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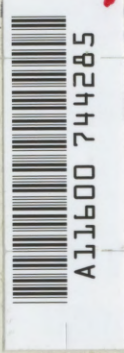
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94-27 ELIMINATE THE AUTOMATIC RESTORATION OF THE
GOVERNMENT ANNUITY REDUCTION UPON REMARRIAGE

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HEARINGS
BEFORE THE
SUBCOMMITTEE ON
MENT AND EMPLOYEE BENEFITS
OF THE
COMMITTEE ON
OFFICE AND CIVIL SERVICE
USE OF REPRESENTATIVES
NINETY-FOURTH CONGRESS

FIRST SESSION
ON

H.R. 6257

A BILL TO AMEND CHAPTER 83 OF TITLE 5, UNITED STATES
CODE, TO GRANT A SURVIVING ANNUITANT THE RIGHT
TO ELECT WITHIN ONE YEAR AFTER REMARRIAGE
WHETHER SUCH ANNUITANT'S SPOUSE SHALL BE ENTI-
TLED, IF OTHERWISE QUALIFIED, TO A SURVIVOR'S
ANNUITY UPON THE ANNUITANT'S DEATH

JUNE 17 AND 18, 1975

Serial No. 94-27

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(II)



CONTENTS

Testimony of—	
Bradley, George E., executive director, Organization of Professional Employees, Washington, D.C.-----	Page 13
McClelland, John F., president, National Association of Retired Federal Employees, Washington, D.C., accompanied by Ms. Judy Park, legislative assistant-----	18
Tinsley, Thomas A., Director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission-----	1
Statements submitted by—	
Howard, Paul, resident, Arlington, Va.-----	25
Webber, Clyde M., national president, American Federation of Government Employees-----	25
Wolkomir, Nathan, T., president, National Federation of Federal Employees-----	27
Copy of H.R. 6257-----	28
Administration reports received from—	
U.S. Civil Service Commission-----	31
Office of Management and Budget-----	30
A summary of recommendations on H.R. 6257-----	iv

SUMMARY OF RECOMMENDATIONS ON H.R. 6257

Mr. George E. Bradley, executive director, Organization of Professional Employees, U.S. Department of Agriculture, Wednesday, June 18, 1975:

(1) Include provision in H.R. 6257 to allow an annuitant to designate a divorced spouse as recipient of his survivor annuity.

(2) Allow annuitant to designate more than one recipient of a split survivor annuity.

Mr. John F. McClelland, president, National Association of Retired Federal Employees, Wednesday, June 18, 1975:

(1) Automatically continue survivor benefits reduction when an annuitant remarries, giving him the option to notify the Civil Service Commission of a decision not to provide for a survivor. This would prevent remarried annuitants from neglecting to provide for a survivor benefit within the allotted period.

Mr. Thomas A. Tinsley, Director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission, Tuesday, June 17, 1975:

(1) Reduce the 1-year time limit an annuitant has to notify the Civil Service Commission of remarriage, and receive a reduction in his annuity for a survivor benefit to 30 days. Such a provision would prevent annuitants from getting a "free ride" with an unreduced annuity for 1 year, even though they have remarried.

ELIMINATE THE AUTOMATIC RESTORATION OF THE ANNUITY REDUCTION UPON REMARRIAGE

TUESDAY, JUNE 17, 1975

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

The subcommittee met at 9 a.m., in room 304 of the Cannon House Office Building, Hon. Richard C. White (chairman of the subcommittee) presiding.

Mr. WHITE. The subcommittee will come to order. The subcommittee has convened this morning to begin its hearings and deliberations on H.R. 6257 which was introduced by myself. Under present law, Public Law 93-474, an annuitant who elects to take a reduced annuity in order to provide for his spouse, does not have a new right to an election upon each subsequent marriage, even though his marriage terminated due to death, divorce, or annulment, the restoration of the reduction upon remarriage is automatic. However, a Federal employee who is single at the time of retirement under Public Law 91-658, has 1 year in which to elect to take a reduced annuity and thereby provide for a spouse.

H.R. 6257 amends Public Law 93-474 to eliminate the automatic restoration of the annuity reduction and allows a retired Federal employee or member 1 year in which to decide, upon each subsequent remarriage, whether or not to provide a surviving spouse benefits.

To begin the hearings we shall first hear from Mr. Thomas A. Tinsley, Director, Bureau of Retirement, Insurance, and Occupational Health, U.S. Civil Service Commission.

STATEMENT OF THOMAS A. TINSLEY, DIRECTOR, BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH, U.S. CIVIL SERVICE COMMISSION

Mr. TINSLEY. Mr. Chairman, I have a brief prepared statement, which can be inserted in the record.

Mr. WHITE. Without objection, the entire statement will be included in the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF THOMAS A. TINSLEY, DIRECTOR, BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH, U.S. CIVIL SERVICE COMMISSION

Mr. Chairman and members of the subcommittee; I appreciate this opportunity to appear before your Subcommittee to give the Commission's views on H.R. 6257.

The Commission has formally presented its views on this bill in a letter to the Chairman of the full committee dated June 16, 1975.

Prior to enactment of Public Law 93-474, approved October 26, 1974, the reduction taken at the time of retirement in order to provide an annuity for a surviving spouse continued for life, even in cases where the marriage was subsequently terminated before the employee-annuitant died.

Public Law 93-474 amended the Civil Service Retirement law to provide that the annuity of a retired employee or Member which was reduced to provide an annuity for a surviving spouse shall, upon termination of the marriage (by death, divorce, or annulment), be recomputed to eliminate the reduction; thereafter the retired employee or Member is paid at the single-life, unreduced rate for each full month during which he or she is not married.

Thus, if the annuitant's spouse dies or is divorced from the annuitant, the reduction is eliminated effective the first of the month following the one in which the spouse died or the divorce was effective; if the annuitant later remarries, the annuity is again reduced by the same percentage factors as were in effect at the time of the original reduction. The restoration of the reduction upon remarriage is automatic, and the annuitant has no right of election.

H.R. 6257 would eliminate the automatic restoration of the annuity reduction and allow the annuitant to decide, upon each subsequent remarriage, whether or not to provide a surviving spouse benefit.

The Commission is in general agreement with the principle of the bill. However, we believe that a 30-day period of election would be preferable to the proposed period of one year from the date of remarriage.

This provision parallels that in Public Law 91-658, enacted January 8, 1971. The circumstances, however, are completely different and, in our opinion, should not be used as a precedent. Public Law 91-658 applies to annuitants who were unmarried at the time of retirement and who were not counselled regarding survivor elections. The information which they need in order to make their decision must be obtained through correspondence with the Commission, which requires time. H.R. 6257, however, would apply to those annuitants who have previously received reduced annuities and who need only decide whether or not they wish to provide a survivor benefit. Thirty days would allow ample time to act on a decision which was, in all probability, made by the time of the remarriage. While we can understand the feelings of those individuals who would elect the reduced annuity again but who would wait until the year is almost over to do so, we object to the idea of providing a "free ride" at the expense of the Civil Service Retirement System.

The primary purpose of a survivor annuity is the future protection of the spouse in the event of the annuitant's death. We realize that the circumstances which led to an election of reduced annuity at the time of retirement may not be applicable upon a subsequent remarriage. In some instances, the spouse may already be receiving a survivor annuity which may either be continued during the remarriage or restored upon the termination of the remarriage. Therefore, the automatic reduction in the annuitant's rate will not result in payment of a survivor annuity unless, after the annuitant's death, the surviving spouse elects this particular benefit in lieu of the other.

In other instances the spouse may be an annuitant, or have other sources of income which would render a potential survivor annuity unnecessary.

The proposed elimination of the automatic restoration of reduction would also simplify the Commission's administration of Public Law 93-474. We would no longer be involved in collecting annuity overpayments resulting from the annuitant's failure to give prompt notification of remarriage. The responsibility for electing to provide a survivor benefit would rest with the annuitant and, if no election were made within the specified period, no survivor annuity would become payable.

H.R. 6257, if enacted, would decrease the unfunded liability by an estimated \$51 million.

For these reasons the Commission recommends favorable consideration of H.R. 6257, if modified as suggested.

Mr. TINSLEY. This bill, H.R. 6257, would eliminate the automatic restoration of the annuity reduction and allow the annuitant to decide, upon each subsequent remarriage, whether or not to provide a surviving spouse a survivor annuity benefit.

The Commission is in general agreement with the principle of the bill. However, we believe that a 30-day period of election would be preferable to the proposed period of 1 year from the date of remarriage. The situation here, we believe, is different than the situation that prevailed when Congress established the precedent for the 1 year time frame since in this situation these employees have already been made familiar with and, in fact, already had elected a survivor benefit in connection with the first spouse. Therefore, it should not take 1 year and, in the process of the 1 year, obtain the advantages of the benefit without also being subject to the reduction in annuity.

We believe that 30 days or certainly not longer than 60 days would be ample time for the individual to make such an election. I should suggest that if the year is retained in the bill, that the reduction be retroactive. This, however, will present a great many administrative problems, which I believe are unnecessary.

One thing I might point out to the committee, and I think the sponsor of the bill in the committee should be complimented, this bill, if enacted would decrease the unfunded liability of the civil service retirement fund by \$51 million.

Mr. WHITE. Over what period of time?

Mr. TINSLEY. The entire future of the fund. This is one of the few times, in my memory, that we have encountered a bill that does this and, at the same time, provides a benefit. For the reasons stated in the Commission's report, as well as my prepared statement, we would recommend favorable consideration of H.R. 6257. But we would suggest that the time frame be modified.

Mr. Chairman, that briefly summarizes my position. I will be glad to answer any questions or furnish any information the committee might desire.

Mr. WHITE. Thank you, Mr. Tinsley. You know, lawyers have the habit of concocting in their minds situations to see how a particular law would apply or whatever ramifications there might be. I think about the year and I think about 30 days, as you suggest, in which to make the election, and I can foresee some of these individuals remarrying and after remarrying, in the first 30 days, not really being settled down, as it were, still very starry-eyed. And I wonder if 30 days isn't a little bit unrealistic, as unrealistic as, perhaps, 1 year.

Mr. TINSLEY. In that situation, I would agree that the honeymoon certainly isn't over in 30 days, and a lot of promises are made on the honeymoon. I quite agree with you, Mr. Chairman. I believe the 1-year provision came into the law only because Congress, in the year before, had reduced the 2-year requirement for marriage to 1 year. Now, the only reason a 1- or 2-year period was ever in the law is the old fear of deathbed marriages, just to provide someone with a pension. This may have been true in the post-Civil War era. However, I do not believe that the practice of deathbed marriages just to provide somebody with a pension is prevalent today.

I would agree with you. If you have 1 year and during that 1 year, in the event of the death of the annuitant, the second spouse would not be entitled to an annuity there would be some rationale for the 1 year, which is contained in the bill. The problem here is that every time you give someone a long period of time to make up their mind, particularly when it is going to result in saving a few dollars, you just

postpone their decision until the very last minute and, then, as invariably happens, somebody forgets and those 12 months or 14 months or 16 months pass and then they have a real problem of not having done something that they should have done. And the second spouse is denied the benefit.

Mr. WHITE. How long does it take to process a claim, Mr. Tinsley?

Mr. TINSLEY. The time for processing a claim in connection with an employee from date of separation to first check right now is running slightly less than 2 months. Now, most of that time is the period of time that elapses between the date the individual separates himself from the service, his last day of work, and the date that we receive the final closeout of his payroll records and his retirement application.

The individual in most of these cases does have some money in the interim. Usually there is a payroll lag. So normally the individual would still receive one salary check after his actual date of separation. He may be also entitled to some annual leave payments and other items and the payroll record is then audited by the agency and submitted to us. Once we receive it, we have most individuals on the rolls within 3 weeks, the largest part of them within 2 weeks.

Mr. WHITE. I presume this could also provide for a woman if the ERA passes?

Mr. TINSLEY. That's correct.

Mr. WHITE. Once the election is made and the formalities are completed with your agency, I presume that is all it takes. Then, if the person dies the next day, they will still be in the channel, as it were?

Mr. TINSLEY. Mr. White, the situation we are dealing with here is different than the one I have described. The situation I described in terms of payment is while the employee is still actively on the agency rolls. In this situation the individual is already on our retirement rolls and the processing of that claim would be rather rapid.

Mr. WHITE. My question was: A man walks out to the mailbox, deposits his letter, let's assume it is postmarked, and then he goes home and he dies. Is his wife then entitled to this, if the year has gone by or is there a necessary formality in the office?

Mr. TINSLEY. The way the law has been interpreted is that it has to be received in the Commission prior to the death. And there are every-once-in-a-while cases that we encounter where the individual has mailed in an election or designation of the beneficiary and it is received a day or two after his death. You would have that type of a situation here, and we would use the date received in the Commission mailroom as the controlling date.

Mr. WHITE. Now, I am driving at something here. That is why I am asking these questions. Do you know, in your office, when a spouse dies?

Mr. TINSLEY. No, not unless the annuitant informs us, we do not know. This is one of the problems of policing, if you pardon the phrase, the annuitant role in connection with the current provision of the law. The current provision of the law requires that when the individual remarries, we are supposed to reduce his annuity back to where it was when he had a living spouse, a potential survivor. Unless the individual tells us that, there is just about no way we can find out, other than to circulate those on that roll with the questionnaire, and then you are relying on the individual anyway to tell you whether or

not he has remarried. Right now I am sure there are individuals, not with the intent of being guilty of fraud, that are sitting out there, have remarried and just failed to get around to telling us. When we do find out they have remarried, an adjustment will be made retroactively.

Mr. WHITE. OK. Let me ask this question: You have stated that many annuitants forget as the year goes by, and that is a premise on which you suggest 30 days. Would it be too difficult for the agency if there was a provision whereby an annuitant could within that year notify the agency of the death of a prior spouse and desire to include a new spouse as a recipient of the annuity, not to take effect until the anniversary date of 1 year?

Mr. TINSLEY. I would see nothing wrong with that. That could be done. It would not be an administrative burden.

Mr. WHITE. But revocable at any time within that 1 year?

Mr. TINSLEY. That would be a new twist.

Mr. WHITE. That is, the revocation of a notice.

Mr. TINSLEY. Yes. That would not be administratively impossible.

Mr. WHITE. Would that cure the ailments we are talking about, the failure of memory and the possibilities that the man may change his mind?

Mr. TINSLEY. It could, yes. I don't know that it's essential, but it would cure that.

Mr. WHITE. It is mentioned in your prepared statement about counseling of an annuitant. Can you tell us something about that counseling?

Mr. TINSLEY. Yes. This situation occurs even with a new retiree. He really doesn't know exactly what the reduction is going to be, even though the law tells him that the first \$3,600 of the annuity will be reduced by 2½ percent and everything over that, reduced by 10 percent if he wants to provide for his survivor. He needs those exact figures to make a decision to see what it's going to cost him to provide that survivor a benefit in his situation.

The second thing he needs to know which most people do not understand is that he does not have to use the entire annuity to provide a survivor benefit. He can designate none, no survivor annuity; a part of the annuity, say \$5,000, \$10,000, or all of it, or anything in between. So, in order for the individual to make an informed decision, you have to really show him in dollars and cents what the impact is going to be on his own annuity, while the two of them are alive. You also have to tell him how much this is going to provide for her in terms of dollars upon his death and get through to him that he has this option of not using the entire annuity, if he so desires and tells us.

Now, when you are dealing with someone who has never been through the initial election of the survivor annuity, all this is brand-new to him, and you certainly are not going to explain that to him in 30 days. It takes some time to get back and forth to these people and explain to them and for them to sit down and think about it, or maybe consult with his spouse or her spouse.

Mr. WHITE. Do you do this in person or by mail?

Mr. TINSLEY. In the case of employees, it is done to some extent by the agency counseling people. But I would say for the most part it is done by mail.

Mr. WHITE. Is this variable, that everyone who retires gets this information?

Mr. TINSLEY. Yes, even if the individual comes in initially and does not elect a survivor annuity, we will get back to him and say, "You did not elect a survivor annuity. Here is exactly what the situation would be, should you desire to elect a survivor benefit." And give him the same type of information concerning the dollars and cents, and then ask him to confirm his original election.

Mr. WHITE. Thank you, very much, Mr. Tinsley.

Mr. Taylor?

Mr. TAYLOR. Thank you, Mr. Chairman. Mr. Tinsley, in the event that an employee does die and the survivor is qualified to receive the annuity, at what age does the spouse begin to receive the annuity? Is it on the basis of what the age of the employee would have been?

Mr. TINSLEY. In this instance, it makes no difference, age or anything else. The only requirement is 1 year of marriage. The spouse would immediately begin to get survivor benefits, whether the individual dies as an employee or dies as an annuitant. The amount of the annuity would be 55 percent of the annuity that the employee would be entitled to receive or the retiree was receiving. That would be payable until death or remarriage, unless the remarriage occurred after age 60, in which case it would continue on for life.

Mr. TAYLOR. If an employee is 43 years old, and he dies, his wife is 40 years old, she would immediately begin receiving 55 percent of what his annuity was?

Mr. TINSLEY. Yes, what his earned annuity was.

Mr. TAYLOR. There is no waiting period?

Mr. TINSLEY. No.

Mr. TAYLOR. I was not familiar with the provision that an employee could designate a partial annuity. Is this computed then on the basis of their contribution?

Mr. TINSLEY. No. The individual then would have less of a reduction.

Mr. TAYLOR. They would pay a lesser reduction or a premium or whatever you might call it. It is a reduction in benefits, but some refer to it as a premium—then it would be reduced in the amount that they reduce the designated annuity?

Mr. TINSLEY. That's right.

Mr. TAYLOR. Then, do they have the opportunity to later increase that?

Mr. TINSLEY. No, once an election has been made, that election is irrevocable. In this particular bill, I believe, it is also stated that the election here would be irrevocable during such marriage. In other words, the individual would not have an opportunity to keep changing his mind every time he and his spouse had an argument.

Mr. TAYLOR. I believe that is all. Thank you.

Mr. WHITE. Thank you, Mr. Taylor.

Mr. Jenrette?

Mr. JENRETTE. What has been the history of the Commission as to the amount of time before the filing spouse begins receiving his or her share of the annuity?

Mr. TINSLEY. It is usually about 2 months, and this is involved in obtaining the necessary documents, a copy of the death certificate and marriage certificate, primarily. Many of these people, after retirement,

leave the area that they were married or lived in and at times they don't always have the documentation necessary to establish marriage or dissolution of a prior divorce.

Mr. WHITE. Could the time be cut down if the annuitant sent in advance, a marriage certificate?

Mr. TINSLEY. Yes.

Mr. WHITE. Do you have the capability of storing those?

Mr. TINSLEY. Yes. We would need them anyway.

Mr. WHITE. Would a certified copy be adequate?

Mr. TINSLEY. Oh, certainly.

Mr. WHITE. Is there any provision in the law for advance receipt of these?

Mr. TINSLEY. There is no provision in the law for advance receipt and no prohibition against the advance submission of them.

Mr. WHITE. Does anyone ever send one in?

Mr. TINSLEY. Not to my knowledge.

Mr. WHITE. But if they were advised of it, they probably would?

Mr. TINSLEY. They could.

Mr. WHITE. How much time would be cut down by that?

Mr. TINSLEY. Many times the marriage and divorce certificates are the ones that delay the handling of the claim, because they have to go out to some other State normally and one may have trouble knowing where to go.

Mr. WHITE. I guess you would also have to have an affidavit of nondissolution by divorce?

Mr. TINSLEY. That's right, but not in most cases.

Mr. WHITE. So would the marriage certificate in advance really save any time?

Mr. TINSLEY. Well, any of the documents that the individual knows he has to submit, and normally at the time they elect the survivor benefit, we advise them as to how their survivor in the event of death files for the benefit and what documentation is going to be needed. They are given advance notice as to the type of documentation needed. They are not told that they can submit those at any point in time.

Mr. WHITE. Thank you very much.

Mr. Jenrette?

Mr. JENRETTE. This is about one-third of the time it normally takes for a retiree to begin receiving his annuity?

Mr. TINSLEY. No. A retiree would receive an annuity in probably about the same period of time.

Mr. JENRETTE. I thought you testified earlier in some hearings on another bill that it was about 6 months. That was a concern of the subcommittee. At one of the hearings, it might not have been you, but there was someone testifying about 6 months in these cases.

Mr. TINSLEY. No. Many times, Mr. Jenrette, the individuals make this statement but what they mean is that they have not received their regular retirement check. We follow a system whereby when the agency closes out the payroll which is usually 3 to 4 weeks after the individual is separated by the agency, they send us over his application. They send us over the closed payroll records which indicate his retirement contribution and his service period. We then, at the same time, ask them to submit to us, and we have provided them with a form and instructions and have done some educating in this

area, to do a computation, an estimate of what his annuity will be. That comes into the Commission and usually within 10 days of the receipt of that the individual is placed in payment status with a tentative annuity payment. We then later on, compute down to the last \$1 his regular annuity and make an adjustment for the prior payments.

In many of the complaints that I see where the individual is complaining that he has not received his annuity check, he is talking about his regular annuity check, the one that is down to the final \$1.

He has been getting special payments maybe for a couple months. For example, right now it would not take us much longer than a month. Most individuals would not remain in that special payment status for longer than a month, because the workload is not all that great coming in. When we instituted the special payment provision was during a period of time when we had peaks in the workload. Right before every cost-of-living increase, we would receive in a matter of a couple months the workload of almost 7 or 8 months or for the rest of the year.

In order to expedite placing money into the hands of these annuitants, we instituted this special payment procedure and it has worked very well.

Mr. JENRETTE. Under the survivor annuity, do you recognize common-law marriage?

Mr. TINSLEY. Yes; if it is recognized in the State in which it took place.

Mr. JENRETTE. Hypothetically, Joe Smith is entitled to an annuity, but he divorces his wife and shortly thereafter dies without any notice of the divorce to you, without completing the documentation; is there any way the Government can be protected on this?

Mr. TINSLEY. If he is separated and, if he is divorced, the situation is probably that he has been separated, he may have advised us and many of these people do. Since the annuity goes up in the event the marriage is terminated, they notify us so they can get the additional amount on their annuity check. There is that protection built into the law.

The second way of doing this that many times the widow or the ex-wife, in this instance, would have to come in with a claim that at the time she is filing, she would know is fraudulent.

Mr. JENRETTE. Is there any affirmative documentation he or she has to sign that would further protect you, or would that be difficult?

Mr. TINSLEY. That would be pretty difficult in this area. It is extremely difficult to cover yourself when you have this many people, and when you are dealing with something like the dissolution of a marriage. You certainly cannot go out and check the court records, the divorce records, in every State. You certainly cannot keep going back to these people every year, saying, "Has your marital status changed in the last year?" You cannot send investigators out to check unless you have real good reason, because people are extremely sensitive today about the Government running around the neighborhood asking questions, particularly about their private lives; so it is difficult. You depend on the fact that basically most people are honest, and I think they are. Someone who is going to really be dishonest and that is intent on it, no matter what kind of a system you devise, if it is a simple and economical system, they are going to find a way of beating it anyway.

Mr. JENRETTE. I have one last question, Mr. Tinsely. Would you expand on the reason the Commission prefers the 30-day period of election rather than the 1-year?

Mr. TINSLEY. The primary reason, Mr. Jenrette, is that in effect what you would be doing here is encouraging everybody to wait the full year before they make the decision, because they get a free ride for a year.

Mr. WHITE. What you are saying is that this would immediately affect their annuity?

Mr. TINSLEY. Yes.

Mr. WHITE. But with the year requirement, would it then still go into effect prior to the year?

Mr. TINSLEY. No; it would not go into effect until the first of the month after the month in which they filed the election.

Mr. WHITE. Where does the free ride come in then?

Mr. TINSLEY. The individual now, under this bill, his annuity would be increased at the time his first spouse or her first spouse died. The requirement that that annuity be reduced on remarriage would not take effect under this bill as I read it. So the individual could retain the annuity as if he were in a nonmarriage status for 1 full year while he was remarried.

Mr. JENRETTE. If he doesn't want to bring his spouse under it at any time, say, for 10 years, would he not be entitled to the full annuity?

Mr. TINSLEY. That's right, he would be entitled to the full annuity.

Mr. JENRETTE. Thank you. I have no further questions.

Mr. MINETA. In terms of this "free ride" is there a way of determining what it means in terms of dollars?

Mr. TINSLEY. It doesn't mean really a great deal. I think I could get you the figure. I don't have it readily available, but it would not be a great deal.

Mr. MINETA. So 1 year is really not an unreasonable period of time?

Mr. TINSLEY. No; there is plenty of precedent in the law for the 1-year period in terms of what we are talking about here. If it will help the committee, if I were to use the July 1974 figures—of the 938,654 annuitants on the rolls, 90 percent of them, 844,000 elected a survivor benefit. Now, of that 844,000, about 250,000 will have their spouse predecease them and of that 250,000, only about 50,000 remarry. So we are talking about 50,000 potential cases here.

Mr. MINETA. So you are talking about 6 or 7 percent of the total number of annuitants?

Mr. TINSLEY. Yes; it is very small. And actually even on the second go-around probably only about 10 percent of them will elect not to provide. So the ones that would not provide, it would be roughly about 5,000.

Mr. WHITE. Mr. Tinsley, with respect to this matter of a free ride, you pointed out something that perhaps needs to be clarified in the bill. The way I read the bill on page 2, lines 5 and 6, it states that "This election shall be effective the first day of the month after the election is received in the Commission."

Mr. TINSLEY. Yes.

Mr. WHITE. Probably in order to be fair to the annuitant, we should have in here "providing 1 year subsequent to the marriage has expired."

Mr. TINSLEY. That would be more equitable. We had this problem several years ago when Congress enacted the second survivor law. In that situation, it was to the individual's disadvantage to file the election because we immediately reduced his annuity. So if he filed his election within 30 days, his annuity was reduced the first of the following month. And in the case where the individual took his time and waited the full 11 months or 12 months, he had the advantage of an additional annuity for that period of time.

Mr. WHITE. Which is ridiculous.

Mr. MINETA. Could you go over that for me again?

Mr. WHITE. All right. As I understand the testimony of Mr. Tinsley and reading page 2, lines 5 and 6, if an annuitant remarries and within, say, 30 days of his remarriage he makes his election to include his new spouse, then immediately his annuity is affected even though his new spouse cannot be eligible for an annuity until the full expiration of the year. So, therefore, to do equity, I feel you would have to have words of this nature after the words "received in the Commission" add "providing one year subsequent to the marriage has expired." So if he made his election any time in that year, he would not be penalized. You would not have the "early bird getting the worm."

Mr. TINSLEY. No; it would be ones that went ahead in the first 30 days while on the honeymoon that would be penalized.

Mr. WHITE. I think that might be a good addition to the bill. Are there any other questions?

Mr. McCLUSKEY. I would like to clarify the present law. Upon remarriage an annuitant has no election. It is automatically reduced?

Mr. TINSLEY. That's right.

Mr. McCLUSKEY. However, his spouse does not become eligible unless they are married for 1 year?

Mr. TINSLEY. That's correct.

Mr. McCLUSKEY. So he has been contributing, say, for 6 months and he predeceases his new spouse, she is not eligible, even though he has been paying in for 6 months under the present law?

Mr. TINSLEY. He has a reduced annuity for a period of 6 months.

Mr. McCLUSKEY. She is not eligible under the present law?

Mr. TINSLEY. That's correct. An employee who dies in service, he has to be married for 1 year or a child has to have been born of the marriage. An annuitant, someone who is already retired, must be married for 1 year before the spouse is eligible. However, if you are married on the date you retire, there is no time requirement. You can get married at 9 o'clock in the morning, retire at 4:30 in the afternoon, die 2 days later, and the woman you were married to at the time you retired in that instance would be entitled to the benefit.

Mr. McCLUSKEY. I have one other question. What is your opinion of this situation: An annuitant divorces his wife and he remarries; however, he wishes to keep his previous wife under the system, he cannot do that presently. But in the long-run by looking at some of the marriages today, it would seem like it would save the fund some money. There are a lot of people up in age marrying 20- and 30-year-olds, and the fund is supporting these people. The reason I ask this question is because the committee seems to be receiving a lot of letters on this particular subject.

Mr. TINSLEY. The problem that has been encountered in recent years and not just in terms of the civil service retirement system,

but other systems, is the problem that arises when an individual is married to another individual for an extended period of time, 20 years, 25 years. It seems that in today's society more and more of those marriages are ending in separation or divorce after long periods of time. The question arises for that 20 or 25 years, this first spouse is left with little or nothing other than the results of whatever the divorce settlement calls for.

In connection with payments from the Federal Government, it was extremely difficult, because a court settlement had little or no effect until recently on being able to get at a portion of the individual's annuity, because there was no provision in Federal law and the retirement law prohibited assignments, so there was no way a judgment could get at that money.

Congress has enacted a law as an amendment to the Social Security Act which now enables an individual to file a court order, a judgment wherein we will withhold an alimony payment or payments in support of the children and pay it to that individual. That is the only situation where you can pay a prior wife or husband.

Even there, you have trouble because once you have made your election for survivor annuity, you cannot turn around and provide for an insurable interest annuity. And that would be quite costly. You have to remember that the Social Security Act is a much different-type statute with a different purpose. The Social Security Act does contain a provision where they will pay two spouses. I believe the provision of the Social Security Act provides for the payment in any instance to a spouse, prior spouse, where the marriage existed for 20 or 25 years. I'm not sure which; I would have to check the law. So they would pay both the first and the second, provided there was a 20- or 25-period of marriage. That is the only law I know of that has such a provision where they will pay two widows.

Mr. WHITE. Let me ask one last question. You pointed out a disparity in the law. Do you feel the committee ought to go back and make more uniform the application of the law in an instance of a man who is married just prior to retirement and then retires, so he would be uniform with those who are already retired, and those already in the service or remain in the service at the time of death?

Mr. TINSLEY. No, as I indicated here, I am expressing to some extent my own personal views. The reason most of these things are placed in these laws that require a period of time for marriage, was fear that someone would just be married only to provide a survivor benefit, a deathbed-type marriage or "I am going to do my nurse a favor. She has been kind to me while I have been here in the nursing home. Call in the preacher or justice of the peace, and I will leave her a nice annuity."

I don't think that occurs to the extent it did some years ago. I think the biggest problem historically that ever occurred was after the Civil War and it is a carryover from that.

Now, again, I think in the Social Security Act the period has been reduced to either 3 months or 6 months. So I guess, personally, I am not at all convinced that you need periods of time to prevent somebody from marrying somebody to give them something after they die. If there are incentives to marriage, I think they are just reversed. More people are marrying for money and I guess there are some people who would say there is a distinct advantage if you can have both the money and not have what goes with it.

As far as the uniformity, I believe in uniformity and equity, but as to whether or not you should turn around and have 1 year apply across the board, that is a judgmental factor depending on your philosophy and how you would look at these things.

Mr. WHITE. Thank you very much, Mr. Tinsley.

Mr. McCLUSKEY. It was just brought to our attention that the administration of this bill, the effect of this bill, says before, on, or after the date of enactment, which means, in effect, as written, that this bill is retroactive for all annuitants.

Mr. TINSLEY. This could present a real problem in terms of retroactive-type adjustments and payments.

Mr. McCLUSKEY. Perhaps the bill should read "after the date of the enactment."

Mr. TINSLEY. I will have to take a closer look at that. When I read that section, it troubled me a little bit. Either that or what should be provided in that section, if you want it applicable to situations that occur, that no payments or adjustments will be made until the 1st day of the month following the enactment. If the chairman wishes, I will be glad to have our drafting people review that section and the prior section quite closely. And in light of this, offer any suggestions.

Mr. WHITE. We would be happy to receive it. Thank you very much.

If there are no further questions, this meeting is adjourned.

[Whereupon, at 9:55 a.m., the meeting was adjourned.]

ELIMINATE THE AUTOMATIC RESTORATION OF THE ANNUITY REDUCTION UPON REMARRIAGE

WEDNESDAY, JUNE 18, 1975

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

The subcommittee met at 9:00 a.m. in room 304, Cannon House Office Building, Hon. Richard White (chairman of the subcommittee) presiding.

Mr. WHITE. The subcommittee will come to order. The subcommittee has convened this morning to continue its hearings and deliberations on H.R. 6257.

Under present law, Public Law 93-474, an annuitant who elects to take a reduced annuity in order to provide for his spouse, does not have a new right to an election upon each subsequent marriage, even though his marriage terminated due to death, divorce, or annulment, the restoration of the reduction upon remarriage is automatic. However, a Federal employee who is single at the time of retirement, under Public Law 91-685, has 1 year in which to elect to take a reduced annuity and thereby provide for his spouse.

H.R. 6257 amends Public Law 93-474 to eliminate the automatic restoration of the annuity reduction and allows a retired Federal employee or Member 1 year in which to decide, upon each subsequent remarriage, whether or not to provide a surviving spouse benefit.

To begin today's hearings we shall first hear from Mr. George Bradley, executive director, Organization of Professional Employees of the U.S. Department of Agriculture.

STATEMENT OF GEORGE E. BRADLEY, EXECUTIVE DIRECTOR, ORGANIZATION OF PROFESSIONAL EMPLOYEES OF THE U.S. DE- PARTMENT OF AGRICULTURE

Mr. BRADLEY. Mr. Chairman and members of the subcommittee, I am George E. Bradley, executive director for the Organization of Professional Employees of the U.S. Department of Agriculture, commonly known and referred to as OPEDA. For the past 45 years we have worked for and represented the interests of professional employees in USDA and in agencies transferred out of USDA, such as the Weather Bureau, Fish and Wildlife Service, Food and Drug Administration, and the Environmental Protection Agency.

We appreciate the opportunity to appear this morning in support of legislation which we believe takes another step forward to provide more equitable treatment for Federal employees. We support this

proposal since it will give Federal employees time to adequately consider changes and adjustments in the management of their retirement annuity as needed to provide appropriate family protection.

This proposal will only correct one inequity that exists in the present legislation. We recommend that this legislation be broadened to permit Federal employees to manage and use their retirement annuities in accordance with their individual needs and those of their survivors.

Present Federal employee retirement regulations require that to receive the survivor annuity a spouse must be married to the annuitant at the time of the annuitant's death. There are cases where the retiree and spouse are separated or divorced after retirement. This regulation prohibits continuing the ex-spouse as an eligible annuitant even though the retiree desires to continue this protection or is obligated by court order to do so. In cases where alimony is involved the survivor annuity protection can become a legal requirement.

Federal employees' retirement package, in addition to salary, includes a series of fringe benefits such as life insurance, health insurance, and retirement. The Federal employee has earned all these benefits as a basic part of the Federal service and should therefore be afforded the right to make the management decisions essential to meet his or her individual and family needs. The survivors annuity provision in reality provides insurance of income to the designated survivor and should therefore be considered as insurance. The Federal employee should therefore be allowed to designate the beneficiary for survivors retirement annuity in the same manner as is now applied for life insurance.

Present regulations permit a single person to establish a survivors annuity for a person having an insurable interest. A previous spouse who has been awarded alimony or who has been designated as the beneficiary for the employee's life insurance should meet the definition of a person having an insurable interest. As we interpret the present regulations, the only person with an insurable interest who is denied this right is the previous spouse.

We are not suggesting that action be taken which will place an undue burden on the retirement fund. What we are suggesting is a minor change that would give Federal employees an equitable right to manage their own retirement. We do not have statistics on the number of separated or divorced Federal retirees but we believe it will only involve a very few. We should point out that the premiums paid through annuity deductions by a retiree to establish a survivors annuity is substantial. The amount deducted from the annuity—2½ percent for the first \$3,600 and 10 percent for all annuity above \$3,600—to establish a survivors annuity for a spouse amounts to roughly one-twelfth of the annuity. The deduction for a retiree with a \$1,000 per month annuity is \$966 per year. For a retiree with a \$2,000 per month annuity it is \$2,166 per year. Such payments should purchase substantial insurance coverage.

When an unmarried employee establishes a survivors annuity for a person having an insurable interest the reduction in annuity—premium payments—is increased 5 percent for each 5 years difference in ages as follows: 10 percent for a person older, same age or less than 5 years younger; 15 percent for a person 5 but less than 10 years younger; 20 percent for a person 10 but less than 15 years younger;

25 percent for a person 15 but less than 20 years younger; 30 percent for a person 20 but less than 25 years younger; 35 percent for a person 25 but less than 30 years younger, and 40 percent deduction for any person 30 or more years younger than the retiree.

We wish to congratulate you, Mr. Chairman, for introducing legislation designed to correct an inequity and to permit Federal employees to have an opportunity to analyze their survivor needs before being forced to make a decision.

Since the committee and others are looking at problems related to survivors annuity we believe it appropriate that consideration be given at this time to making the minor changes necessary to authorize the designation of separated or divorced spouse as a survivor eligible for annuity benefits. While this will only apply to a very few retirees it is an extremely important issue when it arises. We do not believe it will involve excessive claims against the retirement fund. It is an equitable approach to the management of an individual's retirement program. It eliminates the specific exclusion of an ex-spouse when others with less legal right or with a more questionable insurable interest can be designated as a survivor.

We thank the committee for the opportunity to discuss this important issue with you. We hope you find it appropriate to include this proposed change along with the other issue covered in the proposed legislation. If you wish we would be glad to work with the staff in developing specific appropriate amendment recommendations.

Mr. WHITE. Thank you very much, Mr. Bradley.

Mr. Taylor?

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. Bradley, is it your belief and your contention that someone other than an employee's former wife, should be made eligible for these benefits?

Mr. BRADLEY. Yes; where it is essential in the management of your family needs. For instance, we have a member who has worked for 35 years. His ex-spouse was with him during the 35 years of Federal service.

He retired and shortly after retirement they were divorced. The divorce proceedings provided that this ex-spouse would receive the survivor annuity. He set her up as a survivor annuity in his trust fund and found out later that she wasn't eligible, being an ex-spouse participating with him and the amount that he pays for providing for survivors annuity is substantial and I think it is a consideration that we should give to employees.

I think employees should have the right to manage his funds when family needs require change from the usual course.

Mr. TAYLOR. Well, I think we have the basic difference here between insurance and retirement.

Mr. BRADLEY. But let me put it this way. When you establish a survivors annuity, you're required to pay a substantial amount of your retirement fund. As I said, about \$1,000 annuity is invested to the survivors annuity.

That is an insurance program. If you would go just a step farther, and that's the reason I put that paragraph in there with respect to providing a survivors annuity with insurable interest, that is set up for the difference in ages.

Usually the insurance covers for—I can't think of the term I want to use, but the term that is required.

Mr. TAYLOR. You want to make it so that the retiree is eligible to split it between his present wife and his ex-wife?

Mr. BRADLEY. If it's necessary and if you deemed it appropriate, I can see nothing wrong with the procedure provided you hold the same limitations and hold them to 55 percent maximum. If there is more than 5 years difference in age, increase the annuity to provide for that increased risk.

Mr. TAYLOR. I think you did mention in your statement about the second wife. The attitude of the present wife probably wouldn't be too good in most cases.

Mr. BRADLEY. That's the individual's problem, really. If, in this particular case that I have reported to you that was understood when he married again—his wife understood that his first wife had been awarded the survivor annuity. She has an annuity of her own.

I'm not trying to solve each individual's problem. I'm trying to say that a person should have the right to make the decision with respect to their survivor annuity to meet their individual family needs and requirements.

I think that's all we're asking for, to give the individual employee that right to make the decisions that are necessary as far as family requirements are concerned and those are going to vary.

Mr. TAYLOR. Thank you, Mr. Chairman.

Mr. WHITE. Thank you, Mr. Taylor.

Mr. BRADLEY, there was testimony yesterday from Mr. Tinsley that there is a court decision attached to alimony and child support. That would take care of your suggestion that the annuitant be allowed to provide for his ex-spouse. I mean there is a provision now involved.

Mr. BRADLEY. Recently I have checked this through and I wished you were right. I don't know. I have checked with Mr. Tinsley on this.

Mr. WHITE. That is a court decision.

Mr. BRADLEY. Court decision?

Mr. WHITE. Yes, sir. Furthermore, the subcommittee understands that an annuitant, before he may desire a second marriage, provide his ex-spouse as a person having an insurable interest. Is this your understanding?

Mr. BRADLEY. No; that's not. I have checked that point with the Commission just before I came up here. When he marries, he does not have the right to establish the ex-spouse as a—

Mr. McCLUSKEY. The chairman is not talking about marriage; he is talking about the interim before he marries.

Mr. BRADLEY. Right. I raised this question with the Commission and if this person had established an annuity between the period—between the divorce and the next marriage, if that could carry over and they said no, the next marriage—

Mr. McCLUSKEY. That may be true. We'll have to doublecheck that.

Mr. BRADLEY. I tried to check this out.

Mr. McCLUSKEY. Apparently there is a little controversy.

Mr. BRADLEY. Yes, there is.

Mr. WHITE. Actually, Mr. Bradley, your suggestion would be more appropriate on a different bill because this is a bill talking about a subsequent marriage. We had an insurable interest bill for a single person and it probably should have gone with that bill instead of this bill.

Mr. BRADLEY. The reason I selected this bill, Mr. Chairman, I believe our member sent a letter to his Congressman and his Congressman told him the provision of 6257 would probably take care of this problem.

Mr. WHITE. Well, OK. Fine, thank you very much.

Mr. Daniels?

Mr. DANIELS. Mr. Bradley, what was the intent and purpose of Congress in providing for the annuity for a Federal employee?

Mr. BRADLEY. You know that.

Mr. DANIELS. I'm asking you.

Mr. BRADLEY. You know that much better than I, but I would interpret the intent of Congress to provide an opportunity to protect the survivors and heirs with his annuity.

Mr. DANIELS. Primarily, it is for the retired Federal employee who will benefit and for his welfare and to enjoy his retirement life. Now, you came along and said you may provide a survivors annuity and that means exactly that. It says for the protection of the survivor.

Do you want to change this around to protect, in the form of an insurance policy?

Mr. BRADLEY. Isn't it? I was trying to draw the comparison with insurance in my testimony because it is handled substantially like an insurance policy. Our tables increase the amount you have to pay if there's a difference in ages. You pay a substantial amount in order to provide this protection just like you would pay about the same amount to provide the protection with an insurance company.

My point is if you make that payment for that protection, I'm asking for the employee to have the right to use that as his family needs it. Now, the ex-spouse is a part of the man's family.

Mr. WHITE. How do you figure that, sir? The court dissolved a contract.

Mr. BRADLEY. Right, I agree with that, sir.

Mr. WHITE. They are no longer part of the family, sir.

Mr. DANIELS. You can't make any comparison between the two—of insurance policies and annuities. They differ widely.

Mr. BRADLEY. If you take out an endowment policy that provides annuity. If you take out under the Keogh plan for insurance, that's an insurance plan to provide for an annuity.

Mr. DANIELS. This is not an insurance plan or insurance policy. This is a privilege that is extended upon certain terms and conditions as a Federal employee, which after your right becomes vested, meaning after 5 years, then your annuity becomes vested, but the payment of it is postponed to a certain date depending upon the years of service and the longer the Federal employee continues in service, the greater that annuity becomes. If a person is married upon his retirement, he may provide a survivors' annuity to his widow which is 55 percent of what he would be entitled to. At a certain cost to him.

Mr. BRADLEY. Would you agree, Mr. Chairman, the retirement, life insurance, the health insurance and the rest of the fringe benefits are now being considered a part of the employees package and with his work he has earned those fringe benefits along with the salary?

Mr. DANIELS. This committee has tried to make Federal service a very attractive job to the public. The other day we tried to add another benefit but we were not successful. We passed the bill but we did not get the two-thirds vote to increase the Federal Government contributions on insurance premiums. We like to make the Federal service most attractive to the public, to entice people who qualify to work for their Government. And we have found that most of our employees, nearly all of them, are very, very dedicated and they do a great job.

So, therefore, we like to compensate those people and we have made studies from time to time with outside industries to make sure the Federal Government is as good an employer as private industry. I think the Federal Government should be in the forefront at all times and that private industry should follow the Federal Government.

Mr. BRADLEY. I would like to compliment you, Mr. Daniels. You have done a very good job for Federal employees.

Mr. DANIELS. Thank you, sir.

Mr. WHITE. Thank you very much, Mr. Bradley. We appreciate your coming.

The next witness is Mr. John F. McClelland. He is accompanied by Miss Judy Park.

**STATEMENT OF JOHN F. McCLELLAND, PRESIDENT OF THE
NATIONAL ASSOCIATION OF RETIRED EMPLOYEES, ACCOMPANIED BY JUDY PARK, LEGISLATIVE ASSISTANT**

Mr. Chairman, for the record, I am John F. McClelland, president of the National Association of Retired Federal Employees (NARFE). I am accompanied this morning by my legislative assistant, Judy Park. Since shortly after the enactment of the original civil service retirement law, more than 50 years ago, our association has represented the interests of retirees of the Federal and District of Columbia governments and their survivors. Today, NARFE has a dues-paying membership of 222,000 retirees and survivors.

We are pleased to appear before you this morning to voice our association's support of the intent of H.R. 6257, which you sponsored to grant civil service annuitants who elected survivor benefits for their spouses at the time of retirement, a choice of continuing or denying this survivor election in situations where the originally designated spouse has predeceased or been divorced from the annuitant and a remarriage has occurred. Under the provisions of H.R. 6257, the annuitant would have 1 year from the date of a remarriage to confirm his original election of survivor benefits or deny it, the decision being made in writing to the U.S. Civil Service Commission, and being irrevocable for the duration of the new marriage.

Until last year's enactment of S. 628 into Public Law 93-474, an annuitant who had elected survivor benefits at the time of retirement, automatically had these benefits transferred to a second spouse who became eligible for survivor benefits upon the death of the retiree, so long as the marriage had been in effect for at least 1 year

at the time of the retiree's demise. Before enactment of S. 628, however, the annuitant who had elected survivor benefits for his spouse continually paid the required survivor reduction in his annuity, even during periods of nonmarriage.

Public Law 93-474 somewhat altered the situation, by restoring full annuity to retirees with elected survivor benefits, during periods of nonmarriage. With no survivor reduction being withheld from annuity checks during periods of nonmarriage, it became necessary for a retiree to notify the Civil Service Commission when a remarriage occurred, and the annuity reduction was then reinstituted. This process followed the provision of law which maintains that the election of survivor benefits for one's spouse, made at the time of retirement is a lifelong, irrevocable election. It should also be added that majority of retirees who elected survivor benefits for a spouse at the time of retirement, wish to provide the same benefits for subsequent spouses, and the automatic transference of survivor benefits to the second spouse was not a matter to which we objected.

There are, however, a number of instances, in which the second spouse is already entitled to a civil service survivor benefit from a previous marriage which is and always will be larger than the survivor annuity receivable from the current marriage. Since the law requires that a choice be made of only one survivor benefit under the Civil Service Retirement System, in a situation such as that described above, there will never be a claim made for survivor benefits from the second marriage, which annuity deductions were withheld for that purpose. This does not seem fair.

We object to and oppose the intention of law which holds that the survivor election made at the time of retirement is a lifelong, irrevocable decision in the instance of married individuals. The choice of whether or not to elect survivor benefits for one's spouse is presumably made after consideration of the couple's total financial situation, a situation which might change entirely in a new marriage. Thus, we believe that the retiree, upon remarriage should be allowed to change his original retirement election. Your bill, H.R. 6257, would allow for this change from original election of survivor benefits to nonelection or denial of benefits. In the same line of reasoning, we believe a person should be able to change from original denial or survivor benefits to election of survivor benefits.

In voicing our support of this legislation, Mr. Chairman, we would hope that continuation of the election made at retirement would be maintained upon remarriage, unless, in advising the Civil Service Commission of the remarriage, the annuitant specifically requested a change in his original retirement election. In that way, a person who wished to continue survivor benefits for a second spouse would not inadvertently cancel his election, while those who wished a change could make the specific request.

We appreciate your introduction of this legislation and the early consideration of it.

Mr. WHITE. Thank you very much, Mr. McClelland.

I'm thinking over your suggestion in the first thrust and it has a great deal of merit. From what I understand, your suggestion is that automatically upon remarriage the coverage for the wife would be instituted unless the person overtly elects not to have the coverage.

As a practical matter, the annuitant's wife, first wife, dies while he's receiving his pension, he then notifies the Commission of the loss of his wife and therefore wants the reduction started; correct?

Mr. McCLELLAND. Correct.

Mr. WHITE. Then his full annuity will be continued without any reduction for his spouse until the Civil Service Commission is notified, right?

Mr. McCLELLAND. Right.

Mr. WHITE. But if we had it his wife is covered by his annuity, unless he notifies the Commission of her noncoverage, then he could be receiving full annuity and yet the law says she's automatically covered.

Mr. McCLELLAND. When he notifies of the remarriage, then the Civil Service Commission starts the reduction again and if he does not notify of the remarriage, and later claims the survivorship, then the Commission goes back and says we are going to deduct and they do deduct that from the survivorship annuity.

Mr. WHITE. That would be very hard on the wife.

Mr. McCLELLAND. It very probably would be.

Mr. WHITE. I think it might be a little easier all the way around if you gave him that year to make that effective upon the end of the year, than to have to juggle books and, say, 20 years after when he dies and says he was automatically covered and he was receiving the money all the time and I'm sorry I can't give you the money because I don't have it.

This is 45 percent per year plus interest.

Mr. McCLELLAND. I see what you're saying but at the same time, they take it out of the survivorship annuity.

Mr. WHITE. Then she wouldn't get anything. Then what she would be getting, sir, would be 5 percent and she can't live on 5 percent.

Mr. McCLELLAND. I can see the point.

Mr. WHITE. We're saying he's got a year in which to notify. I don't go along with Mr. Tinsley's 30- or 60-day notice, we give him a full year; we want to be helpful to the annuitant but we don't want to be disruptive to the whole system.

Mr. McCLELLAND. We have experienced that more people have failed to notify within the 1 year and we felt that if it was a requirement there that they notify if they didn't want the coverage, there would be less work.

Mr. WHITE. It would be harder on the widow than he would have otherwise taken out than if you required him to notify within that year. When he dies, she's going to need every penny she can get.

Ms. PARK. The current law, Mr. White, is that that situation happens. She is automatically covered but if he hasn't notified them of remarriage, they take it from the widow's annuity.

We keep reminding our people in the magazine to notify the Commission as soon as remarriage occurs and don't let time go by because if you're going to die, it is going to be withheld anyhow and she's going to be left holding the bag.

Mr. WHITE. We're trying to help the annuitant by allowing him to receive the benefits of what would otherwise be reduced while he's unmarried, and cover the second spouse when he remarries. But I wish there were some way to accomplish that and still not create havoc in her situation.

If you try to deduct at a time when she is really in great need, you've created a monster of injustice to her.

Ms. PARK. This injustice does exist.

Mr. WHITE. No, it doesn't because she's got it deducted all the way through because right now it is present law, correct?

Ms. PARK. In the present law if the survivor originally elects a survivor benefit and does not notify the Commission of remarriage when he dies the survivor annuity is payable, but they withhold from her at that time the reductions that he should have been paying. We are telling our people all the time, "don't forget to notify the commission as soon as you remarry because if not, your widow will be penalized," but the problem is that so long as—and we keep, through our magazine and other publications urging people to notify the Commission as soon as the remarriage occurs.

Mr. DANIELS. May I ask a question?

A retiree provides retiree annuity to the spouse. As a matter of fact, she predeceases the annuitant but as a matter of fact he remarries. I understand from the testimony here and it has been my understanding through the law, that the reduction of the annuity takes place, automatically takes effect regardless of whether or not the Commission is notified.

Can't we provide to the Civil Service Commission upon the death of a spouse to notify the annuitant what the law provides so that he be fully aware of what the situation is in the event that he remarries so the Commission will be notified and the proper deductions made from his annuity?

Ms. PARK. That could be done. It is going to take a period of retraining of the annuitant to keep it alert in their mind for a while that this has to be done.

Mr. DANIELS. The annuitant remarries. Suppose he doesn't want to provide the annuity for his wife. Does he have to notify the Commission?

Ms. PARK. When he notifies the Commission, he must tell them—make a second election to continue the survivor annuity or not in the second marriage.

Mr. DANIELS. So if an annuitant provides for a survivor annuity for his spouse that is an irrevocable election under current law? It applies to all subsequent spouses?

Ms. PARK. Under current law.

Mr. DANIELS. You approve the chairman's bill which would require the annuitant to make a change?

Ms. PARK. We do but feel it should go one step further. For the wife at the time of retirement if she was not provided for and he is divorced from that wife and—but that person also should have a right to elect or deny survivor benefits to the second marriage because of the presumption that the election or denial of survivor benefits is made in financial situations.

This could as well change from the need for survivor benefits to the lack of need in the second marriage. It could change the other way—from no need in the first marriage to a need in the second marriage.

Mr. DANIELS. I get your point which is a very good point.

Mr. WHITE. Thank you very much.

Any other questions?

Mr. Taylor?

Mr. TAYLOR. I have none.

Mr. McCCLUSKEY. I think what we're talking about here could possibly be regulated by, as you brought out, Ms. Park, by regulation from the Commission that under this bill to have the Commission notify the annuitant that his election is coming up—something like that.

Ms. PARK. I also talked to Mr. Tinsley yesterday afternoon after the hearing about a situation where an annuitant would simply advise the Commission of remarriage but not say I want my annuity or survivors reduction continued or stopped in the second marriage.

He said that the Commission in that case—there was no reason why they couldn't send out a letter to that person saying you have an option to make this election again. Therefore, please let us know what you want to do in the second marriage. That would solve the problem.

All along they have been told that the survivor benefit is automatically continued in the second marriage. Now we're telling them to notify the Commission of the remarriage. We were afraid that people would just notify them of remarriage, but not say they want it continued and inadvertently cancel. But Mr. Tinsley is saying that they would contact that person about what his position was.

Mr. WHITE. I want to ask one question before I ask Mr. Harris if he has any questions.

What is the situation if the annuitant retires and then his spouse dies and he remarries?

Mr. McCLELLAND. That's what we brought out, sir. We think a person should be allowed to make a second decision. The financial situations could change considerably.

Mr. WHITE. Can he make the second election?

Mr. McCLELLAND. Not under present law and we are asking that this be done.

Mr. TAYLOR. As well as financial need, the condition of the annuitant himself might come into it. He might not have made the election because he didn't feel that he was going to predecease the spouse and he may decide he has some kind of a terminal illness and then make a decision upon that.

Mr. WHITE. Well, I understand the election has to be made at the time of the second marriage, not during the second marriage.

Mr. McCLELLAND. This is what we're requesting.

Mr. WHITE. Any time during the marriage?

Mr. McCLELLAND. No; at the time of remarriage. I would like to point out that most annuitants who did not provide for survivorship at the time of retirement were the persons who received a small annuity. The annuitant's family could not get along with the reduction and that was the reason it was done.

Mr. TAYLOR. Can you tell us what percentage of the employees do not provide a survivor benefit?

Mr. McCLELLAND. I would not be able to give you any figure but I would say there are fewer now that do not provide survivorship than has been in the years past because the annuities are better now and they can afford the deduction and live.

Ms. PARK. There were reductions at one time but we have some people who retire and take 25 percent of their annuity in survivor benefits which wouldn't happen now.

Mr. WHITE. I have one other question before I go to Mr. Harris.

If the Government employee covers his spouse and thereby a proportionally large amount is taken out of his checks and he retires, his wife is covered of course. Suppose he elects while he's working not to cover his wife and then he retires. Does he have an election at the time of retirement?

Ms. PARK. At the time of retirement is when you make your election.

Mr. WHITE. But what happens if he's been paying extra?

Ms. PARK. That isn't—

Mr. WHITE. I thought the Government employees did, too.

Mr. McCLUSKEY. You increase your annuity.

Mr. TAYLOR. You can buy additional life insurance.

Mr. DANIELS. The ordinary Federal employee pays a certain percentage.

Mr. WHITE. I thought we paid a little extra in order to cover a wife.

Ms. PARK. A wife of a deceased employee so long as the marriage has been in effect, I think 18 months. I'm not sure of that.

Mr. DANIELS. Even if the election is not made.

Mr. TAYLOR. Is it 65 percent?

Ms. PARK. Of the earned annuity at the time of the death of an employee.

Mr. DANIELS. May I ask you this question?

In the case of an annuitant who provides a survivor annuity, the wife dies, what do you think of the idea of giving the annuitant 1 year's time after his remarriage a choice of providing a survivors annuity and if he doesn't exercise that right, then it will not come into play?

Mr. McCLELLAND. I think this gets back to what we were requesting that at the time of remarriage 1 year to notify the Commission of the marriage, but what we were saying it would be automatically covered unless the individual requested that it need not be covered.

Mr. DANIELS. Automatically covered unless the annuitant said something to the contrary within 1 year of his marriage?

Ms. PARK. So long as they made a survivor annuity election at the time of the first marriage.

Mr. TAYLOR. That seems to be a plausible idea to me.

Mr. McCLELLAND. We have found that some people, all of us as we get older, forget things and forget about notifying and we get correspondence and then they ask is there any way I can provide survivorship? There is nothing we can do under present law.

It is a lost cause. That's the reason we were hoping that they would be covered unless he requested not to be covered.

Mr. WHITE. But you have common law marriages, too. Would you cover them?

Mr. McCLELLAND. They're covered where they're recognized.

Mr. WHITE. If there is a common law marriage covered and no notice to the agency, later on there could be a lawsuit whether there was a common law marriage.

Mr. McCLELLAND. If the State provides a common law marriage and the person notifies—

Mr. WHITE. Who is notifying?

Mr. McCLELLAND. The person.

Mr. WHITE. Notifying in the first instance and the second instance—you're talking about the man that never notifies.

Mr. McCLELLAND. We want to be sure.

Mr. WHITE. But common law marriage, situations where people say oh, yes, we were married—

Mr. McCLELLAND. I know there are different laws in different States on common law marriage.

Mr. WHITE. Generally it is a contract between the two to live together as man and wife and the carrying out of this agreement, except it is the first criteria that brings the lawsuit, because it is very difficult in establishing or not establishing that a person had an agreement. There is where the fraudulence comes in. "We agreed to live together and we did live together." There is a holding out as man and wife but there have been cases on the books where a man said, "Oh, yes, this is my wife" where he never really intended for her to be his wife and she used that as a basis for a claim.

Mr. McCLELLAND. I would suspect there is something in the retirement law to cover this.

Mr. WHITE. "This is my wife," and so the fraud question never comes up because he acknowledged the marriage, if he notifies the commission of the marriage.

Mr. Harris?

Mr. HARRIS. Thank you, Mr. Chairman.

Are you or are you not suggesting that the bill be amended?

Mr. McCLELLAND. We were suggesting that one provision be amended to provide automatic coverage unless the retiree requested otherwise.

Mr. WHITE. Is there any other provision of law close to social security with retirement, railroad retirement, or military retirement, in which this provision exists?

Mr. McCLELLAND. I couldn't answer that question.

Mr. WHITE. I don't know of another instance of law that that provision exists and the reason I think is because it would work to the disadvantage of the widow.

Ms. PARK. What provision?

Mr. WHITE. The automatic coverage.

Ms. PARK. The automatic coverage is in effect in the civil service law right now.

Mr. WHITE. But you mean with reduced annuity?

Ms. PARK. Yes.

Mr. WHITE. And she has to come back and make it up?

Ms. PARK. That's right. That is the current situation and that's why we keep telling our people—tell immediately upon remarriage because you're going to lose it now or your wife is going to lose it when she becomes a survivor.

Mr. WHITE. I would like to think about this a little longer. It seems to me that there is some expectation on the part of the Civil Service Committee to do something in order to protect his program. Suppose someone comes along and says he never wanted her to be in the program?

Mr. McCLELLAND. Under the present law she's under it anyhow.

Mr. WHITE. It's obvious that I have to get all the pins in the right hole.

Thank you very much. The hearing is adjourned.

[Whereupon, at 9:50 a.m., the hearing was adjourned.]
 [The statements which follow were received for the record:]

STATEMENT OF PAUL HOWARD, RESIDENT OF ARLINGTON, VA.

My name is Paul Howard. After 22 years of Federal Service, I retired in 1970. During that time I worked in the Office of War Information, Office of the Assistant Secretary for War, the U.S. Department of the Interior, and four years in the Library of Congress as Secretary of the Federal Library Committee. During the entire 22 years I worked conscientiously and diligently to improve efficiency and services of Federal Libraries. The Library of Congress has given me its Superior Performance Award and the Department of the Interior its Distinguished Service Award. I believe that in the matter of library binding alone, my efforts have been responsible for saving the Government more than the entire cost of my salary for more than twenty years.

I have enjoyed working for the Government and believe that it is a good employer, both concerned and fair about working conditions and employee welfare. I believe that I was a good employee who earned his pay. This is the reason that when I discovered an inequity arising from the passage of PL 93-474 I had no hesitation in calling this to the attention of my congressman, Joseph L. Fisher, and also of the House Subcommittee of Retirement and Employee Benefits. After due consideration HR 6257 was drafted and is presented by Mr. White to correct such inequities as I have found, and others which may exist.

I will describe my problem as briefly as possible and point out how HR 6257 can correct an injustice to me and other annuitants, including both Civil and Congressional employees as well as Members of the Congress.

When I retired at age 65 at a GS-15 level, I had designated my wife to receive survivor's benefits in case I predeceased her. In order to do this, I was required to accept a reduced annuity. My wife died in November 1973 after 45 years of marriage. In accordance with the law at that time, I continued to receive a reduced annuity. However, in 1974 the reduction was removed from my annuity by passage of PL 93-474.

On January 24, 1975, I married the widow of a Federal employee who died in office after 38 years of Government service. My new wife, who is 67, is already receiving survivor's benefits from her first husband's account. I do not wish to designate her to receive survivor's benefits, which would be smaller than those she already has, and thus cannot provide survivor's benefits to anyone. It appears inequitable to reduce my annuity by \$79.00 per month when neither I nor my widow will receive any benefits the \$79.00 reduction was designed to provide.

The present bill HR 6257 carefully spells out a way to remove this inequity for anyone so confronted when it provides:

"Upon remarriage the retired employee or Member may elect irrevocably during such marriage, in a signed writing received in the Commission within one year after such remarriage, a reduction in his annuity for the purpose of allowing an annuity for his spouse in the event such spouse survives him."

I, therefore, respectfully request that in the interest of equity and justice HR 6257 receive favorable action.

STATEMENT OF CLYDE M. WEBBER, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

On behalf of the 675,000 employees of the Federal Government whom the American Federation of Government Employees represents in exclusive recognition units throughout this country and overseas, I wish to express my appreciation to you, Chairman White, for this opportunity to present our views in behalf of your most excellent bill, H.R. 6257.

This legislation gives a surviving Federal annuitant, who elected to provide survivor benefits to his or her spouse the right to elect within one year after remarriage whether to provide or to deny survivor benefits to the new spouse.

REFORM IS NEEDED

The statutory framework of the Civil Service retirement system now requires that the annuity of a retired Federal employee which was reduced at the annuitant's request to provide survivor benefits for a spouse shall, if the marriage terminates, be restored at the full rate for so long as the employee remains single. But if the retired employee should later remarry, the annuity is reduced once

more by rote so that survivor benefits may be automatically transferred to the second spouse upon the death of the retiree. We emphasize that the wish of the retired employee has absolutely no bearing or influence in this—the reduction in his or her annuity that occurs upon remarriage is preordained by the mandate and force of law. This is unwise and unfair.

We believe that the purpose of survivor benefits—to assist the financial security and well-being of a surviving spouse—is both just and socially useful. But we also believe that it must be recognized that the financial circumstances and arrangements of a subsequent marriage may differ radically from those in a previous marriage. For example, a second spouse may already be entitled to Civil Service survivor benefits from a previous marriage that exceed in amount the survivor benefits that could be provided for in the current marriage. As the CSC has stated in its testimony before you, the law on Federal annuities does not permit a surviving spouse to receive two benefits from the retirement fund. Thus, a situation could exist where it is not in the interest of either the retired employee or the spouse by remarriage to have a program of reduced annuities in the second marriage, because the surviving spouse will choose the larger benefit which, in this instance, has already occurred from the previous marriage. Thus, the mandatory reduction in the retired employee's annuity in such a case will not result in the payment of any survivor benefits.

In other instances, a subsequent spouse may have enough income from other sources to guarantee comfortable financial security. When this is true, the mandatory reduction in the retiree's annuity to provide for unnecessary survivor benefits is an unwarranted interference that unwisely restricts the flexibility and income required for sound financial planning for the present.

Obviously, this situation should be corrected by giving the retired Federal employee the option of electing not to have a survivor or annuitant. H.R. 6257 seeks to do this. But the text of H.R. 6257, we believe, inadvertently goes beyond that valid principle and thereby creates the possibility of genuine injustice in other situations where the survivor has no income.

For this reason, we should like to amend the text to eliminate any inadvertent result. We propose that you consider modifying H.R. 6257 beginning at line three to read as follows:

"That (a) section 8339(j) of Title 5, United States Code, is amended by striking out the last sentence and inserting in lieu thereof the following: 'In the event of demise of the retired employee or Member, the spouse by remarriage will be considered to have acquired the eligibility of the spouse originally designated by the retired employee or Member. However, upon remarriage the retired employee or Member may elect within 30 days of such marriage to elect to notify the Commission in writing that he does not desire to have his spouse by remarriage receive his annuity if his spouse by remarriage survives him.'"

ANOTHER INEQUITY NEEDS TO BE CORRECTED

Because H.R. 6257 seeks to make the Civil Service retirement system more equitable, we hope the Subcommittee would consider remedying another deficiency that also unfairly restricts the annuitant's rights of free choice. According to present law, a married employee in good health now has only one option upon retirement: either to provide survivor benefits to the spouse or to no one, at all. Yet in many circumstances, both the retiring employee and the spouse would prefer to designate a third party with an insurable interest as the recipient of the survivor benefits.

We believe this restriction is a fundamental injustice. We therefore submit most respectfully to this Subcommittee that H.R. 6257 be further amended by adding a new Section 2 which would eliminate the present inequity of preventing a married employee about to retire from providing survivor benefits to a third party with an insurable interest. The reduction in annuity, of course, should be in the same manner and amount as in the case of a single employee.

We believe this could be done simply by eliminating the word "unmarried" in the appropriate passage, as follows: "Section 2. Section 8339(k)(1) of Title 5, is amended by deleting the word 'unmarried' before the words employee or Member."

To conform to this change, the present Section 2 in H.R. 6257 perhaps then should be redesignated in Section 3. Further modifications in the text are unnecessary.

SUMMARY AND CONCLUSION

The retired Federal employee for too long has been in the status of a second-class citizen. H.R. 6257 is a significant contribution in the struggle to secure full

economic justice and unfettered personal dignity for those who have retired after many years of Federal service. It is in the same spirit, and as our contribution, that we have offered our suggestions for amending H.R. 6257. We are grateful for the introduction of H.R. 6257, and we hope that the distinguished members of this Subcommittee will carefully consider our proposed amendments.

STATEMENT OF NATHAN T. WOLKOMIR, PRESIDENT, NATIONAL FEDERATION OF
FEDERAL EMPLOYEES

Mr. Chairman and members of the subcommittee, I am Nathan T. Wolkomir, President of the National Federation of Federal Employees. The NFFE is the largest independent union in the Federal sector and one of the largest in the nation, representing at home and overseas over 150,000 persons throughout the various agencies of the Government.

Mr. Chairman, I am always appreciative of the opportunity to testify on retirement legislation, as it is a subject of great importance to every Federal employee. For over a half century NFFE representatives have been appearing before Congressional Committees to make its views known to the subject of Federal retirement legislation.

The NFFE supports the bill under consideration today, H.R. 6257, as it feels that it is another step toward the creation of an even more effective and equitable retirement system.

Title 5, United States Code, Section 8339(j) currently provides that an employee may choose whether or not he wants his surviving spouse to receive an annuity under Section 8341(b) of the same title. Section 8339 also provides that an unmarried employee may elect a reduction in his annuity if he marries after his retirement, in order to provide a survivor annuity for his new spouse. An unmarried employee may elect to provide an annuity for a person having an insurable interest in his life.

However, if an employee remarries after his retirement because his previous spouse died or the marriage was otherwise dissolved, he has no choice. The new spouse would automatically receive the same survivor benefits as the previous spouse had the right to. The remarried employee is denied the right to choose whether or not he will provide an annuity for his new spouse.

This bill would eliminate this inequity by permitting a remarried retired employee to make the same choice he would have had if he were being married for the first time. It is only fair to amend the law in order to give the remarried employee the same rights and freedom of choice which others possess. This bill is necessary in order to create a retirement system which is equitable for all the participants.

Mr. Chairman, your special interest in the various inequities that exist in the retirement program for Federal employees is greatly appreciated by NFFE. Our thousands of retired members are aware of this Subcommittee's activity as evidenced by H.R. 4260 discussed at previous hearings, H.R. 6257 the subject of this hearing, and others that are forthcoming. We express our sincerest thanks to you and Members of this Subcommittee.

This will conclude my statement.

94TH CONGRESS
1ST SESSION

H. R. 6257

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 1975

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

A BILL

To amend chapter 83 of title 5, United States Code, to grant a surviving annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor's annuity upon the annuitant's death.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That (a) section 8339 (j) of title 5, United States Code, is
- 4 amended by striking out the last sentence and inserting in
- 5 lieu thereof the following: "Upon remarriage the retired
- 6 employee or Member may elect irrevocably during such
- 7 marriage, in a signed writing received in the Commission
- 8 within one year after such remarriage, a reduction in his
- 9 annuity for the purpose of allowing an annuity for his spouse

1 in the event such spouse survives him. Such reduction shall
2 be equal to the percentage reductions which were in effect
3 at the time of retirement, or were made pursuant to an elec-
4 tion under subsection (k) (2) of this section, as the case
5 may be, and shall be effective the first day of the month
6 after his election is received in the Commission.”.

7 (b) Section 8341 (b) (1) of title 5, United States Code,
8 is amended by striking out “unless the employee or Member”
9 and all that follows, and inserting in lieu thereof the follow-
10 ing: “unless the employee or Member has notified the Com-
11 mission in writing at the time of retirement that he does not
12 desire to have his spouse receive his annuity if his spouse
13 survives him, or in the case of remarriage, he did not file
14 an election under the last sentence of section 8339 (j) of this
15 title.”.

16 SEC. 2. The amendment made by this Act shall apply
17 with respect to annuities of annuitants which commence
18 before, on, or after the date of enactment of this Act.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

JUN 19 1975

Honorable David N. Henderson
 Chairman, Committee on Post Office
 and Civil Service
 House of Representatives
 Cannon House Office Building
 Washington, D.C. 20515

Dear Mr. Chairman:

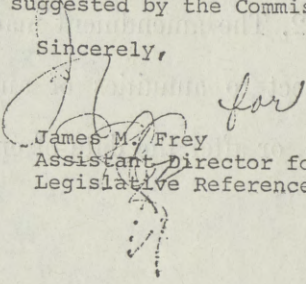
This is in reply to the Committee's request for the views of this Office on H.R. 6257, "To amend chapter 83 of title 5, United States Code, to grant a surviving annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor's annuity upon the annuitant's death."

Under present law a married retiree's annuity, which was initially reduced at retirement to provide a survivor benefit, is restored to the full amount when the spouse predeceases or the marriage is dissolved. If such retiree subsequently remarries, the annuity is automatically reduced for survivor benefit, without election by the retiree. The purpose of H.R. 6257 is to eliminate the automatic reimposition of the reduction for survivor option, to allow the retiree a new right to make an election within one year of the remarriage.

In its report and testimony the Civil Service Commission stated its reasons for recommending that the election be made within 30 days of the remarriage instead of within one year.

We concur in the views expressed by the Civil Service Commission and, accordingly, recommend enactment of H.R. 6257 provided it is amended as suggested by the Commission.

Sincerely,


 James M. Frey
 Assistant Director for
 Legislative Reference

UNITED STATES CIVIL SERVICE COMMISSION

WASHINGTON, D.C. 20415

June 16, 1975

Honorable David N. Henderson
 Chairman, Committee on Post Office
 and Civil Service
 House of Representatives
 Washington, D. C. 20515

Dear Mr. Chairman:

This is in further reply to your request for the Commission's views on H.R. 6257, a bill "To amend chapter 83 of title 5, United States Code, to grant a surviving annuitant the right to elect within one year after remarriage whether such annuitant's new spouse shall be entitled, if otherwise qualified, to a survivor's annuity upon the annuitant's death."

Prior to enactment of Public Law 93-474, approved October 26, 1974, the reduction (which has been at different rates over the years) taken at the time of retirement in order to provide an annuity for a surviving spouse continued for life, even in cases where the marriage was subsequently terminated before the employee-annuitant died.

Public Law 93-474 amended the Civil Service Retirement law to provide that the annuity of a retired employee or Member which was reduced to provide an annuity for a surviving spouse shall, upon termination of the marriage (by death, divorce, or annulment), be recomputed to eliminate the reduction; i.e., the retired employee or Member shall be paid at the single-life, unreduced rate for each full month during which he or she is not married.

Thus, if the annuitant's spouse predeceases the annuitant or is divorced from him or her, the reduction is eliminated effective the first of the month following the one in which the spouse died or the divorce was effective; if the annuitant later remarries, the annuity is again reduced, effective the first day of the month in which the remarriage occurred, by the same percentage factors as were in effect at the time of the original reduction. The restoration of the reduction upon remarriage is automatic, and the annuitant has no new right of election.

H.R. 6257 would eliminate the automatic restoration of the annuity reduction and allow the annuitant to decide upon each subsequent remarriage whether or not to provide a surviving spouse benefit. However,

the bill would not give the right of election to any annuitant who was married at the time of retirement and eligible to provide a survivor benefit, but who elected not to do so.

The Commission would favor enactment of H.R. 6257 if the period during which an election might be made were changed from "within one year after such remarriage" to "within 30 days after such remarriage."

The proposed provisions of H.R. 6257 parallel those of P.L. 91-658 ("second spouse" law) in allowing the annuitant one year from the date of remarriage in which to elect to provide a survivor benefit; the circumstances, however, are different. The "second spouse" law applies to employee-annuitants who were unmarried at the time of retirement and who are unaware of the amount of the reduction which they would be taking. These annuitants must have time to write to the Commission for the information which they would have gotten from their agencies, had they been married at the time of retirement. On the other hand, the employee-annuitants who would be affected by H.R. 6257 have already had reduced annuities and the only decision to be made would be whether or not to provide a survivor annuity. The employee-annuitant contemplating remarriage has, in all probability, made this decision by the date of the remarriage. Changing the time limit to 30 days would, therefore, serve to eliminate possible abuse of the system by those individuals who intend to provide a survivor benefit but who would delay their election in order to have a "free ride" for almost a year.

The Commission believes the intent of the proposed bill is reasonable. We realize that the reasons for providing a survivor benefit which applied at the time of retirement when the original reduced annuity was elected may not apply upon remarriage. For example, in some cases of remarriage, the spouse is already receiving a survivor annuity from a previous marriage. If the spouse is over age 60 the present survivor benefit will continue; if under age 60 it will terminate but can be restored if the present remarriage is terminated by divorce, annulment, or the death of the employee-annuitant. Therefore, the automatic reduction in the annuitant's rate will not result in payment of a survivor annuity unless the spouse, after the annuitant's death, elects this particular survivor benefit in lieu of the other.

In other cases of remarriage, the spouse may either be an annuitant or eligible for annuity, or else may have other sources of income, in which case a potential survivor annuity is unnecessary.

Under the provisions of H.R. 6257 the annuitant would have a choice. The suggested 30-day period during which to make an election would allow sufficient time to provide a survivor benefit if such benefit were needed and would eliminate the mandatory reduction in cases where a survivor benefit would either not be paid or, under the circumstances, would not be necessary for the future protection of the spouse.

Enactment of H.R. 6257 would result in a savings to the Civil Service Retirement and Disability Fund since, in many cases of remarriage, there would be no election of survivor annuity. We estimate that enactment of H.R. 6257 would decrease the unfunded liability by approximately \$51 million and decrease the normal cost by .005%.

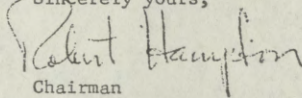
Additionally, enactment of H.R. 6257 would simplify administration of P.L. 93-474 by eliminating the collection of overpayments which have resulted from the annuitant's failure to notify the Commission promptly upon remarriage. The responsibility for electing to provide a survivor benefit would rest with the annuitant, and if no such election were made within the specified period, no survivor benefit would become payable.

For these reasons the Commission recommends favorable consideration of H.R. 6257 by the Congress, if modified as suggested.

The Office of Management and 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,


Chairman

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