were affected by job elimination had.

Mr. DANIELS. I would like to make the prediction, with respect to reductions in force in the balance of this fiscal year, occurring after January 1, that you and members of this committee and the Congress will be deluged with requests from those affected in the future for similar action to be taken to help them. Do you not envision that will take place?

Mr. KELLEY. I would envision that such requests may be made. I think we would have a valid rejoinder to those requests. If the people who were affected by job elimination had a greater opportunity than was the case in October—

Mr. DANIELS. What about the man who is affected by a reduction in force in the month of February 1970? What control has he over the situation?

Mr. KELLEY. There could not be a like situation during the month of February, because the time elapsed from the end of October to February would give him an increased annuity, the amount of which would begin to overtake the additional 5 percent for those who retired as of the end of October.

Mr. DANIELS. You are thinking about the benefits he would be entitled to by virtue of his involuntary separation under existing law. What control has he over losing his job? He has no control over that.

Mr. KELLEY. No, sir; he has no control over that.

Mr. DANIELS. He might prefer to continue working rather than being involuntarily separated, is that not so?

Mr. KELLEY. I would assume the vast majority of these people would prefer that.

Mr. DANIELS. Since he has no control over the situation, why would it not be fair and equitable also to give him a 5 percent cost-of-living increase?

Mr. KELLEY. Because the considerations of equity relate back to the situation of the person who elected to retire on or before the end of October and who was on the annuity rolls as of the 1st of November. Comparing this February job separatee with him, the person who goes out in February has, by reason of the additional time, earned a higher annuity than the basic annuity of the person who retires as of the 1st of November. That higher basic annuity compensates for the 5-percent factor which the November 1 retiree receives. So, in terms of the equity relationship between those two, there isn't much to choose, one from the other.

Mr. SCOTT. Mr. Kelley, I am thinking anyone who would benefit from this bill would have to have a minimum of 20 years' service, is that not correct?

Mr. KELLEY. Anybody who would retire or be eligible to retire under any of the options.

Mr. SCOTT. A minimum of 20 years under any of the options.

Is there any option which they could retire with less than 20 years when there is a separation from service?

Mr. KELLEY. Age 62 and 5 years of service.

Mr. SCOTT. With 5 years of service, if they are 62. I was not really aware of that one provision.

Mr. KELLEY. I wasn't, either.

Mr. SCOTT. Let me say for general information, I came under this section some 10 years ago, but was not at age 62.

My point is, will not practically everyone who would be separated from the service in a reduction in force have an opportunity to bump if they want to? Are there very many people involved who will not be able to bump somebody else if they choose to stay?

Mr. KELLEY. There will be a number of people who would not have the opportunity to bump. The typical case is a base closure where all the jobs go. Of course, a person who is, relatively speaking, superannuated is less inclined to want to change community, move to another community.

Mr. SCOTT. Mr. Hogan was just telling me how this would affect Indian Head, Md., the area which he represents. Do you have any idea how this might affect some of the installations in my district—Fort Belvoir, Quantico Marine Base, the naval base at Dahlgren? Have you any idea how those three places would be affected?

Mr. KELLEY. Not specifically, sir; but my general reaction would be that most of the longer service employees in those locations would be confronted with a downgrading situation rather than a job elimination, so far as they were affected. So, their choice then would be whether (a) to go to a lower rated job or (b) take retirement.

Mr. SCOTT. If they went to a lower rated job, under civil service rules, as I understand them, they would retain the same pay for 2 years.

Mr. KELLEY. Yes, they would.

Mr. SCOTT. Within that 2-year period, they could come under the 3-year retirement, so actually it would not be as bad as it might appear on the surface.

Thank you, sir.

Mr. DANIELS. Mr. Dulski, any further questions?

Mr. DULSKI. No further questions.

Mr. DANIELS. Mr. Kelley, I am not sympathetic to the legislation in question, but I want to assure you I shall call a meeting of the subcommittee to consider the legislation. I have only one vote on the committee. The members of my committee may disagree with my point of view. If the majority support it, we will report it out and seek action by the full committee.

Mr. KELLEY. We could not ask for more than the prompt consideration you have given us.

Mr. DANIELS. I want to be frank and honest with you. You know my position. I want to tell you we will try to get action by the subcommittee as quickly as possible and, if it is reported out favorably, I will urge the chairman to consider it at the next meeting of the full committee.

Mr. SCOTT. Might I associate myself with the remarks that the chairman has made, but just add this does not mean at all that we are not sympathetic to the retirement problem of the Government employee. We are. The chairman and I have talked about this. We just do not think this is a good piece of legislation.

Mr. DANIELS. I want to thank you and your colleagues for appearing this morning.

Mr. KELLEY. Thank you, Mr. Chairman.

Mr. DANIELS. Our next witness is Mr. Andrew E. Ruddock, Director of the Bureau of Retirement, Insurance, and Occupational Health, of the U.S. Civil Service Commission.

TESTIMONY OF ANDREW E. RUDDOCK, DIRECTOR, BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH, U.S. CIVIL SERVICE COMMISSION

Mr. DANIELS. Mr. Ruddock, I want to welcome you here this morning. It is always a pleasure to have you appear before the committee.

We shall be glad to hear you on this particular piece of legislation.

Mr. RUDDOCK. Thank you, Mr. Daniels.

I have a prepared statement and, with your permission, I would like to read the statement.

Mr. Chairman and members of the subcommittee, I am pleased to appear this morning in support of the bill H.R. 15024, legislation which was proposed by the Secretary of Defense.

The bill, H.R. 15024, would provide a 5-percent increase in the annuity of each employee who, because of involuntary separation, becomes entitled to an annuity commencing after November 1, 1969, and before January 2, 1970. The 5-percent increase is equal to the latest cost-of-living increase authorized for employees who retired on or before October 31, 1969.

On October 29, the Department of Defense announced a series of actions which will eventually eliminate approximately 27,000 civilian positions. Many of the affected employees are old enough and have suffi-

cient service to receive immediate annuities if separated, but the period between October 29 and 31 was too short for most affected employees to reasonably decide to retire by October 31 in order to receive the scheduled 5-percent annuity increase.

The Civil Service Commission recommends enactment of legislation which will give employees involuntarily separated before January 1, 1970, an annuity increase equal to the 5 percent they could have received by retiring on or before October 31, 1969.

The Commission reported its position on a similar bill, H.R. 14934, by letter dated December 2, 1969. In its report on that bill the Commission takes the position I have just stated on H.R. 15024, and also recommends against indiscriminately extending the cutoff date for granting an increase. I would like to emphasize this point because each additional month that service is extended as a result of stretching the cutoff date for the increase gives the affected employee a three-pronged benefit. The retiring employee's basic annuity is increased by (1) the additional time, (2) his having a higher 3-year average salary, and (3) application—if he is under age 55—of a lower percentage reduction factor because he is a month older. Providing the 5-percent increase heightens this advantage because it is applied to a larger annuity base; the advantage would continue to grow with each future cost-of-living adjustment. Many employees who decided to retire in October in order to receive the increase would have deferred their retirements if the increase had been available at a later date.

In the light of all the existing circumstances, the Commission believes that extending the availability of the increase is reasonable and equitable and is warranted for persons involuntarily separated by December 31.

Again, I think you for the privilege of appearing this morning. I will be pleased to try to answer any questions you may have.

Mr. DANIELS. Mr. Ruddock, you are familiar with the contents of the report by the Chairman of the Commission, the Honorable Robert E. Hampton, addressed to Chairman Dulski, dated December 2, in which he sets forth the Commission's views on H.R. 14934, introduced by Congressman Whitehurst, in connection with the extension of the time as proposed in this bill, H.R. 15024?

Mr. RUDDOCK. Yes, sir; I am familiar with it.

Mr. DANIELS. The contents of that report would be applicable to the bill which we are considering this morning, H.R. 15024; is that right?

Mr. RUDDOCK. With your permission, I think it might be well to include a copy of that report as a part of the proceedings of this hearing.

Mr. DANIELS. That has been done.

Referring to your statement, you start off by supporting the proposed legislation. Then on page 2 I get the impression that you are condemning that very action. Is my impression correct, or can you give me the rationale of your thinking on this? There is an apparent inconsistency.

Mr. RUDDOCK. It was not my intention to condemn the bill at all. We firmly believe this is warranted for a reasonable period after October 31. We believe that making the increase available to those involuntarily separated before the end of this calendar year is reasonable.

The point I was attempting to make on the second page was to recommend against indiscriminately extending the cutoff date in the future. As Mr. Kelley has testified, and as is indicated in my statement, the passage of time for a person who is still in service gives him an increased annuity.

Actually, it does it for three reasons: Additional service credit; his higher high 3-year average salary; and, if he is under the age of 55, he is lowering the reduction based on his age.

You asked a question earlier about what would happen to an individual involuntarily separated in February. It is a little difficult to generalize because it is hard to find two individuals who are exactly alike, but speaking in terms of Mr. Average Employee, if there is such a thing, the employee retiring in February would probably have an annuity without the 5-percent increase which would be as large as or perhaps slightly larger than, his annuity would have been if he had retired at the end of October and received the 5 percent.

Mr. DANIELS. You would be opposed to the bill introduced by my colleague from Maryland, Mr. Hogan, H.R. 15006, which would extend the benefits of this bill to those involuntarily separated by March 31, 1970?

Mr. RUDDOCK. We would recommend against extending it to that date. We believe that the justification which warrants legislation of this type in the interest of equity is the fact that the announcement of the base closings could not be made before October 29, and the timing was extremely unfortunate. If it had been possible for that same announcement to have been made, let us say, in September, we would not be recommending an extension of the period of time within which the 5-percent increase would be available.

But it must appear rather harsh to an individual to be notified on October 29 of actions which may very well result in his being either downgraded or separated. I am sure the thought would go through his mind, "If I had only known this a month ago, I could have made my plans to retire at the end of October."

One point which has not been brought out is that we are not really talking in the area of people exercising an option to retire. Rather, it is a choice among the alternatives that are available to the individual. Once an individual is notified that he is going to be adversely affected in a reduction in force, either that his position is going to be abolished and he is going to be separated or that his grade or salary or status is going to be reduced, he may then, without waiting for the effective date of the adverse action, decide to resign at any time and his separation is considered involuntary.

So, I believe the election we are talking about is only an election as between accepting a position at a lower grade or retiring, or an election as to the date at which the separation will take place.

Mr. DANIELS. Mr. Ruddock, you have referred to the proposed 5-percent increase as being "equal to the November 1 cost-of-living adjustment."

By the proposal amending section 8340 of title 5, the section of the retirement law dealing primarily with automatic cost-of-living adjustments, would it not in fact extend the cost-of-living adjustment to these particular employees rather than merely giving them a 5-percent annuity increase?

Mr. RUDDOCK. Yes, although I believe we are getting into a problem of semantics. We are talking really about extending the period within which the November 1 annuity increase will be available to a selected group of employees. We have shied away, if you will, from flatly referring to this as an extension of the period because of some of the points that have been brought out this morning such as the danger of extending and extending and extending.

Mr. DANIELS. In view of the policy recently established under Public Law 91-93, sometimes referred to as the Daniels-McGee bill, whereby any future legislative annuity increases must be amortized by the Government over a 30-year period, would you agree that the manner in which this proposal is drafted is in effect a circumvention of this new policy?

Mr. RUDDOCK. Mr. Chairman, I would not use those words to describe it. H.R. 15024 would provide this increase under section 8340 of title V, United States Code, and an annuity increase under that particular section is exempted from the requirement of amortization. I believe that it is drafted as a part of section 8340 in the belief that it is in fact a part of the November 1 increase, and amortization, as you remember, was not required and is not required for the unfunded liability created by the November 1 increase.

If this is not considered as a part of that same increase but is considered as being a separate action, a separate statute enacted by the Congress to provide new or increased benefits, then perhaps it should be drafted outside the United States Code, in which event the amortization would be required.

I think it is a matter of policy as to how we consider it, whether we consider it a part of that increase or a separate increase.

Mr. DANIELS. Have you any idea what the annual installment under that financing provision would amount to if this proposal were redrafted to the extent that it would not be an amendment to section 8340?

Mr. RUDDOCK. Yes, sir; I have. I will have to make quite clear that I do not know the precise number of employees who would benefit from enactment of this particular legislation. We have heard testimony that of those who have been notified that they are to be separated, there are about 2,200 who are eligible to retire if they choose that as their solution to the problem. If we had 2,200 people retiring and benefiting from the legislation before the committee this morning, the unfunded liability created would be \$6,600,000. That is the liability only to pay the 5-percent increase to those people during the remaining period of their lives in which they would receive annuity.

Mr. SCOTT. Is it not a terrible precedent we are setting? We have worked to make the fund actuarially sound, and you are talking about \$6½ million. Of course, that is only a drop in the bucket, but is it not a step in the wrong direction? Is it not contrary to what we have been trying to accomplish? I know you are here in support of this measure, but we have been working in another direction, is that not true?

Mr. RUDDOCK. Let us see if I can put it in perspective, Mr. Scott. I am not trying to avoid your question, but let me give you the facts and let you reach your own decision.

To amortize this \$6,600,000 over a 30-year period would require an annual installment of \$353,000.

Mr. SCOTT. Is it not a fact that this fund has been thought of as not being sound actuarially because of the continuing drip, drip, drip that we have had, and now we are starting this again after we shored up everything? Are we not going back in the wrong direction by this measure?

Mr. RUDDOCK. There is no question that the immediate financing of the system would be better if we had the 30-year amortization. I would like to point out that the November 1 5-percent cost-of-living increase which, as you have indicated earlier, was intended to benefit primarily those people already on the annuity roll, created a liability of \$1,410 million with respect to the 900,000 people currently on the annuity roll. To amortize that in 30 equal installments would require an annual payment of a little over \$74 million.

To me, there is a bit of an anomaly if we are to recognize that our financing method does not contemplate amortization of the \$1.4 billion liability created basically by the November 1 increase, and then to say we must have the amortization of the \$6.6 million liability which we would create if we made it applicable to another 2,200 people.

So, in perspective—

Mr. SCOTT. You are comparing general legislation with what really is special legislation.

Mr. RUDDOCK. Yes, sir; I am.

Mr. DANIELS. How many people voluntarily retired after the Daniels-McGee bill passed?

Mr. RUDDOCK. Our best estimate at the moment—we do not have a precise figure yet—is that approximately 25,000 people retired at the end of October 1969. Through the close of business yesterday, we have actually received applications from a little over 21,000.

Based on our telephone contacts with the headquarters of the various agencies here in Washington, we believe that we have another 4,000 still to come.

Mr. DANIELS. How many retirees would get the benefit of the November 1 cost-of-living increase? How many retired between October 20 and November 1, 1969?

Mr. RUDDOCK. I would say all of the 25,000.

Mr. DANIELS. And you say 21,000 more?

Mr. RUDDOCK. The 21,000 is the number of applications we have actually received in our office. The individual who separates first files the application with his employing agency. They complete his retirement record and forward it to us. The agencies have been quite prompt in processing them and getting them to us. We have already received 21,000. We are positive of that number. We estimate another 4,000 still to come, based on our telephone contacts with the agencies.

Mr. DANIELS. What impact does that have on your work force?

Mr. RUDDOCK. Our work force? We are up to our ears in annuity claims. We are using extensive overtime. We have hired temporary employees. In order to do that, as I am sure you recognize, we have to have a job breakdown so we can isolate tasks simple enough that we can bring in basically untrained people and do a part of the job. We have to use our fully trained journeymen adjudicators on an overtime basis in order to dig out from a workload of this type.

It is our best estimate at the moment that we will be back to normal by approximately the middle of March. In the meantime, recognizing that delays can cause a hardship on people who are depending on the

annuity to pay the rent and pay the grocer, we send a special payment in any case in which it is clear that title exists. We make that payment approximately a month's to month-and-a-half's annuity. Then we make an adjustment from the first payment we make after the exact adjudication.

Mr. DANIELS. I am familiar with that procedure. Thank you for your comment.

Mr. RUDDOCK, can we not agree that the proposal introduced by the chairman and myself, H.R. 15024, is somewhat defective in that it fails to specify the effective date?

Mr. RUDDOCK. As written, it would be effective upon date of enactment. I think your point is well taken. I think it could be somewhat more specific by stating that the increase would become effective from the commencing date of the annuity, so a person who has already been separated before the date of enactment would have the 5-percent increase from the beginning of his annuity, rather than only from the date of enactment.

Mr. DANIELS. Are there further questions?

Mr. SCOTT. Mr. Ruddock, a postmaster has contacted me from time to time starting last spring. This is one of our smaller post offices. He submitted his resignation and indicated he desired to retire. Then he found out that we were considering this more liberalized retirement bill. He asked that his date of retirement be extended for 30 days. He got three extensions. Then the Post Office Department got tired of fooling with him, and they would not extend it any further. They closed the postal facility and he was retired.

He certainly is nowhere near as well off as these folks are that we are trying to accommodate now. Should we amend the legislation to accommodate somebody of this nature who was forced into retirement before the law went into effect for the high 3 years? This would be equitable by the same reasoning, would it not?

Mr. RUDDOCK. Mr. Scott, in my opinion we very definitely should not make the provisions of the Daniels-McGee bill retroactively applicable to people—

Mr. SCOTT. What is the difference between that and what we are proposing to do here, as far as equity is concerned?

Mr. RUDDOCK. One difference I see is that in order for the Government to compete with other employers in the labor market, it is necessary and desirable from time to time to liberalize the fringe benefits system. That always has a price tag. If we were to adopt the policy of applying the same liberalization to people who had already been separated, we would be encumbering ourselves with a price tag which would make it almost impossible for us to maintain any kind of parity with the systems of private industry.

Mr. SCOTT. Do you not have some sympathy for this elderly postmaster, though, who kept trying to get his retirement extended? He wanted to retire, but he wanted the benefits of this particular bill. He did not get them.

Mr. RUDDOCK. Yes, sir; I do have sympathy with him. I have had to recognize over the years, though, that almost everything has an effective date or cutoff date.

Mr. SCOTT. Is that not true of the liberalized retirement bill, and we are trying to get away from it by this bill?

Mr. RUDDOCK. Yes, sir; but I would balance that against the apparent harshness of announcing to a group of people on October 29 that actions are going to be taken which will seriously or adversely affect many of them, and their feeling that either (a) they should have had the notice far enough before October 31 that they could exercise reasoned judgment, or (b) they should have a reasonable period after October 31 in which to exercise it.

Mr. SCOTT. Do you have any concern about any precedent that might be set by the enactment of this bill, that the various agencies might be asking for similar legislation in future years? Is this a bad precedent, in your opinion?

Mr. RUDDOCK. I feel quite sure that we would be asked to provide a similar liberalization in similar circumstances. I suppose it is possible, but I cannot quite visualize still another situation involving an announcement with a 2-day time period and affecting as many as 27,000 positions. Maybe we are dealing here in quantity as well as the substance of the matter.

Mr. SCOTT. Would you agree with the basic premise that I started with, that hard cases make bad law?

Mr. RUDDOCK. Yes, sir. Some of the worst law has been made from hard cases.

Mr. SCOTT. Mr. Ruddock, you cited in your prepared testimony each additional month that service is extended gives a three-pronged benefit in these areas. The retiring employee's basic annuity is increased by the additional time, by his having a higher 3-year average salary, and by the application generally of a lower percentage reduction factor because of his being a month older.

In addition, the 5-percent increase heightens the advantage because it applies to a larger annuity base. Even though our sympathy is with the employees, this would be in the nature of a windfall, would it not? It is not something that they were expecting until this request came from the Secretary of Defense to us.

Mr. RUDDOCK. Very definitely it would be something that they were not expecting under present law. Under the present law they are expecting only the annuity which is provided for a person who is involuntarily separated after meeting certain age and service requirements.

Mr. SCOTT. I appreciate very much your testimony and that of Mr. Kelley. I am for the Government employee. I just cannot see this legislation.

Thank you, Mr. Chairman.

Mr. DANIELS. The chairman of the full committee?

Mr. DULSKI. No questions.

Mr. DANIELS. Mr. Ruddock, again I want to thank you for coming here and giving us the benefit of your views.

Mr. RUDDOCK. Thank you.

Mr. DANIELS. Our next witness is Mr. Roger W. Jones, former Chairman of the U.S. Civil Service Commission and now Assistant Director of the Bureau of the Budget.

**TESTIMONY OF ROGER W. JONES, ASSISTANT DIRECTOR, BUREAU
OF THE BUDGET, EXECUTIVE OFFICE OF THE PRESIDENT**

Mr. DANIELS. Mr. Jones, I extend you a cordial welcome.

Mr. SCOTT. Mr. Chairman, would you excuse me and let me just greet Mr. Jones. He was Chairman of the Civil Service Commission when I retired in 1960, involuntarily. I know my case was discussed with Mr. Jones before I left.

It is good to have you here.

Mr. JONES. Mr. Chairman, my statement is very short. In the light of the testimony this morning, I will make two or three additional points afterward. Since it is less than two pages, if I may I will just read it into the record.

Mr. DANIELS. You may.

Mr. JONES. Mr. Chairman and members of the subcommittee, I am pleased to appear before your subcommittee this morning to present the views of the Bureau of the Budget on H.R. 15024, which would extend for 60 days the period during which a 5-percent cost-of-living increase may be applied to annuities of individuals who are involuntarily separated.

Similar bills, differing in wording and length of the extension period, have been introduced by Mr. Hogan (H.R. 15006) and Mr. Whitehurst (H.R. 14934) and by Senator Tydings (S. 3170).

The proposal to extend the eligibility period for the 5-percent cost-of-living increases was initiated by the Secretary of Defense as a means of mitigating the problem resulting from the planned closing of a number of bases. Many employees who will be affected by the reduction-in-force have sufficient service to qualify for immediate annuities. However, the announcement of the base closings was made October 29—only two days after the eligibility cutoff date for the 5-percent increase authorized by Public Law 91-93. This was too short a time for most employees to make a reasoned decision about so important a matter as early retirement. The intent of this bill is to extend the period for 60 days so that affected employees can reach well-considered decisions.

The Bureau of the Budget is in full sympathy with the objective of this bill, and we believe that a 60-day extension—to January 2, 1970—is reasonable. However, we strongly oppose extension beyond that date as proposed by H.R. 15006 (April 2, 1970) and by S. 3170 (60 days after enactment). Affected employees of the Defense Department have been advised that this bill has been introduced in the Congress. By the end of this year they will have had ample time to reach a reasoned decision. No additional time is warranted.

Individuals retiring under the provisions of H.R. 15024 would reap an advantage over those who retired prior to the original cutoff date of October 31. Additional service credit and larger high-three average will produce higher basic annuity amounts to which the 5-percent cost-of-living increase will be applied. Furthermore, all future cost-of-living adjustments will be applied to this larger base. Only the unique circumstances inherent in this case justify this kind of discrimination. It should not be repeated or prolonged.

In light of the special circumstances already noted, the Bureau of the Budget urges prompt enactment of H.R. 15024.

The other points I would like to make, sir, are these. I was uncertain whether to include them in the testimony, and therefore decided I had better see what the trend of the questioning and the other testimony was this morning. They relate to parts of this problem for which the Budget Bureau is, I think, largely responsible.

We have had discussions with the witnesses and with the members of the committee about the date of the announcements from the Department of Defense. These announcements in large part grow out of two considerations. First, the consideration of reduced budgets and, second, the consideration which flows from the fact that after the repeal or the nonextension, as you choose to call it, of the mandatory employment ceilings under which we operated until August of this current year, the President, in response to congressional intent and in response to his own beliefs about Federal employment, instituted a system of administrative employment ceilings.

The work on these administrative employment ceilings began in August, but it was late in September before all of the agencies knew what those new ceilings were to be. It was not until early October that we had completed the first go-round on appeals with respect to the ceilings that were announced.

I think this had quite a bit to do with the timing of the decision of the Department of Defense to announce the base closings and reductions in force.

I think it is pertinent to note that the June 30, 1970, ceiling given to the Department of Defense for its civilian employment, was 48,600 employees lower than the prior ceiling.

In most other agencies it may not be necessary to go into reduction in force rather than to let normal attrition take care of lowered manpower ceilings. However, the same kind of pattern prevails, although proportionately none of the decreases was anywhere near as large as that for the Department of Defense.

That is the first point I wanted to make.

Mr. DANIELS. How many employees do you estimate will be affected by reduction in force throughout the Federal establishment?

Mr. JONES. Our estimate is that in very few agencies will there be a formal reduction in force except in the Department of Defense. It is possible that there may be a formal reduction in force in some of the agencies that are working in the foreign affairs field, in AID, possibly in the Department of State itself. I do not think it will be necessary in USIA. It may be necessary to have a small reduction in force in connection with the agencies which are also caught in the President's announced goal of cutting back on construction.

Mr. DANIELS. Can you estimate the number who will be affected?

Mr. JONES. You mean as to who may get RIF notices?

Mr. DANIELS. Yes.

Mr. JONES. No sir; I would not be able to do that. At the moment, the normal attrition, in no small part because of the effect of the Daniels-McGee bill, appears to be stepping up attrition through retirements. Beyond that, the tight budget situation always has a certain amount of effect. It tends on the one hand to stabilize turnover. On the other hand, it tends to make people realize there will be fewer opportunities for promotion, fewer opportunities for transfer, and we usually see a little step up of movement out of the Federal Government into the private

sector, to other kinds of jobs, in a tight budget period such as we have at the present time.

Mr. DANIELS. Do you envision the situation at any time in the near future whereby these jobs might be recreated?

Mr. JONES. Certainly not within this fiscal year or the next fiscal year; no, sir.

Mr. DANIELS. The Department of Defense initiated this proposed legislation as a means of mitigating the problem. Does the Bureau of the Budget feel that its enactment will really remedy or mitigate the problem?

Mr. JONES. I do not think we have had enough experience, Mr. Chairman, to have an informed opinion about that. We do know generally what the pattern of retirements has been. We know in general the reactions of employees to reductions in force. We think, having spent some time with Mr. Kelley and his colleagues going over the figures, that the estimate they make is probably a pretty good estimate.

If we did succeed in getting 2,200 people to retire, it simplifies the problem to that extent on the reduced ceilings, both for Defense and generally across the Government.

Mr. DANIELS. I note your strong opposition to extending the proposal beyond the end of this month. You are opposed to H.R. 15006 which would extend the benefits of this legislation through March of 1970. I believe Senator Tydings has a bill which proposes the same approach. But the Bureau is in sympathy with extending it for a limited period of time, for a 2-month period from November 1 to December 31.

Mr. JONES. That is correct. We feel that the major agency affected by reduction in force is the Department of Defense. Its announcement, for all of the reasons that have been indicated, had to come too late. We do not expect that other reductions in force will be very large, and we also expect that there will be announcement of them in timely fashion. Therefore, we believe the chief application of this particular measure will be to the Department of Defense.

Because of the peculiarities of timing, we think it will have a good effect there. The effect is equitable enough so that we had an obligation to report favorably on it to the Congress. In part it is the operation of the ceiling in the budget cutback machinery which made it necessary for Defense to do this at all. Had Defense had the kind of information which they got in early October several months before that, I am sure they could have announced earlier than they did the fact that they were going to have to make reductions in force. This would have given people more time to exercise the option for retirement as a result of involuntary separation.

Mr. DANIELS. You and Mr. Ruddock both point out this bill would give the affected employees an advantage over those who retired prior to November 1. Would this not also be the case not only with respect to those who separated after January 1, 1970, but those who retire voluntarily, mandatorily, or by reason of disability in the same 2-month period?

Mr. JONES. Yes. There are slight differences, but they would also get the advantage of the high 3. They would not get the advantage of the 5 percent until the next cost-of-living increase comes along.

Mr. DANIELS. Thank you.

Mr. Chairman, have you questions?

Mr. DULSKI. Mr. Jones, as a former Chairman of the Civil Service Commission and as an executive having a hand in our joint endeavors to strengthen the financial position of the retirement fund, do you subscribe to circumventing the 30-year amortization principle in this instance?

Mr. JONES. In principle, no, Mr. Dulski. But, as Mr. Ruddock testified, the way this bill was drafted, it was made a part of the earlier legislation, which was not included in the requirements for financing under the general provisions of the Daniels-McGee bill.

Mr. DULSKI. I am glad you mentioned Daniels-McGee, because the work was done in this House.

Mr. JONES. That is what we consider it to be.

(Off the record.)

Mr. JONES. I feel very strongly, Mr. Chairman, after many years approaching it from almost every point of view, we do have now financing for the civil service retirement fund which is not only acceptable but which is really quite a bellwether in terms of setting precedents for sound financing of all public employment retirement systems.

Mr. DANIELS. A great deal of effort went into getting H.R. 9825 enacted into law. We deliberately provided that all future benefits that would be given to Federal employees should be paid for. I do not like to see this fund, after this legislation has been in effect only a short period of time, being raped by giving out some additional benefits immediately.

Mr. JONES. I do not think any of us disagree with that, Mr. Chairman. I think our position is simply that these very special circumstances relate to the peculiar problem of timing. As such, they are really just a very small second bite at the same kind of problem which we were trying to handle in the larger legislation and are suggested as a part of that larger legislation. It is not just pure rationalization to assume that the same rule with respect to financing should apply to this as applied to the larger bill.

Mr. DULSKI. Mr. Jones, in view of your long experience in the Federal service and your knowledge of the legislative process, do you believe—and I quote you—that “by the end of this year they—the employees—will have ample time to reach a reasoned decision”?

Mr. JONES. Yes, I do, sir, for this reason: If I understand what has happened in the Department of Defense up to the present time, the notices of reduction in force have already gone out, and since those have gone out, even though there is a staggered schedule for the effective dates of those reductions in force, this bill gives time to make a reasoned decision as to whether it would be better to take a transfer, to move to some other post, to accept reduction in grade or something of the kind, or to retire.

I think from here on out, most Federal employees who have enough service to enable them to retire will do their retirement arithmetic pretty carefully, and their agencies will help them. Every month from here on out, the full effect of the Daniels-McGee bill will become more and more apparent.

I think Mr. Ruddock indicated that even by February or March people subsequently retiring would be on about the same basis as the people we are talking about.

Mr. DULSKI. Before closing, Mr. Chairman, I want to say for the record that if we do not take care of this legislation at a very early date, it is because we have before us what I think is one of the most important overhauls of the Postal Department, the postal reform bill. I want to compliment the chairman of the subcommittee, Mr. Daniels. We know of the importance of this legislation.

I want to commend the gentleman from New Jersey and the witnesses for the great interest they have in the employees. We do not neglect our other duties, although we have a very important bill before us.

Thank you, Mr. Chairman.

Mr. JONES. Mr. Chairman, I may possibly have misled you. May I go back to one point.

I referred to further reductions in force and said I thought there would not be very many of those. Might I add, so far as we know, up to the present time none of the other agencies has announced mandatory reductions in force. Therefore, the number of people from other agencies who would be affected by this legislation is minimal now and will remain so unless they come out with announcements of reductions in force prior to the time that this bill would expire. There may be some announcements later in the year, but they would not be affected by this bill.

Mr. DANIELS. Since you made your announcement on October 29, what are the effective dates of these RIF actions?

Mr. JONES. I would have to defer to the Department of Defense. I do not have their schedule. Often, a reduction in force is a 30-day notice. You can extend them on out, and in many cases have. We know of certain cases in the past in which reductions in force and RIF notices have gone out to people but the effective dates have been staggered over a 3-month period.

Mr. DANIELS. Mr. Kelley might want to answer the question.

Mr. KELLEY. The normal leadtime is 60 days. There have been a relatively few occasions in which less than a 60-day period was allowed between the time of announcement and the subsequent RIF.

Mr. DANIELS. In view of that response, how many people do you believe will be affected by the legislation in question?

Mr. JONES. I very much doubt whether there will be more than a handful, outside of the Department of Defense, who will be affected.

Mr. DANIELS. Mr. Jones, I want to thank you.

Mr. JONES. Thank you, Mr. Chairman.

Mr. DANIELS. This concludes the hearing.

Without objection, I would like to introduce into the record at this point a statement of Hon. Lawrence J. Hogan, with reference to the bill he introduced, H.R. 15006.

(The statement follows:)

TESTIMONY OF HON. LAWRENCE J. HOGAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MARYLAND

Mr. HOGAN. Mr. Chairman, I appreciate this opportunity to appear before the subcommittee this morning to speak in support of my bill, H.R. 15006, among those you are considering.

This legislation, which authorizes a 5-percent cost-of-living annuity increase for those retiring after November 1, 1969, and before April 2,

1970, based on involuntary separation, is of particular interest to me due to the reduction in force scheduled to take place at the naval ordnance station at Indian Head, Md., and other Federal agencies where my constituents are employed.

As most of you are already aware, the Defense Department's announcement of civilian and military work force reductions on October 29 allowed only 2 days for dismissed employees to decide to retire if they were to obtain benefit of the 5-percent cost-of-living annuity increase authorized by Public Law 91-93, eligibility for which expired on October 31, 1969. Being placed in this position, many employees in my district, and I am sure elsewhere also, found that it was impossible to make such a major decision in a 2-day period.

I feel very strongly that these employees should be given an extension of time to decide their future without being penalized through the loss of this 5-percent cost-of-living annuity increase.

Secretary of Defense Melvin Laird, in his letter of November 15 to Speaker of the House John McCormack, clearly pointed out that, although the Department expeditiously notified employees affected by the current closures and reductions of the necessity for a prompt decision in order to receive benefit of the cost-of-living increase authorized by Public Law 91-93, it was not possible for many employees to make this decision. Secretary Laird proposed and recommended an extension of this period until January 1, 1970, and advised that the Bureau of the Budget, from the standpoint of the administration's program, had no objections to this extension. He noted the costs would be minimal in relation to overall retirement costs.

I have, in my bill, proposed this extension to be effective through April 2, 1970, as compared to Secretary Laird's suggested cutoff date of January 1, 1970. The reason for this is that the proposed schedule for reduction at the naval ordnance station in my district runs through April 1, 1970. A cutoff date of January 1 could result in numerous employees resigning before that date and necessitate alteration in scheduled reductions. It would appear that, as the benefit of either proposal will be restricted to those involuntarily separated, there will be little difference in the numbers of employees retiring to take advantage of these benefits. An April 2 deadline will permit more orderly transition and exodus of personnel in line with the schedule of the naval ordnance station as well as other facilities.

In closing, I would like to stress the importance of prompt action by Congress to benefit those affected by current reductions, and point out that, although the amount involved will be small and insignificant to the U.S. Government, this increase will mean a great deal to these retirees who will be facing an inflationary economy on fixed, low, or low-middle incomes.

Mr. DANIELS. The subcommittee stands adjourned, subject to the call of the Chair.

(Whereupon, at 11:30 a.m., the subcommittee adjourned.)

