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IONIZATION OF THE ARMED FORCES

HEARINGS

BEFORE THE

COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

S. 274 and S. 997

TO AMEND CHAPTER 49 OF TITLE 10, UNITED STATES CODE, TO PROHIBIT UNION ORGANIZATION AND MEMBERSHIP IN THE ARMED FORCES, AND FOR OTHER RELATED PURPOSES

MARCH 18, JULY 18, 19, 20, 26, 1977

Printed for the use of the Committee on Armed Services

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UNIONIZATION OF THE ARMED FORCES

FRIDAY, MARCH 18, 1977

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

The committee met pursuant to notice at 10:05 a.m., in room 1114, Dirksen Senate Office Building, Hon. John C. Stennis (chairman) presiding.

Present: Senators Stennis, Jackson, McIntyre, Byrd of Virginia, Nunn, Culver, Hart, Bumpers, Morgan, Tower, Thurmond, Goldwater, Bartlett, Helms and Garn.

Also present: Francis J. Sullivan, staff director; John C. Roberts, general counsel, John T. Ticer, chief clerk; Phyllis A. Bacon, assistant chief clerk; William L. Ball III, Charles J. Conneely, Kenneth W. Fish, Edward B. Kenney, James C. Smith and George F. Travers, professional staff members; Louise R. Hoppe and Roberta Ujakovich, research assistants.

Also present: Christopher Lehman, assistant to Senator Byrd; Jeffrey Record, assistant to Senator Nunn; Charles Stevenson, assistant to Senator Culver; Len Parkinson, assistant to Senator Bumpers, Ron Lehman, assistant to Senator Bartlett; and Richard J. Bryan, assistant to Senator Helms.

[The bills S. 274 and S. 997 follow:]

[S. 274, 95th Cong., 1st sess.]

A BILL To amend chapter 49 of title 10, United States Code, to prohibit union organization in the armed forces, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 49 of title 10, United States Code, is amended by adding at the end thereof a new section as follows:

"§ 975. Union organizing and membership prohibited

"(a) As used in this section—

"(1) 'Member of the armed forces' means a member of the armed forces who is (A) serving on active duty, (B) a member of a Reserve component.

"(2) 'Labor organization' means any organization of any kind in which employees (including members of the armed forces) participate and which exists for the purpose, in whole or in part, of dealing with employers concerning conditions of work. Such term does not include any fraternal or professional organization unless such organization supports, advocates, or asserts the right of employees of the Government of the United States or members of the armed forces to strike against the Government of the United States.

"(3) 'Employer' includes the United States Government.

"(b) It shall be unlawful for any individual, group, association, organization, or other entity to enroll any member of the armed forces in, or to solicit or otherwise encourage any member of the armed forces to join, any labor organization.

"(c)(1) It shall be unlawful for any member of the armed forces to be a member of or to solicit or to otherwise encourage any other member of the armed forces to join any labor organization.

"(2) It shall be unlawful for any member of the armed forces to actively support any activity of any labor organization if such activity (1) is a protest against, is intended to focus public attention on, or is for the purpose of bringing about changes in, the working conditions of members of the armed forces, or (2) supports, advocates, or asserts the right of members of the armed forces to join or be represented by labor organizations.

"(d) The provisions of subsections (b) and (c) shall not apply in any case in which any individual, group, association, organization, or other entity enrolls any member of the armed forces in, or solicits or otherwise encourages any member of the armed forces to join, any labor organization, or in any case in which a member of the armed forces joins a labor organization or solicits or otherwise encourages another member of the armed forces to join a labor organization if the labor organization concerned does not represent, or purport or attempt to represent, the interests of members of the armed forces in any dealings or negotiations, or in any attempt to deal or negotiate, with the Government of the United States and does not advocate or assert the right of members of the armed forces to strike against the Government of the United States.

"(e)(1) Any individual violating subsection (b) or (c) shall be punished by imprisonment of not more than five years.

"(2) Any labor organization guilty of violating subsection (b) shall be punished by a fine of not less than $25,000 or more than $50,000."

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following:

"975. Union organizing and membership prohibited.".

[S. 997, 95th Cong., 1st sess.]

A BILL To amend chapter 49 of title 10, United States Code, to prohibit union organization and membership in the Armed Forces, and for other related purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. The Congress hereby determines that—

(a) Members of the Armed Forces of the United States must be prepared to fight, and, if necessary, to die, to preserve and insure the welfare, security, survival, and liberty of this country and its people;

(b) Control, discipline, and prompt and unquestioning obedience to lawful orders of superior officers are essential, necessary, and time-honored elements of the American military tradition, and, from the earliest articles of war, military laws and regulations have proscribed conduct which would undermine the military chain of command;

(c) The processes of conventional collective bargaining and labor negotiation cannot and should not be applied to the United States military organization, and strikes, slowdowns, and similar job actions have no place in the armed services;

(d) Unionization of the Armed Forces is incompatible with the military chain of command, undermines the role, authority, and position of the commander, and could have the unfavorable and divisive effect of creating adversary relationships between the members of the Armed Forces or between such members and the Congress;

(e) Under article I, section 8, clauses 12, 13, 14, and 16 of the Constitution of the United States, the Congress has the undisputed power to enact legislation for the Government and regulation of the military forces, and the vital and unique duties and position of the Armed Forces justify and require the enactment of this legislation to assure a disciplined, effective, and responsive national defense force.

SEC. 2. (a) That chapter 49 of title 10, United States Code, is amended by adding, at the end thereof, a new section as follows:

"(a) As used in this section—

"(1) 'Member of the armed forces' means a member of the armed forces who is (A) serving on active duty, (B) a member of a Reserve component, and (C) a member of the Coast Guard when the Coast Guard is operating as a service in the United States Navy.

"(2) 'Labor organization' means any labor union or other organization of any kind in which employees (including members of the armed forces) participate or belong to, and which exist, in whole or in part, for the purpose of collective bargaining, dealing, or negotiating with employees concerning the terms and conditions of work, service, or pay. Such term shall not include any professional, fraternal, patriotic, military, or veterans organization or association unless such organization or association supports, advocates, or asserts the right of members of the armed forces to strike against the Government of the United States or asserts that it has the right to bargain collectively or negotiate with the Government of the United States concerning the terms and conditions of work, service, or pay of members of the armed forces.

"(3) 'Employer' shall mean the Government of the United States specifically including the Department of Defense.

"(b)(1) It shall be unlawful for any labor organization, or any other group, association, organization, individual, or other entity to enroll any member of the armed forces in, or to solicit or otherwise encourage any member of the armed forces to join, any labor organization, or to receive or accept any labor organization dues from any member of the armed forces.

"(2) It shall be unlawful for any organization or person to use, or permit or authorize the use of, any military reservations, properties, or other defense facilities for labor organization recruiting or unionizing activities, or for meetings, demonstrations, or other activities in support of labor organizations or membership in labor organizations by members of the armed forces.

"(c)(1) It shall be unlawful for any member of the armed forces to join any labor organization or to be or remain a member thereof. It shall also be unlawful for any member of the armed forces to solicit or otherwise encourage any other member of the armed forces to join, become, or remain a member of any labor organization.

"(2) It shall be unlawful for any member of the armed forces to actively support any activity of any labor organization which (1) is a protest against, is intended to focus on or is for the purpose of bringing about changes in the pay, working conditions, or military service of members of the armed forces, (2) supports, advocates, or asserts the right of members of the armed forces to join or be represented by a labor organization, or (3) supports, advocates, or asserts the right of members of the armed forces to engage in strikes, work stoppages, slowdowns, and similar job actions.

"(3) It shall be unlawful for any member of the armed forces, or any civilian official or employee of the Department of Defense, to negotiate or bargain collectively, or attempt to negotiate or bargain collectively, on behalf of the United States, with respect to the terms and conditions of the pay, work, or military service of members of the armed forces, with any individual, organization, or association which represents or purports to represent members of the armed forces. It shall likewise be unlawful for any member of the armed services, or any civilian official or employee of the Department of Defense to recognize any individual, organization, or association for any such purpose.

"(d) None of the prohibitions of subsections (b)(1), (b)(2), (c)(1), and (c)(2) of this section shall apply in cases where the labor organization involved does not represent, or purport or attempt to represent, the interests of members of the armed forces in any dealings or negotiations, or in any attempt to deal or negotiate with the Government of the United States and does not support, advocate or assert the right of members of the armed forces to engage in strikes, work stoppages, slowdown or other job actions against the Government of the United States.

"(e)(1) Any individual violating the provisions of subsections (b) or (c) of this section shall be punished by a fine of not less than $1,000 nor more than $10,000 or by imprisonment for a term of not more than five years, or by both such fine and imprisonment.

"(2) Any labor organization violating subsection (b) of this section shall be punished by a fine of not less than $25,000 nor more than $250,000.".

(b) The table of sections at the beginning of chapter 49 of title 10, United States Code, is amended by adding at the end thereof the following:

"975. Union organizing and membership prohibited.".

OPENING STATEMENT BY THE CHAIRMAN

Chairman STENNIS. All right, gentlemen, our committee will please come to order.

The Senate convenes in actual floor session at 1:30 p.m. today and we will not meet after the Senate does convene. That will give us plenty of time for this morning's session. Let me say just a few words in addition to the written statement I have here.

I think this bill, on this subject matter and along this line, is necessary for the operation of our military services, whether there be a clear understanding just what the rules are and I think as a whole it would be better for unions themselves not to be organizing military units. Let me emphasize that as far as backing the military and any crisis or anything like that the union membership of this country stands right out in front with anyone.

There is no issue here like that. Their position is well known. They back up the military preparedness and they back up the safety of this Nation as well as any group. That is just not an issue in any way.

Another thing is that certainly this is not any poke at the union, not an antiunion bill, anything like that. This relates to the manpower problem of our military services and also the question of keeping clearly in line the responsibility, the chain of command, in these military units.

I hope we can bear that in mind all the way through the hearings.

As for the union lobbying, they ordinarily have a legitimate role. They have a right to help lobby the legislative branch of our Government, the executive branch, too, but we are talking now about organizing military units. When the word is given, they have to go; otherwise we won't have a military company or armored unit. I don't know what you would call it, but unless they are in a frame of mind to go when told to by the military authorities, they are not a military organization.

Now we open these hearings from a standpoint of the future integrity, unity, soundness, and stability of our military forces, and this could well be the most important, the most significant hearing on any bill offered this year. There are two bills now before the committee. One is S. 274, which was introduced last session as well as repetitively introduced this session by the distinguished Senator from South Carolina, a valued member of our committee, and a number of other Senators. The other bill is S. 997 which I introduced on Tuesday of this week. They differ in some respects but they have the common purpose of prohibiting military personnel from unionizing. Both of these bills will be considered at these hearings as well as any other bill that might be introduced will be welcome, to be considered at these hearings. I am hopeful that we can work out the facts and get what we can really call a committee bill. I believe there is a good chance to do that. That is my approach to it.

I sincerely believe that a bill along this line is necessary to insure the preservation of the historic and time-honored traditions, functions and principles of our military establishment. I believe simply that there is no place for labor unions or similar organizations in our military units, and there are many who see this thing that way. I

think the more we look into it, the stronger, the clearer we see it. I have been seriously concerned about the possibility of a drive by organized labor or some branches of it to unionize the armed services for some months. At first this threat was belittled by many; and many in positions of authority deemed the legislation in this area not necessary. The recent actions though of some of the unions, particularly the American Federation of Government Employees, have candidly made it clear that there is a threat to attempt to unionize the military, and that is serious. Therefore, I believe it is absolutely necessary now that we proceed.

I have conferred with very respected people about this matter, both in and outside the labor movement itself. I have talked with some of their leaders at length about it, and they have been very frank with me. I see three principal dangers in unions for the military personnel. First, existence of a military union, regardless of the nature of its powers, is inconsistent with the military chain of command. Military organizations are not democratic, they cannot be, asserting the union as an alternate allegiance for the military man or woman is simply unthinkable.

Second, the existence of a union within the military is incompatible with the discipline that is necessarily the backbone of our Armed Forces. Were we to try to get along without it, we would be a failure. Sometimes I don't think we have enough plain discipline there now. Again, the easy analogy to civilian life where a union can intervene for its members in a store or factory—does not work out in the military context. If we are to have an efficient fighting force, we must have fair discipline—I mean fair in application, administered by the command without internal conflict or outside interference.

Finally, this is really a combination of the first two things.

We do not live in a quiet, serene time. On many occasions, our servicemen have been called upon to respond quickly whether the event be large-scale war, actions to protect American lives and property abroad, or deployment to preserve order in our own country.

Those things are not imaginary. We had matters here last week, which weren't union caused, but these matters arose in a matter of minutes. Now, I don't want to take up too much time here this morning so I believe we will move on to the membership for questions.

I ask unanimous consent that my prepared statement be inserted in the record.

[The prepared statement follows:]

PREPARED STATEMENT OF SENATOR JOHN C. STENNIS

Today we open hearings which, from the standpoint of the future integrity, unity, soundness and stability of our miltary forces may be the most important and significant to be held in this session of the Congress. The focus of these hearings are bills which would prohibit and ban the unionization of our military forces.

There are two such bills before the Committee. One is S. 274 which was introduced by the distinguished Senator from South Carolina (Mr. Thurmond) and a number of others. The other is S. 997 which I introduced on Tuesday of this week. Although these bills differ in some respects they have the common purpose of prohibiting military personnel from unionizing. Both will be considered at these hearings.

Let me stress here, as I have before, that my proposed legislation is not an anti-union bill. Rather, it is based on my belief that military life imposes special conditions upon those who choose it, and that these conditions are totally incompatible with a military union. It is a measure which I sincerely believe to be necessary to ensure the preservation of the historic and time-honored traditions, functions and principles of our military establishment. I simply believe that there is no place for labor unions or similar organizations in our military units. I am sure that Senator Thurmond is motivated by similar sentiments.

I have been seriously concerned about the possibility of a drive by organized labor to unionize the armed services for quite some time. This threat was belittled by many, and many in positions of authority denied that legislation in this area was necessary. The recent actions of some labor unions, particularly the American Federation of Government Employees, have made it clear that the threat to attempt to unionize the military is real and it is serious. Therefore, I believe it is absolutely necessary that we give serious consideration to this legislation.

I see three principal dangers in unions for military personnel. First, the existence of a military union, regardless of the nature of its powers, is inconsistent with the military chain of command. Military organizations are not democratic, and they cannot be—inserting the union as an alternate allegiance for the military man or woman is simply unthinkable. Second, the existence of a union is incompatible with the discipline that is necessarily the backbone of our armed forces. Again, the easy analogy to civilian life, where a union can intervene for its members in a store or in a factory, just does not work in the military context. If we are to have an efficient fighting force, we must have fair discipline administered by the commands without outside interference. Finally, and this is really a combination of the first two dangers, unions have a grave potential for interfering with our readiness. We do not live in quiet or serene times; on many occasions our uniformed servicemen have been called upon to respond quickly—whether the event be large-scale war, action to protect American lives and property abroad, or deployed to preserve order in our own country.

Immediate response and unquestioned obedience are essential if we are to have continued confidence in the ability of our armed forces to perform their missions. In this sense, union organization—with its potential for strikes, slowdowns and other collective action antithetical to the unquestioned obedience to orders—may pose a real threat to our security.

We must not let ourselves be misled by protestations from those who seek to unionize the military that they do not seek the power to strike and that they would suspend their union organization in times of crisis. Our experience with police and firefighters unions, who initially disclaimed the right to strike too, should lead us to be skeptical of such claims. Once a union organization is in place, whatever powers it initially seeks, the danger to a unitary and responsive military organization is manifest. These simply cannot be two masters, or two loyalties.

Let me make it clear that these bills would not prohibit membership in labor organizations either by reservists in their civilian employment or by active duty personnel engaged in "moonlighting." Likewise, they would not affect the right of members of the military to join professional, fraternal, patriotic, military or veterans organizations and associations.

There are those who have suggested that First Amendment rights would be infringed upon by legislation of this type. While certainly this is something that must be considered, I am mindful that the United States Supreme Court has specifically said: "This Court has long since recognized that the military is, by necessity, a special society separate from the civilian society."

This certainly suggests that it is permissible to enact some form of special legislation of the type here under consideration without running afoul of constitutional guaranties. In any event, both the merits of the situation and the legal issues involved will be comprehensively considered during these hearings. If justified by circumstances, I believe that we can develop legislation which will protect our military security by guarding against divided loyalties and by ensuring that our military forces, both as units and as individuals, are at all times and in all situations fully responsive to their duty and to the military chain of command. It is simply a question of whether the basic loyalties of our military people will run to a union or to the soverign United States of America.

At the same time, we need to recognize that there may be underlying reasons for the increased talk about military unionism. Some have said that military men and women today feel that their superiors and the Congress are no longer looking out for their interests. If there are problems with the process of dealing

with complaints and with the ability of uniformed personnel to make their feelings meaningfully known on subjects of deep concern to their professional lives, then we need to know about it. It would be shortsighted to deal with the immediate problem of unions and not to address any deeper issues of communication and leadership that may exist. Men and women who are well led, who understand the special demands and satisfactions of the life they have chosen, and who feel that their interests are being zealously guarded by the Service and the Congress, will not listen to the promises of a union organizer.

We welcome our witnesses today. They are Honorable Harold Brown, Secretary of Defense, and Honorable W. Graham Claytor, Jr., Secretary of the Navy.

We know the counsel they will give us will be valuable in our deliberations and appreciate their appearing on relatively short notice.

Senator STENNIS. I am going to call on Senator Tower, the presently ranking minority member of our committee, and then I want to call on Senator Thurmond next, if he is ready, to make a brief statement. I use that word brief because of the circumstances.

Senator TOWER. Thank you, Mr. Chairman. I regard this as a very serious matter. I have been deeply concerned for some time with the frequent mention of proposals to organize unions in the Armed Forces of the United States. It is time for the committee to move today to explore this matter in an open forum before the American people. It was only a few days ago when the Executive Council of the American Federation of Government Employees endorsed a proposal to commence their efforts to organize the military services.

It is my privilege to serve as a cosponsor of a bill to prohibit military unions which was introduced earlier this year by the distinguished senior Senator from South Carolina, as was also the case last year when a similar measure was introduced in the 94th Congress.

I view with favor the bill introduced by the chairman.

Mr. Chairman, I am confident that the record of these hearings will clearly define the problems which would be inevitable were our Nation to permit labor union organizations to be established for the men and women who are serving our country in uniform.

Since Revolutionary times, the American people have firmly established the tradition that our military personnel will place their duty to this Nation above any and all personal considerations, including when necessary their individual safety and well-being. The suggestion that organized unions can coexist within the military structure is entirely incompatible with this tradition, and compromises, in my view, effectiveness of our most treasured military resource, those people who serve in the ranks.

The fact that this suggestion has been and continues to be made by those who advocate military unions is most disturbing. It will be a disastrous day for this Nation when our military men and women begin to consider themselves simply as "Government employees." The solemn oath which each individual member of the Armed Forces must take on entering the service makes it quite clear that being in uniform carries with it responsibilities above and beyond those of simply holding down a job. Mr. Chairman, if I might at this point, I would like to read into the record that oath, for I feel that its very words have a great deal to say on this very point:

I do solemnly swear that I will support and defend the Constitution of the United States against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the uniformed code of military justice. So help me God.

In summary, I believe this committee can perform a significant public service by generating through these hearings a clear and distinct record of the very grave consequences which would inevitably emerge from unionizing the very core of our military strength, the men and women who serve this Nation under arms.

Mr. Chairman, it was my privilege to serve as an enlisted man in the Navy in World War II in combat conditions. I currently am an enlisted reservist in the U.S. Naval Reserve. I know what the cares and concerns are of enlisted men. I think I am as sensitive to enlisted men as any Member of the Congress. I can see nothing but breakdown in discipline, morale and combat effectiveness ahead of us if the services are unionized, and I think that the union mentality, if imposed on the serviceman, could jeopardize the lives of individual servicemen. I hope that this committee will act quickly and effectively and I trust that the hearings are going to build a good record for us on this particular issue.

Thank you, Mr. Chairman.

Chairman STENNIS. Thank you, Senator Tower.

Senator Thurmond, if we could hear from you now. We will call on you again later, of course, for any questions you may have.

Senator THURMOND. Thank you, Mr. Chairman.

Mr. Chairman, as you and the other members of this committee are aware, the issue of military unions is one which has caused me great concern over the past 2 years.

I am sure I speak for the 37 cosponsors of S. 274, when I say we commend you for scheduling these important hearings.

My original bill, S. 3079, designed to prohibit unionization of the military, was introduced on March 4, 1976, in the 94th Congress, and had 30 cosponsors.

Mr. Chairman, it is my understanding that the Department of Justice has said our bill would accomplish its intended purposes, and falls within the constitutional authority of the Congress.

Mr. Chairman, it should be pointed out that our bill is not an anti-union bill, but rather a pro-national defense bill.

Throughout the years, labor unions have accomplished much good for the working man in this country. However, I am convinced that there is no place in the Armed Forces for an organization that could come between a commander and his troops.

In offering this legislation, it must be recognized that conditions within the uniformed services today have to a large degree brought about the need for legislation. The attack on military benefits, such benefits long accepted as a recognition of the sacrifice and dangers incumbent on military personnel, has to a significant degree created the threat of unionism. Therefore, while the obligation of the Congress to prohibit unions in the military is clear, there is an equal obligation to address and settle the issues which have brought this matter to a head. It would be my intention to deal with those problems with the same vigor I have applied to my efforts connected with S. 274.

Many servicemen today regard their Government, and to some degree, their civilian and uniformed leaders in the defense establishment, as insensitive to their problems and unresponsive to their needs. Frustrated and disillusioned, they have become susceptible to the wiles of self-interested union advocates.

The credibility of leadership needs to be restored. Budget considerations must be given due weight, but when unpopular decisions must be made, we must be prepared to explain why. A better understanding of military obligations and benefits needs to be clearly enunciated.

President Carter has taken a stand that military personnel should not be unionized. The same view is shared by many of our distinguished defense leaders. Among this group are Secretary of Defense Harold Brown; Army Secretary Clifford Alexander; Navy Secretary Graham Claytor; General George Brown, Chairman of the Joint Chiefs of Staff; and the Service Chiefs, General Rogers of the Army, Admiral Holloway of the Navy, General Jones of the Air Force, General Wilson of the Marine Corps and Admiral Siler of the Coast Guard.

They recognize, as is the case in the Congress, that the possibility of an attempt to unionize the military is a real and imminent threat.

Last, I would like to point out that during all my years in the Senate, I have taken great pride in being a supporter of a strong defense establishment, as well as the individual military man. These forces are strong because of the good people who dedicate their lives to military duty and all the danger that service entails.

However, the cosponsors of S. 274 join me in the belief that any unionization of the military can only have disastrous effects to the security of this country. For those who doubt this, I would merely like to remind them of unions which organized policemen and firemen and told us they would never strike. That brings to mind the violent police strike in San Francisco, the police strike in Baltimore, and firemen's strike in Kansas City.

In conclusion, I urge my colleagues here on the committee and in the Senate as a whole to support S. 274 with whatever amendments may be necessary. The cosponsors of this bill have frequently urged prompt hearings and I have conveyed this interest to the chairman numerous times, both orally and written.

Before closing, I ask unanimous consent that various editorials and articles be inserted in the record at this point in my statement.

I have several editorials and articles here, Mr. Chairman, I shall turn over for that purpose, and thank you very much.

[The editorials and articles follow:]

[From Army Times, Dec. 31, 1975]

WASHINGTON.—The organization that represents civilian technicians of the Reserve Components is organizing guardsmen and reservists into a new union.

According to Vincent J. Paterno, president of the Association of Civilian Technicians, the move to unionize the reserve was triggered by "Department of Defense budgetary proposals that would just about eliminate the reserve forces."

Paterno said his 8,000-member union would serve as a base for both membership and experience. Most of ACT's members are required to be in the guard or reserve.

The new union, the Association of Guard and Reserves, may eventually handle collective bargaining for the part-time services, Paterno said.

The union would provide guard and reserve members with the voice they've never had in policy decisions, he said, and work to prevent any reductions in pay or other obligations that the government has made. Paterno pointed specifically to a DoD proposal to cut drill pay in half by paying guardsmen and reservists only two days' active duty pay for a weekend drill instead of the current four days of active pay.

He said existing organizations, especially the National Guard Association, are "much too close to the National Guard Bureau and to DoD and too far away from their members." He said the Reserve Officers Association has similar faults.

Paterno said the AGR could expect 100,000 members out of the 700,000 reservists and guardsmen. He said that annual dues for members would be about $10.

Potential members will be reached by word of mouth and handout publications at first, he said. Later, he said, they will advertise for members.

"Based on past experiences, I would expect gag rules and other harassment as we try to organize," Paterno said. "We'll probably have to offer some degree of anonymity to members at first to prevent any reprisals."

While AGR is organizing the Reserve Components two AFL/CIO unions are making plans to unionize and collect dues from members of the military services. Both the American Federation of Government Employees and the National Maritime Union will decide next year if and how they will organize the military.

[From the Washington Post, Feb. 15, 1976]

HOLLAND'S UNIONIZED SOLDIERS

(By Martin Walker)

THE HAGUE, the Netherlands.—Holland's most controversial military prisoner is free.

Conscript Andre Van den Berg, who refused to join his battalion guarding the train hijacked last fall by South Moluccan terrorists, is being treated as a conscientious objector. He has left the army and must now choose some form of community service for the next 12 months.

In any other army in the world, he would not have been so lucky. In no other country, however, would he have had a trade union of conscripts behind him, and it is hard to image a battalion commander in any other army supporting a soldier's right to opt out of missions and assignments with which he disagrees.

For the past five years since it abolished the salute, permitted long hair and recognized the conscripts' trade unions, the Dutch army has been criticized throughout Europe. Cuts in the defense budget have been attacked as "irresponsible and totally unacceptable" by the North Atlantic Treaty Organization, of which the Netherlands is a member.

Military observers were agreeably surprised, therefore, at the Dutch army's swift and creditable response to the train hijack at Beilen. Within two hours of the alarm, town center had been cleared and occupied by troops, the train cordoned off, armored cars were patrolling the approaches to the train, and reserves were in position. The long-haired conscripts—all except Andre Van den Berg—responded readily.

The officers who commanded the battalion was Lt. Col. Hendrik Bijl. A tall, donnish officer who defends soldiers' right to their opinions.

"I am speaking personally, you understand, but the best kind of army we can have is where a soldier can say, 'no I will not do that because I do not believe in it.' Ideally, soldiers should have the right to elect—and dismiss—their officers," Bijl says.

He had few problems on the Bielen operation because soldiers believed in their task, but in other circumstances they might all disobey.

"In a strike by a union, I cannot say that the army if fully prepared to fulfil its mission—and I am glad to say that," Bijl said. Ten years ago in Amsterdam there were riots by the Provos, the anarchists. I was asked to prepare the military countermeasures and I advised against it. I sympathized with the rioters.

"In those days, I did not consult my troops before giving the municipal authorities my view. Today I would. We are civilians in uniform in Holland. The men must believe in what they fight for."

Bijl sees the Dutch army as the model for a time when all armies will have to accept soldier's trade unions. He believes that the army and society develop alongside each other. The conscript armies of Europe in the 19th century led directly to universal suffrage: the technically-skilled armies of today require educated and independent soldiers who can think for themselves, he said.

Conscript Jan-Willem Wesdeldijk is based in the Utrecht barracks where he runs the conscripts' union. He has no other military duties but the union, and the offices provided by the army are plastered with posters in support of the Portuguese revolution and in opposition to the Chilean Junta. "What the union

had done is to pull down the army from the pedestal of God and motherhood and apple pie," he says. "At the moment, we are not consciously a politicizing force for the conscripts, although I accept that just by existing the union offers an alternative focus of authority to the army hierachy.

"But this has its limits. In the Van den Berg case, we had an obligation to help a guy who decided to refuse his orders for a particular operation. We do not have the right to influence that decision."

The popularity of the union among the conscripts is mainly based on its success in getting higher pay and better conditions. Conscripts now receive about $220 a month, get 19 days off each year in addition to weekends, and are paid 50 cents a day overtime. One of the government's campaign promises was to raise the conscripts pay to the national minimum wage. Soldiers are not required to sleep in the barracks, but they must be on the parade ground at 8 a.m.

Of the army's 68,000 men 40,000 are conscripts, representing about 30 percent of young men who reach the age for military service. Another 30 percent receive deferments for study or training courses, and the rest are either found mentally or physically unfit or are excused for other reasons.

The Dutch obligation to NATO in wartime is to provide an army corps of three armored brigades, three armored infantry and three infantry brigades.

"I like this army, and I am proud of it," Brig. Gen. Joop Zoutenbire, a professional soldier said at his Assen Barracks.

"I see your British army in Germany, and we are horrified by their class distinctions. We eat the same food as our men, and we respect them. The best of our youth is in the army, and I want it to remain conscript. I have great fear of professional armies growing away from the people.

"Do not forget we are a continental nation. In our military tradition, when we are invaded, everyone fights. The idea of a people's militia does not shock us like the British, who are accustomed to sea protection and a small army.

The kind of army the Dutch need is now being exhaustively examined with a commission deliberating whether to continue with conscription. Both the professional officer corps and the union are urging that the 14-month national service should remain—although the union was launched in the 1960s on the platform of abolishing it.

The commission is due to report in July, and the likelihood is that conscription will stay, although, it is politically unlikely that the Netherlands will increase the three percent of the gross national product it now spends on defense.

[From the Richmond Times-Dispatch, Apr. 23, 1976]

SHOP STEWARDS IN THE ARMY? IT'S THE NUTTIEST OF NOTIONS

(By John Chamberlain)

It sounds so idiotic that it is hard to write about it. But the movement to unionize the armed forces of the U.S. has been gathering momentum. Judging by the alarm of certain senators (John Tower of Texas, Strom Thurmond of South Carolina, Barry Goldwater and Paul Fannin of Arizona, Robert Taft of Ohio, Herman Talmadge of Georgia and Williams Scott of Virginia are among those who are worried), the business of introducing a shop steward between buck privates and their non-commissioned officers may be closer than we realize.

Query: What would the Duke of Wellington have done if there had been an argument over saluting or the length of beards on the eve of Waterloo? He'd have shot the miscreants, or course, but you couldn't do that to troops if they were covered by a Wagner Act.

In the Netherlands, they already have a left-wing soldiers' union operating quite openly inside the armed forces. What is not so open is the suspicion, voiced by Arnaud de Borchgrave of *Newsweek*, that the Soviet KGB has infiltrated the union with its "sleepers."

In the U.S. it is the bread-and-butter type of unionist who is pushing military unionization: The first arguments would be over pay and fringe benefits, which are already generous. The American Federation of Government Employees (AFGE) and the National Maritime Union, both AFL–CIO affiliates, have been putting pressure on Congress to legalize the extension of federal employee union organization to the Army, Navy and Air Force.

SNIFFING THE WIND and finding it malodorous, Senator Thurmond has already offered a bill that would make it unlawful to solicit the enrollment of any soldier in a labor organization. Thurmond has 24 other senators in his corner, but this does not faze AFGE President Clyde Webber, who thinks he has the First Amendment on his side to protect a unionization drive.

The AFGE already represents a number of so-called dual status employees who serve in the National Guard as civilians but who are supposedly under military discipline. When the AFGE holds its next convention, it will consider a recommendation to go ahead with a major drive to add enlisted men to its existing base of 350,000 paid-up government workers who already represent for bargaining purposes of a larger group of 360,000 civilian military workers. The idea of extending "bread-and-butter" unionization to the armed forces may not sound fearsome. Violence is not mentioned. But a union that lacks the power to strike is unimaginable. Unions always do strike, even when it is illegal. "Bread-and-butter" agreements are always negotiated with what economist William H. Hutt calls the "strike-threat system" lurking in the background to keep the negotiators at the bargaining table. And "bread-and-butter" stipulations, once they have become part of a contract, require sanctions and grievance committees, Disruptions would occur.

So it is not fanciful when Sen. John Tower asks us to "imagine an army in which enlisted soldiers refuse to carry out orders from superior officers until they have been cleared by a shop steward or agreed to at a union meeting." Tower fears that a unionized army, even on the edge of war, might refuse to train if the union objected to unpleasant working conditions such as night marches or weekend duty.

David Denholm, the executive vice president of that Paul Revere outfit called Americans Against Union Control of Government, points out that the labor leaders who aspire to organize the military are "the likes of Jack Crowley, Jerry Wurf and Richard Vizzini."

Crowley is the man who complimented the striking police in San Francisco "on the way you kept this city in turmoil until your demands were met. "Jerry Wurf, according to a statement attributed to the governor of Maryland, threatened that "Baltimore city would burn to the ground" if the city employe union didn't get its way. And Vizzini, head of the firemen's union in New York City, after letting his firemen take a strike vote, destroyed the ballots and ordered a strike without authenticating union sentiments. It turned out later that the firemen had voted against striking.

Retired Adm. John S. McCain thinks the idea of unionizing army and navy is the nuttiest notion he has encountered in his 45 years of service. He mentions what happened in Kansas City during a firemen's strike when fires broke out all over town. The National Guard had to be called to put out the fires. What if the National Guard had itself been unionized?

The admiral doesn't bother to answer his own question.

POST 27, FRANCO-AMERICAN WAR VETERANS, INC.

Bridgeport, Conn.

RESOLUTION

Subject: Unions in military services.

Whereas: Senate bill number S–3079 a bill introduced by Senator Thurmond to ban all unions from military services, this bill was introduced because unions in military services would be detrimental to our national defenses; be it

Resolved, That at this convention of the Franco-American War Veterans, Inc., Department of Connecticut we go on record as being against a union in the armed services and a letter be sent to Senator Thurmond and Senator Stennis, Chairman of the Armed Services Military Affairs Committee; be it further

Resolved, That this resolution be sent to the National Convention of the Franco-American War Veterans, Inc. and individuals write letters to their Senators and Representatives on this matter to show your personal feelings.

Read and passed at Post meeting, May 10, 1976.

Passed at Department of Connecticut Convention on May 21, 23 and 23, 1976.

EDITORIAL: UNIONS ARE ALIEN TO OUR DEFENSE SYSTEM

(By Col. Minter L. Wilson, Jr. (USA-ret.))

As readers of this magazine know, Sen. Strom Thurmond (R-S.C.) has introduced S. 3079 which would prohibit the unionization of military personnel. A similar bill (H.R. 12526) has been introduced in the House by Rep. Floyd Spence (R.S.C.)

We are four square against any effort by unions to organize the armed forces. In a letter from our president, Lt. Gen. John W. Carpenter III, USAF-Ret., to each senator and representative, he made it very clear that we fully support the Thurmond and Spence bills. Carpenter said, "Collective bargaining, arbitration and the right to strike must remain alien to the uniformed members of the armed forces. I am sure many union men will agree that the union has no role in the military community."

Congressional responses

Responses to the general's call for support of the proposed legislation have been of interest. While not all can be reprinted, here are excerpts from some of the more notable letters received to date:

Senator Eastland (D-Miss): "I am in perfect agreement with the stand taken by TROA in support of this legislation."

Representative Bob Wilson (R-Calif): "You can be sure that this legislation has my whole-hearted support and I am pleased to know that TROA has thrown its weight behind the Thurmond-Spence Bills."

Senator Nunn (D-Ga): "Unionization could have an adverse impact upon command and authority . . . such a development could erode our national security."

Representative J. P. Johnson (R-Colo): "I am against unionization of our armed forces."

Senator Church (D-Idaho): "I appreciate your concern over efforts to unionize the military. I would oppose such a move."

Representative Wydler (R-N.Y.): "I agree that unionization of the armed forces would be totally inappropriate and I will oppose this type activity. I cannot really imagine that the servicemen of this nation would wish to go on strike."

Representative Teague (D-Tex): "I am against any form of unionization of military personnel."

Senator Domenici (R-N.M.): "Unionization of our military would be a dangerous national policy and one that must be resisted . . . we cannot have command decisions, especially in war time, subject to collective bargaining negotiations or grievance procedures."

Representative Stratton (D-N.Y.): "I am totally opposed to military unionization . . . I have a very strong interest in our military forces, and I do not see them being strengthened by allowing military personnel to join unions."

Senator McClellan (D-Ala): "I am a co-sponsor of S. 3079 which would prevent unionization . . . I am hopeful it will receive favorable consideration when it reaches the full Senate."

Representative Montgomery (D-Miss): "Unionization of the military would be in complete opposition to the principles on which our armed forces were formed."

Senator Helms (R-N.C.): ". . . Such an idea is absolutely absurd. . . . The security of this nation would be compromised. . . .To unionize the armed services would be a disaster."

Representative A. W. Johnson (R-Pa): "To unionize the military would make the union barons more sovereign than the people, and this would be absolutely intolerable."

Many other Senators and Congressmen have expressed similar views to Gen. Carpenter; however, a disappointing number have hedged with, "You can be sure I will bear your views in mind when the matter comes up for consideration."

Despite the great number of positive congressional views, some tell us unionization is inevitable. That would be a self-fulfilling prophecy only if we, together with the Congress and the Administration, allow it.

Must stand firm

Few men would question that discipline and loyalty are essential to fighting forces. Few doubt that unionization would weaken those qualities in any nation's forces. Despite this, there are both active duty and retired personnel who feel the only recourse to prevent further "erosion of benefits" is to turn to unions.

Problems do arise over our earned service benefits, but there is no doubt in our minds that this republic and its military forces will continue to be far better represented by our elected congressmen than by labor leaders who are not beholden to the American people.

Unions are alien to our defense system. We, and all concerned Americans, must stand firm against them.

[From the Herald, Spartanburg, S.C., May 3, 1976]

UNIONIZING THE TROOPS

(By Anthony Harrigan)

In Europe, where socialism has deep roots, unionization of the armed forces has proceeded rapidly in recent years. In the Netherlands, for example, a draftees' union has operated for 10 years. This union activity is a major factor in the unmilitary appearance of Dutch troops, and raises a question as to their reliability and effectiveness in time of war.

Fortunately, not all European countries are bowing to the demands of the unionists. In France, approximately 50 soldier-activists are under indictment by a French national security court of allegedly "demoralizing the army"—that is, for attempting to form a national military union.

The Christian Science Monitor recently reported that while only one major union—the Association of Civilian Technicians—is currently boosting military unionization, other unions have toeholds in the Defense Department, such as the American Federation of Government Employees, or are talking about all out troop unionization, such as AFGE and the National Maritime Union."

The prospect of troop unionization is profoundly disturbing. Unionization of American soldiers, sailors and airmen would constitute a serious blow to national security.

U.S. Sen. Strom Thurmond (R-S.C.) has explained why this is the case. In a Senate speech, he said:

"The U.S. Supreme Court in the Levy case set forth some of the reasons why the trade union and the armed services are not compatible. One of the basic distinctions made by the Court is that our civilian and military societies must of necessity be separate. By its very nature, some freedoms which are well recognized in the civilian sector must be denied to the military.

"For no matter how much rhetoric we hear, in the final analysis when the armed services are called upon to defend our country, we must know that the commander has the unquestioned authority to order his men into battle and the power to enforce his order."

Sen. Thurmond added:

"It is my firm conviction that an effective military force is built and maintained upon a foundation of discipline, command authority, patriotism, and quick responsiveness. There is no rational way to mesh unions and service in the armed forces. Unionization of the armed services, I am satisfied, would mean the end of an effective defense force in this country."

Because of his concern in this matter, Sen. Thurmond has introduced Senate Bill 3079 to prohibit the unionization of the nation's armed forces. This important legislation already has 29 sponsors. It deserves whole-hearted support from every member of Congress who is concerned about the reliability and effectiveness of the nation's armed forces.

In a defense organization, the authority of troop commanders cannot be compromised or shared with shop stewards, organizing committees or negotiators. When the country needs its military to act, it cannot afford walkouts or strikes. As Adm. John S. McCain, Jr. has said, miiltary unionization "would lead to the defeat of our way of life."

Military unionization could produce paralysis of America's armed forces in a moment of grave national peril.

[From the Army Times, June 28, 1976]

UNION CHIEFS VOTE TO OPEN ROLLS TO MILITARY

(By Lee Ewing)

WASHINGTON.—Leaders of the largest labor union considering organizing the military services have recommended that its constitution be changed to admit military people as members.

After vigorous debate, the national executive council of the 325,000-member American Federation of Government Employees on June 11 voted to urge the group's national convention to open membership to the military.

Although the tally was not announced, officials said the vote was not unanimous. There is significant opposition within AFGE to signing up military people. The resolution is expected to spark debate at the September 19–24 AFGE convention in Las Vegas.

Clyde M. Webber, who as president of AFGE had been a major supporter of admitting military people, died June 15. He has been succeeded by Dennis Garrison.

Greg Kenefick, chief spokesman for AFGE, said Webber's death "won't have that much of a negative effect" on the proposal to organize the military. Although Garrison has not said where he stands on recruiting military members for AFGE, Kenefick said "I think [he] would be in favor of it."

Joe Gleason, an AFGE vice president, has been leading the effort to blunt the military organizing drive. He is considered a likely candidate for the executive vice president post vacated by Garrison.

In a telephone interview, Gleason told *Army Times* he is not opposed to military people organizing, but said, "I don't think the time has come for organizing the military."

Gleason said he believes the resolution to open the AFGE to military members "probably will be defeated" at the convention. He said he will move that any effort to organize the military be put off for four to six years.

The future of the proposal to admit military people to AFGE may depend on how convention delegates react to a 24-page report on the military union issue that was prepared for the executive council by its ad hoc committee on military organizing, Kenefick said.

The report concluded that "a union representing military personnel can operate very effectively in behalf of its members within a military establishment without harm to military discipline if it accepts certain limitations on its role."

AFGE, the study said, "can observe such limitations without practical difficulty and without departing from its basc principles. Furthermore, a union representing military personnel can be a positive help in achieving military discipline and morale, especially in the context of a volunteer army, and in attracting and retaining an army of volunteers which is both competent and representative of the American people."

Because of AFGE's experience in representing DoD civilians and technicians, the study said, the union should be able to effectively represent both military and civilian personnel.

The report dismisses collective bargaining for military personnel for now, but proposes seeking a new executive order that would permit it.

In the absence of authority to conduct collective bargaining, the study said, the union would restrict itself to other means of representation, including:

- Legal representation at general courts-martial, records reviews and other administrative proceedings.
- Lobbying for military people.
- "Professional representation," including efforts to improve the military image and monitor defense policies bearing on the military member's welfare.

Specifically, AFGE would "provide a focal point for institutional consultation with military commanders, secretaries of the three military services and the Secretary of Defense on essentially nonmilitary matters such as military pay, pensions, fringe benefits, leave policies, family housing, medical care, etc."

The study examined several of the common objections to military unions, including the criticism that one union could not represent both military and civilians or enlisted and officers because of conflicting interests.

Military unions in Europe have no common pattern, but are organized to conform with each situation, the study said. In some cases, officers and enlisteds, civilians and military members, each have separate unions. In others, all categories are represented by a common union.

"The same pragmatic approach is more likely than not to occur in the United States," the report said. "This means that AFGE could start by accepting all military personnel of the U.S. armed forces who applied as associate members, on the basis that all federal civilian and military personnel have many important common interests. This is certainly true with respect to pay, pensions, occupational safety, contracting out and many others that could be mentioned.

"If authorized to proceed, AFGE should permanently limit the operational scope of activities and the issues on which it will represent military members to peacetime living and working conditions, interests, rights and benefits, and exclude all national emergency and purely military operational activities and issues."

The report said AFGE can accept certain limitations. Even if AFGE had the right to strike, it said, a union of military personnel should voluntarily assume the obligation not to strike. However, this obligates military managers to bargain in good faith. There must also be effective alternative means, such as binding arbitration, of resolving impasses and disputes, it says.

The study said a military union must be politically neutral and that representation would automatically terminate in time of war or national emergency.

The report said that by helping the commander identify minor irritants before they become big problems, unions could help maintain morale and discipline.

The resolution to admit military people to AFGE must be approved by at least two-thirds of the approximately 3500 delegates present and voting at the convention.

Kenefick said that unless there is widespread interest among military people in quick action, AFGE probably would not immediately launch an organizing drive if the resolution is approved.

Other military union developments:

The Association of Guard and Reserve, an adjunct to the Association of Civilian Technicians, has signed up some Air National Guard members already. AGR is poised to kick off a nationwide recruiting drive July 1.

The National Maritime Union has been studying military unions in Europe and organizers are awaiting instructions from national officers on how to proceed with organizing military personnel. "We're definitely going to go ahead with it," Lou Parise, branch agent in the NMU headquarters at Philadlephia said.

Sen. Strom Thurmond (R-S.C.) and 30 other senators have introduced a bill to ban military unions. Similar legislation is pending in the House.

According to Defense policy, soldiers are not forbidden from joining military unions, but commanders cannot negotiate with military unions.

[From the Aiken Standard, Aiken, S.C., July 8, 1976]

Unionizing Our Defenses

Rep. Floyd Spence, R-S.C., has introduced a bill in the House which would prohibit the unionization of military personnel. Similar legislation has been proposed in the Senate by Sen. Strom Thurmond, R-S.C. In our view, Big Labor is serious in its proposal to organize the military, and the Spence-Thurmond initiatives should receive prompt action in the Congress.

"Unions have served a valid purpose in the private sector by providing a means for workers to improve their own lot through higher wages and safer working conditions." Rep. Spence said "On the other hand, the military is not operated at a profit. Its sole mission is defense of this nation. The experience of other countries which has allowed union organization of their military has shown that union activities operate at cross purposes with the defense mission."

Not too long ago the concept of union activity in the armed forces was farcical. Duty, honor, country gave a meaning and a purpose to military service far beyond what any union contract achieved through collective bargaining could

possibly provide. Where rights and benefits for the individual serviceman were concerned, each uniformed service "looked after its own."

In the post-Vietnam era the serviceman's traditional rights and benefits—and his prestige—have been chipped away at the very time the armed forces were being required to operate on an all volunteer basis. Though a majority of servicemen remain committed to the high ideals of the military calling, many who serve today have little or no understanding of the code of duty, honor, country that motivated past generations of servicemen through long years of low pay, arduous living and working conditions, and prolonged family separation. The unwise "democratization" of the military has further eroded discipline and morale. Today there is no question that a significant segment of the armed services is ripe for union activity.

The record of public employe unions is written large in crippled cities, increasing tax burdens and dwindling services. It would be a tragedy of the first order if the same unions obtained free rein to operate within the ranks of those who are entrusted with the nation's defense and survival of the Republic.

[From the Indianapolis News, Sept. 25, 1976]

UNIONIZING THE ARMY?

The unionization of the U.S. armed forces came a step closer to being a reality Thursday when the national convention of the American Federation of Government Employes voted to make military personnel eligible for membership in the union of Federal employes.

In addition to approving this change in the union's constitution, the AFGE elected the aggressive Kenneth Blaylock of Montgomery, Alabama as its new president. Observers in the union have predicted he will bring a "Jerry Wurf type of militancy to the AFGE."

Jerry Wurf is the president of the American Federation of State, County and Municipal Employes. Strikes by AFSCME affiliates have shut down police, fire, sanitation and transit services in numerous cities over the last few years.

That union militancy of this kind might become a part of Federal labor relations is disturbing. The possibility that it might be extended to the military is downright alarming, and legislative prohibitions are clearly in order. The threat of an active organizing effort, it is clear, will also be used as a club to extract concessions from the government in other areas. In the words of one AFGE official, it is something "the establishment would have to deal with."

While union leaders may pledge that nothing destructive of military discipline and effectiveness will be done, there is little reason to take such pledges seriously. In defending the proposal, president-elect Blaylock pointed out that other unions, notably the Teamsters, may attempt to unionize the military and it was important for AFGE "to be in a position to get a piece of the pie."

That remark illustrates much of what is wrong with unions in both the private and public sectors.—a tendency to view workers and the public they serve as a pie to be divied up.

While the union literature claims that servicemen are mistreated and clamoring for some kind of union representation, there is little actual evidence of such sentiments. To the contrary, a poll of both civilian and military personnel in AFGE's largest district, the fifth, showed a preponderance of opinion to be against it.

The president of the fifth district noted the only support for unionization came from the younger, lower-ranked military personnel who resent such characteristically military regulations such as saluting and rules about beards and hair lengths.

He observed that unionization was backed only by those temporary non-career personnel who have no commitment to the effective function of the military.

They are, of course, entitled to their preferences, but our elected officials have a very definite commitment and will call on them to pass promptly a bill sponsored by Sen. Strom Thurmond, R-S.C., forbidding unions in the armed services. We also call on the presidential candidates—despite the endorsement of Carter by the AFGE—to declare their unqualified opposition to military unions.

[From the U.S. News & World Report, Oct. 25, 1976]

AN EDITORIAL: ON THE OTHER HAND—

(By Howard Flieger)

A few weeks ago, this space was devoted to a discussion of the current movement to unionize the American armed forces.

The point was made then—and is re-emphasized now—that military service should not be equated with accepted labor-management practices. The ultimate weapon of labor is the strike, and the idea of a strike by the military, no matter how remote, is intolerable.

That article produced a torrent of mail from readers. Most agreed with the central point, but many argued that the armed forces are being doublecrossed by Congress and the Department of Defense.

That is, indeed, a serious charge.

It is one thing to say that people who volunteer for military service forego the accepted "rights" of civiilan workers. But, in so saying, it should be understood that "management"—in this case Congress and the Government—must keep faith with those they recruit. If that faith is broken, it is understandable that servicemen and women will feel cheated by the uniforms they wear.

In line with this thought, a retired Navy officer wrote:

"My almost daily discussions with active-duty personnel indicate a deep sense of bitterness, disappointment, resentment and general distrust of both Congress and the Department of Defense. The reasons, I believe, are in part due to the constant erosion of the benefits and entitlements long believed a part of the military man's career."

Another retired officer, an Army colonel, agreed with the idea that a unionized military would be self-defeating from a defense standpoint, but stressed:

"It, of course, must be understood and accepted by each citizen of our great republic that rewards and benefits promised by them through their elected representatives in Congress to those Americans who volunteer to enter our national security forces and accept the discipline of a single command as the defenders of America must be provided exactly as promised."

From a serviceman still on active duty:

"The only reason, and the moving reason, why we in the active military are being forced to not just consider unions but to move toward them is the virtual abandonment of us by our traditional 'father' in Washington, the Congress.

"We never needed unions in the past because Congress was always there to watch out for us and protect us.

"In recent years, Congress has largely abandoned us. They have started removing our compensation in pay and benefits left and right with no trade-off. With no one to look out for us any more, or help us any more, but rather those who should be looking out for us turning out to be the very ones who are destroying us, we have to come up an alternative protector.

"What can that be but a union?"

Who out of service can say whether these complaints are justified? In a recent speech, the Strategic Air Commander, Gen. Russell E. Dougherty, said:

"We must be on guard not to oversell, as a huckster would, benefits of a service life—by overemphasis on the good pay, health care, vacation benefits, the early retirement and opportunities for travel. These misrepresent our service as one prolonged vacation—and we know it isn't."

Has the military population really been sold a bill of goods by Congress and the Defense Department? Right or wrong, it is obvious many think so, and their complaints should be heeded.

A unionized armed force makes no sense as a front line of national security. But neither does a disgruntled and disillusioned armed force. It is a situation that needs urgent attention by Washington.

[From the Indianapolis Star, Nov. 21, 1976]

UNION ORGANIZERS "COURTING" FORT HARRISON G.I.'S

The latest "hot bed of unionism" may turn out to be—are you ready for this—the United States Army's sprawling Fort Benjamin Harrison.

The union members will be no less than the nation's fighting men themselves, following a recent decision that they could join the American Federation of

Governmental Employees (AFGE) which previously was only open to civilian government workers.

Numerous Fort Harrison officials are becoming increasingly concerned over the success the union is having in its recruitment drive. It now has some 50 members and the number is expected to grow daily.

Union officials reportedly have targeted on Fort Harrison, home of the Army Finance Center and the scene of considerable technical recruit training, for a concentrated effort to get membership cards from the military personnel.

The fort is considered "virgin territory" since most of its troops are young, non-career enlisted men.

While the impact of such a far-out notion as "military unionization" is still being debated, many senior career personnel believe it is contrary to tradition and prejudicial to good order and discipline—so there.

Union officials have said that the benefits would be abolished in time of war.

But—in peacetime—the common soldier should have someone to go to bat for him, union officials claim.

So, pardon the military official who appears to be nervous. He could have a different kind of strike force to contend with, or maybe the National Labor Relations Board.

[From the Wichita Eagle and Beacon, Nov. 28, 1976]

UNIONS' PLAN TO ACTIVELY RECRUIT ARMED FORCES ALARMS CONGRESS

(By David Einhorn, Knight News Services)

Two of the nation's largest labor unions are moving ahead with plans to organize the armed forces, and congressional opponents are unsure that legislation can stop them.

Executive board members of the International Brotherhood of Teamsters have discussed the union's intentions during several secret meetings.

The other union, the AFL–CIO affiliate American Federation of Government Employes, (AFGE), recently changed its constitution to allow military membership and will begin active recruiting next year. Leaders of the union, which represents 700,000 government employes, have outlined plans for "limited" unionization of the military in a soon-to-be-released position paper.

A Teamster source said that leaders of that 2.3-million-member union have avoided drawing up specific plans or appropriating funds for fear of arousing substantial congressional opposition, which up until now has been latent.

The source said that precise Teamsters policy would be made later and would depend upon merger talks with the National Association of Government Employes (NAGE), a smaller civil service union that rivals AFGE.

Ken Lyons, president of the NAGE, confirmed that the association talked merger with the Teamsters—at the Teamsters' request—but insisted that military organizing has never been discussed.

Both NAGE and the National Maritime Union, another AFL-CIO affiliate with whom the Teamsters has discussed a merger, are involved or interested in organizing the military. In 38 states, NAGE represents National Guard technicians who work at civil service jobs during the week and serve in the National Guard on weekends. The maritime union, which represents 55,000 crewmen on American vessels, reportedly has studied organizing Navy personnel.

Ten bills to prohibit union organizing of the armed forces died in Congress during the last session. A Senate bill introduced by Sen. Strom Thurmond (R-S.C.) had 31 co-sponsors.

Sen. Sam Nunn (D-Ga.) said "most senators don't think it (union organizing of the armed forces) is going to happen, no matter what Congress does."

Nunn and Senate Armed Service Committee sources said that if passed, Thurmond's bill would probably face a constitutional test on First Amendment grounds of freedom of association. Nunn said the language of the bill might prompt "complicated legal problems," but committee sources said they questioned whether a court would uphold any law prohibiting union organizing.

The Teamsters' Washington headquarters officially denied that the union has any interest in or plans to organize the armed forces. Harold Gibbons, one of 16 vice presidents who make up the Teamster executive board policy, said anyone who would indicate otherwise is "a deliberate liar, stupid or uninformed."

Denial also came from Norman Goldstein, assistant organizing director, who earlier this year denied the Teamsters were making any concerted effort to organize city and state police agencies.

The Teamsters are the official bargaining agent for 200 police agencies in a dozen states from coast to coast. Goldstein's denial was in response to a story by Clark Mollenhoff in the Des Moines Register, in which Teamster organizers throughout the nation spoke openly of efforts to recruit police.

AFGE President Ken Blaylock said fear that the Teamsters were interested in organizing the armed forces partly accounted for his union's decision at its annual convention Sept. 23 to allow military membership. The union's constitution previously had barred military personnel from joining.

AFGE executive board officials said in a convention meeting that they "wanted to have the gun in the holster"—a reference to using the threat of organizing the military in bargaining talks for civilian government employes, and to being able to counteract any Teamster moves.

Blaylock and other leading AFGE officials charge that the Teamsters at one time set aside funds for military organizing, but were forced to delay plans when scandals came up involving union pension funds. Teamster officials deny funds were ever appropriated.

Congressional opponents, Defense Department officials and spokesmen for at least 12 military associations and veterans groups have strongly rejected any suggestion of unionization.

A public affairs spokesman for the Defense Department said in prepared statement that "if the collective bargaining process were applied to the military environment, command authority could suffer erosion, which in turn could lead to a decline in our national capability . . . (to protect) national security."

Nunn said that unionization would inevitably lead to more fringe benefits added to a military budget of which 68 per cent already is spent on personnel.

Sen. Barry Goldwater (R-Ariz.), a co-sponsor of the Thurmond bill, said unionization "would mean the end of America's armed forces."

Blaylock's plans to move ahead with AFGE organizing come despite dissent within his own union and the disapproval of AFL–CIO President George Meany.

A spokesman for Meany said that the labor leader has long opposed unionizing the military, and consider union involvement to be a "conflict of interest."

[From Jefferson Pilot Broadcasting, Dec. 1, 1976]

WBT/WBTV Editorial: Unionizing the Military

Short of full-scale nuclear attack or devastating plague, hardly anything could be so disastrous to this country as for its armed forces to go on strike at a critical time. Yet there's a budding effort to unionize the military; and since a union's weapon is the strike or threat of it, this budding effort needs to be nipped while it's in the bud.

No matter that the unions say they only want to help military personnel in such matters as fair pay and pension (which, in our view, are mighty fair already). No union we ever heard of was content just to get its foot in the door; and, in no time at all, matters of discipline, training, duty hours and the right to command would be up for collective bargaining. Military effectiveness would be eroded. And lurking beyond would be the constant threat of strike.

Last March Senator Strom Thurmond introduced legislation to forestall such a threat, and was joined by 30 other senators including both of North Carolina's. But that was the end of it. Fears were expressed that prohibiting the military from unionizing would be unconstitutional. Yet the Supreme Court has repeatedly held that the military stands distinctly apart.

In one case the Court said: "Military activities cannot be governed by democratic procedures; military decisions cannot be made by vote of the interested participants." In another, the Court said: "The fundamental necessity for obedience and the consequent necessity for discipline may render permissible within the military that which would be constitutionally impermissible outside it."

Exactly. No one is forced into military service these days. And few are likely to enter it without recognizing the responsibilities and restrictions imposed. It is no place for a union to be sticking its nose and collecting dues. We hope that when Senator Thurmond reintroduces his prohibitive legislation next term, it will be promptly and overwhelmingly enacted into law.

[From the Washington Star, Dec. 11, 1976]

A National Security Matter

Congress ought to ban military unions. Bills have been introduced but nothing has come of them, apparently because few thought the threat was serious. Surely the AFGE's activity is convincing enough to produce action in the next Congress.

But the problem does not end with a law prohibiting unionization. Several letters written in response to our last editorial, most of which agreed that unionization would be a threat to national security, raised the question: Why does the AFGE consider the military ripe for unionization?

One writer suggested that the answer can be found in "the steady loss of benefits" for military personnel, "broken promises, ridicule, and uncertain future and ineffective representation by those on whom, in times past, the military depended for support." Another described it as a "definite and continuing lack of empathy for (military personnel) by their leaders in the legislative and executive branches of our government."

Congress ought to ask itself whether these complaints are valid. If they are, it has an obligation beyond banning unions; it must improve conditions that make servicemen and women susceptible to the blandishments of union organizers.

[From the Philadelphia Inquirer, Dec. 12, 1976]

Armed Forces Unionization Should Be Blocked Now

The American Federation of Government Employes, which with some 300,000 members is the largest public employes union in the nation, has begun, then temporarily pulled back on, what is billed as an all-out effort to unionize America's armed forces. We believe the Congress and the Defense Department should respond with an all-out effort to block a campaign which is ominous, in fact downright dangerous, from both military and economic standpoints.

There is no limit to the ambitions of labor organizers, and no real reason to expect that there will be. It is the nature of labor leaders to want more jurisdiction, more members, more pension funds, more dues. The greatest area of such aggressive growth in recent times is among public employes, so why not the Army, Navy and Air Force?

There are several good reasons why not.

One is that, like it or not, military organizations exist for the sole purpose of having the capacity to fight. Divided loyalty, resistance to command authority, erosion of organizational flexibility—all of which would automatically follow unionization—would revolutionize American military structure, and not for the better.

The organizers' claim that they would be willing to suspend such things in times of national emergency is meaningless nonsense, for it is the capacity, the potential, to behave in military fashion that peacetime armed forces are all about.

Even more threatening, however, is the likely economic and political effects of the movement, should it succeed.

Already, at local, state and federal levels, Americans are seeing a vicious, self-serving cycle of public employes' unions bargaining with—and striking against—government officials who are perilously susceptible to political influence from the labor movement. Contract settlements, in wages and especially in astronomically expensive fringe benefits such as pensions and non-working time privileges, have bloated government budgets all about the nation to near-bankruptcy levels.

America's defense expenditures, who nobody convincingly claims are managed without waste, are too high. One of the grossest reasons for the excess is the ponderous inflexibility of the institutions involved. It is very hard to get a firm managerial hand on military systems.

To add to that momentum the self-perpetuating, payroll-bloating, bed-feathering tendencies which public employes' unions have produced in civilian areas would have a predictable—and irresponsible—effect.

There is an effort afoot in the Congress to have early hearings on a number of bills which would prevent unionization of the armed forces. They should move forward swiftly and positively. Meanwhile, the Pentagon should hold fast the line.

[From the Washington Post, Dec. 13, 1976]

MIKE CAUSEY

Military Unions: American Federation of Government Employees have told its local NOT to accept membership applications from uniformed members of the Army, Navy, Air Force or Marines. AFGE has nearly 280,000 civilian federal members, but no military dues-payers. A news story last week said the AFL–CIO union had begun organizing the armed forces, but the AFGE says that is not true.

AFGE's convention this summer dropped the constitutional ban against permitting military members, but the union's new president Kenneth T. Blaylock still views that as standby authority to be used only if he and the AFGE leaders think they can be successful in any such drive and that the benefits of it would outweigh the disadvantages.

Blaylock has named a committee to study unionizing the military and report back in February. But in the meantime the AFGE doesn't want to do anything to irritate the new Carter Administration or the Congress. Neither has commented on what they think about the prospects of a union-label military, although most top Pentagon brass are opposed to the idea.

[From the Columbia (S.C.) Record, Dec. 15, 1976]

UNIONIZING THE ARMY

As rapidly as possible after the new Congress convenes, Senator John Stennis should begin and conclude with dispatch hearings on Senator Strom Thurmond's bill (S. 3079) to ban unionization of the American military. The reason: the American Federation of Government Employes already has begun recruiting organizers among servicemen and women at two bases in New Jersey. That's just the first step in a nationwide effort to unionize military personnel.

Senator Thurmond recognized the danger some time ago. His bill would effectively prevent unionization and is co-sponsored by at least 30 of his Senatorial colleagues, from both sides of the aisle.

Unionization is a clear and present danger to the effectiveness of our nation's armed forces as a common defense among the United States. Unionization is, and will continue to be, totally destructive of and incompatible with the mission of democracy's armies and navies.

Defense Secretary Donald H. Rumsfeld properly has said that labor organization is not compatible "with the mission of the armed forces."

May we suggest that actions of the AFGE may be constitutionally invalid? Federal employes are not covered by the National Labor Relations Act, the law that gives most workers the right to organize and bargain collectively.

However, Executive orders issued by every President since John F. Kennedy establish those rights for federal employes as well. But a President may NOT, under the Constitution, extend those rights to members of the military. Only the Congres can.

Very carefully, the writers of the Constitution provided that Congress, not the President, had the power "to raise and support armies." Deliberately, the power was placed in the hands of Congress, to deter any emboldened Chief Executive from misusing authority.

Additionally, the Constitution gives to Congress—not the President—the power "to make rules for the government and regulation of the land and naval forces." Hence, any executive order applying to federal employes does NOT extend to military forces.

If we reason rightly, then no Executive orders are applicable. Congress alone, writes rules "for the government and regulation of the land and naval forces."

Senator Thurmond's bill to prohibit unionization of the armed forces would remove the clear and present danger to the nation. We urge the responsible and respected Senator Stennis to move the Congressional forces swiftly to the battleground; and we suggest that the incoming Secretary of Defense promptly survey the legality of the AFGE's preliminary forays.

[From the State, Columbia, S.C., Jan. 22, 1977]

UNIONIZED ARMY NOW ON "HOLD"

(By Victor Riesel)

WASHINGTON.—For some still obscure reason, labor leaders who were all gung ho for unionizing the armed forces enlisted personnel are marking time.

Which doesn't quite mean that the American Federation of Government Employees (AFGE) isn't handing out registration cards among the Green Berets at Fort Devens, Mass., or among Marines at Fort Carson, Colo., among the airmen and women at McGuire Air Force Base and the soldier boys and girls at Fort Dix, both in New Jersey.

If I understand correctly the small print in the 260,000-member union's memoranda, it does mean the AFGE is prepared to wait for the incoming new commanders led by Secretary of Defense-designate Harold Brown. In effect, this AFL–CIO affiliate, which already has thousands of Pentagon officials and civilian employes signed up, is saying it might be better to wait and see if Secretary Brown changes conditions so that it won't be necessary, after all, to sign up the Army, Navy, Marines and Air Force en masse.

Or perhaps it might be possible to leapfrog the mammonth chore of unionization and bargain directly with the new brass. Then it wouldn't make much difference whether or not there were a series of private industry-type union recognition elections among the uniformed enlistees.

It takes no covert operation to glean this. It's all there in the union's own reports. Such as, for example:

"Should the Carter administration radically redirect Pentagon policies which now threaten the welfare of military personnel, would the original interest expressed by the majority of military personnel dissipate to the point that it would not be reasonable for us to represent these personnel?"

There isn't any report on who contacted whom in this transition period. But certainly, suddenly the word went out from top AFGE headquarters to their local officials to cool it at the military, air and naval bases.

Apparently news reports of AFGE unionization drives simply uncorked another Niagara within America's armed forces.

Tens of thousands of enlistees dramatically developed grievances, quickly sought help in obtaining GI educational benefits and swiftly learned that a little pressure here, a little push there and you can get yourself assigned overseas to some installation with a golf course and sunny beaches attached.

So the AFGE Executive Council began meeting. Instantly the AFGE high command saw what was gushing through the voluntary armed forces sluice gates. In no time at all, civilian groups raced to its assistance. The Friends' Military Counseling Service in some areas helped union organizers, for example. At one base the Friends marched with a banner with the legend "AFL–CIO." Leaflets were distributed. Sign up was the message.

Then the AFGE council began asking itself: "Can we adequately provide legal representation to military personnel involved in general and summary court martials. Article XV (noncriminal discipline), and provide effective congressional representation with the present staff resources at our disposal?

"If not, how long will it take to evolve capabilities along these representational lines?"

And the unions' leaders asked themselves, "Do we have sufficient dialogue at this point between those military personnel most deeply affected by organization and our own leadership?"

And, "Will our structure be one which integrates military personnel and civilians into a separate organization or an integrated organization?"

Suddenly, it all loomed like Mount Rushmore over a split-level ant hill. Would the AFGE have enough time, money and business agents to handle tens of thousands of military grievances and still service its own locals who already are in battles—such as those with the Navy over contracting out and with the Bureau of the Mint over wage increases—for the civilian employees?

If the AFGE organized a new affiliate of military men and women, how could these secondary soldiers, sailors, Marines and air people—inexperienced in labor tactics—be kept from reckless or politicized militancy which would overwhelm the regular AFGE?

And what of the impact of a strike by amateur military unionists? Would this be sedition? Treason? Mutiny?

So, the AFGE's high command met and cooled it. In December the Executive Council instructed all AFGE local unions "to set aside any formal applications of membership" of military enlistees until many problems "can be satisfactorily addressed to this board when it meets again February. It is the considered opinion of this board that we must adopt a program which is detailed, specific and orderly—we have not yet developed such a program."

Actually the AFGE's leadership will meets March 7–9. By that time they will know more of what Secretary of Defense Harold Brown believes. They plan to contact him or his deputy for manpower. Obviously, this business of attempting the unionization of hundreds of thousands of young military and naval personnel has gotten too big for the AFGE leadership. They do say that they won't abandon the drive.

But it seems to me they are also saying that Defense Secretary Brown would make a right good business agent of the campaign.

So the pasting of the union label on soldier boys and girls is marking time. But the regular Pentagon officials aren't at ease. Everything is under surveillance. It may yet get out of hand.

[From the AEI Defense Review, February 1977]

Military Unions: No

(By Strom Thurmond)

In late 1975, it became clear to me that a strong effort would soon be made to unionize our military forces. I did not reach this conclusion quickly or lightly. I reached it after loud warnings from the media and after careful observation of the planning going on within the American Federation of Government Employees union. The late Clyde Webber, the former president of the union, clearly signaled the intentions of the AFGE in his testimony before the Defense Manpower Commission on August 18, 1975.

The occasion had been preceded by ominous reports in the Wall Street Journal and the Army Times and in an interview that was printed in the Times' magazine. But the transcript of his testimony before the Defense Manpower Commission convinced me beyond a doubt that this dangerous scheme was already under way and that something had to be done to stop it.

In his testimony, Mr. Webber said: "Since it appeared that AFGE and armed forces personnel would have a continuing mutual concern in pay adjustments in the future, I recommended to the AFGE National Executive Council—our policy board—that we consider offering membership within the AFGE to members of the uniformed military." Furthermore, at the same time AFGE was planning unionization of the military, two other unions were looking into the same possibility.

Prior to advocating legislative action, I communicated my concerns to the civilian leadership of the Defense Department and others in the government. In their responses, they flatly denied that legislation was needed and they suggested that AFGE was pursuing this matter only as a ploy for publicity. Underlying these responses, there seemed to be a feeling that I was unnecessarily alarmed, that AFGE was not serious, that other unions were not interested, that nothing should be done.

On March 4, 1976, together with twenty-four other senators who agreed that the unions should not enter the uniformed sector of our armed forces, I introduced a bill, S. 3079, which would have prohibited unionization of our military forces.[1] It included criminal sanctions against those in uniform, as well as

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[1] Joining me as cosponsors of S. 3079 were Senators James B. Allen (Democrat, Alabama), Dewey F. Bartlett (Republican, Oklahoma), William E. Brock III (Republican, Tennessee), Lawton Chiles (Democrat, Florida), Carl T. Curtis (Republican, Nebraska), Pete V. Domenici (Republican, New Mexico), James O. Eastland (Democrat, Mississippi), Paul J. Fannin (Republican, Arizona), Jake Garn (Republican, Utah), Barry Goldwater (Republican, Arizona), Clifford P. Hansen (Republican, Wyoming), Jesse Helms (Republican, North Carolina), Roman L. Hruska (Republican, Nebraska), Paul Laxalt (Republican, Nevada), John L. McClellan (Democrat, Arkansas), James A. McClure (Republican, Idaho), Robert Morgan (Democrat, North Carolina), Frank E. Moss (Democrat, Utah), Sam Nunn (Democrat, Georgia), William L. Scott (Republican, Virginia), Robert Taft, Jr. (Republican, Ohio), Herman E. Talmadge (Democrat, Georgia), John G. Tower (Republican, Texas), and Milton R. Young (Republican, North Dakota). Soon after the bill was introduced, Senators Hugh Scott (Republican, Pennsylvania), Quentin N. Burdick (Democrat, North Dakota), Henry L. Bellmon (Republican, Oklahoma), James L. Buckley (Conservative/Republican, New York), Robert Dole (Republican, Kansas), and J. Glenn Beall, Jr. (Republican, Maryland) joined as cosponsors.

civilians, who attempt to organize our military. The bill also included a provision empowering courts to fine any organization found guilty of making such attempts, with the penalty set at not less than $25,000 or more than $50,000.

Unfortunately, although I made a number of attempts to schedule hearings, S. 3079 was a victim of the election year. The bill died when the 94th Congress adjourned in 1976.

Two events which took place in the waning days of the 94th Congress should convince skeptics that unionization of the military is an issue which must be squarely faced in the 95th Congress. First, the Association of Civilian Technicians began to recruit military members from our reserve component forces. Then, in late September 1976, AFGE voted in convention to amend the union's constitution to permit recruiting of members of our military forces.

Early in the 95th Congress, on January 18, 1977, I introduced S. 274, a bill to prohibit unionization of our uniformed military forces. In addressing this subject, I repeated my previous assurance and that of the cosponsors: This is not legislation against unions; it is legislation for a sound defense force for our nation.[2]

MILITARY UNIONS IN EUROPE

Some people have argued that experience with military unions in several European countries should relieve any concern that might be felt over possible unionization here. The official line in those countries is that all is well with military unionization, but this is only to be expected. The leaders of these countries would hardly admit publicly that their policies had been a mistake.

Those who saw the presentation of the unionized Dutch army on "NBC Weekend" on August 28, 1975, will not be fooled. It was worth many thousands of words. To all appearances, the Dutch army today is responsible to the union as much as to the government. After a train hijacking in the Netherlands last year, Lt. Col. Hendrik Bijl, the Dutch battalion commander of the soldiers on the scene, was reported to have said: "I am speaking personally, you understand, but the best kind of army we can have is where a soldier can say, 'No, I will not do that because I do not believe in it.' Ideally, soldiers should have the right to elect—and dismiss—their officers."[3] He had few problems on this operation because the soldiers believed in their task, but in other circumstances, he stated, they might all disobey: "In a strike by a union, I cannot say the army is fully prepared to fulfill its mission—and I am glad to say that."

General Marcel Bigeard, a legend in his own time in the French army and now France's secretary of state for defense, had this to say on the unionization of the European military services: "There is afoot an enterprise of demoralization of armies on a French and European level which has been going on for five or six years . . . the matter is serious. . . ."[4] It certainly is. In several documented instances, members of unionized armies in Europe elected to demonstrate loyalty to the union at the expense of a mission.

Some of the so-called military unions in Europe that have the best record are not truly unions. They fit more into the pattern of our associations. They have no bargaining power.

The argument has been made that, in countries with different cultures, the expectations of the people are different and norms of behavior are different. According to this line of reasoning, a military union in the United States would not necessarily behave in the same way as one in Germany. This approach, however, is entirely too speculative. If military unions have proved irresponsible

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[2] Joining me as cosponsors of S. 274 were Senators James B. Allen (Democrat, Alabama), Howard H. Baker, Jr. (Republican, Tennessee), Dewey F. Bartlett (Republican, Oklahoma), Henry L. Bellmon (Republican, Oklahoma), Lloyd M. Bentsen (Democrat, Texas), Harry F. Byrd, Jr. (Independent, Virginia), Lawton Chiles (Democrat, Florida), Carl T. Curtis (Republican, Nebraska), John Danforth (Republican, Missouri), Robert Dole (Republican, Kansas), Pete V. Domenici (Republican, New Mexico), James O. Eastland (Democrat, Mississippi), Jake Garn (Republican, Utah), Barry Goldwater (Republican, Arizona), Clifford P. Hansen (Republican, Wyoming), Orrin G. Hatch (Republican, Utah), Jesse Helms (Republican, North Carolina), Ernest F. Hollings (Democrat, South Carolina), Paul Laxalt (Republican, Nevada), Richard G. Lugar (Republican, Indiana), John L. McClellan (Democrat, Arkansas), James A. McClure (Republican, Idaho), Robert Morgan (Democrat, North Carolina), Sam Nnuu (Democrat, Georgia), Harrison H. Schmitt (Republican, New Mexico), William L. Scott (Republican, Virginia), Ted Stevens (Republican, Alaska), Richard Stone (Democrat, Florida), Herman E. Talmadge (Democrat, Georgia), John G. Tower (Republican, Texas), Malcolm Wallop (Republican, Wyoming), Milton R. Young (Republican, North Dakota), and Edward Zorinsky (Democart, Nebraska).

[3] Washington Post, Feb. 16, 1976, p. E6.

[4] Newsweek, Mar. 8, 1976, p. 43.

in other countries, we can hardly permit them to be organized in the United States on the flimsy hypothesis that they may possibly be more repsonsible here.

I draw a simple conclusion from the way unions work in European countries. Unionization of certain defense forces in Europe has not improved their readiness to defend their countries, which, after all, is the reason for the existence of a military force. The evidence points the other way. The division of authority between the government and the unions has left some European forces less ready and responsive. The all-important question of how a unionized military will perform in battle is yet to be answered. It must not be answered at the risk of American lives and liberties.

CONSTITUTIONALITY

Some have suggested that to prohibit military personnel from unionizing would be an unconstitutional deprivation of the First Amendment right to freedom of association. An examination of this proposition is in order.

The starting point is the Constitution. Article I, section 8, clause 4, specifically grants Congress the power "to make rules for the government and regulation of the land and naval forces."

In addition, in a decision upholding Articles 133 and 134 of the Uniform Code of Military Justice, the U.S. Supreme Court said: "This Court has long since recognized that the military is, by necessity, a specialized society separate from civilian society." [5]

Thus, while members of the military are not deprived of the freedom of association granted by the First Amendment, the different character of the military community and of the military mission requires a different understanding of this right. The fundamental need for obedience and the consequent need for discipline make it impossible for servicemen to do some of the things that civilians are entitled to do.

The "separate society" doctrine enunciated by the Court plainly suggests that prohibiting unionization of the military would be a valid exercise of legislative authority. Moreover, this doctrine prevents the application of cases involving civilian government employee unions to the question of military unionization. The distinction between military and civilian society is critical.

Without retracing the path of older decisions, two recent cases decided by the U.S. Supreme Court confirm the power of Congress to prohibit unionization of the military. In the first case, *Middendorf* v. *Henry*, the Court declared that members of the armed services may not be entitled to military lawyers in circumstances where a civilian defendant would have a right to appointed counsel. In the second, *Greer* v. *Spock*, the Court held that an armed forces post commander has substantial power to limit political activity on a military post—more than civilian authorities have in the civilian community.

Dr. Benjamin Spock brought this freedom-of-speech case against the commander of Fort Dix, New Jersey, after being refused permission to hold campaign rallies on the military post in 1972, when he was the People's Party candidate for President. Lower courts had ruled in favor of Spock, who challenged the ban as a violation of the First Amendment. The Supreme Court, however, reversed the lower courts and affirmed the political speech ban. In writing the opinion, Justice Potter Stewart said, "The military as such is insulated from both the reality and the appearance of acting as a handmaiden for partisan political causes or candidates. Such a policy is wholly consistent with the American constitutional tradition of a neutral military establishment under civilian control."

The underlying premise of these decisions is clear. The First Amendment rights of our uniformed military must give way to the extent that they conflict with the duties required of servicemen in accomplishing their mission. This small abridgement of rights is necessary to guarantee citizens the protection of a disciplined, responsive, and effective defense force.

Accordingly, Congress would be well within its constitutional authority in passing legislation that would prevent union activity within the uniformed part of our military. To split the authority over our servicemen between the President and Congress on the one hand and a union on the other would clearly undermine our national security.

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[5] *Parker v. Levy*, 417 U.S. 733, 743, 1974.

THE NEED FOR LEGISLATION

There are already some legal barriers to military unionization. Such a barrier is implied by article 2, section 2, of the Constitution: "The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States." Moreover, Presidential Executive Order 11491 precludes unions from engaging in contract and grievance negotiations with the armed services concerning uniformed servicemen.

In addition, the secretary of defense (under the authority given by Title 10, USC 133b) has declared, "Commanders are not authorized to recognize or to bargain with a so-called servicemen's union" (in Department of Defense Directive 1325.6).

There are also statutory provisions which would provide some restrictions on union activities in the uniformed military. The following crimes are punishable under Title 18 of the United States Code: enticing desertion (18 USC 1381); entering government property for any purpose prohibited by law or regulation (18 USC 1382); and striking against the government (18 USC 1918), though there is some question whether this statute applies to the military. In addition, a private citizen is prohibited (by 18 USC 2387) and 2388) from counseling a serviceman to mutiny, disloyalty, insubordination, or refusal of duty.

Finally, the Uniform Code of Military Justice contains criminal sanctions which are relevant to the issue. Various articles prohibit the following: soliciting or advising another to desert, to mutiny, to misbehave before the enemy, or to commit sedition (Article 82); desertion (Article 85); absence without leave (Artcle 86); disrespect toward a commissioned officer (Article 89); insubordinate conduct toward a warrant officer, noncommissioned officer, or petty officer (Article 91); disobedience of an order or regulation (Article 92); mutiny or sedition (Article 94); aiding the enemy (Article 104); malingering (Article 115); and riots or breach of the peace (Article 116). Article 134, the general article, prohibits disorders and conduct to the prejudice of good order and military discipline. Unionization would open the door to violations of any or all of these articles.

These laws and regulations are numerous and broad in scope. Taken together, they strongly discourage unionization. However, they do not forbid it. Given the seriousness of the possible consequences, we need a law which does forbid it—openly, flatly, and unchallengeably.

WHY UNIONS WILL NOT WORK IN THE MILITARY

The issue is not what is best for unions, individual servicemen, or, for that matter, any particular group or interest whatsoever. The military union issue must be considered in the context of what is best for our country.

The right of workers to form unions has been recognized in our nation for over a hundred years. The right to strike peacefully for higher wages and better working conditions is almost as old. Moreover, it is a lofty goal indeed that trade unions have pursued in becoming a national institution—to ensure the working man his fair share of economic benefits. In achieving this goal, the trade unions give a clear psychological and moral boost to the working man and, more importantly, and effective voice in bargaining. They also benefit society at large by counterbalancing the strong influence of industry.

But the valuable services of unions in civilian society are no argument for unions in the military. Civilan and military society, as we have seen, are simply too different from each other. Now let us consider other arguments that are made on behalf of military unions.

On September 23, 1976, the American Federation of Government Employees voted to change its constitution to permit recruiting of soldiers, sailors, airmen, and marines. The reasons for this course of action are presented in the transcript of a meeting of AFGE officers held in July 1976.

National Vice President Allen H. Kaplan had been charged with the responsibility, together with others of the leadership, of looking into the question of whether or not to unionize the military. His recommendation was affirmative, and his first reason was that unionization would give AFGE more power with Congress. As National Secretary Nicholas J. Nolan said bluntly, "What is important to the government and to our own status within the labor movement is that we have this weapon in the holster, and I think you should bear that in mind." A statement by the new AFGE president, Kenneth Blaylock, supported

this line of thinking. As reported by the Indianapolis News, on September 25, 1976, Mr. Blaylock noted that other unions might attempt to organize the military, and it was important for AFGE "to be in a position to get a piece of the pie." AFGE has approximately 260,000 members. Mr. Baylock's "pie" consists of the 2 million members of the uniformed military. This reason obviously carries little weight for those outside the union.

A second reason given by National Vice President Kaplan at the July 1976 meeting was that the military is tied to the classified pay system. He said, "We are carrying the military on our backs so to speak. And as long as we have got this system, it makes sense for them to pay their way." But who is carrying whom? As a practical matter, the military and veterans' associations consist of 5 million members. Their representatives are well informed and press their programs very successfully with the Congress. The AFGE can hardly claim to be the actual or rightful spokesman for the military. From a historical perspective, the members of our armed services have paid their way many time over. Their dues have gone not to unions but to the American people, and must be measured not in dollars, but in toil, sweat, and blood.

Another reason given by National Vice President Kaplan for organizing the military was to help the workers, a notion based on the false premise that uniformed military members are workers. There are similarities—just as workers have pride in their skills and jobs, members of our armed services have pride in their units, customs, and services. Again, however, we come back to the "separate society" doctrine, which has been sanctioned by the Supreme Court. Employment as a civilian, notwithstanding the rhetoric of union organizers, is not truly comparable to service as a uniformed member of our armed services. Distinctive features such as separations from family, the inability to quit, and, above all, the possibility of facing the enemy in battle make military service unique as a profession.

Just before the executive council voted, National Vice President Kaplan again spoke up, this time to state that by unionizing the military "we are really furthering the ideals of democracy." He went on to say, "We now have a professional army. It is subject to very little control. . . . The rank and file in the military have their associations which are quite broad and quite extensive, but they are weak. . . . The Congress have very little check on what happens in the military."

These surprising remarks require a second look to become clear. Apparently, Mr. Kaplan believes that the President, the Congress, and the civilian secretaries and their assistants have no effective control over our military. His idea is that, if AFGE gains control or a big share of control over our military, then civilians will be in charge, as they should be, and the country and the uniformed members of our military will be better served. He is wrong. Union control is not civilian control. Civilian control is nothing more or less than the system the Constitution calls for—command by the President and his deputies and appropriation and regulation by Congress. That system, regardless of what Mr. Kaplan says, is what we already have.

In my opinion, if the President and the Congress were to permit unionization of our military forces, both would be subject to attack in the courts for abrogating their constitutional responsibilities. Such an attack would not be difficult to support. If the President and the Congress should at any time fail to exercise their control over the military, the judicial branch of our government could step in to prevent any other person or organization from attempting to assume this power. The courts could act similarly to prevent any person or organization from sharing control. The President and the Congress are not at liberty to surrender or impair their constitutionally prescribed powers to any extent. This is particularly true of control of the military, for the language of the Constitution is exceptionally clear and precise.

So much for the reasons advanced by union leaders for military unionization. Where they are not false, these reasons are essentially self-serving. One reason that has not been mentioned, at least not openly, is the desire to see servicemen gain the right to strike. There are times, however, when true intentions may be learned less from words than from what has actually been done.

In September 1976, at the same time Mr. Kaplan was advocating military unions and AFGE was voting to open its rolls to the military, members of AFGE voted to remove the no-strike clause from its constitution. As reported in the Washington Post on September 25, 1976, 'the fact that strikes or slowdowns against government are illegal did not seem to faze delegates here. There

were constant reminders that nothing happened a few years back when 220,000 postal workers walked off the job."

The words of former AFGE President Clyde Webber are again helpful in determining what may be down the road. Before the debate became heated, he warned that the union could not guarantee control of a unionized military with respect to strikes: "The thing about it is that you cannot control individual elements of an organization, whether it happens to be the U.S. Army, as has been demonstrated a couple of times in the last three or four years . . . or the AFGE. People take into their own hands what they think they have to."[6]

The prospect of a military strike is almost too horrible to imagine. Even if it did not exist, though—even if we could count on military union members to do without the traditional weapon of the labor movement—serious questions would be raised. For example, suppose AFGE civilian members voted to strike. AFGE civilian members and locals are located at installations throughout our defense establishment. If the military were unionized, would AFGE ask military members not to cross picket lines?

AFGE leaders and the rank-and-file members are all civilians. The primary interest of the union has been in federal civilian jobs. How would the unionization of the military affect the continuing differences between the manpower of the federal civilian establishment and the armed forces? Unions in the civilian sector have always had a considerable influence over the allotment and assignment of jobs. How much influence would AFGE demand over the people, positions, and organizations in the military forces?

In view of all AFGE has won for civilian employees over the years, what benefits could be expect the union to demand for the military that have not already been won by the professional military associations? How much of an increase in the defense budget would result from military unionization?

If only combat support forces were organized, who would supply and administer combat forces in the event of a wildcat "sickout" by the union members in these support forces?

It has been suggested that the union would cease to represent the uniformed military in time of war. How would a military force accustomed to and trained with union representation function without it? Could the union withdraw that easily?

These questions, unanswered and perhaps unanswerable, point to only one conclusion. Add to them the possible catastrophe of a military strike and that conclusion becomes unassailable. The military must be protected from unionization.

ATTITUDES OF THE MEDIA, THE PUBLIC, AND OTHERS

A question of great importance is how military unionization is perceived by the media, by our nation's civilian and military leaders, and by the public as a whole. The views they express give legislators valuable insights into the issue. What do the people of our country want?

The Media

Excerpts from the most cogent articles I have seen on this subject are included at the end of this paper in Appendix A. For present purposes, it is enough to cite some of the far-flung and highly respected papers that published them. In my home state of South Carolina, we find opposition from the News and Courier of Charleston, the State of Columbia, the Spartanburg Herald, the Aiken Standard, and the Sumter Daily Item. Nationally, the notion of military unionization has received strong disapproval from the Hartford Times of Hartford, Connecticut, the Bridgeport Telegram of Bridgeport, Connecticut, the Indianapolis News, the Washington Star, and the Dallas Morning News.

Typical of the editorial outcry are these words of John Chamberlain in his column of April 23, 1976, in the Richmond Times Dispatch: "This sounds so idiotic that it is hard to write about. But the movement to unionize the armed forces of the U.S. has been gathering momentum. . . . The business of introducing a shop steward between buck privates and the non-commissioned officers may be closer than we realize."

Radio and television commentator Paul Harvey of ABC News used equally strong language on February 26, 1976, asking: "Can you imagine how our nation's potential adversaries must be responding to this national hara-kiri in the U.S.?

[6] David Cortright, "Organizing the Military: The Union Wants to Join You," *Nation*, Feb. 21, 1976, p. 208.

. . . And now we contemplate subjecting our military leaders to the supervision of shop stewards with the inevitable potential for mass mutiny. One looks on and wonders." Commentator Ned Hinshaw of WTMJ television, WTMJ radio, and WKTI radio in Milwaukee, Wisconsin, made an important point on April 28 and 29, 1976: "Citizen control of the military has kept the army, navy, marines and air force out of politics in this country. It is imaginable that a unionized armed force who doesn't like the nation's leaders might try to take things into their own hands. It's a frightening thought."

Remember, these media reactions are representative, not exhaustive. Furthermore, I am not aware of a single newspaper, radio station, or television station that has supported military unionization. The public opinion polls that have come to my attention show the same consistent opposition to the idea. One conducted by Decision Making Information of Santa Ana, California, for the Public Service Research Council obtained results from a total of 1,529 in-home interviews across the nation between March 20 and March 30, 1976, which were summarized by the sponsors as follows:

> The survey reveals where Americans stand on unionization of the armed forces, with 82 percent opposed. The percentages are the same on permitting the armed forces to go on a strike. . . . The highest percentage of those opposed to military unions were among public sector non-union employees who were 87 percent against military unionization and 90 percent against strikes. This contrasted sharply with unionized public sector respondents who were only 71 percent opposed to military unionization and 72 percent opposed to strikes. Both union and non-union private employees likewise were overwhelmingly opposed to both unionization and strikes for the military.

A more detailed statistical breakdown is given in Appendix B.

Don G. Windle of Oxnard, California, conducted a more limited survey, mostly among servicemen. Of the 144 respondents, 131 of whom were members of the U.S. Navy, a majority of 89 percent proclaimed itself against military unionization. Alarmingly, though, 51 percent thought it possible that an attempt at unionization would be made.

A third poll was taken by Joseph D. Gleason, national vice president, second district, American Federation of Government Employees. Although Mr. Gleason's findings were based on only sixty-two ballots, his poll adds weight to the other two, since it was conducted by a member of the union that has been most outspoken about unionizing the military. Mr. Gleason found that 89.8 percent of those questioned were opposed to such an effort by his union and that 86.8 percent said that, if undertaken, it would not be successful.

The mail I have received on this issue provides yet another expression of public opinion on unionization of the military. In addition to many letters from associations and organizations, all opposing military unionizaton, some 262 letters on this subject have arrived at my office since I introduced S. 3079 in the United States Senate. Approximately a third of these letters came from my South Carolina constitutents, and the rest from all other sections of the country. Only 19 were in favor of unionization of the armed services, and 243 opposed it.

Two trends appeared in the arguments of my correspondents. On the one hand, the general public is vehemently opposed to the unionization of our military forces. On the other hand, it is equally clear that some service members perceive an erosion of the benefits guaranteed to them, legally or morally, when they entered the service. Members of this group believe that leaders in Congress and the Defense Department have not protected their interests. I shall have more to say about this subject later.

Civilian Leaders

Many civilian leaders have spoken out against unionization of the military. Secretary of Defense Donald Rumsfeld recently stated the position of the Department of Defense:

> The people of the military establishment are in fact the military establishment. They're fundamental to its importance and their morale and their treatment is of great importance. The idea of unionizing members of the armed services is fundamentally incompatible with the command structure

of the Military services. It reminds me of that wonderful line from, I believe, H. L. Mencken that for every human problem there's a solution that's simple, neat and wrong. That [unionization] is one.[7]

Through his campaign chairman, Rogers C. B. Morton, President Ford took a position in opposition to military unionization. Among members of Congress, vocal opposition has come from most of the best military experts.[8] Congressman William Whitehurst, in a poll of his district in Virginia, found 93 percent opposed to unionization. The great number of military personnel in his district, which includes Norfolk, makes this figure particularly striking.

Congressmen Spence and Young have introduced bills in the House which, like my Senate bill, would ban military unionization.

Military Leaders.

Nor can there be any doubt that our military leaders, active and retired, oppose any union role in the uniformed military with almost a single voice.

Admiral James L. Holloway III, U.S. Navy, chief of naval operations, could speak for all: "I believe unionism in the sense that there would be collective bargaining to determine whether or not certain operations would be undertaken is unthinkable in a military sense." [9]

General Bernard W. Rogers, U.S. Army, recently sworn in as chief of staff of the army, said: "We don't need any unions to represent our soldiers—that is a responsibility of the Army leadership." [10]

General Russell E. Dougherty, the commander-in-chief of the Strategic Air Command of the U.S. Air Force, stated the same view in a speech in October 1976 to the Air Force Sergeants Association: ". . . As long as there are perceptive, responsible men and women administering the affairs of our nation and intense, professional responsible officers and noncommissioned officers working together to keep intact this unique miracle that is the armed forces of the U.S., I see no need for changing the relationship of our country with its servicemen and women." [11]

Military and Veterans Associations

The military and veterans associations, with over 5 million members, include almost all of our present and past military leaders. Also included are the soldiers, sailors, airmen, and marines who brought this nation through troubled times in the past. Many of these organizations are on record on the subject of unionization of our armed services. They are well worth listening to.

Veterans of Foreign Wars: "Unions would interfere with the chain of command—would impair discipline and response to orders." [12]

Fleet Reserve Association: "If all enlisted men belonged to military associations, they would be more effective and get better representation. The associations provide a viable alternative to unions." [13]

The Retired Officers Association: "Unions are alien to our defense system. We and all concerned Americans must stand firm against them." [14]

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[7] U.S. Department of the Army, *Retired Army Bulletin,* Pamphlet 600–1, HQDA vol. 5 (October 1976), p. 1.

[8] Besides the senators who cosponsored my bill, lined up firmly against unionization are Senator Church (Democrat, Idaho) and Congressmen George Mahon (Democrat, Texas), J. P. Johnson (Republican, Colorado), John W. Wydler (Republican, New York), Bob Wilson (Republican, California), Lionel Van Deerlin (Democrat, California), Clair Burgener (Republican, California), Olin Teague (Democrat, Texas), Samuel S. Stratton (Democrat, New York), Sonny Montgomery (Democrat, Mississippi), Bill Young (Republican, Florida), Floyd Spence (Republican, South Carolina), William L. Dickinson (Republican, Alabama), and William Whitehurst (Republican, Virginia).

[9] *Naval Affairs,* March 1976, cover.

[10] *Army Times,* Oct. 25, 1976, p. 8.

[11] Supporting these prominent leaders are many others. To name only a few: Major General Winant M. Sidle, U.S. Army, retired, the highly respected former chief of information of the army; Admiral John S. McCain, Jr., U.S. Navy, retired, commander-in-chief in the Pacific from 1968 to 1972; Major General C. G. Cleveland, U.S. Air Force; Major General John Forrest, U.S. Army; Rear Admiral C. N. Mitchell, U.S. Navy; and Brigadier General William Fleming, U.S. Marine Corps. The last four of these men voiced their opinions at hearings before the Manpower and Personnel Subcommittee of the Senate Armed Services Committee.

[12] *Federal Times,* June 3, 1976, p. 5.

[13] Ibid.

[14] Ibid.

The list can go on almost indefinitely.[15] Associations of a nonmilitary character have also taken a stand against military unions. No association that I know of, military or nonmilitary, favors them.

The Unions themselves

Finally, we came to the unions themselves. Apart from the hopes and intentions of AFGE, there seems to be significant opposition to military unions even among labor leaders. George Meany, president of the AFL–CIO, has gone on record against military unions as recently as November 1976, according to Clark Mollenhoff.[16] Perhaps the most important figure in the labor movement in the United States, Mr. Meany is a patriot through and through and knows that the interests of the country are paramount.

The rank and file may well support Mr. Meany's position. In a letter I received recently, one local expressed itself as follows:

> We concur with the opinion that in the area of the armed forces, the trade union should not enter. As strong supporters of unions in the civilian sector of our country, we feel that the union has no role in the military. . . . The armed forces are our Defense Posture, which is one of the main arteries to the heart of our government and community; it assists and makes possible our democratic way of life.

Comments like these, taken in conjunction with other indications of public opinion, make one wonder just where the prounion sentiment is coming from. In other words, what is all the fuss about?

THE PROBLEM OF MORALE

In my opinion, this issue has emerged mainly because of the trend I mentioned earlier—servicemen regard their government as insensitive to their problems and unresponsive to their needs. Frustrated and disillusioned, they have become susceptible to the wiles of self-interested union advocates, such as the leaders of AFGE.

The Defense Manpower Commission has apparently observed the same regrettable development. After field visits last year, it made the following statement in its April 19, 1976, report: "Many members of the armed forces felt dismayed and disillusioned because of what they perceive to be neglect, disinterest, or a breach of faith on the part of their government; and there appears to be a significant communications gap between departmental policy-makers and troops in the units in the field."

Howard Flieger, in the U.S. News and World Report, October 25, 1976, came to the identical conclusion in his second editorial opposing military unions:

> [My first] article produced a torrent of mail from readers. Most agreed with the central point, but many argued that the armed forces are being doublecrossed by Congress and the Department of Defense.
>
> That is, indeed, a serious charge. It is one thing to say that people who volunteer for a military service forego the "accepted rights" of civilian workers. But in so saying, it should be understood that management—in this case Congress and the Government—must keep faith with those they recruit. If that faith is broken, it is understandable that servicemen and women will feel cheated by the uniforms they wear. . . . A unionized armed force makes no sense as a front line of national security. But neither does a disillusioned armed force. It is a situation that needs urgent attention by Washington.

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[15] Besides those already named, we find among the opponents of military unions the following: the American Legion; the National Association of the Uniformed Services; the Air Force Sergeants Association; the Non-Commissioned Officers Association; the Navy League; the Air Force Association; the Association of the U.S. Army; the National Guard Association; Disabled American Veterans; Disabled Officers Association; Jewish War Veterans; Legion of Valor; Marine Corps League; Military Order of the Purple Heart of the U.S.A.; National Association of Concerned Veterans; Naval Enlisted Reserve Association, Inc.; Naval Reserve Association; Paralyzed Veterans of America, Inc.; Polish Legion of American Veterans, U.S.A.; Regular Veterans Association; Retreads; Veterans of WWI of the U.S.A.; Blinded Veterans Association; Catholic War Veterans; Congressional Medal of Honor Society, U.S.A.; and the Combined National Veterans Association of America, which includes American X-POWS, AMVETS, and Army and Navy Union, U.S.A., Inc.

[16] *Des Moines Register*, Nov. 21, 1976, p. 1.

This is not news to those of us in Congress who take a serious interest in our armed services. On January 31, 1975, I wrote to the President to protest the erosion of military benefits, particularly a proposed reduction in commissary subsidies. My letter concluded:

> As you well know, our government has broken faith with our military community in many areas, especially our retired personnel, such as changing the long-established method of computing retired pay, slashes in the CHAMPUS program, and now medical and dental services and the commissaries are being chipped away.
>
> I strongly urge reconsideration of your proposal. In my view, the disadvantages far outweigh any possible limited and short-term advantages which might scarcely help our nation's economic ills.

My mail on S. 3079 has supported the findings of the Defense Manpower Commission and Howard Flieger, as well as my own position.

This problem of morale must be faced immediately. Loyalty must go from the top down as well as from the bottom up. Our military service members have a right to expect loyalty from the commander-in-chief, Congress, civilian leaders within the military departments, and the uniformed leadership of the armed services. If they do not get it, no legislation or directive will instill loyalty in them. What should the authorities do to reassure our servicemen that their interests are being protected?

To begin with, penny-wise and pound-foolish actions, which have affected our servicemen so adversely, must be defeated. The dispute whether service personnel, active or retirees, should be allowed to continue to buy goods at military commissaries provides a good example. Some leaders have tried to eliminate this benefit by using a technique I call bureaucratese. That is, although it is plain to see that something is being lost, they try to hide the loss in a fog of ambiguous or meaningless words.

Other leaders have said that salary increases have eliminated the need for some benefits, even though recruiting continues on the basis of those benefits, just as it has for years. Other techniques of equal guile have been employed at the expense of our servicemen. I have fought against such practices. Senator Barry Goldwater and others have also spoken out against them. Erosion or perceived erosion of benefits cannot continue if we are to have a well-motivated volunteer force.

The credibility of the leadership needs to be restored. Budget considerations must be given due weight, but keeping faith and telling the truth come first. When unpopular decisions must be made, we must be prepared to explain why. Honesty should replace guile. Our military people have always recognized, respected, and accepted the truth.

The military associations have a definite role to play in this endeavor. They have been heard with attention and respect. They must continue the activist role they have recently assumed, and they must continue to urge policies for the good of both our nation and our service members. They must keep their members informed and urge their increased participation in the electoral process. By so doing, they will help to dissipate whatever pressure may be felt for military unions. They will make our military union-proof.

SUMMARY OF THE ISSUE

To sum up, an effective defense force is built and maintained upon a foundation of discipline, patriotism, command authority, and quick responsiveness. This foundation cannot exist with loyalty divided between the chain of command and a union. Divide and conquer is one of the oldest maxims of war. Unionization of the American armed services would cause the enemies of freedom to rejoice all over the world. That is why I have again introduced legislation prohibiting unionization of our armed services.

There is simply no substitute in the armed forces for unqualified obedience to authority. The security and tranquillity of our nation in peace, and its defense in war, depend upon it. When our men are called upon to defend the country, a commander must have the unquestioned authority to order them into battle and the power to enforce his order. Any action that would weaken this power and authority would amount to a self-inflicted wound to our defense effort—one from which we might never recover.

APPENDIX A

NEWSPAPER COMMENT ON MILITARY UNIONIZATION

(From the News and Courier, Charleston, South Carolina, March 8, 1976)

Literature coming into this office indicates that—despite what individual Members of Congress may say at the moment—military unionism is closer than most Americans think. Work has been quietly going on behind the scenes for a long time to set the stage. . . .

Our story of March 5 which announced Senator Thurmond's plan to try to forestall unionization also quoted a majority of the State's House Delegation as believing that unions have no place on the military scene. We hope that feeling, tested as the unionization debate is just beginning will continue to hold up as the arguement gets hotter, which it surely will. . . .

To be for military unionism is to be for a reduction in discipline and hence efficiency. Anybody who doesn't believe that should consult the occasions in American history when military affairs were a matter of bargaining between troops and leaders. The inevitable outcomes of such a system are, first, disaster; next an eager return to discipline. The American army learned the lesson in the Civil War. The Soviet army learned it in Finland. Other armies—and navies—which are trying collective bargaining on for size will learn it when they go to war.

(From the State, Columbia, South Carolina, March 10, 1976)

The prospective of a unionized army is chilling and bizarre. . . . There is no way a democratized military force can function efficiently in its ultimate mission, which is too close in combat with an enemy. . . .

Most American unions, of course, are anything but pro-communist. In fact, they contain some of the staunchest anti-communists in the world today. We suspect with Senator Thurmond, that many U.S. labor leaders and their members are cool to the plans of certain unions to invade the military arena. Why shouldn't they be? Continuance of the precious rights of the American workingman might well depend one day on an effective defense force, a force whose discipline, command authority, and responsiveness might be impaired by union activities.

Still, we will be watching to see what approach organized labor as a whole will take on this bill. Many Senators and Congressmen are beholding to the union leaders and labor's attitude could be critical. We urge labor to put patriotism and its real self-interest ahead of its apparent self-interest on this occasion and support the Thurmond bill.

(From the Hartford Times, Hartford, Connecticut, May 29, 1976)

The talk of unionizing the nation's military forces is disturbing and has frightening implications that this nation cannot afford to risk. . . . Unionization is by no means a dirty word. The vital gains which have been made on workers' behalf by labor unions are widely recognized and acclaimed. But there is absolutely no room for unions in the U.S. military services.

Some hard questions must be addressed to those unions seeking military unionization. The first must be the question of the role of the military in a free society. The military does not represent just any job. The military is totally unique in our society. No other occupation compares in mission and purpose. . . .

The allegiance that a citizen in the military has to a country is again by necessity, more rigid than the non-military individual. This rigidity is necessitated by the fact that, as Senator Thurmond writes in the Congressional Record "an effective military force is built and maintained upon a foundation of discipline, command authority, patriotism and quick responsiveness." In order to effectively fulfill its duties as a defender of a free society, it must not be allowed to embrace the misguided notion that it is the same as "any other job." It is not.

Yet it is a voluntary force. Unfortunately, military recruiting occasionally borders on misrepresentation, but in spite of that, the contractual arrangement can be allowed to lapse after a relative short period of time if the individual is not satisfied with the situation.

Another question which must be directed to those unions involved relates to the purpose behind their action. Is the action being taken out of altruistic concern for the individuals involved, or, is it, as is more likely the case, that the motivating force is the irresistible presence of more than 2 million "potential" members for unions seeking to vastly increase the riches and power of their coffers?

Either way, the military and U.S. do not need unionization. There are, no doubt, flagrant abuses within the military which drastically need attention. The on-going Congressional investigation into the recruitment and training practices of the Marine Corps is an excellent example of how discrepancies must be handled.

This country is a free democracy. It is governed, at least ideally, by the people. The military assumes a vitally unique role in the preservation of this style of government. This uniqueness demands differences in organization and mission. And one of the differences is the fact that it is not a democratic organization, and must never lose sight of its role. This definition excludes all talk of unionization of the military services.

The military must remain efficient, strong, and under control. Unionization would not provide this stability.

The Congress should enact, without further delay, Senator Thurmond's legislation banning military unionization as a threat that would seriously undermine the ability of this nation's fighting forces.

(From the Bridgeport Telegram, Bridgeport, Connecticut, June 2, 1976)

Strong opponents of unionization vehemently warn that diluting the single-purpose of a national defense force would inevitably undermine the military chain of command and invite complexities involving picketing and picket lines and temptation for insubordination and strikes. They argue that although a union initially might focus on pay and benefits, it would certainly widen the scope of its concern to include disciplinary procedures and working conditions. . . .

There is nothing in the 200 year history of the nation and its armed forces to suggest any excuse for the measures the unions are considering. Such unionization would be an intolerable and profound menace to the nation's welfare, and Congress has only one choice—ban it promptly.

(From the Washington Star, Washington, D.C. October 2, 1976)

The idea of unionizing the armed services is so preposterous that it is difficult to believe that the AFGE was serious last week when it authorized such a move.

But the AFGE, which seems steadily to be getting more militant, is not one to play games. So we have to assume that it is earnest about trying to put the union label on members of the Army, Navy, Air Force, Marine Corps and Coast Guard.

The military cannot be compared to private industry, or even to Federal civilian employment. Rules that govern bargaining between management and labor in industry or in federal civilian employment cannot be imposed on military organizations which are necessarily authoritarian.

Discipline is the indispensable ingredient in military operations. The military is not, and cannot be, a democratic organization. There is no room for negotiation or vote on whether commands are to be followed. Natonal security requires that military organizations be able to count on instant obedience to orders.

Imagine the situations that might develop in a unionized military. Union negotiators and military leaders might haggle over the weight of the soldiers pack, how much paint a sailor should chip off in a day, how many miles a drill sergeant can make a marine march, whether a G.I. has to slog through the mud on maneuvers or can wait for a dry day, how many times hash can be served for breakfast, whether a recruit can be assigned K.P., or be required to pick up cigarette butts around the barracks, whether soldiers can be required to live in a barracks or at least in non-air-conditioned ones.

In combat situations, perhaps union leaders would demand a vote on whether units should assault this hill or that, or whether it should assault any hill. Suppose enemy ships were posed off the U.S. coast ready to put soliders ashore; wouldn't it be a good time for U.S. union troops to demand a pay raise? . . . While we presume the AFGE has intentions of pursuing the matter (why else would it have changed its constitution to allow servicemen as members?), we also presume that some authority—the courts or the Congress—will have the good sense to stop such a unionizing effort before it gets off the ground.

(From the Dallas Morning News, Dallas, Texas, October 7, 1976)

A union, any union, looks to the strike as the ultimate weapon to enforce its demands.

But with the military matters, it would be infinitely more serious. The armed forces depend on obedience to superior authority; there can be no resort by dissatisfied infantrymen to the mediation of shop stewards. An order is to be carried out because it is an order. As for the Dutch Army, which has become a rabble, unionization would destroy discipline.

But should there be a military strike! That is the truly awful possibility. Such a strike would constitute mutiny. It will lay the whole country open to physical danger.

Not for a moment can such an eventuality be discounted—and never mind the glib assurances of the American Federation of Government Employees. These assurances are as ephemeral as gunpowder smoke. We cannot build a strong military upon them—nor should we even try unless as a nation, we have gone stark staring mad.

PUBLIC OPINION POLL ON MILITARY UNIONS AND STRIKES

[In percent]

	Military unionization		Military strikes	
	Favor	Oppose	Permit	Not permit
All respondents	18	82	18	82
Age:				
18 to 24 yr old	33	67	33	67
25 to 34 yr old	25	75	19	81
35 to 44 yr old	16	84	19	81
45 to 54 yr old	15	86	17	83
55 to 64 yr old	11	89	13	87
65 yr and over	13	87	11	89
Education:				
Less than high school	22	78	19	82
High school graduate	18	82	18	82
Some college/vocational	14	86	16	84
College graduate	15	85	18	82
Postgraduate	20	80	15	85
Sex:				
Male	16	84	15	85
Female	20	80	21	79
Labor union affiliation:				
Yes	24	76	25	75
No	15	85	14	86
Employment/union status:				
Private sector union	21	79	23	77
Private sector nonunion	16	84	14	86
Public sector union	29	71	28	72
Public sector nonunion	13	87	10	90

Source: Decision-Making Information for Public Service Research Council, Santa Ana, Calif.

SOLDIERS DON'T BELONG IN A UNION, MILWAUKEE JOURNAL, MARCH 9, 1977

"Can you imagine an army lieutenant, automatic rifle in hand, shouting 'charge' to his company—only to have a union steward tell him that it can't be done because the troops have already worked 40 hours that week?

"Maybe that's far fetched. But in a number of European armies the troops have negotiated a 40 hour week. They are union organized. And now an effort is being made to seek union members in the armed forces here.

"President Carter sensibly says he's opposed, and there's a bill in the Senate that would outlaw unionizing. A number of arguments support this reaction. For one thing, military personnel these days have rights that no GI in World War II ever heard of. Back then, about the only recourse a GI had was a hand holding session with the chaplain. Now it's quite usual, and rightly so, for personnel to insist on the right to petition in the case of grievances and to assert First Amendment rights. Furthermore, the military's standard of living is vastly improved, as are pay and fringe benefits, including generous pensions.

"But the most powerful antiunion argument is that the duty of a soldier is to obey—to obey. his officers and non-coms and not a union steward. That's the way of the military and it isn't time to change it."

[From the Boston Globe, Mar. 12, 1977]

MILITARY UNION VOTE COMING UP

(By Wilfrid C. Rodgers, Globe Staff)

Labor Day 1977 is the day of decision for the American Federation of Government Employees.

The largest union of Federal employees will decide then whether to begin organizing the military—3.2 million uniformed personnel.

For a year, unionizing the military has been an on-again, off-again proposition.

Now, to settle the touchy question once and for all, the membership will vote by referendum on the issue.

Why such a debate within a union over organizing the unorganized?

Some AFGE members fear organizing the miltary will cost them their jobs. These members reason that they could well be outvoted by the military, and jobs now allotted to civilians could be taken over by the military.

Then there is probably the biggest segment of the union that fear reprisals from Congress.

Without the power to strike this union of government employees depends on lobbying as well as collective bargaining to represent its members.

Outside of the union there is controversy over whether the military should be organized.

Even President George C. Meany of the AFL–CIO appears to shake his head at the prospect.

Labor Secretary Ray Marshall, whose pro-labor views are making him a controversial member of President Jimmy Carter's Cabinet, votes no when it comes to organizing the military.

Marshall does concede, however, that the military may need some way of settling grievances other than the usual chain of command.

Why would a labor union even consider organizing the military?

Members of the military actively have sought unionism. And there is nothing more pleasing to the eye of a union organizer than workers of any type asking to be organized.

The fact that some European nations have unions of their military helps set a precedent.

Kenneth Blaylock, new AFGE president, and his executive board concede that unionization of the military could only be done "under peacetime conditions."

"It is imperative, if this program is to be successful, that we emphasize that in a time of war or congressionally declared national emergency, the union's recognition would be suspended," the AFGE executive board reported.

If the referendum is adopted to organize the military next Labor Day, one of the first units to be organized probably will be the Green Berets at Ft. Devens.

Preliminary organizing of that unit was done several months ago, but is now being held in abeyance pending the referendum.

Philip O'Donnell, vice president for the New England district of AFGE, was instrumental in developing that organizing campaign.

And of course the other problem facing AFGE officers is that if their union doesn't organize the military some other union might.

UNIONIZING THE MILITARY

(With: AFGE National Vice-President, Twelfth District, Harold E. "Mac" McLeod, and AFGE Local No. 1157 President, Clayton Pao)

A burning debate surrounds the issue of unionizing military people into trade unions. Commissary and exchange benefits have been cut back. The GI Bill has been slashed to almost nothing. Inflation actually makes the military salary decrease year-by-year. Racism is an openly admitted policy of the Pentagon. Many military people feel helpless against economic loss, bureaucratic ineptitude and indifference, lack of effective grievance procedures, denial of democratic rights, to name but a few. A union has been one answer posed by some GIs. Because the American Federation of Government Employees (AFGE), a union which includes civilian base workers, is the union most strongly considering organizing military people, and the Defense Department has changed its regulations to allow commanders to negotiate service members' unions, the issue is being more

widely aired. If you are interested in voicing your opinion or want more information, this forum is for you. Mr. McLeod and Mr. Pao are outspoken trade unionists who have fought hard for and with their unions and members. Tuesday, March 22, 7 p.m., Oakland Army Base.

Chairman STENNIS. Thank you, Senator Thurmond.

Gentlemen, Secretary Brown, Secretary Claytor, you are always welcome here, you know that already. This is a highly important subject matter before us and it is greatly in your hands. A great part of the problem is in your hands and the remedy, too, with reference to a bill that can meet this situation. So we look forward to your statements, your testimony, your participation, in writing up a proper bill.

Secretary Brown, I will call on you sir.

STATEMENT OF HON. HAROLD BROWN, SECRETARY OF DEFENSE

Secretary BROWN. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, Secretary Claytor and I are appearing before the committee today to discuss proposed legislation with respect to union activity of military personnel. My comments will be brief and of necessity somewhat general. I am not a lawyer, but I am advised—and I believe—that this is an area full of legal questions and distinctions that would have to be addressed carefully by the distinguished members of this committee and, perhaps ultimately, by the courts.

The union movement in our country has been, as I pointed out, Mr. Chairman, and important contributor to our national security, vitality, and strength. This important contribution has long been recognized, as is embodied within the laws which govern labor relations in our country. These laws have facilitated stability in the field of labor relations and have provided a means by which the American people have improved their economic wellbeing. Our system of labor relations has in the process resulted in the economic growth of our Nation as a whole. In this sense labor and the Armed Forces share in assuring our national security. A strong military force and an equally strong industrial base are indispensible partners which comprise the basis of our national security.

Within the Department of Defense, there are many labor agreements covering hundreds of thousands of civilian personnel. These people contribute greatly to the effective operation of the Department.

However, it does not follow that the civilian process of collective bargaining as we know it can, or should be, applied to our military forces. I believe, and others including the President share my belief, that it cannot.

The Armed Forces of the United States occupy a unique position in society. They require specialized management and a uniquely high degree of discipline and sacrifice for the proper performance of their duties. The relationship between a member of the Armed Forces and his superiors, or between the soldier and the Government, is not an employer-employee relationship.

Moreover, our military force is a vital element in the execution of U.S. foreign policy. The functional role of our Armed Forces demands absolute certainty of immediate and total responsiveness to law-

ful orders. Since the changing nature of warfare has consistently decreased available reaction time, our military must be quickly and completely responsive to the external threats. Inherent in this requirement is the need for an unencumbered command control system.

The collective bargaining process is fundamentally incompatible with this basic requirement. Collective bargaining, with its aspects of shared decisionmaking and forms of consultation prior to action, cannot accord with the basic requirements of the U.S. military in the performance of its mission in terms of undivided command authority and immediate, reliable responsiveness to that authority.

Moreover, the effectiveness of our military force in support of foreign policy is founded in its apparent capability to perform its assigned missions. This is justifiably based upon a proven history of effective performance under a system of unified command authority. Any uncertainty of our future performance inherent in the introduction of another control system for our military personnel could weaken our credibility in the eyes of foreign nations.

Although as a layman I need to be careful in commenting on purely legal issues, I would note that legislation would have to be examined carefully also in the light of the first amendment's protections of speech and association. It may well be that the legal standing of legislative restrictions would vary according to whether they were addressed to collective bargaining, the membership in a group, to solicitation of membership, or to the location or manner of such solicitation. I cannot answer those questions. But their existence, complexity, and sensitivity suggest to me that caution should be exercised in any legislative action in this area. Adverse court decisions could lead to greater limitations on the Armed Forces ability to deal with these matters than exist now.

All the services have long recognized the importance of providing channels for service members to present problems to the chain of command. Such procedures currently include the inspector general system, and complaints under article 138 of the Uniform Code of Military Justice. Undoubtedly improvements are possible. The development by individual commanders of open door policies, enlisted and junior officers' councils, and similar programs attests to the flexibility of the chain of command in providing appropriate means for communicating complaints, and obtaining redress thereto.

In addition, the President is forming a Blue Ribbon Commission to examine economic issues of concern to our personnel.

In this context it is my view, and that of the Department of Defense, that a system of collective bargaining is neither necessary nor appropriate for the military. The following is the operative clause from the DOD policy direction:

Negotiation and bargaining.—No member of the Armed Forces, or civilian, employee of the Department of Defense, may negotiate or bargain on behalf of the United States, with respect to terms and conditions of military service of members of the Armed Forces, with any individual, organization or association which represents or purports to represent members of the Armed Forces; nor may any member of the Armed Forces, or civilian employee of the Department of Defense, recognize any individual, organization or association for any such purpose.

Mr. Chairman, that completes my prepared statement. Secretary Claytor also has a short prepared statement. He speaks from the viewpoint of one learned in the law and also has experience in collective bargaining negotiations.

Chairman STENNIS. Mr. Secretary, if it is agreeable to the committee, I propose that we get the statement of each of these gentlemen out before us now. Mr. Secretary, we are pleased you are here. You have a statement and will be answering questions, so please proceed.

STATEMENT OF HON. W. GRAHAM CLAYTOR, JR., SECRETARY OF THE NAVY

Secretary CLAYTOR. Thank you, Mr. Chairman.

Mr. Chairman, members of the committee, I am pleased to have the privilege of accompanying Secretary of Defense Brown this morning in a discussion of unionization of the military. I am in total agreement with the position which Dr. Brown has already expressed to you, that unionization and the military do not mix.

I recognize the great contributions which the unions have made to the industrial strength of America. The process of collective bargaining is deeply engraved in the American tradition and has added to the economic well-being of our people. I believe strongly in the desirability and efficacy of this process for private business organizations. In fact, over the last 10 years I have participated actively and personally in this process in the railroad industry. In addition, I served for a number of years on a very productive labor-management committee with the chiefs of the leading railway labor organizations, and have worked closely with them on many matters of mutual interest and concern. I am unalterably opposed, however, to any attempt to introduce the collective bargaining process into the uniformed military forces of our Nation.

As the Chairman and Senators Tower and Thurmond have so well pointed out, it has been long recognized that discipline and loyalty are essentials to any military organization. That principle has guided the management of military forces from Caesar's legions to today. To place the concept of collective action or an independent organization between the commander and his forces, for any purpose, can only result in denigrating the authoritative relationship that is essential to military effectiveness.

Perhaps I show my own personal bias as a wartime commanding officer of three naval ships, when I say that I am particularly concerned with the effects of collective bargaining and unionization on the commander at sea. It may sound anachronistic, but the relationship between the commanding officer of a ship and his crew is unique. His responsibility is absolute, and his authority is and needs to be almost as coextensive. I cannot conceive of any place in that relationship for shared decisionmaking or collective negotiation or bargaining of any kind with the members of the crew. Clearly, the Department of the Navy is and must be opposed to any action which would in any way interfere with the traditional and necessary structure of command authority. Collective bargaining in this context, in my opinion, would seriously impair if not destroy this essential command structure.

Thank you, Mr. Chairman.

Chairman STENNIS. All right, thank you, Mr. Secretary.

Gentlemen, if it is agreeable to the committee we will proceed with our questions directed to either of these gentlemen, as the member doing the questioning may see fit.

Now, Secretary Brown, as a starting point here, you recall that last September, the American Federation of Government Employees specifically authorized military membership in its organization. Do you recall that? That is a fact anyway.

Secretary BROWN. That is a fact, I believe, Mr. Chairman.

Chairman STENNIS. Now, leading into this matter, you are also aware that very recently the leaders of this same organization, and it is the largest Government workers' union in the country, by a vote of 15 to 2 specifically backed and approved a program to begin organizing the Armed Forces, and the question will now be put to the union's 280,000 civilian members who will be polled over the next several months.

Do you recall those facts? I can vouch for it, those are the facts according to the news stories anyway.

Secretary BROWN. I believe that is a correct statement of the facts, Mr. Chairman.

Chairman STENNIS. Now, as far as you know, are there other labor organizations which have indicated an intent or desire or made any actual efforts to recruit military members either in the active forces or Reserve components?

Secretary BROWN. I am not aware of such explicit statements from any of the others, Mr. Chairman. There are other unions which have organized or attempted to organize various civilian employees in the Government, but I am unaware of a specific expression of intent on their part to attempt to organize the military.

Chairman STENNIS. Well, the committee would like to call on the resources of the Pentagon then for their files and their active gathering of the facts that pertain to this matter to supply us any relevant information or developments. I am thinking now in terms of developments in this field in the last 3 months, we will say. Did I make that clear, I want the benefit of what your files might reflect.

Secretary BROWN. Yes sir, I will seek out, within the Department, any information on other such activities, Mr. Chairman.

[The information follows:]

UNIONIZATION

Since October of 1976 there have been several news reports of military union activities at Fort Benjamin Harrison, Fort Dix, McGuire AFB, and Fort Devens. The Department of Defense is also in possession of a flyer announcing future activities of this nature at Oakland Army base. These news reports were the first indication of such activities at these bases and in all cases proved to be generally erroneous. Initial attempts to determine the validity of these news reports, as well as subsequent responses, were made by telephone within the Military Departments concerned. Since these news reports proved to be generally without substance, in keeping with the provisions of Department of Defense Directive 5200.27 which restricts acquisition of information concerning persons and organizations not affiliated with the Department of Defense investigative files on these news reports were not opened. Recompilation of the events is as follows:

Fort Benjamin Harrison.—October 15, 1976. A local newspaper reported that 50 military personnel had joined the American Federation of Government Em-

ployees (AFGE). The Commanding General indicated the report was a fabrication. At that time an AFGE national spokesman stated that no military personnel were members of AFGE.

Fort Dix/McGuire Air Force Base.—December 9, 1976. A news report indicated that both bases were selected by the AFGE for a major recruiting effort. On December 10, 1976 the President of the AFGE local at Fort Dix said he opposed unionizing the military and that reports of union activities at Fort Dix were unfounded and without substance. The President of the AFGE local at McGuire AFB stated that his only contact with the military was when several enlisted personnel approached him to ask how they could join AFGE and that they were advised that they could not join until AFGE headquartes authorized military membership. The President of AFGE, Mr. Kenneth Blaylock, was also contacted on this issue and stated that the news report was totally wrong.

Fort Devens.—December 11, 1976. A news report stated that efforts were underway to recruit military personnel at that post and that these efforts included a petition drive to secure an election as required under current labor law. Subsequent reports from Fort Devens showed no indication of union activities.

Chairman STENNIS. You have already made this clear, I think, but do you think that we can afford to have or take a chance of having a military force with divided and conflicting loyalties which could very well put our men and women in uniform in the position of choosing between the Nation and its commands, through their military leaders, or the labor union to which they might belong?

Secretary BROWN. I think it would be a very risky situation to have that the case, Mr. Chairman, and I think it would, therefore, be a mistake to have unionization in the military.

Chairman STENNIS. Yes, well, I will also include there the thought could we afford to take a chance on letting conditions develop without giving them attention now in the way of regulation? I look upon this bill as having more effect than a regulation, but it is getting into the field now and clearing up the atmosphere.

You advise against letting this matter proceed further without a proper law in this field, that is correct, isn't it?

Secretary BROWN. Well, guidance from the Congress to the Department of Defense would be useful in this matter, Mr. Chairman. I do want to reiterate my caution, or express my attitude of caution, on what can be regulated and on the risks of adverse court decisions, which could put us in a more difficult position. Not being a lawyer, however, I don't have a considered view on the question. But there are areas where guidance and support from the Congress would be helpful to the Department of Defense.

Chairman STENNIS. Yes, well, at this point we want to stay within the Constitution, of course, but on thin questions and close questions I believe at this point we don't have to stop and weigh everything in that field, but I think we can safely assume that we can work out a bill that is valid under our constitutional process. I don't believe we will have any particular trouble in that field. Whatever trouble we have we will have to pay the price of it and push forward.

Now, I have corresponded, not with you, but I have had some prior contact with the Department of Defense over a period of some 18 months. As I recall, there has been no firm position or policy expressed on it until we got down to the hearings stage.

What is the policy now of the Department of Defense as to whether military officers or civilian defense officials should negotiate or bargain collectively with labor organizations with respect to pay or the terms, hours or conditions worked for service personnel?

Secretary BROWN. The policy was as I indicated in the last paragraph of my statement. I was quoting the operative paragraph from a Department of Defense directive. I believe I can probably enter

the whole directive in the record, Mr. Chairman, but perhaps I should read again that portion which does express this policy:

No member of the Armed Forces or civilian employee of the Department of Defense may negotiate or bargain on behalf of the United States with respect to terms and conditions of military service of members of the Armed Forces with any individual, organization or association which represents or purports to represent members of the Armed Forces, nor may any member of the Armed Forces or civilian employee of the Department of Defense recognize any individual, organization or association for such purpose.

[The information follows:]

THE SECRETARY OF DEFENSE,
Washington, D.C., December 20, 1976.

Memorandum for Secretaries of the Military Departments.
Subject: Policy regarding negotiation and bargaining in the Armed Forces.

Unions and the labor movement have played an historic role in the economic and social development of our nation. Within the Department of Defense, there are labor agreements covering hundreds of thousands of civilian personnel. These people contribute to the operation of the Department. It does not follow, however, that the processes of negotiations and bargaining can or should be applied to U.S. military forces.

Members of the U.S. armed forces are prepared to fight—and if necessary, to die—to preserve our liberty and security. The key to effective operation of the uniformed services depends on proper functioning of the chain of command. Control, discipline, and prompt obedience to the lawful orders of one's superiors are the time-honored elements of our American military tradition. From the earliest Articles of War—adopted as we fought for our freedom in the Revolution—to the present Uniform Code of Military Justice (UCMJ)—U.S. military laws and regulations have proscribed conduct that would undermine the chain of command.

Laws governing both the civilian and military communities make it clear that strikes, slowdowns, or similar job actions have no place in the armed forces. The UCMJ, for example, prohibits desertion, mutiny, or misbehavior before the enemy. A soldier may be punished for disrespect toward a superior office or NCO. Likewise, failure to obey a lawful order or regulation may be punished under the Code. Similar laws apply criminal sanctions to certain actions by civilians which undermine military discipline or the chain of command.

The Department recognizes the importance of providing channels for service members to present problems to the chain of command. Such procedures currently include the Inspector General System and complaints under Article 138 of the UCMJ. The development by individual commanders of open door policies, enlisted and junior officers councils, and similar programs attests to the flexibility of the chain of command in providing appropriate means for communicating complaints. There is no place in the chain of command, however, for organizations that would rely on bargaining and negotiation.

Members of the armed forces may join associations which promote programs for the benefit of their members, but the activities of such organizations have not and must not interfere with the lawful operation of the chain of command. To the extent that military facilities are involved, commanders have the power to regulate the time, place, and manner of the activity.

To date, the vast majority of such associations have functioned on the basis of a positive relationship with the DOD and the military services. The Department anticipates that the tenor of relations with these associations as well as with those associations that might be formed in the future will continue to be constructive.

The Department of Defense policy on this matter is as follows:

Negotiation and bargaining.—No member of the armed forces, or civilian employee of the Department of Defense, may negotiate or bargain on behalf of the United States, with respect to terms and conditions of military service of members of the armed forces, with any individual, organization or association which represents or purports to represent members of the armed forces; nor may any members of the armed forces, or civilian employee of the Department of Defense, recognize any individual, organization or association for any such purpose.

DONALD RUMSFELD.

Chairman STENNIS. Well, that is your position as a Department regulation but this would purport to be a law, and, as I have understood now, subject to the constitutional question, you are supporting a law, in reasonable terms in this field, a statutory enactment?

Secretary BROWN. Well, certainly I could not and would not disagree with a statutory provision along the lines of the directive that I read, Mr. Chairman, but my position is that for this particular purpose no additional statute is necessary.

Chairman STENNIS. How are you going to enforce your regulation without some law to back it up?

Secretary BROWN. I believe that on this particular point, Mr. Chairman, existing legislation gives me the authority to enforce such a directive. I think that there are areas which go further than this and which might require or at least be benefitted by an additional statutory underpinning.

Chairman STENNIS. What plans do you have? We referred already to this forthcoming, possible action at least. What plans do you have to specifically cope with it? I know you haven't been in office long. However, you are making a good start. I am sure you have some kind of plan to cope with developments.

Secretary BROWN. Yes, Mr. Chairman. Beyond the departmental directive from which I quoted I have asked that a directive be prepared that restates the prohibition and would also restrict solicitation activities on military installations. I would implement that if events required.

I think that legislation which went to the question of solicitation activities on military installations could be helpful in that regard, but the directive that I have mentioned, which would restate the prohibition of negotiating or bargaining with organizations or individuals regarding the terms and conditions of military service, and would also restrict soliciation activities on military installations, goes as far as I think we in the Defense Department have to go to meet the current situation.

Chairman STENNIS. I know that is an argument that has been made over there, Mr. Secretary, but the most immediate thing I think at stake here is the whole concept of the All-Volunteer force. We need not fool ourselves unless we meet this situation with firm legislation, not to punish anyone, but to have an effective regulation. In my opinion the All-Volunteer force concept is going to go downhill fast, and prove to be a failure.

Now, it is more or less news to me that you think that through these regulations and all that you could take care of the problem.

Secretary BROWN. Mr. Chairman——

Chairman STENNIS. We will go over this many times. My time is up and I don't want to intrude on it. You may make a statement.

Secretary BROWN. To respond to your last statement, Mr. Chairman, I hope my remarks have not been interpreted as saying that I would oppose legislation. I believe that, with respect to solicitation activities on military installations, I probably have the authority to prohibit it. I believe that that authority would be strengthened by the existence of legislation on that issue.

Chairman STENNIS. And legislation would improve your situation?

Secretary BROWN. On that issue, yes, sir.

Chairman STENNIS. All right. My time has expired but later I will have some questions for Secretary Claytor.

Senator Tower?

Senator TOWER. Thank you, Mr. Chairman.

Mr. Secretary, on page 4 of your statement you make reference to a Blue Ribbon Commission to address quote "economic issues of concern to our personnel," unquote.

Could you provide us any more information on when this commission will be set up, what its charter will be, when you can expect its final report, and whether or not you would expect any legislative recommendations to be coming from that panel?

Secretary BROWN. I am not in a position to give you a schedule for the activities of that commission. It will be reviewing the third quadrennial review of military compensation. In the past, such commissions have sometimes recommended legislation. I would not expect any recommendation for legislation from such a commission on the question of unionization. I think that it might recommend legislation with respect to compensation, and about how to make it more equitable for our Armed Forces members.

Senator TOWER. Mr. Secretary, do you have any information concerning the level of interest shown by military members in joining unions? Does there seem to be much sympathy for it? Do you see much pressure coming up from the ranks on it?

Secretary BROWN. There have been a number of polls on this issue, Senator Tower, and I expect that, as is the case for most polls it depends somewhat on how you ask the question. The results may well hinge on the exact wording of the question.

The most recent poll of which I am aware is one made by the Air Force, in which actually as many as a third of the individuals expressed interest in a union, but more than half expressed an opinion against them. I don't really know how much weight to put on such results. There have been frequent flurries of concern largely connected with the latest decision by the AFGE to seek the approval of its membership for a program to unionize the military, and from time to time there have been intentions of holding meetings with respect to unionization of people at a particular base. Nothing has come of those, but that doesn't mean nothing will.

Certainly the great attention given from time to time to these matters in the press has an effect on the attitudes of military people. I believe that it is not a severe problem, but I believe it is a prospective problem; it is important to consider what action should be taken before it becomes an immediate problem.

Senator TOWER. Thank you, sir.

Secretary Claytor, in that you are an attorney, would you give us a curbstone opinion as to the constitutionality of the law to prohibit military unions?

Secretary CLAYTOR. Well, Senator Tower, I have been a practicing lawyer for many years and have worked some in this field but I am 10 years out of date, having spent the last 10 years as a businessman rather than a lawyer, and am not familiar with the recent cases. I think I can only go as far as to point out what seemed to me to be the areas of perhaps greatest doubt that I would like to see more work done on before I could come to an opinion.

I don't have much problem with the ability of the Congress to prohibit collective bargaining in the military services and I think that it

is also fairly clear that if the statute is carefully drawn that the Federal Government clearly has the authority to prohibit solicitation on bases.

When one gets to prohibiting membership in a union having this as one of its objectives I think one gets closer to first amendment problems. I don't by any means mean to indicate that I think that is unconstitutional, but I think that is a more difficult question and is the most difficult, probably, of the group.

I have thought of possible alternatives, of perhaps prohibiting the operation of an organization which has as one of its purposes collective bargaining for the military, to get away from the first amendment problem. I don't know whether that would help the problem or not but I think it is an avenue that ought to be explored.

Another thought that I had is that since there will be constitutional questions raised in connection with membership in such an organization, it might be worthwhile for the committee to consider seeking a definitive opinion from outside counsel such as, for example, Dean Erwin Griswold of the Harvard Law School, former Solicitor General and distinguished lawyer with a background in civil rights. If Dean Griswold could be asked to give an opinion on both the proposed legislative remedies and perhaps suggestions for other legislative remedies it might improve the constitutional validity of the proposal. I think this would be helpful all around. It would certainly help me because I don't feel, without taking a great deal of time to get up to date on the opinions, that I could give a personal opinion on these difficult questions.

Senator TOWER. Let me ask you another question. You referred in your testimony to your wartime services as a commanding officer of a naval vessel and what the possible effects of collective bargaining might be at sea.

I think those of us who served in the Navy recognize the fact that the commanding officer of a naval vessel has to be virtually an absolute monarch and cannot be questioned. Could you respond on what you might see to be the hazards involved in the unionization of men who serve on naval vessels?

Secretary CLAYTOR. Well, I think one could say that if we had a shop steward onboard ship, which is the usual procedure for implementing collective bargaining, and if the shop steward was going to come up with a list of grievances to take to the commanding officer from time to time, this automatically introduces into the whole command structure a divided authority, a divided loyalty. I put aside the jokes that one makes about damn the torpedoes, full speed ahead, and the engine room says, "Skipper, we can't do that without having a meeting of the committee." I think that is not likely to happen in the real world but I do think that it can be seriously approached by having an organization on the ship which is going to have the loyalty of the men with respect to a lot of things that are of personal interest to them. They would then look for remedy to that man, not to the ship, not to the commander, and it will denigrate the commander's authority regardless of what the conditions are.

To me it is that type of thing that would seriously decrease the ability of the ship to operate as an effective military unit where, in

effect, you have got to say, "Do it now and don't bother me with questions and details, your instructions were to do it now!" I don't think that would happen if we had a union system on the ship.

Senator TOWER. You would be lucky if you only had one shop steward. You might have one for the "black gang" in the engineering spaces, one for the "deck gang" and one for those who stood watch on the bridge.

Secretary CLAYTOR. My ships were pretty small. On a large ship that would almost certainly be the case.

Senator TOWER. Thank you, Mr. Secretary.

Chairman STENNIS. Senator Nunn?

Senator NUNN. I appreciate you having the hearing today. I think it would be a mistake for us to treat this subject in isolation from a lot of other considerations. I think we need to look at some parameters of what we are talking about.

There are a good many people who are dedicated to the continuation of the All-Volunteer force. There are a lot of other people, and some of them are the same people that are very opposed to unionization of the military. I am one of those in the latter group.

And then also there are a lot of people who say that we have got to freeze all of the fringe benefit programs, all the pay programs, and all the retirement programs.

Now if you are going to prevent unionization, if you are going to continue an All-Volunteer Force, and if you are not going to tamper with any benefits, then the inevitable result of that, Mr. Chairman, in my view is either reduced national security or a huge budget increase. We can't have our cake and eat it too.

So those who want to continue the All-Volunteer Force and who want to have no unionization of the military and want to preserve every benefit we have today, with the retirement system as it is, I think, either have to make up their minds that we are gong to have reduced national security on a gradual basis, by erosion of research and development, by erosion of procurement, or we are going to have very large annual budget increases that are going for recruiting and for manpower.

Mr. Secretary, I will ask your comment on my statement. If you disagree, please say so.

Secretary BROWN. Well, it is a statement with a good many elements in it, Senator Nunn. I believe that it is possible to make the compensation system more equitable without making it more expensive, but I admit that is not an easy task.

The issue of an All-Volunteer force needs, in my opinion, to be distinguished from the question of comparability of pay. Service in the military can be voluntary and still be adequately or inadequately paid.

Senator NUNN. Mr. Secretary, if you take away fringe benefits, every military man who has come before our Manpower Subcommittee in 2 years will testify that as recruiting goes down, perceptions of the validity of the volunteer force goes down, and the chance of the volunteer force succeeding goes down. I don't know how you could divorce this kind of pay review and fringe benefit review from the future of the volunteer force. I don't think it can be done.

Secretary BROWN. Perceptions are an important part of this question, I agree, Senator Nunn. The perceived erosion of fringe benefits,

which is clearly felt and frequently mentioned by military people, is in some sense an apprehension about the future rather than a concern about the present.

The surveys that I have seen show, for example, and I know you are familiar with these, that pay is not listed very high on the list of concerns. Fringe benefits are. Often they are fringe benefits that are not present now. A fringe benefit such as dental treatment for dependents, for example, is something that is often mentioned, and loss of that fringe benefit is mentioned even though, in fact, it is a fringe benefit that has been applied in the past only on remote posts.

The same thing is true, for example, about commissary situations, where indeed there have been attempts, unsuccessful ones, to remove the availability of commissaries.

Senator NUNN. Excuse me just 1 minute. One of the things I think everybody is at least focusing on now is the retirement system and the surveys I have been shown indicate servicemen consider the retirement system as one of the real priorities of fringe benefits.

President Carter made a statement the other night in Massachusetts which indicated that he has some real concerns about the retirement system. I think they are legitimate concerns. I think he said over and over again that the retirement system is going to change.

Secretary BROWN. Yes.

Senator NUNN. So what I think we all ought to realize is we are not going to have it both ways. We are going to have to come to grips with this problem, the volunteer force and recruiting, and decide the direction we are going to go in before we have any kind of massive reforms of some of these systems. We may not have to change it, but we better be willing to face the alternatives because I think the alternative is going to have to be faced.

Secretary BROWN. You are quite right, Senator Nunn, retirement ranks very high in the perceived benefits among military people, and so it should. It is indeed a very generous, and as we both pointed out in the past, and an increasingly expensive benefit. I have tried, everytime that I talk about this subject, to make it clear that a save-pay feature needs to be included in any change of that system. The save-pay feature would insure equity to people who have been in the military for a number of years and have served those years in the expectation of receiving a certain retirement benefit.

As one looks into the future, I think a rationalization of that system is necessary. I think that the present system has been unfair, for example, to people who have been pushed out of the military at less than 20 years, and have gotten no retirement benefits at all.

Senator NUNN. But that rationalization, even if I believe it, is going to lead to less money being spent on retirement. We talk about making up in equities in one direction but I think everybody that is looking at it knows that the direction is going to is less money being spent on retirement. Would you disagree about that?

Secretary BROWN. I am sure that more money will be spent on retirement than is spent now, but less money than if we had not rationalized it.

Senator NUNN. Than if we had not rationalized it?

Secretary BROWN. That is right.

Senator NUNN. No matter how you cut it it is going to be less perceived benefits for those who would otherwise be thinking about coming into the military and perhaps some who are in?

Secretary BROWN. I think that is correct, although I am not really convinced, Senator Nunn, that those who join the military have that very high on their list right at the beginning. I think that as they get further along it becomes perceived, and should be perceived, as a more important benefit. It is this all-or-nothing situation, where you get nothing until 20 years and 50 percent of base pay immediately after 20 years, that produces, I think, a distortion in perceptions, distortions in management, and in general I believe a Government retirement system that is more expensive than would otherwise be needed.

Senator NUNN. Might I ask you, we had a witness the other day who testified, one of the military chiefs, that basically the All-Volunteer force climate has caused those in the military to look at their service more as a job and less in the tradition of service to the country, and he went forward and testified he felt that that kind of change in perception of what the military service is all about has led to the sentiment, we are seeing now toward unionization. Would you agree with that analogy?

Secretary BROWN. I think it is an element of the picture, Senator Nunn, but the picture is very complicated. There is no doubt in my mind that some of the push toward unionization, or interest in unionization, is a consequence of a change in perception about what it means to be a military person.

It used to be, and I think still is by many, and I hope by most, thought of as a calling or a profession, not as an occupation or a job.

The effect of the antimilitary feeling that was so prevalent in this country in the late sixties and early seventies, and now fortunately is somewhat ebbing, was certain to erode the thought of military career as a calling or profession.

So also was the idea of comparability of pay because the comp pay provision of the law requires that military pay is to be compared with pay for a civil service job. Thus, it is inevitable that a military person will ask himself or herself, well, isn't it just another kind of job?

I believe, also, that there is a change of attitude toward discipline in our society, not just in the military. I think there are probably very genuine grievances which the military command system and the Inspector General system do try to resolve, but those systems need improvement. All of these things I think have changed people's attitude. And if the All-Volunteer force has, too, I think it is only one of the large number of elements involved in these changes of attitude.

Senator NUNN. Thank you.

Chairman STENNIS. Gentlemen, I yield in a special situation to Senator Tower for a minute.

Senator TOWER. I felt I should clarify the meaning of the term I used. The term "black gang," as I used it, refers to engineering personnel who ordinarily work below decks, regardless of race, color, or ethnic origin.

Chairman STENNIS. Senator Thurmond, that brings us to you.

Senator THURMOND. Thank you, Mr. Chairman.

Mr. Secretary, you have given us the Department of Defense policy with respect to unionizing the uniformed military. I believe that it is clear that the DoD policy does not prohibit our military members from joining unions with the hope of getting greater service benefits, is that correct?

Secretatry BROWN. The policy contains no prohibition of that as of now, Senator Thurmond.

Senator THURMOND. Mr. Secretary, the current Department of Defense policy also does not prohibit union organizers from using Federal military reservations to solicit service members to join unions, is that correct?

Secretary BROWN. Well, I would want to make two points about that, Senator Thurmond. One is that there is a draft directive, which I may choose to implement, that would prohibit that.

The second is that a commander of a military organization or a military installation has the authority to take action to deal with activities that would disrupt discipline on his base, and I believe that that gives such commanders some leeway in the circumstances that you described. However, it is correct that there is at present no blanket DOD prohibition on the use of such facilities. If there were a serious attempt to use military facilities in this way, I believe, a commander would be entitled to exercise his discretion with respect to prohibiting them.

Senator THURMOND. Mr. Secretary, the DOD policy prohibits the unions from negotiating or bargaining relative to service conditions, is that correct?

Secretary BROWN. It prohibits DOD civilian employees and military personnel from bargaining with them, and in effect, therefore, it is a prohibition on such activities.

Senator THURMOND. Do you think maybe that the DOD policy might tend to lure a serviceman to join a union believing the union can increase his service benefits? If he pays his dues and finds the union can do nothing for him, then he will be disappointed. Such a policy would cheat the serviceman. That is one of the very reasons we face the threat of unionization in the military today, isn't it? On the other hand, by having a weak policy and permitting servicemen to join unions, have you considered that one day you may be faced with 1 million servicemen and women in the union, and which do you believe would give at that point, your policy or the union?

Secretary BROWN. I think the policy would then become stronger. In fact, I believe the policy would become stronger long before there were 1 million servicemen and women in unions, Senator Thurmond. The situation you describe is a hypothetical one, which I have no intention of allowing to develop.

Senator THURMOND. There is no prohibition on people joining, of course, as you say.

Secretary BROWN. There is no prohibition in the directive in people joining, that is correct.

Senator THURMOND. I have here a flier which indicates that an AFGE national vice president plans to address troops in Oakland Army Base on March 22. I believe that is next Tuesday. I will read that flier.

A burning debate surrounds the issue of unionizing military people into trade unions. Commissary and exchange benefits have been cut back. The GI bill has been slashed almost to nothing. Inflation actually makes the military salary decrease year by year. Racism is an openly admitted policy of the Pentagon. Many military people, feel helpless against economic loss, bureaucratic ineptitude and indifference, lack of effective grievance procedures, denial of democratic rights,

to name but a few. A union has been one answer posed by some GIs. Because the American Federation of Government Employees—AFGE—a union which includes civilian base workers, is the union most strongly considering organizing military people, and the Defense Department has changed its regulations to allow commanders to negotiate with service members' unions, the issue is being widely aired.

Secretary BROWN. I have a copy of what you are reading so I know what is in it.

Senator THURMOND. I will continue:

If you are interested in voicing your opinion or want more information, this forum is for you. Mr. McLeod and Mr. Pao are outspoken trade unionists who have fought hard for and with their unions and members.

Mr. Secretary, I do not believe any of us could believe the AFGE national vice president of the 12th district, Harold E. McLeod, is going to Oakland Army Base for a social call. I shouldn't imagine you would feel that way, would you? His trip there marks another step in a drive to unionize the military, and that is next Tuesday, I repeat, next Tuesday.

Mr. Secretary, I want to know whether you will support legislation to stop the threat of military unionization?

Secretary BROWN. Senator Thurmond, let me make a few comments on the statements that you have made and the flier that you have read, a copy of which I have seen.

In the first place, one of the statements in the flier which you are quoting is a completely incorrect statement. The Department of Defense has not changed its regulations to allow commanders to negotiate with service member unions. That is prohibited. In the second place, there have been a number of such fliers before in other cases which were not followed by any such meetings. Those, of course, did not get the kind of publicity this one now has had today, so this one may have a different outcome.

Third, this gives no place; it says Oakland Army Base, but does not say Government facilities, doesn't say outside the gate or inside the gate. I don't plan to overreact to this. I will take any action that is needed to keep discipline, and I will insure the Department of Defense regulation is carried out.

In response to your question—do I support legislation?—it depends on the legislation. I think that there are pieces of legislation that I would not oppose. I believe that the threat as you described it is prospective and not immediate and present, and I think it important, for me at least, not to overreact, and thereby create incidents where there might otherwise be none. If it is clearly a large scale campaign, evidenced by more than leaflets, by action, by meetings, by active solicitation on base, it would cause me to consider stronger action in the way of directives than are now on the books.

Senator THURMOND. This same flier mentions a bus from Alameda, and it reads, "call 653-3535 for transit or directions of bus schedules."

Do you know what telephone number that is? You said you are familiar with the pamphlets.

Secretary BROWN. Well, I assume that it is not in this area code, Senator Thurmond, since they are talking about Oakland.

Senator THURMOND. Is that a number at a base there?

Secretary BROWN. I haven't called it. I would anticipate that it is a phone number of the people who have written the flier, probably of the union.

Senator THURMOND. But, of course, it is clear that the Defense policy does allow these facilities to be used.

Secretary BROWN. No, sir; it is not.

Senator THURMOND. Does it?

Secretary BROWN. No, sir.

Senator THURMOND. You mean they are not using any facilities?

Secretary BROWN. So far as I know, the union has not had and does not have access to facilities on base for this purpose.

[Additional information follows.]

Upon further review of the situation at Oakland Army Base, it was determined that the use of base facilities for union activities has been authorized and was appropriate. Where a labor organization holds exclusive recognition, the use of activity facilities by that organization is a proper subject for negotiation (Section C.2., Encl. 2, DOD Directive 1426.1, October 9, 1974).

Pursuant to Article III, Section 5 of the current collective bargaining agreement between AFGE Local 1157 and Oakland Army Base, the union was provided office space in Building 833, and therefore was entitled to conduct official union business using base facilities.

Furthermore, use of base facilities by labor organizations could also be authorized in accordance with DOD Instruction 1000.15, "Private Organizations on DOD Installations," October 31, 1973. Under provisions of Section III.F. of that DODI, Type 2—Affiliated Private Organizations are authorized to operate on a DOD Installation upon the written approval of the DOD Installation Commander and are operated as local affiliations, or chapters, lodges, posts or other elements, of national- or state-chartered organizations of the private sector. This category of organization includes labor unions, scientific and professional societies, veterans organizations, parent-teachers associations, little league, scouting, religious groups, etc.

When inquiry revealed that the scheduled meeting was intended for civilian employee members of AFGE, no action was taken to preclude the meeting.

Senator THURMOND. Does the Defense policy permit unions to solicit military memberships on Federal reservations?

Secretary BROWN. That is not a matter on which our policy is explicit.

Senator THURMOND. It doesn't prohibit it anyway, does it?

Secretary BROWN. It prohibits it only to the extent that the commander deems it to be an infringement of discipline.

Senator THURMOND. In other words, there is no direct, clear policy of the Defense Department, as I understand it, to prohibit soliciting membership on Federal reservations; is there?

Secretary BROWN. There is a directive that has been drafted, but has not been signed, to that effect. This has not been, on any base that I am aware of, an important issue. If it becomes one, and sufficient attention may make it become one, then I would consider carefully and might very well issue such a prohibition whose standing might well be improved by legislative footing. But there is not now, nor has there been occasion yet, for a directive on this subject of solicitation on base.

Senator THURMOND. And so one has been drafted, in the event you feel it is needed, but there is no such DOD regulation now?

Secretary BROWN. That is correct. So far, we have felt that a commander can take care of the situation by using his authority to maintain discipline. If that authority proves insufficient, then I would certainly be prepared to sign such a directive.

Senator THURMOND. Mr. Secretary, I understand that the Joint Chiefs of Staff recommended to your predecessor, Secretary Rumsfeld, in a memorandum dated January 3, 1977, that he propose legislation regulating membership of military personnel in labor organizations and that as an interim measure DOD prohibit union membership and solicitation on military installations. It is clear to me the Joint Chiefs of Staff opposed adoption of the DOD negotiation and bargaining policy. Were you aware of this memorandum?

Secretary BROWN. I have seen the memorandum from the Joint Chiefs of Staff to Mr. Rumsfeld on this subject. He did not act on it, I believe, because his General Counsel advised him that such an action might well be unconstitutional.

Senator THURMOND. Now, Mr. Kaplan, national vice president of AFGE said in July 1976:

> We now have a professional Army. It is subject to little control . . . The rank and file in the military have their associations which are quite broad and quite extensive, but they are weak . . . The Congress has little check on what happens to the military.

Mr. Kaplan made this point in support of unionization of the military. Do you feel you have adequate control?

Secretary BROWN. Yes; I do.

Senator THURMOND. I might say in summary then I believe it is clear that there is no bar on the military from joining unions and there is no bar to anyone soliciting the military to join.

Secretary BROWN. I believe the answer to your first point is that there is no legal bar, and perhaps none is possible constitutionally. I don't know about that question, because I am not a lawyer.

With respect to solicitation, there is neither a specific bar to solicitation off base, which I think poses some of the same problems, nor on base. However, with respect to solicitation on base, I believe that, for most situations, at least up until now, the commander's authority with respect to preserving discipline has been enough. I can conceive of a situation evolving where it would not be enough. In that case, I believe a directive prohibiting solicitation on base, and strengthened perhaps by a legislative prohibition, would be in order.

Senator THURMOND. Thank you.

Chairman STENNIS. All right. Senator Culver, that brings us to you, sir.

Senator CULVER. Thank you, Mr. Chairman.

Mr. Secretary, I think it is essentially agreed that no one is looking forward to the prospect of unionization in the military. The implications of unionization have been alluded to here this morning, but I wonder if you would assist me a moment in trying to clarify where we are now, based on the testimony and questioning this morning.

First of all, it seems to me the real question that this committee has to address is what kind of, if any, additional legislation, carefully drafted to pass constitutional muster and first amendment problems, would be of potential assistance to you. We want to avoid counterproductive legislation and constitutional objections, which would only aggrevate and intensify the drive toward unionization and personnel pressures in that direction. Is that correct?

Secretary BROWN. I think that is a fair statement of the situation.

Senator CULVER. I have reviewed some of the precedents, and as Secretary Claytor has suggested, it seems to me that we are really talking about degrees of action to be taken in this regard.

As unsettled and as dynamic as the precedents are in the relationships of complier-complyee and in public service unions and elsewhere, it does seem clear to me that the right to unionization has been generally recognized and accepted as a first amendment right of association. So we have the question, first of all, is it constitutionally permitted for servicemen and women to join a union? Second, we have the question of whether we are constitutionally obligated, if a union is formed to collectively bargain with it? And third, there is a question of whether or not even a legislative action to bar solicition, for example, a modest approach, might be in order. Is that correct?

Secretary BROWN. Yes; I think that separates the problem into its components.

Senator CULVER. I want to pick up on a couple of points that are also relevant. One is the question of the erroneous perception among the military as to their real benefits. You mentioned, Mr. Secretary, in partial response to Senator Nunn, removing the availability of commissary. I have seen that suggested only in the Navy Times. The commissary proposals that passed the Senate went to the issues of whether or not to continue a particular subsidy to civilian employees who worked in the commissary and in no way would have resulted in the closing of any commissaries. So this gets me to a question of military leadership, the extent to which there has been a responsible and serious effort to explain to the members of the American military the exact nature of their benefits.

We may be dealing with a failure of leadership, an irresponsible contribution to concern about prospective possible erosion of subsequent benefits, which has, in fact, created a monster and come around and bitten us in the tail. That lack of leadership probably has contributed more than any other single factor to the opportunities for unions to exploit grievances which may or may not be legitimate as far as actual benefits are concerned.

Secretary BROWN. I think there have been efforts to explain to members of the military the nature and value of their benefits. Clearly, these efforts have not been adequate to produce the kind of perception that you describe, and that I think a better job must be done in explaining what the compensation and benefits are.

Senator CULVER. We should also review our recruitment practices to see that we are not reenforcing another false perception, that service in the military is just another job, that it is really the same as other possible careers available in a free society.

We should review the extent to which we are unwittingly contributing to a disregard of the traditional appeals of military life, patriotism, service, and the unique nature of that as a calling and vocation.

Has there been consideration to review a recruitment program?

Secretary BROWN. As I said to Senator Nunn, Senator Culver, clearly the erosion of the perception of a military career as a calling in the service of the Nation has been a strong influence in a number of our problems including this one. I think that more than study is needed in this case. I think active leadership from the top, from civilian and military leaders of the Defense Department is needed. We must explain

to the members of the military their purposes and functions for the Nation and exhorting with respect to the nature of their calling.

Senator CULVER. Is current grievance machinery adequate, in your judgment, to defuse some of the pressures for unionization? Can you look at that? It seems to me those grievance procedures are very relevant to the problem of unionization.

Secretary BROWN. Yes, sir.

Senator CULVER. I think it is very important for this committee, in our understandable zeal to avoid unionization, not to draft a statute that is treated in the courts so as to open up a Pandora's box and only aggravate difficulties in this area.

Finally, Mr. Secretary, NATO is our closest and most important alliance. In my judgment, our security is greatly strengthened by that alliance.

For the record, am I correct in my understanding that five NATO countries, Norway, Denmark, Belgium, the Netherlands, and West Germany, now have unionization of the military in some form or another? and I think this is also true in neutral Sweden.

Secretary BROWN. Yes, sir, but the nature of the unions differ a great deal from one nation to another, Senator.

Senator CULVER. That is right.

Secretary BROWN. I don't think they should be equated because they are not the same in many reports.

Senator CULVER. I am aware of significant distinctions in their nature and the provisions regarding the unionization activities, but they are in place and exist there now, is that correct?

Secretary BROWN. Yes, sir.

Senator CULVER. What evidence do we have about the particular problems and effects of their experience? What has been, for example, the West German experience, since they have one of the more powerful military forces in the world?

Secretary BROWN. I would prefer, Senator Culver, in my response, not to distinguish nation from nation, because the nature of military unionization in each of these countries is different.

I believe that the Chairman of the Joint Chiefs of Staff, General Brown, testified, perhaps before this very committee, that in some of the countries which you mentioned there has been a distinct reduction in the hours worked by military as a result of negotiations by their unions. This causes certain problems and the alternatives thus posed, rather along the lines Senator Nunn mentioned, are to spend more money, because it would then require more people, or to reduce combat effectiveness, and that has happened in some of these nations, even in peacetime.

Senator CULVER. I understand that a recent joint NATO exercise in Denmark had to be rescheduled or had to be scheduled so as to minimize overtime payments to the Danish troops: is that correct?

Secretary BROWN. It may well be. I don't know specifically the case to which you refer.

Senator CULVER. I am referring to the NATO exercise Bonded Item, conducted in October 1976, involving U.S. Marine units and Danish troops. It would be one example to take a hard look at some of the possible problems in unionization.

Thank you, Mr. Chairman.

Chairman STENNIS. Senator Bartlett?

Senator BARTLETT. Thank you, Mr. Chairman.

Secretary Brown, on several occasions in your prepared testimony and in your remarks answering questions you have referred to the fact that you aren't a lawyer. I just wondered if the Defense Department has had any difficulty in obtaining the services of the profession in Washington? Since I am a nonlawyer I see a lot of them around.

Secretary BROWN. There are a number of lawyers in the Defense Department, Senator Bartlett, so large a number that I won't mention it.

[Laughter.]

Secretary BROWN. One of the most distinguished——

Senator BARTLETT. Is that classified?

Secretary BROWN. No, no, one of the most distinguished although he is not serving in a legal capacity, is on my right. It is not a lack of lawyers that is reponsible for a certain possible imprecision in my attitude toward this, because I can get and do get very good legal advice. It is because this is, as I believe and am told, a very complicated and very sensitive area of the law, in which law is still being made. The interaction of civil rights, national security, and governmental functions produce, I think, very difficult legal questions.

Senator BARTLETT. Mr. Secretary, have you or do you plan to pursue means of obtaining good answers to the legal questions we have raised? Perhaps Secretary Claytor's suggestion would be one.

Secretary BROWN. Yes, sir.

Senator BARTLETT. You are?

Secretary BROWN. Yes, sir, I believe his idea is a good one for the committee, and I believe that we will continue within the Department to seek the best legal advice on these questions.

Senator BARTLETT. I would like to ask each of you just what you perceive to be the source and strength of the pressures within the military and Navy toward unionization.

I might say that when Senator Nunn and I were on our NATO trip we went to the Mediterranean. We were aboard several ships there, the *Roosevelt* and some others, and we had dinner with many Chief Petty Officers and later I met with a group of Marines. At the second meeting with the Marines there was great concern about what they perceived as a lessening of benefits to them, total benefits. On the other hand, in the meeting with the Chiefs there was quite a discussion and concern about unionization. This was not mentioned in the second meeting but there was quite a bit of concern among the Chiefs who represented several ships.

Secretary CLAYTOR. Senator Bartlett, I have been onboard for 4 weeks and I have not yet been out to the fleet. I am going to make my first visit shortly and I will look into this carefully. In the briefings I have had and the materials that I have read, I have obviously run across the worry in the Navy that there may be an erosion of benefits in the future. As Secretary Brown said, it is in the future rather than in the present. They are worried about what may happen rather than benefits that have been taken away. I think it is up to us to get on this problem in our manpower studies and see just how best we can solve it. It is a problem I recognize as a serious one. How the individual members of the fleet feel about this is something I hope to get some first hand information on when I get out into the fleet.

Senator BARTLETT. Mr. Secretary?

Secretary BROWN. I would agree with Secretary Claytor that this clearly is an issue that gets considerably more public attention, and inevitably that means more attention within the military, than it had 2 or 3 years ago. The organizing statements by the AFGE are certainly in part responsible. The concern among military personnel about as a potential erosion of benefits is another part of it.

I don't believe that the situation is at a crisis stage. I do think we, and by we I mean not only the Defense Department but the committee and its considerations, need to act so as to prevent it from reaching a crisis.

Senator BARTLETT. What are you doing in that regard?

Secretary BROWN. Well, there are several parallel lines that are being followed. One is the drafting, as I indicated, of a directive that would take the next step of prohibiting on base solicitation.

The other inlet—there are more than two lines—another line has to do with the whole question of compensation and benefits, and the way they are perceived by the military.

A third is the question of grievances. There are always going to be grievances. We need special mechanisms to handle them.

Those mechanisms must be aimed at producing a feeling among the members of the military that even though grievances may not be resolved in the way they would like, that those grievances have been heard and paid attention to. It is a difficult problem because often people—and this is true whether it is military people or students or businessmen or anyone else—say, you are not listening to me, when what they mean is, you are not doing what I tell you to do. And those two aren't the same thing. But it is not easy for a dissatisfied grievant to make the distinction.

Fourth, I believe that there now is beginning to be—and you know, after 2 months it is hard to say very much can have been accomplished—but I think there is now beginning to be another attempt to get across the message that the military is a calling, a profession, not just a job, and that the satisfactions have to come in part from doing a good job with good equipment to a good end.

Senator BARTLETT. Thank you, Mr. Secretary.

Just as an idea I think it is important perhaps for someone from the committee to mention that certainly in my estimation of the problem it has been exaggerated by the fact the salaries were raised for military comparable with civilians, the fringe benefits were not changed, and so then the effort was made last year by the previous administration and this committee, and Senator Nunn's subcommittee, of which I am a member, to deal with some of those variances in fringe benefits, after the raises were already in place for sometime, which made it much more difficult. I think it is a difficult problem and if you couple it with the overall problems that you discussed with Senator Nunn and with Senator Culver, the All-Volunteer force and the cost of that All-Volunteer force, and the cost of dealing with the problems within the All-Volunteer force, then I think it makes it doubly difficult to deal with these problems which apparently are a part of the seeds of a desire for unionization within the services or without the services.

So, certainly it would seem the logical expectation that unionization would be a force toward higher cost of the All-Volunteer force if we continue. Would you agree with that.

Secretary BROWN. Yes.

Senator BARTLETT. Going back to your discussion about the retirement program, certainly retirement is one of the strong means of encouraging retention in the services.

Yet with the All-Volunteer services the retention rate has dropped. If an effort is made to reduce the cost of the retirement, is that not going to tend to be a force in the direction of more dropouts, less retention? It seems to me the solutions that have been discussed in our committees and have been discussed by you here today, to the problems affecting the desire for nonunionization, are going to require sizable amounts of money for recruitment, retirement, fringe benefits, et cetera. Would you comment on that?

Secretary BROWN. To the extent that compensation is a factor in satisfaction, and clearly it is, then increasing the amounts spent is one way to increase satisfaction. But there are, I believe, ways to change the system that will help to improve retention without necessarily increasing the cost. It is a very complicated matter, and I haven't had time to address it sufficiently to satisfy me that I have an answer. But, I do retain the belief that it is possible to make the compensation system more understandable, more sensible, and therefore, more of an aid in improving satisfaction and improving retention.

Senator BARTLETT. Mr. Secretary, I won't ask you to list what those are but it certainly is obvious in the hearings we had on manpower that the solutions that were mentioned, such as better management in the military, better recruitment, better leadership, giving more accurate perceptions to the members of the services of what their benefits are, and so on, all these as they ticked them off cost quite a bit more money, amounts which they also stated. These experts were ticking off rather sizable increase in the cost of the All-Volunteer service, and I think this raises a sort of a double flag problem when we are considering unionization.

Secretary BROWN. Better management doesn't necessarily cost more money. Some of the other things that you talk about would cost more money. One thing that I think would have the effect of decreasing costs—of course, how much it would cost to achieve is a separate issue—would be to reduce the number of accessions required each year. A situation where we have to get a number of accessions every year, that is about one-third the size of the force, is clearly not an efficient way to run things; it is a very expensive way.

Senator BARTLETT. Mr. Secretary, my time is up. I will just say better management as an academic matter doesn't require more money but the better management proposed for real solutions to these problems was suggested to have a much higher cost.

Thank you.

Chairman STENNIS. Thank you, Senator.

Senator Byrd?

Senator BYRD. Thank you, Mr. Chairman.

Secretary Brown, what, if anything, is the Department of Defense doing at this time to prohibit union activities on military bases by Armed Forces personnel?

Secretary BROWN. There is, as I said, a directive that has been drafted that would do that if the situation was judged to require it. So far, I do not believe the situation has required that. The commanders have discretion within the authority they already have to preserve discipline, to deal with such things as have occurred. These occurrences have been scattered and few; most are rumors which, when traced down, turn out not to have taken place.

Senator BYRD. Well, I will repeat the question. What, if anything, is the Department of Defense doing at this time to prohibit union activity on military bases. I assume the answer to that question is nothing.

Secretary BROWN. I will repeat my answer, Senator Byrd. The commanders have the authority, within their responsibility for maintaining discipline, to prevent such activities to the extent that they interfere with discipline.

Should that not prove sufficient, there is a directive that has not been issued, but has been drafted, and that is something that has been done, which would prohibit on-base solicitation.

Senator BYRD. You say something which has been done. It has been drafted but has not been implemented. Would you submit that document for the record at this point?

Secretary BROWN. Yes, I can submit that document for the record.

[The information follows:]

The proposed DOD Directive which would prohibit negotiations and bargaining and on-base solicitation appears below:

DEPARTMENT OF DEFENSE DIRECTIVE

Subject.—Organizations which purport to represent members of the Armed Forces with respect to matters affecting the command relationship.

Reference.—(a) DOD Instruction 1000.15, "Private Organizations on DOD Installations," October 31, 1973.

I. PURPOSE

This Directive establishes policies and procedures applicable to organizatons whose objective is to organize or represent members of the Armed Forces with respect to negotiating or bargaining for the purpose of altering or affecting the command relationship established by law and regulation for the government of the Armed Forces and activities by such groups on Department of Defense Installations.

II. APPLICABILITY AND SCOPE

The provisions of this Directive apply to:

A. The Office of the Secretary of Defense, the Military Departments, the Defense Agencies, and the Armed Forces exchange services (hereinafter referred to as "DOD Components").

B. Officers and employees of the Department of Defense and DOD Components and members of the Armed Forces except those members or former members who are entitled to retired or retainer pay.

C. Individuals and groups entering on, using, or seeking to enter on or use property under the control of the Department of Defense.

III. DEFINITIONS

For the purpose of this Directive, the term:

A. "*Command relationship*" means the relationship between members of the Armed Forces and superior authority established by law and regulation for the government of the Armed Forces. Inherent in this relationship is the authority of commanders to direct, coordinate, and control military forces at their disposal so as to accomplish assigned missions and safeguard the morale, welfare, and discipline of assigned personnel.

B. "*Grievance*" means a request by any member of the Armed Forces, either individually or collectively, for relief in a matter of concern or dissatisfaction that affects the command relationship.

C. "*Matter affecting the command relationship*" includes, but is not limited to grievances, disputes, wages, rates of pay, duty hours, assignments, and conditions of work.

D. "*Negotiating or bargaining*" refers to a process whereby a commander or other official acting on behalf of the United States engages in discussions with a member of the Armed Forces—or individuals organizations, or associations purporting to represent those individuals—for the purpose of resolving bilaterally matters affecting the command relationship.

E. "*Organization*" includes any corporation, group, association, or other entity of three or more individuals.

F. "*Supervisor*" means any member of the Armed Forces or Department of Defense civilian employee responsible for directing subordinate members of the Armed Forces in the performance of their duties.

IV. POLICY

A. *Command Relationships and National Security.*—The mission of the Department of Defense is to safeguard the security of the United States. Discipline and loyalty are essential to the degree of combat readiness necessary to meet this commitment. The interjection of organizations and colllective action into the command relationships established by law and regulation for the government of the Armed Forces would:

1. Seriously erode the standards of discipline in the Armed Forces and interfere with the power of the Congress to make rules for the government and regulation of the land and naval forces.

2. Undercut the authority of the President as Commander in Chief of the Armed Forces and that of officers appointed under him.

3. Seriously impair the reliability, operational readiness, and combat effectiveness of the Armed Forces so as to threaten the security of the United States.

B. *No Right to Negotiate or Bargain.*—Except as otherwise provided by law or regulation, members of the Armed Forces have no right to engage in or be represented by others for the purposes of negotiating or bargaining over any matter affecting the command relationship or seeking to resolve grievances through collective action within the command structure.

V. GUIDELINES

A. Prohibited activities

1. No member of the Armed Forces or civilian employee of the Department of Defense may negotiate or bargain on behalf of the United States, with respect to terms and conditions of military service of members of the Armed Forces, with any individual, organization, or association which represents or purports to represent members of the Armed Forces.

2. No member of the Armed Forces or civilian employee of the Department of Defense may recognize any individual, organization, or association for any such purpose.

3. No person or organization may enter upon property controlled by the Department of Defense to solicit members of the Armed Forces to join or otherwise support any organization whose stated purpose is, or which claims the right to negotiate or bargain over terms and conditions of military service.

4. No individual or organization may, upon property controlled by the Department of Defense, solicit members of the Armed Forces to join or otherwise support any organization whose stated purpose is, or which claims the right, to negotiate or bargain over the terms and conditions of military service.

B. Permissible activities

This Directive does not abridge the right of any member of the Armed Forces:

1. To petition Congress or communicate with any member of Congress, whether individually or collectively.

2. To be represented by qualified counsel retained by an organization on his/her behalf in any judicial or administrative proceeding with respect to which there is a right to counsel of choice.

3. To join or maintain membership in an organization which negotiates or bargains with respect to matters regarding off-duty employment and which does not affect the command relationship.

4. To present complaints or grievances over terms and conditions of military service through established channels, nor does it prohibit commanders from giving due consideration to the views presented by individual servicemen or women or those serving on command sponsored or authorized advisory councils or committees for the purpose of improving conditions or communications at the activity involved.

C. Authority of commanders

1. Except as otherwise provided by law or regulation, commanders and supervisors may not negotiate or bargain with respect to matters affecting the command relationship or recognize any organization which represents or claims to represent, for purposes of negotiating or bargaining, members of the Armed Forces with respect to any matter affecting the command relationship.

2. Commanders shall, consistent with law and regulation, assure the loyalty, discipline, and morale of assigned personnel. To this end, commanders shall:

(*a*) Deny entry to Department of Defense controlled property to any individual seeking access for the purpose of soliciting members of the Armed Forces to join any organization which represents or claims to represent, for purposes of negotiating or bargaining, any member of the Armed Forces in any matter affecting the command relationship.

(*b*) Prohibit the distribution, other than through the mails, or the posting in any public place on property controlled by the Department of Defense of any publication, handbill, or other writing which solicits members of the Armed Forces to join any organization which represents or claims to represent, for purposes of negotiating or bargaining, members in matters affecting the command relationship.

(*c*) Regulate or prohibit, as appropriate, solicitation activity on property controlled by the Department of Defense by individuals or organizations in accordance with Enclosure 1 and Department of Defense Instruction 1000.15 (reference (a)).

D. Particular categories

1. The National Guard, when not in Federal service, is not an Armed Force within the meaning of that term in this Directive. However, members of federally recognized units of National Guard are also members of the Army or Air National Guard of the United States and the command relationship in those reserve components (as well as in the National Guard when called into Federal service) is included in "command relationship" in this Directive.

2. The relationship between a civilian employee of a DOD Component (including an off-duty member of the Armed Forces, a National Guard technician, and an Army or Air Reserve technician) and the DOD Component employing him is not a command relationship.

VI. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Two copies of implementing regulations will be forwarded to the Assistant Secretary of Defense (Manpower and Reserve Affairs) within 90 days. These regulations shall indicate clearly that they are mandatory and apply to members of the Armed Forces without further implementation.

RESTRICTIONS ON ORGANIZATIONAL ACTIVITIES ON DEPARTMENT OF DEFENSE INSTALLATIONS

A. *Right of entry.*—No person or organization may enter upon property controlled by the Department of Defense as a matter of right to solicit members of the Armed Forces to join any group or engage in any organizational or other concerted activities.

B. *Permit required.*—Solicitation, organization, or other concerted activities may be undertaken on property controlled by the Department of Defense only with the prior written approval of the installation commander.

1. Commanders shall deny entry to the installation where the individuals or organizations seeking access thereto propose to solicit members of the Armed

Forces to join any organization which represents or claims to represent for purposes of negotiating or bargaining, any member of the Armed Forces in any matter affecting the command relationship.

2. Such approval is not ordinarily required on a case by case basis where the organization involved has been recognized by the installation commander as a private organization in accordance with Department of Defense Instruction 1000.15 reference (a)).

3. Where a private organization with a locus in the civilian community and only peripheral contacts with the installation seeks to solicit membership on the installation, however, commanders should review the constitution and bylaws and if necessary, require a statement of purpose from the group to ensure compliance with subparagraph B1 (reference (a)).

4. Commanders may, in approving requests for on-base membership solicitation, impose such conditions as are necessary for the preservation of good order and discipline on the installation.

C. *Withdrawal of permits.*—Permission to solicit the membership of members of the Armed Forces in any organization on the installation or to engage in organizational or other concerted activities may be withdrawn if;

1. The permit holders violate conditions imposed by the commander in issuing the permit.

2. The activities of the permit holders, in light of actual developments, pose a clear danger to the discipline, morale, or combat readiness of assigned personnel.

D. *Limitations imposed.*—Commanders will ensure that:

1. Solicitations, organizational, or other concerted activities aimed at enrolling military personnel are not permitted on DoD installations by any organization which represents or claims to represent, for purposes of negotiating or bargaining, any members of the Armed Forces in any matter affecting the command relationship.

2. Recruits, trainees, or other "captive" audiences are not exposed to solicitation efforts.

3. Solicitation efforts directed at military personnel do not violate Department of Defense Directive 5500.7 (Standards of Conduct).

E. Individuals removed from an installation for soliciting membership in any organization or engaging in organizational or other concerted activities without permission or upon revocation of a permit previously issued ordinarily will be issued with a debarment letter pursuant to 18 U.S.C. 1382.

Senator BYRD. But it has not been disseminated to the bases?

Secretary BROWN. It has not been disseminated because up until this moment, up until this time, I have not seen sufficient evidence, not stories about, but evidence, of union organizing to require such a document to be promulgated.

Senator BYRD. Now, in response to Senator Thurmond you stated that there is some legislation you probably could support and some legislation you probably could not support. Senator Thurmond has introduced legislation. Do you support or oppose Senator Thurmond's legislation?

Secretary BROWN. There is an analysis that I think has been delivered to the committee of Senator Thurmond's legislation, and I would say that I would have to take a careful look at the details of that legislation before I could reach a conclusion. I have not done that yet personally and, therefore, I don't want to express a conclusion.

Senator BYRD. Well, is that not one of the reasons for this committee meeting today?

Secretary BROWN. I defer to the committee on that question.

Senator BYRD. If it isn't one of the reasons then I would ask the committee at another time to ask the Secretary to come back because we have legislation before us, and if the Secretary isn't prepared to say whether he opposes it or favors it then I think we need another meeting at a later date.

Mr. Secretary, on page 4 of your statement you quote the operative clause from the DOD policy direction:

NEGOTIATION AND BARGAINING

No member of the Armed Forces, or civilian employee of the Department of Defense, may negotiate or bargain on behalf of the United States, with respect to terms and conditions of military service of members of the Armed Forces, with any individual, organization or association which represents or purports to represent members of the Armed Forces; nor may any member of the Armed Forces, or civilian employee of the Department of Defense, recognize any individual, organization or association for any such purpose.

Secretary BROWN. Yes, sir.

Senator BYRD. My question is, what is the date of that policy directive?

Secretary BROWN. It is December 20, 1976, and it is a memorandum for the secretaries of the military departments.

Senator BYRD. It was a directive issued by your predecessor?

Secretary BROWN. Yes, sir, and it remains in effect unless and until I cancel it or supersede it, which I have not done.

Senator BYRD. And you favor this directive?

Secretary BROWN. Oh, yes; I support this directive. If I didn't I would have rescinded it or replaced it.

Senator BYRD. Mr. Chairman, I will reserve my other question until the Secretary comes back in regard to the Thurmond legislation.

Chairman STENNIS. All right, Senator. Let me make a statement further explaining the situation about the hearing.

As I said in the beginning, I wanted to get a bill, as I see it, that will have many members of the committee contributing to it. It would be nice if we could have one bill that all could contribute to, but I don't know how that would be. At least we have a broad contribution here by several members. I know by experience that you take a bill to the floor and you have to have votes to get it passed. It takes a lot of votes. So I asked the Secretary to get the final form of the bill I had in mind. I asked him if he could make a special effort to prepare and be here today. We have the omnibus authorization bill that we must act on. I wanted to at least get these hearings started before the Easter recess, and the Secretary agreed to make a special effort. We sent a copy of the bill over to him. We inserted it in the Congressional Record, and so forth. The Secretary said at the time though, when we talked, that he would want to state his position on what he had done and that he would go as far as he could on the bill. I responded, as I recall, that we had to make a start, we have got to do something about this, and I hope you can get ready. He told me later that he had prepared at least to that extent.

I really don't think he is derelict in any way on that score but I do think, Mr. Secretary, that you people over in the Pentagon, and I say this very specifically, you have to make up your minds which way you are going on a real bill, and when I say real bill, I mean one of some meaning and strong enough to be meaningful, within constitutional limits, of course, and something that is enforceable and will be readily understood. I have in mind it being carefully worked out. But, unless you gentlemen are really going at this thing with a determination to help us try to get and pass a meaningful bill, I think you are in for trouble, the services are in for trouble, and the Congress is in for trouble, too, because we are failing to meet a situation as I see it.

Secretary BROWN. Mr. Chairman——

Chairman STENNIS. Well, I will finish now. We will get plenty of legal counsel on it and other proof about the practicalities of it. You

are faced with the proposition of having to ask us this year, I think it is $375 million extra for recruiting in Reserves and National Guard. I think that is the figure. I get some of those figures from the Appropriations Committee. Maybe that money doesn't have to be expressly authorized and, therefore, not in this bill. Anyway, there is a request, you recall it yourself, maybe; aren't you asking for about $375 million extra for your Reserves, which includes the Guard and recruiting?

Secretary BROWN. There is a total recruitment cost of slightly more than $650 million for fiscal year 1978. Approximately $115 million of this is for the Reserve and Guard.

Chairman STENNIS. Anyway, the point is I think you have legislation requests for bonuses of some kind for the Reserves and National Guard. You are up against a problem and I have been hearing from some of the people that are in these units. So that is what you are faced with. On the one hand you are having to ask for this extra money, and with the other hand we want your help here, in getting a bill. I think the far majority of the American people, Congress too, when it is fully realized what it means, would greatly favor this matter. I think we are sending the All-Volunteer force concept down the drain when we do not recognize these realities. I have already said that I believe within the course of time we will have to go back to some form of the Selective Service System. I mean a better one than we had. I feel that is made far more certain unless we meet this issue.

Do you have any other questions now that you wish to ask, Senator Byrd?

Senator BYRD. Yes, Mr. Chairman, thank you.

Mr. Secretary, would you insert for the record the number of lawyers that you have in the Defense Department?

Secretary BROWN. I can tell you now; it is about 5,000 out of 3 million people.

Senator BYRD. I believe with 5,000 lawyers we could get an opinion on Senator Thurmond's bill.

Secretary BROWN. The difficulty is that that may produce 5,000 different legal opinions.

Senator BYRD. They probably will.

Secretary BROWN. Yes, sir. Senator Byrd, I don't want to leave the impression that there are 5,000 lawyers in my office, there are 5,000 throughout DoD, including the uniformed Judge Advocates.

[Additional information follows:]

NUMBERS OF LAWYERS AND VOLUME OF LAW BUSINESS

A summary of the distribution of DoD lawyers is as follows:

Civilian (all agencies)	1,391
Army judge advocates	1,511
Navy judge advocates	760
Marine Corps judge advocates	370
Air Force judge advocates	1,158
	3,799
Total	5,190

As to the utilization of these lawyers worldwide, selected information with respect to 1976 business is as follows:

The civil court cases pending on December 31, 1976, were as follows:

Army	1,536
Navy	729
Air Force	1,692
Defense Supply Agency	209
Defense Communications Agency	4
Defense Contract Audit Agency	1
Defense Mapping Agency	6
Defense Civil Preparedness Agency	0
Total	4,177

The regulatory agency proceedings for the entire Department, pending as of December 31, 1976, were: 175.

The Armed Services Board of Contract Appeals cases pending as of 31 December 1976 (including 10—plus or minus—cases from non-DoD agencies) were: 1,065.

The disciplinary cases disposed of in fiscal year 1976 are numerous; this includes courts-martial and nonjudicial punishment under Article 15. Totals are: courts-martial cases—28,231; Non-judicial punishment—343,296.

In foreign jurisdiction cases, it is estimated that trial observers were required in calendar year 1976 in 680 instances.

The number of contract transactions undertaken during fiscal year 1976 were: 10,095,645. This includes: 195,645 transactions in the amounts of $10,000 or more and 519 in the amount of $10 million or more.

A substantial volume of work is involved in adjudicating claims filed against the government and in prosecuting claims on behalf of the government. The following are Army figures. Similar information could be developed for the Navy and Air Force:

Claims against the Army for fiscal year 1976

Numbers processed	118,533
Amount paid	$43,666,000

Claims prosecuted by the Army against others in fiscal year 1976 in cases other than medical case recovery (such as carrier damage to goods and government property damage):

Number prosecuted	43,008
Number settled	34,670
Amount of money recovered	$3,785,000

Medical care claims prosecuted by the Army in *calendar* year 1976:

Claims asserted	5,917
Amount asserted	$9,235,133.10
Claims successfully prosecuted	4,328
Amount recovered	$4,517,360.81

In addition to the foregoing, Defense Department lawyers have been involved in a substantial volume of opinion work, legal assistance, and international negotiations.

Senator BYRD. Thank you, sir.

Chairman STENNIS. All right.

Senator Goldwater was here and was called from the room, but he left a statement and questions. I ask unanimous consent that they be inserted in the record at this point for the attention of you gentlemen and for prepared answers later.

PREPARED STATEMENT OF SENATOR BARRY GOLDWATER

Senator GOLDWATER. My interest and service in the military dates back nearly 50 years. In addition I am a dues paying member of a union so my interest in this is more than academic. I have served in the line as well as in command, and discipline is an absolute essential at both ends of the line and the unionizing of Armed Forces would destroy this.

Mr. Secretary, I am concerned about what might happen to our national security if we allow military unions. Although the unions say they are only interested in "bread and butter" issues, I fear once we allow them to organize we will be headed toward the possibility of disruptive and possibly bitter strikes if their demands cannot be met. The late Clyde Webber, former AFGE President, said while talking about his union's not envisioning strikes, "The thing about it is that you cannot control individual elements of an organization. . . . People take into their own hands what they think they have to do." To add to this the AFGE removed the no-strike clause from its constitution even though a strike by the AFGE union is illegal. The current AFGE President, Kenneth Blaylock, in response to a recent question on whether there would be a no-strike clause stated, "The AFGE constitution does not have a no-strike clause. We took that out many years ago. We will be organizing the military under our constitution."

It seems to me the administration may be taking a too soft approach in this matter. I hope I am wrong but when I read reports that unionization is not only possible but inevitable and at the same time the President says he knows of no strong move in this direction, I cannot help but be very concerned. Something is wrong here.

If the administration will not stop this totally unacceptable matter before it starts, then I urge this committee and the Congress to act promptly and take the action deemed best to resolve this issue.

QUESTIONS SUBMITTED BY SENATOR GOLDWATER

Senator GOLDWATER. What is DOD's current policy regarding the reserves and military unions?

Answer. The DOD policy regarding the reserves and military unions is the same as for active members and is as follows.

"No member of the armed forces, or civilian employee of the Department of Defense, may negotiate or bargain on behalf of the United States, with respect to terms and conditions of military service of members of the armed forces, with any individual, organization or association which represents or purports to represent members of the armed forces; nor may any member of the armed forces, or civilian employee of the Department of Defense, recognize any individual, organization or association for any such purpose."

Senator GOLDWATER. Mr. Secretary, in the Congressional Record of September 28, 1976, the minutes of a meeting of the National Executive Council of the American Federation of Government Employees were inserted. In these minutes, one of the members was quoted as saying that the Association of Civilian Technicians had already organized 1,000 military people and that they were paying dues. Are you aware of this situation?

Answer. The Department is aware of the portion of the Congressional Record to which you refer. Several newspaper accounts have reported that the Association of Civilian Technicians (ACT) has recruited a considerable number of National Guard and Reserve personnel in their civilian technician capacity, and that the Association of Guard and Reserve (AGR), which was chartered by ACT on 1 July 1976, has recruited some National Guard and Reserve personnel in their military capacity.

Senator GOLDWATER. Do you favor the unionization of the Reserves or National Guard?

Answer. No. The Department of defense does not favor unionization of the Reserve and National Guard. Our position, previously stated, prohibits negotiation and bargaining over terms and conditions of military service of members of the armed forces. Title 10, U.S. Code 802 includes members of the Reserve Components as members of the armed forces subject to the jurisdiction of the Uniform Code of Military Justice.

Senator GOLDWATER. How do your views on the Reserves effect the so-called technicians?

Answer. Civilian technicians must be members of a Reserve component as a condition of employment. The Department of Defense has no objection to unionization of civilian technicians in their civilian capacity. The Department does not favor any attempts to organize these same individuals in their military capacity. Ref. Title 10, U.S. Code 802.

Senator GOLDWATER. Are technicians currently covered under Executive Order 11491 permitting employees of the executive branch to join labor organizations?

Answer. Yes, the civilian technicians of the National Guard and Reserves are covered by Executive Order 11491 in their civilian employment capacity.

Senator GOLDWATER. What current procedures are available for the servicemen to air a grievance? Are these procedures being used or do you feel the servicemen are afraid of reprisals?

Answer. There are a variety of ways in which military members may communicate with their superiors, to present complaints, request redress of grievances and appeal from official actions. Basic to these avenues are the provisions of 10 U.S.C. 1034 which insures the right of the individual to communicate directly with Members of Congress, and Article 138, Uniform Code of Military Justice (10 U.S.C. 938) which allow service members to submit grievances concerning their commanding officer. These grievances must be investigated and resolved by the officer exercising general court-martial authority over the commanding officer, and a report thereof sent to the Secretary of the Military Department.

Each of the Services have formal complaint systems, such as the Inspector General Complaint Systems, which are designed to resolve individual member complaints and grievances. Resolution of equal opportunity and treatment complaints are also highly formalized. Appeal of adverse actions may be initiated formally to Boards for Correction of Military Records, Discharge Review Boards, Personnel Classification Boards, etc.

Informal avenues are designed to provide an environment wherein communication between people is encouraged and both the availability and accessibility of commanders and supervisors are quick and easy. It begins at the grassroots level—in the barracks, work centers and base facilities—and it includes contemporaries, supervisors and commanders. Open-door policies, advisory councils, counselling services (Chaplain, legal, medical, etc.) and suggestion programs are but a few of the vehicles by which individuals can say what is on their minds, make recommendations to improve procedures, services or facilities, or suggest ways to remove irritants.

The Services seek to determine members' attitudes, trends and positions with respect to a wide range of issues through the use of opinion surveys, visits to bases, commanders' calls and other forms where commanders interface with their people.

Finally, each Service has established a system of senior enlisted advisors who have direct access to their commanders. They function as an immediate line of communication between enlisted personnel and command with the objectives of (1) surfacing problems in the enlisted sector which would tend to be diluted if allowed to pass through command channels and (2) to provide a positive influence on morale by assuring enlisted personnel they have effective and continuing representation.

The variety and scope of the numerous channels provided for an individual to communicate within the chain of command affords service members an appropriate means of expressing concern without fear of reprisal.

Senator GOLDWATER. In your view, are these grievance procedures adequate?

Answer. It is the view of the Department of Defense that grievance procedures in the military services are currently adequate to address members' personal concerns over conditions of work. However, the Department continually strives for continuing efforts to improve and refine these procedures.

Chairman STENNIS. All right, Senator Helms.

Senator HELMS. Thank you, Mr. Chairman.

Mr. Secretary, I take it those 5,000 lawyers are not unionized?

Secretary BROWN. They all belong to the bar association. [Laughter.]

Senator HELMS. Mr. Secretary, if you were not Secretary of Defense, would you favor unionization of the Armed Forces?

Secretary BROWN. No, I would not. I think that my opinion as a citizen is the same as my opinion as a public official.

Senator HELMS. Have you made statements to any representative of organized labor that might lead a reasonable man to assume there is hope you would favor it?

Secretary BROWN. No, I don't remember any comment which could be interpreted to indicate that I favor military unions and I am pretty sure I would remember if I did make such a comment.

Senator HELMS. Now, Mr. Secretary, to be perfectly frank, would we even be here today if it were not for the All-Volunteer concept? Would we be faced with the question of potential unionization except for All-Volunteer force?

Secretary BROWN. I think we would, and I think that perhaps the way I can argue for that position best is to note that at least several of the countries to which Senator Culver referred in his statement as having unionized military have conscription as well.

Senator HELMS. Have you served in the Armed Forces?

Secretary BROWN. No, I have not.

Senator HELMS. Well, I served 4 years, and that was some years ago, but I do believe that if the question of unionization had come up at the time I was in the Navy, it would have been considered a joke. At the time, Mr. Secretary, even though most of us didn't like some parts of the services, we all realized that it was our opportunity to participate in the survival of our Nation and freedom in the world.

Senator Thurmond asked what I considered to be a serious question a moment ago. Your response to it provoked a laugh at the press table.

But let me ask, I know that you have the number 653–3535. Has anybody considered it interesting enough to call that number and find out if directions are being given to a specific place on a base?

Secretary BROWN. I don't know the answer to that question, Senator Helms. I would not be at all suprised if the base commander had called that number, but I would like to leave discretion and initiative to people who have such responsibility.

Senator HELMS. I didn't want your response to imply that Senator Thurmond's question was frivolous.

Secretary BROWN. I don't think it was a frivolous question, and I hope my answer was not considered frivolous.

Senator HELMS. I know it was not intended so.

Regardless of what anybody might wish or hope to the contrary, do you not believe that the days of the All-Volunteer force are numbered from a practical standpoint, not to mention the problems we are having with properly defending this country?

Secretary BROWN. I am not convinced that the All-Volunteer force has not worked. In fact, I believe so far it has worked. I am not sure that it will continue to work smoothly, indefinitely, in the future. Circumstances change, the demographic situation changes, the economic situation may change, the social situation may change, and so I can't promise that we can always manage an All-Volunteer force, but I believe that to this point we have met our needs with an All-Volunteer force.

Senator HELMS. Do you agree that we have sort of crossed the Rubicon inasmuch as it is claimed by some that the attitude of those in the armed services has been transformed from one of duty, to one of an occupation?

Secretary BROWN. I believe that if that were a universally experienced change in our Armed Forces, that it would indeed be a very important change, and a change not for the better. I do not want to characterize, in fact, I won't try to characterize all members of the Armed Forces as having altered their attitudes in the direction that your question indicates. In fact, I believe that the majority of our military people still do look on their professions as professions, their

calling as a calling. But that is not nearly so universal as it was, and that is a matter of great concern to me.

Senator HELMS. I didn't make that as a statement of fact, but reference has been made to an alleged change of attitude here this morning, and I wanted to get your opinion.

Secretary Claytor, this isn't a fair question to ask you, inasmuch as you have said, that you are a new boy on the block, and that you haven't had all that much time to study the present situation as it exists in the Navy. But, based on whatever information you have now, do you have any concern about the deterioration of discipline in the Navy?

Secretary CLAYTOR. I have not had any reports that there are difficulties, or that discipline has deteriorated. In fact, I am inclined to think our discipline is holding up very well. I base that on the negative response, there have been no reports brought to my attention concerning an erosion in discipline.

Senator HELMS. You just don't know?

Secretary CLAYTOR. No cases of serious breakdown in discipline have been brought to me and I think they would have been brought to me if they had occurred since I have been aboard.

Senator HELMS. When you go out to the fleet, I hope you will talk to men other then admirals and captains; perhaps you can sit down with some lower ranking officers and some CPO's, because the impression I have, sir, is that things are not all that encouraging, there is the appearance of an emerging morale problem.

Both of you gentlemen mentioned "first amendment rights" earlier today?

Senator CLAYTOR. Yes sir.

Senator HELMS. I might say that when I went into the Navy and was shipped through San Diego, Mr. Chairman, we had a chief petty officer with hash marks up to his elbow who very effectively took care of our first amendment rights.

Thank you, Mr. Chairman.

Chairman STENNIS. Thank you, Senator.

Senator Jackson?

Senator JACKSON. I don't want to go over ground that has already been covered, but my basic question is to what extent has the problem become a problem within the Armed Forces? There has been a lot of talk about this but I am trying to ascertain the situation as it exists now, beyond rumors and beyond leaflets. I noticed one leaflet handed out here. Coming as I do from a long union family, I note there is no union bug on it. [Laughter.]

This is a mimeographed item—you don't put out union material without a union bug. I am just a little curious about the orthodoxy of the movement here.

Just in a few words, where are we with reference to this problem? It is a difficult one because you start moving in this area and you can open up a can of worms, and you may need to open it up. But I think we must address ourselves to it. This problem has arisen in Europe, in Holland, and I think in some of the other countries, where the question had been coming to the fore in recent years.

I believe Secretary Brown has pointed out very well our long tradition with the trade union movement. The strongest support for our defense budget over the years has been from members of organized

labor who have taken some pretty tough and strong positions in the whole area of national security, and particularly with reference to the problems of post World War II, and in the difficult days of the Marshall plan and NATO and so on. Their interests in this country's safety have transcended just our own Nation—they have demonstrated tremendous interest in our program of collective security, as well as in their own traditional collective bargaining.

Secretary BROWN. Let me respond, Senator Jackson, as follows.

First, as my statement indicates, I believe strongly in the value to American society of the union labor movement.

Second, for the reasons given in my statement, I believe that unionization would be inappropriate for the Armed Forces and that collective bargaining is inconsistent with the necessary military discipline and chain of command.

Third, it is clear that there is a good deal of activity going on, but the nature of that activity is less clear.

Senator JACKSON. Is what?

Secretary BROWN. The detailed nature of the activity is less clear. There has been a vote by the governing board of the American Federation of Government Employees indicating that they intend to conduct a unionization drive among the military, subject to the approval of their membership. I think we wouldn't all be up here today if there were not real concern of this becoming a problem. I don't think we know enough about the situation to know its seriousness, but I am convinced enough of the existence of a problem—and sometimes the perception can create the problem—that I support the previously existing directive in the Defense Department that prohibits negotiation with such organization by military personnel or DOD civilian employees.

I think that we have to proceed carefully, because there are undoubtedly legal thickets in this case. I believe in the face of an avowed statement of intent to organize, consideration of such as the committee is giving to this question is appropriate, and as I hope I have indicated to the chairman and the members, the Defense Department wants to cooperate fully in the committee's activities to take whatever steps are appropriate.

I don't want to overreact, but I think we should not wait until there is a large military membership in unions before we take any action.

Senator JACKSON. Your existing rules and regulations cover current activity?

Secretary BROWN. Cover is a big word, Senator Jackson.

Senator JACKSON. I am speaking of general activity.

Secretary BROWN. Our existing directives have handled activity to date. There is a next step that various committee members have discussed and asked me about which hasn't been taken. It would be the next step to be taken, going beyond a prohibition of engaging in collective bargaining to a prohibition on base solicitation. I am told by the Defense Department General Counsel's office that such a step would be legal, but it might be more comfortable given a legislative underpinning.

Senator JACKSON. There is a problem, it seems to me, as to what you can do under existing authority in terms of preventive steps, so that

the individuals who are contacted and groups that are involved understand clearly in advance what is apt to happen. I think that there is an obligation to lay down some guidelines here in light of what you say is, to use my own words, general activity. I gather there have been discussions, but no attempt to formally set up a union local as such for the military? In light of all of that, and what is emerging here, I think we are probably close to a point where we will certainly need to put out the appropriate notices. If legislative underpinning is required, I think we would have to deal with it in terms of notice. That is what I would say, because I think a lot of individuals, young people coming into the Armed Forces, may well believe that there is existing authority to join a union and engage in collective bargaining.

Now, I think they can join all kinds of organizations. The question is for what purpose are they joining, isn't it?

Secretary BROWN. That is correct.

Senator JACKSON. I think the first amendment rights come in, in a logical way. They can join whatever they wish; but I believe we need to define the appropriateness of joining, if it is related to a process by which there is an accomplished unionization.

Secretary BROWN. Well, yes, I think that that is one way of approaching it. We had hitherto called it the Claytor solution, but I guess we should call it the Jackson-Claytor solution.

Senator JACKSON. Well, Mr. Claytor is a good executive. A lot of comments are made about running railroads, and he has run a very good one and he knows how to handle people. Secretary Brown, you and I could perhaps turn the problem over to him because he has dealt with the historic old line railroad brotherhood groups that have been in it a long, long time and they are tough bargainers.

Secretary CLAYTOR. Yes, sir, and I have been in all-night bargaining sessions a dozen times in the last few years, I am well acquainted with the process and I believe in it as it applies to industry.

Senator JACKSON. As I believe Mr. Brown mentioned in his statement earlier, labor in this country, free labor, has done a tremendous job in terms of American productivity and our arrangements here have certainly been in the best interests of our economic free enterprise system.

But my comments here, Mr. Chairman, relate to just where we are, what can be done under existing law, and what is the next step. Mr. Claytor, you are a good lawyer, just where are we? I suppose you are getting conflicting advice as to what you can do by regulation and what you can do pursuant to other statutes as well as under the Constitution?

Secretary CLAYTOR. There is no doubt, I think, that we can take the further steps suggested by Secretary Brown to prohibit solicitation on Government property. I would say if there were a statute specifically prohibiting that, it would be a stronger case than if it is done by directive, but I think the chances are quite good even a directive would be upheld. If we go beyond and prohibit union membership, we do run into the first amendment problems, and I think that is the case whether it is a statute or a directive. This is an area that I feel we need to do a great deal more really high level legal research on and certainly I can do that. We really have the capacity to do it within

the Department. I had suggested the possibility of getting experienced and well known outside counsel such as Erwin Griswold, a former dean of Harvard Law School to examine this problem and give the committee or the Defense Department and the Attorney General advice. I think coming from the outside it could be more helpful than any internal advice, although we also want all the internal advice we can get.

Senator JACKSON. Well, I think you have defined the parameters. Once you leave the base you do get into a kind of a legal thicket, in light of previous decisions and precedents and so on.

I think my time is up, Mr. Chairman, I want to commend you for having this ventilation of the issues. I think it is an important first step in trying to identify the problem.

Chairman STENNIS. All right, thank you.

In just a moment I will pass to you, Senator Thurmond.

Gentlemen, one thing I observed, you seem to be concerned and rather deeply concerned, though you haven't been in office long, with this problem, and it is a problem. It seems that some movement further by the organizers is rather imminent. Now, I am not certain as to the exact date that I first took this up with the Secretary of Defense, but here is a copy of a letter I wrote to Mr. Schlesinger on October 1, 1975, which I am inserting for the record, about this subject matter, asking for a picture of the situation and what positive steps he was taking.

[The letter follows:]

OCTOBER 1, 1975.

Hon. JAMES R. SCHLESINGER,
Secretary of Defense,
The Pentagon,
Washington, D.C.

DEAR MR. SECRETARY: I am deeply concerned with the press reports regarding plans for unionizing the enlisted men of our Armed Forces.

We all recognize the role of unions for civilian workers. I firmly believe, however, that the unionization of our Armed Forces is totally incompatible with military discipline and training programs, both of which are aimed at preparing our soldiers as effective fighting men if they should be sent into combat. If large numbers of our enlisted personnel are to belong to labor unions, with all the various relationships incident to union membership, the very grave question is raised as to whether our Armed Forces any longer remain an effective fighting organization.

I request that you advise me as to what positive steps the Department is taking to meet this entire issue of military union membership.

Sincerely,

JOHN C. STENNIS.

Chairman STENNIS. I bring this up and he was concerned. I had talked to him before I wrote him the letter. I don't have a written answer to that letter, but we talked about it and I renewed my request to Mr. Rumsfeld after he was in office, and had been there long enough to get familiar. He was a fast learner, with the problems that he might be confronted with, and we talked about it several times. So to my personal knowledge there has been a concern in Defense for 2 years at least, and I emphasize that because it is a situation that is not easy for you and it is not child's play, to legislate on this matter particularly in view of these constitutional questions.

I observed here this morning, regardless of shades of opinion, there seems to be an almost unanimous view that there is a problem, that must have further and more attention, and there are certain foundations for

a bill, foundations plannings, as I call it, of a bill that are agreed on generally. It is recognized we have legal problems. But I think we are making headway and we can make more. In fact, I think we must, otherwise we are going to see a lot of activity toward organization. I want to mention here I don't condemn any and all groups but I know there are always some in situations of this kind that get in and it seems they abuse their positions. These young men coming in the Armed Forces, I think, will be greatly disturbed, whereas it takes a highly concentrated effort by the services, to recruit them, and then to keep them there after they are in, and mature them into the real military man. I know the present Commandant of the Marine Corps within 6 or 8 months after he came in had turned out about 30 percent of them. He was already short numberwise but he turned out that many more because he didn't think they met the standards that were necessary on the part of a quality basis. I use that as an illustration of what a problem it is.

Senator THURMOND. Thank you, Mr. Chairman.

Mr. Secretary, do you know where the Oakland Army Base meeting is to be held next Tuesday? I referred to it earlier from the flier.

Secretary BROWN. I know nothing more than is on the flyer, Senator Thurmond; it says Oakland Army Base, but it doesn't say where.

Senator THURMOND. Are you interested enough to find out or does it concern you?

Secretary BROWN. If there is really going to be such a meeting, I will be interested to know where the organizers of the meeting would plan to hold it. I would expect that the local commander would exercise the initiative that we expect of our military leadership and would check into it.

Senator THURMOND. How would you prevent this meeting if you wanted to from being held on the base?

Secretary BROWN. I would expect that the local commander, if he saw in it a potential infringement of discipline, would take such action as was necessary to keep it from being held in a Government facility. Some of the streets are probably open to civilian traffic.

Senator THURMOND. Would you consider this an infringement of discipline if it were held on the base?

Secretary BROWN. That is a difficult question; it depends on the nature of the meeting.

Senator THURMOND. Well, the meeting is to get them all together to get them to try to join the union.

Secretary BROWN. That is one possible purpose of the meeting. The nature of the meeting can only be determined if it takes place, and there have been others like this which have been announced and yet never took place.

Senator THURMOND. Do you plan to have somebody check into the nature of the meeting?

Secretary BROWN. The commander, or a representative, would presumably be there. Senator Thurmond, I would rely on the local commander.

Senator THURMOND. Well, has he seen the flier that we referred to?

Secretary BROWN. I have no idea, sir, but I would be very surprised if he had not.

Senator THURMOND. Well, if he has not seen it, and he may not have, would you feel it your duty to send him a copy of it since it has been brought to your attention?

Secretary BROWN. Yes, I would, if he had not seen it, Senator Thurmond.

Senator THURMOND. Are you going to call him to find out if he has seen it?

Secretary BROWN. No, sir, I am not going to personally call him.

Senator THURMOND. Are you going to send him a copy of it?

Secretary BROWN. I am assured already that the local commander knows about it. I will take such steps as are necessary to assure you of it, Senator Thurmond. I would regard my dealing directly with the commander on a matter like this as an example of excessive control from the top, which I don't think is appropriate, in general.

Senator THURMOND. Now is there any prohibition against circulation of leaflets of that kind on military installations?

Secretary BROWN. I don't know whether this has been circulated on a military installation.

Senator THURMOND. That is not the question I asked you.

Secretary BROWN. You mean is there a formal prohibition?

Senator THURMOND. I asked you if there is a prohibition against circulation of the kind of leaflet that I have called to your attention earlier?

Secretary BROWN. So far as I know there is no Defense Department or Army regulation formally prohibiting the distribution of leaflets announcing meetings on a base at an unspecified place. Whether a commander would interpret such a distribution as an infringement of discipline, I don't know. I think a commander might so interpret it.

Senator THURMOND. Well, is it a violation of regulations for a leaflet of this kind to be circulated to hold a meeting on the base without permission of the commanding officer?

Secretary BROWN. Again, Senator Thurmond, I don't believe that there is a formal, explicit prohibition. Therefore, whether it is a violation of regulations depends upon the commander's interpretation with respect to the maintainence of discipline.

Senator THURMOND. Well, is it correct to say that commanders can set a time and place for leaflets to be offered on the base but not actually prohibit them?

Secretary BROWN. I don't know the answer to that question but I will supply it for the record.

[The information follows:]

DOD directive 1325.6, "Guidelines for Handling Dissident and Protest Activities Among Members of the Armed Forces," provides guidance for the possession and distribution of printed materials on military installations. Normally, prior permission must be obtained from the installation commander before printed materials may be distributed through nonofficial outlets. The installation commander then has the opportunity to evaluate the material to determine whether it constitutes a clear and present danger to the loyalty, discipline or morale of military personnel. If the commander makes that determination, distribution may be prohibited.

Senator THURMOND. Is it correct that under current policy that a commander can set a time and place for a meeting?

Secretary BROWN. I don't know the answer to that question, either. But certainly if it is a Government sponsored meeting, it would be controlled by the commander. I am not sure about a situation like this, however. The commander has the authority to maintain discipline in Government facilities.

Senator THURMOND. Mr. Secretary what I am attempting to point out is that there is no bar to union membership of military personnel, which you admitted.

Secretary BROWN. That is correct.

Senator THURMOND. There is no present limit on the base solicitation. There is no way to prevent leaflet circulation. In other words, unions have a clear path at present to unionize the military if they so choose?

Secretary BROWN. I don't come to that same conclusion, Senator Thurmond, but your questions and my answers allow everyone to draw a conclusion.

Senator THURMOND. Well, do you know how many members of the armed services have joined the union?

Secretary BROWN. No; I don't. I see no way of finding out without asking them, and I think that asking them may well be a bigger spur to unionization than this kind of leaflet. But in answer to your question, I do not know. I have no evidence that there is any substantial number.

Senator THURMOND. Do you have any ideas as to how many men have applied to join the AFGE?

Secretary BROWN. No; I do not. I assume the AFGE would know, but they have not said.

Senator THURMOND. Well, are you concerned?

Secretary BROWN. Indeed, I have an increasing concern.

Senator THURMOND. Suppose there are thousands of them who have applied to join; what are you going to do about it?

Secretary BROWN. I am not going to do anything.

Senator THURMOND. Are you going to recommend legislation?

Secretary BROWN. I am not going to do anything illegal or unconstitutional if I can help it, Senator, and I think I can help it.

Senator THURMOND. Are you familiar with an internal memorandum in the Justice Department that says this:

> In our view, S-274—that is the bill that 38 Senators introduced this year, on unionization—would accomplish its intended purposes and falls within the constitutional authority of the Congress to enact.

Are you familiar with that?

Secretary BROWN. I am not familiar with any internal memorandum of the Justice Department, Senator Thurmond and, therefore, I am not familiar with the one you mentioned.

Senator THURMOND. It has not been discussed with you?

Secretary BROWN. No, sir.

Senator THURMOND. Have you made any inquiry as to whether they have looked into this matter and have passed judgment on it?

Secretary BROWN. We have informed the Justice Department of your request, on behalf of the committee, and we have not received any formal communication from them.

Senator THURMOND. There have been reports of union activities at Fort Benjamin Harrison. Have you received notice of any such reports and are you familiar with any activities there?

Secretary BROWN. I have received information about purported union activities at Fort Benjamin Harrison, at Fort Dix and there may be some others.

Senator THURMOND. Have you had those investigated to get the facts?

Secretary BROWN. Yes, sir, my attempts to track them down have not produced, at least by my standards, any detailed evidence. They generally turn out to be second- or third-hand reports.

Senator THURMOND. How about Fort Devens, have you received any information about activities there?

Secretary BROWN. I have told you of the specific places about which I have heard these things, Senator Thurmond.

Senator THURMOND. Well, I asked you about Fort Benjamin Harrison and you answered on that, but I am asking about Fort Devens now.

Secretary BROWN. Yes, sir, I don't recall anything about Fort Devens. I can tell you that regarding Fort Benjamin Harrison, the detailed investigation indicated nothing. I will attempt to find out for you whether the same thing is true about Fort Devens.

Senator THURMOND. What about McGuire Air Force Base?

Secretary BROWN. I am attempting to find out whether the same thing is true about that base.

Senator THURMOND. You don't have any knowledge about anything?

Secretary BROWN. I am sure the Defense Department has such knowledge, and I believe that had the reports turned out to have been of any substance I would have been told. I will check for you and try to find out whether in this case, as in the other case about which I know, the report is baseless or not.

Senator THURMOND. What about Fort Dix, New Jersey?

Secretary BROWN. That is one that I did hear about, and I got the same kind of response about which I just advised you.

Senator THURMOND. Could you get us a copy of those reports and the information that you have on it and any action that you have taken in connection with it?

Secretary BROWN. Yes, sir, I will endeavor to do that.

[The information was previously submitted; see p. 41.]

Senator THURMOND. Mr. Secretary, do you really believe the officials of AFGE when they stated publicly their intention to unionize military personnel, do you believe they mean what they say?

Secretary BROWN. I think they intend to find out whether they have a chance of doing so, Senator Thurmond. My experience is that union officials are cautious about undertaking organizing activities when they are not sure of their outcome, much more cautious than they are about statements.

Senator THURMOND. Why do you feel AFGE changed its constitution last September permitting acceptance of military members?

Secretary BROWN. I think they wanted to keep that option open, Senator Thurmond.

Senator THURMOND. What steps have you directed the Defense Department to take to evaluate the progress of the AFGE and their stated goal to unionize the military?

Secretary BROWN. I have asked the military services to provide me with whatever information they have. There is a good bit of doctrine and there are a good many suggestions, but the factual data has so far been harder to come by. I think you make a good point, however, I think we should increase our efforts to get data.

Senator THURMOND. In your opinion, Mr. Secretary, is there anything in current law or regulation to prevent AFGE from announcing at any time that enrollment of members has been initiated?

Secretary BROWN. No, there is nothing in current law or regulation that would prevent that; I don't think that regulation would be an appropriate route to try to prevent it. Legislation, if there is an appropriate remedy, is the remedy.

Senator THURMOND. Mr. Secretary, do you have any evidence that AFGE has begun recruiting activities among service personnel in order that large numbers of members can be signed up when their drive begins?

Secretary BROWN. I don't have evidence of that, Senator.

Senator THURMOND. Mr. Secretary, National Secretary Nolan of AFGE, seemed serious in unionizing the military when he said in July of 1976; these are his words: "What is important to the Government and our own status in the labor movement is that we have this weapon, this is military unionization, in the holster, and I think you should bear that in mind." Do you agree that a military strike threat can be found by implication in that statement?

Secretary BROWN. I don't have an interpretation of that statement. I assume he means organization, but I can't read his mind.

Senator THURMOND. I have three or four more questions but my time is up.

Chairman STENNIS. Take another minute, continue on.

Senator THURMOND. David Cortright quotes retired Admiral La Rocque of the Center for Defense Information in a recent interview, and these are his words, "If we had had a union earlier, maybe we might have avoided the tragedy of Vietnam."

Mr. Secretary, does not that mean in plain English, that maybe the union would attempt to control foreign policy or influence servicemen to disobey the President and the Secretary of Defense?

Secretary BROWN. That is precisely one of the risks inherent in unionizing the military, and that is why I am against unionizing the military, or engaging in collective bargaining with members of the military. I take it that that is also your attitude and that of the committee, so I don't think we disagree on that. The question is what to do about it.

Senator THURMOND. We are in agreement and opposed to unionizing the military. I want to do something about it. Are you going to?

Secretary BROWN. I think I indicated in my answers to previous questions, Senator Thurmond, what I have done and what I plan to do as I see the necessity.

Senator THURMOND. Mr. Secretary, if the military should be unionized, as a matter of fact, wouldn't that increase the defense budget?

Secretary BROWN. I would expect that it would, Senator Thurmond.

Senator THURMOND. Mr. Secretary, should the military be unionized? The AFGE has stated they would withdraw in time of war. Do you believe the union could or would bow out that easily?

Secretary BROWN. I would not want to take that chance, Senator Thurmond. Even an explicit disavowal of future behavior has to be discounted somewhat.

Senator THURMOND. Mr. Secretary, I refer to the convention of AFGE in September of 1976 when they voted to open their doors to military members and to remove the no-strike clause from their constitution. Does this concern you at all or do you agree that that action poses a threat to the military organization?

Secretary BROWN. It would concern me a great deal, Senator Thurmond, if that or other unions were to gain a large military membership and succeed in introducing a collective bargaining or negotiating atmosphere into the military command structure.

Senator THURMOND. Mr. Secretary, I want to thank you for your appearance here and I would express the hope that you would become a little more aggressive to help us in this important matter. Since we are in accord on being opposed to unionizing the military.

Secretary BROWN. Since I have just received information that the commander of the Oakland Army Supply Depot is aware of the existence of the leaflet, which you read from, Senator Thurmond, I thought I would communicate that information to you now.

Senator THURMOND. I am sure you must feel that this is a serious problem or we wouldn't have had 38 Senators to join, and I am sure there are others who will join. I have had a number of them to tell me they will vote this way, and one Senator told me as soon as he made a speech to the AFL–CIO, after he finished that, he was going to have his name added. [Laughter.]

I am certain you do feel that there is a deep concern here when almost half of the members of the Senate have joined on a bill to prohibit unionization of the military.

Secretary BROWN. Yes, sir, clearly that is an expression of serious concern, and I share the concern.

Senator THURMOND. Mr. Chairman, thank you very much.

Chairman STENNIS. All right, Senator Jackson.

Senator JACKSON. No questions.

Chairman STENNIS. Mr. Secretary, there has been a lot of talk, as I have already said I know your predecessors had some concern over there. I would like for you to have the file searched and the record gone over as to what tangible evidence you have in the way of reports, intelligence, or anything relating to facts with reference to attempts to organize the men into unions or plans to organize them, any activity of that kind. It has been a seething question over there, I know, for over 2 years, and of course, we all know there are military implications and there are political implications too, to this whole matter. But now it is brought to a head and something is going to be done about it one way or the other. So any collection of material or information, that you have as to activities on or off your bases, and I am sure you have some reports about those that were on your bases, that would add to the record here.

There is one point I want to mention, I have discussed it with military men, from time to time, and members of the Reserve units, and all the old military units had a lot more discipline in the old days, but always to some degree those that were imposing the discipline, non-

commissioned and junior officers, they to a degree espoused the cause of their own units, did they not?

Secretary BROWN. Yes, sir.

Chairman STENNIS. With the higher authorities. That was an integral part of the military units. Now is that still true?

Secretary BROWN. Yes, sir. It is difficult for me to compare now with earlier days, but it is still a function of a commander to represent the interests of his subordinates, to the higher authority, as I have seen it so done many times.

Chairman STENNIS. Well, has there been a weakening of that obligation on the part of these noncommissioned and junior officers? If so, then they should be spurred to return to that vigor that they once had, so as not to have a need for a union, is the point I am making, so there won't be a feeling of a need.

Secretary BROWN. Yes, sir, your point is very well taken, Mr. Chairman. It is a difficult judgment to make as to what the situation is, but certainly more effort needs to be made to encourage that responsibility of command, which I think is an important one. It is the central core of leadership.

Chairman STENNIS. Yes, these men certainly feel as if they are entitled, and I think they are, too, to someone to speak for them within the ranks and urge consideration for various matters, not just slight matters but have considerations as a whole, and I would like to have some report back on some of your military uniformed personnel, as to how much of that is really carried on now.

[The information follows:]

All Military Departments conduct periodic surveys to gain general appreciation of leadership effectiveness, as follows: Army—Human Readiness Report; Navy—Navy Occupational Task Analysis Program; and Air Force—Quality of Air Force Life Index.

When compared in May 1976, these reports reflected that major problems do not exist in terms of inter-personal leadership relationships. These reports further indicate that leadership capabilities within the Services are a source of satisfaction to service members in general. Trends noted include:

Service members appear to be satisfied in their working relationships with both their supervisors and those they supervise.

Individual satisfaction with both the job itself and the Service appears good.

The foregoing reports are on file in the office of the Senate Armed Services Committee.

Chairman STENNIS. All right, gentlemen, is there anything further?

Senator THURMOND. Mr. Chairman, as I understand, one point you are making here is that the noncoms and junior officers, maybe some high ranking officers, should ascertain just how the soldier feels.

Chairman STENNIS. Yes.

Senator THURMOND. And what he thinks he needs to make him a better soldier or what he needs to raise his morale, to improve the situation.

Now, I would like to associate myself with your position on that. I think that is important. I don't think that the high ranking officers or the Pentagon or anywhere else should resent that being done. I think that could be very helpful and might assist in keeping down any claim that any soldier has to join a union. People like to have an input into things. If they have an input it sometimes gets results. But to unionize

and have negotiators, and especially in time of war, even in peacetime, I think would destroy command, it would destroy discipline, and would absolutely be impractical and unwise.

Secretary BROWN. I agree, Senator.

Chairman STENNIS. All right, well, if there is that feeling among the thinking groups of the enlisted men, why that would certainly go a long way toward dispensing with any feeling for a union, I think, and I made that statement at a statewide meeting in my home State, to the Reserve Officers Association. They had fine representation and applauded tremendously on the idea that it was their duty to make these men feel that they had representation.

All right, gentlemen, if there is nothing else, we will take a recess now subject to the call of the Chair.

[Whereupon, at 1 p.m., the committee was recessed, subject to the call of the Chair.]

UNIONIZATION OF THE ARMED FORCES

MONDAY, JULY 18, 1977

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

The committee met, pursuant to notice, at 9:35 a.m., in room 235, Russell Senate Office Building, Hon. John C. Stennis, chairman, presiding.

Present: Senators Stennis, Byrd of Virginia, Thurmond, and Garn.

Also present: Representatives Nichols and Daniel.

Also present: Francis J. Sullivan, staff director; John C. Roberts, general counsel; John T. Ticer, chief clerk; Phyllis A. Bacon, assistant chief clerk; William L. Ball III, Kenneth W. Fish, Edward B. Kenney, and George F. Travers, professional staff members; Ernest Evans and Roberta Ujakovich, research assistants; Jeffrey Record, assistant to Senator Nunn; Richard J. Bryan, assistant to Senator Helms, and Doris Connor, clerical assistant.

OPENING STATEMENT OF JOHN C. STENNIS, CHAIRMAN

Chairman STENNIS. Our committee will be in order and we will proceed with the testimony of this matter, the two bills [S. 274 and S. 997] pending on unions and the direct activities within the military services. This is a continuation of hearings that were held some weeks ago. Since the setting of the hearings for today, I have received further word with reference to matters in the pending appropriations bill for the Department of Defense that I just have to give my attention to and which is coming up today some time before noon. But this is the order of business today, and has priority over everything else as far as I am concerned.

I note the presence here of General Rogers, Chief of Staff of the Army, who made a special effort to be here this morning. Let me thank him for making these arrangements.

Senator Thurmond had every intention of being here at these hearings and will be here. I am assured that he is en route now. I mention him in particular because of his special interest in the bill and the long, hard work he has done on this subject. I conferred with him about being here the day before we set the hearing, and he will be here.

With those preliminary remarks, I think that we are ready to proceed.

We have the following witnesses in addition to General Rogers.

Is General Kerwin here, too?

General ROGERS. No, sir, he is not.

Chairman STENNIS. I wanted to recognize him because at one time it was thought that he would testify, too.

We have Vice Adm. James D. Watkins, Deputy Chief of Naval Operations for Manpower, Chief of Naval Personnel, U.S. Navy; Capt. James L. Jones, U.S. Marine Corps, and Chief Master Sergeant T. N. Barnes, U.S. Air Force.

Captain Jones and Sergeant Barnes were selected because of their knowledge in this field regarding personnel, their experiences, and what I call a "down-to-earth" opinion and reflection of conditions as they are within these smaller military units.

Now, I want to say to all of you I know you are career people and I am proud that we have men like you in uniform. I know that you have certain protocols and certain matters with the chain of command and all. All of you have civilian control and that is what we should have, but at the same time, you are called here as witnesses.

I am not going to put you under oath. I don't like that approach on a matter like this, but I want your firm, hard opinions as to what you think as professional military men about the situation, and you can say those things with proper deference to everyone else who may have an opinion.

I have a brief statement here that I wrote out myself yesterday that I am going to read, and then I have a statement with reference to something on the legal situation. It was prepared in part by the counsel for the committee.

I am speaking now, first, as a member of the committee and as chairman, of just what I see in this. I will proceed with this statement.

In the first place, ladies and gentlemen, this hearing and these bills are by no means anti-union bills, not in the least. Labor unions have their place in our society and make many worthwhile contributions. Many of these operations that are exercised by labor unions, however, have no place whatsoever in military units or military services, as I see it.

The major reason, be the units large or small, is that a military command has to claim, and, in fact, demands the total allegiance of all its members. There is no room left then for another allegiance. Firm discipline is a major essential in any worthwhile military unit from the smallest to the largest. That is including a lot of other things, too.

Moreover, after all, a sense of personal duty to a higher command is the bedrock foundation, as I see it, of any military organization. There can be no valid promise, therefore, to follow some other group.

Let us also clearly remember that membership in the military services is a voluntary relationship. It carries certain privileges and advantages, but no person is now compelled to join. Those who do join made a choice and must meet the requirements of that choice—the first being, as I have said, total allegiance to the military unit.

As part of the times we are in, there is some agitation contrary to what I have said; therefore, no time should be lost in putting together and passing a law on this subject. In enacting a suitable law in the

premises, Congress would be acting under the direct constitutional authority as spelled out in the Constitution.

I want a broad, fair, and balanced law that will be clear and certain as to the problem we seek to meet, but it will not apply to unions or any of their other activities elsewhere; it will not be a precedent against them.

As part of my duty as a member of this committee, I sought and obtained counsel with a number of union members, including a number of their leaders. Many strong union members oppose the idea of unions within our military services, and do not want their unions to seek to take part therein. With great emphasis I point out, too, that the officers within the military units, both commissioned and noncommissioned, are under a positive duty to hear and consider facts and conditions relating to the on-duty and off-duty problems of those in their commands.

These officers have the positive duty to give fair representation as well as consideration to the claims and problems of all personnel and to seek and, if possible, find remedies therefor. In proper cases, they must see that the remedy is supplied.

Those in the military services, of course, also have their rights for consideration by all of their elected or otherwise chosen officers, including Members of Congress. I am pleased to say that I believe their rights are considered by their elected and most of their appointed civilian officials.

Further, it certainly must not be overlooked that we are in a testing period on the question of whether or not we can have voluntary forces for all of our military services. I am certainly hoping that this plan will work out but the plan itself will certainly not have a fair chance if its operation gets mixed up in the confusion that could be generated on this question of unions within our military units. This is an additional reason, as I see it, for enacting this legislation.

Now I will supply the quotation from the Constitution at the proper time, but identify it now. Reading from the Constitution, the congressional powers provides among those powers to make rules for the Government and regulation of the land and naval forces, to provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions. (Article I, section 8, clause 14 and 15 of the Constitution.)

CONSTITUTION OF THE UNITED STATES

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ARTICLE I.

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SECTION 8. * * *

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[14] To make Rules for the Government and Regulation of the land and naval Forces;

[15] To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

I have an additional statement that I am going to, for the sake of time, read from fairly briefly, and then insert it in the record more at length.

Here is one emphasis that I want to make again. Today's witnesses have been invited in order to give the committee a full spectrum of military opinion on the effects that union activity would have on the smooth functioning of military organizations. I have referred already to these gentlemen by name and will add an additional word about Captain Jones. He has commanded companies both in combat and on peacetime duty here in the United States and can give us a special insight into what it would be like to take on that responsibility with a union or any other outside group looking over his shoulder at every step.

We are glad, too, to have Chief Master Sergeant Barnes here. I am confident that through this combination of witnesses we will emerge with a clearer idea of how an outside organization could, and perhaps would, interfere with the day-to-day workings of our military organization at all levels.

[The prepared statement of Chairman Stennis follows:]

PREPARED STATEMENT OF SENATOR JOHN C. STENNIS

Today we resume our consideration of one of the most important issues to come before the Committee this year—whether legislation should be enacted to forestall the threat of unionization of the armed forces.

This is a matter of great concern to many members of the Congress, and particularly to members of this Committee. It is also a matter on which the people of this country apparently feel very strongly. A Gallup poll last week on this issue reportedly indicated that an overwhelming 74 percent of Americans surveyed opposed the idea of unionization of the military. As on so many issues, the view of the average citizen about the dangers of a unionized military is remarkably wise and perceptive.

Organized labor has its place in this country, and the unions play a significant role in our society. However, I am convinced that the concepts of union organization, collective bargaining and shared decision-making are simply incompatible with a military organization. Legislation prohibiting unionization of the military should not be viewed in any way as anti-union; it is in the best sense pro-military security and good order.

It is important that we in the Congress take action on this issue. Congress has the specific constitutional responsibility to regulate the armed forces. We must not simply pay lip service to our belief that unions in the military services would be disruptive and dangerous to our security. We must act now, before this threat becomes a reality, to design strong legislation that would prevent unionization. It is to lay a basis for such legislation that we meet today.

Today's witnesses have been invited in order to give the Committee a full spectrum of military opinion on the effects that union activity would have on the smooth functioning of military organizations. General Rogers will speak for the Joint Chiefs of Staff as well as on the basis of his own Army experience, in order to give us the view of a senior officer who spent a long career confronting the sensitive and complex problems of command. We seek to learn from him the ways in which the existence of a union organization would affect readiness, discipline and morale. Admiral Watkins has been asked to add the perspective of one who is charged with personnel administration in one of the Services. We would like to obtain a specific explanation of the effect of unions on personnel administration, grievance resolution, and similar issues. We are also happy to welcome two military members who can give us the perspective of those who work with the chain of command at the unit level. Captain Jones has commanded companies both in combat and on peacetime duty here in the United States, and can give us a special insight into what it would be like to take on that responsibility with a union looking over his shoulder at every step. And to

obtain the important point of view of the senior enlisted man with many years of experience in dealing with the problems of individual Service members in a wide variety of units, we have asked Chief Master Sergeant Barnes to join us. I am confident that through this combination of witnesses, we will emerge with a much clearer idea of how unions would interfere with the day-to-day workings of our military organization at all levels.

Before turning to our witnesses, let me say that the Committee is not unmindful that there may be underlying problems within the military services which are feeding the scattered interest in unionization that has been reported. We must not ignore those problems. Nor should we leave the impression that in opposing unionization as a means of representing the serviceman's and woman's interests we intend to ignore or slight those interests. Quite the contrary. This Committee and the Congress hold the individual Service member in high esteem, and we will act to protect his interests. If there are flaws in the systems now in effect for resolution of individual grievances, let us find them. If there are problems in the Service communication channels, we will press the Services to improve. With respect to the issues of pay and benefits, we will work toward a rational and stable system that is fair both to the Service member and to the taxpayer.

General Rogers, Admiral Watkins, Captain Jones, Chief Master Sergeant Barnes, we welcome you here and look forward to hearing your views.

ADDITIONAL STATEMENT OF SENATOR JOHN C. STENNIS

In the first place, this is by no means an anti-union bill. Labor unions have their place in our society and make many worthwhile contributions. Many of the operations that are exercised by labor unions, however, have no place whatsoever in military units or the military services.

The basic reason, be the units large or small, is that a military command has to claim, and in fact demand, the total allegiance of all of its members. There is no room left for another allegiance.

Firm discipline is a basic essential in any worthwhile military unit, from the smallest to the largest. Moreover, after all, a sense of personal duty to a higher command is the bedrock foundation of any military organization. There can be no valid promise, therefore, to follow some other group.

Let us also clearly remember that membership in the military services is a voluntary relationship. It carries certain privileges and advantages, but no person is compelled to join. Those that do join have made a choice and must meet the requirements of that choice, the first being, as I have said, total allegiance.

As a part of the times we are in, there is some agitation contrary to what I have said. Therefore, no time should be lost putting together and passing a law on this subject. In enacting a suitable law in the premises, Congress would be acting under the direct constitutional authority as spelled out in the Constitution.

I want a broad, fair and balanced law that will be clear and certain as to the problems we seek to meet, but it will not apply to unions in any of their other activities elsewhere, and will not be a precedent against them.

As a part of my duties as a member of this Committee, I sought and obtained counsel with a number of union members, including a number of their leaders. Many strong union members oppose the idea of unions within our military services and do not want the unions to seek to take a part therein.

With great emphasis, I point out that the officers within the military units, both noncommissioned and commissioned, are under a positive duty to hear and consider facts and conditions relating to the on-duty and the off-duty problems of those in their command. These officers have the positive duty to give fair representation as well as consideration to the claims and problems of all personnel and to seek, and if possible, find remedies therefor. In proper cases they must see that the remedy is supplied.

Those in the military services, of course, also have their rights for consideration by all of their elected or otherwise chosen officers, including members of the Congress. I am pleased to say I believe their rights are considered by their elected and most of their appointed civilian officials.

Further, it certainly must not be overlooked that we are in a testing time on the question of whether or not we can have voluntary forces for all of our military services. I am certainly hoping that this plan will work out, but the plan

itself will certainly not have a fair chance if its operation gets mixed up in the confusion that could be generated on this question of unions within our military units. This is an additional reason for enacting this legislation.

Chairman STENNIS. I have made reference already to General Rogers. If you have a biographical sketch of the general's career, supply it and we will have it inserted in the record at the proper place. I want to get on now to your testimony, which is expected to be valuable from the viewpoint of your long, fine career. You are going to be asked to give your rock-bottom opinion on these matters, and some questions will be asked, too, by other members of the committee who wish to do so.

We may have to evaluate and take an inventory of the time but I am going to call on you now, General Rogers, for you to proceed in your own good way.

[Biographical sketch of General Rogers follows:]

BIOGRAPHICAL SKETCH OF GEN. BERNARD W. ROGERS, CHIEF OF STAFF, U.S. ARMY

Gen. Bernard W. Rogers was born in Fairview, Kans., on July 16, 1921. He graduated from the U.S. Military Academy in June 1943 as a second lieutenant of Infantry.

His early service included duty with the 70th Infantry Division; the staff and faculty of the Military Academy; the staff of the High Commissioner to Austria; and with Headquarters, Sixth U.S. Army in San Francisco.

From 1947 to 1950 he attended Oxford University as a Rhodes Scholar, receiving a BA and MA in Philosophy, Politics, and Economics. Upon his return from England, he served on the staff of the Commanding General, U.S. Army Field Forces, Fort Monroe, prior to attending the Infantry Officers' Advanced Course at Fort Benning, Ga., 1951–52.

In June 1952 he joined the 2nd Infantry Division in Korea and commanded the 3rd Battalion, 9th Infantry Regiment. At the end of 1952, he joined the staff of the Commander in Chief, United Nations and Far East Commands in Tokyo.

Following attendance in 1954–55 at the Command and General Staff College, he again joined the 2nd Infantry Division as commander of the 1st Battalion, 23rd Infantry, Fort Lewis, Wash.

In June 1956 he was assigned to the Office of the Chief of Staff, U.S. Army in Washington, serving with the Coordination Group and as Executive and Senior Aide to the Chief of Staff.

He graduated from the Army War College, Class of 1960. He then was assigned to the 24th Infantry Division in Germany where he served as commander of the 1st Battle Group, 19th Infantry, and as Chief of Staff of the division.

In September 1962 has was assigned to the Office of the Chairman, Joint Chiefs of Staff in the Pentagon, where he served as Military Assistant and Executive Officer to the Chairman until October 1966.

From November 1966 to August 1967 he served as Assistant Division Commander of the 1st Infantry Division in Vietnam. He was Commandant of Cadets at the Military Academy from 1967–1969. He commanded the 5th Infantry Division (Mechanized) and Fort Carson, Colo., from September 1969 to December 1970. He served as Chief of Legislative Liaison in the Office of the Secretary of the Army from January 1971 until October 1972. He became the Deputy Chief of Staff for Personnel, Department of the Army, on November 1, 1972. On November 18, 1974, he assumed command of the U.S. Army Forces Command. He was the U.S. Kermit Roosevelt lecturer in 1976.

On October 1, 1976, he became Chief of Staff, United States Army.

General Rogers has been awarded the Distinguished Service Cross, Silver Star, Legion of Merit with three oak leaf clusters, Distinguished Flying Cross with two oak leaf clusters, Bronze Star with "V" device and oak leaf cluster for merit, Air Medal with "V" device, Army Commendation Medal with oak leaf cluster, Vietnamese National Order, 5th Class, and Vietnamese Cross of Gallantry with palm (two awards).

STATEMENT OF GEN. BERNARD W. ROGERS, CHIEF OF STAFF, U.S. ARMY

General ROGERS. Thank you, Mr. Chairman.

I have a statement which I would like to read. It is relatively short.

Mr. Chairman, distinguished members of the Armed Services Committee, it is a pleasure to appear before you today to present my views and in addition to represent the views of the Joint Chiefs of Staff concerning the issue of unionization of personnel of the Armed Forces. In addition to my opening statement, Vice Adm. James D. Watkins, Chief of Naval Personnel; Capt. James L. Jones, U.S. Marine Corps, and Chief M. Sgt. T. N. Barnes, Chief Master Sergeant of the Air Force are also present at your invitation and are prepared to discuss this issue as viewed from their particular perspectives.

Last February, while appearing before this committee, I stated my belief that there is no place for military unions in the armed forces. On that occasion I pointed out that, in my opinion, in order to curtail effectively the formation of military unions a prohibition on three forms of activity is required. First, a service member should be prohibited from joining a union which purports to represent military personnel regarding the terms and conditions of military service. Second, there should be a prohibition against soliciting on service installations for military personnel to join such a union. Last, commanders should be prohibited from negotiating with unions which purport to represent service members.

The Joint Chiefs of Staff as a body endorse the position I have expressed. Our position that there should be no military unions should not be viewed as an expression against unions or unionism, but rather as opposition to the application of the collective bargaining process within the military environment.

The basis for my position is that the armed forces of the United States occupy a unique position in our society. Their mission is to provide for the defense of the Nation, the protecting of our national interests, and the preservation of our freedom of action within the international community. We discharge that mission primarily by providing an effective deterrence to aggression, but if necessary and required, through resort to force of arms. This basic mission demands of our soldiers, sailors, marines and airmen a degree of discipline, duty, reponsiveness, and self-sacrifice, virtually without parallel in the civilian sector. Our forces must be prepared to deploy rapidly to any point on the globe. Once there, they are apt to be faced with entering the most complex, chaotic and lethal environment known to man, the environment of modern warfare. Arbitration, collective bargaining, and shared decisionmaking—all common aims of organized labor—have no place in this setting; rather discipline, loyalty, a high sense of duty, responsiveness and an unencumbered chain of command are the elements which enhance success.

Many who advocate military unions state that there would be no union participation in decisions during or under wartime conditions, but rather a military union would be primarily limited to those types of concerns common to a garrison environment. They go on to state that such union activities during peacetime would not detract from

the wartime effectiveness of our Armed Forces. Such advocates fail to acknowledge several important points. The commitment required of a serviceman in combat is not something which can be turned on like a light as he enters the battle. This commitment must be developed through long and difficult periods of training, and through an association during which there can be no competition for loyalty. The ever-increasing complexity of modern warfare adds to the importance of this peacetime training. An integral part of this training is developing and enhancing mutual confidence and respect between the members of the chain of command and the individual serviceman. The assumption that the required degrees of loyalty and confidence between the leader and the led will develop when a third party—a union—is interjected between the two is fallacious. The loyalties and relationships which develop during periods of peacetime training can be expected to continue during periods of conflict. If a serviceman feels more confidence in his shop steward than in his chain of command during his training, this same feeling can be expected to continue into combat. To permit such a possible situation to develop makes no sense to me.

Other proponents of military unionization often cite the European experience as evidence that unions within the military can function and, therefore, should be acceptable to the Armed Forces of the United States. This is not accurate. In the first place, the senior leaders with whom I have spoken from some countries with so-called unions, are not pleased with their existence.

Second, the traditional role of unions and their position within the national social structure and political process in these countries is significantly different from that found in the United States. In short, what might seem right and proper in Western Europe is not necessarily right and proper for the United States. As one leader in a nation with military unions recently cautioned: Don't try the system in your country; it is a system only for my people and only in my country.

Notwithstanding the many persuasive arguments against the formation of military unions, there are still those persons who would say the serviceman needs to be represented, needs someone to see to his needs and to the welfare of his dependents, needs someone to listen to his problems and assist in finding solutions. Others would argue that our serviceman needs a mechanism through which to voice his concerns, one which is flexible, responsible and most importantly, one which is comprised of people who care for the serviceman and have his interests at heart.

I agree, servicemen do need such representation and such a mechanism. They exist today. The responsibility to represent our servicemen rests with the senior leaders, both uniformed and civilian. Concerned, dedicated, knowledgeable, involved leaders at all levels in the chain of command provide the mechanism through which the needs and concerns of our service personnel can be heard and resolved. All services have long recognized the importance of providing channels for service members to present problems or to lodge complaints. The channels include—in addition to the chain of command—the inspector general system, article 138 of the Uniform Code

of Military Justice, and the right to correspond directly with the Commander-in-Chief or with individual Members of the Congress. In addition, the flexibility of the chain of command in providing appropriate means for communicating problems or complaints is highlighted by the development by commanders of open door policies, advisory councils, commander's "hotline," commander's call, survey feedback, various media outlets, and other such activities. Each of us privileged to serve our Nation as a uniformed leader, from the highest to the lowest level in the military hierarchy, must insure that we possess and display the compassion, care, empathy, and the recognized sincere concern for our serviceman so that he will—and can—depend upon us to train him up to standard, assist him when needed, and be his representative and spokesman, both within and outside the military service.

At the same time, we must keep high the standards which our servicemen must meet in all areas including training, discipline, duty, physical conditioning and appearance and we must insure that they meet these standards. To do otherwise would be to fail in the proper discharge of our responsibilities for the welfare of today's excellent service personnel.

Thank you for permitting me to present these thoughts. I will be happy to respond to your questions. On the other hand, perhaps you would prefer to hear from the other witnesses before questioning.

Chairman STENNIS. All right, General, I certainly thank you.

Under ordinary circumstances we would perhaps stop now and have questions. I believe, though, you have made a good suggestion under the circumstances prevailing now to proceed with statements from these other gentlemen. We will then come back to all of you with questions.

All right, there is no limitation on the time or anything like that.

Admiral, should you have a long statement it might be better to put some of it in the record. What we want to do is to hear you emphasize the points that are in your mind based on your experience. We are calling you here for the worth of your opinion based on that experience. You may proceed.

[Biography of Vice Adm. James D. Watkins follows:]

BIOGRAPHY OF VICE ADM. JAMES D. WATKINS

James David Watkins was born in Alhambra, California, on March 7, 1927. He attended the University of California at Berkeley (1944–1945). He was appointed to the Naval Academy in 1945 and was graduated and commissioned Ensign on June 3, 1949. In 1958 he was graduated from the Naval Postgraduate School, Monterey, California, with the degree of Master of Science in Mechanical Engineering which included graduation from the Oak Ridge School of Reactor Technology, Oak Ridge National Laboratory, Tennessee.

He advanced to the rank of Vice Admiral on April 11, 1975, when he assumed the duties of Deputy Chief of Naval Operations (Manpower) and Chief of Naval Personnel. Prior to his present assignment, Vice Admiral Watkins served as Commander Cruiser-Destroyer Group one, San Diego, California. This tour included a seven-month deployment in command of the Cruiser-Destroyer Force, U.S. Seventh Fleet, and a sixty-day command of a surface task group in the Indian Ocean. Other significant positions of responsibility have included management of Training and Personnel Matters pertaining to Naval Reactors, Atomic Energy Commission, and assignments in the Bureau of Naval Personnel, first as Program Manager for Nuclear Power and Head of the Submarine/Nuclear

Power Distribution Control Branch, and subsequently as Assistant Chief of Naval Personnel for Enlisted Personnel Control.

In SEASIA combat operations Vice Admiral Watkins served as Executive Officer of the nuclear powered guided missile cruiser, U.S.S. *Long Beach* (1967–1968). The U.S.S. *Snook*, under his command, was the first nuclear powered submarine to visit the Republic of Korea (June 1965) and Japan (May 1966). This submarine command was awarded the Navy Unit Commendation by the Secretary of the Navy.

He has served aboard the destroyer U.S.S. *Fechteler;* the diesel powered attack submarine U.S.S. *Volador* during Korean hostilities; and as Executive Officer, U.S.S. *Snook* (1960–1962). Vice Admiral Watkins has been awarded the Legion of Merit, with two Gold Stars in lieu of subsequent awards, the Bronze Star Medal with Combat "V", and the Navy Commendation Medal, as well as numerous campaign, service, and theatre medals.

Vice Admiral Watkins is married to the former Sheila Jo McKinney of San Diego, California. They have six children—Katherine, Laura Jo, Charles, Susan, James, Jr., and Edward. His home town is San Marino, California.

STATEMENT OF VICE ADM. JAMES D. WATKINS, CHIEF OF NAVAL PERSONNEL, U.S. NAVY

Admiral WATKINS. Thank you, Mr. Chairman.

Mr. Chairman, I am pleased to have been asked by you to appear before this committee to express my views on an issue of such great importance to all service personnel, not to mention all Americans. My terms of reference are drawn principally from my familiarity with the Navy experience——

Chairman STENNIS. Excuse me just a minute. Your statement says here not for publication until released by the Senate Armed Services Committee. There is no reason why it shouldn't be released now that I know of.

All right. These statements unless otherwise ordered are released to the press now for their working convenience. Proceed.

Admiral WATKINS. Thank you, Mr. Chairman.

My terms of reference are drawn principally from my familiarity with the Navy experience; however, I have discussed this subject on several occasions with my fellow service personnel chiefs and they generally share my concern.

I intend to address five specific questions:

Is the threat of unionization of the Armed Forces real?

If real, is unionization imminent?

What are the causes of union interest within the services?

What problems would a union pose for service personnel managers? and

What should be done concerning the military union issue?

Gentlemen, there is little question in my mind that unless something is done, the threat of military unionization can become a reality. Information available to me from a variety of sources, coupled with my own frequent contact with Navy personnel at all levels in the fleet and shore establishments, convinces me that the mounting interest in unions among enlisted and officer members alike is significant. I first sensed the beginnings of this interest in late 1975, saw it increase noticeably in intensity during 1976, and level off at nearly constant amplitude so far during 1977.

Succinctly put, service members and their families increasingly question whether their interests are getting adequate consideration in important decisions being made here in Washington which affect the future economic security of a military career. I hasten to emphasize that even those members who share the view that a military union might well be their court of last resort also express apprehension at the thought of what negative consequences a union presence could impose on military effectiveness. Information received to date indicates that, although most of our members do not want to unionize, the potential for such a move is present.

Validation of the unionization threat in the Navy is corroborated by a broad range of Navy sources including our master chief petty officer network, our fleet commanders in chief, the flood of letters from our people to various Navy officials, the service "Times" and the press and recorded human resources management program data taken from nearly every command in the Navy.

On the other hand, Navy has purposely not conducted a formal fleet survey which could quantify the exact extent of union interest. Experience has shown that such an action would probably not be in the Navy's best interest and merely serve to fan unionization fires. However, an existing survey taken of entering Navy recruits over the past 3 years indicates a significant movement toward favoring military unions.

Also a recent steady and alarming decline in retention of personnel with 8–12 years of service and a trend toward more Navy enlisted retirements at the minimum eligibility point are considered compatible with growing uncertainty among our senior people over the future security offered by a Navy career. In addition to the foregoing indicators, there is other statistical evidence available which does attempt to quantify the extent of union interest in the military. A widely publicized unofficial 1976 survey showed 30 percent of Air Force personnel would join a union. More recently, three independent research studies presented at the 39th Military Operations Research Symposium at Annapolis last month tended to validate the findings of that survey and are consistent with a composite subjective observation by a variety of key Navy officials that as many as 30 percent of Navy personnel might join a union if one were available today. I would expect this percentage to run higher among enlisted members and lower among officers.

The very fact that this marks the second set of special hearings by this committee, the fact that two bills have been introduced by members of this committee, and the fact that 26 others have been introduced by your colleagues in the House, attests to the sense of urgency placed by the Congress on the union issue. The on-going AFGE poll of the question of opening membership to the military is expected to be completed early this fall, and provides a fair measure of the validity of the threat. We have also recently seen a number of groups formed advocating both pro and con positions on the issue.

The Fleet Reserve Association has stepped up its activities to broaden its appeal to active duty members by opening membership

to all enlisted personnel and, most recently, through its widely publicized White Hats' Pay Panel, has expanded its activities into the public forum. Based upon these indicators, and viewing the rate at which interest in the issue is escalating, it is not unreasonable to estimate that steps could be underway to enroll service members in unions before the end of this year.

At this point in time, I believe unionization still looms as prospective. On the other hand, there would be unwarranted risks in continuing to defer action on this important matter. In my opinion, we are approaching a critical juncture, and it is time to be forehanded. The idea of a union within the American military is not altogether new. In the late sixties and early seventies, military departments were faced with several uncoordinated attempts by small groups to organize military personnel in dissent from certain military policies. The services were able to deal effectively with this effort through their established chains of command.

However, beginning in late 1975 the publicly expressed interest in organizing the military by a major labor union, the American Federation of Government Employees, has served as a catalyst for public discussion and debate on military unions. The result has been a growing interest among military members in the concept of unionization. The question still remains, Why do some military personnel find the idea of a union attractive?

There are several schools of thought on the answer to this question. Some believe that it is an inevitable consequence of adopting the All-Volunteer Force concept. Adherents of this view cite the change in the nature of military service from a calling to merely another job alternative open to youth at competitive wage rates; thereby introducing the full range of management techniques and policies of the private sector.

While this may have some tangential validity, it is a viewpoint that is difficult to fully appraise. For example, we can observe that there are unions of both conscripts and volunteers in various armed forces in Western Europe. Further, the fact that less than 25 percent of the total American labor force is unionized would seem to refute the conclusion that the AVF concept itself is the foundation for a unionized military in the United States. It is my view that, regardless of the means we utilize to obtain personnel for our Armed Forces, other issues are more likely causes of union interest.

For example, there is another school of thought that failure of service leadership to take effective steps to realistically address and improve internal management procedures could well be the principal cause of unionization interest. Certainly, if I were testifying in late 1972 instead of today, I would tend to share this view. As evidenced by the disturbances aboard U.S.S. *Kitty Hawk*, U.S.S. *Constellation*, and U.S.S. *Hassayampa* in 1972, we had numerous internal management problems: Leadership shortcomings as documented by congressional investigations, ineffective two-way internal communications, and race relations and equal opportunity difficulties.

Today, the situation has been markedly improved through the institution of a wide range of initiatives. Our master chief petty officer organization at all echelons of the Navy has substantially improved two-way communications. Various features of our Human Resources Management (HRM) program have been most effective in resolving our difficulties in the other problem areas I mentioned. This program commenced its initial phase early in 1972 and provided dedicated training in every Navy command. A total of 700,000 Navy people received this training. A follow-on phase was instituted in late 1974 and is now nearing completion. The objective of this latter phase is to broaden the initial training material to include grievance resolution procedures, military rights and responsibilities, actions to counter racism, cultural expression, opportunity in the Navy and women in the Navy. This training is routinely provided to every recruit and has been administered to 1,339 separate Navy commands over the past 2½ years in our continuing effort to affirmatively address our internal leadership and management responsibilities. A survey conducted by System Development Corp. indicates that substantial increases in understanding of established grievance procedures have resulted from this follow-on phase of training; with over 70 percent of those completing the syllabus possessing a good comprehension of these procedures. This same survey also demonstrates increasing confidence in Navy administration of the Uniform Code of Military Justice.

Other survey data indicates a high level of job satisfaction relative to relationships with both supervisors and those supervised among our enlisted members. Each of the services is continuing to stress internal management improvements; however, all available evidence indicates this is not a significant catalyst toward military unionization today.

There is a third school of thought that advocates failure on the part of military leadership to fully inform our people just how fair their pay and benefits program really is; noting that, if only this leadership would approach the entire subject in a positive, supportive way, the unionization problem, as fanned by the erosion-of-benefits issue, would rapidly subside. This, in my opinion, is an oversimplified view which does not recognize the real issue at hand; that is, apprehension over future changes which no one at this time can describe, let alone defend. With the Defense Manpower Commission, the Third Quadrennial Review of Military Compensation, and now the President's "Blue Ribbon Panel" all investigating changes to the military compensation system, it would certainly be premature, if not impossible, to assure our people that their future security apprehensions are unfounded. Such assurances at this point would have little credibility.

The remaining school of thought, which many view as the major factor, attributes union interest to the growing uncertainty that service members have over the security offered by a military career. This uncertainty is blamed on the service member's perception of potential future changes in vital pay and benefits elements. The public record is replete with evidence of the numerous changes implemented or proposed in military pays and benefits just since 1972. An illustrative

listing of these changes is attached to my statement. I think it is important that this attachment be included for the record because it tends to put to rest the claim that those that claim there have been as many gains as losses, which in fact there have. It also puts to rest the issue of what has been passed by law and what has not. I think the fact that there have been 17 increases, 21 decreases, and 15 items under contest tends to display the instability that surrounds the entire pay and benefits issue, for this reason, I would like to have that summary inserted for the record, sir.

Chairman STENNIS. All right, without objection it will be placed in the record.

[The above referred to document follows:]

Listing of Pay and Benefit Changes Impacting on Service Members, Retirees and Dependents Since 1972

SEC. 1.—CHANGES THAT FAVORABLY IMPACTED ON SERVICE MEMBERS, RETIREES, AND DEPENDENTS (17 ITEMS)

Item	Action	Date	Comment
1. Servicemen's group life insurance	Increased face amount from $15,000 to $20,000	May 1974	Brought coverage more in line with amounts carried by American families and comparable to what is offered to Federal Government employees.
2. Selective reup bonus	Reenlistment bonus for selected MOS ($12,000 maximum)	June 1974	Improves retention, provides monetary incentive.
3. PCS mileage allowance	Increased from $0.06 to $0.08 per mile to $0.08 to $0.10 per mile.	July 1974 to October 1976	Partial compensation for travel costs.
4. Dependent travel entitlements	Travel of dependents and movement of household goods authorized for E–4 with over 2 yr of service.	January 1974	Morale and retention. Defrays costs of moving dependents.
5. Travel allowance	Raised rate to 15.5 cents a mile for use of privately owned vehicle for local travel in conjunction with Government business.	October 1976	Compensation for travel costs.
6. Per diem rates for TDY	Rates increased from $25 to $35 per day (DOD ceiling of $33 until October 1976).	June 1976 (1 year after rates increased for civilians).	Aligned with civilian rates. Service member adequately reimbursed for expenses while on TDY.
7. Do-it-yourself move	Service member authorized to move himself	June 1976	Service member reimbursed 75 percent of what it would have cost government to move household goods by Government bill of lading.
8. Income tax exemption on moving expenses.	Excludes inclusion in gross income any amount received or accrued for moving which is attributable to requirements of military service.	January 1977	Service member not required to pay tax for something over which he has no control (moves).
9. Veterans' education assistance program (VEAP).	Enacted as alternate to GI bill. Service member contributes $50 to $75 per month; VA matches $2 for $1. ($8,100 maximum.)	do	Possible enlistment incentive. Service member's contribution refunded if not used. (See loss of fully funded GI bill.)
10. Military retired pay inversion	Corrective legislation enacted for retirees	October 1975	Protects active duty service members from loss of retired pay for continuing on active duty. Increased motivation to continue serving.
11. Changes in survivor benefit	Terminated irrevocable contribution when no longer any beneficiary. Reduced new spouse coverage wait, increased minimum income provision.	October 1976	Favorable financial impact on certain retirees and survivors.
12. Armed Forces health professions scholarships.	Continues income tax relief for tax years 1977–79 for scholarship recipients who entered program prior to Jan. 1, 1977.	do	Favorable monetary impact on recipients who entered program prior to Jan. 1, 1977.
13. Reserve participation in individual retirement account.	Tax Reform Act provides that Reserve component members may participate in IRA unless the member is on active duty for over 90 days during a tax year.	do	Tax relief for members of the Reserve who desire to participate in IRA.
14. Restoration of pay group P	Congress restored funding to allow payment for up to 24 drills prior to basic training for high school seniors (within 90 days of graduation) and high school graduates who enlist in a Reserve component.	Fiscal year 1976 and 1977	Allows these service members to attend drills and be paid prior to undergoing BCT/AIT.
15. Dependency and indemnity compensation (DIC).	Legislation was passed to increase DIC payments to widows and children by 8 percent. Also increased aid and attendance payments to $78 per month.	October 1976	Favorable monetary impact on recipient.
16. VA pension rates and allowances	Payment rates were increased by 7 percent. New income limits depend upon whether the pensioner is a widow or child.	January 1977	Do.
17. VA educational benefits	Increased payment for widows and surviving children who are full-time students from $270 to $292 per month. Raised the period of entitlement from 36 to 45 school months.	October 1976	Do.

SEC. 2.—CHANGES THAT UNFAVORABLY IMPACTED ON SERVICE MEMBERS, RETIREES, AND DEPENDENTS (21 ITEMS)

Item	Action	Date	Comment
1. Enlisted undergraduate degree	Funds eliminated	Fiscal year 1975	Must obtain college education on offduty time.
2. Uniformed services savings deposit program.	do	June 1974	Savings program which paid 10 percent interest for service members stationed outside CONUS.
3. Enlisted undergraduate fully funded program.	do	January 1976	Enlisted personnel were authorized up to 2 yr to obtain associate or baccalaureate degree in discipline related to their military skill.
4. No BAQ/BAS for accrued leave payments	No payment of BAQ/BAS for leave accrued after Aug. 31, 1976	September 1976	Monetary and morale impact.
5. Taxation exemption for disability retirement.	Enactment of law limiting tax exemption to disability resulting from combat type injuries.	October 1976	Applies to those who enter on active duty after September 1975. Monetary loss.
6. CHAMPUS	Public Law 94-212 eliminated funds for: special education, learning disability, certain sex therapy, certain comsetic surgery, services and supplies not medically necessary. Established 40-mile rule.	February 1976	Shifted burden of cost to beneficiary.
7. Superior performance pay	Terminated $50 per month awarded on competitive basis to top 20 percent in combat skills and top 10 percent in combat support skills.	January 1975	Loss of $50 per month and incentive to study to obtain scores which would qualify for this pay.
8. Reallocation of pay increase	Reallocate up to 25 percent of basic pay raise	October 1976	Reduce take home pay for families occupying Government quarters; reduces retired pay for future retirees; reduced reserve drill pay relative to active duty members.
9. Fully funded GI bill	Eliminated by law for those entering active duty after Dec. 31, 1976.	do	Replaced with contributory program. Those currently authorized must use benefit within 10 yr from separation but not later than Dec. 31, 1989.
10. Predischarge education program (PREP)	Eliminated by law	do	Terminated high school instruction for non-high-school graduates and remedial/refresher education needed to enter college or vocational studies. Replaced with program which can only be used during last 6 mo of initial enlistment.

11. Lump sum reup bonus	Eliminated lump-sum payments	December 1974	Loss in actual purchasing power of the bonus. Example: $5,000 bonus paid via five equal installments—the purchasing power drops to $4,500 assuming a 5-percent rate of inflation. Morale and reenlistment impact.
12. Regular reup bonus	Eliminated reup bonus designed to provide everyone with a maximum $2,000 within a 20-yr career.	June 1974 (to be phased out through May 1977).	Loss of monetary incentive to reenlist except service members holding certain shortage skills who receive selective reup bonus.
13. Appropriated fund support for morale, welfare, and recreation activities.	Appropriated fund support did not keep pace with cost of living.	1974	Service members now contribute 45 percent of recreation services cost through their PX purchases and fees and charges. (Prior to 1974 most activities were free.)
14. Medical care for retirees and dependents	Reduced authorization of medical officers plus failure to procure and retain sufficient physicians.	Fiscal year 1976	Decreased services available to other than active duty personnel. Health care services being curtailed due to manpower reductions and temporary shortages of active duty physicians forcing beneficiaries to CHAMPUS.
15. CHAMPUS	24 restrictive changes resulting in loss or reduction of health care coverage. New regulation.	July 1974 to present July 1977	Increased financial burden, inconvenience, creates disproportionate burden especially for retirees and service members serving away from military installations; i.e., ROTC, recruiting, Reserve and National Guard duty.
16. Elimination of some military post offices	Military post offices collocated with U.S. Postal Service offices closed.	TBA	Loss of PAL and SAM parcel post rates.
17. Vending machine revenue	Income from onpost vending machines, except in PX, will be turned over to the States for the visually handicapped, retroactive to Jan. 1, 1975.	March 1977	Reduce funds for morale welfare and recreation activities resulting in increased user charges.
18. COLA in Hawaii and Alaska	COLA rates decreased or eliminated for employees who occupy Government housing and/or have commissary/exchange privileges.	December 1976	Dependents of service members and retirees losing benefit, entitled by law, because they work for Federal Government.
19. Taxation of health professions scholarships.	Students entering January 1977 or later required to pay Federal and State income tax on value of scholarship.	January 1977	Monetary.
20. Shortage specialty pro pay	Terminated this pay for personnel in MOS experiencing career manning shortages.	June 1975	Monetary and morale.
21. Commissary surcharge	Increased from 3 percent in CONUS and 2½ percent overseas to 4 percent worldwide to offset reductions in MILCON.	February 1976	Increased food costs in commissaries.

SEC. 3.—CHANGES UNDER ACTIVE CONSIDERATION WHICH WOULD UNFAVORABLY IMPACT ON SERVICE MEMBERS, RETIREES, AND DEPENDENTS (15 ITEMS)

Item	Action	Status	Comment
1. Overseas transportation of military exchange cargo.	Eliminate appropriated funds for transportation	Considered by Congress for fiscal year 1977 but not terminated. SAC. eliminated funds in fiscal year 1978 budget. Awaiting floor action.	Cost to service member $45 or $155 annually, depending on whether price increases necessitated by loss of appropriated funds are spread worldwide or overseas only.
2. Fair-market rental	Require service member to pay a fair market rental price for Government housing instead of just forfeiting BAQ.	Under active consideration at OMB/OSD	Increased cost for service members occupying Government family housing. Exact increase will depend upon location, size of housing, etc. May drive military offpost to buy house/build equity. Degrade unit esprit military as a way of life.
3. Reallocation of future pay raises	Reallocate up to 25 percent of 1977 basic pay raise to BAQ/BAS.	Decision on 1977 reallocation will be made by President Carter in August.	Compounds adverse impact of reallocation on future retirees and Reserve component pay.
4. Cadet pay	Reduce academies cadet pay and ROTC summer camp pay to $313.20 per month.	Contained in administration proposed legislative program for 95th Cong.	Save pay clause will freeze academies cadet pay at $345 per month until approximately 1980. ROTC rate effective for 1978 summer camp.
5. Appropriated fund support for MWR	Reduce appropriated fund support for morale, welfare and recreation activities.	SAC fiscal year 1978 action to eliminate 14,000 MWR billets. Substitute NAF civilians. Awaiting floor action.	Increased user charges and/or closure of certain activities.
6. Rental fees for onpost trailer spaces	Charge prevailing local rates for onpost trailer spaces	DOD ruled OMB Circular A–45 applies (charge FMR).	Service member will pay up to $100-plus utilities. Possible increase in number of service members eligible for food stamps. Government service members makes monetary profit off of service members.

7. Maximum allowable housing cost (MAHC)	MAHC raised from 25 to 30 percent of regular military compensation.	Appeal rejected by OSD	Drastically reduce CONUS family housing leasing authority. Adverse impact on total family housing program.
8. Commissary baggers	Termination of use of individuals who bag groceries in commissaries for tips only.	OSD has appealed to Department of Justice	2 percent increase in surcharge for commissary patrons; loss of opportunity for military dependents to earn money when school is not in season.
9. VA home loan	VA home loan program to be terminated for service members entering active duty on or after Oct. 1, 1977.	All services nonconcurred in proposed legislation. Proposed legislation has not been sent to Congress as yet.	Terminate VA loan guarantee for a home, condominiums, mobile home for future service members.
10. Reductions in military nondisability retirement system.	Several proposals to significantly reduce military retirement have been made.	Proposals will be examined by blue ribbon panel. Congressman Aspin may introduce proposed legislation.	Severe adverse financial impact on future retirees.
11. Military overseas dependent employment policy.	Terminate overseas employment preference for military dependents.	CSC decision expected by July 31, 1977	Loss of job opportunity for spouses that have to work to supplement family income. Severest impact on junior enlisted personnel
12. Military leave for Reserve component personnel.	Payment of civilian pay would be provided Federal employees only to extent necessary to assure no loss of take-home pay while on active duty for training.	Contained in administration proposed legislative program for 95th Cong.	Loss of up to 100 percent of civilian pay for Federal employees while on Reserve component active duty for training.
13. Contributary health care	Member pay a monthly charge for medical care provided.	Legislation introduced 94th Congress	Monetary.
14. Commissary subsidy	SAC fiscal year 1978 action. Phase out subsidy over 3-yr period. Is 3d consecutive year for this initiative.	Awaiting Senate floor action.	Do.
15. Military "double dipping"	SAC and HAC Committee fiscal year 1978 reports prohibited future retirees from collecting retired pay while employed by Federal Government. (SAC limited to annuities over $6,000 per year).	House deleted during floor debate; awaiting Senate floor action.	Do.

Admiral WATKINS. Sponsors of these changes include a wide variety of agencies: Office of the Secretary of Defense; Office of Management and Budget; Department of Health, Education, and Welfare; Civil Service Commission; Internal Revenue Service; Veterans' Administration; Defense Manpower Commission; Congress: and the services themselves. Examination of this list will reveal that nearly as many changes were on the plus side of the ledger as on the minus side. Still others are only in the discussion stage at this time and may never be implemented. On balance, we believe our first-term members who were the principal beneficiaries of the large basic pay raises in 1971 probably are able to view the gains and losses as generally offsetting. Our careerists who did not share to the same extent in these raises do not necessarily hold this view. Nonetheless, there is continuing concern about the apparent lack of appreciation of the importance and uniqueness of military service, and the consequent threat to security posed by the potential changes to major traditional benefits now under active consideration. In the words of Lt. Gen. Leo E. Benade, former Deputy Assistant Secretary of Defense for Military Personnel Policy, who served on the recent White Hats' Pay Panel:

> I was tremendously impressed with the witnesses' pride in wearing the uniform, their pride in their work and in their individual branch of the service. Therefore, it was painful for me to see them express their very real and very great fear that benefits would continue to be cut in the future.

These perceived changes are, in order of degree of importance to our people, retirement, health care, commissaries and exchanges, and the military welfare and recreation system. It is important to note that health care, commissaries and exchanges were identified by the Defense Manpower Commission as "institutional benefits" which, due to their impact on the morale and sense of identity of the member, have far reaching impact on the ability of the services to attract and retain personnel for the All-Volunteer Force. Adding to the uncertainty of prospective changes to these vital benefits is the new proposal for sunset features in future legislation authorizing certain entitlements.

As experience with annual rejustification of our various bonus programs has shown us, this will add a new dimension of perceived instability to the compensation equation. Even among those members who do not indicate they would join a military union, there is fairly widespread consensus that there is a need for more stability in the military pay and benefits system.

From the perspective of the service personnel chiefs, it is certain that a union presence would seriously impact on the personnel management field. As Senator Thurmond has already entered into the Congressional Record, the AFGE has identified a wide ranging list of issues it would eventually expect to address on behalf of military union members.

This list spans virtually the entire spectrum of personnel management from housing, promotion and assignment policies, through leave, health care and education and training benefits, to efficiency rating procedures. The impacts of union involvement in such areas are readily imaginable. Assuming current operational requirements remained unchanged, personnel costs in all areas could soar due to com-

petition for more personnel dollars in the budget process. More time and manpower could be required to process personnel actions on an individual rather than policy basis.

All experience indicates that a climate for development of adversary relationships within the chain of command would be created. The services experience with the organized activities of anti-Vietnam War dissidents graphically illustrated how entry of collective actions into the military can disrupt the required orderly functioning of the chain of command and adversely impact upon the morale of all military personnel.

While there appears to be a definite consensus among the American public, the Congress, the administration, and the services themselves as to the unacceptability of unionized Armed Forces, there is no parallel consensus on how best to avoid further momentum toward unionization.

Numerous solutions have been proposed, including: More effective service leadership; creation of a service member's bill of rights; formalization of the military ombudsman concept; development of a comprehensive military compensation policy for the future; and a broadened role for our traditional service associations. It is unlikely that any single course of action can provide the optimal resolution of the problem. Clearly, the correct mix of the several solutions mentioned above could result in the desired lessening of member uncertainty over the future security of a military career. This result alone would substantially deescalate the union issue at this time.

In order to achieve this, I believe it is necessary to develop a process by which the actions impacting on the military compensation system of such diverse agencies and bodies as OSD, OMB, Congress, HEW, IRS, the CSC, and the services themselves can be effectively coordinated to minimize the instability now found in the system. A feel for this instability can best be highlighted by a set of examples which peaked fears among our people last fall.

These examples included an OMB proposal to charge off base rental rates for on-base trailer pads, many of which were constructed through self-help programs and were already amortized; an ASD (Health Affairs) decision to revise the CHAMPUS reimbursement limit for provider care from the 90th to the 75th percentile; an HEW decision diverting on-base vending machine revenues away from morale and welfare support activities; an IRS determination that medical scholarship assistance in programs entailing obligated service was taxable; and a congressional joint conference committee action extending the CHAMPUS nonavailability certificate radius from 30 to 40 miles.

Chairman STENNIS. Previously he had said they were not. We are under a time pressure this morning. We have several valuable witnesses here. The appropriations bill for the entire Department of Defense is set for this morning and will be taken up. It may be up now. You have already given most of your statement.

Gentlemen of the committee, we have with us now Captain Jones of the Marine Corps and Chief Master Sergeant Barnes of the Air Force.

We agreed earlier that all of these gentlemen would make oral statements, then we would have the printed version inserted in the record and we would have all witnesses before us for such questions as we

might have. I want to encourage questioning by all members of the committee and I ask unanimous consent now for all members of the committee to be permitted to supply questions for the record within the next few days and these witnesses will be glad to give them their personal attention, I am sure, and supply the answers for the record.

I am not cutting off your testimony at all Admiral Watkins. I imagine you wouldn't mind if we put the rest of your statement in the record. It is timely, it is relevant.

Admiral WATKINS. I understand.

Chairman STENNIS. So it will go in the record.

[The prepared statement of Admiral Watkins follows:]

PREPARED STATEMENT OF VICE ADM. JAMES D. WATKINS, CHIEF OF NAVAL PERSONNEL

Mr. Chairman, I am pleased to have been asked by you to appear before this committee to express my views on an issue of such great importance to all service personnel, not to mention all Americans. My terms of reference are drawn principally from my familiarity with the Navy experience; however, I have discussed this subject on several occasions with my fellow Service Personnel Chiefs and they generally share my concern.

I intend to address five specific questions:

"Is the threat of unionization of the Armed Forces real?"

"If real, is unionization imminent?"

"What are the causes of union interest within the Services?"

"What problems would a union pose for Service Personnel Managers?" and

"What should be done concerning the military union issue?"

Gentlemen, there is little question in my mind that unless something is done, the threat of military unionization can become a reality. Information available to me from a variety of sources, coupled with my own frequent contact with Navy personnel at all levels in the fleet and shore establishment, convinces me that the mounting interest in unions among enlisted and officer members alike is significant. I first sensed the beginnings of this interest in late 1975, saw it increase noticeably in intensity during 1976, and level off at nearly constant amplitude so far during 1977. Succinctly put, service members and their families increasingly question whether their interests are getting adequate consideration in important decisions being made here in Washington which affect the future economic security of a military career. I hasten to emphasize that even those members who share the view that a military union might well be their "court of last resort" also expresses apprehension at the thought of what negative consequences a union presence could impose on military effectiveness. Information received to date indicates that, although most of our members do not want to unionize, the potential for such a move is present.

Validation of the unionization threat in the Navy is corroborated by a broad range of Navy sources including our Master Chief Petty Officer network, our Fleet Commanders in Chief, the flood of letters from our people to various Navy officials, the Service "Times" and the press and recorded Human Resources Management Program data taken from nearly every command in the Navy. On the other hand, Navy has purposely not conducted a formal Fleet survey which could quantify the exact extent of union interest. Experience has shown that such an action would probably not be in the Navy's best interest and merely serve to fan unionization fires. However, an existing survey taken of entering Navy recruits over the past three years indicates a significant movement towards favoring military unions. Also a recent steady and alarming decline in retention of personnel with 8–12 years of service and a trend toward more Navy enlisted retirements at the minimum eligibility point are considered compatible with growing uncertainty among our senior people over the future security offered by a Navy career.

In addition to the foregoing indicators, there is other statistical evidence available which does attempt to quantify the extent of union interest in the military. A widely-publicized unofficial 1976 survey showed 30 percent of Air Force personnel would join a union. More recently, three independent research studies presented at the 39th Military Operations Research Symposium at Annapolis last

month tended to validate the findings of that survey and are consistent with a composite subjective observation by a variety of key Navy officials that as many as 30 percent of Navy personnel might join a union if one were available today. I would expect this percentage to run higher among enlisted members and lower among officers.

The very fact that this marks the second set of special hearings by this Committee, the fact that two bills have been introduced by members of this Committee, and the fact that 26 others have been introduced by your colleagues in the House, attests to the sense of urgency placed by the Congress on the union issue. The on-going AFGE poll on the question of opening membership to the military is expected to be completed early this fall, and provides a fair measure of the validity of the threat. We have also recently seen a number of groups formed advocating both pro and con positions on the issue. The Fleet Reserve Association has stepped up its activities to broaden its appeal to active duty members by opening membership to all enlisted personnel and, most recently, through its widely-publicized "White Hats' Pay Panel", has expanded its activities into the public forum. Based upon these indicators, and viewing the rate at which interest in the issue is escalating, it is not unreasonable to estimate that steps could be underway to enroll service members in unions before the end of this year.

At this point in time, I believe unionization still looms as prospective. On the other hand, there would be unwarranted risks in continuing to defer action on this important matter. In my opinion, we are approaching a critical juncture, and it is time to be forehanded. The idea of a "union" within the American military is not altogether new. In the late sixties and early seventies, military departments were faced with several uncoordinated attempts by small groups to organized military personnel in dissent from certain military policies. The Services were able to deal effectively with this effort through their established chains of command.

However, beginning in late 1975, the publicly expressed interest in organizing the military by a major labor union, the American Federation of Government Employees, has served as a catalyst for public discussion and debate on military unions. The result has been a growing interest among military members in the concept of unionization. The question still remains, why do some military personnel find the idea of a union attractive? There are several schools of thought on the answer to this question. Some believe that it is an inevitable consequence of adopting the All Volunteer Force concept. Adherents of this view cite the change in the nature of military service "from a calling to merely another job" alternative open to youth at competitive wage rates; thereby introducing the full range of management techniques and policies of the private sector. While this may have some tangential validity, it is a viewpoint that is difficult to fully appraise. For example, we can observe that there are unions of both conscripts and volunteers in various armed forces in Western Europe. Further, the fact that less than 25 percent of the total American labor force is unionized would seem to refute the conclusion that the AVF concept itself is the foundation for a unionized military in the United States. It is my view that, regardless of the means we utilize to obtain personnel for our Armed Forces, other issues are more likely causes of union interest.

For example, there is another school of thought that failure of Service leadership to take effective steps to realistically address and improve internal management procedures could well be the principal cause of unionization interest. Certainly, if I were testifying in late 1972 instead of today, I would tend to share this view. As evidenced by the disturbances aboard U.S.S. *Kitty Hawk*, U.S.S. *Constellation*, and U.S.S. *Hassayampa* in 1972, we had numerous internal management problems: leadership shortcomings as documented by Congressional investigations, ineffective two-way internal communications, and race relations and equal opportunity difficulties. Today, the situation has been markedly improved through the institution of a wide range of initiatives. Our Master Chief Petty Officer organization at all echelons of the Navy has substantially improved two way communications. Various features of our Human Resources Management (HRM) program have been most effective in resolving our difficulties in the other problem areas I mentioned. This program commenced its initial phase early in 1972 and provided dedicated training in every Navy command. A total of 700,000 Navy people received this training. A follow-on phase was instituted in late 1974 and is now nearing completion. The objective of this latter phase is to

broaden the initial training material to include grievance resolution procedures, military rights and responsibilities, actions to counter racism, cultural expression, opportunity in the Navy and women in the Navy.

This training is routinely provided to every recruit and has been administered to 1,339 separate Navy commands over the past 2½ years in our continuing effort to affirmatively address our internal leadership and management responsibilities. A survey conducted by System Development Corporation indicates that substantial increases in understanding of established grievance procedures have resulted from this follow-on phase of training; with over 70 percent of those completing the syllabus possessing a good comprehension of these procedures. This same survey also demonstrates increasing confidence in Navy administration of the Uniform Code of Military Justice. Other survey data indicates a high level of job satisfaction relative to relationships with both supervisors and those supervised among our enlisted members. Each of the services is continuing to stress internal management improvements; however, all available evidence indicates this is not a significant catalyst toward military unionization today.

There is a third school of thought that advocates failure on the part of military leadership to fully inform our people just how fair their pay and benefits program really is; noting that, if only this leadership would approach the entire subject in a positive, supportive way, the unionization problem, as fanned by the "erosion of benefits" issue, would rapidly subside. This, in my opinion, is an oversimplified view which does not recognize the real issue at hand; that is, apprehension over future changes which no one at this time can describe, let alone defend. With the Defense Manpower Commission, the Third Quadrennial Review of Military Compensation, and now the President's "Blue Ribbon Panel" all investigating changes to the military compensation system, it would certainly be premature, if not impossible, to assure our people that their future security apprehensions are unfounded. Such assurances at this point would have little credibility.

The remaining school of thought, which many view as the major factor, attributes union interest to the growing uncertainty that service members have over the security offered by a military career. This uncertainty is blamed on the service member's perception of potential future changes in vital pay and benefits elements. The public record is replete with evidence of the numerous changes implemented or proposed in military pays and benefits just since 1972. An illustrative listing of these changes is attached to my written statement. Sponsors of these changes include a wide variety of agencies: Office of the Secretary of Defense; Office of Management and Budget; Department of Health, Education, and Welfare; Civil Service Commission; Internal Revenue Service; Veteran's Administration; Defense Manpower Commission; Congress; and the Services themselves. Examination of this list will reveal that nearly as many changes were on the plus side of the ledger as on the minus side. Still others are are only in the discussion stage at this time and may never be implemented. On balance, we believe our first term members who were the principal beneficiaries of the large basic pay raises in 1971 probably are able to view the gains and losses as generally offsetting. Our careerists who did not share to the same extent in these raises do not necessarily hold this view. Nonetheless, there is continuing concern about the apparent lack of appreciation of the importance and uniqueness of military service, and the consequent threat to security posed by the potential changes to major traditional benefits now under active consideration.

In the words of Gen. Leo E. Benade, former Deputy Assistant Secretary of Defense for Military Personnel Policy who served on the recent "White Hats' Pay Panel": "I was tremendously impressed with the witnesses' pride in wearing the uniform, their pride in their work and in their individual branch of Service. Therefore, it was painful for me to see them express their very real and very great fear that benefits would continue to be cut in the future." These perceived changes are, in order of degree of importance to our people, retirement, health care, commissaries and exchanges, and the military welfare and recreation system. It is important to note that health care, commissaries and exchanges were identified by the Defense Manpower Commission as "institutional benefits" which, due to their impact on the morale and sense of identity of the member, have far-reaching impact on the ability of the Services to attract and retain personnel for the All Volunteer Force. Adding to the uncertainty of prospective changes to these vital benefits is the new proposal for "Sunset" features in future legislation authorizing certain entitlements. As experience with annual rejustification of our various

bonus programs has shown us, this will add a new dimension of perceived instability to the compensation equation. Even among those members who do not indicate they would join a military union, there is fairly widespread consensus that there is a need for more stability in the military pay and benefits system.

From the perspective of the Service Personnel Chiefs, it is certain that a union presence would seriously impact on the personnel management field. As Senator Thurmond has already entered into the Congressional Record, the AFGE has identified a wide-ranging list of issues it would eventually expect to address on behalf of military union members. This list spans virtually the entire spectrum of personnel management from housing, promotion and assignment policies, through leave, health care and education and training benefits, to efficiency rating procedures. The impacts of union involvement in such areas are readily imaginable. Assuming current operational requirements remained unchanged, personnel costs in all areas could soar due to competition for more personnel dollars in the budget process. More time and manpower could be required to process personnel actions on an individual rather than policy basis. All experience indicates that a climate for development of adversary relationships within the chain of command would be created. The Services' experience with the organized activities of anti-Vietnam War dissidents graphically illustrated how entry of collective actions into the military can disrupt the required orderly functioning of the chain of command and adversely impact upon the morale of all military personnel.

While there appears to be a definite consensus among the American public, the Congress, the Administration and the Services themselves as to the unacceptability of unionized Armed Forces, there is no parallel consensus on how best to avoid further momentum toward unionization. Numerous solutions have been proposed, including: more effective Service leadership; creation of a service member's Bill of Rights; formalization of the military ombudsman concept; development of a comprehensive military compensation policy for the future; and a broadened role for our traditional Service Associations. It is unlikely that any single course of action can provide the optimal resolution of the problem. Clearly, the correct mix of the several solutions mentioned above could result in the desired lessening of member uncertainty over the future security of a military career. This result alone would substantially deescalate the union issue at this time.

In order to achieve this, I believe it is necessary to develop a process by which the actions impacting on the military compensation system of such diverse agencies and bodies as OSD, OMB, Congress, HEW, IRS, the CSC and the Services themselves can be effectively coordinated to minimize the instability now found in the system. A feel for this instability can best be highlighted by a set of examples which peaked fears among our people last fall.

These examples included an OMB proposal to charge off base rental rates for on-base trailer pads many of which were constructed through self-help programs and were already amortized; an ASD (Health Affairs) decision to revise the CHAMPUS reimbursement limit for provider care from the 90th to the 75th percentile; an HEW decision diverting on-base vending machine revenues away from morale and welfare support activities; an IRS determination that medical scholarship assistance in programs entailing obligated service was taxable; and a Congressional joint conference committee action extending the CHAMPUS non-availability certificate radius from 30 to 40 miles. This same sense of instability still prevails today as a result of such actions as Congressional committee recommendations to phase out appropriated fund support for commissaries after this initiative had been defeated in each of the two prior budget cycles. As these examples demonstrate, the Service Secretaries, the Secretary of Defense and even the Congress are not the masters of their own shops when it comes to the total compensation and benefits issue.

In addition to a coordinated package approach to final resolution of vital pay and benefits issues, military leadership should continue ongoing efforts to improve human resources management practices in order to eliminate those variables clearly within their purview and responsibility.

I can assure you that all Services have well-structured programs underway to meet their responsibilities in this area. But military leadership alone cannot resolve all the ills. Our efforts must be enhanced by the continued, visible expression of Congressional concern for the welfare of the individual service member; including reassurances, that as necessary future changes to military

pays and benefits are made, due consideration will be given to the commitments already made to current members with significant amounts of prior service. If the entire leadership of the military, including the legislative and executive branches, visibly and with obvious concern, address the needs of military personnel, then unionization will not be an issue.

The President's "Blue Ribbon Commission" on Military Compensation appears to present an excellent cornerstone upon which to build the coordinated approach I have outlined. My fellow Service Personnel Chiefs and I would hope that, during its deliberations, the Commission would give due consideration to the impact its recommended compensation system changes could have on not only the military unionization issue, but also on the All-Volunteer Force concept itself. We would also hope that the Commission would address the long term procedural steps that could be taken to effect future changes to all military pays and benefits in a "total package" manner rather than in the present piecemeal fashion which unnecessarily cycles our people through peaks and valleys in an approach to compensation administration I consider to be unique in the United States today.

In summary, the potential for military unionization exists, and though not yet upon us, requires forthright action at this time. The problems that a union presence in the military could pose are monumental, and it is our collective responsibility to ensure it does not come to pass. I firmly believe the most effective means of accomplishing our objective is to restore member confidence in the future security offered by a military career through stabilization of the military compensation process. Only in this way can we perpetuate the traditional relationship between the American people, their elected representatives and their Armed Forces that has sustained our nation for two centuries.

Thank you, Gentlemen. I will be happy to respond to your questions.

Chairman STENNIS. Someone did a mighty good job here of making a pretty good brief in court for Congress to leave certain things alone. We will have it all in the record. So we will move along now and we will get time, I hope, for those who can be here to ask questions. We will provide a way for those who couldn't be here to get to it.

Without further introduction, Captain James Jones of the U.S. Marine Corps. You have been in consultation with the committee staff and have been asked to come here this morning. I have already had a brief chat with you before we started. We want you for your experience. You are a professional military man and we want you to tell us about this thing as you see it from the ground up. Even though your written statement had to be cleared, and that was proper, while you are here answering these questions, they don't have to be cleared, so you don't have to clear your answers either. We want you to speak from experience and your honor and your honesty and I know you have all those.

All right, Captain, you may proceed.

[Biography of Captain Jones follows:]

BIOGRAPHY OF CAPT. JAMES L. JONES, USMC

Date and place of birth: December 19, 1943, Kansas City, Missouri.

Date of commission: March 24, 1967.

Date of present rank: December 1, 1970.

Civilian education: Bachelor of Science, international relations/affairs, Georgetown University, Washington, D.C., 1966.

Military education: *Basic.*—The Basic School, Marine Corps Development and Education Command, Quantico, Virginia, 1967. *Intermediate.*—Marine Corps Amphibious Warfare School, Marine Corps Development and Education Command, Quantico, Virginia, 1974. Nuclear and Chemical Weapons Employment Course, Marine Corps Development and Education Command, Quantico, Virginia, 1974.

DIGEST OF MILITARY SERVICE FOR PAST 10 YEARS

April 1967 to August 1967: Student, the Basic School, Marine Corps Development and Education Command, Quantico, Virginia.

September 1967 to July 1968: Platoon Commander; Company Executive Officer; Company Commander; Aide-de-Camp; 3d Marine Division, Fleet Marine Force, Pacific, Western Pacific Ground Forces.

August 1968 to January 1970: Company Commander, Training Battalion, Marine Corps Base, Camp Pendleton, California.

February 1970 to August 1973: Platoon Commander; Company Executive Officer; Company Commander; Marine Barracks 8th & I, Washington, D.C.

September 1973 to October 1974: Student, Marine Corps Amphibious Warfare School; Student, Nuclear and Chemical Weapons Employment Course; Special Projects Officer; Marine Corps Development and Education Command, Quantico, Virginia.

November 1974 to December 1975: Company Commander, Infantry Battalion, 3d Marine Division, Fleet Marine Force Pacific, Okinawa.

January 1976—Present: Assistant S–3 Officer, Headquarters Battalion, Headquarters Marine Corps; Assistant Lieutenant Colonel Monitor, Personnel Management Division, Headquarters Marine Corps, Washington, D.C.

Combat operations: Republic of Vietnam.

Decorations: Silver Star Medal, Bronze Star Medal w/Combat "V".

Dependents: Wife, Diane R.; son, 9; daughter, 7; and two sons, 3.

Security clearance: Final Top Secret based on a Background Investigation completed January 5, 1971.

STATEMENT OF CAPT. JAMES L. JONES, USMC

Captain JONES. Mr. Chairman, I have a short statement which, with your permission, I would like to read.

Chairman STENNIS. All right.

Captain JONES. Mr. Chairman, members of the Armed Services Committee, I am deeply honored at being afforded the unique opportunity to appear before you and represent the views of the Marine Corps company grade officers on the subject of unionization of the Armed Forces.

By way of preparation for this hearing, I conducted several seminars within the 2d Marine Division and the 2d Marine Aircraft Wing, located in the vicinity to Marine Corps Base, Camp Lejeune, N.C. More specifically, these groups consisted of company grade officers of various military occupational specialties, both air and ground, who are filling a variety of command assignments. Additional seminars were held with a cross section of staff noncommissioned officers (S/Sgt. to Sgt. Maj.) noncommissioned officers (Cpls. to Sgts.) and an infantry weapons platoon of 60 marines randomly selected during unit training.

It is the very strong opinion of the marines who participated in these discussions that there is no place within the Marine Corps for a union. Foremost among the many reasons cited justifying this position is the fact that a military union would have the very serious consequence of affecting mission accomplishment by inserting a third party between the commander and his men.

It is further felt that a secondary but no less important result of unionization would be the inevitable division of loyalties which union allegiance would create. Such a division would have an adverse effect on the efficiency and morale of any military unit, large or small.

Unionization of the Armed Forces is a subject which has received a great deal of publicity in recent months. In my opinion, it is not one

which has received any significant degree of interest or exposure within the units visited. Once surfaced as an issue during these seminars, however, a deep conviction emerged that individual marines can best address their problems through their leaders within the time-tested chain of command and through their elected representatives external to the military chain of command. It may be of interest to the members of this committee, Mr. Chairman, that these marines have sincere convictions in the notion that it has been the Members of Congress charged with the responsibility of "raising and maintaining armies," who have been their best union representatives. I should emphasize that this reliance on the Congress was endorsed by all participants of the seminars, regardless of rank.

The individual marine is, however, presently concerned about the correctness of his portrayal by the media and some outspoken congressional critics. He has the impression that the majority of information reported by the media, with regard to military matters, is usually critical in nature and often presents inferences that, in his opinion, are inaccurate.

Another is the seemingly consistent barrage of threatened changes to the military compensation system and the implications that military life is full of advantages which the civilian sector does not enjoy.

These topics surfaced repeatedly as the marines discussed how they viewed themselves and their profession.

Regardless of the scope of problems discussed, or the degree to which marines felt them to be an impact on their lives, the concept that unionism could be an effective means of representation was rejected. There was an expressed need, however, that both their leaders and Congress give evidence of their common concern in such a manner as to demonstrate that "the system" is both functional and responsive.

In a discussion of incentives, the primary motivation for joining the service appears to have been a desire to specifically become a marine. Though financial considerations are heavily publicized as an inducement to join the Marine Corps, or any other branch of the Armed Forces, they apparently remain secondary to the motivation of patriotism or service to the country. Most marines interviewed expressed a conviction that implementation of unionization, to any degree, would have the immediate effect of creating widespread resignations and retirements among the ranks of the junior officers and staff noncommissioned officers.

In conclusion, Mr. Chairman, permit me to emphasize four points which the marines I spoke with feel are of significant importance to this issue. First, unionization does not appear to have any degree of support as a means by which marines could possibly be better represented.

Second, there is a fundamental hope that the Congress itself will continue to play a unique role in representing the individual marine.

Third, these marines sense that there is a lack of understanding exhibited by those who seek to unnecessarily modify the existing military way of life to conform with a purely civilian orientation. The uncertain future of prerogatives implied by reductions or closings of commissaries, reduced medical care for dependents due to a shortage of doctors, and possible modifications to the retirement plan serve to heighten this anxiety.

Finally, the marines I spoke with are intensely proud of their contribution to our society and I was asked on several occasions to extend an invitation on their behalf to interested Members of the Congress to visit them in order to become more familiar with their profession, their problems, and the immense pride they derive from being of service to their country.

I deeply appreciate the opportunity to present these views before this committee. I would be most pleased to respond to your questions.

Chairman STENNIS. Well, Captain, that is a very fine statement, very fine. I hadn't had a chance to read it myself. I want to thank you for going to the trouble of preparing it, for holding these seminars, and other meetings that you might have held, and for the work that you have done on it.

Without objection, I want to put in the record just preceding his testimony a brief biography and digest of the captain's military career, his education and qualifications and his record.

Without objection it will be ordered put in the record.

Now, Sergeant Barnes, we had a word with you at the beginning of the hearing and I was impressed with your understanding and your readiness, too, to come here and testify on what I call the ground level, the grass roots, to tell others about things as they are. I commend you again and thank you, too, and ask you to proceed now in your own way. You will be asked some questions later.

[The biographical sketch of Chief Master Sergeant Barnes follows:]

BIOGRAPHY OF CHIEF M. SGT. THOMAS N. BARNES

Chief Master Sergeant of the Air Force Thomas N. Barnes is advisor to the Secretary of the Air Force and Chief of Staff of the U.S. Air Force on matters concerning the welfare, effective utilization, and progress of the enlisted members of the Air Force. He is the fourth chief master sergeant to be appointed to this ultimate noncommissioned-officer position.

Sergeant Barnes was born on Nov. 16, 1930, in Chester, Pa., where he attended elementary and secondary schools. He is a graduate of the 8th Air Force Noncommissioned Officer (NCO) Academy and the U.S. Air Force Senior NCO Academy pilot class.

In April 1949 Sergeant Barnes entered the U.S. Air Force, and received his basic training at Lackland Air Force Base, Tex. He later attended Aircraft and Engine School and Hydraulic Specialist School at Chanute Technical Training Center, Ill.

In October 1950 he was assigned to the 4th Troop Carrier Squadron of the 62d Troop Carrier Group at McChord Air Force Base, Wash. In November 1950 Sergeant Barnes was transferred with the 4th Troop Carrier Squadron to Ashiya, Japan, in support of the Korean War. Shortly after arrival in Japan, he completed on-the-job training for flight engineer duties. Then, due to low unit manning, he performed both flight engineer and hydraulic specialist duties. In September 1951 he was transferred from Ashiya to Tachikawa, Japan, and continued flight engineer duties.

Sergeant Barnes was transferred in June 1952 to the 30th Air Transport Squadron, Westover Air Force Base, Mass., where he attended C–118 school and continued his flight engineer duties in that aircraft. In September 1952 Sergeant Barnes volunteered for temporary duty with the 1708th Ferry Group at Kelly Air Force Base, Tex., and participated in ferrying aircraft from various depots to Air Force organizations in Hawaii, Japan, and Northeast Air Command. Upon completion of temporary duty, he returned to Westover.

In December 1952 he was transferred to Andrews Air Force Base, Md., where he performed duties as Crew Chief/Flight Engineer on B–52, T–11, C–45, and C–47 aircraft in support of various requirements of Headquarters U.S. Air Force, Headquarters Military Air Transport Service, and the Air Research and Development Command.

Sergeant Barnes was transferred in June 1958 to the 42d Bombardment Wing at Loring Air Force Base, Maine, and performed duties as B–52 Crew Chief, Flight Chief, and Senior Controller. In September 1965 he went to Fairchild Air Force Base, Wash., and continued duties as Senior Controller.

In October 1966 he entered the F–4 Field Training Detachment (FTD) at George Air Force Base, Calif., and in December 1966 went to Southeast Asia. While in Southeast Asia, he served with the 8th Tactical Fighter Wing as Noncommissioned Officer in Charge, Reparable Processing Center; Senior Controller; and Noncommissioned Officer in Charge, Maintenance Control.

In December 1967 he returned from Southast Asia to Laughlin Air Force Base, Tex., where his duties were T–38 section Line Chief; Noncommissioned Officer in Charge, Maintenance Control; and Senior Enlisted Advisor to the Commander of the 3646th Pilot Training Wing.

Sergeant Barnes was transferred to Air Training Command Headquarters in October 1971 to assume duties as Command Senior Enlisted Advisor.

On Oct 1, 1973, he was appointed Chief Master Sergeant of the Air Force. At the expiration of the initial 2-year tenure, he was extended for an additional year by the Chief of Staff. In February 1976 he was selected by the Chief of Staff to serve an unprecedented second extension of 1 year.

His military decorations and awards include the Meritorious Service Medal with one oak leaf cluster, Air Medal, Air Force Commendation Medal, and the Outstanding Airman of the Year Ribbon.

Sergeant Barnes is married to the former Marie D. Rogers of Chester, Pa. They have six children: Thyra, Theresa, Thomas, Hazel, Joyce, and Brian.

He was promoted to the grade of chief master sergeant on Dec. 1, 1969.

STATEMENT OF CHIEF M. SGT. THOMAS N. BARNES, CHIEF MASTER SERGEANT OF THE AIR FORCE

Sergeant BARNES. Thank you, Mr. Chairman. I am honored to be here today appearing before you on this sensitive issue of unionization of the Armed Forces. I have a brief statement I would like to present for the record.

Mr. Chairman and distinguished members of the Armed Services Committee, I have consulted on this issue with my counterparts in the Army, Navy, and Marine Corps and believe we have similar concerns and viewpoints, but my comments will be based on Air Force experiences.

First, let me explain my role and responsibility as Chief Master Sergeant of the Air Force. My position was established by the Chief of Staff of the Air Force to advise and assist him and the Secretary of the Air Force in all matters concerning enlisted members of the Air Force. I function as the interface—a direct link—between our enlisted men and women and the Chief of Staff. It is my job to assess the morale and welfare of the troops, to learn their attitudes and perceptions and to advise the Chief about the well-being of our people and the organizational health of the Air Force.

In the 45 months that I have held this position. I have visited all but three of the major Air Force bases in the United States and have traveled throughout Europe, the Pacific, Alaska, and Panama. I have talked with and listened to hundreds of thousands of Air Force members so I know what they think and what they feel and what they fear.

Prior to my present assignment, I served for more than 23 years in a variety of Air Force specialties, with the majority of that time in supervisory and leadership positions at the operational level. With this background I speak with confidence about the potential danger of military unions to the effectiveness of our combat forces.

The traditional union processes of collective bargaining, mandatory consultation rights, strikes and work slowdowns, and so on, have no place in the military environment. Even in peacetime, when our job is to train and be prepared for war, these processes are incompatible and inconsistent with maintaining a ready, reliable, and responsive force. In order to meet our worldwide commitments and treaty obligations, our people must be—and are—dedicated to their mission, loyal to their leaders, and full members of a smoothly functioning team. That requires discipline, and control, and prompt obedience to lawful orders. It requires sacrifice and hardship, long hours and hazardous working conditions and family separations. In short, it takes a special kind of person to get the job done.

At the operational level, in nearly every Air Force activity, the imposition of a third party—a union representative—between the technician or specialist and his or her supervisor would produce disastrous results. Interference in work rules, disciplinary matters, grooming standards, working hours and conditions, duty assignments, extra detail and so on would dilute the authority of the commander, it would divide loyalties, and it would destroy the credibility of leadership.

It would also be an unnecessary, unwanted, and costly administrative burden that would delay schedules, waste valuable time of commanders and supervisors and generally reduce the combat effectiveness of the unit. Neither our fighter, bomber, or missile commanders, nor those who command and manage the labor intensive combat support operations could accomplish their missions if they are required to bargain over their orders, consult over decisions, or be subject to collective actions of any sort.

One can visualize many situations where such union involvement would impair effectiveness of operations. For example, on the flight line a variety of specialists, working as a team, are required to prepare aircraft for launch. There are the fuels specialists, the crew chiefs, fire protection personnel, munitions loaders, aerospace ground equipment operators, even the air traffic controller in the control tower, any one of which or collectively, could delay or abort a mission because the union representative wants to discuss a dispute over work rules, or disciplinary actions, or contract negotiations, or haircuts or a hundred other subjects. The first line supervisor could lose control of the work center, the commander's ability to enforce discipline would be weakened and the individual service member's loyalty would be divided between his commander and his union representative. This would be an intolerable situation.

Advocates of military unions argue that the Armed Forces need an effective grievance procedure, that what we have today is management biased, establishment operated and chain of command controlled, thereby preventing fair and impartial treatment of individual needs and desires. This is simply not true. Certainly our systems are operated within the chain of command—the chain of command is the very core of our organization—and it is the best, the quickest and the surest way of resolving complaints. We are sensitive to the human and psychological needs of our people, to their right to know—and understand—the logic, rationale and underlying philosophies of our

personnel policies and management actions, but most important, we are sensitive to their right to be heard. Accordingly, the Air Force has provided a multiplicity of channels, both formal and informal, for processing grievances, complaints and appeals of official actions. In fact, the variety of channels available to all personnel, the wider range of subject matter which may be covered, the fact that complaints need not be restricted to job or duty location activities, and the prerogative of the individual to go right to the top instead of through command channels should avoid any concern over bias or control within the system.

As a matter of interest, I serve as one of those many channels of communication where the troops can speak to the top leadership about their problems and concerns. Most of the Air Force senior commanders also appoint a senior enlisted advisor who functions for them as I do for the Chief of Staff.

In summary, I believe that military unions would be wrong and that an effective prohibition against traditional union activities that would degrade combat effectiveness is required. But we need to go beyond that, we must also address—and correct—those conditions of military life which make unions attractive to our people.

Thank you.

Chairman STENNIS. Well, we want to thank you, Sergeant Barnes, very much. I want a biographical sketch supplied for the committee record and we will insert it at the beginning of Chief Master Sergeant Barnes' testimony.

We will proceed now with some questions. All four of the gentlemen have given their testimony, and before we begin with these questions I note the presence of Senator Thurmond who sent word he was en route. We are certainly glad you got here, Senator.

Senator THURMOND. Thank you.

Chairman STENNIS. We have some very valuable testimony here and I will ask the staff to supply copies of this to all of the members who couldn't be here this morning either in person or by representation and get it out to them today, calling their attention to the fact that permission has been granted for anyone to ask as many questions as they might wish, submitting them in written form for the record, and the witnesses will respond thereto.

In addition, I would like to insert in the record a letter I received from the former Chairman of the Joint Chiefs of Staff, Adm. Thomas H. Moorer (retired).

[The letter follows:]

JULY 20, 1977.

Hon. JOHN C. STENNIS,
Chairman, Senate Armed Services Committee,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: At the request of Mr. John Roberts, General Counsel of the Armed Services Committee, I am writing herewith to set forth my views on the subject of Unions in the Military Forces.

Before going into detail let me say at the outset, as forcefully as I can, that I consider any proposal that permits unionization of the Military Forces, no matter what caveats, restraints, or limitations are included, to be the height of folly. The unions, true to form, would demand more and more and the inevitable effect would be to erode discipline to the breaking point. This would put military commanders at all levels in a totally untenable position and hence no worthy individual would aspire to military leadership under such impossible conditions.

I am convinced that the esprit, pride, and fighting effectiveness of our combat forces, who have been so protective of our freedoms in the past, would cease to exist in a union environment. To me the idea of unions in our military forces is so foreign to my long established concept of discipline, dedication, and loyalty to country which must be demanded of a military man in our democratic society that it boggles my mind. I would urge that the Congress, without delay, enact legislation that would put this dangerous movement to rest once and for all, no matter what legal and constitutional assaults may be brought forward in the future.

Let me expand on this matter in somewhat more detail. First, duty in uniform is not just a job; it constitutes a service to our country. The word "service" is the key to a military career. I would note, Mr. Chairman, that your Committee is called the Armed Services Committee for a very good reason. This name supports the accepted idea that our military organization is not a democracy and never will be. The men in uniform give up their rights in order that other citizens may be protected. Military men go where they are told, to do what they are told. They don't work on some pre-agreed time schedule such as a 40-hour week; they quit when the work is done—both in war and peace. To inject union procedures and practices into this demanding routine would be nothing short of chaotic.

Secondly, it has been revealed to me that today there are in fact a large number of men in uniform who would seriously consider joining a union if offered an opportunity to do so. Why is this so? What motivates this attitude? I believe there are several factors which I will briefly list. First the idea of a volunteer army about which I have continuous doubts, in fact established a tour in uniform as simply a job comparable to those found in large scale industry. This, in turn, established in effect a labor/management relationship between the military organization on the one hand, and the senior civilian officials in the Defense Department on the other. Such a consideration of the military tour as being nothing more than a job leaves the door wide open for intrusion by those who want to gain power through control of enhanced union membership. Furthermore, in the Congress one finds prominent Senators and Congressmen who continuously seek headlines and publicity through the technique of ridiculing and demeaning the man in uniform. Along with this practice goes the assault on medical care, commissaries and other benefits which serve to attract young men into the Armed Services and, more importantly, give them a feeling of security as to the welfare of their families during long and painful enforced absences. In recent years the Secretaries of Defense have not strongly supported the interests of the servicemen and have gone so far as to suggest publicly, in at least one instance, that the rising costs of military hardware could be defrayed in part by reducing benefits to military personnel.

This action by a few members in the Congress as well as senior officials in the Pentagon—not to mention the media—have raised the question in the minds of the young men in uniform as to just whom they should look to in order to ensure that their interests in the Nation's Capital are protected. Comparing their situtation with that of members of the unions, who enjoy strong political influence, is causing the men in uniform to tend toward opting for union membership. I believe the above states the problem in a nutshell.

I would like to state once again that I believe a law forbidding union membership is imperative now. Also, I believe strongly that if we are to maintain the type of military force that the young American boy is capable of providing, the Government and the public must seek ways to provide recognition, appreciation and encouragement to those who choose to serve their country. Today there is a strong pressure in the other direction and, in my opinion, therein lies the union problem.

Sincerely,

THOMAS H. MOORER,
Admiral, U.S. Navy (Ret.).

Chairman STENNIS. Senator, I pointed out in the beginning your interest and your long hard work in this field of unionization. You have worked hard on it and were very interested in these hearings. Do you have a statement that you want to make now and then we will go to these questions?

Senator THURMOND. Thank you.

Chairman STENNIS. If you do, we would be glad to recognize you. You are the author of the first bill—S. 274—introduced in the Senate.

Senator THURMOND. I have a statement for the record and I have a couple pages of questions whenever it is my time.

Chairman STENNIS. All right, make your statement now, and then we will take the questions in the regular order and move along.

[The prepared statement follows:]

PREPARED STATEMENT OF SENATOR STROM THURMOND

Mr. Chairman, as you and the other members of the Committee are aware, I have been concerned about the subject of the hearings for quite some time. It is very important that we hear from witnesses at all levels of the services and those appearing here today can share their knowledge and experience with the Committee.

My feelings in opposition to military unions are well known. Just let me say that I feel it is time for the Congress to take action to stop this matter from getting out of hand.

The initial hearing of the Committee showed the following:

1. Current Department of Defense policy does not prohibit union membership by military members.

2. Current policy does not prohibit union organizing activities on base or off.

3. The Department of Defense is unwilling to take any real position on the bills before this Committee which prohibit unionization.

Therefore, it is imperative that this Committee hold all necessary hearings as soon as possible and report out a bill that firmly prevents military unionization and its consequences.

My bill, S. 274, now has a total of 43 cosponsors, and I urge my colleagues on this Committee and in the full Senate to continue to support this legislation.

Lastly, I would like to remind the Congress of our dual responsibility. We have the responsibility under the Constitution to make rules for the government and regulation of the land and naval forces. Along with this responsibility, we must not forget the many outstanding people who compose these forces. Let us not forget our responsibility to these people, especially in a time when the Soviets are building up at a record pace. This great country cannot afford to have an armed force with low morale.

Thank you, Mr. Chairman.

Senator THURMOND. On July 7, 1977, the results of the Gallup Poll taken between June 3 and June 6, 1977, were published in the column written by Mike Causey on page 82 of the Washington Post. The question asked in the poll was: "Would you favor or oppose unionization of the American Armed Forces?"

The response came from 1,536 adults. According to the pollsters, those responding came from 300 scientifically selected localities. The results were as follows: 74 percent, practically three-fourths, opposed unionization of our military, 13 percent were undecided, and 13 percent favored the idea.

Now, when Secretary Brown appeared before us on this issue he saw no threat to unionize our military. This poll in the civilian sector lends insight to his position. At that time. the Secretary testified that the American Federation of Govenment Employees seemed to be a serious advocate of unionization.

Since Citizen Soldier, 175 Fifth Avenue, New York, sent out 20,000 questionnaires in this paper, I ask unanimous consent that it be placed in the record——

Chairman STENNIS. Without objection.

[The above referred to paper follows:]

CITIZEN SOLDIER,
New York, N.Y., July 5, 1977.

MILITARY UNION SURVEY RESULTS RELEASED: 52 PERCENT OF ENLISTED RANKS FAVOR IMMEDIATE UNIONIZATION

Citizen Soldier, a public interest group seeking both the reform of the military justice system and the extension of Constitutional rights to all military personnel, announced today the results of its survey of GI attitudes toward Military Unions.

Active-duty members of all branches of the armed forces were asked to express a preference for one of the following statements;

1. Yes, I agree that service people need a union.
2. I'm not sure what I think right now.
3. No. I don't favor a union for service people at this time.

83 percent of the respondents (327 to date) were from the enlisted ranks with the remainder being officers. Overall, 45 percent were in favor of unionization, 34 percent were undecided and 21 percent were opposed.

When the responses are sorted by rank, the enlisted personnel were found to have substantially different opinions from those of the officers.

Dividing enlisteds into two categories, *Junior* (E/5 and below—often non-supervisory, yet may have 10 + years of service) and *Senior* (E/6–E/9) the results were as follows:

[In percent]

	Enlisted men, all	Junior NCO	Senior NCO
Yes	52	61	4
Undecided	35	30	4
No	13	9	1

The Officers broke down as follows;

[In percent]

	All	Juniors[1]	Senior (all others)
Yes	16	12	25
Undecided	27	40	
No	57	48	75

[1] Lieutenants, captains, warrant officers.

20,000 questionnaires were mailed to active-duty service members whose addresses were obtained through the rental of commercial mailing lists. C.S. "tested" four different lists, two being lists of Officers and Non commissioned Officers resident at various US military installations; the other two were Playboy (military ZIPs throughout PS) and Penthouse (APO & FPO military addresses only).

The questionnaire was part of an eight-page tabloid-style newspaper which presented basic information on unions and summarized some of the grievances which have apparently contributed to pro-union sentiment within the ranks today. A envelope was enclosed, but each respondent had to furnish postage. For a "ballot" to be validated, it had to contain the GI's name, rank, military unit, and address.

Total response to date has already exceeded 1½%, with "ballots" continuing to arrive. This is considered excellent by direct-mail standards, particularly since respondents had to furnish postage, write to an unknown organization, and stand up to be counted by identifying themselves.

Citizen Soldier makes no claims of "scientific precision" in its sampling techniques. However, its results are not incompatible with those of an Air Force survey conducted last year which found that a plurality of enlisted airmen favored unionization. The greater support for unionizing indicated by Citizen Soldier's results suggests that conditions which exacerbate pro-union attitudes may have worsened in the year since the Air Force conducted its poll.

Some of the common grievances mentioned by servicemembers who attached letters are; recruiting and assignment practices, "erosion" of personnel benefits, inadequate housing, promotion policies, problems with the military justice system, and a general frustration with the grievance mechanisms provided by the chain of command.

Senator THURMOND. The paper was mailed to quarters' occupants at Fort Bragg, N.C., and various other military installations and off-post residences of servicemen. Approximately 400 responded. Overall, considering the enlisted men and officers, 45 percent favored unionization, 34 percent were undecided and 21 percent were opposed.

However, considering the enlisted ranks, 61 percent of the junior NCOs favored unionization, E–5 and below, 41 percent of the senior NCOs favored unionization, E–6 through E–9, and a total of 52 percent of the enlisted men surveyed favored unionization.

This poll of the military certainly does not lend credence to Secretary Brown's statement that there is no threat to unionize our Armed Forces.

Recently, the Fleet Reserve Association conducted the "White Hats" panel in Charleston, S.C., Sunnyvale, Calif., and Honolulu, Hawaii. Reports from these meetings indicate unionization is a serious threat.

Now, another group, Enlisted People's Organizing Committee, Box 50008, F Street Station, Washington, D.C., has distributed a poll of sorts at Fort Jackson, S.C., and other places. Among other things in their platform is, "GI Bill of Rights Are an End to Bad Discharges." I suppose this means for felons, deserters, and all others who may decide that serving their country is not the thing to do.

Full civilian pay, whatever that may be, and compensation for overtime. The right to resist illegal orders or policies; what disturbs me most about that is it sounds like mutiny.

Who is going to decide which orders and policies are illegal? Will it be the Enlisted People's Organizing Committee? If not, will the company commander spend a good part of his time in court defending his orders and policies?

Now, the point I wanted to bring to you is a simple one. Do you see a threat to unionize our Armed Forces today?

Chairman STENNIS. You ask the question. I yield to you now.

Senator THURMOND. General Rogers, I will ask you that question.

Do you see a threat to unionize our Armed Forces today, ad would you like to elaborate on your answer?

General ROGERS. Senator Thurmond, in evaluating what has occurred in the Army we have had instances reported at such places as Fort Dix, Fort Devens, Fort Bragg, Oakland Army Base, and other places, of attempting to unionize. Each time that we have investigated we have found that there is no confirmation of such activity. So when one looks today in the Army at the current threat to unionization, one has to say that its reality is minor.

However, in my opinion that is not the point. In my opinion, the possibility exists. As a result of the American Federation of Government Employees polling their locals to determine whether or not they should admit military members, the possibility exists that we could wake up some morning and find half a company unionized at various places in the Army.

We already have indications in two instances where local unions of the AFGE have taken the vote that they would be willing to permit military members to join. Those are the only two locals about which we have any information. So that in my opinion, even though the threat may not be a great one at the moment, I do believe that the potential is there for unionization and I think some action must be taken. I am on record before this committtee in February to insure that that does not occur.

Chairman STENNIS. I commend the General on that answer. He summed it up very well based on his experience; he certainly speaks with a strong voice.

Senator THURMOND. I might mention this, General Rogers, last month a petition signed by approximately 1,900 servicemen was presented to Congress by the Enlisted People's Organizing Committee. I don't know whether you are familiar with that?

General ROGERS. I am aware of that, Senator.

Senator THURMOND. I know this organization has been active at Fort Bragg and Fort Jackson. On what other posts have they distributed literature?

General ROGERS. Some literature was distributed at Fort Jackson on June 6, 1977. An ex-serviceman was found on post distributing pamphlets which would encourage soldiers to seek unionization of the military. He was advised of the rules of engagement for distribution of such publications on an Army installation and was also escorted off the post.

Now, with respect to the petition of the 1,900 soldiers, I don't believe that the names have been checked against the rosters at Fort Bragg to determine if in fact they are bona fide signatures of soldiers stationed at Fort Bragg. The organization that you mentioned has requested authority to go on post at Fort Bragg to get soldiers on the installation to sign the petition. The decision is pending as to whether or not they will be permitted to do so.

I would just like to footnote our conversation, Senator, by pointing out that as a consequence of the publicity that has been given to the AFGE and its polling of its locals as to whether or not they wished to permit military members to join, there has been considerable publicity which in my opinion was brought out of the woods those small type union organizations such as American Servicemen's Union that we knew back at the end of the sixties and early seventies whose mission it is to do what they can to destroy the capability of the military services to maintain discipline within the services.

Those are the organizations that I think are at Fort Bragg. The ones in New York, with headquarters in New York, Park Avenue, those that you are finding at Fort Jackson and at other places, are not affiliated in any way with any union at the national level.

Senator THURMOND. I want to commend you on your statement that this could become serious overnight. I think you are absolutely correct.

You are aware that although the AFGE has probably completed its survey of locals on whether to unionize the military, the results and decisions on whether to go forward is scheduled to be made public in October, 1977. It just so happens that Congress is scheduled to go out of session in October, until the first month of 1978.

Now, Mr. Blaylock, the president of AFGE, is reported to have said this past spring that "We got a petition with over 800 signatures. I could have expanded the membership of this Federation by 50,000, I am sure, if I opened this thing up after September."

General Rogers, under present DoD policy, are they permitted to come on the post to sell the idea of military unionization?

General ROGERS. A commander has the authority to judge whether or not such activities would be counter to the good order, discipline, morale, and welfare of those persons stationed at his installation. If he determines that it would be detrimental to good order and discipline he can refuse their entry on the post for that purpose.

Senator THURMOND. Do you have information as to whether any commanders have permitted them on posts?

General ROGERS. The only instance of which I am aware—and this is only tangential—occurred at Oakland Army Base. What occurred there was the local union of the AFGE, which in its negotiations with the commander, as they had the right to do on civilian employee matters acquired a room on post where that local union could meet. That is not unique to Oakland Army Base. What occurred was a meeting of the local union of AFGE to determine whether or not the local would agree to accept military members. So they did meet on the post in that room which had been set aside for the local union which deals with our civilians. There were about 40 personnel who attended. I am advised that near the end of the meeting four military personnel arrived for the meeting, but did not participate in it. I am also further advised that if a vote had been taken that night, which it was not, the local would have decided against accepting military members. However, the vote was not taken.

Senator THURMOND. General Rogers, does the present DOD policy or the one they are drafting prohibit military membership in a union?

General ROGERS. Senator Thurmond, that is the toughest question that is faced by the Department of Defense or by this Congress, in my opinion—whether or not to prohibit membership. The directive that is being drafted will in fact prohibit membership under certain conditions. I am referring to a letter of this date that was addressed to Chairman Stennis by Secretary of Defense Brown. The letter sent to the chairman this morning, says that the prohibition on membership would operate as follows, if you are interested in the details, otherwise I won't include them.

Senator THURMOND. I don't think you need to go into the details. I just asked a simple question: Does the present DOD policy, or the one they are drafting, prohibit military membership in a union?

General ROGERS. Senator Thurmond, it is really not quite that simple. It prohibits membership under certain conditions. It prohibits it if it is an organization which engages in specified prohibited conduct such as strikes, slowdowns, and picketing. It prohibits, on-base solicitation under certain conditions. Not only must the organization have engaged in an unlawful act, it must also be determined that on this basis the organization poses a danger to discipline and order that I mentioned before.

A third aspect of this prohibition is that the directive would require that, to be prohibitable, the membership in question must be active,

knowing and with specific intent to further the prohibited acts engaged in by the organization. So that under those conditions the directive which is currently being drafted and will shortly be circulated in its second version to the services, and to the Joint Chiefs of Staff, includes those types of factors with respect to prohibition.

Senator THURMOND. Am I correct in construing your answer to mean that it is left up to the local commander as to whether it is safe to allow members to join unions and that there is no directive from the Defense Department prohibiting the joining of unions.

General ROGERS. At this moment there is no such directive, Senator Thurmond. It is the intent of the Defense Department, once a directive has been fully coordinated, to send that directive to the services for implementation. I believe, Senator, that the local commander in most instances would be required to play a large part in determining whether or not the organization involved, intended to conduct the prohibited activities that I have mentioned, but I can also say to you, Senator, that there would be great interest throughout the chain of command in these instances.

I would footnote that, Senator Thurmond, by saying that the directive is still in the process of being drafted and coordinated within the Defense Department, so its final content cannot be known until it has been completed.

Senator THURMOND. Does the policy of the Defense Department now——

Chairman STENNIS. Excuse me, I hate to interrupt, but the time has run over.

Senator THURMOND. Thank you, Mr. Chairman.

Chairman STENNIS. I have very few questions, gentlemen, and then we will go back on our regular schedule of asking questons. I will have others later.

General Rogers, I call your attention for emphasis to page 3 near the bottom of your statement, which I will quote briefly. I think it goes to the very heart of this whole question and the whole atmosphere of the relationship. You say:

> The assumption that the required degree of loyalty and confidence between the leader and the led will develop when a third party—a union—is interjected between the two is fallacious. The loyalties and relationships which develop during periods of peacetime training can be expected to continue during periods of conflict.
>
> If a serviceman feels more confidence in his shop steward than in his chain of command during his training, the same feeling can be expected to continue into combat.

That is so very true, it not only could be expected to continue but it will continue, it is unavoidable, it can't be separated on a minute's notice or a day's notice or even a month's notice, it becomes a part of the man and it goes along with him.

I have this comment now for Captain Jones. I think your testimony is very valuable, Captain Jones, particularly since you held these seminars that you related to. You held these seminars and questioned these men, got from them their feelings, their experiences, their opinions, their desires, and their concept of what is a real military unit. That speaks very strong, what you said and what they said. It is a grass roots opinion that is true of human nature, I think.

I have some other matters, Admiral, that I want to go into with you and also with Sergeant Barnes.

Senator Nunn, I want to pass now to you.

Senator NUNN. Thank you, Mr. Chairman.

I would like to ask Captain Jones and Sergeant Barnes this question: Do you see any connection between the advent of the All-Volunteer Force and the growing sentiment for unionization in the military?

I will ask Captain Jones that first. Is there any connection in your mind?

Captain JONES. Yes sir, to the extent that the All-Volunteer Force and the publicity that goes along with it in terms of attracting people into the services has, in my view, tended to convey the impression that the military profession——

Senator THURMOND. Speak a little louder.

Senator NUNN. Why don't you repeat that so everybody will hear you?

Captain JONES. In my opinion, there is a connection. The All-Volunteer Force concept in its effort to attract people into the military profession by emphasizing its remunerative aspects may have the side effect of changing the motivation toward service life from that of being a calling to that of being a job. Those who would view service life as merely a job would most likely have a greater tendency to see unionzation as the means to ensure the preservation and enrichment of their wages and benefits.

Senator NUNN. Thank you very much. Could I ask the same question of Sergeant Barnes, your frank and candid opinion about whether there is a relationship between the All-Volunteer Force and the growing sentiment of unionization in the military?

Sergeant BARNES. Senator Nunn, in my very candid opinion I see very little of that based on the Air Force's volunteer posture as a military service. The attitudes of Air Force members who are largely interested in unions have been fostered and generated in very recent years and so has the simultaneous time frame of the All-Volunteer Force implementation in the military at large.

Chairman STENNIS. Excuse me just a minute, please.

Gentlemen, this is a very important hearing and a very satisfactory hearing, I think, and there are few things that I would leave it for. But, one of those matters has occurred and I must go to the floor as they are sending for me on this appropriations bill. I am going to ask Senator Nunn if he will continue the hearings and if he has to leave, Senator Thurmond will be here and you gentlemen can continue. We can hold the hearing within the limits for 2 hours after 10:30, and we might get permission if you want to go beyond that. I really don't think we can hardly expect permission though for an afternoon session as such. So thank you again very much, gentlemen.

Senator NUNN [presiding]. Go ahead with your answer on that question.

Sergeant BARNES. All right sir, I had gotten to the point that I had expressed the volunteer aspect of the Air Force and its youth at this point. I do suppose there is some connection with those things associated with the totality of a volunteer force all the way and union interest developed only recently, however. I have not seen that a growing situation at all.

Senator NUNN. Sergeant, do you think that there might be a distinction between the Air Force and possibly some of the other services, on the ground that the Air Force has always been volunteer, more or less, and never relied primarily on conscription. In this regard could there be a difference there?

Sergeant BARNES. I would say yes, sir, there is that difference, that and the short life span of the Air Force in comparison with the other services.

Senator NUNN. General Jones made an announcement not long ago that he was going to change the type of advertising in the Air Force for recruitment that emphasizes the job aspect, as Captain Jones talked about, and go more to the patriotism type advertising. Have you seen this policy being implemented yet?

Sergeant BARNES. Yes, sir, I have.

Senator NUNN. Do you agree with that?

Sergeant BARNES. I think it is very necessary and I would agree.

Senator NUNN. I would at this point like to read into the record a statement General Jones made before the Subcommittee on Manpower and Personnel of this committee on this point. I don't know the exact date, I quote:

> I think there is a fundamental change that started in 1970 with the President's Commission on the All-Volunteer Force. Basically they changed the approach in recruiting of personnel for the services, moving away from the normative values of a calling or profession embodied in the words duty, honor, and country, toward an appeal based on monetary compensation and the values of the marketplace. Since then there have been many other actions taken that to me changed the lifestyle of the military very, very dramatically. I am not talking just about erosion of benefits, I am talking about many other aspects of a lifestyle within the military that tend to shift it from a profession and a calling to a job or occupation.

That was Gen. David Jones, Air Force Chief of Staff.

General Rogers, would you comment on that statement?

General ROGERS. I think it is a good statement and an accurate statement. I think it could have been expected as we went from a draft Army. Today among those who join us are those who are coming to find a job. We understand that. But I would also mention, Senator, that there are those that join in the volunteer environment who join because they believe that they owe a part of their time to the service of this country in return for what this country gives to them.

If you ask me what percentage, I cannot give you that, but you will find as a result of surveys that have been conducted that patriotism and service to country is to be found among those reasons for which soldiers enlist and remain in the services.

Senator NUNN. Thank you, General, and I certainly don't disagree with that. I think there are mixed motivations here and I certainly hope and I believe there are many thousands of young men and women in our services who still are oriented primarily because of love of country and patriotism, but I don't discount in any respect that General Jones is right. In my opinion he is in this respect.

Do you have any review underway in the Army as to whether your advertising would begin to emphasize more duty, honor, country and less jobs, per se, for the sake of jobs. In other words, are you planning any similar kind of change in the Army recruiting as General Jones indicated strongly he is going to do in the Air Force?

General ROGERS. There is a quarterly review made of our advertising, Mr. Chairman, and sometime ago the Army changed the thrust of its advertising away from benefits, away from jobs solely, to include service to country, to include other appeals to the young man and young woman.

Senator NUNN. When did that change occur?

General ROGERS. That occurred when I was Deputy Chief of Staff for Personnel, so it would have been prior to November of 1974. Frankly, Senator, initially we were not underscoring patriotism and love of country and service to country as we should have in our advertising.

Senator NUNN. At what time frame were you not?

General ROGERS. The Army started working toward the volunteer concept back in the early seventies, 1970–71. In the early stages the Army had developed its advertising based on those kinds of appeals which relate to a person working in a job rather than serving in an assignment and serving his country.

Senator NUNN. Well, I would like to quote one other distinguished citizen of this country at this point, and I quote:

> It may be laid down as a primary position and the basis of our system that every citizen who enjoys the protection of a free government owes not only a proportion of his property but even of his personal services to the defense of it.

General ROGERS. I am familiar with that.

Senator NUNN. That was President George Washington.

General ROGERS. I had that quotation in mind when I made my initial response to you.

Senator NUNN. I think we have gotten away from that concept in this country. Certainly you Admiral Watkins, and General Jones have been frank and forthcoming in all the testimony I have had on the All-Volunteer Force. In no way do I say this as far as you are concerned, I think we have more candor about the situation now from our leadership than we have had since I have been in the Senate. I believe that is the only way we are going to address these problems.

I would like to ask Captain Jones and Sergeant Barnes one other question. It may have several facets. We are talking about these fringe benefits. You have retirement, commissaries, you have all sorts of fringe benefits, and you have a lot of execution of those now. I will ask you first, Sergeant Barnes, this question: In your estimation, not trying to name all of them, what would you say are the three or four top priority benefits as far as military personnel are concerned today?

Sergeant BARNES. Senator Nunn, in addressing your question and attempting to select those that affect the totality of the force, there are different impacts on different levels of our force I would like to point that out. They currently are retirement, medical, health benefits, CHAMPUS, and the GI bill, in that order. I think those three would top the list.

Senator NUNN. Retirement and then health, and included in health you are talking about CHAMPUS?

Sergeant BARNES. Yes sir.

Senator NUNN. Then what was the last, the GI bill?

Sergeant BARNES. GI bill.

Senator NUNN. Would you put commissaries below those three?

Sergeant BARNES. Here again I mentioned the different impacts on our force. Commissaries associate themselves with married personnel. Single personnel are not as concerned with commissaries as they are with the GI bill opportunities, as an example. Certainly married personnel are. I think there is a need to distinguish where those differences fall among the categories of people.

Senator NUNN. Is there a feeling that health benefits are eroding?

Sergeant BARNES. Yes, there is.

Senator NUNN. Is there any recognition of the fact that this is not because of an intentional policy on the part of either the executive or legislative branch but rather it is a fallout of the shortage of medical personnel due to the All-Volunteer Force?

Sergeant BARNES. I think that our senior enlisted force is aware of that. I am not able to answer it for officers but I would believe it to be so for them. The bigger impact, however, is the married person feeling that impact where there are not all of the specialities available on an installation and the necessity to use a town or a presumed CHAMP-US—participating physician for those needs. They are finding that the physician is unwilling to participate and thus it becomes a problem. I don't think the understanding is as broad across the board as perhaps it is at our senior levels. We are addressing that at every opportunity.

The bigger point, if I may continue, I would like to make, is that at that level persons are without experience, they are being advised, given information, but I think quite honestly they seem to care little who or how or where, merely the impact and the effect. I don't think they take time to sort that out.

Senator NUNN. They aren't looking for the blame so much as they are looking at the erosion?

Sergeant BARNES. That is exactly right.

Senator NUNN. Thank you very much. My time has expired.

If Senator Garn will permit me to get the other side of that answer on that question I won't go any further.

Captain Jones, could you address yourself to that question about the priority fringe benefits as far as your experience indicates?

Captain JONES. Yes sir, I would make a distinction between those members of the military who are making a career and noncareermen, that is, men who are in for 3 or 4 years, and I would say that for the career-oriented serviceman the retirement benefits, medical and commissaries would rate one, two, three in that order.

Senator NUNN. Would you repeat those again?

Captain JONES. Retirement, medical, and the commissaries in that order.

For the noncareer military man, or marine, I am of the opinion that the medical, GI bill, and the commissaries would be the order of ranking.

Senator NUNN. Retirement is the one you left out?

Captain JONES. Yes, sir, and I spoke with over 120 enlisted men and I asked them that very question. That was the answer I received.

Senator NUNN. Thank you.

Senator Garn.

Senator GARN. Thank you, Mr. Chairman.

I have no questions but I would like to take a little of my time to make a statement on how I feel about this particular situation.

In my years in public service I don't know that I have ever heard a more ridiculous proposal than to unionize the military. I am not even quite sure I know why we are holding these hearings. I am really not sure why it ever got to that point, frankly. I have an absolutely closed mind. My mind has been made up for sometime. Nothing that could be said in the hearings could induce me to even consider the fantasy of unions in the military.

Maybe one of the reasons, Mr. Chairman, that I feel so strongly about it is having been a mayor I have had something to do with government employee unions and I know of their arrogance and their grab for power. I think that is another example frankly that they could care less about the military man, they would like the dues that would come from those people to give them power and authority that they would not otherwise have.

I think there are some parallels between the dangers in the military and what I experienced because we have had firemen and policemen and garbage collectors and health people that deal not with unnecessary services to the public but the absolute services such as health and safety. I had a good long battle with the firemen's union, particularly with the national, and that is where most of my criticism is directed. It is not at the locals but at the national domination and interference, over a long period of time.

As a matter of fact, all the way to the Supreme Court of the United States, in one situation I won every battle along the way but it took 3½ years to do it.

General Rogers, where you talk about your proposed regulations, under some conditions I would think that those regulations should be very simple; none, no conditions, because they are amazing at working around those conditions. We had no-strike clauses, we had no sick-out clauses, we had all of those. We don't have to have too long a memory to find out how all of those conditions have been violated in New York City over and over and over again, and with teachers unions, that doesn't seem to make too much difference to some of them. So you may write a regulation, we could pass a law that would allow it under some conditions. You have opened the floodgates. I think it either has to be no unionization or we are kidding ourselves because they will violate no-strike clauses, they will violate no-sick clauses, and with disregard for the security of this Nation.

I say that with experience of disregard for people's property and their lives in my city, of not really caring. We are going to slow down, it doesn't matter whether the cripple rate goes up, it doesn't matter whether the building burns or not. We didn't have anybody strike. They knew I would fire them if they did. We played the sickout game for awhile and played the picket game around the downtown businesses to boycott all tourists, to boycott all Salt Lake City's businesses until the mayor became more reasonable. But it just seems to me when we are dealing with national security, when we are dealing with health and safety, and none of these people are anything but volunteers now, no one was ever compelled to be a Salt Lake City policeman or fireman, no one is being compelled to be a soldier, sailor, or airman. At

this point if they do not like the conditions under which they expect to be handled, then they don't have to join, they don't have to stay.

So, as you can tell, I feel very very strongly about this. I am a cosponsor of Senator Thurmond's bill and I hope that the results of this hearing are such that we simply have a flat out prohibition in the interest of national defense, because I see no way at any level, whether it is the chief master sergeant, whether it is a captain, whether it is an admiral or general, or any place along the chain of command, no matter how innocently it starts on a limited basis, you will not suffer the problems that most mayors of this country have in those particular services that deal with health and welfare and safety of the citizens of the communities of this country.

So I appreciate your statements today, I hope you will continue to be strong and not back away from it at all, and I hope this Congress will enact a law that simply says "no" and get back to the point that I heard you all mention, to do more advertising on the basis of patriotism.

There have been a lot of changes since I first was a young ensign in the Navy, a midshipman, 20 years ago, and I managed to survive it, at that time without liberalization. As a matter of fact, I am kind of glad I served at a time when we weren't so nice in the military. I am one who would like to go back and see a few more swift kicks in the fanny, and I think there is great benefit from that to some of our young people. The only place they ever learned any discipline in their life was in the military, and I was probably one of those. I am very grateful for my military service and the fact I had somebody that taught me how to behave. I feel very strongly that there are a lot of other areas where we have softened in the military in order to be nice and friendly. Besides the advertising to make all the barracks nice and pleasant, don't get them up before 6 o'clock, and don't interrupt their sleep, or the nice little boys might be offended.

So I would hope besides the advertising we might try after this long aftermath of a couple years of Vietnam, we might try and be a little more strict in the military, at all levels. I don't think it hurt any of us who went through this. I suppose one of the most humbling experiences I have had was to be a third-class midshipman on a destroyer. I think I appreciated life a little more after that. I don't know if there is anything lower than a plebe at the Naval Academy, with a third-class petty officer from Tijuana, Mexico, ordering us around and scrubbing decks and chipping paint. I don't see anything particularly wrong with that.

The whole concept I think has stopped. Quit backing off to all of these silly demands and make the military what it is supposed to be, an organization to defend the security of this country.

Thank you, Mr. Chairman.

Senator NUNN. Thank you very much.

General ROGERS. Mr. Chairman.

Senator NUNN. I think General Rogers wants to rebut that statement.

General ROGERS. No; I do not want to rebut that statement. I want to set the record clear, if I may, with your indulgence, Senator Garn. You indicated that the directive from which I read was mine.

Senator GARN. No; I didn't mean to indicate that.

General ROGERS. That is what you said. I wanted you to understand my position, Senator Garn. My position is given on the bottom of the first page and the top of the second page of my prepared statement. The language I was reading was from the proposed, draft directive that will be issued by the Department of Defense.

Senator GARN. I appreciate the clarification because even if I said it, that is not what I meant. I meant the DoD, I didn't mean you personally.

General ROGERS. Second, now that I have the floor, momentarily, Senator Garn, I couldn't agree with you more about the latter part of your statement. I think all of the service chiefs feel the same way. You see, this is volunteer service and they volunteered to meet the standards that we set and it is up to us to set high standards of performance, training, duty, discipline, appearance, and physical conditioning, and to insure that they meet those standards, and if they don't, send them home. I think you will find that is what is being done today. I think you will find that as a result, at least in the Army, the trend is downward in all the rates of discipline plus an improvement in the motivation, because they—the soldiers—see us getting rid of the bums and keeping the good ones. The good ones see that, plus the fact these young men and women are more trainable than they were, and I just can't let the opportunity pass, Senator Garn, without saying once again these are the finest soldiers I have served with for 34 years.

Senator GARN. Thank you, General.

Senator NUNN. At this stage I want to ask one more brief question, then I am going to have to turn it over to Senator Thurmond. I have a hearing with Secretary of Labor on the pension funds that I must help preside over.

I would like to ask Captain Jones and also Sergeant Barnes, the perceptions in the military toward all the conversations both from executive and the legislative branches on the question of quote "double dipping."

Could you give us the reaction in the military. I will start with you, Captain.

Captain JONES. Sir, in the seminars that I attended there was an expression of concern over that issue, particularly among the staff NCOs who feel that after 20 years of service, should they elect to retire from the armed forces, in this case the Marine Corps, they should not be prevented from drawing their retirement and also obtaining a job working for the Government. They don't agree with it, they didn't like it, and that was the expression that they made on the subject.

Senator NUNN. Sergeant?

Sergeant BARNES. Essentially the same expression. Some effects I am sure will be felt downstream, if in fact a time frame or effective date is set, it will cause an exodus or thoughts about an exodus for that time frame. They disliked how it was presented. Honestly, that is the reaction.

Senator NUNN. Thank you very much. I want to thank all of you for appearing this morning, Captain Jones, Sergeant Barnes, General Rogers and Admiral Watkins. I am sure your testimony has been beneficial.

I am going to turn it over to Senator Thurmond at this stage.

Let me announce that we are going to leave the record open for 3 or 4 days for Senators to ask questions of our witnesses today. We had other Senators who had an interest but because of conflicts, couldn't be here. Senator Thurmond will adjourn the hearing.

Senator THURMOND [presiding]. General Rogers, I want to go back and ask this question. Do the present directives of the Defense Department restrict a member of the military from joining the AFGE?

General ROGERS. No, sir.

Senator THURMOND. Does the present DoD policy or does the directive they are drafting prohibit military membership in a union that advocates collective bargaining of service conditions for members?

General ROGERS. The intent I believe, Senator, is that it will prohibit as I indicated earlier. The directive is still in the draft and coordinating stages and I do not know what the final contents will be.

Senator THURMOND. Does the present DoD policy or the one they are drafting prohibit union solicitation on military installations?

General ROGERS. Once again, I believe the intent is that it will, assuming that it can be proven that the organization concerned does in fact subscribe to certain prohibited activities such as strikes, collective bargaining, purporting to represent service personnel with respect to their terms of service.

Senator THURMOND. Now, whether or not to prohibit union solicitation on military installations is to be left to the commander of each installation?

General ROGERS. Again Senator, I must point out that I do not know what the final contents of the draft will be. The intent at this point has been, in my opinion, to leave it to the local commander to determine whether or not solicitation is permitted. I can assure you there will be great interest in those of us in the chain of command in these instances.

Senator THURMOND. So if that should be the directive they are drafting now, you could have 50 different installations' decisions made by 50 different people that might be different?

General ROGERS. That possibility exists, but I would not expect it to occur because there would be others of us who will be interested in assuring uniformity. What we need, Senator, in my opinion, is a directive which is clear and simple and can be understood by everybody and uniformly applied across all services.

Senator THURMOND. Does the present DoD policy, or the one they are drafting now, prohibit the distribution of union recruiting literature to military members on military installations?

General ROGERS. Well, that authority exists today if the local commander determines that it will be counter to good order, discipline, morale, and the welfare of his troops. However, there is nothing extant with respect to its application strictly to unions at the present time. I believe the intent—as I am now knowledgeable of what is being drafted in OSD—is to leave that determination to the commander based upon certain guidance that will be provided to him.

Senator THURMOND. So you think under the directive they are now drafting it will be left to the local commander as to whether he wishes to prohibit the distribution of union recruiting literature?

General ROGERS. Certain determinations would have to be made by that commander.

Senator THURMOND. I understand that he would have to exercise discretion and consider all factors, but it would be left to him to make the decision?

General ROGERS. Yes, sir.

Senator THURMOND. As I understand?

General ROGERS. Senator Thurmond, let me just add that not knowing what form or content the directive may finally take, I would anticipate, as in most cases, implementing instructions from the various military departments to their lower commanders as to how they expect the directive to be carried out. What I am saying is that the Secretary of the Army and I, working with the Army Staff, would provide the implementing instructions based upon the guidance and direction within the directive and issue them to our subordinate commanders, so we will have a part to play in the implementation of any directive that comes from the Office of the Secretary of Defense.

Senator THURMOND. Well, let me ask you this question. Do the present directives prohibit a person in the military from joining a union?

General ROGERS. No, sir.

Senator THURMOND. That is clear, there is no question about it, you are certain of that?

General ROGERS. Yes, sir.

Senator THURMOND. Now, the next question is, does the present directive prohibit soliciting on a military post for union membership?

General ROGERS. Senator, only if it is determined by the commander that in his opinion such solicitation, whether it be for unions or anything else, is counter to good order and to discipline. He can then keep the personnel off the base. But, Senator, there is no specific prohibition against solicitation for unions.

Senator THURMOND. In a letter which was just handed to me this morning by Senator Stennis from the Secretary of Defense, on that point, I believe the Secretary's letter contains this paragraph: I have concluded that the Department of Defense should immediately promulgate a comprehensive directive that addresses the four principal aspects of the military unionization problem—strikes and concerted activity, collective bargaining, solicitation, and membership.

The directive would address only on-base solicitation and would include three kinds of prohibitions.

First, it would prohibit on-base recruitment efforts by organizations that seek to engage in collective bargaining or that engage in any activity prohibited by the directive, when such recruitment efforts are by means traditionally associated with a "public forum," including speechmaking, distribution of leaflets, demonstrations, protests, meetings, or picketing.

The second part of the solicitation provision relates to access by those who seek to engage in recruitment activity by any other means not associated with a "public forum" such as small groups of individual conversations. Such activity will be prohibited only if it is determined to pose a clear danger to the discipline, obedience to lawful orders, or chain of command of the Armed Forces. The basis for this determination would be that the organization engages in, or is substantially likely to engage in strikes, slowdowns, or work stoppages

against the Armed Forces. Such a determination would be made only after a review of the constitution or bylaws of the organization, or a statement of purpose that may be required as a condition of access, has persuaded the commander that such organization does in fact pose the requisite clear danger.

Who will determine what a clear danger is?

General ROGERS. Are you reading from the July 18 letter?

Senator THURMOND. That is correct.

General ROGERS. To the Chairman from Secretary Brown?

Senator THURMOND. That is correct. Who will determine what is a clear danger?

General ROGERS. As I read that, Senator, it would be the responsibility of the local commander to determine whether or not there is such a clear danger.

Senator THURMOND. General Rogers, what effect do you feel unionization would have on our Armed Forces?

General ROGERS. Disastrous.

Senator THURMOND. Disastrous, you say?

General ROGERS. Exactly.

Senator THURMOND. I am very pleased to hear that answer. It seems to be in accord with Gen. Maxwell Taylor. I have a statement here from him. I was going to insert it in the record but I can give it now. It reads:

> The proposal to unionize the Armed Forces in any form is abhorrent to one who takes seriously their mission of instant combat readiness. While unions perform an important and necessary function in civil life, many of their basic purposes and methods are either inappropriate or positively dangerous if transferred to the Armed Forces. There, collective bargaining over such matters as pay, overtime and safe working conditions has no place since pay is fixed by law, overtime has no meaning in a profession where you are always on duty, and the work is of necessity often dangerous. Union methods of enforcing demands are equally unacceptable since strikes, walkouts or slowdowns in the military would be forms of disobedience, malingering, or violations of good order and discipline properly punishable under military law. The presence of union representatives in a military society to supervise compliance with union regulations would introduce a hostile, alien gestapo capable of causing trouble between superiors and subordinates and creating internal factions divided over union issues. Thus, unionization would be destructive of command responsibility, military discipline and unit morale—in short, disaster.
>
> If the possibility exists that such a folly might be committed, I would urge legislation to prevent it.—Maxwell D. Taylor, General, U.S. Army (Retired).

I presume from what you say you are in accord with the statement by General Taylor?

General ROGERS. Senator Thurmond, I am, and it does not surprise me. I served very closely with him on several occasions for 20 years and his language sounds like the General Taylor with whom I served.

Senator THURMOND. I have a letter here from General Ridgeway. It is very short. I was going to insert it in the record. I will read it at this point, too.

> Dear Senator Thurmond: As you have requested, I am furnishing a statement in support of your position opposing any attempt to unionize the armed forces of the United States—a position I would expect because of your known dedication to national defense.
>
> As I have no information on the details of the legislation you are proposing, and little on the reasoning of those who apparently are supporting unionization, I must generalize.

Do the proponents of unionization believe that its legalization in our armed forces would be in the national interest?

Do they believe that human nature has so suddenly and radically changed for the better, that war will not again engulf us?

Do they not realize that the overall strength of our nation, and the strength of our armed forces, are the principal deterrents to predatory aggression, and will be the bulwarks of our freedom, if war erupts?

Do they not recognize that that strength derives from the complex of leadership, training, weaponry, dedication, and the willingness to sacrifice—all bound together by the cement of discipline?

Do they not see that weakening of any of these elements weakens the whole complex, and that erosion of the cement of discipline would change a dependable safeguard into a hazard to our security—that you cannot strengthen the weak by weakening the strong?

I am unalterably opposed to any and all attempts to legalize this institution, which with all its proven merits in our society has nevertheless developed grave faults, and I cannot but believe that the Congress would do other than overwhelmingly defeat any proposal to legalize unions in our armed forces.

Unionization would promote dissension in peace and invite disaster in war.

You are welcome to publish this, and if you do, I hope it will be published intact.

With highest respect, I am, M. B. Ridgeway.

Now, General Rogers, some people I believe, with fallacious reasoning, have stated that it is not their intent to unionize the combat forces or the soldier in the foxhole, rather they would unionize combat support forces. How would you reply to that?

General ROGERS. I think what has been pointed out by my predecessors in their letters, what has been pointed out by those of us here at the witness stand, what the Secretary of Defense feels, and all of us in the Defense Department feel, is that there is no place for unions in the military irrespective of the level at which you place the union or with what element you place it.

Senator THURMOND. General Rogers, assume, if you will, that you had a unionized peacetime Army, and war comes. Would you have misgivings about the union or the influence of the union bowing out in the event of war? Would you comment on that?

General ROGERS. I would have and my statement addresses that matter, Senator.

Senator THURMOND. Now, the letter from the Secretary of Defense that I referred to, dated July 18, 1977, to Senator Stennis, stated this on membership:

The most complex provisions of the draft directive relate to the prohibition on membership. Not all membership is prohibited, and, indeed, a view has been expressed within the department that the directive should not, and need not, address membership. We particularly welcome the committee's views on this matter. As now drafted, the prohibition on membership would operate as follows:

First, membership is prohibited if the organization in question (1) engages in specified prohibited conduct—either in strikes, slowdowns, coercive picketing, prohibited on-base solicitation, or violations of specified articles of the UCMJ; (2) aids, abets, or solicits anyone to engage in specified prohibited conduct; or (3) is substantially and imminently likely to engage in such conduct, or in aiding, abetting, or soliciting. The determination in this regard is to be made on the basis of any publicly available information, including the constitution and bylaws of the organization, the position within the organization of persons who have committed the prohibited acts, and whether the leadership knew of, or countenanced, and commission of such acts by others.

Second, not only must the organization have engaged in the unlawful acts, but it must also be determined that, on this basis, the organization poses a clear danger to the discipline, obedience to lawful orders, or chain of command of the armed forces. Once the determination has been made, it would be clearly and conspicuously posted.

It seems that under this policy, military members can join a union if the unions do not strike, and so forth. Would you care to comment on that?

General ROGERS. I would like to see the wording.

Senator THURMOND. Do you adhere to the position that it is inadvisable to have unions in the military?

General ROGERS. I didn't understand.

Senator THURMOND. Do you adhere to the position that it would be inadvisable to have unions in the military?

General ROGERS. Absolutely.

Senator THURMOND. You do adhere to that position?

General ROGERS. Senator, may I just make a comment. There has been no change in the position I have taken over the many months with which I have wrestled with this question and the position which I took before this committee in February, that unions have no place in the military, any part of the military. The determination that must be made is how we prohibit unions within the military. The Congress could do it, the President could do it by Executive Order, the Secretary of Defense and the Secretaries of the Services can do it by directive. It is a question of which is the most appropriate course to follow.

Senator THURMOND. Forty-three members of the Senate have joined in sponsoring this bill. I presume you have no objection if the Congress saw fit to take this action to prohibit unions in the military?

General ROGERS. Senator, in my opinion, as I stated in February, the most appropriate course to be followed is that of legislation.

Senator THURMOND. I understand you have to leave now; I do not want to detain you. I want to thank you for your appearance here.

General ROGERS. Senator, as long as we adjourn by no later than 12:30. I have delayed an official visit to another country in order to appear today.

Senator THURMOND. Thank you very much. If you will remain a little while I will ask you a few more questions.

I have a few for Admiral Watkins I would like to propound.

Admiral, do you know whether union literature has been circulated on Navy bases and on what bases it may have been circulated, if any? Have there been meetings on bases to sell unionization to Naval personnel? Could you give us that information?

Admiral WATKINS. Senator Thurmond, I believe you have asked the Secretary of Defense to look into the distribution of certain pro-unionization pamphlets on military installations. We have looked into this and have not discovered any instance of similar distribution of union pamphlets within the Navy. We have received reports of distribution through the mails of literature from a New York based organization called "Citizen Soldier" to some of our active duty people stationed at the Norfolk and Little Creek Naval Bases in Virginia Beach. Apart from these instances, I know of no attempts to distribute union literature at any U.S. Navy base or installation to date.

Senator THURMOND. On July 11, 1977, the Army Times reported that Service Chiefs were becoming concerned about the lack of policy guidance from the Department of Defense on the issue of military unionism. The services said the military leaders need to know, but

I want to ask you, I won't ask you to comment on that, what action can be taken under the present law if large scale union recruiting drives get underway on military installations?

Admiral WATKINS. I am sorry, I didn't hear.

Senator THURMOND. What action can the military people take if large scale union recruiting drives get underway on military installations? It seems it would have to be left to each commander in his discretion to use his judgment?

Admiral WATKINS. Yes sir, I think that leads back to the question raised with General Rogers which he answered, and that is applicable to the Navy as well as to Army installations. There is a statement, and a prohibition policy, on solicitation on base now for all activities not focused in on unions; so we do have such a document in the field and it has recently been reiterated by the Chief of Naval Operations in the case of the Navy, and it does address the subject of solicitation on base, which would interfere with the command structure, and that is precluded, sir.

Senator THURMOND. Now, Admiral Watkins, I believe you are a former ship captain, aren't you?

Admiral WATKINS. Yes sir, I am.

Senator THURMOND. As a former ship captain, what problems do you foresee if unionization is pushed in the Navy?

Admiral WATKINS. I see an utter breakdown of the chain of command; I see destruction of the military discipline system; I see an inability to carry out missions; I see excessive demands placed on the services to provide the compensation for the long hours imposed on our people. In general, I agree with all of the comments made here today on the so-called disastrous effect. I believe that is a good objective.

I see an inability to cope with the demands of extensive tours of duty at sea.

As you know, now many of our people in the Navy, in fact 25 percent of the enlisted ratings, stay at sea 15 years out of their first 20. This is a very difficult burden for them to bear. It is not shared by many in society. I see them as the first to be under attack in the event of unionization, and I think they would wilt under the pressures.

So I see it as a very, very serious threat and one that would damage the military effectiveness without any question.

Senator THURMOND. Admiral Watkins, what action, if you know of any, has the Navy taken to convince its personnel that they do not need a union to represent them?

Admiral WATKINS. Senator Thurmond, we have conducted a series of training seminars with all of our people in the Navy since 1974 on this very issue. We have what we call a rights and responsibilities workshop that has been conducted in nearly every command in the Navy, 90 percent of our commands at sea have received this training. It is rather extensive. It goes into all aspects of their responsibilities to the Navy and their rights, grievance procedures, Uniform Code of Military Justice, and the like. So I believe that the issues that have been presented to our people are well understood; and our survey information feedback, as I indicated in my statement, demonstrates that understanding.

So when our people say that they do not want unions, I believe that is across the board.

On the other hand, there is a question in their minds of our leadership effectiveness here at the Washington level in addressing the real issues which face them in the compensation and benefits area.

Senator THURMOND. Admiral Watkins, what changes, if any, could the Navy make in the personnel area to improve its current policies?

Admiral WATKINS. Senator Thurmond, we are doing everything we can to walk away from the events of the early seventies wherein we moved out of the aftermath of Vietnam into the All-Volunteer Force with, in many cases, an amateur approach to military leadership at a very tumultuous time.

I think we have learned many lessons and learned them well. We have received help from the Congress on both sides. I think all of our programs that I thoroughly outlined in my statement attest to that. In none of the survey information that we have available today, in none of my contacts with the personnel in the fleet—and I travel to the fleet often—in none of the reports of the master chief petty officers that constitute a new communications network right down to the first line supervisory level, do we see that our internal management procedures are at the focal point of concern to our people at this time. We think we have crossed that boundary well over the past few years and we do not feel that is any longer a crying issue; but it is far overshadowed by the other aspect of union thrust which is clearly in the future security as they view it, sir.

Senator THURMOND. In your view, Admiral, are current grievance procedures within the Navy adequate?

Admiral WATKINS. Yes, sir. I think they are.

Senator THURMOND. Chief Master Sergeant Barnes, I have a few questions I would like to propound to you.

You made a good presentation to the committee and we appreciate your views. Are you familiar with the Air Force Sergeants Association?

Sergeant BARNES. I am, sir.

Senator THURMOND. Did you know that as a part of his drive to unionize the Armed Forces, Mr. Baylock, president of the American Federation of Government Employees, offered affiliate status within the union to the Air Force Sergeants Association?

Sergeant BARNES. I am aware of that.

Senator THURMOND. I am informed the Air Force Sergeants Association turned down the offer of affiliation with AFGE. Is that your understanding?

Sergeant BARNES. That is true, sir.

Senator THURMOND. The Washington Post of December 1976, quotes an AFGE vice president at McGuire Air Force Base as follows:

> We are ready to go, said Bill Harper, vice president of the AFGE local 1778, which represents all civilian workers at McGuire Air Force Base.
> Our shops and stewards have been recruiting all over the base.

We know AFGE delayed that drive. What is the situation now, Sergeant, at McGuire Air Force Base, if you know?

Sergeant BARNES. Quite diminished at last report from McGuire and diminished interest as well for what has transpired there. I would suspect the potential still exists that had originated at one point. I would expect the potential still exists but the interest as it was pre-

viously, has subsided. I personally do not believe it was at the level of interest indicated.

Senator THURMOND. Do you think the potential still exists, the threat still exists there?

Sergeant BARNES. I think the potential still exists, yes sir.

Senator THURMOND. What other air bases have received union literature?

Sergeant BARNES. Very few by name. McGuire of course you have. I think there also was receipt at Dover and I think a receipt at one Texas installation. Those are the only three that I know, minute in quantities.

Senator THURMOND. Are you familiar with Pope Field in North Carolina? I believe there has been literature received there.

Sergeant BARNES. I am not aware of what they received, Senator Thurmond. The mixed complex was not some carryover between Fort Bragg and Pope. I am not able to determine that.

Senator THURMOND. We have evidence as to that.

Now, have there been union meetings at or near air bases to sell unionization of the military, and if you are familiar with that, would you tell us where and how many?

Sergeant BARNES. I am not familiar with that, sir, but would like to obtain it and submit it for the record.

[The information follows:]

Senator THURMOND. We have evidence as to that. Now, have there been union meetings at or near air bases to sell unionization of the military, and if you are familiar with that, would you tell us where and how many?

Sergeant BARNES. We have no reports of any such meetings at or near Air Force bases.

Senator THURMOND. Thank you.

Captain Jones, I have a few questions I would like to ask you.

As a former Marine company commander, how do you view the impact of military unionization upon your ability to carry out your mission?

Captain JONES. Sir, the word disaster was used and I would have to agree with it. In terms of my ability to accomplish my mission as a company commander I would feel that unionization would have a disastrous effect not only where it concerns the ability of my men to do their job but I would think it would also have the side effect of dividing loyalties.

Senator THURMOND. Of what?

Captain JONES. Of dividing their loyalties between the calling and the union that they may or may not belong to.

Senator THURMOND. Now, at the company level would you tell us what procedures are available for your men to file a grievance and were these procedures well publicized and were they used?

Captain JONES. Sir, the procedures to file grievances are well publicized and widely used. They include the system of requesting mast, which is the right of the individual marine to speak to his commanding officer or any other officer in the chain of command. They are frequently used and in my view, it is a very efficient system whereby grievances are aired and resolved.

Senator THURMOND. Now, in your statement I believe you indicated there was no significant interest in unions within the units visited. Do you feel then that unionization is not at present a threat to the Marines?

Captain JONES. Insofar as I have been able to determine with my visits to the Second Marine Division and the Second Marine Aircraft Wing, if they are a good indication of other units, I would say the concept of unionization exists externally to the Marine Corps at this time.

Senator THURMOND. Captain Jones, you have commanded four companies in and out of combat, I believe. As a unit commander, how do you feel legislation would help you?

Captain JONES. I think it would be of great assistance, sir. Even though I was unable to detect a significant amount of interest within the units that I visited on the subject of the possibility of unionization, I think it would have the beneficial effect of resolving the issue once and for all regardless of where it exists.

Senator THURMOND. Thank you, Captain.

I want to go back to Chief Master Sergeant Barnes for a moment.

There was an earlier poll taken in the Air Force in which 800 people were polled and 30 percent favored unionization, 40 percent were against it, and 30 percent were undecided. Have there been any more polls taken that you know of?

Sergeant BARNES. The result is I would not be aware of, Senator Thurmond, at this point if there had been more taken. I would like to say that that interest, however, I feel has subsided since the polls and would, if there are surveys that would reflect it I would be willing to submit that for the record, sir, as well.

[The information follows:]

Senator THURMOND. I want to go back to Chief Master Sergeant Barnes for a moment. There was an earlier poll taken in the Air Force, in which 800 people were polled, and 30 percent favored unionization, 40 percent were against, and 30 percent were undecided. Have there been any more polls taken that you know of?

Sergeant BARNES. On the survey you mentioned, there were 936 responses to 16,000 questionnaires sent out. I would like to say that that interest, where 30 percent said they would join a union, I believe has subsided since that poll. I am not aware of any other polls taken among Air Force personnel.

Senator THURMOND. I believe this poll was taken on 800 officers and enlisted men by the Air Force Institute of Technology. The survey was conducted in March of 1976.

Sergeant BARNES. That is correct.

Senator THURMOND. Are you familiar with that?

Sergeant BARNES. I am.

Senator THURMOND. Now, at my request Col. Frederick Bernays Wiener, one of the country's foremost legal scholars in constitutional and military law, has furnished a statement regarding the constitutionality of legislation currently before this committee prohibiting union organization and membership in the Armed Forces. Colonel Wiener has also furnished a biographical sketch outlining his qualifications to express an opinion on the subject. If there is no objection, I am going to ask that this statement by Colonel Wiener be placed in the record at this point.

[The prepared statement of Colonel Wiener follows:]

PHOENIX, ARIZ., *June 25, 1977.*

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: As requested in your letter of June 13, there are inclosed herewith:

(1) Statement regarding the constitutionality of legislation proposing to prohibit union organization and membership in the armed forces; and

(2) A biographical sketch outlining my qualifications to express an opinion on that subject.

Sincerely yours,

FREDERICK BERNAYS WIENER.

STATEMENT REGARDING THE CONSTITUTIONALITY OF LEGISLATION PROPOSING TO PROHIBIT UNION ORGANIZING AND MEMBERSHIP IN THE ARMED FORCES

My views have been requested on the question whether S. 274 and S. 997, 95th Congress, 1st session, both of which propose to prohibit union organizing and membership in the armed forces of the United States, would if enacted constitute a constitutional exercise of legislative authority.

In my opinion, such legislation would clearly constitute a valid exercise of the powers of the Congress "To raise and support Armies" (U.S. Const., Art. I, § 8, cl. 12), "To provide and maintain a Navy" (id., cl. 13), "To make Rules for the Government and Regulation of the land and naval Forces" (id., cl. 14), and "To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof" (id., cl. 18). The final clause of the provision last quoted, insofar as here relevant, is to the provision (Art. II, § 2, cl. 1) declaring that "The President shall be Commander in Chief of the Army and Navy of the United States, and of the Militia of the several States, when called into the actual Service of the United States."

The foregoing conclusion will now be documented.

I. AN ARMED FORCE DIFFERS FROM A CIVILIAN SOCIETY, AND THE SUPREME COURT HAS REPEATEDLY RECOGNIZED THIS FUNDAMENTAL TRUTH

Ever since England's First Mutiny Act in 1689, it has been a commonplace that, "it being requisite for * * * an exact Discipline to be observed * * * that Soldiers * * * be brought to a more exemplary and speedy Punishment than the usual forms of Law will allow" (1 Wm. & Mary c. 5), special provisions for the government of armed forces are not only proper but indeed absolutely essential, lest an armed force degenerate into a mob.

Our Continental Congress in the Articles of Confederation provided in Art. 9 that Congress would have power "To make rules for the government and regulation of the * * * land and naval forces". This provision simply ratified a power already thrice exerted, in June 1775 and again in September 1776 for the Army, in November 1775 in respect of the Navy. The same power was carried into the Constitution as Clause 14 of Article I, Section 8. Thereafter the Fifth Amendment in 1791 expressly exempted the active duty forces from any requirement of indictment by grand jury. And of course no one in those forces is entitled to the Sixth Amendment's guaranty of trial by petty jury. *Whelchel* v. *McDonald*, 340 U.S. 122 (1950).

In short, whereas the object of the civil law is to enable people to live together in peace and in reasonable happiness, its enactments seeking to achieve the greatest good for the greatest number, the object of the military law is to send persons obediently against the public enemy, to die if need be while so engaged. Therefore standards and objects desirable and even necessary for a civilian society may and frequently will be quite destructive to the essential purposes of an armed force. It was John Locke who said, in a definition later repeated and popularized by Dr. Samuel Johnson's Dictionary, that an army was "A collection of armed men, obliged to obey one man."

This fundamental truth, however unpalatable it may now appear to some, has been repeatedly recognized and given effect by the Supreme Court of the United States.

Thus, in *In re Grimley*, 137 U.S. 147 (1890), the Court said at page 183:

"An army is not a deliberative body. It is the executive arm. Its law is that of obedience. No question can be left open as to the right to command in the officer, or the duty of obedience in the soldier. Vigor and efficiency on the part of the officer and confidence among the soldiers are impaired if any question be left open as to their attitude to each other."

In *Gibson* v. *United States*, 329 U.S. 338, 257 (1946), the Court referred to "the vast gulf between civil and military jurisdiction, with all the attendant consequences for change in status and rights."

And in *Orloff* v. *Willoughby*, 345 U.S. 83, 87 (1953), the Court declared that "The military constitutes a specialized community governed by a separate discipline from that of the civilian."

More recently, the entire subject of the varying standards applicable to the two communities was thoroughly canvassed in *Parker* v. *Levy*, 417 U.S. 733 (1974). There it had been contended, successfully in the lower courts, that the age-old general military articles were unconstitutionally vague because their prohibitions were cast in non-specific terms: "conduct unbecoming an officer and a gentleman"; "disorders and neglects to the prejudice of good order and discipline in the armed forces".

The Supreme Court rejected those contentions and reversed, basing its decision primarily on the differences between a civilian and a military society. It said (417 U.S. at 743–744):

"This Court has long recognized that the military is, by necessity, a specialized society separate from civilian society. We have also recognized that the military has, again by necessity, developed laws and traditions of its own during its long history. The differences between the military and civilian communities result from the fact that 'it is the primary business of armies and navies to fight or be ready to fight wars should the occasion arise.' *United States ex rel. Toth* v. *Quarles*, 350 U.S. 11, 17 (1955). In *In re Grimley*, 137 U.S. 147, 153 (1890), the Court observed: 'An army is not a deliberative body. It is the executive arm. Its law is that of obedience. No question can be left open as to the right to command in the officer, or the duty of obedience in the soldier.' More recently we noted that '[t]he military constitutes a specialized community governed by a separate discipline from that of the civilian,' *Orloff* v. *Willoughby*, 345 U.S. 83, 94 (1953), and that 'the rights of men in the armed forces must perforce be conditioned to meet certain overriding demands of discipline and duty. . . . *Burns* v. *Wilson*, 346 U.S. 137, 140 (1953) (plurality opinion). We have also recognized that a military officer holds a particular position of responsibility and command in the Armed Forces:

"The President's commission . . . recites that 'reposing special trust and confidence in the patriotism, valor, fidelity and abilities' of the appointee he is named to the specified rank during the pleasure of the President." *Orloff* v. *Willoughby*, *supra*, at 91.

Just as military society has been a society apart from civilian society, so "[m]ilitary law . . . is a jurisprudence which exists separate and apart from the law which governs in our federal judicial establishment." *Burns* v. *Wilson*, *supra*, at 140. And to maintain the discipline essential to perform its mission effectively, the military has developed what "may not unfitly be called the customary military law" or "general usage of the military service." *Martin* v. *Mott*, 12 Wheat. 19, 35 (1827).

More recently, in *Schlesinger* v. *Councilman*, 420 U.S. 738, 757 (1975), the Court recurred to the same theme:

The military is "a specialized society separate from civilian society" with "laws and tralitions of its own [developed] dring its long history." *Parker* v. *Levy*, 417 U.S., at 743. Moreover, "it is the primary business of armies and navies to fight or be ready to fight wars should the occasion arise." *Toth* v. *Quarles*, 350 U.S. 11, 17 (1955). To prepare for and perform its vital role, the military must insist upon a respect for duty and a discipline without counterpart in civilian life. The laws and traditions governing that discipline have a long history; but they are founded on unique military exigencies as powerful now as in the past. Their contemporary vitality repeatedly has been recognized by Congress."

And in *Greer* v. *Spock*, 424 U.S. 828 (1976), in sustaining the right of the commander of an army installation to bar political activity there by candidates for elective office, the Court said at 837–838:

"One of the very purposes for which the Constitution was ordained and established was to "provide for the common defence," [1] and this Court over the years has on countless occasions recognized the special constitutional function of the military in our national life, a function both explicit and indispensable.[2] In short, it is "the primary business of armies and navies to fight or be ready to fight wars should the occasion arise." *United States ex rel. Toth* v. *Quarles*, 350 U.S. 11, 17. And it is consequently the business of a military installation like Fort Dix to train soldiers, not to provide a public forum."

The necessary consequence of the totality of the foregoing decisions is that the power of Congress to prohibit union organizing and membership in the armed forces is not to be evaluated as if it were proposed to prohibit identical activity among those portions of the population that are wholly unconnected with the military.

II. IT FOLLOWS THAT THOSE IN THE ARMED FORCES CANNOT CLAIM MANY RIGHTS AND LIBERTIES THAT ARE CLEARLY AVAILABLE TO THOSE IN CIVILIAN LIFE

The decision that upheld the constitutional validity of a compulsory flag salute, *Minersville School Dist.* v. *Gobitis*, 310 U.S. 586 (1940), was expressly overruled in *Board of Education* v. *Barnette*, 319 U.S. 624 (1943). But the Court in the latter case, decided in the very middle of World War II, was at pains to note a significant qualification, one that is vital here (319 U.S. at 642 n.19):

"The Nation may raise armies and compel citizens to give military service. *Selective Draft Law Cases*, 245 U.S. 366. It follows, of course, that those subject to military discipline are under many duties and may not claim many freedoms that we hold inviolable as to those in civilian life."

Some of the consequences of this differentiation have already been noted. The Fifth Amendment's guaranty of indictment and the Sixth Amendment's promise of a jury trial are, both of them, clearly unavailable to those on active military service.

In *Burns* v. *Wilson*, 346 U.S. 137, 140 (1953), the plurality opinion declared that:

"The rights of men in the armed forces must perforce be conditioned to meet certain overriding demands of discipline and duty, and the civil courts are not the agencies which must determine the precise balance to be struck in this adjustment. The Framers especially entrusted that task to Congress."

Some specific examples should now be noted.

In *Swain* v. *United States*, 165 U.S. 553 (1897), the Supreme Court upheld the validity of a court-martial sentence that, on the advice of the Attorney General of the United States, the President had twice returned to the court-martial for revision upwards. This particular practice was outlawed by regulation in 1919 and by statute in 1920, but in a civilian system of law it would have been invalid at any time. *Kepner* v. *United States*, 195 U.S. 100 (1904).

In *Parker* v. *Levy*, 417 U.S. 733, *supra*, the Court expressly recognized that the standards of vagueness that it applied in the military situation, following *Dynes* v. *Hoover*, 20 How. 65, 82 (1858), and *Smith* v. *Whitney*, 116 U.S. 167 180 (1885), would have been quite differently considered in a civilian context.

Again, in *Middendorf* v. *Henry*, 425 U.S. 25 (1976), the Court upheld the validity of a summary court-martial, which, under the Uniform Code of Military Justice (hereinafter simply UCMJ) had tried and convicted a serviceman in a situation where there was no counsel either for or against the prisoner. Plainly, such a conviction, even though non-adversary, would not have been sustained had the tribunal been a purely civilian court.

And in *Schlesinger* v. *Councilman*, 420 U.S. 738, *supra*, the judgments below enjoining the prosecution of an officer before a military court-martial were reversed, the Supreme Court relying principally on the need to protect military judicial processes from instrusion and interference before trial.

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[1] U.S. Const. Preamble. See also U.S. Const., Art. I, § 8; Art. II, § 2.

[2] For illustrative recent decisions of this Court see, *e.g.*, *Schlesinger* v. *Councilman*, 420 U.S. 738; *Schlesinger* v. *Ballard*, 419 U.S. 498; *Parker* v. *Levy*, 417 U.S. 733; *Bell* v. *United States*, 366 U.S. 393; *United States ex rel. Toth* v. *Quarles*, 350 U.S. 11; *Burns* v. *Wilson*, 346 U.S. 137; *Orloff* v. *Willoughby*, 345 U.S. 83; *Gusik* v. *Schilder*, 340 U.S. 128.

Likewise, in *Greer* v. *Spock*, 424 U.S. 828, also *supra*, the commander of a military installation was held entitled to bar political speakers from the reservation—where plainly no mayor of a city would have been permitted to do so for a moment, had Fort Dix been a New Jersey municipality rather than an army post. Cf. *Hague* v. *CIO*, 307 U.S. 496 (1939). In the later case the Court said (424 U.S. at 839) :

"What the record shows, therefore, is a considered Fort Dix policy, objectively and evenhandedly applied, of keeping official military activities there wholly free of entanglement with partisan political campaigns of any kind. Under such a policy members of the Armed Forces stationed at Fort Dix are wholly free as individuals to attend political rallies, out of uniform and off base. But the military as such is insulated from both the reality and the appearance of acting as a handmaiden for partisan political causes or candidates.

Such a policy is wholly consistent with the American constitutional tradition of a politically neutral military establishment under civilian control. It is a policy that has been reflected in numerous laws and military regulations throughout our history.[3] And it is a policy that the military authorities at Fort Dix were constitutionally free to pursue.

The sum-total of this unbroken line of decision is that the activities sought to be curbed by S. 274 and S. 997 cannot safely—or correctly—be equated with similar activities in a wholly non-military situation.

III. CONGRESS IN CONSEQUENCE HAS THE POWER TO PREVENT ANY AND ALL ACTIVITY THAT DEROGATES FROM THE DISCIPLINED EFFECTIVENESS OF THE ARMED FORCES, OR THAT WOULD TEND TO DO SO

It must never be forgotten that, as the Supreme Court said in *Home Bldg. & L. Assn.* v. *Blaisdell*, 290 U.S. 398, 426 (1934), "the power to wage war is the power to wage war successfully".

Obviously war cannot be waged successfully when every member of a military force is free to question or to argue about every step of the fantastically complicated process that is called into play whenever the total force of the Nation is launched against the foreign enemy. And lest this appear to be an unsupported generalization, it is suggested that there be called to mind the magnitude—and the complexity—of the effort that enabled General Eisenhower as Supreme Allied Commander to launch that series of successful invasions, in North Africa, Sicily, southern Italy, and finally Normandy and southern France, invasions that broke the back of the Axis war machine, and that irrevocably removed the scourge of Hitler and the Nazis from the face of the earth.

Or, if one's interests and recollections focus in a different direction, consider the complexity of the manifold campaigns that were required to effect reconquest of the Pacific area. As the Navy rose from the mud of Pearl Harbor, as more and more men and planes were assembled in a host of Pacific islands, the Japanese forces were steadily beaten back until, just before the A-bomb was dropped, American forces had taken Iwo Jima and Okinawa, and were poised to strike directly at Japan's four home islands.

One may well ask, therefore, whether those two series of unprecedented military operations could ever have succeeded if, at every step, shop stewards of soldiers' and sailors' unions had been free to dicker, to argue, and to haggle, over such staples of collective bargaining negotiations as compensation, working hours, overtime, seniority, fringe benefits, or conditions of employment, in default of which the troops would have been free to indulge in sick-ins, slow-downs, and worse.

The obvious answer to the query just posed is that, had the armed forces of the United States then been unionized, the Axis would surely have won World War II, and the twin evils of fascism and of Nazi barbarism would today be supreme in the world.

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[3] Members of the Armed Forces may not be polled by any person or political party to determine their choice among candidates for elective office. 18 U.S.C. § 596 ; it is unlawful to solicit political contributions in any fort or arsenal, 18 U.S.C. § 603 ; candidates for federal office are prohibited from soliciting contributions from military personnel, 18 U.S.C. § 602 ; no commissioned or noncommissioned officer in the Armed Forces may attempt to influence any member of the Armed Forces to vote for any particular candidate. 50 U.S.C. § 1475 ; no officer of the Armed Forces may "in any manner interfere with the freedom of any election in any State," 42 U.S.C. § 1972 ; a military officer may not have troops under his control at any place where a general or special election is held, 18 U.S.C. § 592. See also Army Reg. 600–20 (1971) ; Army Reg. 670–5 (1975).

It needs always to be remembered, not only that an armed force is not a deliberative body, but also that a concerted slowdown, or work stoppage, or a strike, is, by statutory definition, mutiny.

Art. 94, UCMJ (10 U.S.C. § 894) provides that anyone subject to the Code who, "with intent to usurp or override lawful military authority, refuses, in concert with any other person, to obey orders or otherwise do his duty or creates any violence or disturbance is guilty of mutiny". And mutiny is a capital offense even in time of peace. Art. 94(b); *Manual for Courts-Martial, 1969* (Rev. ed.), p. 25–12.

Indeed, many other provisions of the UCMJ are specifically aimed at conduct which, in a civilian setting, constitutes an apparently inseparable part of normal, unrestrained union activity, of what the British with characteristic understatement now call "industrial action". It may be convenient to list a few:

Art. 82 (10 U.S.C. § 882), solicitation to mutiny; Art. 85 (10 U.S.C. § 885), desertion, Art. 86 (10 U.S.C. § 886), absence without leave; Art. 89 (10 U.S.C. § 889), disrespect toward commissioned officer; Art. 90 (10 U.S.C. § 890), willful disobedience of commissioned officer; and Art. 91 (10 U.S.C. § 891), insubordinate conduct toward warrant officer, NCO, petty officer.

Art. 92 (10 U.S.C. § 892), failure to obey order, Art. 94 (10 U.S.C. § 894), mutiny (*supra*); Art. 116 (10 U.S.C. § 916), riot or breach of the peace; Art. 117 (10 U.S.C. § 917), provoking speeches or gestures; Art. 127 (10 U.S.C. § 927), extortion; Art. 128 (10 U.S.C. § 928), assault; and Art. 134 (10 U.S.C. § 934), conduct to the prejudice of good order and discipline.

It cannot be questioned that, inasmuch as Congress has undoubted power to prohibit military personnel from committing all of the foregoing acts, each of which impairs the discipline of the armed forces, it can punish acts on the part of non-military persons that would have the same effect, including also acts that tend substantially in that direction.

A little remembered case from World War I will illustrate the broad powers that Congress has to protect the effectiveness of the armed forces.

Section 13 of the Selective Draft Law of May 18, 1917, c. 15, 40 Stat. 76, 83, authorized the Secretary of War to suppress and to prevent the setting up of houses of ill fame within "such distance as he may deem needful" of any military camp or station. Obviously, this was, but for the proximity of the military presence, a matter clearly reserved to the several States. But the Supreme Court had not the slightest difficulty in sustaining the Act of Congress. *McKinley* v. *United States*, 249 U.S. 397, 399 (1919):

"That Congress has the authority to raise and support armies and to make rules and regulations for the protection of the health and welfare of those composing them is too well settled to require more than the statement of the proposition." *Selective Draft Law Cases*, 245 U.S. 366.

A similar measure, enacted during the 1941 mobilization, and still in force (Act of July 11, 1941, c. 287, 55 Stat. 503; now 18 U.S.C. § 1384), seems to have been deemed so plainly constitutional that it has yet to be challenged in any reported case.

Congress not only has power to prohibit interference with armed forces in being, it is similarly empowered to prevent interference with the raising of such forces. Thus, in *United States* v. *O'Brien*, 391 U.S. 367 (1968), the Court sustained in broad terms the power of Congress to prohibit the burning of draft cards, on the footing that these documents represented an essential element in the process of raising the military forces that Congress deemed necessary for the Nation's safety. The Court said (p. 377):

"The constitutional power of Congress to raise and support armies and to make all laws necessary and proper to that end is broad and sweeping. *Lichter* v. *United States*, 334 U.S. 742, 755–758 (1948): *Selective Draft Law Cases*, 245 U.S. 366 (1918); see also *Ex parte Quirin*, 317 U.S. 1, 25–26 (1942). The power of Congress to classify and conscript manpower for military services is "beyond question." *Lichter* v. *United States*, *supra*, at 756; *Selective Draft Law Cases*, *supra*. Pursuant to this power, Congress may establish a system of registration for individuals liable for training and service, and may require such individuals within reason to cooperate in the registration system. The issuance of certificates indicating the registration and eligibility classification of individuals is a legitimate and substantial administrative aid in the functioning of the system."

And Congress has similarly legislated to render criminal (see *United States* v. *Spock*, 416 F.2d 165, 168, n.4 [C.A.1]) any action taken "with intent to interfere

with, impair, or influence the loyalty, morale, or discipline" of the armed forces of the United States. See 18 U.S.C. § 2387, which in full reads as follows:

Section 2387. Activities affecting armed forces generally

(a) Whoever, with intent to interfere with, impair, or influence the loyalty, morale, or discipline of the military or naval forces of the United States:

(1) advises, counsels, urges, or in any manner causes or attempts to cause insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States; or

(2) distributes or attempts to distribute any written or printed matter which advises, counsels, or urges insubordination, disloyalty, mutiny, or refusal of duty by any member of the military or naval forces of the United States—

Shall be fined not more than $10,000 or imprisoned not more than ten years, or both, and shall be ineligible for employment by the United States or any department or agency thereof, for the five years next following his conviction.

(b) For the purposes of this section, the term "military or naval forces of the United States" includes the Army of the United States, the Navy, Air Force, Marine Corps, Coast Guard, Naval Reserve, Marine Corps Reserve, and Coast Guard Reserve of the United States; and when any merchant vessel is commissioned in the Navy or is in the service of the Army or the Navy, includes the master, officers, and crew of such vessel."

The bills now under consideration simply add specificity to the enumeration of activities that would impair, or reasonably tend to impair, the discipline of the armed forces. Because, after all, collecting bargaining, however desirable or beneficent in a civilian situation, is utterly at variance with the operation and existence of an armed force. Unionization and collective bargaining imply consultation and deliberation. But "An army is not a deliberative body. Its law is that of obedience. No question can be left open as to the right of command in the officer, or the duty of obedience in the soldier. Vigor and efficiency on the part of the officer and confidence among the soldiers in one another are impaired if any question be left open as to their attitude to each other." Those words, penned in *In re Grimley*, 137 U.S. at 153, *supra*, clearly outlaw from presence in any armed force that is not a mob the very concepts of unionization, of collective bargaining, and of "The Labor Movement" generally.

IV. SPECIFIC COMMENTS ON S. 274 AND S. 997

Since the question put concerned only constitutionality, which is to say, the power of Congress, no comments will be made on the substantive details of the two bills under consideration. But some of those details, which do raise constitutional questions, had better be mentioned.

A. While plainly not conclusive, congressional findings as to the necessity for legislation prohibiting unionization in the armed forces will prove helpful when, as it inevitably will be, such legislation is challenged in the courts

1. Section 1 of S. 997 contains legislative findings regarding the importance of discipline to the proper functioning of the armed forces, and as to the adverse effect that unionization would have on such discipline.

It is believed that findings of that nature should be included in whatever bill is ultimately enacted. While Congressional findings are far from conclusive, as indeed was demonsrated in early New Deal days by the demise of the National Industrial Recovery Act (*Schechter Poultry Corp.* v. *United States*, 295 U.S. 495 [1935]) and of the Agricultural Adjustment Act (*United States* v. *Butler*, 297 U.S. 1 [1936]), such findings are always helpful, particularly when, as here, the particular legislation is within the undoubted scope of the power that Congress seeks to exercise. See *Stafford* v. *Wallace*, 258 U.S. 495, 521 (1922); *Chicago Board of Trade* v. *Olsen*, 262 U.S. 1 (1923); *Electric Bond & Share Co.* v. *SEC.* 303 U.S. 419, 440–442 (1938).

However, in view of the pressure of time, the precise current scope of this particular doctrine has not been fully examined.

2. With reference to Section 1(e) of S. 997, p. 2 at lines 15 and 16, it is suggested that a reference to clause 18, the Necessary and Proper Clause, be added to the enumeration.

B. Applicability to Coast Guard, to reserve components, and to retired personnel

1. Coast Guard.—In § 975(a)(1), as proposed by S. 274, there is a generalized reference to "the armed forces". But in the same provision in S. 997, p. 3 at lines 3–5, the definition of armed forces excludes members of the Coast Guard when that body is not operating under the Navy.

It is believed that the latter limitation rests on a misapprehension. For, at the present time, see 14 U.S.C. § 1, and indeed since 1941, the United States Coast Guard has been an armed force at all times.

Accordingly, it is suggested that clause (C) of S. 997's version of § 975(a)(1) be eliminated.

2. Reserve components.—Both bills are by their terms made applicable to members of the reserve components of the armed forces.

In any opinion, this factor does not militate against the constitutional validity of the proposed legislation. The very purpose of any reserve component, whether National Guard (which is still "Militia" in the constitutional sense) or Reserve, is that it be available to flesh out and reinforce the regular forces. Thus, reserve components are necessarily included in the observation that "it is the primary business of armies and navies to * * * be ready to fight wars should the occasion arise". *Toth* v. *Quarles*, 350 U.S. 11, 17 (1955).

When those components are called or ordered to active duty, they become part of the regular forces during all periods in which they continue on such duty. Accordingly, the Founders contemplated that the Militia—the only reserve force then available or, for that matter, known to them—be subject when in federal service to identical command and to identical law as the permanent forces. U.S. Const., Art. I, § 8, cl. 16; Art. II, § 2, cl. 1; Fifth Amendment.

And, certainly since 1916, no special indulgence in respect of court-martial membership has been extended to members of nonregular forces. Compare the earlier law—R.S. § 1342 (Art. 77); 1 W. Winthrop, *Military Law and Precedents* (2d ed. 1896) *92–93; *Deming* v. *McClaughry*, 186 U.S. 49 (1902); and *United States* v. *Brown*, 206 U.S. 240 (1907)—with Article of War 4 of 1916 and 1920, and with the present law, Art. 25, UCMJ; 10 U.S.C. § 825, which makes all personnel of the armed forces equally competent to sit on courts-martial, regardless of the component to which the accused belongs.

Since, therefore, all non-regulars may at some time during their military association become subject to call or order into active federal service, it follows that they must be prepared, equally with full-time regulars, to be similarly disciplined. To the extent that Congress has the power to prohibit union organizing or membership in the active armed forces in order to maintain their discipline and effectiveness, it follows that Congress has equal power to extend identical prohibitions to those non-regular forces whom it supports at public expense against the contingency that they too may at some time become a part of the active duty armed forces.

3. Retired personnel.—Section 975(a)(1)(C) as proposed in S. 274 extends to members of the armed forces "in a retired status"; S. 997 does not.

It is believed that the scope of S. 274 in this respect needs to be slightly narrowed.

There is no difficulty whatever with the retired regular. He—or she—remains part of the military establishment on the view that "They also serve who only stand and wait." *United States* v. *Tyler*, 105 U.S. 244 (1882); *Badeau* v. *United States*, 130 U.S. 439 (1889). And they have been, in consequence, subject to trial by court-martial, *Closson* v. *United States*, 7 App. D.C. 460 (1896), as indeed they still are today. Art. 2(4), UCMJ, 10 U.S.C. § 802(4); *Hooper* v. *United States*, 164 Ct. Cl. 151 (1964), certiorari denied, 377 U.S. 977. Indeed, President Wilson vetoed the crucial Army Appropriation Bill for FY 1917 because the new Articles of War that constituted Title II of that measure exempted retired officers from trial by court-martial. H. Doc. 1334, 64th Cong., 1st sess. (1916).

However, non-regular officers retired under 10 U.S.C. § 1331 are not a part of the military establishment; they simply draw retirement pay, are entitled to certain benefits, and have the right to use their military titles. Cf. 10 U.S.C. § 772(e).

At present such officers are not included in Art. 2, UCMJ; 10 U.S.C. § 802 as subject to military law. Indeed, since all such retirees must reach age 60 in order to qualify, their possibility of being recalled to active duty in any circumstances is, at the least, extremely slim, and, on any realistic basis, non-existent.

True, Art. 2(5), UCMJ; 10 U.S.C. § 802(5) purports to subject to the Code "Retired members of a reserve component who are receiving hospitalization from

an armed force." In the light of the decisions declaring military jurisdiction to depend on military status, see especially *McElroy* v. *Guagliardo*, 361 U.S. 281 (1960), this is a provision of extremely doubtful validity. But it may well be doubted whether the personnel purporting to be included within its scope are close enough to the military, or indeed to any potential future military service, to warrant prohibiting them from being unionized.

It is therefore suggested that the phrase now in S. 274, "in a retired status", be amended to read, "in a retired status who are still a part of the military establishment and who are at all times subject to the Uniform Code of Military Justice". That limitation, or one with substantially similar wording, should remove all doubts.

CONCLUSION

Subject to the minor reservations expressed in Part IV of this Statement, I entertain no doubt whatever as to either the constitutionality, or the desirability, of legislation that would prohibit union organizing or membership in the armed forces of the United States.

Respectfully submitted.

FREDERICK BERNAYS WIENER.

FREDERICK BERNAYS WIENER—BIOGRAPHICAL SKETCH AND QUALIFICATIONS

Born: New York, N.Y., 1 June 1906; now resident at 2822 East Osborn Road, Phoenix, Arizona 85016.

1. Education, academic connections, honors

Ph. B., Brown University, 1927; LL.B., Harvard University, 1930; LL.D., Cleveland-Marshall Law School, 1969.

Brown University Bicentennial Medallion, 1965.

Guggenheim Fellow, 1962–1965.

Lecturer and Professorial Lecturer in Law, The George Washington University, 1951–1956.

Selden Society Lecturer, Lincoln's Inn, London, 1962 (published as *Uses and Abuses of Legal History: A Practitioner's View* [London, 1962]).

Sherwell Lecturer, Marshall-Wythe School of Law, Williamsburg, Virginia, 1969 (published as *The Human Comedy in Legal History*, 11 Wm. & Mary L. Rev. 453 [1969]).

Member of the Council of the Selden Society, London, since 1961.

U.S. Army Outstanding Civilian Service Medal, 1974.

2. Career outline

Private practice, Providence, R.I., 1930–33.

Attorney-Examiner and Executive Assistant to the Deputy Administrator, Public Works Administration, 1933–34.

Assistant Solicitor and Member, Board of Appeals, Interior Department, 1934–37.

Special Attorney and Special Assistant to the Attorney General, Department of Justice, 1937–41.

In the Army, 1941–45; details below.

Assistant to the Solicitor General of the United States, 1945–1948.

Private practice, Washington, D.C., October 1948 through June 1973, practicing alone after July 1950.

Argued 38 cases in the Supreme Court of the United States, including those establishing the unconstitutionality of military trials of civilians in time of peace (*Kinsella* v. *Krueger*, 351 U.S. 470; *Reid* v. *Covert*, 350 U.S .487; both on rehearing, *sub nom. Reid* v. *Covert*, 354 U.S. 1; *Kinsella* v. *Singleton*, 361 U.S. 234; *Grisham* v. *Hagan*, 361 U.S. 278; *Wilson* v. *Bohlender*, 361 U.S. 281).

Reporter to the Committee of the Supreme Court of the United States on Revision of Its Rules (see 346 U.S. at 945–946).

Special Consultant to The Judge Advocate General of the Army, 1968–1969.

Retired from active practice of law, July 1, 1973.

3. Military service

Commissioned Captain, JAG-Reserve, U.S. Army, Jan/Feb 1936.

Short tours of active duty, 1939 and 1940.

Extended active duty, March 1941 to December 1945, in grades from Captain to Colonel (before terminal leave), with service in three overseas theaters.

Periodic tours of active duty for training, 1948–1960.
Consultant-Adviser, U.S. Army War College, 1954.
Transferred for age to U.S. Army Reserve Retired List, June 30, 1961.
Colonel, Army of the U.S., Retired, July 1, 1966.

4. Relevant authorship

(*a*) Constitutional and Military Law; Military History:

Books:

"Civilians Under Military Justice" (1967) (cited in both Supreme Court opinions in *O'Callahan* v. *Parker*, 395 U.S. 258, 268 n. 8, 269 nn. 10 & 11, 277 and n. 1).

"The Uniform Code of Military Justice" (1950).

"Military Justice for the Field Soldier" (1943, 1944).

"A Practical Manual of Martial Law" (1940) (quoted by the Supreme Court in *Duncan* v. *Kahanamoku*, 327 U.S. 304, 321 n. 18).

Articles and pamphlets:

Opening an American Base in a British Colony before Pearl Harbor, History, Numbers & War, vol. 1, nos. 1 and 2 (1977).

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Generous, *Swords and Scales: The Development of the Uniform Code of Military Justice* (1973), in 59 Cornell L. Rev. 748 (1974).

ten Broek *et al.*, *Prejudice, War, and the Constitution* (1954), in 43 Georgetown L. J. 710 (1955).

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(*b*) *Advocacy and practice:*

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The Supreme Court's New Rules, 68 Harv. L. Rev. 20 (1954).

Review of 8 Wigmore, *Evidence* (McNaughton's revision of 3d ed., 1961), in 75 Harv. L. Rev. 441 (1961).

5. Testimony before committees of the Congress

Uniform Code of Military Justice. Before both Senate and House Committees on the Armed Services, 1949.

Constitutional Rights of Military Personnel. Before Subcommittee on Constitutional Rights of Senate Judiciary Committee, 1962.

Military Justice. Before Subcommittee on Constitutional Rights of Senate Judiciary Committee and a Special Subcommittee of Senate Armed Services Committee, 1966.

Obstruction of Armed Forces. Before House Committee on Internal Security, 1969.

Repeal of Emergency Detention Act of 1950. Before House Committee on Internal Security, 1970.

6. *Encomia*

By Mr. Justice Douglas of the Supreme Court, 35 U. of Chicago L. Rev. 568 (1968).

By the Editors of the *Military Law Review, Bicentennial Issue 1975* (Dep't of the Army Pamphlet 27–100), p. 167.

7. *Family*

Married, two sons: (1) Commander Thomas F., U.S. Navy, now with Defense Advanced Research Projects Agency. (2) Sergeant First Class Frederick R., U.S. Army, currently at Fort Lewis, Washington; served two tours of duty in Viet Nam, and has been selected for E–8 (Master Sergeant or First Sergeant).

Senator THURMOND. I would like to know if any of you gentlemen have anything further that you would like to add to what you have said. Do you have any additional comments or remarks? I would like to give you each an opportunity.

Admiral WATKINS. Senator Thurmond, I have one point that I think is important for me to raise. In the large majority of the discussions to date, we have focused attention on legislation, directive, a combination of the two, and the need therefor.

On the other hand, as I tried to point out in my statement, I feel it is a total program that we need to look at.

For example, were we to issue a directive only, were we to have legislation only, without also concurrently facing the root causes that led us to these very hearings, I think we would be making a mistake, sir. I think our people strongly believe that the Congress is there ombudsman here in Washington. I believe as a consequence of that, the myriad of cyclic actions in their future security reflected in the issues now before the Congress and taken up in the past by all of the agencies I have mentioned, are really at the focal point of this issue. I do not think it would be difficult to diffuse that apprehension in the field by a visible indication by both Houses of Congress that our people are important to the future defense of the United States; that their future security will be carefully reviewed in the President's Blue Ribbon Panel that reports out next spring; and that, jointly working as a team with the Secretary of Defense, the administration, and the services, we will be fair in our dealings with them in the future.

I think such a statement would be most welcome by our people without necessarily precluding change which even all of the services recognize must take place. So, I think it is important as we address this subject of legislation or directive that we bring into play the other key elements of the equation that are absolutely fundamental, because were we to have legislation only, my feeling is that our people would feel again that they have had an option closed without facing the causative factors which led us to that legislation, sir.

Senator THURMOND. General Rogers, do you have anything further you would like to add?

General ROGERS. No sir, thank you, Senator, but I would like to associate myself with the very meaningful comments which Admiral Watkins just made.

Senator THURMOND. Chief Master Sergeant Barnes.

Sergeant BARNES. I would like to add, sir, my being honored again to appear to discuss this sensitive issue and again to reiterate that we must go beyond the effects and assess those things that cause our personnel to have an interest in a union. I feel very strongly that that is very necessary and we must go beyond determining effects and look at causes as well. I think that is extremely important, sir. That is all I have.

Senator THURMOND. Captain Jones.

Captain JONES. No, sir.

Senator THURMOND. Now, as the chief author of this bill, with 43 cosponsors, I feel very strongly about prohibiting unions in the military. I take that position from my own experience of 36 years in the Reserve and about 4 years in World War II and from observation throughout the years of the operation of the military as a member of the Armed Services Committee here for a long number of years, too.

I do feel that the chipping away of some of the benefits to the military have probably encouraged this effort on the part of some of our military people. The erosion of some of the privileges they have heretofore enjoyed has helped to bring this about. On the other hand, I do not feel this is a proper course to take. I am a friend of the military people and I want to help them. I am deeply interested in their welfare. Our Nation depends upon them. The survival of this country depends upon the man who wears the uniform and we ought to do what is right by him.

I have strongly favored the fringe benefits such as commissaries and PXs and other benefits because the men in the military are not allowed or do not have time to go out and make investments and participate in a business enterprise in which some of them would probably make much more than they could in the military, and they serve long hours in the military. They are subject to call night or day. They are on duty 24 hours a day and are subject to being sent to any part of the world.

Our military people who wear the uniform are sent to Korea and they are sent to other nations in various parts of the world. They do not have a say-so over whether they go or not. They are ordered there. People who are subjected to these hazards and to this inconvenience, and their families, it seems to me, deserve the fringe benefits that they have enjoyed throughout the years, and I want to see them properly treated in every way.

But to have unions to bring this about, in my judgment, would be, as General Rogers and others of you have stated, would be disastrous. I think it would be a catastrophe. I think it would be a terrible mistake, and that is the reason we have prepared this bill.

Now, I don't want to unduly criticize the Secretary of Defense and I am not criticizing him. I am making this statement on my own accord. But this letter by him, in my opinion, is a weak position. It is largely a position unchanged from his previous position he took when he testified before the committee last year. I think what he advocates is an after-the-fact remedy. I think it is time now to nip this thing in the bud, when these unions are going after membership. When they are soliciting now on base and off base is the time to take action. I don't think we should wait until these drives are underway, because we

know what they have in mind and we know what these unions want to do and we know the trouble they can cause in the military, as I am sure you agree, and as General Taylor and General Ridgeway indicated in their letters, too, the dissension and the trouble and dissatisfaction that would result from them.

Now, the policy of the Defense Department at the moment, and which probably seems to be what they have in mind in the future, is to leave it to each commander. I think it is shirking the responsibility of having a national policy. I think there ought to be a clear, delineated national policy by the Department of Defense that could well be followed by a commander that would be simple and clear. To leave up to each commander a matter of this kind as to whether people can join unions or whether they can solicit on posts and take other steps that will promote unionism, seems to me, to be a weak-kneed position. I am calling the shots just like I see them. That is the way I see it and therefore, it is my judgment that we need to go forward with legislation. The Congress needs to act.

I have talked with many Members of the Senate and the House. We had some House Members over here this morning listening to some of these hearings. They are vitally interested in this matter, too. Why wait? Why take a chance? Why not go ahead and pass S. 274 on which we have 43 co-sponsors.

If the bill is not passed, then let's enact some other legislation that is very similar to it to accomplish this purpose. The reason I inserted this statement from Col. Frederick Bernays Wiener is that some people seem disturbed over first amendment questions and first amendment rights. We don't want to deprive anyone of any first amendment rights. But, if our military doesn't stay strong, combat ready, and can move properly in case of emergency, and able to take steps necessary on short notice, then we are in trouble. The life of this Nation is, as I stated, dependent upon the military. This statement here by Colonel Wiener is very clear that this bill (S. 274) which we have offered is constitutional and I would not look for the Supreme Court of the United States to upset this bill if it is passed.

Without objection, an editorial from the Columbia, S.C., State, entitled "Defense Would Suffer From Military Unions," will be inserted in the hearing record at this point.

[The information follows:]

[From the State, Columbia, S.C., July 16, 1977]

DEFENSE WOULD SUFFER FROM MILITARY UNIONS

Amid all the publicity over the B–1 bomber, the cruise missile, the neutron bomb and Strategic Arms Limitation Talks, little public notice has been drawn to another serious consideration of national defense—the threat of unionizing the armed forces.

It seems safe to say, and public opinion surveys bear this out, that the idea of "organizing" the nation's uniformed troops is repugnant to most Americans. Indeed, many union members themselves shy away from the idea.

Nevertheless, there is a serious move under way within organized labor to bring the uniformed services within the union ranks. At the moment, the lead in this potentially crippling movement is being taken by the American Federation of Government Employees. Even now, the AFGE is sampling opinion throughout the numerous locals to determine the prevailing will of the membership. Fortu-

nately for the future of the country, there seems to be no overwhelming support for the concept.

But other labor unions or "associations," some of which already include reservists and National Guardsmen in their civilian capacities, are watching developments with interest.

Professional military men, both active and retired, are aghast at the thought of the disruptions which could be created with the unionization of the armed forces. They likewise are puzzled at the inaction of President Carter, Defense Secretary Harold Brown, and other Administration officials who could—and should—act now to forestall any further growth of the union effort within the services.

A number of members of Congress, including South Carolina's Senator Strom Thurmond, are pressing for legislation which would prohibit in clear and unequivocal language the unionization of the military. The U.S. Constitution and a number of existing federal statutes already give a reasonable basis for banning organizational efforts but not in precise terms.

The U.S. Supreme Court, however, has recognized the unique character of military service and the necessity for discipline therein. Its most recent ruling on the subject phrased that recognition in these words:

"The fundamental necessity for obedience, and the consequent necessity for imposition of discipline, may render permissible within the military that which would be constitutionally impermissible outside it."

It requires no great imagination to envision the utterly chaotic and disastrous results which could occur if the regular chain of command within the armed establishment, or any portion of it, were disrupted by counter-actions—ranging from argumentative resistance to out-right strikes—on the part of unionized soldiers, sailors, or airmen.

Day by day, the nation is seeing one example after another in which the public's convenience and occasional safety is flouted by organized labor within the governmental sector. There is little cause to think that unions in uniform would be any less militant.

The armed forces have gone about as far as they can or should go in complying with legislative and executive mandates which erode the fighting fabric of the military. At this stage of the game, the Administration and the Congress should jointly slam the door in the face of union organizers—in or out of uniform.

Senator THURMOND. Additional questions have been submitted for the hearing record. Please submit your answers to the questions and return them to the committee for insertion in the hearing record.

[The following questions by Senator Stennis and Senator Goldwater have been answered by the witnesses and are inserted in the record at this point:]

Senator STENNIS. General Rogers, based upon the actions of the Department of Defense and their statements before this Committee, we have detected some reticence on the part of the department to take a strong stand on measures to stop the possibility of union organization in the services. Leaving the possible constitutional problems aside now, because that will be dealt with by the courts anyway; what is the professional opinion of the Joint Chiefs on this issue?

General ROGERS. The Joint Chiefs of Staff are deeply concerned about the increasing activity aimed at forming unions within the armed forces of this country. Their concern is based on the strong opinion that unionization would seriously impair military combat effectiveness by undermining the role, authority, and position of commanders and by creating a potential adversary relationships between the service members and the services and/or the Congress. The Joint Chiefs of Staff believe that a prohibition on three forms of activity are required to prevent effectively the formation of military unions. These are a prohibition of:

(*a*) recognition, negotiation and bargaining,

(*b*) solicitation activities on military installations designed to enroll military personnel and;

(*c*) membership by military personnel in organizations which purport to negotiate or bargain on their behalf concerning the terms or conditions of military service.

Senator STENNIS. As you know, several of our NATO allies have unions in various forms that represent enlisted and commissioned military members. Do you have any information as to the success of this relationship? Have military unions affected military readiness or actual performance by troops in these countries?

Are there sufficient parallels in the societies that have unionized military members for the experience to be transferrable to the United States? Could they be appropriate and workable in Sweden and not here?

General ROGERS. Although at present the formation of unions within the Armed Forces of several Western European countries does not appear to have seriously affected the readiness of these forces, it does not follow that the same relationship and situation would develop within the United States Armed Forces. Comparisons are difficult for several reasons. First, the forms of European military organizations and the manner in which they achieve their objectives are very diverse. "Military unions" in Western Europe range from what we would term "associations" to typical "labor unions". The manner in which they achieve their objectives range from vocational lobbying and industrial consultation to formal collective bargaining. Secondly, the traditional relationship between labor and the government in the Western European countries is significantly different from that found in the United States. The historical development and cultural setting of the Western European unions are different from the United States. While the study of Western European military unions is instructive, we think the study of unionism in the American public sector is more instructive and that military unions in the US Armed Forces would most likely evolve along these lines rather than evolving into one of the models of Western Europe. In addition, it is important to remember that the requirements and missions of the Armed Forces are not the same. The United States is a global power with world-wide commitments and interests. These requirements are without parallel in the free world. As such, the need for responsive forces and an unemcumbered chain of command assume greater significance than in Western European countries. Unions would absolutely hobble the military leaders in rules and procedures and lessen our ability to react quickly and decisively. Last, we should take note of the fact that our potential adversary, which espouses worker rights and collective action, has not seen fit to extend this concept to their armed forces. Although the experience of other countries can provide insight into the development and operation of military unions in general, we cannot assume that the same results will be achieved if unions are formed within our military. As the varying forms and methods of operations of the various military unions and associations in Europe would indicate, it is much better to look to our needs and traditions to determine if unions are needed and desired. I would submit that military unions within the American Armed Forces are neither wanted nor needed and their formation would not be in keeping with the best interests of our nation.

Senator STENNIS. General Rogers, do you think unions can exist in the military even if they profess a very limited role? They say they don't seek the right to strike. Isn't it the case that if the union is there, it will tend to expand its role and its power as time goes on?

General ROGERS. In my opinion, Mr. Chairman, the answer to your last question is "yes". Regardless of union statements to the contrary, collective job action remains the most effective means of achieving union aims. Laws to the contrary notwithstanding, various public safety unions have demonstrated that they will use this tool if required. We cannot permit the risk of this type action to develop within the military, no matter how remote that risk might be.

Senator STENNIS. General Rogers, what measures have been taken by the Department of Defense as of now concerning unions? I understand that commands are directed not to recognize or bargain with unions, is that right? Do you now prohibit unions from having meetings on bases? From distributing information? How about meetings held by servicemen themselves to discuss unions?

General ROGERS. At present the Department of Defense guidance concerning unionization of the military is contained in a December 20, 1976, memorandum to the Service Secretaries. In short, this memorandum highlights the concern of the Department of Defense over the formation of military unions and establishes the following policy on the issue:

"*Negotiation and bargaining.*—No member of the armed forces, or civilian employee of the Department of Defense, may negotiate or bargain on behalf

of the United States, with respect to terms and conditions of military service of members of the armed forces, with any individual organization or association which represents or purports to represent members of the armed forces; nor may any member of the armed forces, or civilian employee of the Department of Defense, recognize any individual, organization or association for any such purpose."

All services have taken steps to implement this policy statement. In addition, DoD is currently developing a directive which is designed to address the other issues of unionization. The decision on the final contents of the proposed directive has not been reached; however, the thrust of this directive is outlined in the Secretary of Defense's letter to the committee dated July 18, 1977. At present there are no specific prohibitions against unions meeting on military bases or against distributing information on the formation of military unions. Although not aimed specifically at unionization, commanders do have broad powers to exclude individuals from military installations or to prevent entry under restrictions which are in the interests of good order and discipline. Restrictions may be imposed on the time, place, and manner of activity so as to preclude disruption of military functions. Distribution of information can also be restricted if commanders determine that such information presents a clear and present danger to the morale and discipline of the troops. As to meetings held by soldiers to discuss unions, there is little or no authority to prevent such meetings as long as they do not interfere with the military duties of the soldiers involved.

Senator STENNIS. General Rogers, we saw in the 1960's that the National Guard, and ultimately the active-duty Army, may sometime be needed to deal with internal disorder in our country. Our history teaches us that even labor management disputes may sometimes have the potential for violence. Do you see a unionized military as threatening a quick and effective use of our armed forces to keep order? Is there a possibility that a unionized Army would be reluctant to take action in a labor dispute that erupts into violence?

General ROGERS. As stated earlier, unionization of the military is fundamentally incompatible with the concept of the chain of command and with the requirement to maintain responsive, combat ready forces. Regardless of the nature of the assigned mission—international or national—the interjection of unions between the soldier and the chain of command would reduce the responsiveness of the forces. This is a risk we cannot accept. As to your last question concerning the possible reluctance of a unionized Army to respond to the hypothetical situation you describe, I believe such a possibility could arise under those circumstances, inasmuch as it would be a unionized element being expected to take action against another unionized element.

Senator STENNIS. General Rogers, how do you assess the role now being played by the servicemen's organizations that have evolved—organizations which represent both active and reserve personnel? Has their influence been constructive? Have they been able to affect the decisions on matters of concern to servicemen, in your judgment?

What possibility do you see of some of these organizations evolving into traditional unions, as the NEA and the AAUP did in representing the teaching profession? Have any of these servicemen's organizations ever sought bargaining rights or sought to become involved as a third party in disputes between a serviceman and his superiors, to your knowledge?

How can we ensure that by prohibiting union activity we don't inhibit the constructive role played by these associations?

General ROGERS. Military oriented organizations and associations have traditionally played an important role in ensuring that the military forces of this nation remain strong and that the welfare of the individual service member is enhanced. However, these organizations have not and must not interfere with the lawful operation of the chain of command or attempt to interject themselves (through the process of negotiations and bargaining) between the soldier and the chain of command. Any prohibitive legislation or directive should address only those organizations which desire to negotiate or collectively bargain with the chain of command. The provisions should not apply to other organizations.

Senator STENNIS. Admiral Watkins, how do you assess the attitudes of enlisted men and officers today toward unionization?

Admiral WATKINS. My assessment of the attitudes of enlisted personnel and officers toward unionization is that as many as 30 percent might join a union if one were available today. A variety of sources have contributed to my assess-

ment, not the least of which are my own personal observations made through frequent contact with Navy personnel at all levels in both the fleet and shore establishment. Additionally, I considered the assessments of the Navy's Commanders in Chief on this issue, the findings of various studies and surveys relative to this matter, and the frank and valuable counsel of the Master Chief Petty Officer of the Navy whose responsibility it is to sense the pulse of the Fleet on such matters.

Senator STENNIS. If there is some interest in unionization, have your studies indicated what is behind this interest in the mind of the serviceman?

Admiral WATKINS. While the Navy has not conducted a formal study on this issue, the report of the Defense Manpower Commission, the public statements of AFGE union officials, the findings of the Fleet Reserve Association's "White Hats' Pay Panel", our own statistical evidence which shows dissatisfaction over pay and benefits, the Third QRMC survey statistics concerning recent benefit changes, the reports I receive from all levels, and my own observations lead me to the conclusion that past and proposed piecemeal changes to military compensation are creating interest in unionization.

Senator STENNIS. Do you know whether that interest varies as between lower enlisted ranks, non-commissioned officers and officers? Career and noncareer?

Admiral WATKINS. Based upon the limited statistical data obtained from personnel of other Services, and the other sources I previously mentioned, I would expect that interest in unionization is lower among officers than among enlisted personnel and that, within our enlisted ranks, there is somewhat more interest among our senior petty officers than among those in the junior paygrades. Since our non-career members do not plan to make military service a lifetime pursuit, their concerns from over the future security of such a career are less than those expressed by our career personnel; and it is this difference in perspective that I believe accounts for the varying degrees of interest among our enlisted people.

Senator STENNIS. What specific complaints do you think give rise to talk about unions?

Admiral WATKINS. The major areas of complaint seem to be centered on service member apprehension over the future economic security of a military career, and over the question of whether service member interests are receiving adequate consideration in the important decisions being made here in Washington.

Senator STENNIS. Are there particular aspects of military life that you think are particularly vulnerable targets for union persuasion?

Admiral WATKINS. As was noted by the Defense Manpower Commission "institutional benefits" have a substantial impact upon service member morale and sense of identity. These aspects of military life in order of importance are retirement, health care, commissaries and exchanges, and the military welfare and recreation system. Because these benefits are important to our personnel, and changes to them are under consideration, these aspects of military life constitute vulnerable targets for union persuasion.

Senator STENNIS. Admiral Watkins, I take it that you and others in the manpower area in the Department of Defense, believe that union activity is not compatible with first, the military chain of command; second, requirements of discipline and obedience to authority; and third, the demands of readiness in a modern armed force. I would like to explore which particular kinds of union activity present which kind of threat.

1. Mere union organization

Is it possible to have a union simply as an organization, with membership meetings, dues, and the like, but no ability to strike, picket or require arbitration of disputes; to have that kind of a union consistent with the demands of military organization? How would such a union differ from servicemen's organizations now active? Do you think any organization at all, even without recognition and bargaining, will lead eventually to the problem we are concerned about?

Admiral WATKINS. We currently have military associations, the Fleet Reserve Association (FRA) for example, which only engage in those activities you describe. So long as the activities of such an organization are supportive of and consistent with military requirements, their existence is acceptable. A union which would seek to engage in similar activities would, however, differ from a military association like the FRA in two basic respects. First, the union would be forced to expand its activities beyond acceptable limits in order to provide something to prospective members which associations are not providing. Sec-

ondly, a union, unlike the present associations, would be created by individuals external to the Services and would not be supportive of Service interests. The military associations have demonstrated that not all organizations ultimately lead to problems. However, for the reasons stated above, it is my opinion that a union entering into these areas would assume an adversary rather than a supportive relationship with Service interests and result in future problems.

Senator STENNIS. How about a union with only the power to collectively represent military members in discussions on problems with local commands, and with the ability to lobby on larger issues in Washington? Can a military organization tolerate any degree of consultation and bargaining by a collective representative outside the military chain of command on such issues as work assignments, uniforms, duty rosters, hours of work, leave policy, and so forth, assuming now that negotiation of binding agreements would be prohibited?

Admiral WATKINS. There already exist mechanisms for collective discussion of problems at the local command level. These include, in the Navy, our junior enlisted advisory committees, chief petty officer organizations and Human Resources Councils to address matters of broad impact on command personnel, and Commanding Officer's open door policies and request mast procedures for responding to problems confronting individuals or smaller groups. Naturally, none of these groups possesses the ability to lobby on larger issues in Washington, but through access to our Service Associations, even this recourse is open to all our personnel under current circumstances. These are basically all mechanisms operating in support of the chain of command and they are an accepted, positive feature of the overall command structure. Introduction of any degree of consultation and bargaining by a collective representative outside the chain of command over any of the issues you have mentioned could not similarly be tolerated, with or without the ability to negotiate binding agreements. Simply put, current procedures for carrying on discussions with members are conducted within and remain controllable by the chain of command; whereas introduction of an external representative would inevitably result in adversary relationships which could be expected to disrupt orderly functioning of that chain of command.

Senator STENNIS. I take it that it would be your view that true collective bargaining with a union of servicemen would be impossible in any military organization as we know it? Isn't it the case that many of the issues on which conventional unions bargain toward agreements with their employers are simply not under the control of local commands in a military organization? I speak of issues like pay and allowances, retirement benefits, promotions, etc.

Admiral WATKINS. It is very definitely my view that collective bargaining with a servicemember's union within the chain of command is impossible. In point of fact, I do not personally see a need for a collective bargaining mechanism to resolve issues which lie within the purview of the chain of command, as adequate means already exist to accomplish this and they appear to operate effectively in most cases. As you have pointed out, Mr. Chairman, the most likely areas of union involvement concern matters outside the purview of the chain of command, such as pays and allowances, retirement, health care and similar compensation-related issues. By and large, ultimate responsibility in each of these areas rests with the Congress, and quite clearly, there is no provision for collective bargaining by any individual or organization in the legislative process. The accepted methods of individuals or collective communication with members of Congress and lobbying in behalf of various pay and benefits elements through the traditional Service Associations already are open to our members, thereby raising the question of what advantage membership in an external union would offer in these areas.

Senator STENNIS. One of the most important roles played by unions in the private and public sectors is to represent their members in grievance disputes over working conditions, discipline and the like. Is a grievance procedure compatible with the military chain of command? Can you see any role for third-party grievance procedures where the union and the command would agree on some outside arbitrator to determine the outcome of some grievance?

Admiral WATKINS. Grievance resolution procedures are compatible with the chain of command, and numerous methods, exist within the Navy for the resolutions of individual member complaints. The union process of grievance resolution, however, is not compatible. The requirement for bilateral resolution of grievances between a union representative and a commander would seriously weaken military discipline and the responsiveness of the chain of command. Similarly, resolution

of grievances by a third party arbitrator would result in virtual loss of command control and the ability to carry out assigned missions.

Senator STENNIS. I understand, Admiral Watkins, that there have been strikes and other job actions by military unions in some European countries. Is this the ultimate danger that we are trying to avoid here? I would suppose that once military men and women were unionized, you might also have serious problems if they decided not to cross civilian picket lines, say of the teamsters?

Admiral WATKINS. Strikes, slowdowns, picketing or any other form of concerted disruptive activity within the military are clearly intolerable. In the military context these activities are recognized as being so disruptive to our mission that they are given specific and unique names. Placing these activities in a union context does not change a mutiny to a strike, a failure to obey a lawful order to a slowdown, or conduct prejudicial to good order and discipline to picketing. Unlike the civilian sector where such activities are tolerated, these activities are prohibited by the Uniform Code of Military Justice.

Senator STENNIS. What problems do you see in other traditional activities—newspapers, social events, educational programs, group benefits such as medical care and legal representation? Is it that they will inevitably lead to the more dangerous forms of collective activity? Is it that creating a union organization within the military creates a kind of divided loyalty which is dangerous in and of itself?

Admiral WATKINS. The type of activities you have mentioned do not give me any cause for concern, providing of course, that the legal representation is confined to those circumstances under which members are already entitled to be represented by private counsel. Virtually all of the activities you alluded to are provided today through our existing associations and fraternal organizations. As you have pointed out, however, even the most supportive of organizations presents in its very existence the potential for entry into more adversary roles if the command structure is unable to control external influences which appear to threaten the well-being of the organization's membership. Once this point is reached, there is a great likelihood that loyalties will become divided, thereby posing the ultimate threat to the required orderly functioning of the military chain of command.

Senator STENNIS. What mechanisms exist today within the armed forces to enable the views of enlisted men and officers on pay and benefits, working conditions and similiar problem areas to be known to those who make decisions affecting them? Do you think the Services' two-way communications system is working? Would you describe the internal grievance procedure to us? Should there be a grievance system that is outside the local chain of command, or is this the function the Inspector General's office is supposed to perform?

Admiral WATKINS. Within the Navy, numerous avenues exist which permit the views of our personnel to be known to decision makers. Our system of Master Chief Petty Officers of the Fleet, Force, and Command, provides the Master Chief Petty Officer of the Navy a continuing appraisal of member sentiment. These views are heard at the very highest levels of the Navy. In addition, surveys and research projects are undertaken to actively solicit member opinion on a variety of issues. These procedures, however, are only supplements to our most important avenue for the expression member opinion, the chain of command which permits the upward flow of member expressions of concern. The Navy's two-way communications system is working well, and has vastly improved in recent years. Our Human Resources Management program stresses the importance of internal communication. As part of this program, rights and responsibilities workshops are conducted which inform our personnel of the means by which they can either express a complaint or seek redress. This workshop not only identifies the internal grievance procedures available to the individual such as request mast, USMJ article 138, and the various provisions of U.S. Navy Regulations which permit redress of complaints, but also provides practical experience in processing such grievances. An additional feature of this program stresses the rights of individuals and groups to petition the Congress over items of concern. Specific identification of the individual member's Senators and Representative is addressed. By policy, any record of external communications is precluded from entry into the individual's record. While entry of such documents was allowed in the past, the Navy's adoption of microfilm records for all personnel has also automatically purged records of any past communications along these lines. While our program emphasizes that grievance resolution within the local chain

of command is preferable, recognition is given to the place for other means of resolution such as the Inspector General's Office.

Senator STENNIS. How is the Inspector General system working generally? How independent are the IG's of the local commander when dealing with individual grievances or complaints? How are enlisted men and officers informed of the powers and duties of the IG so that they may call on them to assist? Should the IG play a more active role in discovering and dealing with problems in local commands, as opposed to merely responding to complaints when they are lodged?

Admiral WATKINS. Considering its size and resource constraints, the Navy's Inspector General system is working well. The Navy's Inspectors General System is unlike the extensive systems found in the Army and Air Force, and does not become deeply involved in the resolution of personnel grievances. This difference in size and role is, in part, accounted for by the structure of the Navy itself, and the existence of other means for grievance identification and resolution. Inspectors General systems as they exist in the other services are most efficient when applied to concentrations of large numbers of personnel. Our comparatively small unit size, the individual ship, and the highly dispersed nature of Naval forces do not readily add to such a system. When the Navy's Inspectors General do inspect local commands, however, they are totally independent of the local commander in dealing with individual grievances or complaints. During these local command visits, members of that command, both officer and enlisted, are informed by local information procedures that they may personally discuss any matter with the Inspector General. While the Inspector General does receive some requests for assistance from individuals, a more active role in discovering and dealing with such problems would duplicate efforts in this area. The Navy's Human Resources program, by means of its command survey procedures, actively identifies problem areas within local commands and then develops a command action plan which leads to the resolution of identified problems.

Senator STENNIS. Would you be in favor of an ombudsman system such as the one presently in operation in the Israeli Army? What are the drawbacks of such an approach?

Admiral WATKINS. The Israeli Ombudsman system is unique when compared to those found in European nations. Under the Israeli system, the Ombudsman is an arm of the Department of Defense as opposed to working directly for the legislature. In this regard our system of senior enlisted advisors, in combination with existing administrative procedures, fulfills much of the same purpose within military channels. Creation of an Ombudsman would therefore tend to duplicate existing procedures which are working well. For that reason I would not favor the creation of such a position. A major drawback of the Israeli system is that it is within the Department of Defense. Because it is so placed, a whole range of monetary issues, such as pay and benefits, is beyond the ability of the Ombudsman to resolve. To the extent that these compensation issues are also of concern to our personnel, adoption of a procedure similar to the Israeli system would not appear to be a significant improvement. The Defense Manpower Commission in addressing this issue suggested there was a need for an Ombudsman within the Services, and that the Service Chiefs should assume this role. Although there may be certain drawbacks and internal conflicts inherent in this approach, I consider the Commission's recommendation consistent with chain of command criteria, and accordingly, deserving of further consideration and study.

Senator STENNIS. Does the Department of Defense see any different problems in applying controls or prohibitions against union activity to the Reserve forces and the National Guard? Aren't some civilian technicians in these organizations already members of unions covering their technical areas, even though they are also members of the Reserve or Guard? How has that worked out?

Admiral WATKINS. While the Navy has had no experience to date with the type of union activity within our Reserve forces which you describe, Senator, I do not see any difference in applying controls on union activity to our Reserve members while they are on active duty or active duty for training. I believe you are correct in your understanding that some civilian technicians in certain National Guard units are unionized; however, it is my understanding that this union membership does not relate to their military duties as Guardsmen. I have no personal knowledge of the specifics of this union involvement within the National Guard; but I am convinced that any attempt to engage in collective negotiation or bargaining over terms and conditions of service of reservists would be just as disruptive to operational effectiveness as similar activity within a unit of the regular forces.

Senator STENNIS. Admiral Watkins, I understand that it has been the policy of the Department of Defense to allow uniformed servicemen to join unions relating to civilian occupations pursued in their off-hours. Have any problems been encountered with that policy? Do you think it is a bad precedent as we now begin to see more clearly the dangers of unionizing the uniformed services themselves?

Admiral WATKINS. Mr. Chairman, it is widely-accepted practice for service-members to join unions in order to pursue civilian jobs in their off-duty hours, and I know of no instance in which this form of union membership has posed problems for either the Services or the individuals involved. I do not consider such off-duty union membership to be a bad precedent at all. In fact, I would strongly oppose any action aimed at precluding such membership which is frequently essential in order for our people to supplement their incomes through off-duty employment. I would consider any prohibition of membership in unions not related to the servicemember's primary duties within the Armed Forces as both unnecessary and unwarranted.

Senator STENNIS. Would it be possible to effectively command troops if an officer had to deal with an organized union, whose views would have to be taken into account on such matters as discipline, duty assignments, leave, etc.? Do you believe that unions would undermine your authority as a commander?

Captain JONES. In my opinion, and in the opinion of the overwhelming majority of my contemporaries with whom I spoke, the concept of command as we now know it would be irrevocably altered by the advent of unionization. In order to command effectively, the commander must have control over and the confidence of his men. The control must be such that subordinates clearly understand their commander's authority as it relates to them. Confidence is engendered by the commander's demonstrated concern for the total welfare of his men. Any changes such as those which we presently contemplated by unionization will clearly inhibit the commander's ability to accomplish his mission and will affect his subordinates' loyalty not only to him but to the service as well.

I deeply believe that unionization of the armed forces would undermine not only my authority as a commander but would also be an indictment on the perceived ability of the Congresss to effectively administer to the needs of the armed forces.

I remain confident that the challenge to both military and Congressional leadership will be met in such a way that unionization will cease to be an issue where the armed forces are concerned.

Senator STENNIS. It has been asserted that there is considerable support for unionization among Air Force enlisted personnel. In your travels to various commands, what impressions have you gained concerning the extent of pro-union sentiment in the Air Force? Among which groups do you feel that the interest in military unions is strongest?

Sergeant BARNES. In my travels and discussion with Air Force people I have found some, but not a lot of pro-union sentiment. The union issue does come up almost everywhere I go, but its not so much "how do I join" but rather "what are you and the Air Force leaders doing to represent my interests?" First term airmen have relatively little need for a union, as do to the senior people who are already eligible for retirement. Its the middle group who have the most to lose if the changes in benefits are not stopped, and they perceive that a union could change that trend.

Senator STENNIS. From the perspective of one who has spent much of his long career in a supervisory position, do you think unions in the military would be compatible with a smooth running chain of command and a system of effective military discipline? Could you be a good leader of troops with a union steward potentially second-guessing you on duty assignments, disciplinary cases, and the like?

Sergeant BARNES. No I don't believe anyone could be an effective military supervisor or leader of troops if every order is subject to some question or debate or delay. I think responsiveness is the key to effective operation and you wouldn't have that with a union steward between the workers and the boss.

Senator STENNIS. I understand that one of your functions as the leading enlisted person in the Air Force is to keep open the lines of communication between airmen in the field and the leadership in the Air Force. Candidly, how well is the system of communication working? Do enlisted members feel they have the right to criticize and to raise grievances that will be fairly dealt with? Is there room for improvement?

Sergeant BARNES. Senator Stennis, I believe the multiplicity of communications channels available to Air Force members to air their complaints is extremely effective. Our goal is to resolve complaints at the lowest organizational level and I believe we are doing a good job of that. Being one of those channels myself, I have never found anyone who was afraid to talk to me or to ask for my help, and I debrief the Chief of Staff upon return from each trip, to keep him advised about the morale and well being of our people. It is working, but there is always room for improvement.

Senator GOLDWATER. General Rogers, your opinions on military unions have been previously stated. Do you now believe that the services have sufficient directives, regulations and guidance from DoD to meet any union activity situation that arises?

General ROGERS. At present I do not feel that they do. As I have stated earlier, I believe that in order to prevent effectively the formation of military unions, three forms of activity must be prohibited:

(*a*) negotiation and bargaining.

(*b*) membership by military personnel.

(*c*) solicitation for membership on military installations.

The current DoD guidance addresses only negotiation and bargaining. I would also like to note that these prohibitions alone will not end the discussion or interest in military unions. We as leaders must continue to address the underlying reasons for the current interest in forming military unions. These areas include pay and benefits issues, improving leadership at all levels, opening the lines of communication, and improving the internal personnel management policies and procedures within the services. I, for one, can say that the Army is committed to these and other improvements and is making progress in virtually all areas.

Senator GOLDWATER. General Rogers, would you agree that the most effective way to stop unionization is through legislation?

General ROGERS. It is my personal opinion that in the end legislation is the most effective method to prevent the formation of military unions. This opinion is based largely on the fact that a directive would be limited in scope and applicability to military installations, and military personnel and civilian employees of the Department of Defense. Such a directive would not be applicable off DoD controlled properties nor to non-DoD personnel and organizations. These limiting factors are not found in the proposed legislation. In addition, legislation would have the weight of the electorate behind it and would not be merely another administrative regulation promulgated by a government agency. If challenged in the courts I feel that a law enacted within the constitutional powers granted to the Congress would fair much better than an administrative directive. However, for reasons which they find cogent and logical, there are others who believe that a directive would be more timely, more easily changed, and more flexibly applied to individual situations.

Senator GOLDWATER. General Rogers, everyone knows the current problems our Reserve forces are having. Is there a place in our Reserve Components for a union?

General ROGERS. As with the active Army, there is no place within the Reserve Components for organizations or associations which represent or purport to represent military personnel regarding the terms or conditions of military service. The same adverse effects of negotiations and collective bargaining with the chain of command which have been cited concerning the active forces are applicable to the Reserve forces. In fact the provisions of the December 20, 1976 Secretary of Defense memorandum concerning unionization apply to the Reserve Components as well as to the active forces. As with the active forces, these provisions are not intended to apply or affect the rights of members of the Reserve forces to join unions or to be represented concerning their civilian employment.

Senator GOLDWATER. Admiral Watkins, as Chief Personnel Officer in the Navy and a former Commander of a Cruiser-Destroyer Group and knowing what the goals of unions are such as 40-hour work week, overtime pay, withholding labor, etc., would it be possible to keep the Navy ready to go to war, its primary mission, with union interference?

Admiral WATKINS. No sir, it emphatically would not. The typical union demands such as you have enumerated are fundamentally incompatible with the operational requirements of any armed force. This is particularly true for the Navy due to the requirement for around-the-clock operations at sea, in peace

or war, with a work force limited in size by the design characteristics of our combatant ships. Even in a peace time training environment, introduction of the types of work-related demands normally associated with civilian unions into the military could effectively preclude our ability to adequately meet our wide-reaching commitments to either our allies or to our own national security interests. There are those who argue that union negotiations would be permitted in peacetime only and banned in wartime. Were we to be trapped by this shallow argument, we would never be ready to fight when called upon. Union interference in the military command relationship cannot be tolerated.

Senator GOLDWATER. Captain Jones, as a former company commander in both combat and peacetime, you know the value of peacetime training, maintenance and other preparation. Based on your experience, is there any doubt in your mind that there is neither time nor place for a union within the military?

Captain JONES. There is no doubt in my mind that a union should have neither time nor place within the military. Responsive leadership both internal and external to the military chain of command will, in my opinion, be an effective deterent to the threat of unionization.

Senator GOLDWATER. Chief Master Sergeant Barnes, in your talks with Air Force personnel, would you say that they are not so much concerned with what benefits they have as they are with what they perceive is being taken from them?

Sergeant BARNES. Yes sir, I would agree with that, but you must remember that many of our benefits are not available to the service man or woman now but are for use in the future. For example, we have to wait at least 20 years to take advantage of the retirement system; most people don't use their GI Bill benefits until after they leave the service; and of course health care and CHAMPUS facilities are not used extensively until we or a member of our families get sick. So the people are legitimately concerned that the benefits that they perceived as incentives to enter the service are being changed.

Senator GOLDWATER. Sergeant Barnes, how would you assess the overall morale of the Air Force now?

Sergeant BARNES. Senator Goldwater, the morale of the Air Force has never been higher. As I travel throughout the world talking and listening to our people, I observe that we have a higher quality, more educated, and totally dedicated force. They are productive, effective, and by and large happy with their way of life. This does not say they are not concerned and sensitive to the many changes being made and talked about in the compensation area, but the state of the Air Force is in good shape and in good hands.

Senator GOLDWATER. Sergeant Barnes, as aircraft and other equipment become more technically sophisticated, more time is required to train personnel to operate and maintain this equipment. In view of this, what would a union do to the ability of the Air Force to perform its mission?

Sergeant BARNES. Sir, I believe a union would have a tremendously negative impact on mission effectiveness. Our training programs today are designed to emphasize minimum training time to produce a graduate at the apprentice level. As a result, more and more required information now must be learned on the job. If the union became involved in training programs, duty hours, and learning requirements, the process of becoming a fully qualified specialist would be slowed and encumbered to the point it would impact on mission effectiveness.

Senator THURMOND. I want to express my appreciation to you gentlemen for your appearance here, and I wish to thank you for your testimony. We hope we haven't detained you too long and we will now excuse you. The hearing stands adjourned.

[Whereupon, at 12:15 p.m., the committee was adjourned, subject to the call of the Chair.]

91-680—77——11

UNIONIZATION OF THE ARMED FORCES

TUESDAY, JULY 19, 1977

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

The committee met, pursuant to notice, at 9:05 a.m., in room 212, Russell Senate Office Building, Hon. John C. Stennis, chairman, presiding.

Present: Senator Stennis and Thurmond.

Also present: Francis J. Sullivan, staff director; John C. Roberts, general counsel; John T. Ticer, chief clerk; Phyllis A. Bacon, assistant chief clerk; Kenneth W. Fish, Edward B. Kenney and George F. Travers, professional staff members; Louise R. Hoppe and Roberta Ujakovich, research assistants.

Chairman STENNIS. Our committee will please come to order.

Gentlemen, I am pleased with what transpired yesterday. We made real headway with the hearings on these bills and we want the record to be complete showing the official viewpoint, and then the viewpoint of any citizens who are in the Government, and also then the viewpoint of any labor union that wants to present their views and have a complete record. I think we are well on the way to that. If I read the temper of the situation correctly, I believe we are going to have a fair and equitable bill that takes care of the situation without trying to punish the unions. It will have very broad support in this committee and I do not know of anything that is going to hold it up or delay it. We expect to move this bill right along out of the committee.

Senator THURMOND. Mr. Chairman.

Chairman STENNIS. I am glad to recognize you.

Senator THURMOND. I am anxious to see this bill moved as fast as possible. It has been about 2 years now and I am hoping to get it reported out. The American Legion will come and testify as soon as you set another hearing and I think maybe we could have one more hearing and wind it up, if it suits the chairman, so we can go forward with it.

I will submit my prepared statement for the hearing record.

[The prepared statement of Senator Thurmond follows:]

PREPARED STATEMENT OF SENATOR STROM THURMOND

Mr. Chairman, today we move into our third day of hearings on the issue of whether legislation to prohibt unionization of the military is needed. It is important that we hear not only the views of those on active duty, but also that we have the benefit of the vast experience of the military associations. Their members come from the active as well as the retired rolls of the Services. A particular and unique understanding of the problems of the Services is found in the military associations.

The initial hearing of the Committee showed the following:

1. Current Department of Defense policy does not prohibit union membership by military members.
2. Current policy does not prohibit union organizing activities on-base or off.
3. The Department of Defense is unwilling to take any real position on the bills before this Committee which prohibit unionization.

Yesterday we established that:

1. A threat does exist to unionize our armed forces.
2. Senior officers, junior officers, noncommissioned officers and many personnel of lesser rank believe that unionization of our military forces would weaken the defense of our nation by making our military forces ineffective.
3. The Department of Defense, as evidenced by a letter from Secretary Brown to Chairman Stennis, July 18, 1977, remains unwilling to take a meaningful position which would prevent unionization of the military.
4. The proposed DoD directive, in its present form, will weaken the ability of the Department of Defense to cope with military unionization.

Mr. Chairman, with these initial comments, I would call upon the witnesses to present their statements.

Chairman STENNIS. There is something pending regarding other witnesses. As soon as we can we certainly will conclude the hearings.

I would say we could continue the hearings tomorrow, but I think most of us may be tied up on something rather urgent, the Appropriations' Public Works bill.

All right, I have these two witnesses now, gentlemen.

Mr. Harlow, you are now retired from the Air Force, right?

Mr. HARLOW. That is correct.

Chairman STENNIS. Come around and have a seat.

Mr. Donald Harlow, U.S. Air Force, retired, now director of government relations, Air Force Sergeants Association.

Also we have Mr. Robert Nolan, U.S. Navy, retired, now national executive secretary of the Fleet Reserve Association. Come sit down here, Mr. Nolan. We are glad to have you here and want you to move right in on this matter.

Mr. Harlow, do you have a prepared statement?

Mr. HARLOW. Yes, sir.

Chairman STENNIS. All right, we ordinarily let a person read their statement, or summarize it, and then comment on it before answering questions. We are crowded for time. The Senate is already in session. At 9:30 a.m. the bill comes up that I told you about, the Appropriation bill, and I am the acting floor manager for Senator McClellan on the bill so I will have to go over there.

Do you want to put your statement in the record and then summarize it or read parts of it for emphasis? I will let you decide.

STATEMENT OF DONALD L. HARLOW, CHIEF MASTER SERGEANT, U.S. AIR FORCE, RETIRED, DIRECTOR, GOVERNMENT RELATIONS FOR THE AIR FORCE SERGEANTS ASSOCIATION

Mr. HARLOW. In view of the fact that you and the members of the committee did not have an opportunity to have an advanced copy of this I will summarize and pick out a few highlights.

Chairman STENNIS. Without objection, your prepared statement will be placed in the record, following your remarks. Mr. Harlow will emphasize to whatever extent he wishes.

Mr. HARLOW. Thank you, Mr. Chairman and distinguished members of the committee.

In the early, formative years of our association, many high-ranking officials were rather dubious of AFSA, fearing that we would become radical and closely resemble a union in our attempt to serve the enlisted men and women of the Active Force, the Guard, Reserve and those who have already valiantly served our Nation and are now retired. I can assure you that the aims and objectives of our association are in full compliance with the USAF message to all commanders, dated May 3, 1977, subject: Unionization of the Armed Forces. I have copies of that attached to my statement.

I must point out that during a press conference at the American Enterprise Institute—AEI—David Cortright, an associate with the Center for National Security Studies, in answer to a query:

> Yes, I'll just make a further point that it seems to me that any attempt to outlaw unions would have to deal with the currently existing associations. For example, the Air Force Sergeants Association, in many ways—I interviewed them, and they felt that they were sort of like a union; they did many things that a union would do. They lobby for pay and benefits, for improved conditions, et cetera. I don't see how an attempt to outlaw a union would prevent also outlawing these associations. So I think that, in terms of their legal character, I suspect that they are in the same category.

Admittedly, Cortright's statement possesses some validity, yet there are two very important and most significant differences between our association and a union. (1) We do not employ collective bargaining as a means of reaching our objectives. (2) We will never condone the utilization of any form of a strike to work within the system to eliminate inequities prescribed by policies, programs, and public law between the officer and enlisted members of the U.S. Air Force. We have and will continue to represent individual members of our association before the various Government agencies when there is a clear indication of injustice, or lack of full consideration of factors bearing upon the case.

Yes, we do lobby for pay and benefits, and strongly oppose those policies, programs and/or proposed legislation that have a detrimental effect upon health, morale, and welfare of those we so proudly represent. To illustrate but one media utilized in our lobbying efforts, you will find attached two AFSA lobby ledgers pertaining to the basic allowance for subsistence issue (BAS). I will not elaborate on that any further.

For the past 8 years, we have been attempting to eliminate the disparity in the payment of per diem between the officer and enlisted travelers who, in fulfillment of their assigned mission, perform temporary duty (TDY) away from their home station. To date, we have received much rhetoric from the Office of the Secretary of Defense, but no real action has been taken to resolve the problem. There are many officers who fully agree with our position on the issue, yet those in authority have done nothing.

There are a couple of other things I would like to point out that we feel is inequitable and our people of today who are much more affluent, much more educated, do not understand it and it is going to cause problems in the future.

For instance, hazardous duty pay. An enlisted man jumps out of an aircraft. He parachutes out of an aircraft. For that he receives $55 a month. If an officer jumps out of the aircraft with the parachute

he gets $110 a month. There is a degree of disparity there. It is not that we are saying that the enlisted and officers should get the same pay. Everybody has a pay structure based on their responsibilities. But those are real people regardless of whether the rank is worn up here on their shoulder or on their sleeve. They both have to jump out of the aircraft.

If there is going to be a difference in pay let it be in the basic pay but not in the hazardous duty pay because they are both performing the same hazardous duty.

Another illustration is those who perform explosive ordinance duty. It is usually the enlisted man that is out there defusing the bomb. He takes a chance of getting blown up and getting killed, while the officer stands back and supervises. The enlisted gets $55 a month and the officer gets $110 a month.

That is what I am talking about. These are some of the issues that we are pushing for as an association. I would point out this much in conclusion, Mr. Chairman, and members of the committee. The recent proposals by the Senate Appropriations and House Appropriations Committees have completely destroyed the real basic interest and destroyed the lack of confidence of many of our people in the military. They feel that this action is arbitrary, without permitting the other congressional committees or the Office of the Secretary of Defense or anybody sitting down and discussing and deliberating on it and making rational decisions.

I put out a "lobby ledger" on the recent attack on double dipping and I have never seen such a response in all my life. Those people out there are really concerned. This is not the answer to solving that problem.

Senator THURMOND. For the record, you might explain double dipping.

Mr. HARLOW. Double dipping as the House requested recently, approved Congressman Bob Wilson's amendment whereby they agreed not to pass the recommendations of the Appropriations Committee which would mean that those who would be hired or employed by any Federal agency after 1 October of this year would not be eligible to receive their retired pay. Double dipping means that you are getting paid from the Government for the job you have and also receiving a Government check for your retainer/retirement pay.

I sent a mailgram to each distinguished Member of the House and Senate—I am sure that you must have received a copy, just before departing for our convention in Atlanta in which I pointed out even the amendment, where anyone receiving a pension or retirement pay of $6,000 or less would not come under the provisions of the law. That is no solution to the problem. We have got to look at the entire issue in relation to the retirement system and the retirement costs today. We would be highly opposed and we hope sincerely the Senate will not approve that bill on the Floor today or tomorrow, whatever time you take it up.

Chairman STENNIS. Which amendment are you referring to now? Do you have more specific identification of it in mind?

Mr. HARLOW. I regret that I do not know the number of that bill, but it is the one on the double dipping. I am sure one of the staff members could provide that.

Chairman STENNIS. I was asked to serve as Floor manager of that bill at a meeting yesterday morning and a lot of the amendments I haven't had a chance to go over.

All right, go ahead.

Mr. HARLOW. To end my statement, gentlemen, we oppose the unionization issue. To circumvent this democratic principle will, in our determination, drive members of the military toward labor unions. Chaos would set in, discipline would be challenged, command structure would be imperiled and our overall defense posture would deteriorate. This should never happen in America.

In closing, I will quote from a proclamation read by the President of our association at our annual convention held in Atlanta, Ga., during the week of July 17, 1977.

> Therefore, unless the Administration and Congress seriously consider the significant role military associations have played, and unless government leaders become more responsive to these voices, there will be only one avenue available to the members of the Armed Services in protecting their pay and benefits—unionization. The Air Force Sergeants Association stands ready and willing to work within the system to improve management, instill pride of service, restore patriotism and preserve the image of the defenders of freedom. It is now up to the Administration and the Congress.

That concludes my statement. Thank you very much and I would be willing to respond to any questions you may have.

[The prepared statement of Mr. Harlow follows:]

PREPARED STATEMENT OF DONALD L. HARLOW

Mr. Chairman, distinguished members of the committee, I am Donald L. Harlow, Director of Government Relations for the Air Force Sergeants Association, having served in this capacity since my retirement from the Air Force in October, 1971. I had the distinct privilege of closing out my military career as the second Chief Master Sergeant of the Air Force.

On behalf of the 83,000 members of our association, I am indeed grateful for the opportunity to appear before you on a subject that will possibly impinge upon the tradition and heritage of our great nation and could drastically alter the defense posture of America.

My testimony will be brief as I have included, as attachments, several publications which clearly reflect the position of our association on various issues, including the threat of unionization of the military.

In the early, formative years of our association, many high ranking officials were rather dubious of AFSA, fearing that we would become radical and closely resemble a union in our attempt to serve the enlisted men and women of the active force, the guard, reserve, and those who have valiantly served our nation and are now retired. I can assure you that the aims and objectives of our association are in full compliance with the USAF message to all commanders, dated 3 May 1977, subject: Unionization of the Armed Forces. (Attachment Nr. 1)

During a press conference at the American Enterprise Institute, (AEI), David Cortright, an associate with the Center for National Security Studies, stated, in answer to a query, "Yes, I'll just make a further point that it seems to me that any attempt to outlaw unions would have to deal with the currently existing associations. For example, the Air Force Sergeants Association, in many ways—I interviewed them, and they felt that they were sort of like a union; they did many things that a union would do. They lobby for pay and benefits, for improved conditions, et cetera. I don't see how an attempt to outlaw a union would prevent also outlawing these associations. So I think that, in terms of their legal character, I suspect that they are in the same category."

Admittedly, Cortright's statement possesses some validity, yet there are two very important and most significant differences between our association and a union. (1) We do not employ collective bargaining as a means of reaching our objectives. (2) We will never condone the utilization of any form of a strike to force arbitration, or negotiations. We have and will continue to work within the

system to eliminate inequities prescribed by policies, programs, and public law between the officer and enlisted members of the USAF. We have and will continue to represent individual members of our association before the various government agencies when there is a clear indication of injustice, or lack of full consideration of factors bearing upon the case.

Yes, we do lobby for pay and benefits, and strongly oppose those policies, programs, and/or proposed legislation that have a detrimental effect upon health, morale, and welfare of those we so proudly represent. To illustrate but one media utilized in our lobbying efforts, you will find attached two AFSA Lobby Ledgers pertaining to the Basic Allowance for Subsistence issue (BAS). In addition, attachment No. 4 is the exchange of correspondence between the office of the Secretary of Defense and our association, seeking correction of the statute pertaining to the involuntary withdrawal of money from only the enlisted members of the U.S. Army and USAF, to satisfy a bad check.

For the past 8 years, we have been attempting to eliminate the disparity in the payment or per diem between the officer and enlisted travelers, who, in fulfillment of their assigned mission, perform temporary duty (TDY) away from their home station. To date, we have received much rhetoric from the OSD, but no real action has been taken to resolve the problem. There are many officers who fully agree with our position on the issue, yet those in authority, who are charged with the decision on such issues, continue to ignore our objective. Such so-called "foot dragging" by the Department of Defense is becoming intolerable and the ability to attract and retain the high quality, professional enlisted men and women for the future will be exceedingly difficult.

As previously stated, we fully subscribe to and uphold the unique requirements of military service whereby discipline, command authority and unquestioned loyalty and dedication must be adhered to in fulfillment of mission requirements. We also cannot deny that various levels of responsibility and authority require a grade structure and pay entitlements commensurate therewith. What we do not understand, is the philosophy associated with those who perform hazardous duty and are paid differently, based on the grade structure. For instance, an enlisted man who parachutes out of an aircraft receives $55.00 a month for such hazardous duty, while an officer receives $110.00 for the same duty. Regardless of where the rank insignia is worn or the degree of responsibility of either, they are both "people" who perform exactly the same hazardous duty. The same inequitable application of principle to people is still being applied to those who perform Explosive Ordinance Duty (EOD). The enlisted people, who actually perform the duty, receive $55.00 per month, while the officer, who usually stands back and supervises the operation, receives $110.00 per month hazardous duty pay. The philosophy that it costs more to bring an officer on board and his degree of responsibility is greater will no longer hold water in today's environment. If compensation is considered the key to retention of the officer, then let it be so reflected in the basic pay.

These are but some of the issues the enlisted men and women of our association are concerned with. But, now to the issue of unionization of the military services.

Included as attachments No. 5 & 6, are papers reflecting the position of our association on the threat of unionization. Admittedly, our first position paper requested legislation to prohibit unionization, while our second statement, contained in the "Open Letter to the President and the Congress", questioned the actual effectiveness of legislation or an executive order in resolving the issue. This cautious approach was taken when various actions by the Administration and the Congress caused many of our people to consider unionization as a means of protecting their pay, benefits, and retirement.

The recent proposals emanating from the Appropriations Committees of both the House and Senate are a prime example of disregard for the impact upon morale of all segments of our military services. We continually inform our people that change to many policies, programs, and public laws are inevitable. However, as in the past, we would expect that Congressional committees would be provided the opportunity to hold hearings and render reasonable decisions for the members of Congress to vote on. Furthermore, we would expect to also be afforded the opportunity to provide inputs to such committees, either in personal testimony or in writing. To circumvent this democratic principle will, in our determination, drive members of the military toward labor unions. Chaos would set in, discipline would be challenged, command structure would be im-

periled, and our overall defense posture would deteriorate. This should never happen in America.

In closing, I will quote from a proclamation read by the President of our association at our annual convention, held in Atlanta, Georgia, during the week of July 17, 1977.

"Therefore, unless the Administration and Congress seriously consider the significant role military associations have played, and unless government leaders become more responsive to these voices, there will be only one avenue available to the members of the Armed Services in protecting their pay and benefits—Unionization. The Air Force Sergeants Association stands ready and willing to work within the system to improve management, instill pride of service, restore patriotism and preserve the image of the defenders of freedom. It is now up to the Administration and the Congress."

This concludes my statement and I now stand ready to respond to any questions you may wish to pose.

ATTACHMENT No. 1

Subject: Unionization of the Armed Forces.

1. Recent activities by labor organizations which indicate the possibility of attempts to organize military personnel are of continuing interest and concern. A nationwide referendum is currently being held within the American Federation of Government Employees [AFGE] to determine member support for an organizing drive within the Armed Forces. On 18 March 1977, the Senate Armed Services Committee began hearings on legislation which would prohibit military unions.

2. On 20 December 1976 Secretary of Defense Rumsfeld issued a policy memorandum which prohibits negotiation and bargaining over terms and conditions of military service. That policy has been reaffirmed by Secretary of Defense Brown and is quoted for your information and guidance:

Quote subject: Policy regarding negotiation and bargaining in the Armed Forces.

Lieutenant Colonel KORTE.

Unions and the labor movement have played an historic role in the economic and social development of our Nation. Within the Department of Defense, there are labor agreements covering hundreds of thousands of civilian personnel. These people contribute to the operation of the department. It does not follow, however, that the processes of negotiation and bargaining can or should be applied to U.S. Military Forces.

Members of the U.S. Armed Forces are prepared to fight—and if necessary, to die—to preserve our liberty and security. The key to effective operation of the uniformed services depends on proper functioning of the chain of command. Control, discipline, and prompt obedience to the lawful orders of one's superiors are the time-honored elements of our American military tradition. From the earliest articles of war—adopted as we fought for our freedom in the revolution—to the present Uniform Code of Military Justice [UCMJ]—U.S. Military laws and regulations have proscribed conduct that would undermine the chain of command.

Laws governing both the civilian and military communities make it clear that strikes, slowdowns, or similar job actions have no place in the Armed Forces. The UCMJ, for example, prohibits desertion, mutiny, or misbehavior before the enemy. A soldier may be punished for disrespect toward a superior officer or NCO. Likewise, failure to obey a lawful order or regulation may be punished under the code. Similar laws apply criminal sanctions to certain actions by civilians which undermine military discipline or the chain of command.

The Department recognizes the importance of providing channels for service members to present problems to the chain of command. Such procedures currently include the inspector general system and complaints under Article 138 of the UCMJ. The development by individual commanders, of open door policies, enlisted and junior officers councils, and similar programs attests to the flexibility of the chain of command in providing appropriate means for communicating complaints. There is no place in the chain of command, however, for organizations that would rely on bargaining and negotiation.

Members of the Armed Forces may join associations which promote programs for the benefit of their members, but the activities of such organization have not and must not interfere with the lawful operation of the chain of command. To the extent that military facilities are involved, commanders have the power to regulate the time, place, and manner of the activity.

To date, the vast majority of such associations have functioned on the basis of a positive relationship with the DOD and the military services. The Department anticipates that the tenor of relations with these associations as well as with those associations that might be formed in the future will continue to be constructive. The Department of Defense policy on this matter is as follows: negotiation and bargaining. No member of the Armed Forces, or civilian employee of the Department of Defense, may negotiate or bargain on behalf of the United States, with respect to terms and conditions of military service of members of the Armed Forces, with any individual, organization or association which represents or purports to represent members of the Armed Forces; nor may any member of the Armed Forces, or civilian employee of the Department of Defense, recognize any individual, organization or association for any such purpose.

3. Commanders approached by any individual or organization seeking to negotiate or bargain on behalf of a member or members of the Air Force with respect to terms and conditions of military service should immediately advise the individual or organization that commanders are prohibited from such negotiating or bargaining. The circumstances should then be reported fully in writing to HQ USAF/DP/JA with information copies to intermediate command levels.

4. Upon being approached by an individual, organization or association which seeks to solicit membership on a military installation, the commander, pursuant to his authority under section 1382 of title 18, United States Code, to deny access to, or remove individuals from military installations, should require that the soliciting individual or organization identify, in writing, the precise purposes and objectives of the organization and all information concernng the organization or proposed organization which will be communicated to those solicited. The submission should include a copy of any printed matter to be distributed and details as to the contemplated methods and procedures. These submissions together with any other relevant facts and circumstances, and the commander's evaluation will be reported to HQ USAF/DP/JA. No response to any such request will be given without specific guidance from HQ USAF/DP/JA.

5. In the event any commander learns of unauthorized solicitations of membership being conducted on his installation by any individual or organization which he believes may have as an objective negotiations or bargaining in contravention of the stated DOD policy, he will determine all relevant facts and circumstances including the information described in paragraph 4 above. The results, together with the commander's evaluation should be similarly communicated to HQ USAF/DP/JA and intermediate commands.

6. The facts and circumstances of all other efforts to solicit membership into, or establish, an organization which the commander believes may seek to negotiate or bargain in contravention of the stated DOD policy will be promptly reported as indicated above.

ATTACHMENT No. 2

LOBBY LEDGER,
Washington, D.C., February 1974.

FREEDOM OF CHOICE

The Air Force Sergeants Association "Salutes" the Honorable Arthur I. Mendolia, Assistant Secretary of Defense for Installations and Logistics, for his courage in attacking an old, traditional military philosophy which has no place in the Armed Forces today, and one that has created a morale problem among the enlisted personnel for some time.

Mr. Mendolia has recognized that the payment of Basic Allowance for Subsistance to some, while others must eat in the Dining Halls as they are provided Subsistance-in-kind, is an out-dated, antiquated system that has existed far too many years.

In his attempt to resolve the dual system, Mr. Mendolia has directed the military services to run tests at one or more installations of the system that has been in operation at Shaw Air Force Base for over a year. Recognizing that the affluent society of today, coupled with the mobility of people in the military

and the life style they seek, are the contributing factors to poor participation by the enlisted men and women at dining halls.

Under the system operated at Shaw Air Force Base, all enlisted personnel are paid their Basic Allowance for Subsistance (BAS) and food purchases in the dining halls are ordered and paid for on an a-la-carte basis. Even though prices for various foods are raised, from time to time due to increasing costs, there have been no real objections by the individuals, and participation in the program has been high.

The payment of BAS to all enlisted men and women will not only provide them with the Freedom of Choice as to where, when, and what they shall eat, but it will go far in the elimination of the disparity in treatment between the single servicemen and women and the married people.

In increases in BAS certainly are of help to married personnel, in view of the rising economy, but for the single individual who usually has to reside in the barracks and is required to subsist in the dining halls, there is no real benefit. It simply means that the government is collecting more for the increased cost of food.

It is also apparent that many of our enlisted personnel in today's Air Force often work varied hours and many hours overtime to insure mission accomplishment. Then too, many of our people go directly from work to participate in or supervise the many recreational and youth programs on our military installations, as well as in the local communities; thus, they do not have time to consume a meal in the dining hall.

It is a known fact that those men and women who are not on Separate Rations (which means they are required to eat their meals in the dining halls) and who do not or cannot eat meals at the times available, must spend their own money for such meals, and the government saves money as the result. This is an outmoded policy that must go.

The Air Force Sergeants Association has always maintained that all military personnel, whether officers or enlisted, should be treated as "People," and in today's environment, they should be given the responsibility commensurate with their military assignments.

If our enlisted men and women can work on million dollar aircraft, operate highly sophisticated electronic equipment, account for and disperse hundreds of thousands of dollars worth of supplies and equipment, protect our lives and property, and even risk their own lives in the fulfillment of our various flying missions, then certainly they can be responsible for maintaining good eating habits.

If you agree with our position on this important issue—then act now. . .

Write a short, courteous letter to: The Honorable Arthur I. Mendolia, Assistant Secretary of Defense for Installations and Logistics, Washington, D.C. 20331.

Please write a simple, short, courteous letter rendering your full support of his test programs, stating emphatically your position on the issue. We all want to receive payment of BAS (Basic Allowance for Subsistence) and be provided the opportunity to choose when, where, and what we shall eat.

If you do not receive a response from Mr. Mendolia, please do not get uptight—we do not want to take any time away from Mr. Mendolia or his staff in his efforts to resolve this issue.

Don't just talk about it—Write that letter today!

Yours in dedication and service,

AFSA Legislative Committee.

Attachment No. 3

Lobby Ledger,
Washington, D.C., February 1975.

The BAS Issue

Remember our Lobby Ledger of February 1974, titled, "Freedom of Choice"? Do you recall the statement by The Honorable Arthur I Mendolia, Assistant Secretary of Defense for Installations and Logistics, recognizing that the payment of Basic Allowance for Subsistence to some, while others must eat in the Dining-Halls, as they are provided Subsistence-In-Kind, is an out-dated, antiquated system that has existed far too many years?

AFSA rendered a "salute" to Secretary Mendolia for his courage in attacking an old, traditional military philosophy.

Our "Freedom of Choice" Lobby Ledger is recorded in the Congressional Record, an article appeared in the Air Force Times, and it is also a matter of record with the Defense Manpower Commission, established by the 93rd Congress.

In December 1974, Secretary Mendolia published a rather extensive article in the Department of Defense (DoD) Commanders Digest. Extracts from that article appear below:

"Records show that only about 33 percent of enlisted personnel are currently using military dining facilities while 52 percent are drawing BAS (basic allowance for subsistence) for separate rations. The remaining 15 per cent are authorized to use dining halls but are absent from meals.

"Today's enlisted volunteer is more affluent and mobile and wants a choice as to where, when and what he eats. He doesn't want to be tied to the dining hall."

If you refer back to our Lobby Ledger, this extract from the Secretary's article is significant.

"It has been proposed that all enlisted personnel be given a basic allowance for subsistence and that they be allowed to spend it as they see fit."

He goes on to say that dining halls would then be run much like commercial cafeterias with each item taken and paid for on an a la carte basis. The Air Force has successfully pioneered this BAS/a la carte system at Shaw Air Force Base, South Carolina, and he has asked each of the other services to test it at least at one installation.

The Secretary is concerned not only because the system appears to be more compatible with the life style and desires of today's enlisted personnel but also because it eliminates irritants and problems associated with the present system, requires better inventory control, reduces food waste, provides better management and budget control and shifts more of the responsibility to the individual to feed and care for himself. Of equal importance is that this system provides much greater flexibility in the management of our food service program and would permit possible adjustments by DoD to achieve some of the reductions in budget expenses originally mentioned.

In addition, he points out it is important to realize that there are factors external to the food service area which may have more impact on the food service system than those factors within food service. Continued budget limitations, the desire to reduce expenses, and changes to the military pay system are some of the factors capable of resulting in changes to our food service system.

The Natick Laboratories is scheduled to play a significant role in these BAS/a la carte tests under the DoD Food RDT&E program and is presently assisting each service in scheduling these test procedures. Natick will also assist in conducting surveys, monitoring the tests and evaluating results.

We are indeed grateful to Secretary Mendolia for his willingness to relate to today's young people in our military services. We also wish him "God Speed" in his determined efforts to acquire a food service system that will greatly enhance the attractiveness of a career in the Armed Services.

As we said before, if our enlisted men and women can work on million dollar aircraft, operate highly sophisticated electronic equipment, account for and disperse hundreds of thousands of dollars worth of supplies and equipment, protect our lives and property, and even risk their own lives in the fulfillment of our flying missions, then certainly they can be responsible for maintaining good eating habits. *They want the freedom of choice.*

Yours in dedication and service.

DONALD L. HARLOW, CMSAF, Ret.,
Director of Legislation.

ATTACHMENT NO. 4

AIR FORCE SERGEANTS ASSOCIATION,
Washington, D.C., May 19, 1977.

Vice Adm. JOHN G. FINNERAN,
Deputy Assistant Secretary of Defense, Pentagon, Room 3C963, Washington, D.C.

DEAR ADMIRAL FINNERAN: In response to your letter of April 28, 1977, we are most appreciative of your detailed analysis of the dishonored check problem and providing information as to what the services and commanders are doing in an attempt to alleviate the problem.

Please understand we too dislike the lack of a sense of responsibility by many members of the military, both officers and enlisted, who knowingly deceive various non-appropriated fund activities by writing a check that is not covered by adequate funds. We also appreciate the fact that oftentimes a first time offender did not purposely intend to defraud any business agency but such error was caused by an honest mistake in the accounting for funds supposedly available to cover the check. Where restitution is made promptly, the individual should be exonerated of any wrong doing.

We are very much concerned about the statute applying only to the enlisted members of the Army and Air Force remaining in force. Commanders, First Sergeants and supervisors must adhere to the law, thus while the Department of Defense is studying the entire problem, the inequity of the application of the law remains.

While we acknowledge that the dishonored check problem is serious, placing an additional, unwarranted workload upon commanders, and is costly to both the government and the individual, we would request that action be taken, without further delay, to remove the present inequitable statute while the Department of Defense reaches some conclusions as to the best course of action to adequately cope with the problem.

Anxiously awaiting your response, I remain,

Yours in dedication and service,

DONALD L. HARLOW,
Director of Government Relations.

ASSISTANT SECRETARY OF DEFENSE,
Washington, D.C., April 28, 1977.

Chief M. Sgt. DONALD L. HARLOW,
U.S. Air Force Retired,
Director, Government Relations, Air Force Sergeants Association, International Headquarters, P.O. Box 31050, Washington, D.C.

DEAR SERGEANT HARLOW: This is in reply to your letter of March 15, 1977, regarding 37 U.S.C. 1007 which permits the involuntary withdrawal of pay only from enlisted members of the United States Army and United States Air Force in order to satisfy dishonored checks issued by them to the Army and Air Force Exchange Service (AAFES), and other non-appropriated fund activities but does not do so for other enlisted personnel or for officers.

At the request of the Office of the Secretary of Defense the Department of the Army drafted a legislative proposal, which would permit involuntary collection from the pay of officers and enlisted members of all of the Armed Forces for dishonored checks. This particular approach to the differences in treatment between Services and between enlisted and officer personnel is currently being evaluated in the Office of the Secretary of Defense. The Department of the Air Force has recommended several changes to the draft proposal. The Department of the Navy opposes it and has recommended several major changes.

Our review of this particular proposal is being made in the context of the larger problem of bad checks in nonappropriated fund activities. As you know there are many courses of action, both legal and administrative, available to the military services to cope with the situation created by the failure on the part of some military personnel to honor checks issued by them or their dependents. Commanders have the administrative authority to restrict commissary store and exchange shopping benefits of active duty, dependent, or retired persons whose checks are not honored. Commanders may initiate, under the Uniform Code of Military Justice, swift and vigorous prosecution of active duty members who violate their bond.

We are finding that the Services have been implementing a number of actions designed to reduce the size of the dishonored check problem. For example AAFES-Europe now requires the members it serves to sign a "collection consent agreement" as part of their check-cashing routine. The agreement authorizes AAFES-Europe to garnish the pay of all servicemen, regardless of grade, up to the amount of any bad checks that they may cash. February, 1977, statistics show this has led to the lowest total of bad checks in at least 14 months. AAFES-Europe expects further reductions in bad checks when a new system of electronic verification devices is in full operation. These devices, which have greatly reduced the number of bad checks cashed in state-side AAFES, are being installed in four major troop centers in Germany.

The Army is developing a third initiative, a new command information program on financial responsibility including check handling. Until the program is developed, commanders are being encouraged to establish their own programs to teach personnel how to maintain checkbooks and of their obligations to pay bills on time. The importance of such a program is reflected in the statistics of a recent survey at four major stateside posts. The survey showed that 96 percent of bad checks were cashed by enlisted personnel, four percent by officers. The fact that 79 percent were first offenders suggests that most bad checks are inadvertent and that a most important corrective action is to teach military personnel how to maintain a checkbook.

Consistent with this the Army has also initiated another approach to the bad check problem. Offenders are given seven days from the time of notification to redeem a bad check. If the bad check is not brought back within seven days, the member's ID card is overstamped and check-cashing service suspended for six months. A second offense in less than one year will bring a full years suspension of check-cashing service if the check is redeemed within the seven-day period. If this second check is not redeemed in the seven-day period, check-cashing services are suspended indefinitely. Other actions against repeat offenders are increasingly severe. They range from reprimands and efficiency report comments, to non-judicial punishment, courts-martial, or separation from the service. Similar actions and procedures for handling the bad check problems have been implemented by the other Military Departments.

In summary, the bad check problem must be viewed within a total system framework. Changes in one area impact on another area. As we have taken various actions to solve the overall problem, we have had to carefully analyze the results of these separate actions. Based on actions taken to date, it is no longer clear that legislation which would permit involuntary withdrawal of pay from all enlisted personnel, and from officers as well, is appropriate. Early indications from the initiatives I've described suggest that legislation which would remove the statute which now exists may be an equally desirable or preferable alternative.

For the above reasons, we intend to complete our evaluation of the dishonored check problem and initiate the legislative changes we find consistent with problem resolution, and in the best interests of military personnel.

I hope this description of the considerations we find significant for the question of how best to change the current statute will help you to better understand our interest in arriving at the most appropriate solution to the overall problem.

Sincerely,

JOHN G. FINNERAN,
Vice Admiral, USN,
Deputy Assistant Secretary of Defense.

ATTACHMENT NO. 5

LOBBY LEDGER,
Las Vegas, Nev., August 6, 1975.

THE VOICE OF AFSA IN CONVENTION

At the beginning of the Legislative Committee Meeting during the association's 1975 Convention, the President of AFSA, CMSgt M. E. "Mike" Hammer, introduces two position statements to delegates in session from Chapters throughout the world.

The first statement concerned the recent proposal by the AFGE to unionize the military.

President Hammer stated, "Prior to turning the chair over to the acting chairman and co-chairman of the Legislative Committee—I have two items of business I deem essential to bring to your attention and to ask for your vote of confidence.

The two issues to be presented are specifically 'Position Papers' which, if approved, will be released to the news media immediately expressing the hopefully unanimous decision of you delegates from around the world as you convened in session at the Air Force Sergeants Association in Las Vegas, Nevada.

Unionization of the military is a real threat to the future defense of this nation, and while we have already gone on record to the Chief of Staff of the United States Air Force opposing such action—a special meeting was convened on 3 Aug-

ust for the purpose of developing a more positive statement on the issue. At this time I would ask our Director of Legislation to please read the "Position Paper.' "

AFSA STATEMENT OF POSITION ON UNIONIZATION OF THE ARMED FORCES

While fully recognizing the right of the people to free association guaranteed by the First Amendment to the United States Constitution, the Air Force Sergeants Association *vigorously* opposes any unionization of military personnel into a collective bargaining unit to be represented by a labor organization in negotiations with the people of the United States whom we proudly serve, our Commander-in-Chief, our elected representatives, and other governmental authorities. We not only oppose any legislative or executive action which might permit any labor organization to be recognized as a collective bargaining agent for members of the Armed Forces, but we urge *enactment* of specific legislation and promulgation of Presidential Executive Orders to *prohibit and prevent* any such possibility. It is firmly believed that such unionization would be contrary to the requirements of good order and discipline in the Armed Forces and the national security interests of the United States.

Presidential Executive Order No. 11491 of October 29, 1969, as amended, creates procedures for union representation of federal civil service employees. That Executive Order wisely excludes from its applicability such essential civilian organizations as the FBI, CIA and other units involved in national security. Reasons for excluding vital civilian organizations apply with greater force to our military services.

The reasons for such exclusions have been reaffirmed by recent international developments requiring that there be no limitations whatsoever upon the ability of the Armed Forces to respond swiftly and successfully to any military challenge to our nation's vital security interests. The command structure and disciplinary fabric of the United States Air Force must be strengthened and reinforced to meet all foreseeable challenges to America's security. Unionization tears at the very heart of command authority and military discipline and cannot be countenanced by a free society which requires highly disciplined Armed Forces to insure its freedom.

In the introduction of the second statement, President Hammer said, "The continual erosion of promised benefits, coupled with the threat of further reduction in the retirement system and the possible integration of Social Security with retirees pay has been of major concern to our association.

Recent court cases in California pertaining to incentive pays promised to Naval enlisted personnel resulted in a decision in favor of the complainants.

Just recently the Department of Defense published a directive that basically directs a statement be entered on all future enlistment papers which says "All benefits are subject to change without notice." Our concern and position on this issue is contained in the following positon paper which will now be read."

POSITION STATEMENT ON UNFAIR ENLISTMENT APPLICATION PROVISIONS

The Air Force Sergeants Association views with increasing concern and alarm attempts to erode economic and other benefits which are contractual in nature and have long provided incentives for military service. Added impetus for such present and future erosion has been given by recent Department of Defense action requiring as a condition of enlistment and reenlistment that individuals sign a written statement to the effect that all benefits are subject to change without notice. This, in effect, requires an advance written waiver of what might otherwise be determined judicially by the courts to be unalterable contractual rights.

The Air Force Sergeants Association deplores this new and manifestly unfair administrative practice and urges that it be promptly rescinded by appropriate Executive Order or Congressional enactment.

A UNANIMOUS VOTE OF CONFIDENCE WAS LOUDLY PROCLAIMED ON BOTH STATEMENTS BY ALL IN ATTENDANCE

The final statement by President Hammer was, "In addition to immediate release to the radio and press—I have directed the chairman of the Legislative Committee to pursue both position statments further and to prepare a Lobby Ledger for the widest distribution possible. When you receive copies of the Lobby

Ledgers in your Chapters—I would urge you make further distribution to the maximum extent.

ATTACHMENT No. 6

AN OPEN LETTER TO THE PRESIDENT AND THE CONGRESS

Because the Administration's proposed Fiscal Year 1977 budget, in their understandable preoccupation with much needed weapons systems, fails to give proper weight to the human factor of national defense, and

Because many appointed and elected officials have yet to grasp the idea that a career in the military is unique, and that, unlike the great majority of jobs in the civilian sector, it requires complete dedication and loyalty on the part of the individual, and for the most part, involves the entire family, and

Because continuing attacks on the entitlements and traditional benefits of those who are charged with the defense of this nation are creating morale problems and casting further doubt on future career opportunities in the military,

The Air Force Sergeants Association is vitally concerned with the future character of our armed services, and the course that will be pursued by various labor unions in seeking to represent the men and women in uniform through collective bargaining.

AFSA, along with other military organizations, supports and adheres to the principles contained in the oath administered to every individual entering the service—"full obedience to command, loyalty to this nation and a stated obligation to serve anywhere, at any time, to protect and preserve the freedom of America." To compromise this sacred trust would destroy the very foundation upon which this nation was conceived.

The recent introduction of bills by Senator Strom Thurmond (R–S.C.) and Representative Floyd Spence (R–S.C.), to prohibit unionization of the armed forces is a well-intentioned move on the part of the distinguished Congressmen and their co-sponsors. As admirable as their objectives may be, however, many questions have been left unanswered.

While we recognize the contributions organized labor has made to the progress of America, we have stated our vigorous opposition to any labor union acting as a "collective bargaining agency with those we proudly serve—our Commander-In-Chief, our elected officials and other constituted governmental authorities. The military services, by the very nature of their missions, do not lend themselves to many of the rules and regulations associated with labor unions.

There can be no limitations whatsoever upon the ability of the armed forces to respond swiftly and successfully to any military confrontation which could jeopardize this nation's security. The command structure and disciplinary fabric of the armed forces must be continually strengthened and reinforced to meet all foreseeable challenges to the freedom of America. This is our heritage.

The first amendment to the Constitution prohibits Congress from passing laws which deny the rights of free speech, free press, as well as the right to assemble and petition. The Supreme Court stated the first amendment constitutes the cornerstone of our democratic system of government. It is questionable that any statute or Executive Order could constitutionally prohibit military personnel from joining a labor union.

Therefore, unless the Administration and the Congress seriously consider the significant role military associations have played; and unless government leaders become more responsive to these voices, there will be only one avenue available to the members of the armed services in protecting their pay and benefits, similar to what labor unions are achieving for their members through collective bargaining. The recent settlement of the nation's trucking industry is a prime example.

Associations, such as AFSA do not seek preferential treatment, nor do we place unreasonable demands upon our lawmakers. We fully support modernization of the military forces, and carefully consider other essential government programs necessary in building and maintaining a stable and progressive American society. We only urge that management consider the potential negative impact of decisions they are now making and act positively and decisively, while there is still time to stop any movement which, once started, could have a profound effect on the character of our military forces and the security of our great nation.

America's military men and women are recognizing more each day that they must now speak out in their own behalf. The Administration and the Congress have a choice to make now—which spokesmen do they prefer? We ask that this be a conscious decision, that they stand up and be counted. The potential impact on our future security is too great to permit a decision by inaction or default.

AIR FORCE SERGEANTS ASSOCIATION,
Washington, D.C.

Chairman STENNIS. Senator Thurmond, I will call on you.

Senator THURMOND. Mr. Harlow, we are glad to have you with us. You were a chief master sergeant?

Mr. HARLOW. Yes; I was the second chief master sergeant of the Air Force.

Senator THURMOND. Now, the Air Force Sergeants Association was an early supporter of legislation to prohibit unionization of the military, I believe.

Mr. HARLOW. That is correct.

Senator THURMOND. I received a letter in early April 1976 from this support of S. 3079, my bill introduced on March 4, 1976.

Does your association still support the legislative approach and would you care to say anything else?

Mr. HARLOW. Senator Thurmond, I am going to be honest with you, we heartily support any action that prohibits unionization of the military because we feel that would be the beginning of the destruction of the military concept and the defense of this Nation. However, we question, because of the activities and because of the things that have taken place and the statements that are made here on Capitol Hill and within the administration, whether legislation or anything else is going to actually stop unionization if people get disenchanted.

There is considerable unrest among our people in the field. They don't know what is going to happen. There are many highly qualified senior noncommissioned officers who are retiring within the next 6 months. They want to get out before anything serious happens that affect their retirement that they have worked many years to attain.

The recruiting is getting much more difficult, because the recruiting people, ask, what can you tell them, what can you promise them? Things are changing. They don't know what is going to happen. They don't know what is coming up. These issues are the type of issues that unions love to grab hold of. This is their bread and butter.

Senator THURMOND. As I construe your statement, the Air Force Sergeants Association is opposed to the unionization of the military, but from a realistic standpoint they do feel unless proper consideration is shown to the military people that there will be a push or strong effort to bring about some kind of organization, maybe unions, to appreciate what they want. Is that in agreement with what you said?

Mr. HARLOW. That is correct, Senator. When I say we are opposing unions, we do not oppose the unions per se in that terminology.

Senator THURMOND. Union goals?

Mr. HARLOW. We oppose actually the collective bargaining feature of a labor union within the military.

Senator THURMOND. Your organization now is an association.

Mr. HARLOW. We are an association.

Senator THURMOND. You are not a union. In other words, you do not advocate collective bargaining. Unions advocate collective bargaining. You do not advocate strikes.

Mr. HARLOW. No, sir.

Senator THURMOND. Unions advocate strikes. So there is a big difference in an association that is advocating certain principles for the good of the country, as they see it, from the union which will take drastic action.

Mr. HARLOW. That is right, sir.

Senator THURMOND. If they feel it necessary.

Mr. HARLOW. I would like to just reiterate one thing. Several times in visits to the fields I have talked to various commanders and officers out there and I spoke to one commander one day who saw no threat, no way that unionization would take place in the military, and he really had no concern about it, and I asked him this question:

Colonel, if you came to the office one morning and your maintenance officer said there are no enlisted people on the line and you asked where they were, they are all down at the hospital on sick call, what would you do?

I would go down and order them back to work.

Colonel, you are not a doctor. You might order a few of them back to work. You might order them all back to work. One of them might die of a heart attack and one may be more seriously ill. You are over-stepping your bounds as a commander because you are not a doctor.

These are things which could happen in the military if a union got in.

Chairman STENNIS. Excuse me, I am sorry I have to interrupt you. I must go. The bill will be on the floor in just a very few minutes. Senator, continue the hearings as long as you see fit, you or any other member. I would announce a hearing tomorrow if we had witnesses ready or if I knew more about what our situation is going to be. I may have to be at an Appropriations Public Works Conference tomorrow.

[Discussion off the record.]

Senator THURMOND [presiding]. Now in your capacity as Government Relations Director, approximately how many air bases do you visit each year?

Mr. HARLOW. Well, I try to curtail my travels, Senator, because of my work here, but I would say anywhere from 8 to 10 a year.

Senator THURMOND. Would you care to estimate the number of Air Force noncommissioned officers you have spoken with on the issue of unionization of the Armed Forces?

Mr. HARLOW. Between letters I receive and people I talk to personally, I would say my own personal experience should be within 700 or 800.

Senator THURMOND. What are their views on the issue? Other than what you have just testified to, is there anything you want to say?

Mr. HARLOW. Their statement is very simply if Congress and the administration do not stop what they are doing we are going to have unions.

Senator THURMOND. Now, the Secretary of Defense in March saw no viable threat to unionize the military. Do you see a threat and present danger to unionize our Armed Forces?

Mr. HARLOW. I very definitely do, sir.

Senator THURMOND. Would you care to elaborate any on that?

Mr. HARLOW. Again, the actions that have taken place, published in the newspaper, the civilian population are reading articles about the high cost of retirement and how the military is robbing the Treasury

and things like that, with little understanding of the military. There are many civilians out there who still think we do not pay taxes, that we have free postage. Some people even think we get overtime pay in the military. There is a very great lack of understanding of the military service itself, and these are the things that are contributing to this whole picture.

Senator THURMOND. Do you believe that the Defense Department directive which does not prohibit military membership in unions can effectively stop unionization of the military?

Mr. HARLOW. No, sir, I do not believe that anything could actually stop it, if people decide they are going to unionize or decide they are going to join a union.

Senator THURMOND. Unless you have a law?

Mr. HARLOW. It is going to have to be a strong one.

Senator THURMOND. Do you believe that a Defense Department directive which passes the buck to field commanders can be effective in preventing unionization of the military?

Mr. HARLOW. I think it can, if the commanders use the authority judiciously and with compassion and understanding as to the situation that they find themselves in under the present action of curtailment and funding, and so forth, and make a considered effort to keep a communicative effort with their people, so that they will understand what is happening and not have this fear in their mind all the time.

Senator THURMOND. Speaking specifically to the issue of collective bargaining, why does the Air Force Sergeants Association oppose such a procedure in the military?

Mr. HARLOW. There is no place in the military for collective bargaining. You destroy discipline and chain of command, the procedures that made this Nation great and made our services the greatest in the world.

Senator THURMOND. What effects do you feel unionization of the military would have on our Armed Forces?

Mr. HARLOW. It would destroy them.

Senator THURMOND. Our Nation's defense?

Mr. HARLOW. Anything that you get into in the collective bargaining area, weakens the entire system, especially the military.

Senator THURMOND. Now I understand Mr. Kenneth Blaylock, president of the American Federation of Government Employees, proposed this year an affiliation between the AFGE and the Air Force Sergeants Association. Would you care to comment further?

Mr. HARLOW. Yes, sir, I had lunch with President Blaylock for the purpose of sitting down and discussing how the union would approach various issues that we also were concerned with. It was my concern as representative of the association to determine what is the difference between us, and a union and as a result of that during the conversation it was recommended by President Blaylock that we affiliate.

In my position, which is strictly spokesman for the association's Government relations, I made no commitment and, of course, our president and governing body stood firm on their opposition to unionization or affiliating with any unions.

Senator THURMOND. Do your officials feel the Air Force Sergeants Association could end up as the vehicle to unionize the military under the concept of affiliation?

Mr. HARLOW. I doubt very much if that would happen within our association or as a part of our association.

Senator THURMOND. It is my understanding the Air Force Sergeants Association turned down the offer of Mr. Blaylock for affiliation?

Mr. HARLOW. That is correct.

Senator THURMOND. Do you have anything further to say on that?

Mr. HARLOW. No, sir.

Senator THURMOND. Was there anything else you would like to bring to the attention of the members of this committee?

Mr. HARLOW. I would just like to say this, Senator Thurmond: We are in very critical times, we realize this, but we also are quite knowledgeable of many things that are happening in this country and where funds are being spent. The President has asked for increased funding for foreign aid, they are continuing to bring aliens to this country, many of which are going on welfare, consuming a lot of the taxpayer's money, draining a lot of money out of the Treasury.

There are many programs that have to be looked at because these are what people in the military are looking at and say why are we the vulnerable ones to be hit and cut and these programs continue to exist and build up at cost to the Treasury and to the taxpayers. These are the things that our people are concerned with and I think we have to take a serious look at the entire broad picture rather than one particular segment, which is our military. These are very critical times.

With that, I thank you very much for the opportunity of being here.

Senator THURMOND. I want to thank you very much, Chief Master Sergeant Harlow, for your appearance here, speaking on behalf of yourself and as Government Relations Director, I believe, for the Air Force Sergeants Association.

Now, if there is no objection we will take a recess for about 15 or 20 minutes. I have to go over to the Capitol for a few minutes. Mr. Nolan, would you mind waiting?

Mr. NOLAN. Certainly not. It would be my pleasure.

Senator THURMOND. If there are any other witnesses who wish to testify we can hear them when I return. We will take a recess for a brief period.

[Brief recess.]

Senator THURMOND. Chief Master Sergeant Harlow, I wanted to ask you this question.

Wouldn't it be better to have one simple national policy on unionization of the military rather than to have each local commander try to make subjective judgments on this issue?

Mr. HARLOW. Mr. Chairman, I would say on an issue of this significance and importance that it could have a devastating effect upon our future defense forces. To leave this type of a situation up to individual commanders would be extremely detrimental.

There has to be a strong national policy, there has to be a firm policy every commander must adhere to. At the same time, though, I think the legislation or the law must have the flexibility of taking care of the exceptions because in every case or every situation there are those exceptions that must be considered.

But I do not think they could support leaving it up to the individual commanders because then you get variation among services, you get

a variation among commanders with bases or installations in the same community, and I do not think that I could support that, sir.

Senator THURMOND. One thing about the military, in the past it has had uniformity, hasn't it?

Mr. HARLOW. Yes, sir.

Senator THURMOND. Within the services. And then regulations that apply to all the services also have uniformity.

Now, let me ask you what was Mr. Blaylock's purpose in offering affiliate status to the Air Force Sergeants Association?

Mr. HARLOW. Mr. Chairman, if I was president of a union I think it would be awfully nice to take and pick up a big membership all of a sudden with good dues coming in, plus the fact that I would think President Blaylock, if I recall in some of his press statements, said they are really not too excited about the military because they do not know too much about it, and I think if they found that any of us would affiliate with them they would have an expertise that would be quite valuable to them, and I further think if I was in his position I would probably offer the same.

Senator THURMOND. Thank you very much, again. We thank you for your presence here and the testimony you have given, which will add greatly to this record.

Mr. HARLOW. Thank you.

Senator THURMOND. Next we will hear from Robert W. Nolan, national executive secretary of the Fleet Reserve Association.

Mr. Nolan, if it meets your approval suppose we insert your entire statement in the record at this point and then let you elaborate on any main points. I will then propound some questions, if this is agreeable.

STATEMENT OF ROBERT W. NOLAN, NATIONAL EXECUTIVE SECRETARY, FLEET RESERVE ASSOCIATION

Mr. NOLAN. That is certainly agreeable, Senator Thurmond.

Senator THURMOND. Without objection, that will be done, the entire statement will go in the record.

[The prepared statement of Robert W. Nolan follows:]

PREPARED STATEMENT OF ROBERT W. NOLAN

INTRODUCTION

Mr. Chairman and members of this distinguished Committee: I am Robert W. Nolan, National Executive Secretary of the Fleet Reserve Association. The FRA is a service organization comprised of enlisted personnel and commissioned officers who have prior enlisted service, active duty and retired, of the United States Navy, Marine Corps and Coast Guard. FRA's membership as of 30 June 1977 stands at 133,253 members. Approximately one-third of these are serving on active duty in our nation's Sea Services. As a retired Navy Chief Petty Officer with twenty-one years of active duty service, I deem it a privilege to appear before you as their spokesman regarding the very real threat of the unionization of military personnel.

FRA'S ROLE IN THE MILITARY UNIONIZATION ISSUE

The Fleet Reserve Association has been in the forefront of the military unionization issue since the June 27, 1975 edition of "The Wall Street Journal" reported that the American Federation of Government Employees (AFGE) was studying the possibility of unionizing military personnel. After confirming the

report, our National President appointed a special national committee to, "research, investigate and determine what action the FRA should take," regarding the issue.

This special national committee reported to the FRA's 1975 national convention. Its report was the first order of convention business. The Committee recommended the FRA oppose military unionism. The delegates assembled unanimously approved the recommendation and approved the following actions:

1. Adopted a strong resolution opposing military unionism;
2. Amended the FRA's membership eligibility rules extending membership to every enlisted person serving on active duty in the Navy, Marine Corps and Coast Guard;
3. Approved a sum of $112,000 to finance opposition to military unionism by "all responsible means," and
4. Increased FRA's membership dues from $10 to $12 annually to finance the opposition to military unionism.

The national convention's action was published in a brochure, "Do Military Personnel Need A Union?." A copy of the brochure was mailed to Administration officials, all members of the U.S. Congress, Department of Defense officials, the senior civilian and military leaders of each Service and the Nation's news media.

WHY A MILITARY UNION IS WRONG FOR ENLISTED PERSONNEL

Mr. Chairman, previous witnesses have testified as to the reasons why military unionization would be wrong for our Nation. They have cited the obvious peril to the security of our Nation, the breakdown of command authority and the certain erosion of military discipline. The Fleet Reserve Association fully agrees with this reasoning. However, permit me to cite some practical realities of military unionism and why it is wrong for our enlisted personnel.

Unionism, explained in its simplest terms is "labor versus management". In private industry this demarcation line can be clearly defined. But within the military organization, this is not the case. When the military press asked Mr. Kenneth Blaylock, National President of the AFGE, about this point, he replied, ". . . anything above about E–4 would fall into management."

In the Navy, we have personnel in pay grade E–3 serving as "leading seamen" and the Marine Corps has pay grade E–3 personnel serving as "squad leaders". All personnel in pay grade E–4 (Sergeants and Third Class Petty Officers) are truly the first echelon of the military management. As personnel advance in pay grade they assume more leadership responsibility and their role as a supervisor increases accordingly. Another factor, is that in the military, it is not uncommon for personnel of lower pay grade to perform in the billet normally manned by a senior pay grade. Therefore, it is doubly difficult to define labor vs. management in the Navy. Despite, Mr. Blaylock's answer, we don't believe the AFGE would be content with only the first two pay grade personnel as members.

The FRA questions the AFGE's ability to serve military personnel effectively. For a union which currently represents civilian Federal employees to believe it could effectively represent a military constituency, flies in the face of reality and logic. The Federal civilian employees and military personnel as groups are in fierce competition for the same personnel dollars which Uncle Sam decides to spend. Any union purporting to effectively serve and represent both groups would soon find itself a house divided. You cannot serve two masters.

The American Federation of Government Employees would have military personnel believe it helped to gain increases to military basic pay. I have been on the Washington scene for fifteen years and have not seen an AFGE spokesman testify in behalf of military personnel. The only times the AFGE has been active in military personnel matters, their actions have been detrimental to the welfare of military personnel. For example:

1. The establishment of veterans preference for military retirees under the Dual Compensation Act. (P.L. 88–448) regarding reduction-in-force.
2. The required forfeiture of earned military retired pay for retired Regular commissioned officers under the same law.
3. The 180-day hiring ban by the Department of Defense which affects only military retirees.
4. The civilianization of military billets which has particularly harmed the Navy's sea to shore duty rotation program.
5. Please note that the AFGE remains smugly silent on the issue of "double-dipping".

These examples, clearly demonstrate that a civilian controlled Federal employee union would have little empathy for enlisted personnels' problems if the solution to those problems creates a conflict of interest for the union.

It should be obvious to one and all that the driving motivation behind AFGE's move to unionize the military is not true concern for the welfare of military personnel. AFGE's primary motivation is a recognition that the Armed Forces constitute a potential membership reservoir of two million members!

The Fleet Reserve Association sincerely believes the unionization of the Armed Forces will be a "rip-off" of enlisted personnel. The AFGE will use the service personnels' dues income and the "muscle" of its military numbers to gain power for its primary goal of enhancing the welfare of its civilian membership!

FRA'S "WHITE HATS' PAY PANEL"

During the month of June 1977, the FRA's "White Hats' Pay Panel" held public hearings in Charleston, South Carolina, Sunnyvale, California and Honolulu, Hawaii. We invited active duty personnel of all Services to appear and testify as to their views on military compensation, retirement and unionization. We are fortunate in having Lieutenant General Leo E. Benade, USA (Ret.), former Principal Deputy Assistant Secretary of Defense for Military Personnel Policy, and Mr. John R. Blandford, former Chief Counsel of the House Committee on Armed Services serve on the Panel. During these three hearings we heard seventy-three witnesses. They ranged in pay grade from E–2 through E–9 and the witnesses' lengths of service spanned from one to twenty-nine years of service. These witnesses, to a man, expressed the view that no one in the military hierarchy, the Administration or the Congress is endeavoring to speak in their behalf and protect their interests. They are bewildered and angered by the erosion of benefits and they fear an uncertain future in retaining the personnel benefits they have today.

On the subject of military unionization, a few witnesses speaking in behalf of their contemporaries said they would join a union "tomorrow if one was available." The majority of the witnesses stated they did not think a military union would be good for the military, BUT—if things do not change in the area of stabilizing personnel benefits in the foreseeable future, they would be forced to join a union for the protection of their interests.

THE FRA'S RECOMMENDATIONS ON MILITARY UNIONISM

The Fleet Reserve Association's analysis of the unionization of the military issue reveals two problems which must be resolved quickly:

1. To prohibit the formation of a military union, and
2. To dispel the enlisted personnel's perception that they need a union to protect their earned benefits.

Throughout, the two years that unionization of the military has been an issue, the Department of Defense's answer to the problem is to promulgate a new directive that will pass the buck of controlling unions to the local military commander. Such a directive will permit a military union to be formed! Once a union is formed, the next step is negotiations and collective bargaining.

What must be done is to enact a law prohibiting: (1) membership in a military union, and (2) union organizing activities. Then, let the Department of Defense promulgate a directive in compliance with the law. Only in this manner, will we prohibit unionization of the military.

To dispel the enlisted personnel's perception of a need for a union to protect their welfare, the military leaders, Administration officials and the members of the Congress should demonstrate true concern for the welfare of military personnel and their families in meeting the challenges of the increasing costs and personnel requirements for our nation's defense. Stop piecemeal legislation by amendment. Level with the troops, they realize that changes in personnel benefits will be made. BUT—make those changes with equity!

CONCLUSION

Mr. Chairman, in conclusion, the Fleet Reserve Association has represented career military personnel for fifty-three years. We plan to pursue our mission in the same manner as we have in the past: by always placing the interests and the defense of our nation first. As career enlisted personnel, we understand

and appreciate our representative form of government. That is why we chose a military career, to assure in a small way that our government will continue to prosper.

On behalf of my 133,253 Shipmates, I thank you for the opportunity to express our views today. I stand ready to answer any question to the best of my ability.

Mr. NOLAN. The first point I would like to cover this morning is that I am a retired Navy chief petty officer with 21 years of active service in the U.S. Navy.

The next point is the FRA role in the military unionization issue. The Fleet Reserve Association has been in the forefront of the military unionization issue since the June 27, 1975, edition of the Wall Street Journal reported that the American Federation of Government Employees (AFGE) was studying the possibility of unionizing military personnel. After confirming the report, our national president appointed a special national committee to "research, investigate and determine what action the FRA should take" regarding the issue.

This special national committee reported to the FRA's 1975 national convention. Its report was the first order of convention business. The committee recommended the FRA oppose military unionism. The delegates assembled unanimously approved the recommendation and approved the following actions:

One: Adopted a strong resolution opposing military unionism;

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Three: Approved a sum of $112,000 to finance opposition to military unionism by "all responsible means," and

Four: Increased FRA's membership dues from $10 to $12 annually to finance the opposition to military unionism.

The national convention's action was published in a brochure, "Do Military Personnel Need a Union?" A copy of the brochure was mailed to administration officials, all members of the U.S. Congress, Department of Defense officials, the senior civilian and military leaders of each service and the Nation's news media.

Mr. Chairman, previous witnesses have testified as to the reasons why military unionization would be wrong for our Nation.

Senator THURMOND. Are you reading your statement?

Mr. NOLAN. Yes, sir, a couple of points here.

Senator THURMOND. That you want to emphasize?

Mr. NOLAN. Yes, sir.

Senator THURMOND. There would be no use to read the whole statement because we are going to put it in the record.

Mr. NOLAN. The points I am endeavoring to emphasize have not been emphasized in the previous testimony, to the best of my knowledge.

Senator THURMOND. You may proceed.

Mr. NOLAN. They have cited the obvious peril to the security of our Nation, the breakdown of command authority and the certain erosion of military discipline. The Fleet Reserve Association fully agrees with this reasoning. However, permit me to cite some practical realities of military unionism and why it is wrong for our enlisted personnel.

Unionism, explained in its simplest terms, is "labor versus management." In private industry this demarcation line can be clearly defined.

But within the military organization, that is not the case. When the military press asked Mr. Kenneth Blaylock, national president of the AFGE, about this point, he replied, "* * * anything above about E–4 would fall into management."

In the Navy we have personnel in pay grade E–3 serving as "leading seamen" and the Marine Corps has pay grade E–3 personnel serving as "squad leaders." All personnel in pay grade E–4—sergeants and third class petty officers—are truly the first echelon of the military management, so it is kind of difficult to see how you would be able to draw the line by pay grade in the military.

Another factor, it is that in the military it is not uncommon for personnel of lower pay grade to perform in the billet normally manned by a senior pay grade.

The FRA questions the AFGE's ability to serve military personnel effectively. For a union which currently represents civilian Federal employees to believe it could effectively represent a military constituency, flies in the face of reality and logic. The Federal civilian employees and military personnel, as groups, are in fierce competition for the same personnel dollars which Uncle Sam decides to spend. Any union purporting to effectively serve and represent both groups would soon find itself a house divided. You cannot serve two masters.

The American Federation of Government Employees would have military personnel believe it helped to gain increases to military basic pay. I have been on the Washington scene for 15 years and have not seen an AFGE spokesman testify in behalf of military personnel. The only times the AFGE has been active in military personnel matters their actions have been detrimental to the welfare of military personnel.

I cite, for example, the dual compensation law, civilization of military billets, and most recently please note the AFGE's smug silence on the issue of "double dipping".

These examples clearly demonstrate that a civilian controlled Federal employee union would have little empathy for enlisted personnel's problems if the solution to those problems creates a conflict of interest for the union.

Our recommendations on military union initiative are, one, to prohibit the formation of a military union, and two, to dispel the enlisted personnel's perception that they need a union to protect their earned benefits.

What must be done is to enact a law prohibiting one, membership in a military union, and two, union organizing activities. Then, let the Department of Defense promulgate a directive in compliance with the law. Only in this manner will we prohibit unionization of the military.

To dispel the enlisted personnel's perception of a need for a union to protect their welfare, the military leaders, administration officials and the Members of the Congress should demonstrate true concern for the welfare of military personnel and their families in meeting the challenges of the increasing costs and personnel requirements for our nation's defense. Stop piecemeal legislation by amendment. Level with the troops. They realize that changes in personnel benefits will be made. But make those changes with equity.

Mr. Chairman, that concludes the key points of my statement. I stand ready to respond to any questions you have.

Senator THURMOND. Thank you very much.

We are very pleased to have you with us. I have a few questions here I would like to ask.

Mr. Nolan, describe for the committee your active duty service.

Mr. NOLAN. I enlisted in the Navy on October 11, 1941, transferred to the Fleet Reserve on August 15, 1962. Throughout that 21 years I had two tours of shore duty in the United States and the rest of the time was served aboard ship. I was a chief commissary man at the time I retired. That was in food service, managing the food service operations for the ships I served in.

On one tour of shore duty I was an instructor on the staff of the Instructor Training School at Great Lakes, Ill.

Senator THURMOND. Now, how long have you been associated with the Fleet Reserve Association and in what capacity?

Mr. NOLAN. I first joined when I was on active duty in September 1950. I was active at the branch and regional levels while I was on active duty. Of the 12 years I served on active duty, 5 years I was on shore duty and able to attend and to vote in national conventions. My job is an elective job within the Association, as is the editor of our national magazine.

In 1962 when the editor's job became vacant, I was nominated to the position and no one else ran against me and I was elected and served as editor to 1965 at which time I was elevated to my present position.

So that means I have been a salaried employee for the association for 15 years.

Senator THURMOND. Would you mind telling us something of the nature of the membership of your organization?

Mr. NOLAN. Yes, sir.

Senator THURMOND. In other words, whether they are officers, enlisted men, and whether they are active or reservists, and so forth.

Mr. NOLAN. Yes, sir; presently we have 133,253 members, as of June 30. Approximately one-third of them, I think 42,766, are serving on active duty. The remainder are retired or in the Fleet Reserve. Our membership comprises Navy, Marine Corps, and Coast Guard personnel, enlisted personnel and commissioned officers with prior enlisted service.

We have about 120,000 Navy, 12,000 Marines, and about 1,200 or so Coast Guard personnel.

Prior to 1975 when we changed our membership one must have served at least 4 years on active duty as an enlisted man in the Navy or Marine Corps to belong to the Fleet Reserve Association.

Senator THURMOND. As I understand it, your organization was one of the first to adopt a resolution opposing the military unions.

Mr. NOLAN. I believe the Air Force Sergeants Association was the first. They had their convention in August and we had our convention in September.

Senator THURMOND. I believe this was adopted at the 48th National Convention, and I ask unanimous consent at this time that the resolution be printed in the hearing record at this point. So, without objection that will be done.

[The resolution referred to follows:]

A Resolution to Oppose Military Unionism

Whereas, the Shipmates of the Fleet Reserve Association fully recognize and sincerely appreciate the substantial contributions which organized labor has made to the welfare and station of the American worker in lifting him and his family from "economic slavery" to a position of respect, pride and independent prosperity in our society; and

Whereas, the Shipmates of the Fleet Reserve Association acknowledge the special relationship between the civilian employee and his employer which requires organized labor to represent the employee in issues between labor and management thereby protecting the rights of the American worker and assuring the continuance of our free enterprise system; and

Whereas, the Shipmates of the Fleet Reserve Association also recognize that without a strong national defense based on a well-trained, highly motivated, dedicated and disciplined Armed Force, neither the rights of the American worker or our free enterprise system will survive to enjoy the privileges of individual liberty; and

Whereas, the perilous international issues which confront our nation and the interdependence of our allies demand that the United States maintains the ability to instantly respond to any challenge decisively by the application of military force in whatever degree is necessary; and

Whereas, the uninformed may view military discipline and the command structure as the surrender of individual rights, military personnel recognize that the primary purpose of our armed forces is to protect our nation with the least sacrifice in human life, therefore military discipline and command serve to protect the individual in the performance of his military duties in conflict; and

Whereas, a segment of the American organized labor community is currently studying the feasibility of organizing Armed Forces personnel as a military union and thereby jeopardizing the backbone of our nation's future military security through the erosion of military discipline and the chain of command; and

Whereas, the unique relationship between the military "employee" and his employer the American public, is not akin to that of a civilian employee to his employer. Therefore, the American public and military career personnel have always eschewed the concept of a unionized military force in favor of the accepted practice of civilian control of our nation's Armed Forces; and

Whereas, military personnel exercising mature judgment and recognizing the unique demands of military life have sought the protection of their rights and benefits by membership in and representation by professional military associations which by their very nature pose no threat to military discipline, the command structure or our nation's national security; therefore be it

Resolved, That the delegates to the 48th National Convention, Fleet Reserve Association, representing more than 126,000 career enlisted personnel of the United States Navy, Marine Corps and Coast Guard, assembled in the City of St. Louis, Missouri for the period of September 7–13, 1975 earnestly solicits the individual Military Services, the Department of Defense, the incumbent Administration, the Congress of the United States and the American public to join the Fleet Association in actively opposing, by all responsible means, the unionization of U.S. Armed Forces personnel.

Senator Thurmond. Mr. Nolan, your association has just recently completed what was called a "White Hat's Pay Panel." State for the committee the purpose of the panel and the results, and provide for the record any findings or report if one has been completed.

Mr. Nolan. Yes, sir; with the issue of military compensation changes and possible changes in military retirement coming on to the scene, and with President Carter's appointment of the blue ribbon pay commission, we felt that it was essential that the enlisted man's viewpoints be presented, and so we formed a "White Hat's Pay Panel." We were indeed fortunate to have Lt. Gen. Leo E. Benade, U.S. Army, retired, former Principal Deputy Assistant Secretary of Defense for Military Personnel Policy, and Mr. John R. Blandford, former Chief

Counsel of the House Armed Services Committee, serve on the White Hat's Pay Panel.

To date the pay panel has had three public hearings in which they have invited active duty personnel to come and appear before the panel in public testimony on matters of military personnel compensation, retirement, unionization, the various problems facing military personnel.

We hold the hearings in a public meeting place, for example, hotels in the cities of large military concentration. We have had three hearings to date, one in Charleston, S.C., one in Sunnyvale, Calif., which is in the Greater San Francisco Bay area, and one in Honolulu. To date we have had 73 active duty enlisted personnel appear and testify as witnesses. Their pay grades have ranged from E–2 to E–9 and the length of service of the individual witnesses has ranged between 1 year of service and 29 years of service.

They spoke out very strongly. They feel that they are being abandoned by the administration, the military service leaders, Department of Defense officials and the Congress are not aware of their needs and changes being done through erosion of benefits and they are vitally concerned about it. Each man almost stressed this point that testified.

They also testified on the point of unionization. A few testified, and I think quoting correctly, "If we had a union tomorrow we would belong to it."

A majority have said a military union is not right, but they are so frustrated, bewildered at the erosion of benefits, that they say if things do not stabilize and turn about within the foreseeable future, they most certainly feel they will be forced to join or form a union to protect their own interests and welfare.

Senator THURMOND. Is that report available that the panel issued? How long is that report?

Mr. NOLAN. It is about six pages, sir, and it is just a brief resume. It is not the formal report yet because we are continuing hearings. On August 9 we are going to San Diego, Calif., and U.S. Representative Bob Wilson of the 41st District of California has agreed to serve on the pay panel with us there. This covers the key points that the witnesses reiterated regarding personnel benefits and unionization statements.

Senator THURMOND. I think this might be helpful to our record and without objection we will have that inserted in the record at the conclusion of your remarks.

Mr. NOLAN. I brought extra copies along for the members of the committee.

Senator THURMOND. Now, in what ways did the panel result surprise you?

Mr. NOLAN. They really didn't surprise me, sir, because, of course, as national executive secretary of my organization, I have received mail from my members and it is my job to keep our membership informed of personnel legislation, which we have done. Many of the issues that they complain about have been on the books for a few years. We have been working to have them resolved but, as you know, not with much success, and in the past two years I think there has been

an increase of the erosion of benefits and they are becoming vitally concerned.

Senator THURMOND. Now, how do you account for the fact that union interest is prevalent in groups other than so-called "first termers"?

Mr. NOLAN. Well, very frankly I don't think that the union is really after the first termer that much myself. When we first heard of the issue of unionization we thought the first termer would be the one who would respond and join, and after a field trip that I made in December of 1975, I learned to my surprise that it wasn't the first termer but the second termer, in fact the career designated personnel. When I studied on that for a few minutes it didn't take me long to realize this would be true because first termers by and large at that time had not experienced any erosion of benefits, he hadn't felt the impact of the erosion, whereas the careerist certainly had.

I think that is the frightening thing about the unionized pitch. It might be a little easier to handle if we thought it was just first termers, but it is the career people, the leaders in the enlisted branch that are saying what they feel. We had witnesses testify, one gentleman told me, he said, I think the FRA has already lost the ball game. I think we are going to have a union no matter what you fellows do. I grant you you have been trying but you haven't been successful.

Senator THURMOND. Now, Mr. Nolan, do you believe the American Federation of Government Employees means business on its threat to organize the military into unions?

Mr. NOLAN. I most certainly do. I believe that very sincerely. I would say let me put it this way. In my 26 years of association experience, 15 of which I served as a national officer, I would not make any proposal to my union, to my members at a convention, that I didn't figure I had better than a 50–50 chance of winning, and I think they are very, very serious.

I think they are looking after the enlisted man's dues and muscle of his number to increase their effectiveness, but I fear it is going to increase their effectiveness for their civilian employees and not the military man. I think it is a ripoff of the military man.

Senator THURMOND. Do you feel that the action of the AFGE last September in changing its constitution portends a favorable vote by the membership in the current poll?

Mr. NOLAN. Most certainly. If they had got shot down at their convention they wouldn't have been able to pursue it any further. As I recall reading from the newspapers, one of the gentlemen, one of the officials of AFGE, said that they really didn't know if they were going to unionize or not but they thought they ought to have the gun in the holster to throw their weight around.

Senator THURMOND. What do you feel is the significance of the removal of AFGE of its no strike clause from its constitution?

Mr. NOLAN. It has no significance whatsoever in my mind because without the threat of strike a union has no power, no ultimate power. That has got to be there, and as has been brought out in the testimony before this committee, other unions have said, other community employee unions have said they have no strike clauses and so forth, but, nevertheless, you have sickouts and the slow downs and the various things, short of an ultimate strike.

I feel the union would be forced, if it really met adamant opposition on the issue, they would be forced to threaten a strike.

I noticed in the paper this morning a comment regarding one of the union locals of the AFGE in the south saying that they would have to strike if the Government didn't meet its pay demand this coming fall.

Senator THURMOND. Mr. Blaylock, AFGE president, stated last March, and I quote: "We have had as many as 800 people in one battalion who want us to come on in and sign them up."

Mr. Nolan, do you feel union support in the military is that strong?

Mr. NOLAN. I think at the time he made that statement, yes, sir. I think there has been just a little tempering, particularly since the military associations have been putting out on the other side of the coin. I believe the enlisted man is just almost at his wit's end with frustration whether the 20-year retirement is going to be retained, the commissary is going to be retained, medical care problems are going to be resolved where he can be assured of medical care for his family when he goes to sea. He is kind of just absolutely frustrated. He knows in his own heart, by and large, that the answer is not union initiative, but, nevertheless, it is kind of like a drowning man grasping at straws.

Senator THURMOND. Mr. Blaylock was also asked this question: "Why should servicemen and women join unions?" He replied "For the same reason any group joins unions. People don't organize and we cannot organize people unless they have some problems."

What is your opinion of the main reason some military personnel favor a union?

Mr. NOLAN. It is because of the erosion of benefits that have been endured so far in the recent couple of years and the prospect of uncertainty of the future. They don't know what it is going to be with their benefits.

As Chief Master Sergeant Harlow testified, the same is true in the Navy. From July 1, last year, until December 30, of those people who became eligible to transfer to the fleet reserve, U.S. Navy, after 19 years and 6 months of service, it is when they are first eligible to transfer to the fleet reserve and assume the retirement position, of the ones who just became eligible, 92 percent made that request of the Secretary of the Navy. They are bailing out. They want to get out while the getting is good because they feel if they are out any changes might be prospective so they would be protected.

Senator THURMOND. Mr. Nolan, we have many outstanding associations in Washington representing the military members before Congress and the executive branch. Do you feel these groups are adequately representing the military members?

Mr. NOLAN. I feel that the groups are doing an outstanding job of representing their members as far as they can, but it is pretty hard when you are battling the administrative branch of the Government with all of the resources it has and when legislation is enacted by an amendment in closed committee without fair and open hearings, and I feel also that if the administration would cooperate to the point of letting us have our say, present our facts, present the information we have, to the same degree that we get to do it in the majority of the cases—I am speaking of my association with the Armed Services Committees of the House and Senate that we could do a better job.

I cite the two biggest benefits that have been enacted for military personnel in the past decade, the CHAMPUS law and Survivors' Benefit law, were initiated by action of my association. So I think the system works pretty good.

I think, as I said, I am a ship's cook, when an old ship's cook can find an inequity in the law and launch a campaign and catch the attention of the Armed Services Committee of both bodies and have that thing resolved, even though it might take 3 or 4 years, as it did, I think the system would work very fine, but I think it takes cooperation on both sides, sir.

Senator THURMOND. Mr. Nolan, should the military become unionized, AFGE has stated they would withdraw in time of war. Do you believe the union could or would bow out that easily?

Mr. NOLAN. I certainly don't, sir. I can well recall in the South Pacific in 1943, during World War II, the merchant ships when they came, and it became the end of the work day for merchant ships and their cargo was still aboard and had to get ashore, it was active duty personnel, Navy, Marine Corps, and Army, that went on the work parties and went out and unloaded those ships because these fellows said they weren't going to do any overtime unless they got paid for it at the high rates they had at that time, and I can see no difference in the future.

Senator THURMOND. The DoD policy currently prohibits the union from negotiating or bargaining of service conditions; is that correct?

Mr. NOLAN. Yes, sir.

Senator THURMOND. It appears to me that currently or even projected DoD policy lures a serviceman to join a union believing the union can increase his service benefits. Then he pays his dues and finds the union can do little for him. Such a policy cheats the service member. You raised the excellent point that AFGE would have a conflict trying to represent both military and civilian members.

Would not the efforts of AFGE always be tilted toward the majority element in the union?

Mr. NOLAN. Most certainly, sir. That is the way that they operate, that is the way our association operates, and when you start off with a system that has—I think they have close to 300 civilian members now—you can see it is going to take the military a long time to catch up and have any influence in that organization.

Senator THURMOND. Mr. Nolan, moving to another phase of this matter, I was surprised yesterday to hear Captain Jones of the Marines state he saw no threat of Marines joining a union.

As a representative of Marine Corps enlisted personnel, both Active, Reserve, and retired, what experiences have you had in assessing interest in unions within the Marine Corps?

Mr. NOLAN. I find that amongst the senior personnel, enlisted personnel of the Marine Corps, there is not the same support for unionism that there is in the Navy and the other services, but I find in the junior personnel that there is support and while I don't think it equals that possible in the Navy, I think it is greater than what Captain Jones was testifying to yesterday.

Senator THURMOND. How would the situation in the Navy differ?

Mr. NOLAN. Well, I think the Navy has a unique situation with its separation, ships go to sea and sailors go aboard ship. The Navy is

the only service that in peacetime has a large share of its wartime commitment, which is keeping the sealanes open, and one of the greatest problems that we have is that separation, and as you heard Admiral Watkins testify yesterday, that in 25 percent of the Navy's ratings—I believe we have about 70-some different rating specialists in the Navy today—that 25 percent of them can look forward to spending 15 years out of a 20-year career at sea, and very frankly that gets a little tiresome after a while, sir. I think that creates the attitude.

Senator THURMOND. Mr. Nolan, do you feel a particular service would be a prime target in signing up these members?

Mr. NOLAN. We have discussed that. We thought possibly that they would go after the Army, possibly because of the fact that they are shore based in larger numbers and so forth. But looking at it realistically, if I were in their shoes I think I might tackle the Navy because I think the Navy's problems are a little worse, just by the fact, as I stated before, they have a sea duty and so forth.

Senator THURMOND. In what way do you feel the union problem is related to the All-Volunteer Army?

Mr. NOLAN. I don't see a real close connection. I think it is the case of timing, happening within the same time frame, very frankly. Because, as I said, it has been our discovery it is not the first termer that is so wild to join the union. Some of them find out they really don't like the service anyway and they are going to do their time and get on out, they are not looking forward to a career. So I think that there has been a little bit more made of that than is an actual fact.

Senator THURMOND. I noted AFGE considers all Army members above E–4 as part of the management; is that correct?

Mr. NOLAN. That is correct.

Senator THURMOND. Does that mean they would not organize these members or would they organize any grade or rank?

Mr. NOLAN. They would probably be just like we are; anyone that would be eligible to join they would gladly accept their dues and numbers, and I am certain, as I said before, with the emphasis being on career persons being the ones thinking strongly of the unions—that would give them an in.

If you could get a sergeant major or master chief petty officer or senior chief petty officer to belong—very possibly it follows he felt it was right—he could influence his junior personnel to join, too.

So I don't think they are going to limit their union organizing activities and recruiting to certain specific pay grades.

Senator THURMOND. Would not the fact that some military members were in the union and others were not in it create serious internal personnel and morale problems?

Mr. NOLAN. Most certainly, sir.

Senator THURMOND. Mr. Nolan, yesterday, Secretary of Defense Brown advised the committee that he would consider the issuance of a directive prohibiting union membership under certain conditions. He would not prohibit membership unless the union engaged in certain conduct, such as strikes, work slowdowns, and so forth. What are your views on this approach?

Mr. NOLAN. I think that such a directive would give the union a foot in the door, at least, to get started. I don't think you could stop unionism. As the whole story goes, you are not a little bit pregnant,

you are either pregnant or you are not pregnant. I think that is the way it would be with the unionization. I think it would be greater error to leave the discretion of the implementation of such a directive to the local base commanders and ship commanders. In fact, I think it would be an unfair burden on those persons to have to exercise that judgment.

In my view, the only way you can stop it is first pass a Federal law and then have DOD write a directive implementing that law.

Senator THURMOND. Secretary Brown wishes to test this approach for 9 to 10 months. What do you think will happen in this time period?

Mr. NOLAN. Being honest, I think we will have a union in 9 to 12 months under those conditions because, of course, the President's Blue Ribbon Pay Commission is not supposed to have its report completed until next March and then, of course, it would take time for the Congress to crank up and act on the recommendations that the President's pay commission would make.

We see once again, then, that the 95th Congress would be coming to an end. I doubt that, in all practical facts, legislation of such a complex nature could be passed by both bodies and be resolved into law within that time, and your problems and personnel problems would be with you and you just gave the union a head start in getting organized.

Senator THURMOND. Now, Mr. Nolan, if collective bargaining is prohibited, as the Secretary proposes, what could the union do for service personnel other than what is currently being done by numerous organizations in Washington?

Mr. NOLAN. I don't believe the unions could do anything that the military associations aren't already providing, but I think they would go about doing it in a much different fashion. They would pick up their grievances, the petty things, that would cause the irritation. They would make a great to-do with things that we go ahead and do, and yet we don't publish it in newspapers or make great issues.

We tell our members we represent them. We represent our members before the Board of Correction of Naval Records, physical review council, physical evaluation board. Our association is accredited with the VA for veterans' benefits. Day in and day out we seek to resolve problems for our members and yet we do it within the system. We start out at the level where the problems can be solved. If it cannot be solved, people at the level disagree with us, or we think we have a valid complaint, we move on up through the chain of command. If we don't get it resolved within the chain of command, then we bring it up on the Hill or outside of the chain of command.

We do move within the chain of command. I don't think the union would do it. That doesn't serve the union's purposes. They need all the publicity they can get, and that is why I think it would be a bad thing to have this periodic break-in period and fall prey to all the promises they are going to take care of the enlisted man's problem.

Senator THURMOND. Mr. Nolan, do you feel the military member needs a union to assure that he or she receives fair treatment both in the military itself, in the executive branch and the legislative branch?

Mr. NOLAN. I certainly do not, sir. I feel that the military personnel themselves are derelict, to a degree. I have spoken of this each time I

have had the opportunity to do so before groups of personnel. If they will get themselves organized as a citizen group, exercise their right at the ballot box, respond to their representatives in the Congress, I think that many of their problems could be resolved, because I think such action, coupled with sincere recognition by the executive branch of the Government could go a long way to resolving the problem.

The main thing, for example, on the pay panels, the fellows weren't asking for more money; they were just asking to keep what they had and for people to become aware of their problems and be able to understand the military life.

Senator THURMOND. In the Washington Post today—July 19, 1977, Mike Causey's column—there is a report of an AFGE Council in Alabama that has voted to strike. I would like to read this article. It is on page C–2, the second column. I will read an excerpt there:

> Strike threat. Blue-collar workers in Alabama have threatened to strike if the Senate and Carter administration okay a cut in the number of longevity pay systems for the Government's half a million board workers. The mechanics, carpenters, and other blue-collar workers have a five-step pay system now which gives salaries supposedly equal to 96 percent of non-Federal pay for the same job.
>
> The top step, according to the Government, is equal to 112 percent of the going rate for the same kind of job in industry.
>
> A defense money bill now before the Senate would shave this from five steps to three, meaning a potential pay cut, at least as far as future salary projection of up to 12 percent for the employees. On Saturday, the Alabama State Council of the American Federation of Government Employees voted to strike if the Senate keeps the pay cut in its money bill and if Carter approves it. The House killed a similar pay cut item but the language was put back in the Senate bill with the blessings of the Defense Department which employs most of the blue-collar workers.

Now, did not the Executive order which gave Government employees the right to organize prohibit strikes?

Mr. NOLAN. Yes, sir, it does.

Senator THURMOND. So it seems that without a law here, just an Executive order, even though the directive prohibits strikes, they struck anyway?

Mr. NOLAN. That is true.

Senator THURMOND. Or at least they have threatened to strike, I should have said.

It would seem to me then that this threat involves a threat to violate the law, does it not?

Mr. NOLAN. Most certainly.

Senator THURMOND. Now this is the same AFGE that is now polling its locals in a drive to organize the military, is it not?

Mr. NOLAN. Yes, sir.

[Article "Sound off to Congress" from the Fleet Reserve Association follows:]

FLEET RESERVE ASSOCIATION

SOUND OFF TO CONGRESS! VIA FRA'S WHITE HAT'S PAY PANEL!

June 22, 1977.

To: National Mailing List, FRA.
From: Chairman, National Committee on Legislative-Service.
Subject: A report on the "White Hats' Pay Panel" public hearing in Charleston, Sunnyvale, and Honolulu.

A RÉSUMÉ OF THE CHARLESTON, S.C., PUBLIC HEARING

1. The "White Hats' Pay Panel" held its first public hearing in the FRA's "Sound Off To Congress" legislative program in Charleston, South Carolina on Friday, June 3, 1977. The hearing was held in the Sheraton Motor Inn in that city. At the outset of this report, I must compliment the officers and Shipmates of the L. Mendel Rivers Branch 50, Fleet Reserve Association, particularly Branch 50's Secretary Harvey M. Taylor, President John A. Punteney, Vice President Carlyle "L" Blackmon, Jr. and PRPSE A. C. H. Bullwinkel. These Shipmates, in cooperation with BMCM John Harper, USN, Master Chief Petty Officer of the Command, Naval Station, Charleston who did an outstanding job of publicizing and coordinating arrangements for the hearing amongst the active duty personnel, are responsible for the success of the day. Our panelists were: LTGEN L. E. Benade, USA(Ret.), Mr. John R. Blandford, MCPON Delbert D. Black, USN(Ret.), NP Thomas A. Heaney and myself.

2. As Chairman of the panel, I convened the hearing at 0915. There were approximately 100 people present and the crowd increased as the hearings proceeded. Active duty shipmates came and left but there was a constant crowd of at least 60–70 people throughout the day until the evening hours when it dropped off to half. Twenty-two witnesses testified. There were 16 Navy witnesses covering the spectrum of the submarine and surface forces, staff and base personnel including CB's. There were 6 Air Force witnesses. The pay grades of the witnesses ranged from E–3 thru E–9 and their length of service ranged from 3 to 26 years. The hearing ran from 0915 to 1255 and then we had lunch. It reconvened at 1415 and continued on through the evening without adjourning for dinner until 2115.

3. We were aware that witnesses waited several hours to testify. However, they could see that it was an open, free-wheeling hearing with no holds barred and they patiently awaited their turn to testify. It was obvious to see that they were greatly pleased to have the opportunity to voice their opinions to someone which they felt could help them. Approximately one dozen members of the audience were present the entire 12 hours!

4. The testimony by the witnesses was outstanding! All of them were articulate. Many provided factual and statistical information to illustrate and prove their points. Each witness represented a group of enlisted personnel: a ship's crew, an air wing, a division, etc. They were not abrasive or radical. Their sincere, straightforward manner reflected their frustration and perception that no one in Washington, D.C. was looking out for their interests. They perceive the Congress and the Administration as out to "get" them. There were repeated statements on their feeling the American public does not appreciate or respect the job they are performing. They did not ask for increased compensation for themselves but had a strong desire to maintain the status quo. However, realizing that things might change they asked that any changes to the military compensation and retirement systems be made prospectively. They expressed their dislike for the one-sided enlistment contracts, the House Appropriation's Defense Subcommittee's action on "Double-Dipping" and the eroding benefits in strong, positive language! The majority of them felt that military unionism was wrong, but—if that was the only way they can make their voices heard, they will join a union!

5. We distributed "critique cards" to the audience and requested them to "Please state you opinions as to the value of the Fleet Reserve Association's 'Sound Off To Congress' program and this public hearing before the 'White hats' Pay Panel.'" We received approximately 30 cards back and every single person signed the card and gave his address! Some of the comments:

"I'm all for it!"—RMC R. D. Witherow, USN.

"This is an excellent opportunity for the white hat to express his opinion and viewpoint. The good part about it is that he is not trying to tell a military command about his problems. The FRA has really given itself the opportunity to represent us at congressional levels through these meetings"—FTCS Michael B. Bailey, USN.

"For the first time in 16 years, finally someone is coming to the 'little guy' to get his views."—FTGC Thomas H. Murray, USN.

"The board was a great help to the frustrations of my people. Now, for the first time they believe someone cares about them. Thank you."—MSGT Joseph J. Debevc, USAF.

"I'm so glad that the FRA has taken the bull by the horns and has afforded this opportunity for us to sound off. As a Member-at-Large of the FRA for the past nine years, I'm proud to see this association starting to step into the void of representation and possibly provide a viable alternative to the growing interest in unionization."—FTCM(SS) William N. Caldwell, USN.

"This fact-finding body is the most impressive and thoughtful solution to many of the varied problems in the military service. This is the only way to make the Congress aware of the problems of military service. I personally hope that this is only the beginning to the final solution. VIVA FRA! Let us be heard!"—HM1(SS) James E. Wingate, USN.

"Outstanding, congratulations to everyone concerned. We really needed this to get our views to the top. Please keep up the outstanding job no matter what the cost, I would agree to a raise in dues to help keep the fight going."—TMCM(SS) Paul G. Richards, USN.

"I think the theory of holding these meetings is fantastic! I thank the panel for making their time available for me to voice my opinion."—MT1(SS) Ellis L. Hopkins, USN.

"I feel that it is about time that the people that are putting their life on the line have the opportunity to state their views to Congress. I feel that this program should be continued."—MMCM(SS) Clell B. Hutchinson, USN.

"I thank the Pay Panel's public hearing because if nothing else it will prove to the sailors or serviceman who heard of it that someone is interested in their welfare. I also think that the members of the panel were very knowledgeable about the present day plight of the service member."—EMCS James H. Walker, USN.

"I think it is one of the best plans to get our ideas to the powers that be in Washington."—TM1 Roger Mack, USN.

"I feel this program is a realistic view of my opinions and that the FRA will honestly represent me and my fellow shipmates."—TM1(SS) Kenneth W. Nichols, USN.

"It was a great learning experience and I'll take home a lot of information for my squadron."—NC1 R. W. Butterfield, USN, VF-84, NAS Oceana, VA. (Note: NC1 Butterfield came to Charleston at his own expense to observe the hearing.)

A RÉSUMÉ OF THE SUNNYVALE, CALIF., HEARING

1. I arrived in Sunnyvale, Calif., at 1300, Thursday, 9 June and Shipmate JrPRPWC Lawrence J. Cummings met me at the Sunnyvale Inn. We spent the afternoon in making courtesy calls on RADM J. V. Josephson, USN, Commander, Patrol Wings Pacific, CAPT B. J. Adams, USN, Commanding Officer of Moffett Field, Naval Air Station, MCPOC Leo Gauvin, USN and MCPOC Moffett Field Richard LaNave, USN. On Friday, 10 June, we called on CAPT John P. Cromwell, Jr., USN, Naval Support Activity, Treasure Island; CAPT R. R. Worchesek, USN, Commanding Officer, N.A.S., Alameda and MCPOC Nicholas Bowers, USN; and CDR Jack B. Bowman, Jr., USN, the Executive Officer of Naval Schools Command at Mare Island, Calif. At each command, Shipmate Cummings, who is the Chairman of the National Committee on Public Relations, collected the names of the witnesses who were scheduled to appear at the Pay Panel hearing on the following Monday. Upon finishing our courtesy calls we visited Shipmate National Parliamentarian Edward E. Keeley and his wife, Frances, at their home before returning to Sunnyvale. Shipmate Ed is hale and hearty and said he would attend the public hearing with RVPWC Jack Coover of Vallejo Branch 8. On Saturday and Sunday, we finalized the preparations for the hearing at the Sunnyvale Inn and met the other panelists upon their arrival at the airport. Saturday evening I was privileged to be the guest of Branch and Unit 101 at their joint installation of officers ceremony. Sunday evening the panelists joined CAPT and Mrs. B. J. Adams for dinner at the Moffett Field Officers Club. RPWC and Mrs. A. O. Sidebottom joined us at dinner.

2. On Monday, 13 June 1977, I convened the second public hearing by the "White Hats' Pay Panel" promptly at 0900 with Richard D. Miller, MMCS, USN as the first witness. Our panelists were: LTGEN I. E. Benade, USA (Ret.), Mr. John R. Blandford, JrPNP Joseph D. Morin and myself. CAPT William Fries, USN(Ret.) an Honorary member of Branch 181, accompanied us as Shipmate "Russ" Blandford had a kidney stone acting up and his doctor said he could not go to Honolulu. CAPT Fries is the former head of the Compensation

Branch of BuPers and the Executive of the Joint Per Diem, Travel and Transportation Allowance Committee of the Office of Secretary of Defense. We are indeed fortunate that he could pinch hit for Shipmate Blandford in Hawaii. Shipmate Miller is the Career Counselor at the Naval Post Graduate School in Monterey, Calif. He was followed by twenty-two more excellent witnesses throughout the day and evening. The 23 witnesses ranged in pay grade from E–3 to E–9 and also included a Chief Warrant Electrician and Lieutenant Commander William V. Sayner, Jr., CEC, USN. The length of service of the witnesses spanned from 1½ to 20 years. There were three Air Force and twenty Navy personnel appearing. They represented military commands at Moffett Field; Monterey; U.S.S. *Enterprise;* Lemoore Naval Air Station; NAS Alameda; Naval Weapons Station, Concord; Mare Island; the Nuclear Power Training Unit at Idaho Falls; Air Force Station at Sunnyvale and McClellan AFB near Sacramento, Calif. Therefore, it was obvious that distance from the hearing was no obstacle in attending the hearing. The public hearing lasted until 2200 with an hours break at lunch and dinner. The audience was a transient audience but approximately 25 were in attendance at all times throughout the day and early evening.

3. The testimony of the witnesses closely paralleled the testimony received in Charleston. The witnesses, to a man, expressed the view that no one in the military hierarchy, the Administration or the Congress is endeavoring to speak out for or protect the enlisted personnel. They fear the uncertain future and are tired of the nickel and dime erosion of pay and benefits. All of the witnesses agreed that they did not support the philosophy of military unionism BUT—if things did not change in the foreseeable future they would be forced to join or form a union for self-protection!

4. The FRA is indebted to Shipmates JrPRPWC Larry Cummings, PNVP Mervin Harris, PRPWC Jack Yates, RVPWC Jack Coover, Steve Kopec, Branch 101, Shipmate Dick LaNave, Branch 101, and the Master Chief Petty Officers of the San Francisco Bay area commands for their initial grass roots support and spadework in making the Sunnyvale hearing an outstanding success! Without their unqualified support and hard work, it would have been impossible to hold the hearings successfully. The critique cards that were submitted in Sunnyvale were much the same as those submitted in Charleston and it is obvious that those who attended the hearing sincerely appreciate the FRA's endeavors in sponsoring the "White Hats' Pay Panel."

A RÉSUMÉ OF THE HONOLULU, HAWAII, PUBLIC HEARING

1. After a gruelling twelve-hour session in Sunnyvale, the panelists welcomed a day of "rest" as they departed the Sunnyvale Inn at 0700, Tuesday, 14 June to catch their 0900 flight to Hawaii. We landed at Honolulu International Airport at 1140 and the Shipmates of Branch 46 greeted us warmly. I was whisked off to the Naval Station as I was scheduled to speak to a group of C.P.O.'s at the CPO Club at 1300. We had a good two hour session at the club exchanging viewpoints and opinions. At 1530, LTGEN Leo E. Benade, USA (Ret.) and CAPT William Fries, USN (Ret.) joined us and we paid a courtesy call on VADM Thomas Bigley, USN, Deputy CINCPAC. We spent almost 40 minutes with Admiral Bigley (a dues paying member of Boston Branch 3) informing him of what we had learned in Charleston and Sunnyvale. Admiral Thomas B. Hayward, USN, CINCPAC, was on a trip and we could not visit with him. We returned to the Hale Koa Hotel to freshen up prior to the reception Branch and Unit 46 was hosting in our honor that evening. We secured from the festivities at 2200 (0100 San Francisco time) and prepared for the next day.

2. At 0630, Shipmate Al Williamson, Branch 46's newly employed Field Service Representative, met me in the lobby and whisked me over to the Tom Dancer Radio Show on Station K108, to be interviewed about the days events. At 0730, I returned to the Hale Koa Hotel and checked the Waikiki Ballroom for final details. Under Shipmate Williamson's supervision, the hotel staff and Branch 46 workers had the situation under complete control. So, I had a relaxing breakfast. At 0900 sharp, we convened the hearing and heard our first witness, BTCM William Hartford, USN, speaking for the 275 enlisted personnel of DATC, FMAG, Pearl Harbor. He was followed by 27 additional witnesses, 19 Navy, 4 Marine, 2 Coast Guard and 3 Air Force. They ranged from E–2 through E–9 and included a female Navy Ensign and Lieutenant plus a male dependent—the

husband of the Navy Lieutenant. The years of service of the witnesses ran from 1 to 29 years. The morning session went from 0900 to 1305. We reconvened at 1415 and continued without a dinner break until we adjourned at 2130!

3. All witnesses were well prepared and answered our questions in a straightforward manner pulling no punches. The explanations on certain points the panelists rendered were well received. The audience ranged in size from well over 100 down to about 50 at the conclusion. It was obvious they appreciated having the opportunity to testify and air their grievances. They were starved for the information we disseminated and left the hall with a better understanding of the issues. Their testimony ranged over the same sore points the witnesses presented at the previous hearings; comparability of military/civilian pay, single salary system, the erosion of benefits, the one-sided enlistment contracts, special reenlistment bonuses, the need for the twenty-year retirement plan, and the unionization of the military. They called for equal pay for equal work of married personnel, an equitable sea pay plan, and equal benefits for E–4 and below. Three witneses (two Navy seamen and a Marine Lance Corporal) spoke on the last subject and nearly brought tears to the eyes of the panelists and audience. Throughout all testimony ran the thread of the fear of the uncertain future and the fact no one was defending or representing them in Washington, D.C. Again and again, the witnesses expressed their opposition to a military union but added that a military union is a certainty if the erosion of benefits continues.

4. Following LTGEN Benade's lucid explanation of the issues of integrating military earned Social Security and military retired pay one witness said, "General, that's the first time I've heard a rational explanation of the matter. And although I still disagree with your point I now understand it. But why does the Fleet Reserve Association have to come out here and explain these things. Why isn't it done by those in Washington who are being paid to do it?"

5. We had excellent television news and newspaper coverage of the hearing. LTGEN Benade was interviewed by one TV station. I was interviewed by another. We were unable to broadcast the hearing live as was planned but Shipmate Tom Dancer at Branch 46 taped portions of the hearings and is broadcasting them on his subsequent shows for the week. Without a doubt, the troops in Hawaii will know the FRA was there and working hard in their behalf.

6. The Shipmates of Branch 46 did a magnificent job of publicizing and arranging for the hearing. Not a detail was overlooked. Many Shipmates of Branch 46 were unable to stay all day but quite a few were able to do so and it was their efforts that assured a smooth scheduling of witnesses and many other details. Our special thanks to Shipmates Al Williamson, Branch President Fred Ballard, Henry A. Horton, Don Stephens and C. E. Burns!

7. For the record, I am quoting some of the comments taken from the critique cards submitted in Honolulu. These comments obviously justify the "White Hats' Pay Panel" program.

"Best idea in my 17 years. Of great value."—RMCM Louis Azar, USN.

"Excellent. This is what Democracy is about and it gets feedback from the ordinary people and gives higher ups a basis on which to make decisions and keeps them in touch with 'the people' which is what most of government hasn't done. Congrats to you for this opportunity.'—Paul Chally, school teacher.

"Really enjoyed this opportunity to get a lot of things and feelings out into the open in front of some people in a position to take our 'banner' before Congress. I'm so impressed that I intend to become an active member of the FRA."—RMCH Kenneth D. Facer, USN.

"I feel we are giving it our best shot and without this Pay Panel our chances for presenting our views would have nevere existed. Bravo Zulu."—BMCM Marshall W. Erb, USN.

"A thought provoking well presented hearing. It was not a gripe session, it was a discussion. Some very good ideas came out in the discussion. It was clear that many are disturbed about military 'bennie cuts' etc. Maybe this type of discussion should be held annually!"—Unsigned.

"I feel that the FRA's 'Sound Off To Congress' idea is outstanding. It is the first time I've had a chance to voice my opinion without fear of having my statements used against me since I came into the Service."—L/CPL George K. W. Gangloff, USMC.

"I attended this meeting to inform myself on the issues affecting my future. I think that the FRA is the answer for the career man."—Unsigned.

"I have a sincere belief that your intentions are good, but, I have reservations as to the real impact of this. I have heard so much said in the past and have

seen no actions so it makes me leery. I certainly hope that the true meaning comes to pass."—Unsigned.

"I have been selected by my command to represent and gather information for all those who are unable to attend. This program has been very informative and has given me some ideas for possible solutions, especially in the area of Dependent Dental Care. My command is seriously lacking in information in all areas discussed here today. How would I go about setting up an appointment with a knowledgeable FRA (local) representative. I would like to suggest or ask if this type of program (Sound Off to Congress) could be arranged on a local level once a year."—RM1 Roger E. Danielson, USN.

"I think having the White Hats' Pay Panel was a fantastic idea. It gave me and lower men in the military E–3, a chance to voice and view my opinions. I believe and hope that the information gathered by the White Hats' Pay Panel will make Congress see the light so to speak. I hope Congress will take a sincere look at the information gathered by this Panel, and act accordingly. I hope to see in the future that every once in a while, let's say twice each year, have a Panel like this where we can voice our opinions. I believe Congress is very naive when it comes to military matters. A panel like this is very worthwhile, and is very necessary."—MSSN Michael D. J. Buelow, USN.

"All points brought out were excellent and I am proud to have represented the men on the U.S.S. *Brewton* (FF–1086). I will relay to them the information received today. We would sincerely appreciate any feed back. The Panel was extremely pleasant, knowledgeable and professional, with representatives such as you gentlemen. Even though there was no overtime pay today, it has been well worth our time. Thank you."—OS1 Don Weikert, USN.

"I think this program was outstanding, for it extended an opportunity for our personnel to make their feelings known concerning the many changes affecting their retirement and benefits being proposed in Congress. Prior to this time we were not given this opportunity as far as I know. Changes were brought about without soliciting our opinions. I thank you on behalf of myself and the personnel I represent in the Fourteenth Coast Guard District for extending this opportunity to our people."—QMCS Albert J. Chesbrough, USCG.

"The most educational session I've ever been through in three years in the service. Professionally done which makes it very credible (hopefully to Congress). If I were a Congressman I could not, no matter how hard I tried, turn my back on the testimony I've heard today. Throughout the service years—we're told we can't get involved with politics. This is the first time I've really heard someone in the service be able to 'sound off' and be heard. And Congress can't turn their backs on what's been presented today. Testimonies were logical, sound, fair and highly representative of the opinions of the hundreds of servicemen I've known in three years."—JO3 Carol Benes, USN.

"Outstanding. They know what they are talking about, and I really benefitted from it."—SGTMAJ F. G. Canfield, USMC.

"I feel that the FRA and other organizations such as this is a great help in accomplishing the necessary things we need. The White Hat Pay Panel is an excellent method of feeling out the enlisted mans feelings on this topic."—

"An outstanding endeavor on the part of the FRA. There should be much more of this type of confrontation. Have heard of many surveys but this is the first time I have ever been privileged to testify in 29 years of service. It's important that Congress know the 'grass roots' feeling of the personnel they are taking care of."—FTCM Thomas A. Twamley, USN.

"Well done! Please consider this on an annual basis!! It conceivably could be a great determining factor in not unionizing the military."—ICC(SS) W. D. Parmenter.

"Well organized, well run, and well publicized. This panel appears to give the military personnel a chance to express their views when major changes in legislation affecting military are proposed. The results of this series of hearings will be assessed by the enlisted personnel according to the resulting legislation. I—and my husband—sincerely hope that your message to the Blue Ribbon Committee and the Congress will be as well received by them as our views have been by you. We appreciate the opportunity to sound off—my husband's duty prevented his appearance."—Kathleen M. Thomsen (wife of ETC(SS) Alexander R. Thomsen, USN).

"I can't express my feelings for this hearing and panel. What I've heard here really impressed me. I feel the 'FRA' is doing an outstanding job. I would like further info, as how I may become a member of such a fine group. You have

a large job ahead and from what I've heard today you will have everything in one sock. If your other hearings go this well your mission will be overwhelming when presented to Congress. Thank you for allowing the military in the field to voice their views."—DDC Lamar E. Richards, USN.

"I feel that the Sound Off To Congress program is going to 'alert' Congress to the fact that the country is going to lose people at an alarming rate if our benefits continue to be eroded. Unions seem to be the main topics with many of the personnel. I don't think too much of unions, however, if it will make people sit up and listen then why not."—TSGT Philip J. Demore, USAF.

I am sure that you can appreciate that we do not desire to publish the specific points of testimony we received until we can fully evaluate all testimony received. We are now in the process of compiling an effective report and how best to present it to President Carter's Blue Ribbon Committee and the Armed Services Committees of the House and Senate.

You will be interested to learn that the FRA's "White Hats' Pay Panel" has already had some impact on the White House as President Carter is adding an enlisted member to his Blue Ribbon Committee!

Be assured that we will keep you fully posted on all developments of this program. With best wishes to all I remain in,

Loyalty, Protection and Service.

ROBERT W. NOLAN,
National Executive Secretary.

Senator THURMOND. Now, we have obtained a statement from Gen. Bruce Palmer, Jr., U.S. Army (ret.) who is now out of the country, and, without objection, his statement will be placed in the record this morning, together with the introductory statement I have submitted.

[The prepared statement of General Palmer follows:]

MR. CHAIRMAN: Gen. Bruce Palmer, Jr., one of this Nation's brightest and most distinguished military leaders, has provided at my request a written statement for the hearing record.

General Palmer, who had been scheduled as a witness, is out of the country at this time. Therefore, I ask unanimous consent that his statement be printed in the record.

PREPARED STATEMENT OF GENERAL BRUCE PALMER, JR.

My name is Bruce Palmer, Jr. and I am a retired General, US Army, with 42 years military service, spanning troop command at every level from 2d Lieutenant to General. From July 1968 to January, I served as the Vice Chief of Staff, U.S. Army. After retiring on September 1, 1974, I served as the Executive Director of the professional staff of the Defense Manpower Commission (DMC), a temporary commission created by the Congress and consisting of commissioners appointed by the President and the Congress. The Commission submitted its final report to the Congress and the President in April 1976. Since October 1976, I have been working as a consultant to the American Enterprise Institute for Public Policy Research, a nonprofit, nonpartisan "Think Tank," which examines issues in the economic, foreign and defense policy areas.

The subject of this hearing, Unions and the Armed Forces, is not an entirely new problem for the Department of Defense. Civilian employees of the DoD have been unionized since the early 1960s and many dual status technicians of the National Guard and Reserves of the Army and the Air Force belong to Unions today. These technicians are full-time civilian employees of the Federal Government and part-time Guardsmen and Reservists. Until recently, the possibility of unionizing the uniformed members of our active forces seemed remote, but in 1975, the possibility became distinct.

The Defense Manpower Commission became concerned about the matter on August 18, 1975 when the late Mr. Clyde M. Webber, then President of the American Federation of Government Employees (AFGE), appeared before the Commission at a general public hearing in New York City. Mr. Webber made clear his intentions to lead AFGE, the largest Federal Government employee union, and an affiliate of AFL–CIO, in a campaign to unionize the military. The Commission then contacted the Secretary of Defense and learned that DoD policy was to avoid the issue and that the only DoD directive with guidance

to the field on the subject was DoD Directive 1325.6, "Guidance for Handling Dissident and Protest Activities among Members of the Armed Forces," dated September 13, 1969. This directive contains one sentence, paragraph II(c), namely, "Commanders are not authorized to recognize or to bargain with a so-called serviceman's union." The basis of the OSD position appeared to be that current laws and regulations were sufficient to protect the interests of the Government and that any specific prohibition on joining unions might be unconstitutional. This position remained unchanged at the time the DMC submitted its report in April 1976. The Commission came down hard on the subject in its Report and called upon the President, as Commander-in-Chief, the Congress, and the Secretary of Defense to take positive action, feeling that the unionization of the military would have a very adverse effect on our forces.

On September 23, 1976, AFGE voted to change its constitution to permit military members of the union. Since that time, AFGE officials at the national level have been studying and planning how best to organize for and recruit military members. AFGE has been conducting through its local chapters a poll of its members' views on the issue, but the results have not yet been made public. Exactly what areas AFGE intends to concern itself with is not clear. While some AFGE officials declare that they are interested only in military pay and benefits, others indicate that AFGE should get into the whole range of personnel administration, military justice, conduct and discipline. On the question of military strikes, some AFGE officials have stated that this is the union's ultimate weapon and that the possibility of such strikes cannot be ruled out. If unionization plans materialize, AFGE's apparent intentions pose serious implications for the future reliability and effectiveness of our Services.

American military tradition and historical experience are strongly rooted in the principle that the military chain of command in the field is indivisible and must not be diluted by any other influence or authority. Military membership in American unions with their tradition of violence and defiance of authority, violates this principle, predicated on the basis that obedience to lawful orders issued within the United States military establishment is fundamental to the survival of the nation which must depend ultimately on the loyalty and cohesiveness of that military organization. My own personal experience with American troops in combat and other emergencies, beginning with World War II and extending through the Vietnam War, attests to the soundness of this principle and the wisdom of our civilian leaders who have been the architects of our military structure.

Pro-unionization arguments that refer to the experience of other foreign countries are irrelevant for the United States. The American background and experience are unique, and the nature and characteristics of U.S. Armed Forces have no counterpart in the world. Moreover, this position of the United States in the world demands a strong, powerful and versatile military organization, completely loyal and responsive to civilian authority.

AFL–CIO and other major unions have a long record of unfailing support for a strong national defense, and there is no evidence to indicate that this will not continue. AFL–CIO officials, however, have been conspicuously silent with respect to the actions of its affiliate, AFGE. There are indications that AFL–CIO basically agrees with the "right" of unions to organize the military, but feels that it would be premature to raise the issue at this time. Nevertheless, AFL–CIO has not constrained AFGE in its current efforts.

There are three major factors which lie behind the present situation:

1. *Volunteerism.*—An unforeseen spinoff of the All-volunteer Force policy has been a blurring of the previously sharp distinction between the military and the rest of the citizenry. Volunteerism, particularly with respect to junior enlisted personnel, fosters the feeling that being in the military is simply another job—one works for a wage or salary just like a civilian worker, rather than one serves his country. In fact, some sociologists feel strongly that volunteerism in the armed forces of western democracies must inevitably lead to their unionization.

2. *Deterioration of military benefits.*—Criticism of and verbal attacks on military benefits, such as the military retirement system, and the deterioration of other benefits, such as medical care, have led to a very real perception among service personnel that their benefits are eroding. The JCS recently documented evidence of such erosion in a presentation to the Secretary of Defense. At present, many military people feel that their government has broken faith with and neglected them, and the loss of credibility has been significant.

Unfortunately, there is some basis for military personnel to feel that their government has not effectively represented them and that unions might provide such representation. This feeling has been heightened by recent statements of high officials unfairly singling out the military compensation system for criticism, some of which is misleading and inaccurate.

3. *The Rivers Amendment.*—This amendment, enacted in December 1967, provides that military base pay will be increased across-the-board whenever the general schedule of Federal civilian pay is increased. Chairman Rivers intended this to be a temporary measure until a better linkage system could be devised for changes in the compensation area, but the Rivers Amendment linkage has become more or less permanent. This automatic linkage gives rise to the AFGE claim that since AFGE lobbies for civilian pay increases, it is automatically lobbying for military pay increases, and therefore, should get credit for this through military membership and union dues. A less charitable view is that the percentage of Federal civilian workers joining the various existing unions has peaked around 60 percent and is now on the decline, and that AFGE probably needs more members and funds to achieve its goals.

It should be noted that the Rivers Amendment was a major milestone in the history of military compensation adjustments, as military pay and certain benefits historically have lagged, sometimes for many years, behind civilian compensation. But here the point that I would like to make is that Federal civilian and military compensation should be considered together, not in isolation. This was the major thrust of the DMC Report with respect to compensation. Yet even now, senior government officials single out military retirement as overly generous without reference to existing Federal civilian retirement systems, which are likewise generous, and apparently with no recognition of the unique aspects of military life which defy adequate compensation.

Today within our active forces, there are indications of considerable support of and sympathy for the union idea, not just within the young volunteer enlisted men and women, but significantly within the career personnel, officers and non-commissioned officers, who have always been volunteers. The basic reason appears to be the feeling that they are inadequately represented by the executive and legislative branches of their government. Apparently it was similar dissatisfaction which led to the unionization of police, firemen and teachers in some parts of the United States.

Recently a major national poll published results indicating a strong majority public view in the United States against unions in the military. As I recall, there was comparable public sentiment against the unionization of police, firemen and teachers, but it happened anyway. However, our Armed Forces are federal, not local government, institutions and these forces are the "court of last resort" for the nation in times of national emergency.

Just before going out of office, Secretary of Defense Rumsfeld promulgated a new policy regarding unions and signed a memorandum addressed to the Service Secretaries, dated December 20, 1976, subject: "Policy Regarding Negotiations and Bargaining in the Armed Forces." The present Secretary of Defense supports the policy, but the Service Chiefs apparently do not concur. In my opinion, the new directive, although an improvement over the old DoD directive of 1969, is ambiguous and ambivalent in parts, and leaves the field military leaders in a weak position to discourage military membership in unions. The new directive clearly indicates that unions and associations which intend to negotiate or bargain have no place in the military structure, but then fails to prohibit or even discourage military membership in such organizations.

If one feels that unionization of the military is undesirable, then it seems to me that additional legislation of some sort is needed, as without it, I believe that the Armed Forces will surely be unionized in a matter of time. Thus, I support any legislation which would discourage, if not prohibit, military personnel from joining unions or associations as defined in currently proposed legislation. However, such legislation only gets at the symptoms, not the cause of the problem. What is needed basically is to restore within the Armed Forces confidence in their government. Service personnel need to believe that they will be represented equitably and responsibly by their government. Civilian control of and responsibility for our Armed Forces are clearly laid out in the Constitution—certainly, unions have no place in that structure of authority. But, if the Congress and the Executive Branch do not effectively carry out their constitutional duties in this respect, then we can expect the Services to be unionized sooner or later.

Thank you for this opportunity to testify before this committee.

Senator THURMOND. I have a number of articles, newspapers, and pamphlets, which have appeared in the press and have been published by various organizations and relate to the subject matter before the committee and, therefore, I ask unanimous consent that the following articles along with my introductory statement be printed in the hearing record for the benefit of the committee members and the public in general.

I list those 13 different articles, and I will ask that these appear in the record at this point, if there is no objection.

[The 13 articles mentioned above follow:]

STATEMENT BY SENATOR STROM THURMOND

1. A newspaper type handout, entitled "G.I.'s, Get Organized!" distributed this year at military installations by "Citizen Soldier," 175 Fifth Avenue, New York, N.Y.

2. A pamphlet, entitled "Soldiers, Sailors and Airmen of the United States," distributed mainly on the West Coast around military bases urging unionization. This pamphlet was distributed by a group called Project Lambda, which claimed to be a Gay Rights organization.

3. A pamphlet entitled "For a Democratic Soldiers' Union," distributed at military installations in the U.S. by the Enlisted People's Organizing Committee during recent months. The particular pamphlet was obtained from enlisted personnel at Fort Bragg, N.C., and Fort Jackson, S.C.

4. A press release on a survey conducted by "Citizen Soldier," 175 Fifth Avenue, New York, dated July 5, 1977, which reports on a survey that finds 52 percent enlisted personnel favor military unions.

5. The report of a survey conducted by graduate students of Central Michigan University of Air Force Tactical Air Command personnel in early 1976.

6. An article which appeared in the December 9, 1976, issue of the Washington Post newspaper entitled "Public Employees Union Prepares Bid to Enlist Service Personnel at Bases."

7. An article appearing in the May 1, 1977, issue of the Charlotte Observer entitled "Thurmond: We Need a Law To Forbid It."

8. An article appearing in the March 28, 1977, issue of U.S. News and World Report relative to interviews on military unions entitled "Let Soldiers Join Unions?".

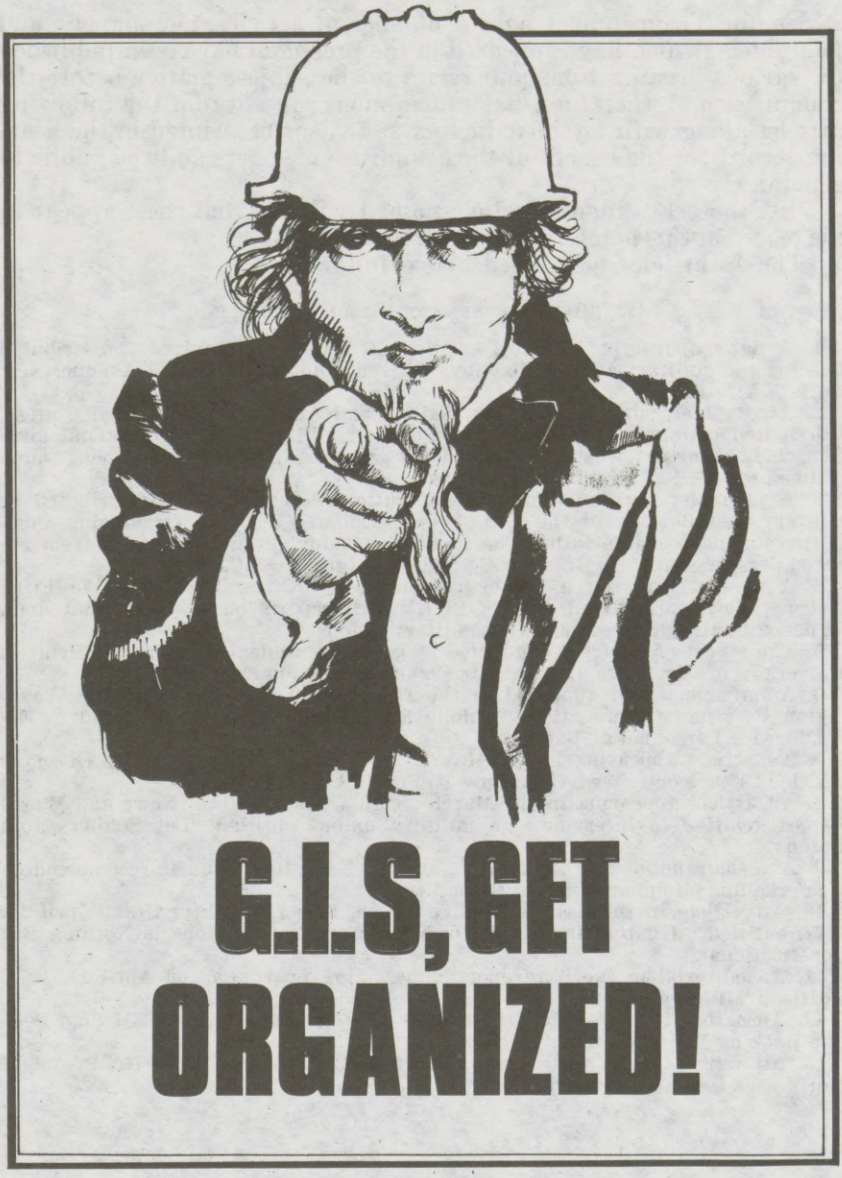
9. A memorandum to the AFGE National Executive Council recommending a referendum on unionization of the military.

10. An article in the Salt Lake City Times, Salt Lake City, Utah, April 16, 1977, entitled "Senator Garn Says Prohibiting Military Unions is Nothing But Constitutional."

11. An editorial in the Shreveport Times, Shreveport, La., on April 11, 1977, entitled, "Military Unions."

12. An article in the Army Times, June 6, 1977, entitled "1,900 EM Sign Petition Backing Military Union."

13. An article in the Navy Times, February 2, 1976, entitled "FRA President Morin Sees Union as Divisive."


G.I.S, GET
ORGANIZED!

What are Unions?

American workers have belonged to labor unions since the founding of our Republic in 1776. Shoemakers, printers, and silversmiths, for example, all belonged to unions. These craftsmen were among the first to recognize that individual welfare could best be protected by group action.



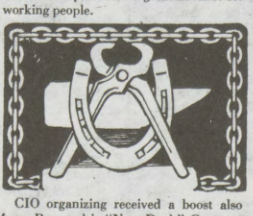
The intense pace of industrialization which began with the Civil War and continued for the next forty years, created the conditions in which modern trade unions emerged. Vast industries, like steel, railroads, and mass production manufacture, were built from the ground up. In the ten years, from the start of the Civil War, the number of factory workers in the United States nearly doubled. This frantic development coincided with America's rapid expansion Westward. Industrialization brought long hours, low pay, hazardous work conditions, child labor, and chronic unemployment. Conditions grew so bad that workers began to organize, despite the vicious opposition of the robber-barons. Thousands of workers were to be fired, arrested, and in some cases, killed before unions finally won bargaining rights.



Until 1886, the Knights of Labor was the major national labor federation. The American Federation of Labor (AFL) then succeeded the Knights and rapidly became a force for employers to reckon with. However, the AFL concentrated on organizing skilled workers, such as printers, bricklayers, and bakers, into craft unions, ignoring, for the most part, millions of factory workers.



Although there were numerous attempts to organize workers and win union recognition in industrial plants, both before and after World War I, it wasn't until after 1932 or the worst of the Great Depression that large numbers were organized and brought into the House of Labor. The Congress of Industrial Organizations (CIO) was created primarily by John L. Lewis and his United Mine Workers Union. Based on hundreds of rank and file organizing committees, it went ahead with the job of unionizing industrial workers in auto, rubber and steel. The success of the CIO — industrial, as opposed to craft unions — represented a great advance for working people.



CIO organizing received a boost also from Roosevelt's "New Deal." Congress adopted laws which, for the first time, established the right of industrial workers to join labor unions of their choice and required that employers bargain with them.

As technology has become more complicated in recent years, there has been a long-term trend away from manufacture and toward service and technical employment. These workers have increasingly joined labor unions. Also, millions of federal, state and local jobs have been created as government has assumed more and more responsibility for the education, health, and safety of its citizens. In 1975, there were 16,500,000 public employees in the U.S., compared with 6,820,000 in 1948. Teachers, social workers, air traffic controllers, and hundreds of other groups of public employees have increasingly joined labor unions in an effort to improve their standard of living. Current organizing drives among clerical and office workers could result in tens of thousands of new union members in the years to come.

Another important battleground for Labor is the Southern and Southwestern states of the US. Many of the states in these regions have adopted so-called "right-to-work" laws. These laws prohibit the establishment of "union shops" wherein all workers in a given plant or industry are required to become union members, once a *majority* of the workers have voted to be represented by a union.



Today, all of organized Labor is joining the drive to abolish such restrictions on trade unionism and to establish strong unions in industries like agriculture and textiles, where workers have long been subjected to low pay and bad working conditions.

As for government employees, they finally won the right to union recognition in 1962, when President Kennedy ordered all federal agencies to bargain with bonafide unions representing their workers.

Yet for all the successes of the American labor movement, only one out of four workers today belongs to a trade union. In general, the percentage of union membership is much higher in the industrialized countries of Europe.

The largest single sector of the American economy that remains completely unorganized today is the armed forces. But this too, is in the process of changing, as American servicepeople stationed all over the world are avidly discussing the pros and cons of unionization.



Why do G.I.'s Need a Union?



"Before I joined, my recruiter told me I'd get out with a saleable technical skill, with a year or two of 'college credit.' What he didn't spell out was all the quotas, waiting lists, and admission requirements—in the skill area I selected. Even though my test scores weren't so hot, he still promised me that I could get the training I wanted from the service.

Boot camp was a hassle, but I'd expected that. After all, I told myself, it's only twelve weeks and then it'll be all over. So, I was surprised when a lot of the hassling and 'spit and polish' regs just kept on a comin'.

On the outside, I'd worked for a while in a big fabrication plant. When the foreman refused to write-up some welding equipment that kept giving us electrical shocks, a bunch of us walked off, refusing to use them. You can bet that got them repaired in a hurry! However, in the service, whenever we had a work problem, we were told, 'there's the right way, the wrong way, and the Army way of doing things.' A few months ago, an Air Force E/4 I know was hurt when a defective wing flap knocked him off the wing of a huge C-141. When the union steward for the civilian technicians came down to investigate, the Captain stopped him with a wave of his hand, saying, 'the accident was military—it has nothing to do with your people.' This double standard really grates on me!

My job assignment is not what I was trained for. They said there weren't any 'slots' open in my specialty, so I may be stuck in the motor pool for the rest of my hitch.

I'd already been in for a year when Patricia and I got married, so she had some idea of what to expect as an 'Army wife.' We were assigned to housing in a 'reconditioned' barrack with a ceiling that leaks when it rains and a toilet that backs up every week or two. However, the off-base housing is almost as bad and costs a lot more. When I read a newspaper story recently that said 62,000 GI families were eligible for food stamps, I wasn't even surprised! The cuts in dental and medical care for Pat and our new daughter Kerry has knocked a big hole in our family budget.

I'd thought of re-upping in the past, but a guy I work for was just passed over for E/6, even though he's put in nearly seven years. Things have gotten to a point where I honestly think Pat would divorce me if I tried to re-up — not that I'd want to at this point."

DAVID WILLIAMS
(composite-based on actual interviews)

In the old "brown shoe" Army, "gunboat" Navy, and "Smilin' Jack" Air Force, commanders routinely used fear and harassment to keep troops in line. But those days should be over. These methods no longer work — if they ever did. The record of AWOL and desertion rates and the rising tide of non-judicial punishment (Art. 15s, etc.) and "bad" discharges, provides some indication of just how deep the discontent with military life is today.

Today's military is strictly volunteer. No one's in the service who didn't enlist. While we know that there's always the possibility of being called into combat, most military duty is pretty much like any other job. The Brass, however, seems determined to preserve all its petty prerogatives of rank and privilege. Many commanders seem to believe that the "drill and ceremony" along with all the Mickey Mouse "soldiering" makes *them* more important—regardless of whether it interferes with a trooper doing a good job.

	Military (today)	Industry (with labor contract)
FINAL EVALUATION OF WORKERS JOB PERFORMANCE	Discharge system allows military to permantently stigmatize GIs for work performance during their military tour. Entry to licensed jobs, professions, etc., affected.	Evaluation of work has no legal or official effect. It's merely part of a worker's personal history.
DANGEROUS WORK CONDITIONS	Complaintant must follow chain of command. Concept of "military necessity" used to justify many non-combat hazards.	Shop steward notifies company. Grievance filed. If not corrected, some union contracts provide for job action to protect workers' health.
SALARY—OTHER COMPENSATION	No collective negotiation. Take it or leave it — GIs can write their individual Congress-person.	Subject to contract negotiation and collective bargaining.

As of January 1, 1977, new servicepeople are no longer entitled to government-paid GI Bill for skilled training or college. Because payments for everyone will end in 1989, many troops will have to choose between higher education and putting in twenty years for their pension. The new "contributory" GI Bill is tough; who can afford an additional $50-75 a month deduction? President Carter recently announced that he was "concerned" about the current cost of the military retirement system. The traditional pension at half pay after twenty years may soon be a thing of the past.

The Pentagon responds to talk about a soldiers' union by warning that it would destroy "discipline" and make America defenseless against her enemies. They seem to think that harassment and bullying are effective ways to instill loyalty and discipline. Must threats and intimidation be the sole means of getting servicepeople to defend their families and homes?

"Organizing has always been a priority objective of the American labor movement."

George Meany, Pres. AFL-CIO, 1977



UNORGANIZED!



Labor on the March to Organize G.I.'s

Are GI unions legal? YES. Servicepeople don't forfeit their Constitutional rights when they put on a uniform. They enjoy Constitutional rights such as freedom of speech, petition, and assembly. While the Supreme Court *has* allowed some restrictions upon GIs' constitutional rights where it found compelling "military necessity", servicepeople clearly have the right to talk about, petition for, and join employee organizations. Some Senators have threatened to "outlaw" GI unions, but if such a sweeping law *was* passed, it would probably be unconstitutional. Last year, the Pentagon issued an order to all its commanders forbidding them from recognizing or bargaining with unions composed of GIs. But, many employers, like auto and steelmakers used to have the same attitude—until public pressure and union support forced them to change their position.

The right of workers in private industry to organize and bargain collectively is guaranteed by the National Labor Relations Act (as amended), passed in 1935. Federal employees didn't win bargaining rights until President Kennedy's Executive Order in 1962, although they've had the right to membership since 1912. While many millions of workers remain unorganized, today only servicepeople are denied the basic right to bargain collectively with their employer-the government.

One major AFL-CIO union has been considering organizing GIs for some time now. That's the American Federation of Government Employees (AFGE) which already has labor contracts for civilian employees at defense installations throughout the world. AFGE became interested in organizing a military union when a federal law tied the military's pay to that of federal civilian employees in 1971. Thus, if Congress raises pay for one group, it must do the same for the other. It follows that AFGE's civilian members have strong common interests with GIs and vice versa.

The AFGE could represent servicepeople on two levels; the local-unit level where most grievances occur, and at the DOD/Congressional level, where the "economic package" is negotiated.

Case Study: Dutch Conscripts

Dutch G.I.'s in 'Sleepout' Over Barracks Conditions



Often a union must be militant to defend the rights and dignity of its members. The VVDM is a tough union. While its members are draftees, and therefore it's different from what a union in American military would look like, it provides a dramatic example of what unity in action—even in the armed forces—can mean. A recent issue of *Parade*, the Sunday magazine described VVDM:

"What the Pentagon is worried about is an American version of the Dutch soldiers' union. A number of European countries - Germany, Sweden and Belgium as well as the Netherlands—have soldiers unions, but the Dutch union, the VVDM is easily the most radical and *to the Pentagon's horror, the most successful.*"

The VVDM, whose 22,000 members make up more than half the draftees in the Dutch armed forces, was organized in 1966 and has brought major changes.

In 1970, after a Dutch soldier was punished for refusing to salute, the VVDM organized several "national saluting days" in protest. Members saluted everything—bus drivers, buses, lamposts, trashcans. After several years of this, the military decided to modify its regulations. Dutch soldiers still must salute officers and non-coms when they address them, but not when they encounter them casually, such as on the street.

The VVDM has also succeeded in getting rid of other annoying rules and regulations like bed-check. As a result, Dutch soldiers today have only infrequent inspections and don't have to "polish brass."

In addition to eliminating the "Mickey Mouse" in military life, the VVDM has also won better living and working conditions, overall pay increases of 1200% since its inception, and is having impact on fringe benefits, leave-time, assignments and overtime compensation.

"Has the soldiers' union hurt the Dutch military? It depends on what you look for," says Col. Theodorus Browner, the Dutch military attache in Washington. "If you are looking at physical appearance, that's one thing. But if you look at performance, that's another."

Browner says that statistics on drug abuse, alcoholism, desertion and AWOL indicates that unionization has resulted in no loss of motivation. "But most important," he says, "there has been no decrease in skill of efficiency." The Dutch Army, he points out scored high in recent NATO exercises.

Perhaps the Pentagon's real concern isn't that the union would be harmful to discipline and preparedness, but that Rank Has Its Privilege and they'd like to keep it that way!

Sound Off!

Q. *Some people are worried that if servicepeople join a union the nation's security may be endangered.*

A. We don't agree. Public employees, such as firemen, policemen, and hospital workers have belonged to unions for years, yet, they've all demonstrated a high degree of responsibility in meeting their public duties. While there have been work stoppages which have disrupted some public services, in the main, organized public employees have lived up to their responsibilities. For example, strikers have continued to treat emergency patients in the midst of hospital walkouts. We think that union action which protects the health and welfare of public workers actually protects the "public interest." A disgruntled and oppressed workforce constitutes a far greater danger to public welfare.

Q. *Who should belong to the union? Does it make sense to have officers and enlisted people in the same union?*

A. This is a difficult and important question. As a general rule, any worker whose job doesn't consist of supervising other workers or making policy, should be eligible for membership. However, whether officers and enlisted personnel who meet this criterion should belong to the same, or separate unions, is a thorny question. The US military has always made many distinctions between officers and enlisted. So, while in many cases a Lt. or Captain will perform work *similar* to that of an enlisted person, their *rank* will always affect the nature of their relationship. Citizen Soldier believes that officers should be in a different union from that of enlisted personnel; but a lot more discussion and study is needed.

Q. *But soldiering isn't like any other job; shouldn't troops accept restrictions on their rights to political expression and activity?*

A. America was founded, in part, on the belief that a professional military caste that was isolated from the general society was something to be avoided. The founding fathers believed that every citizen should take some responsibility for the defense of the country-rather than leaving this to a large standing army. While it's true that we face a very changed world today, we believe that the American tradition of citizen-soldiers should be respected to the maximum extent possible. We don't assume that if soldiers *were* allowed to think and talk freely and participate in decisions it would have a negative effect on morale or discipline.

Q. *I've heard a lot about corrupt union leaders who are just out for the members' dues. Why should I join a union like AFGE?*

A. There's no such thing as a free lunch. A union will only be as strong (and honest) as its members make it. Everyone who joins has a responsibility to participate in its work and to watch-dog its officers.

What is CITIZEN SOLDIER?

Citizen Soldier is an educational, research organization, staffed primarily by ex-soldiers. It is a project of ATOM, Inc., a tax-exempt, non-profit foundation. We are concerned about the long-term effect of issues like military justice, defense policy and planning.

Citizen Soldier does not work for, nor does it represent any union in the American labor movement. We believe that our role is to inform both military personnel and the public at large as to the benefits of unionization for the American armed forces. For GIs, unionization could mean achieving a quality of life comparable in *all* respects to that of the civilian work force. For society, it could help insure that civilian control of our military institutions eroded by the abolition of the Draft and reliance on an All Volunteer Force, will be maintained and strengthened through union ties to the autonomous civilian labor movement.

Any communication with our committee will be kept in strictest confidence.

SOLDIERS, SAILORS & AIRMEN OF THE UNITED STATES

Do You Know Seven Facts About Your Job?

1. The U. S. Constitution and the Bill of Rights do not apply to the military. Congress can legislate for you in a manner "constitutionally impermissible" for civilians. *Greer* v. *Spock* 96 S. Ct. 1211 (1976), *Parker* v. *Levy* 94 S. Ct. 2547 (1974).

2. In order to prevent you from forming a union to defend your interests, Congress is preparing to amend the United States Code, Title 10, Section 975 so that it shall be "unlawful for any individual . . . to solicit or otherwise encourage any member of the armed forces to join any labor organization." (S-3079/ HR 13608 94th Congress 2nd Session). Violators of this act may receive up to five years in prison.

3. Your enlistment contract is fraudulent. Its obligations are unenforceable in a United States Court, *Reamer* v. *United States* 532 F. 2d 349 (1976), *Carini* v. *United States* 528 F. 2nd 738 (1975).

4. Only circumstances as seen by a jury, not any "lawful order" can justify the use of force or compulsion. Instructions from higher authority will not protect you from prosecution for "planning, preparation, initiation and waging of wars of aggression" or for any other "crimes against the peace." *Principles of International Law* International Law Commission of the United Nations (1950), *The Nuremberg Judgement*, International Military Tribunal (1946).

5. Oral sex is a crime in military. If you do anything outside of the "missionary position" even with your own wife/husband, you may be charged with "unnatural copulation" under United States Code, Title 10, Section 92 (Article 125 Uniform Code Military Justice).

6. The Supreme Court has affirmed the decision of a Federal District Appellate Court citing the Hebrew Canon (Leviticus 18:22, the Holiness Code) as authority for upholding Sodomy Statues in the United States. *Doe* v. *Commonwealth's Attorney*, 96 S. Ct. 1489 (1976) 403 F. Supp. 1199 (1975).

7. In order to bring you this information urging you to defend your professional interests through industrial action and collective bargaining, Project Lambda (justice) organizers are risking imprisonment for up to ten years for violating Section 2387, United States Code, Title 18 (Treason and Subversive Activities).

Soldiers, Sailors and Airmen of the United States, Project Lambda urges you to:

1. Standup to the politicians;
2. Stop being a Government slave;
3. Withdraw your labor and refuse to perform your duty until your right to negotiate a binding contract and to receive equal treatment under the law is recognized by the U.S. courts.

JEFFREY VOWLES, *Director*,
PROJECT LAMBDA, *El Cajon, Calif.*

FOR A DEMOCRATIC SOLDIERS' UNION

WHY WE NEED A UNION

1. Military "justice"

In theory the UCMJ is supposed to protect people's legal rights, but its real purpose is to control the rank and file. Elementary guarantees of privacy and equal justice are denied.

Article 15 (Captain's Mast/Office Hours) is the worst abuse—a means to harass and intimidate enlisted people. Nonjudicial punishment violates constitutional rights and ignores due process.

In 1975, over 363,000 Article 15's were issued in the military—one for every five enlisted persons.

Enlisted people are constantly dehumanized by power trips and Mickey Mouse work assignments—mindless authority runs rampant. Commanders can punish peop'e arbitararily and can hand out bad discharges whenever they wish, often causing lifetime harm.

These abuses will stop only if we stand up for our rights and demand justice. A union can help us in this by providing legal representation. A union can also provide an independent grievance procedure and work to improve GI rights.

2. Racism

Blacks, Latins, Indians and Asians enter the military from a world of prejudice and oppression, and what we see in the military is no different. People of color get the worst jobs, the most bad discharges and courts martial, and constant harassment from supervisors and police.

Combat arms units are often 50 percent black or Latin, but technical jobs and staff positions are almost always filled by whites.

Latinos had the highest casualty rate in Vietnam and Korea, followed by blacks. More Puerto Ricans were drafted for Vietnam, percentage wise, than any other group.

3. Sexism

Women in the ranks and in military families are constantly degraded. Enlisted women are still steered toward traditional "women's work", even in supposedly technical jobs, and are subject to exploitation by sexist supervisors.

Women have fewer promotions and are assigned to lower grades.

Sex or sexual preference should have no influence on how a person is assigned or treated. A union could establish committees to investigate sexual discrimination and provide legal resources for confronting such abuse.

4. Pay, benefits and contracts

Military pay is not keeping pace with inflation. According to the Congressional Budget Office, wage boosts are running well below cost of living increases.

Many of the benefits promised to us by the military are being cut back, for example, reduced medical coverage for dependents.

Military "contracts" are rigged. They only obligate us, while commanders can change our duty, training or benefits whenever they please.

5. Housing

Housing is a major gripe of enlisted people. Many couples are ordered to live in dilapidated apartments, where they are harassed by petty rules and often cannot obtain maintenance.

Single people are as bad or worse off. Thousands of us live in 30 year old barracks with holes in the walls and ceilings. Sailors often live in a berth smaller than a coffin.

Despite these conditions the military has proposed raising the BAQ housing allotment taken from our pay.

A union is necessary to work for better pay and benefits and for improved conditions.

6. Job safety

Every year hundreds are killed and thousands are injured in "training accidents" and "routine" maintenance work caused by negligence and improper equipment.

In the last five years 34 recruits have been killed in Marine Corps boot camp. Every year the Corps has approximately 1,000 training accidents.

Unions can begin to apply health and safety standards on the job and prevent coverups.

7. Class privileges

Certain sectors of the military do not suffer these injustices. Officers automatically get better housing, better food, better education, better medical care, twice the pay for easier duty, and the first place in line everywhere.

Why should we treat these people as tin Gods, with compulsory hand signals and passwords? An enlisted organization can fight these demeaning rituals. The Dutch soldiers union, for example, forced the government to end unnecessary inspections and to make saluting optional.

8. The right to resist

We have the right to resist illegal orders and moral outrages, whether imposed on us or on others. We have a legal and moral obligation to refuse to participate in the abuse of individuals or in war crimes. The Geneva Convention implies that

this is our duty, but in a practical situation, many of us lack the knowledge and courage necessary to say "NO."

> When a Marine DI gave the order which led to the beating death of Pvt. Lynn McClure, one of the recruits involved later said: "It's all I can see when I go to bed. There's no going to sleep. All I can hear are his screams asking for the mercy of God."

A union can give us the awareness and support to refuse such orders.

HOW DO WE BUILD THE UNION?

1. We must do it ourselves

Any effective union has to be built from the bottom up, rather than imposed from the top down. We must depend on ourselves for the work, the ideas, the initiative and the leadership. If a union is to be responsive to our needs, we must become actively involved in struggling for it.

2. Spread the word

Circulate this pamphlet among people you know. Support the petition drive in favor of an enlisted union. Get folks in your unit to begin working together to confront the brass on local problems. Study the regulations and learn how to use the legal rights we do have.

3. Form unit organizing committees

All it takes is one or two people to form a small group which can organize the rest of the unit. These committees could get study sessions going on the regs and how to deal with problems, i.e., a safety situation, a racist lifer, comp time for long hours, etc.

Once several unit committees exist, a steering committee will be necessary to coordinate activities with people at other bases and in other services. Creating an enlisted union is not going to be done overnight; it will take a lot of work.

4. Get the support of other union members

Building a trade union is not just a personal issue. It's a struggle to insure that all working people have a greater say in their lives and work. We will need the support of other union people to achieve success. Talk to union members in your area, especially civilian base workers. Ask for their help, and ask how we can help them.

5. Raise funds

Building a union is going to take a lot of money. We'll need money for printing, renting an office and meeting place, legal help and hundreds of other things. The money will have to come from our own pockets for the most part. When a few hundred people chip in a couple of dollars every pay day, it adds up quickly.

QUESTIONS

1. Is it legal?

Yes. We *do* have the right to petition, to organize and to join a union. According to regulations, however, organizing work must be done off duty and out of uniform. The law is unclear about our right to organize on base, but we must fight to assert this right in order to build the union.

2. Who should be members?

The union would be open to enlisted people of all services, to their families, and to veterans. People above the rank of E–6 are bosses and should be excluded. The union should be controlled by the rank and file, with one person one vote. Military rank should have no influence in union activities.

3. What about established unions?

Several unions have been talking about organizing in the military. The American Federation of Government Employees has voted to permit military membership. An established union like AFGE would have the resources and power to guarantee a successful union drive.

We have no guarantee, however, that AFGE or any other established union will actually help us, or that they will support our program. If we want a union which serves enlisted interests, we must begin building our own organization now.

Help us by filling out and mailing the coupon on the back page.

4. What about national defense?

Much of the criticism of a military union is that it would harm national defense. Actually the argument has no basis.

The question of whether or not soldiers will fight is related to the mission of the military. A union won't change this. We'll fight to protect our homes and families. But if we're asked to fight in Vietnam-type wars of aggression motivation will be lacking.

GI BILL OF RIGHTS

Full privacy and an end to arbitrary searches;
Trial by a jury of peers;
Elimination of nonjudical punishment;
An end to bad discharges;
Freedom of hair length;
Elimination of racist and sexist supervisors and policies;
Freedom of sexual preference;
Full civilian pay, with compensation for overtime;
Strict enforcement of recruitment promises;
Safety on the job;
Decent housing for all;
An end to saluting and other class distinction; and
The right to resist illegal orders or policies.

CITIZEN SOLDIER,
New York, N.Y., July 5, 1977.

MILITARY UNION SURVEY RESULTS RELEASED: 52 PERCENT OF ENLISTED RANKS FAVOR IMMEDIATE UNIONIZATION

Citizen Soldier, a public interest group seeking both the reform of the military justice system and the extension of Constitutional rights to all military personnel, announced today the results of its survey of GI attitudes toward Military Unions.

Active-duty members of all branches of the armed forces were asked to express a preference for one of the following statements;

(1) "Yes, I agree that servicepeople need a union.
(2) "I'm not sure what I think right now."
(3) "No, I don't favor a union for servicepeople at this time."

Eighty-three percent of the respondents (327 to date) were from the enlisted ranks with the remainder being officers. Overall, 45 percent were in favor of unionization, 34 percent were undecided and 21 percent were opposed.

When the responses are sorted by rank, the enlisted personnel were found to have substantially different opinions from those of the officers.

Dividing enlisted into two categories, Junior (E/5 and below-often non-supervisory, yet may have 10+ years of service) and Senior E/6–E/9) the results were as follows:

ENLISTED CATEGORIES

[In percent]

	EM (all)	Junior NCO	Senior NCO
Yes	52	61	41
Undecided	35	30	41
No	13	9	18

OFFICER CATEGORIES

[In percent]

	All	Juniors [1]	Senior (all others)
Yes	16	12	25
Undecided	27	40	0
No	57	48	75

[1] Lieutenants, captains, warrant officers.

Twenty thousand questionnaires were mailed to active-duty service members whose addresses were obtained through the rental of commercial mailing lists. C. S. "tested" four different lists, two being lists of Officers and Noncommissioned Officers resident at various US military installations; the other two were Playboy (military ZIPs throughout US) and Penthouse (APO and FPO military addresses only).

The questionnaire was part of an eight-page tabloid-style newspaper which presented basic information on unions and summarized some of the grievances which have apparently contributed to pro-union sentiment within the ranks today. An envelope was enclosed, but each respondent had to furnish postage. For a "ballot" to be validated, it had to contain the GI's name, rank, military unit, and address.

Total response to date has already exceeded 1½ percent, with "ballots" continuing to arrive. This is considered excellent by direct-mail standards, particularly since respondents had to furnish postage, write to an unknown organization, and stand up to be counted by identifying themselves.

Citizen Soldier makes no claims of "scientific precision" in its sampling techniques. However, its results are not incompatible with those of an Air Force survey conducted last year which found that a plurality of enlisted airmen favored unionization. The greater support for unionizing indicated by Citizen Soldier's results suggests that conditions which exacerbate pro-union attitudes may have worsened in the year since the Air Force conducted its poll.

Some of the common grievances mentioned by servicemembers who attached letters are; recruiting and assignment practices, "erosion" of personnel benefits, inadequate housing, promotion policies, problems with the military justice system, and a general frustration with the grievance mechanisms provided by the chain of command.

THE FEELINGS AND ATTITUDES OF U.S. AIR FORCE TACTICAL AIR COMMAND PERSONNEL WITH REGARDS TO UNIONIZATION WITHIN THE AIR FORCE

HEADQUARTERS, 4TH COMBAT SUPPORT GROUP (TAC),
Seymour Johnson Air Force Base, N.C., January 15, 1977.

Attention: DPHQS (Sgt. Waters/5463).
Subject: Letter of Explanation Concerning a Survey.
To: AFMPC/DPMYPS.

1. Title of survey: "Unionization in the Air Force."

2. Statement of purpose: The purpose of this survey is to complete a class room requirement for a graduate course being undertaken by eight students in connection with Central Michigan University.

3. Hypotheses to be tested by survey: To discover what the attitudes and beliefs are of individuals in the Air Force concerning unionization of the Air Force.

4. Description of statistical analysis plan: By using percentages this group desires to show what the breakdowns are (i.e., age time in service, officer, enlisted) for those favoring or not favoring unionization of the Air Force.

5. Description and size of population to be surveyed. Five hundred military personnel composed of officers and enlisted. Since our base is composed primarily of two wings (TAC and SAC) we restricted ourselves to TAC personnel.

6. Description and size of sample selected: Same as item 5.
7. Method of selection of sample: Random sample, one out of every five.
8. Method of conducting survey: By distribution of a questionnaire.
9. Use and disposition of survey results: The group will use the results to complete the requirement for a graduate course as explained in item 2 above. Each member of the group will receive a copy of the final results as will the instructor for grading purposes. A final copy will be forwarded to AFMPC/DPMYPS as soon as possible after completion.

CHARLES R. WATERS, *Sgt., USAF,*
Team Coordinator.

Attachment: Questionnaire.

DEPARTMENT OF THE AIR FORCE,
HEADQUARTERS COMBAT SUPPORT GROUP (TAC),
Seymour Johnson Air Force Base, N.C., January 9, 1976.

Attention: DPMOS (Sgt. Waters/5463).
Subject: Random Sample of Military Personnel.
To: DPMO.

1. Eight military personnel who are engaged in a graduate course in connection with the Central Michigan University Master of Arts program, desire to distribute a questionnaire to a random sample of 500 officers and airmen on Seymour Johnson AFB.
2. The purpose of this is to ascertain the attitudes and ideas of these individuals in regards to unionization of the Air Force.
3. This survey has been approved by the Survey Program Office at AFMPC and has been assigned a control number of 76–74.
4. This survey will in no way reflect the opinions, policies or regulations of the Department of Defense or the Air Force.

CHARLES R. WATERS, *Sgt., USAF,*
Team Coordinator.

Attachment: Sample survey.

1st Ind., January 9, 1976.
DPMOS
To: 4CSGp/CC.

In accordance with AFR 178–9, paragraph 7e, this request for administration of a random survey of military personnel is forwarded for your approval. The requirements of AFR 178–9, paragraph 18, have been met in that USAFMPC has awarded a control number for subject survey and granted verbal authority to conduct the survey.

JAMES I. FERRELL, *Major, USAF,*
Chief, CBPO.

2d Ind. (4CSCp/DPMQS Ltr., Random Sample of Military Personnel, January 9, 1976).
4CSCp/CC
To: 4CSGp/DPMQ.

Authority is granted to conduct a sample survey of military personnel in accordance with AFR 178–9. Upon completion of the survey, a copy of the survey and all responses thereto will be furnished 4TFWg/ACM and USAFMPC/DPMYP.

WILLIAM J. WARREN, *Colonel, USAF,*
Commander.

[*Disclaimer.*—This survey does not, in any way, reflect upon the ideas, policies, or regulations of the Department of Defense or the U.S. Air Force.]

INTRODUCTION

This is a research analysis pertaining to information collected concerning the feelings and attitudes of Seymour Johnson Air Force Base Tactical Air Command personnel in reference to the possibility of unionization within the Air Force. The researchers conducted random sampling at Seymour Johnson Air Force Base, Goldsboro, N.C., with written questionnaires as you will see in Appendix A (attached).

The researchers want you to keep in mind that this was a class project, in which time was limited, but resources were excellent.

We used, as our sample, 283 persons who completed the questionnaires of which 207 were enlisted personnel and 76 were officers.

The researchers realize that the questionnaire revealed certain mistakes and also that questionnaire pre-testing should have been made more extensively.

Of the 283 questionnaires received, 104 were in favor of unionization, 118 were against the unionization and 61 were undecided. (See Appendices B & C).

In Appendices D, E, and F, researchers have developed a delineated breakdown, by age grouping, of how the various Seymour Johnson Air Force Base Tactical Air Command respondents view unionization.

THE FEELINGS AND ATTITUDES OF U.S. AIR FORCE TACTICAL AIR COMMAND PERSONNEL WITH REGARD TO UNIONIZATION WITHIN THE AIR FORCE

The group of eight students, who undertook this project, formulated a questionnaire consisting of 10 questions pertinent to the theme of the survey.

Upon receipt of approval to conduct the survey, (See pages i, ii, and iii) the questionnaires were distributed to a random sample of officers and enlisted men of the Fourth Tactical Force Wing, Seymour Johnson Air Force Base, North Carolina. This component was used as the groups sample universe since it would have been impossible to survey all the commands within the Air Force. It should be noted that the base population was 4,020 enlisted men and 715 officers.

Each respondent was informed of what the purpose of the survey was and that being part of a classroom project and completing the questionnaire was strictly voluntary.

Question No. 4 was used as a base from which to build our statistical evaluation. From this question three other questions were correlated with it, they are questions 3, 7, and 8.

Question 4 asked the question "Are you in favor of the creation of a labor union within the United States Air Force?" Of the total universe sampled, 104 answered yes, 118 answered no, and 61 were undecided. By using percentages, these figures were broken down showing that 12.5 percent answering "yes" were officers, and 87.5 percent were enlisted. Forty-four percent, who answered "no" were officers while 55 percent were enlisted men. Those who were "undecided" were 18 percent officers and 81.9 percent enlisted men. Of the total sample population of 283 respondents, 36.7 percent responded "yes" to the question, 41.6 percent responded "no," and 21.5 percent were "undecided." By referring to Appendices B & C, these figures will be brought out more clearly.

Question 3 asked the respondents if they believed there was widespread support for the creation of a labor union within the U.S. Air Force. Of the total sample population of 283 respondents, 28.2 percent responded "yes" to the question, 40.2 percent responded "no," and 31.4 percent were "undecided." This question was correlated to question 4 and Appendix D reflects this breakdown.

Question 7 asked the respondents if they felt that overall conditions such as wages, benefits, and privileges in the Air Force were deteriorating. Of the total sample population 283 respondents, 80.2 percent responded "yes" to the question, 11.6 percent responded "no," and 6.7 percent were "undecided." Appendix E will show the answers of the respondents.

Question 8 asked if they felt that the deterioration of the conditions was more rapid in the Air Force than in the civilian community. Of the total sample population of 283 respondents, 56.1 percent responded "yes" to the question, 16.2 percent responded "no," and 13.4 percent were "undecided." Appendix F will show the breakdown of the respondents' answers.

By using the information received, this group believes that there is support for the creation of a labor union within the U.S. Air Force. Also, the vast majority (80.2 percent) of the respondents indicated that overall conditions, that is, wages, benefits, and privileges in the Air Force are deteriorating, and that they are deteriorating at a more rapid rate than the civilian community (56.1 percent).

SUMMARY

In summary, it can be seen that this research study has enormous statistical possibilities. It is evident that, in the final analysis, our questionnaire should have been pre-tested more extensively. Our questionnaire could, therefore, have been made more functional in light of the research projects time constraints.

Questions 5, 6, and 10, for example, could have been withdrawn from the questionnaire entirely, shortening the length of the questionnaire itself, and shortening the amount of time spent analyzing such extraneous questions. While many statistical analyses could have been drawn from the varied responses, the research project particularly centered itself around only the most pertinent facts, percentages, and generalities.

The reader may delve deeper into our appendices and draw more conclusions if he chooses. Our study may possibly serve only as a focal point for more in-depth research studies into the attitudes of U.S. Air Force Personnel toward possible unionization.

APPENDIXES

APPENDIX A—QUESTIONNAIRE

The following is a questionnaire which attempts to measure the feelings and attitudes of USAF Personnel with regards to unionization within the Air Force. This questionnaire is part of a classroom project conducted by students of Central Michigan University, the results of which are for classroom use only. We would appreciate your time and effort in answering these questions as honestly as possible.

1. Please answer the following: A. Age——. B. Sex——. C. Rank——. D. Number of years in Service——.

2. Are you now serving as a supervisor? A. Yes——. B. No——.

3. Do you believe there is widespread support for the creation of a labor union within the United States Air Force? A. Yes——. B. No——. C. Undecided——.

4. Are you in favor of the creation of a labor union within the United States Air Force?

A. Yes (if so, go to question 5).
B. No (if so, go to question 6).
C. Undecided (if so, go to question 7).

5. Circle the reason or reasons you are in favor of unionization within the Air Force.

Unions would:

A. Ensure an acceptable pay scale.
B. Protect and promote job benefits.
C. Ensure job security.
D. Ensure acceptable working hours.
E. Other (please specify)——————————.

6. Circle the reason or reasons you are not in favor of unionization within the Air Force.

Unions would:

A. Be detrimental to national security.
B. Not adequately protect and promote the welfare and interest of Air Force Personnel.
C. Other (please specify)——————————.

7. Do you feel that the overall conditions, that is, wages, benefits and privileges in the Air Force are deteriorating?

A. Yes (if so, go to question 8).
B. No (if so, go to question 9).
C. Undecided (if so, go to question 9).

8. Do you feel that the deterioration of these conditions is more rapid in the Air Force than in the civilian community? A. Yes——. B. No.——. C. Undecided——.

9. Would you join a USAF labor union if you could?

A. Yes (if so, you are now finished with the questionnaire).
B. No (if so, go to question 10).
C. Undecided (if so, you are now finished with the questionnaire).

10. Circle the reason or reasons why you would not join a USAF Labor Union.

A. I would prefer to wait and see if joining a union would be in my best interest.
B. I would feel that joining a union might be detremental to my career.
C. Other (please specify)——————————.

APPENDIX B: QUESTION NO. 4

	Yes	No	Undecided
Officer	13	52	11
Enlisted	91	66	50
Total	104	118	61

APPENDIX C: QUESTION NO. 4 BY PERCENTAGES

	Yes	No	Undecided
Officers	12.5	44	18.0
Enlisted men	87.5	55	81.9
Total	100.0	99	99.9

APPENDIX D: QUESTION NO. 3 CORRELATED TO QUESTION NO. 4

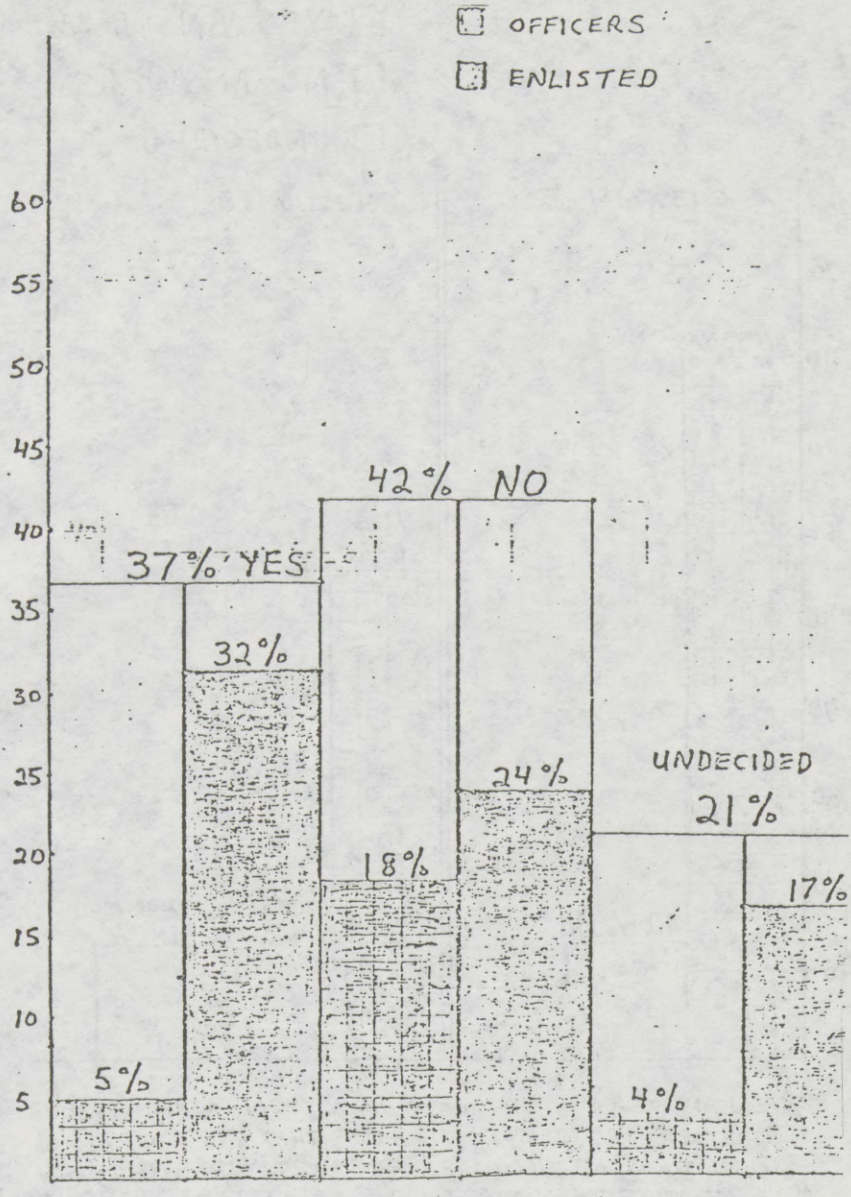
	Yes			No			Undecided		
	Yes	No	Undecided	Yes	No	Undecided	Yes	No	Undecided
Officer	7	3	3	5	41	6	1	5	5
Enlisted	60	11	20	3	48	15	4	6	40
Total	67	14	23	8	89	21	5	11	45
Age:									
18 to 24	35	12	16	2	25	12	4	5	38
25 to 32	17	2	5	5	41	6	0	5	4
33 plus	5	0	2	3	24	6	1	1	3
Supervisor:									
Yes	23	1	5	6	19	12	2	2	10
No	70	13	18	4	41	12	3	9	35

APPENDIX E: QUESTION NO. 7 CORRELATED TO QUESTION NO. 4

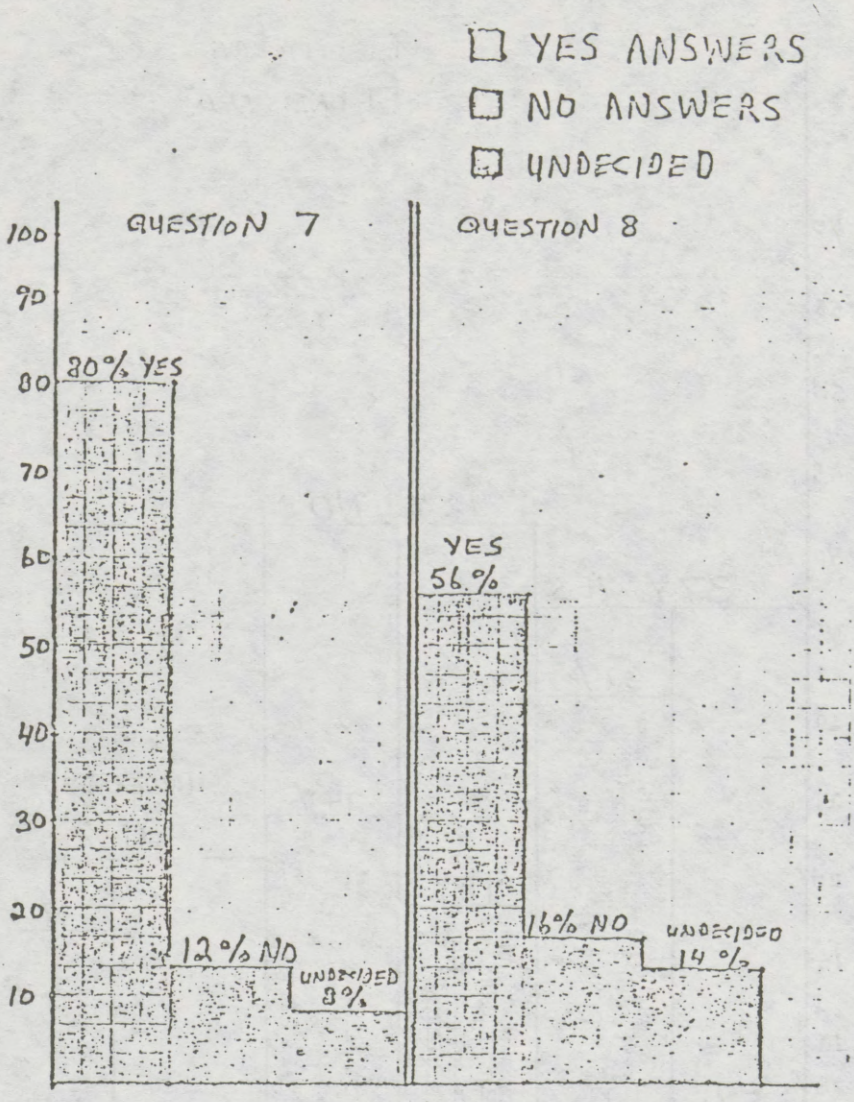
	Yes			No			Undecided		
	Yes	No	Undecided	Yes	No	Undecided	Yes	No	Undecided
Officer	11	1	1	34	15	3	10	0	1
Enlisted	81	6	4	52	11	3	39	4	7
Total	92	7	5	86	26	6	49	4	8
Age:									
18 to 24	61	5	4	30	5	0	36	4	7
25 to 32	24	2	1	34	10	6	8	0	1
33 plus	7	0	0	22	11	0	5	0	0
Supervisor:									
Yes	29	0	0	47	16	3	11	1	2
No	63	7	5	39	10	3	38	3	6

APPENDIX F: QUESTION NO. 8 CORRELATED TO QUESTION NO. 4

	Yes			No			Undecided		
	Yes	No	Undecided	Yes	No	Undecided	Yes	No	Undecided
Officer	9	1	1	26	9	5	5	4	2
Enlisted	67	6	10	29	16	12	23	10	8
Total	76	7	11	55	25	17	28	14	10
Age:									
18 to 24	47	6	10	19	9	5	19	12	7
25 to 32	24	0	0	23	6	8	7	1	1
33 plus	5	1	1	13	10	4	2	1	2
Supervisor:									
Yes	24	3	2	31	12	11	5	2	4
No	52	4	9	24	13	6	23	12	6

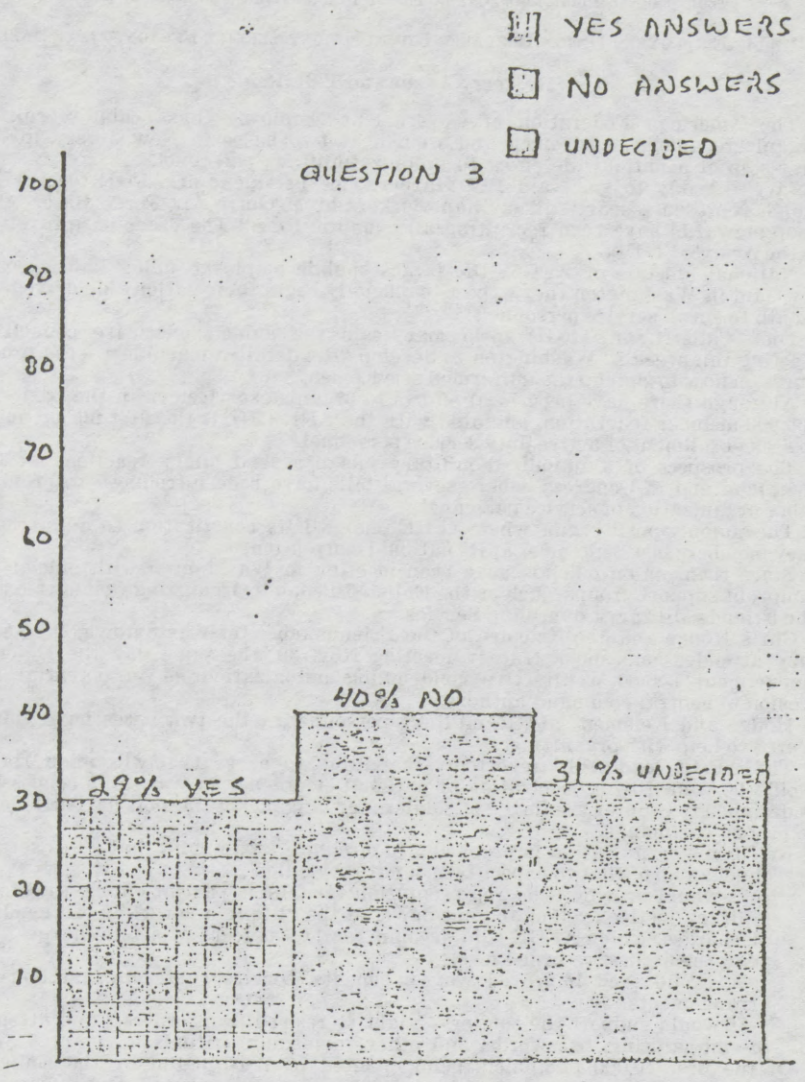


* IN RESPONDING TO QUESTION FOUR WHICH ASKED WHETHER THE RESPONDENT WAS IN FAVOR OF CREATIN A LABOR UNION WITHIN THE USAF, 37% SAID THEY WERE 42% SAID THEY WERE NOT, AND 21% SAID THEY WER UNDECIDED.



* IN ANSWERING TO QUESTION SEVEN WHICH ASKED WHETHER THE RESPONDENT FELT THAT THE OVERALL CONDITIONS OF THE USAF WERE DETERIORATING, 80% FELT THAT THEY WERE, 12% FELT THAT THEY WERE NOT, AND 8% WERE UNDECIDED.

* IN ANSWERING QUESTION EIGHT IN THAT THE OVERA CONDITIONS IN THE USAF WERE DETERIORATING MORE RAPIDLY THAN IN THE CIVILIAN SECTOR, 56% FELT TH THEY WERE, 16% FELT THAT THEY WERE NOT, AND 14% WERE UNDECIDED.



* IN ANSWERING QUESTION THREE WHETHER THE RESPONDENT BELIEVED THAT THERE IS A WIDE SPREAD SUPPORT FOR THE CREATION OF A LABOR UNION IN THE USAF, 29% FELT THAT THERE WAS, 40% FELT THAT THERE WAS NOT, AND 31% WAS UNDECIDED.

[From the National Labor-Management Foundation, Washington, D.C.]

PUBLIC EMPLOYEES UNION PREPARES BID TO ENLIST SERVICE PERSONNEL AT BASES

(By Terry Anzur and T. R. Reid)

The American Federation of Government Employees has begun recruiting organizers among servicemen and women at two bases in New Jersey in the first step of a nationwide effort to unionize military personnel.

"We're ready to go," said Bill Harper, vice president of AFGE local 1778, which represents nearly all civilian workers at McGuire Air Force Base. "Our shop stewards have been recruiting all over the base." The other base involved is the Army's Ft. Dix.

National officials of AFGE, the largest public employee union in the country, said in Washington they expect to officially begin their nationwide drive next month to enroll service personnel.

Dick Calistri, an AFGE spokesman, said the union's executive council is meeting this week in Washington to develop "the detailed machinery—the procedures on how to sign up the uniformed servicemen."

Although there have been local efforts to organize servicemen in the past, the 300,000-member federation, affiliated with the AFL–CIO, is the first major union to seek enrollment of active duty service personnel.

The prospect of a unionized military has provoked angry reactions at the Pentagon and in Congress, where several bills have been introduced to prohibit labor organization of service personnel.

The union's push began when AFGE changed its constitution to admit military members last September at its national convention.

Since then, union officials have been meeting in Washington with officials of nonprofit support groups, such as the Enlisted People's Organizing Committee and the Friends Military Counseling Service.

Chris Hodge and Joe Kelemen of the Friends office in Wrightstown, N.J., said they attended one such strategy meeting Nov. 30, the same day the Defense Department issued a directive condemning unionization as "a potential for erosion of central command authority."

Hodge and Kelemen said 15 military personnel at the two bases have volunteered to help with organizing.

The AFGE leadership reportedly is willing to agree that all union rights would be voided by a declaration of national emergency in war. This concession is designed to counter the image of soldiers forming picket lines on the battlefields to protest commands.

Kelemen's organization is preparing to circulate a pamphlet that gives service personnel an idea what to expect from a military union:

> It would provide legal representation for GIs as part of efforts to reform military justice system and cut down on the "lifetime norm" of bad conduct discharges, which AFGE said account for 11.7 percent of all discharges last year, the highest recorded level.
>
> It would seek improved wages, benefits, service contracts and housing arrangements.
>
> It would support the soldiers' "right to resist illegal orders," and attempt to end saluting, passwords, and other "demeaning rituals."

Of the first 10,000 pamphlets being printed in Washington by the Enlisted People's Organizing Committee, about 5,000 will be distributed at Ft. Dix and McGuire, Kelemen said.

At Ft. Dix, an Army training installation that processes almost 20,000 recruits a year, "we have a unique opportunity to reach a lot of people," Kelemen said. "The people who are coming and going here are going to settle down someplace in the military."

A spokesman for the Ft. Dix director of personnel and community activities said there was "no indication of local interest" in unionizing base personnel. Ft. Dix and McGuire officials refused comment on the union question, referring to statements by the Department of Defense.

Defense Secretary Donald H. Rumsfeld has said labor organization is "incompatible with the mission of the armed forces." He suggested this year that union organizers might be prosecuted under federal statutes prohibiting counseling service personnel to mutiny.

Federal employees are not covered by the National Labor Relations Act, the law that gives most workers the right to organize and bargain collectively.

But executive orders issued by every President since John F. Kennedy establish those rights for federal employees as well.

Since 1969, employees in national security agencies such as the CIA and the FBI have been excluded from the executive orders, but the armed services has not.

Unionization leaders in New Jersey and Washington are more worried about the Pentagon's reaction than about efforts to stop unionization through congressional action.

Sen. Strom Thurmond (R-S.C.) said yesterday that Sen. John C. Stennis (D-Miss.), chairman of the Senate Armed Services Committee, had promised to hold hearings early in the next Congress on a Thurmond bill to ban military unions. At least five similar bills were introduced in the House last year.

[From the Charlotte, N.C., Observer, May 1, 1977]

THURMOND: "WE NEED A LAW TO FORBID IT"

(By Jerry Shinn)

WASHINGTON.—There aren't any laws or regulations that prohibit members of the armed services from joining a union, but the 95th Congress may change that.

A bill introduced by Sen. Strom Thurmond, R-S.C., would make it unlawful for military personnel to belong to a union and would prohibit solicitation of military personnel for union membership.

The Senate Armed Services Committee has concluded hearings but not yet voted on Thurmond's bill and a similar proposal by Sen. John Stennis, D-Miss., in the Senate Armed Services Committee. Thurmond serves on the committee, and Stennis is its chairman.

There are laws that "strongly discourage unionization," Thurmond has written. "However, they do not forbid it. Given the seriousness of the possible consequences, we do need a law that does forbid it . . . openly, flatly and unchallengeably."

Thurmond has 40 other senators (including three other senators from the Carolinas) signed as co-sponsors of his bill.

At Stennis' request, the U.S. Justice Department has studied the proposals and concluded such legislation wouldn't violate the constitutional rights of members of the armed services.

The American Federation of Government Employes (AFGE), which wants to unionize the military, opposes the bill. But George Meany, president of the AFL-CIO, the AFGE's parent organization, says he hasn't decided what position to take on the question of military unions.

Thurmond insists his bill isn't anti-union, but is designed to maintain the authoritarian structure essential to an effective military organization.

"The prospect of a military strike is almost too horrible to imagine," he wrote recently. "Unionization of the American armed services would cause the enemies of freedom to rejoice all over the world.

"There is simply no substitute in the armed forces for unqualified obedience to authority. . . . Any action that would weaken this power and authority would amount to a self-inflicted wound to our defense effort. . . ."

U.S. Rep. Charles Rose, D-N.C., whose district includes Fort Bragg, largest military installation in the Carolinas with 40,000 troops, says he'd support such a bill if it comes to the House.

Rose called the idea of a military union "a ridiculous prospect" and said he'd "do everything I can to see that the push to unionize the military fails."

Rose is a member of the Fort Bragg chapter of the Association of the U.S. Army and says that organization "is the Army's union and all the union they'll ever need."

He said the association provides a forum for military personnel to discuss their concerns and needs and that lobbies effectively "for fair treatment of soldiers at all levels."

[From U.S. News & World Report, Mar. 28, 1977]

LET SOLDIERS JOIN LABOR UNIONS?

YES—"THE MILITARY HAS REAL PROBLEMS ON PAY, FRINGE BENEFITS"

(Interview with Kenneth Blaylock President, American Federation of Government Employees)

Question. Mr. Blaylock, why should servicemen and women join unions?

Answer. For the same reason any group joins unions. People don't organize, and we can't organize people unless they have problems. Some good examples in the private sector: IBM and Sears, Roebuck. They've got good working conditions, good pay, good fringe benefits, fair treatment—and they don't organize. But the military has some serious problems.

Question. Such as what?

Answer. For a long time they have had real problems on pay, fringe benefits, the conditions of employment.

Twenty-year retirement is a good example. That's under serious attack right now by the Congress. There's a real effort to do away with the commissaries. Overseas rotation, career ladders, career development—they have the same problems any work force has.

You've got Congressmen that would cut the defense budget to the bare bones. Career people are going to get clobbered. With the all-volunteer-force concept, the emphasis has been placed on the military being a career now, not necessarily a dedication-motivated service. We look at the military as a work unit, and we're looking strictly at bread-and-butter issues. This union is not getting involved in the philosophical, idealistic ideas that are being floated by some groups, such as the right to question the legality of orders. This is where the real controversy comes in: fear of a shop steward in the foxhole, and that sort of thing.

Question. People say that soldiers are not really demanding membership in unions now, so why organize them—

Answer. They may be, and they may not be. All we can base our opinion on is the responses we've got. We now have four fat folders of individual letters, petitions, letters of request to organize. We've had as many as 800 people in one battalion who want us to come on in and sign them up. I think they want to organize.

Question. Who is making the requests?

Answer. We're not getting much from the first-termers. The response is coming from the career types—NCO's and officers. And I'm talking about some commanding officers and base commanders.

Question. You can't do anything for them, can you?

Answer. Commanding officers that have 18 or 20 years in are just as concerned about their retirement as the sergeant is. They're just as concerned about that commissary closing. They're just as concerned about the fact that every couple of years they've got to pull up their family from the East Coast and move over to the West Coast.

Question. Can the military keep up discipline or fight a war if its officers have to deal with shop stewards?

Answer. They're not going to have to deal with shop stewards in the foxhole. You can look at the other public employees in this country—fire fighters, policemen. When there's a fire going on and the captain tells them, "Get in this building and go to floor so and so," they don't challenge that. Those things are excluded from the scope of bargaining. But when they get back to the station and the captain says, "By the way, Joe, we're changing your shift and you're going to start working third shift," he says, "No, the contract says I get two days' notice except under these conditions."

Question. Do you have any evidence that the armed services will be as effective a fighting force if unions are permitted?

Answer. The only real thing we have to go on is this: Dutch solders are unionized, and in NATO [North Atlantic Treaty Organization] exercises of '75, the military forces of the Netherlands came up with top rankings. Gen. Alexander Haig, NATO's military commander, made the statement recently that if he ever had to go into combat, he'd feel good having Dutch troops on his flanks.

If you're talking about their looks, their long hair or their baggy uniforms, that's one thing. But the actual evaluations of their performance show that they do quite well in military tactical exercises.

Question. What would prevent the unions from calling a strike or filing a grievance when the order to fight was given?

Answer. Here we need some rules. Rather than trying to prohibit the military from organizing. Congress should develop legislation that defines the limits for collective bargaining, bargaining-unit makeup, and so forth.

History has shown us that if work forces have serious enough problems they will organize, no matter what the law says. Look at the Postal Service. The law said it couldn't strike. The postal people struck. If you want to create the crisis, we can continue to ignore the problems that people have.

Question. You would not bar soldiers from striking?

Answer. Here again, history has proven that, if the problems are not addressed, people will take some kind of action to bring focus on their problems.

Question. What could unions do that sergeants, officers, the Defense Department and Congress don't already do?

We could provide enlisted men legal representation in lesser cases, such as company commanders' punishment as well as in courts-martial. And, of course, we can provide them lobbying that their professional associations are not providing for them now.

Question. Do you have organizers working on the military now?

Answer. No. We're not actively organizing the military yet. We haven't made the final decision to move. The American Federation of Government Employees could have a final decision by the first of May.

But I'll say this: If AFGE decides not to move, the military will organize anyway. They may turn to the Teamsters; they may turn to some of the independents; they may convert their own military professional organization to unions—I don't know—but they will organize.

NO—"EFFECTIVENESS AND READINESS" OF MILITARY WOULD BE DAMAGED

(Interview with Representative Robin Beard, Republican, of Tennessee)

Question. Representative Beard, why do you oppose unions for the military?

Answer. From all indications, they would not only have a serious detrimental impact on the over-all effectiveness, discipline and readiness of the armed services, they would also add unnecessarily to costs. Our military backs up our responsibilities to NATO, our responsibilities in Korea, and our other worldwide commitments, and I cannot imagine how unionization could be acceptable in that situation.

Question. What evidence is there that unionization would hurt?

Answer. Findings by the Joint Chiefs of Staff, for one thing, Gen. George Brown, Chairman of the Joint Chiefs, has stated that every country that has had servicemen's unions has paid a terrific price in operational effectiveness.

A strong chain of command is essential in the military. It may be harsh to say, but the military cannot be a totally democratic system. It must be one where discipline is the highest priority.

Union organizers are quick to point to European models as examples of "successful" unionization of the military. Yet these so-called models simply cannot be compared with our own military in terms of troop strength, physical size of the respective countries, or worldwide defense commitments. Sweden, for example, is a neutral country, not a NATO member, with a small standing Army. The Dutch active armed forces number a little over 35,000.

Let's look at the potential inflationary aspect, too:

In 1968, at the height of the Vietnam War, our personnel outlays were about 45 per cent of the total defense budget. But with the advent of the volunteer Army, that percentage rose to 60 per cent, even though troops strength declined considerably. This jump took place to make our armed services "more attractive." Unionization would almost certainly drive these costs even higher—seriously jeopardizing our procurement as well as research-and-development programs.

Question. Unions say they are getting support from career servicemen who are worried about erosion of benefits, such as commissaries and retirement. Could unions help?

Answer. I'm not saying that we don't need to be sensitive about such matters as commissaries, PX's, and so forth—these have traditionally gone hand in hand with the military service. But we could insure and increase every single benefit ever requested, and unions are still going to be able to find men that complain: that young man that didn't make it from lance corporal to corporal; the officer who didn't make it from captain to major; the guy who was just ordered to Okinawa for 13 months without his family.

Military service is not a glamorous job. You'll have a hard time convincing me that sleeping out in the boonies in 10-degree weather is a glamorous job.

Question. Union organizers say that there is enough ferment that troops will organize even if unions are barred—

Answer. That is absolutely absurd. Union organizers also state that there would be a no-strike clause in any military-union arrangement. Yet Mr. Clyde Webber, a former president of the American Federation of Government Employees, said when asked about the absence of a right to strike: "There isn't any way to stop those things. They don't ask me to go on strike." The AFGE also stated that, in time of a national emergency, they would terminate union activity in order to avoid confusion. That in itself indicates that they know unionization would create problems.

The ultimate weapon of unions has always been the right to strike, including police and fire fighters' unions. They don't strike, but they have other ways to accomplish the same thing: sick leave or whatever the case may be.

Other groups go further. One has proposed what it calls a "GI Bill of Rights": full civilian pay with compensation for overtime; and end to saluting and other "class distinctions"; the right to resist "illegal" orders or policies; elimination of nonjudicial punishment, and an end to bad discharges. You wonder: Once it starts, where does it end? You have plumbers now who refuse to drive nails. Would this be the case in the military?

Question. How do you distinguish between the validity of unions for government workers and a union in the military?

Answer. The most obvious distinction is that police and fire fighters, for example, hold jobs with local as opposed to national or international responsibilities.

The serious discussion of unionization of the military started when we went to the all-volunteer service. All of a sudden, the military is taking the attitude: "It's just another job." The sense of patriotism, the sense of national service is taking a back seat. So the unions are saying: "All right, if it's just a job, that's a market ripe for union organization."

Question. Are the rights of servicemen adequately protected under the present system?

Answer. I'm sure that you could find individual cases where they are not. But over all, yes. I was an officer in the Marine Corps for four years, and I found that a man was brought before a court-martial was allowed competent defense staff, military or civilian.

Question. Wouldn't abuses such as the death, injuries and harassment suffered by trainees be a proper subject for unions?

Answer. There are always individual cases of poor judgment in any field. But public pressure, sincere individuals in charge of the services, and members of Congress are not going to tolerate cases like those you refer to. I don't think unions could add a single thing to that.

Question. How would you enforce a ban on organizing?

Answer. I don't know exactly what procedures could be used. It seems to me that military violators could be punished through the military judicial system. As for civilians, the military could prohibit organizational activities on the bases and establish methods to enforce that prohibition.

MEMO TO AFGE NATIONAL EXECUTIVE COUNCIL RECOMMENDING REFERENDUM ON UNIONIZATION OF MILITARY

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES—AFFILIATED WITH AFL–CIO

Date: March 7, 1977.
Memorandum: 14/Military.
To: The National Executive Council.
From: The National Executive Council Military Committee.
Subject: Report and Recommendation—Organizing the Military.

The Committee met in the National Headquarters on February 14 and 15, 1977, to complete its responsibility for review of the feasibility of AFGE's organizing the uniformed military of the United States, and to prepare this report and recommendation to the Council.

Since the December NEC meeting, the Committee had the opportunity to review, consider, and study many contrasting published and unpublished views regarding

this subject. We've heard from a number of interested parties, both in and out of the Union and the military. Also considered in depth were the many possible options and potential problems and benefits. Following these presentations and deliberations, the Committee has arrived at the following several conclusions:

1. Organizing the uniformed military is not only feasible, it appears to be inevitable. AFGE, as the largest and leading Federal Union, is the logical choice to take the lead in this endeavor.

2. Properly managed and represented, the unionization of the military, focused upon peacetime living and working conditions outside combat command channels, could and should strengthen the military command and control structure. We feel this to be a key selling point of the program. It is imperative, if this program is to be successful, that we dispel the "Steward in the foxhole" image projected by those in opposition to organization of the military, and emphasize that in time of war or congressionally declared National Defense emergency, the Union's recognition would be suspended.

3. It is anticipated there will be three areas of representation:

Steward or NR Representation

This would include first line grievance matter including promotions. It would not involve tactical operations, but relate to living and duty assignments not a direct combat nature. Subjects include:

Housing; leave; foreign service; education and training; TDY; travel allowances; commissary and PX privileges; recreational facilities; parking; day care; dress and hair codes; political rights and their exercise; police, fire, and traffic regulations; health and dental care; efficiency ratings; promotions; EEO matters (women's rights); safety.

Reprimands or Discipline under Art. 15 UCMJ (NR; and or attorney assistance will be provided where needed)

Legal Representation

Legal representation will be provided primarily in connection with administrative boards and uniform code of military justice proceedings. Discharge boards are of two basic types operating on "he could if he would but can't," and "he could if he wants but he won't" standards for discharge. There are also boards of inquiry and investigations, fitness for duty and correction of military records where representation may be required UCMJ proceedings involve essentially military discipline under Article 15 UCMJ (so called nonjudical punishment) and summary special and general courts martial. Counsel appearing in serious cases, in special and general courts martial are required to be certified to practice before the military courts. Two of our attorneys on the present legal staff possess these qualifications. It is highly specialized and we have numerous contacts in the specialized bar and forsee no problem retaining assistance as needed. Costs will be equivalent to our standard retainers under the legal rights fund.

Legislative and Policy Representation:

This will be offered by the National Director or the President of AFGE or his designee at his discretion. The subjects will include:

Pay

(Through principally the Pay Council. Thus this is derivative and is a provided service for which AFGE should claim appropriate credit.)

Retirement

This is a *problem* and policy positions must be worked out on 20-year versus 30-year military retirement, double dipping service credits and related benefits.

Benefits

This is another problem area for AFGE. Health care, insurance, commissary privileges, standby travel, etc., are under intense cost pressures.

4. AFGE membership should be open to all members of the active military service.

5. AFGE military members should, as nearly as possible have the same rights, privileges and benefits afforded any other AFGE member.

6. Military members' per capita tax and initiation fees should be the same as for civilian members.

7. In regard to formation of military locals, we are bound by the appropriate provisions of the AFGE Constitution.

Article III. Section 3 provides in part that, "Locals shall have full power to elect or reject applicants for membership."

Article XVI provides for the formation of locals. Sections 1, 2 and 3 are quoted below in their entirety.

Section 1. This Federation may have locals in each city or town in which the Secretary-Treasurer of the Federation under authority of the Executive Council issues a charter.

Each local shall bear the name, "American Federation of Government Employees, Local No. —" each local to bear a number in order of seniority as to date of organization.

Section 2. When necessary, in the judgement of the Executive Council of the Federation, additional locals may be chartered in cities, towns, or municipalities where locals already exist.

Section 3. Ten or more eligible governmental employees shall constitute a local to be formed in any locality

We should provide that separate military locals may be established, or if present an existing AFGE local may elect to accept military members.

8. Initially, at least one position should be established in the National Office as a military coordinator to guide and direct the organizing effort. We anticipate very rapid growth in the military membership so as to generate a self-supporting, self-sustaining operation.

Based on the above and other factors, it is the unanimous recommendation of the members of tre Committee.

That AFGE move to conduct a referendum of its Locals to see if they concur or not concur in directing the National President to proceed with organization of the uniformed military services. The membership shall be provided with a total outline of the proposed program. Prior to this poll in the May edition of *The Government Standard*, equal space shall be given the proponents and opponents of such a program. The results of the membership referendum or poll shall be announced publicly by no later than October 1.

[From the Salt Lake City, Utah, Times, Apr. 15, 1977]

Senator Garn Says Prohibiting Military Unions is Nothing But Constitutional

Senator Jake Garn said this week, there is a movement afoot in the country today to unionize the Armed Forces and a movement in the Congress to prohibit such unionization. The proponents of a unionized military, claim that the effort to deny military unions is an abridgement of Constitutional rights. I think that efforts to prohibit military unions are nothing but constitutional.

First, we, as members of Congress are not depriving military personnel of their rights; the Constitution specifically grants Congress the power "to make rules for the government and regulation of the land and naval forces." In addition, in a decision upholding Articles of the Uniform Code of Military Justice, the U.S. Supreme Court said: "This Court has long since recognized that the military is, by necessity, a specialized society separate from civilian society."

The "separate society" doctrine enunciated by the Court plainly suggests that prohibiting unionization of the military would be a valid exercise of legislative authority. Moreover, this doctrine prevents the application of cases involving civilian government employee unions to the question of military unionization. The distinction between military and civilian society is critical.

There are two recent Supreme Court cases which confirm the power of the Congress to prohibit unionization of the military. In the first case, the Court declared that members of the armed services may not be entitled to military lawyers in circumstances where a civilian defendant would have the right to appointed counsel. In the second, the Court held that an armed force post commander has substantial power to limit political activity on a military post.

The underlying premise of these decisions is clear. The First Amendment rights of our uniformed military must give way to the extent that they conflict with the duties required of servicemen in accomplishing their mission. This small

abridgement of rights is necessary to guarantee citizens the protection of a disciplined, responsive, and effective defense force.

No matter how much rhetoric we hear, in the final analysis, when the Armed Forces are called to defend our country, we must know that the Commander has the unquestioned authority to order his men into battle and that he has the power to enforce his order.

[From Shreveport, La., Times, Apr. 11, 1977]

MILITARY UNIONS: NO PLACE FOR THEM

We are in receipt of correspondence from an organization calling itself Americans Against Union Control of Government which seeks our opinion on the advisability of unionizing our armed forces.

Enclosed are three computer-type cards, each with a question:

Should Congress pass a law forcing our soldiers, sailors, airmen and Marines to join a labor union?

Should our soldiers, sailors, airmen and Marines disobey the lawful orders from their officers due to demands from union officials?

Should union officials be allowed to order strikes or work "slow-downs" for our soldiers, sailors, airmen and Marines?

Patently, the questions are so loaded that it would be hard for anyone with any concern whatsoever for the welfare of this nation to answer other than with an emphatic no.

Officials of AAUCOG say they'll make the results of the poll known to members of Congress and to news agencies throughout the country. If they should perchance read this, they can put us down on the "no" side; we're not bothering to return the cards.

Bluntly, put, it's our opinion that there is no place in the military establishment for unions. The very nature of the purpose of military service makes it call for quick and unhesitating obedience to orders without question—so long as it's a lawful order.

Accompanying the correspondence is a cover letter from Sen. Jesse Helms, R-N.C., which in part reflects our own sentiments:

"I am greatly disturbed, and I think you are too, about the very real possibility of a relative handful of union bosses seizing control of America's government.

"Their thirst for power is not representative of either the American people or the hardworking members of labor unions, whose dues are used (often improperly and unlawfully) to finance the activities of their bosses.

"Let me say at the outset that this letter should not be construed as an attack on labor unions. What I oppose—and I hope that you oppose it also— is the abuse of power by labor union bosses."

The senator's remarks get to the nub of things: What those who want to unionize the armed forces are seeking is power.

There is little now that a union could do to better conditions for a military man. Service, we all know, is completely voluntary. Wages, with room, board, clothing and other benefits considered, is competitive with the civilian scale. Vacations, a month a year, are generous and holidays are numerous. Few businesses have a comparable retirement plan—50 per cent of one's base pay after 20 years of service, regardless of age, monthly for life.

Nor are the hours bad; most of the military men work a 40-hour week and the work is generally not too taxing. This, of course, is peace-time service.

In return for all this the military man must adhere to a certain code of discipline, and this, too, has become more relaxed over the years.

No, unions have little to offer the man in military service. Even if they had more to offer they would not be practical or in the best interests of the nation.

There are sufficient restrictions on the military brass to ensure that they will not abuse their power but they must be left free to run their organizations without having to hassle with union officials over wages, hours and fringe benefits.

In short, there's no way that the security of this nation can be upheld by our military forces if military commanders have to contend with union interference in their operations.

[From Army Times, June 6, 1977]

1,900 EM Sign Petition Backing Military Union

(By Andy Plattner)

Washington.—More than 1900 enlisted people have signed a petition asking Congress not to prohibit military unions.

The petition drive was organized by the Enlisted People's Organizing Committee which held a press conference to present the signature to congressional staff workers. No members of Congress were present to accept them.

"Enlisted people need a union," the petition states. "We, the undersigned, feel it is necessary to exercise our right to organize."

According to the committee, 200 soldiers from Fulda, Germany, 220 troops from the Army's Berlin Comd., 150 enlisted people from the Washington area and 300 soldiers from Fort Bragg, N.C., signed the petition.

The committee did not otherwise indicate how widespread its petition campaign was, but it reported that some soldiers would not sign because they feared reprisals.

There are more than two million people in the armed forces.

A spokesman for the committee said it is made up of a few volunteers who are veterans and a few enlisted people. Funding for the group has come from the members' pockets and some "irregular donations," the spokesman said. The group is about 18 months old and began with persons who provided legal assistance to military people who opposed the Vietnam War.

The spokesman said the group had no connection with any other labor group, including the American Federation of Government Employees, which is polling members on organizing the military.

The petitions were presented by five people: a former soldier who said the Army kicked him out because of his union activities, an Army journalist, an Army chaplain's assistant, a 14-year veteran who said he left the Army after becoming a conscientious objector and a lawyer.

The individual who said he was a journalist wore a white mask and told reporters he was afraid of harassment if he were identified. The chaplain's assistant said he was Sp4 Robert Hill, stationed at Fort Belvoir, Va.

Thomas Doran said he was kicked out of the Army in a few hours last December at Fort Bragg, N.C., where he was serving as an artillery surveyor with the 82d Abn Div. He said he was discharged because he was organizing soldiers. The Army said he was discharged because he was ineligible for reenlistment when he re-upped in March 1975.

"The biggest objection raised to unionization is that unions always go on strike and an undisciplined Army on strike would be a danger to national security," Doran said. "We believe waste, inefficiency and poor leadership are a greater threat.

"There are unjustifiable inequities based on rank from bucking the chow line and reserved parking to separation pay, dependent transportation and hazardous duty pay, which could be abolished overnight but are protected by tradition," he said.

Doran said a union wouldn't take anything away from the authority of the commander but it would force him or her to "recognize their responsibility to subordinates as well as to superiors. We are not demanding strike votes in foxholes but we want to have confidence that our leaders are keeping our interests in mind."

Al Caesar, the conscientious objector, said there is widespread support for such a union among first-termers. He said a union would be successful with the lower ranks, however, only if it deals with insuring that enlisted people are treated with "respect and dignity."

Members of the pro-union panel at the press conference said they were not asking for the right to strike. Power of the union would come from providing legal assistance to enlisted people and negotiating for better living conditions, they said.

When asked why the military would bargain with a union that could not or would not strike, the panel said that AFGE did not have collective bargaining rights during the first 30 years or so of its existence but still is able to provide a service to members.

Megan Wahl, who works for Senator James Abourezk (D.–S.D.), accepted the petitions on his behalf. She said Abourezk does not favor military unions but does support the legal rights of enlisted people.

No members of Congress have announced their support of a military union and many have gone on record as opposing it. A number of bills before Congress would prohibit military unions.

The Defense Department position is that service people have the right to join such an organization but that local commanders cannot negotiate with a military union.

Panel members complained that sexism and racism are rampant in the military. Much of the time of enlisted people is taken by meaningless work, they said. An EPOC paper said committee members in a Fort Meade, Md., medical unit say:

"The vast bulk of their time is consumed with meaningless details, such as raking leaves and with repetitive unnecessary make-work assignments and excessive harrassment runs high."

[From Navy Times, Feb. 2, 1977]

FRA President Morin Sees Union as "Divisive"

[Fleet Reserve Association National President Joseph D. Morin is a retired master chief boatswain's mate. He served as command master chief to the Commander, CruiserDestroyer Force, Pacific (now called Naval Surface Force, Pacific) for the last three years of his 30-year career, earning a reputation for being candid and knowledgeable on subjects affecting military people. As spokesman for the FRA, one of the most active organizations representing service people, and as a person who has spent many years in the military, his views on the problems associated with unionization of the armed forces are timely and to the point. He was interviewed by Navy Times Associate Editor Jim Parker.]

Question. At its national convention this fall, the Fleet Reserve Association adopted a strong resolution opposing unionization of the armed forces. Can you elaborate on the reasons why this stand has been taken?

Answer. Well, at the outset, I think it is extremely important to remind that the first two paragraphs of the resolution we adopted at St. Louis state our position as far as the union movement in our country is concerned. We don't have any ax to grind whatsoever with the unions. We are simply opposed to the unionization of the armed forces.

Question. What effect would unionization have on those who are in the service now?

Answer. I think that morale would suffer if there should be a serious movement to unionize the services. I think unionization would be a divisive thing. By that I mean that it would seem to be that career people would be much opposed to a union, whereas possibly a younger element in the armed forces might think that a union could be beneficial to their aims.

For that reason, I think that it would cause a line, right down the middle of our forces. You would have the youngsters on one side and the career people on the other and it would be an irreparable separation or cut, dividing the team. I think that it would be especially damaging in the all-volunteer concept, particularly in the Sea Services. The young fellow going into the Sea Services today has got to be aware that family separation, the rigors of sea duty, are an inherent part of the life he is going into. He's got to realize that he will be away from his family at times. Of course, realizing this does not make it any easier—but how a union can cure that is beyond me. It simply is part of the life.

Question. Do you think that those who want to unionize would be able to improve working conditions?

Answer. Working conditions aboard some ships and in some areas are difficult, but usually this is because of the tempo of operations. When you get into training and operations aboard ship, surely the living and working conditions are going tc be a little bit hard, but I don't think that this is unnecessarily or excessively so. Certainly the Navy has tried to make it easier for the younger fellows, with power tools and chemicals that make doing some of the work easier. Regardless of how good they make it, however, you know there are going to be some who gripe about it—but again, I don't see how the union could do much more than is already being done about improving working conditions.

Question. Would the lack of communication between top management and the individual be a factor that would encourage the success of the unionization movement?

Answer. I have long said that if there is a one-word answer to our problems, it would be communications.

When I was the master chief of CruDesPac, we saw it time after time—where communications were good, both up and down, they had a viable chain of command. Where communications were bad, morale suffered—and so did retention.

The chain of command, by the way, is one of the two things that the serviceman of today has got going for him. The other, of course, is the Congress of the United States.

We in the FRA can help educate—and by staying alert and vigilant, whenever these things do crop up, we can do whatever is within our power to bring it to the attention of the proper people. We can do whatever is necessary at a particular time.

We have mentioned retention, which I believe to be a matter of individual command. If a guy has a job in a ship, for example, where they have a commanding officer who is attentive to the needs of his people and who remembers that one of his primary duties is the welfare and morale of his men—if he pays attention to that as well as to operations and training and they have a viable chain of command, then retention generally is good. And if the skipper is not attentive to the needs of the crew, then the man is not going to ship over.

Question. Will the expansion of the FRA membership qualifications to other than career people signal any great changes in policy or the way the organization operates?

Answer. Up to now, our membership has been composed of career people of the Sea Services and, of course, now we have opened up membership to the first-termer. And that makes it a whole different ball game.

I think we are going to have to pay very strict attention to what the younger people are talking about, what their desires are, what their needs are. It may well be that we may have to institute some new programs, but at this point we just don't know.

I'm sure that we can't treat the first-termer in the same fashion that we treat the career man because each has a whole different philosophy. Hopefully, the fact that the FRA has opened up its membership will be an aid to the young fellow—we hope he'll perceive that it is advantageous to have an experienced organization representing him now.

And it might be a good thing for the Navy, too, for its young people to get into an organization where they can fraternize with career and retired people. Maybe they can learn from each other. We can learn what they need and they, in turn, can learn a few things from the "old salts."

Question. The FRA responds to the needs of its members by sponsoring legislation or whatever is needed. But does anyone in the Defense Department ever consult with anyone in your organization to find out what the voice of your constituency is saying? Wouldn't that be a good alliance? Shouldn't there be some counsel between you and the Defense Department?

Answer. It would be a good alliance and there certainly should be some exchange between us. I think that, of all the organizations, we are probably closer to our membership than most. Of course, our organization is run very democratically. Delegates assembled at our convention decide what programs we are going to become involved with and vote for whatever funds are needed to get these plans into operation. It would certainly seem to me that the Defense Department, in looking to provide what's beneficial to the military services, would ask people who have their ear to the ground, so to speak, and who are in contact with a large number of career people. We have a national executive secretary, Shipmate Bob Nolan, who is highly respected in both military circles and on Capitol Hill.

Now that we have opened our membership to the younger people, we must be even more aware of what's happening on Captol Hill. We've had some recent successes simply because we are on the ball.

We would certainly hope that Congress, in its wisdom, would do what is most beneficial for the armed services. We are also certain that many of the congressmen simply are not aware of what the people in the armed services think is beneficial for them. And that's where we come in. We are able to tell them, to give them good information. I think the FRA is one of the most respected organizations operating in Washington.

Question. Do you have any specific new programs or any recommendations that are urgent which you will be pushing?

Answer. Well, of course we would like to see Presidential Order 11491 of Oct. 29, 1969, expanded to include the armed services of the United States. That order precludes the FBI, the CIA and any other organization involved in national security from unionizing. Certainly, the armed services of the United States are involved in national security. We think that would be a step in the right direction.

Question. How do you go about getting it extended?

Answer. I think the first step would be to write a letter to the White House—and we are considering making an effort in that area. I'm sure the President will realize, as we do, what a military union could do to our national defense.

Question. Do you believe that a union would succeed—that it would take hold?

Answer. Let me put it this way. I think the American Federation of Government Employees and perhaps some others are going to attempt to unionize the armed services. Success would have to be judged on how well they represented their people after they signed them up. The FRA has been in business for over 50 years and I think we have been successful in representing our members. We have certainly not been successful in every effort we have undertaken, but we have had some outstanding successes—the FRA's hospital rights program, for example. We worked damned hard to get that through and spent some $60,000 to make the effort. The Survivors Benefit Program is another example, stemming from the FRA's widow's equity proposal.

And we are the only organization that I know of that provides many of the personal services that we do. I'm referring to career services, providing assistance at medical or disability hearings, correction of naval records hearings, and so forth. I believe we are the only enlisted organization accredited with the Veterans Administration. And, of course, we provide liaison for our members with the Bureau of Naval Personnel, Marine Corps Headquarters and the Department of Transportation.

Question. Then, how would you characterize the future of the Fleet Reserve Association?

Answer. I cannot help but think that it is as bright as it can possibly be. When you have the tradition of 50 years of loyalty, protection and service, you simply don't fail in the middle of the stream. You continue the services you have been providing.

Question. Would you expect that the influx of new blood into the organization might cause a shift in FRA policies—perhaps to concentrate more on the problems of the active duty people, for example, than on those of the retireds?

Answer. Well, I don't think it would tip the scales that far. Of course, the only thing that's constant in life is change. And, certainly, adding the type of membership that we are going to add would probably change our philosophy in some fashion. But I don't think it would become overbalanced toward the active duty people because we are still going to have people retiring all the time. And our concern is with both groups—and it always has been. I don't think it will change our policy of loyalty, protection and service—it will simply be extended to more people.

Question. Why should people join the FRA rather thana union?

Answer. Well, when Mr. Weber (president of AFGE) was interviewed a short time ago, he estimated that union dues would average about $6 a month or $72 a year. The dues for our organization is $12 a year and in this time of economic insecurity I think you have to look at these things. I believe, too, that the benefits we provide are at least as good—and probably better—than the union could provide its members.

We have prepared a pamphlet entitled "Do Military Personnel Need A Union?" in which we hope to get the word to everybody that the FRA has been getting the job done. We have the experience in handling the serviceman's problems; they don't. There's no question in my mind but what we can do a better job of representing them. Again, it's a matter of communications. We have a voice in Congress, a pipeline that lets Congress know what the pulse of the military serviceman is.

We have been doing the business of the FRA for all these years without upsetting the discipline and the chain of command—in fact, we operate within the chain of command. We are a link between the two. We can assist them and we can assist the Congress. And we stand ready, willing and able to assist the Defense Department.

Senator THURMOND. Did either one of you gentlemen have any further comments that you would like to make?

Mr. HARLOW. Senator Thurmond, I just left our convention which we are holding in Atlanta, Ga. During this time one of our members there, that I chatted with last evening, although I do not have the details, I think it might be of interest to put into the record that he is a member of the union, because he is a civilian employee.

I do know it is AFGE. He was asked to make a presentation at the local regarding the issue of unionization of the military. He called me 2 weeks ago and asked me if I would provide him with some information.

I provided a 6-page talking paper which he utilized in opposition for the local to which he belongs, in joining, or including the military, in unionization. I was very pleased, very proud, to have him say that as a result of his efforts the local rejected bringing the military into the local union.

This is another illustration of what our associations can do to thwart this attempt to unionize the military.

In my final statement, Senator, I would like to say, everything being relative in this world today, if we are going to offer an adequate defense, if we are going to have the kind of people we need for a much smaller defense posture, it is going to cost money, and there is no way we are going to get out of it. It is a matter of taking time to seriously deliberate as to where and how that money is going to be spent for the best ability and the concern of the taxpayers all told, but—you can't expect to get people cheap, and you are not going to get them today, and you are not going to get them down the road.

If we want to maintain the basic freedom for America, we are going to have to pay for it.

Thank you very much for the opportunity to be here with you, Senator.

Senator THURMOND. Again I want to thank you gentlemen for your appearance here; Mr. Nolan, do you have anything?

Mr. NOLAN. I have no other comments. The Fleet Reserve Association certainly shares the sentiments just expressed by Chief Master Sergeant Harlow, sir, and we thank you for the opportunity to present our views today, and for the warm cooperation you have afforded and extended to us throughout our association together.

I have been in the job 15 years, and I have always found a ready ear and a receptive ear and a sympathetic point of view from you and most of the members of the committee that sit here today, sir.

Senator THURMOND. Well, your testimony today, both of you, has been very helpful to the committee and will add greatly and constitute a fine contribution to these hearings.

I stated yesterday in the open hearings—you may have been there—as this hearing is an open hearing today—in my opinion, the Congress is making a great mistake when it takes away the fringe benefits from the military, when it erodes the benefits which the military is receiving. In my judgment, that is one of the reasons today that there is a clamour for unions, because the military feel, they see a lot of people not working, drawing big welfare, drawing food stamps, sitting down doing nothing, and they are offering their lives for the

Union. They are on duty 24 hours a day. They can be sent to any part of the world to serve their Nation; and you can understand how some of them feel, and this clamor for equality, so to speak, or justice, in my judgment, is going to continue until the Congress recognizes the true situation and does what it ought to do.

Without the uniformed man, we wouldn't have a country, and we have got to treat the uniformed man—when I say man I mean woman, too—we have to treat these military personnel properly. They should not be overly paid or shouldn't be given overly special privileges, but we have got to recognize that they do constitute a unique class of our citizenship and they are on duty all the time and they are subject to hazards that civilian employees are not and the public generally is not. Their lives can be put in jeopardy at any moment. They can get orders to go to any part of the world at any time, and I think we have to recognize that, and we have got to do justice by them.

Now I do not think the unions are the answer and I am delighted that both of you gentlemen here today take that same view, because in the military service you have got to have command, you have got to have an obedience, you have got to have discipline. You can't have an effective military organization without those qualities.

I think if we have unions that have organized the military services, that there will be serious questions raised, the military will be seriously hampered; there will be a clamor for negotiations all the time, and even in wartime, although they say they won't. I don't see the unions readily giving up and just stepping out of the picture even in wartime, and I think you gave an illustration about the Merchant Marine, wasn't it?

Mr. NOLAN. Yes, sir, in World War II. I was speaking of Guadalcanal.

Senator THURMOND. In World War II when their hours were up, they walked off and the Active Forces had to step in and unload the ships and do whatever was necessary in order to support the fighting troops.

Now I hope we can get action on this bill soon. We introduced it last year; it was an election year, and we didn't get a hearing. Maybe the Democratic leadership felt it was inadvisable to do that. This year, though, Senator Stennis, our distinguished chairman, has promised me he is going to push this bill and get action on it, and I hope that it will be in a short while, and that there will be no delay, because, in my opinion, there is a serious threat there and it should be met before the confrontation comes. I am convinced we may have a confrontation, as I believe you stated—both of you stated, you felt that way, do you not?

Mr. NOLAN. Yes, sir.

Mr. HARLOW. Yes, sir.

Senator THURMOND. And I think this should be handled before that time comes.

Again, we thank you distinguished gentlemen for appearing here today and offering your testimony.

Mr. HARLOW. Thank you.

Mr. NOLAN. Thank you.

[Whereupon, at 10:50 a.m. the hearing was adjourned.]

UNIONIZATION OF THE ARMED FORCES

WEDNESDAY, JULY 20, 1977

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

The committee met, pursuant to notice, at 9:15 a.m. in room 212, Russell Senate Office Building, Hon. Strom Thurmond, presiding.

Present: Senators Thurmond and McIntyre.

Also present: Francis J. Sullivan, staff director; John C. Roberts, general counsel; John T. Ticer, chief clerk; Phyllis A. Bacon, assistant chief clerk; Kenneth W. Fish, Edward B. Kenney, and George F. Travers, professional staff members; Ernest Evans, research assistant; and Susan Pitts, assistant to Senator McIntyre.

Senator THURMOND. Three organizations, the Disabled Veterans—DAV—AMVETS, and the National Guard Association, have requested permission to submit statements on the issue of military unionization for the record.

I ask unanimous consent that the record of today's hearing remain open for 3 or 4 days to allow time for these three organizations to submit these statements.

Our witnesses for today are the Honorable William J. Rogers, National Commander of the American Legion, and we also have coming, I believe, Mr. Cooper Holt of the Veterans of Foreign Wars, and Mr. C. A. "Mack" McKinney, staff director of the Non-Commissioned Officers Association.

Now, Senator Stennis is vitally interested in the subject matter of this hearing, the pending bills to prohibit unionization of the military services. He will review the statements of the witnesses and their responses to questions, but will be unable to join us this morning. He is participating in the conference on the Public Works Appropriation bill which involves several issues of key importance to the country.

Commander Rogers, it is a pleasure to have you here. You represent, I believe, the largest veterans organization in the world.

STATEMENT OF WILLIAM J. ROGERS, NATIONAL COMMANDER, THE AMERICAN LEGION, ACCOMPANIED BY MYLIO S. KRAJA, DIRECTOR, NATIONAL LEGISLATIVE COMMISSION; G. MICHAEL SCHLEE, DIRECTOR, NATIONAL SECURITY AND FOREIGN RELATIONS; AND JAMES HUBBARD, ASSISTANT DIRECTOR, NATIONAL SECURITY AND FOREIGN RELATIONS

Commander ROGERS. Yes, sir.

Senator THURMOND. It is an honor to have you here. You may proceed. If you would like, we can put your entire statement into the record and it will all be there, and then if you want to touch on the highlights, we can ask you some questions, if that is agreeable with you.

Commander ROGERS. We are submitting, Senator, a comprehensive statement. We have a short statement, if you would like——

Senator THURMOND. Without objection then, the full statement will go in the record at this point and then you go ahead with your brief on that.

[The prepared statement of Commander Rogers follows:]

PREPARED STATEMENT BY WILLIAM J. ROGERS, NATIONAL COMMANDER THE AMERICAN LEGION

Mr. Chairman and members of the committee, The American Legion appreciates the opportunity to present its views on efforts by certain groups to unionize the armed forces. We feel that the position expressed today represents a cross section of responsible American opinion on this issue.

At the 58th National Convention, held in Seattle, Wash., in August 1976, Resolution 64 was unanimously adopted, and it expresses our unalterable opposition to any effort to unionize the armed forces. Furthermore, we support legislation to prohibit all such efforts. For your information, at our 57th National Convention in 1975, we adopted a similar position on August 21, 1975. A copy of the full text of our current resolution is appended and the rationale for the American Legion's position is contained therein.

The debate over unionization of the armed forces of this country is in full swing. Leaders of the American Federation of Government Employees (AFGE) have authorized a poll of the general membership of the 260,000 member union on whether to admit uniformed military personnel into their organization. This poll is currently being conducted and if the vote is favorable, the union could possibly begin organizing members of the Army, Navy, Marine Corps and Air Force by late summer or early fall.

The pros and cons of this debate are many and varied. On the one hand, pro-union people point to an erosion of benefits, in the military and civilian pay, inequities in the military justice system, hair length and saluting, and other "Mickey Mouse" policies of the military as evidence that members of the armed forces are mistreated, maligned and otherwise harassed. On the other hand, anti-union arguments run to the possibility of strikes, an erosion of discipline and loss of quick responsiveness to command authority.

The right of workers to organize trade unions to protect their economic interests through a democratic organizing process is over 100 years old. Unions have given a clear moral and psychological boost to the working man as well as an effective voice in bargaining.

Society at large has also benefitted from unions counter-balancing the influence of industry. The American Legion believes, however, that military society is not society at large. The military exists to defend and perpetuate our society, including our unions.

The rights of unions to strike is almost as old as the unions themselves. This right, a common contract clause in civilian industry, is down played by those union leaders seeking to organize the armed forces. They cite federal laws and regulations prohibiting strikes by federal employees. These laws and regulations do in fact exist, but they did not prevent a costly postal workers strike in 1970, and the strike declaration by AFGE employees in Alabama last Saturday.

When asked whether there would be a no-strike clause in any potential agreement between his union and the military, AFGE President Kenneth Blaylock replied:

"The AFGE constitution does not have a no-strike clause. We took that out many years ago. We'll be organizing the military under our constitution."

So much for the strike issue.

Another organization, the Enlisted Peoples Organizing Committee (EPOC), has published a pamphlet which lists erosion of pay, benefits, contracts, housing

and job safety as being several primary reasons why a military union is necessary. EPOC contends that:

(*a*) military pay is not keeping pace with inflation;

(*b*) benefits "promised" by the military are being cut back, i.e., reduced medical coverage for dependents;

(*c*) military "contracts" are rigged and only obligate the service member while a commander can change duty, training or benefits whenever they please;

(*d*) thousands live in 30-year old barracks with holes in walls and ceilings. Sailors often live in a berth smaller than a coffin; and

(*e*) every year hundreds are killed and thousands are injured in "training accidents" and "routine maintenance" work caused by negligence and improper equipment.

I would note at this point that the pamphlet cites no reference material to back its contentions. It does, however, indicate a perception by many individuals that problems exist in the areas mentioned.

The AFGE leaders believe that the military needs to become a democratic society. Their National Vice President Kenneth Kaplan has stated, "We now have a professional army. It is subject to very little control. . . . The Congress has very little check on what happens in the military." Apparently Mr. Kaplan believes that the President, the Congress and the civilian service secretaries have no effective control over our military.

The following quote is from a study undertaken for the American Federation of Government Employees on military unions in Europe:

"In a democratic country, an army which rejects the concept of democratic thought is a threat to democracy. Such a conception now widely followed throughout Scandanavia and Holland and Germany does not make command any easier, indeed it constitutes a major challenge to modern leadership. If motivations and discipline are to be maintained in today's army, however, there is no other choice."

This challenge to the leadership is the very heart of the issue.

It is my strong belief that no question can be left open as to the right of command in the officer, or the duty of obedience in the soldier.

A foxhole, a ship in combat, or a bomber on a tactical mission are not places conducive to the democratic process. The very survival of a soldier, sailor or airman engaged in combat is dependent on each man and woman's instant and unquestioning obedience to orders from their commander. A military commander, therefore, seeks to achieve good order, discipline and obedience at all times from all personnel, so that he can be assured that the men and women under his command are prepared to respond to his authority in the event of actual combat. Such "trivial" matters as haircuts, saluting and correctness of uniforms are not punitive and degrading. They are in reality, manifestations of the military commanders authority over the personal preferences of his personnel and are a constant reminder to his personnel of his authority.

These "trivial" matters are the very ones targeted by union organizations for negotiation. Although the commanders authority would not be questioned on purely military matters, an atmosphere would be created where his authority can be questioned and subjected to negotiation. This would have disastrous effects in terms of lives in combat situation.

The inescapable fact is that military is not, nor should it become, a democratic organization. The U.S. Supreme Court has held that the needs of the military are unique and paramount over Constitutional rights of individuals: "A military organization is not constructed along democratic lines, and military activities cannot be governed by democratic procedures. Military institutions are necessarily far more authoritarian; military decisions cannot be made by vote of the interested participants." Similarly, in Parker vs. Levy, 417 US 733, 1974, the Supreme Court stated in part:

"The fundamental necessity for obedience, and the consequent necessity for impositions of discipline, may render permissable within military that which would be constitutionally impermissible outside it."

A strong, disciplined, and effective armed force is absolutely essential to the survival of our great country in the world today. The American Legion believes that a unionized armed force would be weaker, less disciplined, and ineffective, and would in fact seriously erode the nation's military capacity.

We strongly support legislation which establishes a clear and flexible national policy which prohibits unionization of the Armed Forces.

Thank you, Mr. Chairman, for allowing us to present the view of 2.7 million Americans on this very important issue.

58TH NATIONAL CONVENTION OF THE AMERICAN LEGION, SEATTLE, WASHINGTON, AUGUST 24–26, 1976

Resolution 64

Committee: National Security.
Subject: U.S. Armed Forces Unionization.

Whereas certain steps are being taken to unionize the Armed Forces of the United States; and

Whereas The American Legion organization encompassing a great cross-section of humanity includes many members of labor unions and respects their rights and equitable efforts; and

Whereas The American Legion believes that in this present era of devastating nuclear weapons it is utter folly to negotiate a command decision; and

Whereas The American Legion believes that unionization of the Armed Forces would seriously weaken and render ineffective those forces: Now, therefore, be it

Resolved by The American Legion in National Convention assembled in Seattle, Washington, August 24–26, 1976, that we adamantly and unalterably oppose any and all efforts to unionize the personnel of the Armed Forces of the United States, and that we unanimously support legislation in the Congress of the United States to prohibit unionization of the Armed Forces.

Commander ROGERS. Thank you. May I introduce our national director of national security and foreign relations, Michael Schlee, and we also have a Mylio Kraja, our director of national legislative commission.

Senator THURMOND. We are glad to have these gentlemen here with you.

Commander ROGERS. The American Legion appreciates the opportunity to present its views on efforts by certain groups to unionize the Armed Forces. We feel that the position expressed today represents a cross-section of responsible American opinion on this issue.

At the 58th National Convention, held in Seattle, Wash., in August 1976, Resolution 64 was unanimously adopted, and it expresses our unalterable opposition to any effort to unionize the Armed Forces.

Furthermore, we support legislation to prohibit all such efforts. For your information, at our 57th National Convention in 1975, we adopted a similar position on August 21, 1975. A copy of the full text of our current resolution is appended and the rationale for the American Legion's position is contained therein.

The debate over unionization of the Armed Forces of this country is in full swing. Leaders of the American Federation of Government Employees (AFGE) have authorized a poll of the general membership of the 260,000 member union on whether to admit uniformed military personnel into their organization. This poll is currently being conducted and if the vote is favorable, the union could possibly be organizing members of the Army, Navy, Marine Corps, and Air Force by late summer or early fall.

The pros and cons of this debate are many and varied. On the one hand, pro-union people point to an erosion of benefits, lack of comparability between military and civilian pay, inequities in the military justice system, hair length and saluting, and other "Mickey Mouse" policies of the military as evidence that members of the Armed Forces are mistreated, maligned, and otherwise harassed. On the other hand, anti-union arguments run to the possibility of strikes, an erosion of discipline and loss of quick responsiveness to command authority.

The right of workers to organize trade unions to protect their economic interests through a democratic organizing process is over 100

years old. Unions have given a clear moral and psychological boost to the working man as well as an effective voice in bargaining.

Society at large has also benefitted from unions counter-balancing the influence of industry. The American Legion believes, however, that military society is not society at large. The military exists to defend and perpetuate our society, including our unions.

The right of unions to strike is almost as old as the unions themselves. This right, a common contract clause in civilian industry, is played down by those union leaders seeking to organize the Armed Forces. They cite Federal laws and regulations prohibiting strikes by Federal employees. These laws and regulations do in fact exist, but they did not prevent a costly postal workers strike in 1970, and the strike declaration by AFGE employees in Alabama last Saturday.

When asked whether there would be a no-strike clause in any potential agreement between his union and the military, AFGE President Kenneth Blaylock replied:

> The AFGE constitution does not have a no-strike clause. We took that out many years ago. We will be organizing the military under our constitution.

So much for the strike issue.

It is my strong belief that no question can be left open as to the right of command in the officer, or the duty of obedience in the soldier.

A foxhole, a ship in combat, or a bomber on a tactical mission are not places conducive to the democratic process. The very survival of a soldier, sailor or airman engaged in combat is dependent on each man and woman's instant and unquestioning obedience to orders from their commander.

A military commander, therefore, seeks to achieve good order, discipline and obedience at all times from all personnel, so that he can be assured that the men and women under his command are prepared to respond to his authority in the event of actual combat. Such "trivial" matters as haircuts, saluting and correctness of uniforms are not punitive and degrading. They are, in reality, manifestations of the military commander's authority over the personal preferences of his personnel and are a constant reminder to his personnel of his authority.

The inescapable fact is that the military is not, nor should it become, a democratic organization. The U.S. Supreme Court has held that the needs of the military are unique and paramount over constitutional rights of individuals:

> A military organization is not constructed along democratic lines, and military activities cannot be governed by democratic procedures. Military institutions are necessarily far more authoritarian; military decisions cannot be made by vote of the interested participants.

Similarly, in *Parker* v. *Levy*, 417 U.S. 733, (1974), the Supreme Court stated in part:

> The fundamental necessity for obedience, and the consequent necessity for impositions of discipline, may render permissible within military that which would be constitutionally impermissible outside it.

A strong, disciplined, and effective Armed Force is absolutely essential to the survival of our great country in the world today. The American Legion believes that a unionized Armed Force would be weaker, less disciplined, and ineffective, and would in fact seriously erode the Nation's military capacity.

We strongly support legislation which establishes a clear and flexible national policy which prohibits unionization of the Armed Forces.

Thank you, Mr. Chairman, for allowing us to present the views of 2.7 million Americans on this very important issue.

Senator THURMOND. Thank you, Commander Rogers.

Commander Rogers, do you believe the only real solution to prevent our military forces from being unionized is legislation to prohibit it?

Commander ROGERS. Yes, sir, we do.

Senator THURMOND. Would you care to elaborate on that?

Commander ROGERS. Well, I would defer to our expert on the subject, Mike Schlee.

Mr. SCHLEE. The Secretary of Defense has indicated he wishes to issue some directives. It is our position and the view of our members, which was endorsed at the last convention, that a strong national policy requiring legislation should be enacted by the Senate and House of Representatives, and, of course, be signed by the President.

Senator THURMOND. Now, the Secretary of Defense, while saying he is against military unionization, appears to oppose legislation at this time, and yet the threat is there and we have had witness after witness testify how strong the threat is.

What is your reaction to that position as opposing legislation at this time?

Mr. SCHLEE. In testimony earlier this year before this committee, Senator Thurmond, I think the Secretary indicated that his main concerns were constitutional questions. I am not an attorney, but some of our attorneys have looked at the constitutional questions and we don't see any problem at all in the proposed legislation.

Additionally, I just flatly do not feel that directives by the Secretary of Defense or even an Executive order by the President would be sufficient. I think with the growing threat of unionization and the AFGE vote due sometime between August and October that legislation will establish a clear national policy.

Senator THURMOND. I don't know whether you attended the hearing at which I inserted in the record a statement by Mr. Wiener, a famous constitutional lawyer. In his opinion, the legislation we are proposing is constitutional and does not violate the first amendment.

You are familiar with that?

Mr. SCHLEE. Yes, sir.

Senator THURMOND. Now, the American Federation of Government Employees is presently polling or has completed a polling of their locals in a drive to unionize our Armed Forces. There are now and have been in the recent past recruiting efforts to sell the idea of military unionization to servicemen. Polls taken with servicemen and women participants showed substantial support for unionization of the military.

Recently a petition was received here in Congress with the approximately 1,900 servicemen's signatures favoring military unionization. Would you agree that these occurrences add up to a serious threat to unionize our military forces?

Mr. SCHLEE. Yes, sir.

Senator THURMOND. In your opinion, do you believe that by failing to enact legislation now we would ignore a present danger to discipline and effectiveness of our Nation's Armed Forces?

Commander ROGERS. Yes, we would.

Senator THURMOND. Now, what effects do you see to welfare and morale of Armed Forces should we see military unionization come to pass?

Mr. SCHLEE. Certainly on welfare I don't think it would be in the servicemen's best interests to have representation by the AFGE. I think some of the testimony yesterday pointed out a feeling that I have that the AFGE may be using the military servicemen solely to enhance their influence to represent their civilian counterparts.

Senator THURMOND. What effect do you see on the mission of our Armed Forces to defend our country should military unionization come to pass?

Commander ROGERS. I think it would be severely curtailed because of the ineffectiveness of command to give commands.

For example, a command decision could not be negotiated in the face of an impending attack. I think it would be a terrible blow to the Armed Forces.

Senator THURMOND. Commander Rogers, have you had any experience with civilian unions? And, if so, do you think the civilian union can be transferred to the military without dividing loyalties and causing a breakdown in discipline so important in any military organization?

Commander ROGERS. I have had some, Senator, and in the American Legion, perhaps, a great majority of our members are members of civilian unions, but the unionization of the Armed Forces, as we stated, is different. We don't think that you can translate the effectiveness of unions to the Armed Forces and have it work.

Senator THURMOND. Commander Rogers, in your contacts with active duty military personnel, what views have been expressed on the union issue?

Commander ROGERS. We have been able to travel both in Europe and into the Far East and I have talked to military people at all levels and I have talked about the unionization. I know that in many places command officers are very concerned over the possibility of unionization, that it did present a real threat to them.

I have talked to some of the personnel who were probably in their 16th or 17th year of military service and had planned to make a career of it. Their concern was, as we mentioned, some erosion of benefits and this seems to be the trend toward unionization.

Senator THURMOND. Now, do you see any relation between the All-Volunteer Force and military unions?

Mr. SCHLEE. I think the idea of a unionization problem to an extent stems from our national decision to transfer to the All-Volunteer Force. I know much of the emotional recruiting put out by the Armed Forces in my mind depicts military services as solely a job. I think this to some extent may have contributed to fueling the fires in a drive toward unionization.

Senator THURMOND. That is one thing I believe General Rogers testified to yesterday, that they are enlisting propaganda, so to speak, the material that has been brought out has failed to bring out any patriotism, appealing to the men to serve their country. They had pictured being in the services as maybe just another job, and I understood that they were going to try to correct that.

Do you agree it ought to be corrected?

Mr. SCHLEE. Yes, sir.

Senator THURMOND. There should be an appeal made to men and women of this country to be willing to serve in uniform and render service to our Nation and not just taking another job; being in the military is not just another job, as I see it. I am sure you feel the same way. It is an opportunity to serve the Nation.

Mr. SCHLEE. Yes, we concur wholeheartedly with you.

Senator THURMOND. I want to thank you, Commander Rogers, both of you, for being here and also your legislative director, who does a fine job. It has been a pleasure to have him here and you have made a fine contribution to this hearing.

Commander ROGERS. Thank you, Senator, for the opportunity.

Senator THURMOND. Mr. Schwab, state your name and your position with the VFW, and any other information you feel that will be helpful for the record.

STATEMENT OF DONALD H. SCHWAB, DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES, ACCOMPANIED BY COL. THORN MARLOW, U.S. ARMY (RETIRED)

Mr. SCHWAB. My name is Donald H. Schwab and my title is director of national legislative service of the Veterans of Foreign Wars of the United States. I am accompanied by Col. Thorn Marlow, U.S. Army, retired.

Senator THURMOND. Mr. Schwab, we are delighted to have you here. You represent one of the great veterans organizations in the world. In fact, our wars have mostly been fought overseas, in fact, altogether, since the War Between the States, and so the members of the VFW are those who do serve overseas, aren't they?

Mr. SCHWAB. Yes, sir.

Senator THURMOND. In Foreign Service. And so their members have been actively engaged in defending this country in all the wars in which it has been engaged overseas and we are delighted to have you here.

Mr. SCHWAB. Thank you, sir.

Mr. Chairman, thank you for the privilege of appearing before this distinguished committee to present the views of the Veterans of Foreign Wars of the United States with respect to pending legislation to prohibit union organization in the Armed Forces of the United States.

Mr. Chairman, the voting delegates to our last national convention representing more than 2.3 million members of the Veterans of Foreign Wars and its Ladies' Auxiliary, passed Resolution No. 408 entitled, "No 'Unionization' of Military Services," a copy of which is appended to my statement which I submit for insertion in the record at the appropriate point.

In addition, one of the priority legislative and security goals of our National Commander-in-Chief, R. D. "Bulldog" Smith states:

> We will continue to take the lead in pressing home to both the Congress and the executive branch our total and uncompromising opposition to any

proposal from any quarter which would have the practical or potential effect of unionizing our Armed Forces."

The Veterans of Foreign Wars of the United States applauds the chairman of this committee, the Honorable John C. Stennis and the Honorable Strom Thurmond, a member of this distinguished committee, and the ranking minority member of the Judiciary Committee, for having introduced legislation to prohibit the unthinkable unionzation of our Armed Forces.

The Veterans of Foreign Wars is appalled that there are individuals in positions of leadership in the Armed Forces who have taken a wishy-washy stand on this vital issue.

As we all know, the only difference between a mob and an Army is discipline and leadership. Unionism would not only have a deleterious effect on the morale, discipline, esprit de corps, and combat readiness of our Armed Forces, but could well destroy the will and ability of combat forces to carry out quick responses which may be necessary in the future. There is no time during armed conflict to check with your shop foreman as to whether you will get overtime pay or triple pay because it is Sunday.

Notwithstanding the full support of the VFW for the instant legislation, we believe that whatever bill is advanced be so framed and phased as to withstand the test of constitutionality. This, since there is no doubt that any restrictive law with respect to unions will be challenged in the courts.

In our opinion, the real threat of unionization comes from within the Armed Forces itself by members who are disgruntled and believe they have been betrayed by the Department of Defense. The erosion of benefits and the uncertainty with respect to a new retirement system have played right into the hands of union organizers. We believe with strong leadership throughout the Department of Defense these matters can be resolved, but, in the final analysis, it is to the Congress we must look for necessary funding and needed legislation.

In conclusion, the Veterans of Foreign Wars of the United States is not antiunion, but against unionizing our Armed Forces.

Thank you.

Senator THURMOND. Thank you very much for your fine statement. At this point, I would like to submit Mr. Schwab's statement and resolution.

PREPARED STATEMENT OF DONALD H. SCHWAB, DIRECTOR NATIONAL LEGISLATIVE SERVICE VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. Chairman and members of the committee, Thank you for the privilege of appearing before this distinguished Committee to present the views of the Veterans of Foreign Wars of the United States with respect to pending legislation to prohibit union organization in the Armed Forces of the United States.

My name is Donald H. Schwab and my title is Director, National Legislative Service of the Veterans of Foreign Wars of the United States.

Mr. Chairman, the voting delegates to our last National Convention representing the more than 2.3 million members of the Veterans of Foreign Wars and its Ladies Auxiliary, passed Resolution No. 408 entitled, "No 'Unionization' of Military Services," a copy of which is appended to my statement. In addition, one of the Priority Legislative and Security Goals of our National Commander-in-Chief, R. D. "Bulldog" Smith, states: "We will continue to take the lead in pressing home to both the Congress and the Executive Branch our total and un-

compromising opposition to any proposal from any quarter which would have the practical or potential effect of unionizing our Armed Forces."

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Notwithstanding the full support of the V.F.W. for the instant legislation, we believe that whatever bill is advanced be so framed and phrased as to withstand the test of Constitutionality. This, since there is no doubt that any restrictive law with respect to unions will be challenged in the courts.

In our opinion, the real threat of unionization comes from within the Armed Forces itself by members who are disgruntled and believe they have been betrayed by the Department of Defense. The erosion of benefits and the uncertainty with respect to a new retirement system have played right into the hands of union organizers. We believe with strong leadership throughout the Department of Defense these matters can be resolved, but, in the final analysis, it is to the Congress we must look for necessary funding and needed legislation.

In conclusion, the Veterans of Foreign Wars of the United States is not anti-union, but against unionizing our Armed Forces.

Thank you.

RESOLUTION NO. 408—NO "UNIONIZATION" OF MILITARY SERVICES

Whereas the American Federation of Government Employees (AFGE) and the National Maritime Union, AFL–CIO have announced plans to unionize U.S. military forces during 1976; and

Whereas the U.S. military is a tax-supported, disciplined force to provide for our common defense, as set forth in the Constitution; and

Whereas, without a clear chain of command and the unquestioning obedience to lawful order which arises from a clear, unencumbered chain of command, our military forces would at once become ineffective and, conceivably, a threat to our civil liberties; and

Whereas, despite the foregoing, the drive towards unionization of the armed forces has received impetus from both the failure of the government to keep its side of the implicit contract with our service members and the clear and growing perception by affected soldiers, sailors, Marines and airmen of the erosion of precious benefits and rewards heretofore viewed as part and parcel of service life; and

Whereas, one purpose of the Veterans of Foreign Wars of the United States is to assure that lawful complaints of U.S. servicemen will be pursued with the Congress and the Executive Branch, eligible servicemen who desire to air complaints legitimately need only join our 77-year old society of patriots to assure their views will be aired without damage to the chain of command; and

Whereas, the Commander-in-Chief of the Veterans of Foreign Wars of the United States has enlisted the patriotic assistance of Senator Strom Thurmond (S.C.) in proposing legislation (S. 3079) and Congressman G.V. Montgomery (Miss.) with the parallel H.R. 12691 which would have the practical effect of legally barring unionization of the armed forces: Now, therefore, be it

Resolved, by the 77th National Convention of the Veterans of Foreign Wars of the United States, That the V.F.W. continues to take the lead in pressing home both to the Congress and to the Executive Branch, our total and uncompromising opposition to any proposal from any quarter which would have the practical or potential effect of unionizing our armed forces.

Adopted by the 77th National Convention of the Veterans of Foreign Wars of the United States held in New York, N.Y. August 13 through 20, 1976.

Senator THURMOND. Now, I would like to ask you if you feel in view of the threat today that exists in unionization that legislation is the answer, or do you feel that the statement by the Secretary of Defense that he would issue a directive is ample?

Mr. SCHWAB. No, sir, I believe that legislation is the only route. The Secretary of Defense said he would like more time to try something else. They have had time. They have had over 2 years since this thrust of unionization has surfaced. They have done little.

Senator THURMOND. Mr. Schwab, do you believe the American Federation of Government Employees means business on its threat to organize the military into unions?

Mr. SCHWAB. Would you repeat that, please?

Senator THURMOND. Do you believe the American Federation of Government Employees means business; that is, they mean to do it, on its threat to organize the military into unions?

Mr. SCHWAB. Without question, yes, sir.

Senator THURMOND. Do you feel that that action of AFGE last September in changing its constitution portends a favorable vote by the membership in the current poll?

Mr. SCHWAB. I would think so, yes, sir.

Senator THURMOND. I want to ask you this question. Would not the fact some military members who are in the union and others not in it create serious internal personnel and morale problems?

Mr. SCHWAB. Sir, I am sure it would, but I believe Colonel Marlow, who was a troop commander, should comment on that.

Senator THURMOND. Glad to have him comment.

Colonel MARLOW. Senator, I am a veteran of two wars, Korea and Vietnam, and of the peacetime between those two wars, and I think I am able to say with knowledge that the threat of unionization in itself is probably one of the most difficult problems that the military is facing at this time.

Military service is different than civilian service. You are subjected to different laws, the Uniform Code of Military Justice, different pressures, being away from your family and doing different things than civilians do.

There is no place whatsoever in the military for unionization. The threat of it alone is difficult for the military to face and I think the only way to remove this threat is through the legislation which is being proposed now.

Senator THURMOND. Now, Secretary Brown of the Defense Department wishes to test his approach for 9 to 12 months. What do you think will happen in that time period?

Colonel MARLOW. I think very clearly that there will be a further thrust by the unions to unionize the military and they may very well be successful.

Senator THURMOND. If collective bargaining is prohibited by the Secretary, as the Secretary proposes, what could the union do for service personnel other than what is currently being done by numerous organizations in Washington?

Colonel MARLOW. I think nothing, sir.

Senator THURMOND. Do you feel that the military member needs a union to assure that he or she receives fair treatment in the military and in the executive branch and the legislative branch?

Colonel MARLOW. No, sir, I think that what they need are two things. No. 1, good leadership, and No. 2, the continuation of their benefits as promised when they came into the service.

Senator THURMOND. What do you see as the alternative to unions if they are disallowed by regulations or laws?

Colonel MARLOW. I see no alternative other than what they have now and good leadership and discipline in the military services.

Senator THURMOND. I see Senator McIntyre is here now.

Senator MCINTYRE. Go ahead, finish your questioning. I have routine business of the committee to take care of before we recess.

Senator THURMOND. Do you feel that the time is ripe now to pass a law prohibiting the military from joining the unions, or do you feel there should be any delay?

Colonel MARLOW. I think there should be no delay whatsoever. I think it should be done quickly and very firmly.

Senator THURMOND. Let me ask you this.

In your opinion, do you believe that by failing to enact legislation now that we would ignore a present danger to discipline and effectiveness of our Nation's armed forces?

Colonel MARLOW. A very clear and present danger, yes, sir. I think it should be done as soon as possible and not with a waiting period at all.

Senator THURMOND. You have had the opportunity to talk with service people and you know their feelings, and I believe you stated that they do feel there is an erosion of benefits and this has encouraged them to join unions, and unless something is done to stop it by law you think it is a serious threat.

Colonel MARLOW. Yes, sir. I would also like to couple that answer with the statement that we must protect the benefits that service personnel have, such as their commissary stores, their CHAMPUS benefits for retired people, other things that they have besides their normal compensation.

Senator THURMOND. Do you feel that in the end it would not be best for the members of the military to have unions from a morale standpoint, or from a discipline standpoint, or from a command standpoint, from an effectiveness standpoint?

Colonel MARLOW. Yes, sir, I do.

Senator THURMOND. Do you see anything to gain by allowing unions in the military?

Colonel MARLOW. I see nothing whatsoever.

Senator THURMOND. And do you see anything that the country would lose if the unions are allowed to go forward and organize?

Colonel MARLOW. I see an entirely different approach, philosophy, in the military forces if such a thing is allowed; that is, if there is unionization. I see something that in our system of defending our country that would change radically. I see a whole new way of life which none of us knew or cares to face in the future, if such a thing is to be allowed.

Senator THURMOND. The unions claim that if war comes that they will step aside. But do you believe, knowing the histories of labor leaders, that they would step aside in time of war? Do you believe they will continue to be right in there and contend for the rights of the servicemen?

Colonel MARLOW. I don't know the answer to that, Senator. I would tend to believe that the unions would continue to try to do something in the way of forcing commanders' hands in time of war. I don't believe that they would stop with just benefits. I think that they would force on.

Senator THURMOND. Knowing the unions as you do and the union leaders as you do, do you feel that they have as their main motive to help the serviceman or to gain more union membership in order to gain more dues for their own coffers?

Colonel MARLOW. I think probably that is their basic motive, the income that they would receive from unionizing the military forces.

Senator THURMOND. Now, at this point I would like to offer for the record an article from International News for November 1976, vol. II, No. 6, entitled "AFGE Vote to Accept Military Blasted by V.F.W." The subject heading is a Million-Plus Member Association Says Vote ". . . Will Live in Idiocy."

If there is no objection, I would like for that to be inserted in the record at this time.

[The information follows:]

[From the International News, Nov. 1976]

AFGE VOTE TO ACCEPT MILITARY BLASTED BY V.F.W.

WASHINGTON, D.C.—On Thursday, September 23, 1976—a day that may well live in idiocy—the American Federation of Government Employees (AFGE), while convening in Las Vegas, voted to accept members of the armed forces as union members, clearing the way for a future sign-up drive among the uniformed services.

Current Department of Defense "policy" on the matter would be hilarious were the matter not so deadly serious; i.e., "military members may join unions, but commanders may not bargain with them." (This electrifying policy admonition successfully straddles that burning question: are we being squeezed to death by "octopuses" or are they called "octopi?") Obviously, "commanders" not permitted the full exercise of (and responsibility for) their commands may be a number of things, but "commanders" they are not.

The AFGE has a current strength of 325,000 members. A move is already underway by the Association of Guard and Reserve to sign up members of the reserve components while the National Maritime Union (NMU) is taking a look at the situation. There is an additional possibility that the Teamsters may move to pre-empt both the AFGE and the NMU.

CONTRIBUTING FACTORS

How did we wind up in this weird situation? The short answer is that it wasn't easy. Some contributing factors:

America, unlike the Soviet Union and China, has neither universal national service nor universal military service;

The loophole-laden military draft was permitted to expire in 1972. Currently, there is not even an annual registration of young adult males and the Selective Service System is in what its director has termed a "deep standby posture." (The betting here is that it is more "deep" than "standby.")

The onset of all volunteer forces and the peacetime achievement of recruiting goals by the active duty armed forces—an admirable job—masked a sea change in the link between the soldier and the state. Entering servicemen were moved to enlist to: (1) achieve personal goals; (2) improve economically; (3) learn a trade; and, (4) pursue their education. Not surprisingly in the mid-1970s, such heretofore prized attributes as unhesitating obedience to lawful orders, denial of self to achieve service objectives, etc., became antique values shared only by a diminishing cadre of old timers. Also, not surprisingly, when servicemen are induced to sign on at something approximately the market price, trade

unions tend to view such a group, set apart from the balance of society in peacetime, only by the ON duty wear of distinctive clothing; i.e., uniforms, as being ripe for union allegiance.

FALTERING CAUSED MOVE

Had the Congress and the Administration stood rock-like by the government's implied contract to the armed forces—medical care, dental support, exchanges, commissary stores, etc.—the spectre of unionization would today be remote. By providing, however, far too many niggling, small-minded erosions (both real and perceived) of long-held benefits, the Congress and the Administration jointly brought into clear focus that which they should jointly abhor: unionized armed forces. In short, far too many elected officials are enjoying the political free ride of no conscription without facing up to the real life costs of sustaining peacetime armed forces. The unseeming scramble to "prove" the unprovable, that military pay is either "comparable" to, or higher than, similar civilian pursuits is abrasive and alienating to today's armed forces;

The idea of unionized armed forces is now finding support among senior noncommissioned officers and chief petty officers of the services. (Mr. Bob Nolan of the Fleet Reserve Association has made important findings in this area.) Of course, real or incipient civil libertarians, in or out of the service, would fecklessly welcome unionization.

WHAT TO DO!

Write President Ford and his opponent Governor Carter NOW, setting forth your opposition.

When Congress reconvenes after the general election, call for the prompt enactment of Senator Thurmond's S. 3079 and Representative G. V. "Sonny" Montgomery's companion piece, H.R. 12691, by writing your Senators and your Congressmen.

Senator THURMOND. I want to thank you, gentlemen, for appearing and thank you for your splendid testimony you have given here on behalf of the Veterans of Foreign Wars.

Mr. SCHWAB. Thank you.

Senator MCINTYRE. Thank you, gentlemen.

Senator THURMOND. Our next witness is Mr. C. A. "Mack" McKinney.

Mr. McKinney, I believe you are staff director for the National Capital Office of the Noncommissioned Officers Association of the United States of America.

STATEMENT OF C. A. "MACK" McKINNEY, STAFF DIRECTOR, NATIONAL CAPITAL OFFICE OF THE NONCOMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA

Mr. MCKINNEY. Yes, sir.

Senator THURMOND. We are delighted to have you with us and you may proceed with your statement at this time.

Mr. MCKINNEY. Thank you, sir.

If my statement may be placed in the record as submitted, I would like to make a few comments.

Senator THURMOND. That will be fine.

Without objection, your statement will be placed in the record in its entirety and then you may proceed to make comments or remarks as you deem advisable.

[The prepared statement of C. A. "Mack" McKinney follows:]

PREPARED STATEMET OF C. A. "MACK" MCKINNEY, STAFF DIRECTOR, NATIONAL CAPITAL OFFICE

Mr. Chairman, on behalf of my Association President, James O. Duncan, the International Board of Directors and the Association's membership, I express sincere appreciation for permitting me to speak before this distinguished committee on the subject of unionization of the U.S. Armed Forces.

I am C. A. "Mack" McKinney, Staff Director, National Capital Office, Noncommissioned Officers Association of the U.S.A. (NCOA), and a retired Marine Sergeant Major. I consider it an honor and a privilege to have the opportunity to speak for more than 150,000 Noncommissioned Petty Officers of the Army, Navy, Marine Corps, Air Force and Coast Guard. Most are on active duty with the balance of membership being retired, in the reserve or national guard, or in a veteran's status.

The threat of unionizing military personnel was subsequent to the Association's 14th Annual Convention conducted during April 1975. This resulted in a delay in committing the NCOA to a position of endorsing or opposing the issue. However, the following year the convention assembly voted unanimously to adopt the following resolution:

"Therefore, the Noncommissioned Officers Association of the United States of America (NCOA) resolves to further encourage its members and all members of the noncommissioned and petty officers corps to carry on the tradition of their predecessor by remaining loyal, devoted, and dedicated professionals in the service of our Nation's Armed Forces: To actively oppose unionization of military personnel by offering its full resources in effectively countering any such move by persons or organizations advocating unionism in the armed forces of the United States: And petitions the incumbent administration, the Congress, the Department of Defense and the military departments to propose, support, and enact legislation providing a "bill of rights: For military personnel specifying benefits that accrue from military service and eliminating changes that do not contain provisions protecting those already in the (uniformed) services."

It was perfectly clear that our Association's convention delegates were adamantly opposed to unions in the military services. It was again perfectly clear that our members opposed unionization in their ranks when they met this year in San Antonio, Tex., for the Association's 16th Annual Convention. They renewed their belief by extending the 1976 resolution for as long as necessary to satisfactorily adjudicate the Association's position.

I am exceptionally proud that my membership adopted this position. Despite the alarming evidence of erosion in benefits and emoluments and despite further threats to the pay, allowance and benefits of military personnel, these Noncommissioned and Petty Officers recognized the real danger behind unionization and opted to oppose organizing their men and women into any group that was not wholly professional military.

Further, they made a pledge to their Commander-in-Chief and to their fellow citizens that: ". . . the Noncommissioned and Petty Officers Corps of the Armed Forces has been and is principally concerned with the welfare of our beloved Nation and its defense posture. . . . We have dedicated our lives to serving our country in war and peace. Many of us were maimed and many of us killed in the Nation's struggles for independence and continued existence in a world beset with strife. . . . We have trained the citizen and professional soldiers, officers and enlisted. We have taught them how to fight, how to maim, how to kill, and even how to survive. We have led them into jungles, mountains, deserts, oceans, swamps, and into the skies. We have cursed them, cuffed them, protected them, cared for them, and yes, even loved them. We have taken them into combat, encouraged them to fight to the bitter end. We have watched them bloodied and battered continue to charge the enemy in face of overwhelming odds. We have seen them maimed and dead. . . . We watched them as they were buried in some foreign land or at sea. We have seen them go home, many never to walk again, and we have taken their replacements and started the cycle all over again. . . . Yet we have stayed on—dedicated to God, Country, and Corps, and loyal to the symbol of man's freedom—the Flag of these United States. As long as it waves, as long as there are professional Noncommissioned and Petty Officers in the U.S. Armed Forces, and as long as the Supreme Commander allows us to pre-

vail, our Corps shall stand ready to serve our beloved Nation. We renew our pledge to dedicate our lives to protect the Constitution of the United States, and to serve as loyal Soldiers, Sailors, Marines, Airmen, and Coast Guardsmen. But as we serve, we shall not forget those who went before: The Noncommissioned and Petty Officers whose brave deeds are enshrined in the memories of nearly 200 years of recorded history. What they sacrificed, what they gave in blood, sweat, and tears is their bequest. We will do all in our power to protect that heritage, to provide for the well-being of the military community, and to defend our Nation against all enemies whomsoever."

"To defend our Nation against all enemies whomsoever" . . . and the NCOA believes that unionization is an enemy if it is allowed to marry with the Armed Forces. There is no place for unions in the military ranks. If nothing else, they will usurp the authority of the noncommissioned and commissioned officer without accepting the responsibility for the well-being of the unit and its assigned mission.

Militarily speaking, the mission of the unit must be the primary goal of every officer and noncommissioned officer. Secondly, they must provide for the welfare and morale of their subordinate troops. To reverse these traditional roles will cause defense capabilities to collapse beyond a state of preparedness and readiness. Allowing unions to organize within our military departments will surely bring on the reversal. We cannot afford to allow this to happen. Nor can we afford to permit unions to recruit members from the military on the premise that its officials will never encourage strikes of any nature.

According to David Lewin, Professor of Business, Columbia Business School, writing in the book, "Public Employee Unions—a study of the crisis in public sector labor relations," . . . "most unionists argue for the unlimited right of public employees to strike" and that "public policy . . . has been largely antagonistic toward public employee strikes but not very successful in preventing them."

It is clear to this Association that Professor Lewin has a strong point against unionizing government employees, or as to the case in question, unionizing military personnel. Union officials, whether actually provoking a strike or not, do suspend the possibility of strike above the heads of government officials, or the military commanders. Additionally, union officials tend to ignore the humanities when they permit their members to strike. This has been proven during "walkouts" of school teachers, policemen, firemen and garbage collectors. One can well imagine the public fear involved in the possibility of military members walking off military installations around the world, particularly in NATO countries, and staying away until their union officials' demands are attained through collective bargaining.

Probably the best argument we've read against unionizing the armed forces was presented by California Congressman John H. Rousselot. In the American Legion Magazine, October, 1975, he wrote:

"First, government employees are salaried by the taxpayers to provide services to the public which has been determined by law to be necessary, and in many cases, these are services which can only be provided by government. The Constitution specifically delegates certain responsibilities to Congress, and it further mandates that Congress ". . . make all Law which shall be necessary and proper . . ." (Article I, Section 8) to carry out these responsibilities. Unlike the private sector, government is not profit oriented. Jurisdiction over the formation and maintenance of our armed forces is but one of the Constitutional requirements, and in my opinion, it would be a violation of this Constitutional mandate to allow, for example, our military forces to go out on strike and expose the nation to an attack by an aggressive foreign power. Without its employees, government would not be able to perform its necessary and proper functions. Collective bargaining between government and its employees would place an unfair burden on government to meet employee demands in order to avert a strike, and if government employees should go on strike, the pressure would be even more intense to accede to the demands and return vital services to citizens.

"Second, as voters, government employees have a voice in the operations and management through their elected officials. There are not many, if any, employees in the private sector who have such a direct voice in the operations of the corporations which employ them, and have members on the board of directors who have been elected to also represent them.

"Third, government's sovereignty and responsibilities must be respected if we are to continue to have a free and orderly society. Collective bargaining between government and its employees pits the needs of one group of citizens against the needs of all citizens. Government cannot share its responsibilities for the health, welfare and safety of the public with a handful of professional union men who are not directly answerable to the electorate."

Mr. Chairman, allow me to make one point very clear; the NCOA is not opposed to unions in the private sector. In fact, there was a need for them and they have accomplished many great things for civilian laborers. But unlike private enterprise the military departments direct their commissioned and non-commissioned officers to look after the welfare and morale of junior personnel. If they need to go outside the military for those issues not strictly military in nature, they have quasi-military and veterans' organizations available to represent them either individually or collectively.

These groups do a creditable job. They do it quietly, efficiently, with little or no cost to the individual, and normally within the chain of command . . . and we do consider members of Congress in that chain.

The only problem is recognition. The Administration, the federal government including the Department of Defense, and all legislative and executive offices must recognize these groups as spokesmen for the men and women who are serving or have served in the armed forces of the United States.

Last, but not least, Congress must pass legislation outlawing union membership to any person serving in any component of the U.S. Armed Forces if such membership is based exclusively on the person's military grade or service.

Thank you, Mr. Chairman, for the opportunity to present my Association's views. If you have any questions I'll be most happy to try to answer them at this time.

Mr. McKinney. Thank you, Mr. Chairman, and allow me just one comment to express the deep appreciation of my association for inviting me today to comment on the issue of military unions.

As most should know, the Noncommissioned Officers Association is completely, unequivocally, totally, and adamantly opposed to unionization of the Armed Forces.

In addition, I have been asked by the National Commandant of the Marine Corps League to advise this panel for the record that that congressionally chartered organization is also opposed to unions in the U.S. Armed Forces.

Our opposition is based on these factors:

First, the history and structure of unionism has been one of continued threats, strife, disorders, and civil disturbances, contrary to the peacekeeping role of the U.S. Armed Forces. Members of the uniform services have been called upon many times to protect property and life and maintain law and order during strikes and disturbances called by unions or their memberships.

Military personnel cannot have divided loyalty between the Federal Government and the unions. Otherwise total commitment to the mission of the military unit may be compromised.

Second, the purpose of unions, as it is with this association, is to represent people, but their representation goes beyond the safety and well-being of the Nation and its citizens whenever union officials want their demands met. The motives and desires of the unions relative to military members have not been satisfactorily resolved to determine their sincerity to properly represent the military community. Instead it appears that the real purpose is to use combined civilian and military memberships to ward off threatened reduction in pay, allowances, and benefits of civilian employees.

In one of its handouts, obtained in the Pentagon corridors, the AFGE, American Federation of Government Employees, asked Federal workers to join its ranks. It reads, "Let's work together to make Uncle Sam a better boss. We need your help to," and this portion we would like to call to your particular attention, Mr. Chairman, "control the use of military personnel encroaching on civilian jobs."

Except for annual pay increases there is little, if any, compatibility between military personnel and Federal employees. Military personnel live under a separate workers code uncommon to the average union membership. Their's is one of inconvenience, sacrifice, and constant upheavals of families and households. They are the most completely socialistic group of all employees in the United States. They are paid, fed, housed, transported, and medically treated through Federal funding. As the truest of all public servants they must remain inactive and unidentifiable as a political and partisan group within the framework of the U.S. Constitution.

Is there a need for unions in the military? We believe not. Union representation would usurp the authority of noncommissioned officers without accepting the responsibility of that unit's mission. In the military the mission is primary. People are secondary. If the military is to be successful, those roles cannot be reversed. Unions claim their representation of the military members will be one of arbitration between military personnel and their superiors. There is no place for the word in our military language. Arbitration will crumble the very foundation of good discipline in the Armed Forces.

As a member of the military the uniformed man or woman must be ready at an instant's notice to defend the Nation against any enemy, foreign or domestic. They must respond immediately to orders issued by military and civilian superiors without question. The successful defense posture of these United States depends upon complete and total allegiance to our military authority.

In every case we have stated here the word incompatible stands as the main point of thrust to our opposition to unionization of the Armed Forces. The military services and unions are separate and unrelated entities and with two very distinct missions. They should not dwell in the same house. If they do that house will crumble.

Thank you, Mr. Chairman.

I stand ready for any questions.

Senator THURMOND. We thank you for your fine statement.

Now, I have here an excerpt of the Congressional Record in which your letter and the resolution of the Noncommissioned Officers Association appears. I believe this was June 30, 1976.

Mr. MCKINNEY. That is right.

Senator THURMOND. The 15,000 member Noncommissioned Officers Association supported my bills in the 94th Congress to prohibit unionization of the military; is that correct?

Mr. MCKINNEY. Yes, sir.

Senator THURMOND. I ask unanimous consent that this excerpt from the Congressional Record of June 30, 1976 be placed in the record of these hearings.

Senator MCINTYRE. Without objection.

[The information follows:]

1976–77 LEGISLATIVE RESOLUTIONS OF THE NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA

Mr. THURMOND. Mr. President, recently the director of legislative affairs, C. A. "Mack" McKinney, of the Non Commissioned Officers Association of the United States of America, wrote to me concerning the 15th Annual International Convention of the Non Commissioned Officers Association at San Antonio, Tex. Also, he pledged the support of that organization for S. 3079, my bill, which would prohibit unionization of the Armed Forces.

The Non Commissioned Officers Association is a fine and patriotic organization, which should be commended for their goals, dedication, critical review and efforts on behalf of national security and the United States of America. During the convention in San Antonio, the Non Commissioned Officers Association of the United States of America adopted the organization's 1976–77 legislative resolutions. I ask unanimous consent that at the conclusion of my remarks the letter of C. A. "Mack" McKinney and the 1976–77 legislative resolutions previously mentioned be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NON COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA,
Washington, D.C., June 17, 1976.

Hon. STROM THURMOND,
U.S. Senator, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR THURMOND: At their 15th Annual International Convention, San Antonio, Texas, the delegates representing more than 150,000 members of the Non Commissioned Officers Association of the USA (NCOA), voted unanimously to oppose unionization of the U.S. Armed Forces.

Although a separate resolution was adopted opposing unionization (to be forwarded under separate cover at a later date), the delegates approved the legislative resolutions contained in the accompanying paper. The first paragraph on page 7 mandates the Association "to actively oppose unionization of military personnel by offering its full resources in effectively countering any such move by persons or organizations advocating unionism in the armed forces of the United States."

In this respect, the Association offers its active support for enactment of your bill, S. 3079, "to prohibit union organization in the armed forces."

With our very best wishes, and grateful appreciation for your service to the Association, the military community and the Nation, we remain,

Respectfully,

C. A. "MACK" MCKINNEY,
Director of Legislative Affairs.

THE NON COMMISSIONED OFFICERS ASSOCIATION OF THE USA (NCOA) 1976–77 LEGISLATIVE RESOLUTIONS

PREAMBLE

It is with full understanding that our beloved Nation must maintain a strong defense posture in today's world, and must depend upon its military personnel to man the ramparts with dedication, devotion and loyalty second to none, that the delegates in assembly at the 15th Annual International Convention of the Non Commissioned Officers Association of the United States of America (NCOA), in San Antonio, Texas, on this 3rd day of June, in the year 1976, adopt the following legislative resolutions for the 1976–1977 year.

L.R. No. 1–76 (national defense)

"The United States is no longer the strongest military force in the world, and while we may talk about substantial parity or substantial equivalency with the Soviet Union, the bare, stark facts remain, in spite of the rhetoric, that in military force alone, the Soviet Union is the strongest nation on the face of the earth, and the United States, in spite of its capacity to be strongest, is second to the Soviet Union in military strength." (The Honorable James A. McClure, U.S. Senator from Idaho)

As the result of extended conflict in Southeast Asia, increased military arms aid to foreign nations allied with the United States, and decreased defense appropriations, our Nation in the past years has become inadequately prepared to defend itself against a highly-mobilized conventional attack of prolonged duration by a probable aggressive force whose conventional strength is greater than that of the U.S. Armed Forces. That aggressive force cannot be identified other than that of the Soviet Union.

Additionally, the United States cannot counter the ever-expanding Soviet pressure upon the countries of Europe, Africa, and Asia. As the Honorable John P. Murtha, Member of Congress so aptly stated: "Americans must face the fact that whether we like it or not, we are still the only military counterbalance to the Soviet Union and the communist world. The years ahead will test our will to check Soviet aggression and insure peace through equal strength."

Still, many critics of conventional-parity continue to advocate a short-war ideology, basing their belief on the use of nuclear weapons to defend this Nation against enemy attack and to save manpower and conventional weapons' cost. But it is beyond belief that any responsible governmental official, in particular the President of the United States, would rely on a nuclear first strike to counter a strictly-conventional offensive launched against U.S. Armed Forces.

And it is doubtful that the United States would permit a conventional attack on its forces to be of short duration despite the apparent overpowering strength of its most probable aggressor—the Soviet Union. Based on Soviet offensive strategy, an attack by U.S.S.R. forces would be massive in size; highly mechanized and mobile; timed to meet and overcome obstacles, countered with minimum effort, and designed strategically to maintain conventional momentum. Nuclear weapons would be in reserve and used only as a last resort.

Both the United States and the Soviet Union having some parity in nuclear weapons, are acutely aware of the potentially high risks involved in the use of these weapons. This then being an indisputable fact, neither country would employ nuclear weapons as long as conventional means were usable and time available to negotiate for an agreeable settlement.

Because of its nuclear strength in offensive an ddefensive strategic weapons, the Soviet Union has concentrated on increasing its military manpower strength and building its inventory of conventional weapons. Its industrial capabilities have produced great quantities of highly-mechanized hardware. In the past years they have outproduced the United States and now lead this Nation in numbers of main battle tanks, armored carriers, tube artillery, certain significant naval ships and attack/fighter aircraft. Additionally, a recent Library of Congress report noted that the Soviets possess quantitative superiority in military personnel over the United States—and that this correlation is militarily important to the U.S. defense posture.

So it is in this respect that conventional parity at least must be met by the United States to deter the Soviet Union from even contemplating an attack upon U.S. forces or expanding its influence over a greater portion of the world's population. By equalizing our military strength with that of the U.S.S.R., the United States would be able to protect its world-wide dependence upon strategic and domestic imports and negotiate strategic arms limitations and mutual balanced force reductions with the Soviet Union which could eventually control the frightening aspect of another world war.

The 94th Congress is to be commended for its newest concern for our Nation's defense posture, however, the momentum must continue until the United States is no longer second in military strength to that of the Soviet Union.

Therefore, the Non-Commissioned Officers Association of the United States of America resolves to increase its legislative efforts in the area of national defense, and petitions the incumbent Administration, the Congress, the Department of Defense and the Military Departments to unite in rebuilding U.S. Armed Forces to a position of superiority over the military strength now possessed by the Soviet Union.

L.R. No. 2–76 (military personnel)

Weapons without people to man and operate them might be compared to a body without a heart.

"Manpower is the lifeblood of our national defense; it has been and it will be. The individual soldier has carried the burdens of battle from Bunker Hill to Khe Sanh. He has been a giant, heroic figure in our history. Even so, it has been

primarily in troubled times that the individual soldier has evoked honor; in less trying times, often he has been forgotten and sometimes maligned . . . Today, however, manpower concerns receive greater consideration than ever before, primarily owing to the All Volunteer Force." (Defense Manpower—The Keystone of National Security; Report to the President and the Congress; April 1976).

It is this consideration for manpower that concerns the Non-Commissioned Officers Association of the USA (NCOA). Composed primarily of active duty, retired, reserve and national guard members, the NCOA has dedicated itself to enhancing the professionalism of the Noncommissioned and Petty Officers Corps of the U.S. Armed Forces. It has called upon that corps to continue to epitomize its inherent right to the title of "Backbone of the Military Services;" to carry itself with pride and honor; to offer itself in dedicated professionalism to provide the best Soldiers, Sailors, Marines, Airmen and Coast Guardsmen for the defense of our beloved Nation; to devote itself to the success of the All Volunteer Force; to man, the ramparts with loyalty and to protect this Nation from all enemies whomsoever.

Further, the NCOA has made every attempt to uphold the basic principles of the command structure within our military departments. It has worked to find a better ground of mutual understanding between those who are a part of the military community and civilian governmental officials, elected and appointed, who control the destiny of the U.S. Armed Forces and its military community. However, it has been a most difficult task.

Since 1973, the incumbent Administration, the Department of Defense and the Congress have either developed or furthered unjust attacks upon the military community. Using the banner of "comparable" or "competitive" remunerations for services rendered, and publicly declaring that "military manpower is eating up the defense budget," more than forty (40) separate items in pay, allowances and benefits have been either curtailed, reduced or terminated, and more than twenty (20) are being threatened at this time.

Although the NCOA is quite aware that economic factors must be considered in determining federal expenditures, it strongly objects to the military person being the main target of the fiscal axe. While other governmental and federally-subsidized employees have been recipients of congressional legislative benefits, the majority of the military (mostly enlisted) have suffered erosion in pay, allowances and benefits.

The Defense Manpower Commission, in its final report to the President of the United States and to the Congress, significantly addressed these actions as not rational or justified for the act itself. It stated: "Removal of real or perceived benefits, regardless of the reason, can and frequently does produce Service reactions out of proportion to the savings involved. Such presumed savings then become illusory for two reasons: trained personnel who might have been motivated toward a career leave the Service at the first opportunity; and those who have chosen a military career feel that the Government has broken faith with them. The investment in recruiting, training and experience of all those lost may well exceed any savings originally contemplated. The adverse impact on the morale of those remaining should be obvious and a cause for deep concern.

The adverse impact has already taken hold in the Services. Many military members are advocating memberships in unions in order to retain existing emoluments. This in itself should be sufficient to warn our Nation that enough is enough, but most importantly, that it should honor its commitments made to those men and women who, in turn, must honor "one-way contracts" with the federal government.

"National leadership is critical in this instance . . . In view of the unique obligations of the members of the armed forces, their civilian leadership should not give them reasonable grounds for believing that there should be divided authority over them; or that they perhaps need representation in order to be fairly and equitably treated; or that there has been any erosion of expressed or implied commitments previously made to them. The attitudes of the members of the armed forces in this regard are shaped primarily by their perceptions of the attitude toward them of the President, the Congress and the Secretary of Defense." (Defense Manpower—The Keystone of National Security; Report to the President and the Congress, April 1976.

Nevertheless, the state of military professionalism in the Services is generally sound, reports the Defense Manpower Commission, but warns the Services

to maintain that state in a healthy condition: "The attitude of the military professional towards service to the Nation is especially important today. The motivation to serve must not be diminished by a feeling that our Government and our people are indifferent towards the serviceman or woman. There is something to military service beyond pay and benefits; one serves regardless of recognition or appreciation. If this were not so, the professional armed forces of Western democracies would not have survived the periods between wars. . . . In short, true professionals will serve and fight when necessary, even if they believe that they are being neglected. They depend on the Government for their present and future welfare, and, in a sense, are at the mercy of that Government. On the other hand, to be true professionals they must earn the respect of their countrymen through example, integrity, loyalty and uncomplaining service."

Therefore, the Non Commissioned Officers Association of the United States of America (NCOA) resolves to further encourage its members and all members of the Noncommissioned and Petty Officers' Corps to carry on the tradition of their predecessors by remaining loyal, devoted and dedicated professionals in the service of our Nation's armed forces; to actively oppose unionization of military personnel by offering its full resources in effectively countering any such move by persons or organizations advocating unionism in the armed forces of the United States; and petitions the incumbent Administration, the Congress, the Department of Defense and the Military Departments to propose, support and enact legislation providing a "Bill of Rights" for military personnel specifying benefits that accrue from military service and eliminating changes that do not contain provisions protecting those already in the Service.

Meanwhile, the Non Commissioned Officers Association of the United States of America (NCOA) will strongly and actively oppose any and all legislation or regulations that would erode existing benefits for military personnel, and, at the same time, continue its efforts to bring about equity in law for enlisted members of the military services, in particular those of the Noncommissioned and Petty Officer grades, and support improvements in the military community that are significant to the well-being of that group either collectively or as members of the regular establishment, the retired component, or the guard and reserve.

In that respect, the following individual legislative programs will be given priority by the Association's International Committee on Legislative Affairs, the Director of Legislative Affairs, and the legislative staff of the Association's National Capital Office in Washington, D.C.:

A. To support—

Severance Pay for Certain Regular Enlisted Military Personnel.

Recomputation of Retired Pay.

Establishment of Individual Retirement Accounts for Regular Enlisted Personnel and for Guard and Reserve Personnel.

Improvements in Medical and/or Dental Care for Dependents of Active Duty Personnel, Retired Members of the Uniformed Services and their Dependents, and for Surviving Dependents of Deceased Military Personnel.

Continuing Subsidies for Military Commissaries.

Necessary and Equitable Changes in the Survivors Benefit Plan.

Equitable Benefits for Military Widows and Dependent Children.

Incentives for recruitment and retention of National Guardsmen and Reserves.

B. To oppose—

The proposed new Retirement Modernization Act.

Changes in Present Methods of Payment of Increases to Basic Pay and Allowances for Quarters and Subsistence, and to Retired Pay.

Changes to the Soldiers and Sailors Relief and "Buck" Acts.

Further Reductions-in-Force or Qualitative Management Removals from Service under Honorable Conditions Without Severance or Readjustment Pay Benefits for Certain Regular Enlisted Personnel.

Reductions in Reserve and Guard Personnel and in Paid Drills for Certain Volunteers.

Changes Other than Normal Price Increases to Individuals for Costs of Housing, Utilities, Trailer Spaces, Messing, Commissary and Exchange Goods and Recreational and Health Services Furnished by the Federal Government.

Changes in Present Method of Tax Treatment of Military Personnel in Certain Cases Involving Moving Expenses, Sick Pay Exclusions, Disability Pay, et al.

L.H. No. 3–76: (veterans affairs)

Since the birth of our Nations, American veterans for the most have been justly proud of their services in the Armed Forces of the United States. In the latter 100 years of our history, many have banded together in organized groups to foster social, benevolent, fraternal and patriotic activities among themselves, their families and their friends. Most significantly, they have joined forces to seek and obtain necessary care and support for their disabled and less-fortunate comrades-in-arms, for their widows and for their children.

Today our Nation stands tall as a model for rewarding its veterans for their services and for their sacrifices. It can proudly boast of having the finest programs of veterans' services of all the national in the world. No doubt it remembers the words of former President Theodore Roosevelt who noted that the Nation owes no greater debt than that to its veterans.

Yet, as perfect as these services may be programmed and made available to our veterans, there are those that are not equitable to all. There exists certain discriminating provisions or public rhetoric that separates or attempts to separate one veteran from another. There should be no inequities in our laws governing veterans' benefits, nor should any be advocated and considered by veterans' organization, the Congress of the United States, or the Veterans Administration.

President Theodore Roosevelt did not sort the veterans into classification dependent upon the length of their services, or by the grade in which they served, nor did he proclaim a difference between those who served the Nation in war and those who served in peacetime, or those who volunteered and those who were drafted.

Each veteran originally entered the armed forces accepting an oath that was the same for all. Very few, if any, entered with thoughts of being killed or maimed. Each took the chance of being ordered into combat. Each took the chance that the supreme sacrifice might have to be made, and each took the chance that something could happen to send them home a cripple for life. Some served in combat. Some were maimed and crippled. Yet others never experienced the heat of combat nor suffered the miseries of a hostile environment.

Certainly there can be a division between combat disabled veterans, service-connected disabled veterans, nonservice-connected disabled veterans and non-disabled veterans. But can they further be divided into subdivisions? Can each be separated into peacetime and wartime veterans?

Can there be a difference between two veterans; one totally disabled in the Vietnam conflict, the other in the battle of the Mayaguez? Is there a difference between a wartime veteran disabled by an accidental explosion and a peacetime veteran equally disabled in an identical accident? Can one group or non-service-connected disabled veterans be set aside from another group simply because they served at different times in the armed forces? And can a non-disabled veteran who served stateside in wartime be treated separately from one who served on foreign shores in peacetime? Or does a widow of a lieutenant suffer more anguish than that of a sergeant?

We believe not, but these separations do exist without justification in some veterans' benefits. A veteran is a veteran, and except for degrees of disablement and circumstances surrounding the occurrence, there should be no separation of veterans.

Therefore, the Non Commissioned Officers Association of the United States of America (NCOA) petitions the incumbent Administration, the Congress of the United States, and the Veterans Administration to rectify these inequities at the earliest, and will itself actively pursue legislation that provides:

A. Equity in Dependents and Indemnity Compensation Rates for all Eligible Spouses regardless of Veteran's Grade in Service.

B. Cost of Living Increases for Veterans' Compensation Rates, Surviving Dependents' and GI Bill Education Benefits.

C. Equal Job Preferences for all Honorably Discharged Veterans.

D. Receipt of Veterans' Compensation for Certain Eligible Veterans Concurrently with Retired Military Pay.

E. A separate Assistant or Deputy Secretary of Labor for Veterans' Employment.

F. An adequate National Cemetery System for the Veterans' Community.

G. Jobs on a Priority Basis for Unemployed Veterans.

Additionally, the Non Commissioned Officers Association of the United States of America (NCOA) will continue to oppose any and all attempts to:

A. Grant Unconditional or General Amnesty or Clemency to Vietnam-era Draft Evaders and/or Military Deserters.

B. Change present regulations governing Interments in Arlington National Cemetery.

C. Terminate the GI Bill Education Benefits for Peacetime Veterans.

It is further resolved that the Non Commissioned Officers Association of the United States of America (NCOA) will go on record as commending the major veterans' organization for initiating much of the existing veterans' benefit programs; the Congress of the United States for passing the necessary legislation providing the programs; the Presidents of the United States who believed that our Nation's existence rested solely with those who were its Service veterans; and the Veterans Administration which has administered the programs over the past decades.

To each of them, the Non Commissioned Officers Association of the United States of America (NCOA) extends grateful appreciation for their dedicated and determined efforts in behalf of the Nation's 29 million veterans. In addition to a salute to the House and Senate Committees on Veterans' Affairs, to the Veterans Administration, and to their staff members and employees, the Non Commissioned Officers Association of the United States of America (NCOA) pays particular homage to the Honorable Vance Hartke, U.S. Senator, Chairman, Senate Committee on Veterans' Affairs; the Honorable Ray Roberts, Member of Congress, Chairman, House Committee on Veterans' Affairs; and the Honorable Richard L. Roudebush, Administrator, Veterans Administration, for a job well done.

L.R. No. 4–76 (general)

Although the Non Commissioned Officers Association of the United States of America (NCOA) is primarily concerned with legislation directly affecting the military and veterans' communities, its existence and its membership can be and is subject to the laws that regulate the conduct of business and the lives of the average American citizen. Changes and amendments in statutes and provisions of law can and do bring about alterations in the daily existence of every American family and business. Whether they be domestic or foreign issues, the results are reflected upon the economy, the environment, education, health, welfare, the sciences, consumer relations, public services, housing, transportation, finances, safety, utilities, energy, food, commerce, civil liberties, individual rights, social security and employment.

So as to provide for its continuance as a non-profit organization and for the well-being of its members and their families, the Non Commissioned Officers Association of the United States of America (NCOA) resolves to actively support or oppose any legislation, when convenient and necessary, but not in competition with priority commitments determined in earlier legislative, resolutions, that is or is not in the best interests of the Association, the membership, and/or the military and veterans' communities.

It is further resolved that the National Capital Office may take immediate action when necessary to initiate legislative pursuits, under the purview of existing By-laws of the Association, to protect the interests of the Association, its members, and/or the military and veterans' communities.

Senator THURMOND. I might say we now have 43 cosponsors on this bill we have introduced to prohibit unionization of the military.

Mr. MCKINNEY. We are very pleased to hear that, sir.

Senator THURMOND. I would like to ask you this, Mr. McKinney. Does the Noncommissioned Officers Association still take the position that legislation is necessary to prevent unionization of the military?

Mr. MCKINNEY. We certainly, do, definitely do. In fact, this was reiterated at our last convention just held in June of this year, sir.

Senator THURMOND. Now, as the association's previous director of legislative affairs, do you have an occasion to visit installations and speak to noncommissioned officers on the issue of unionization of our

military? Some who have testified feel there is no serious threat to unionize the military. What do you say?

Mr. McKinney. Well, I think there is a serious threat. It is underlying, it is like an underlying current, and getting stronger and stronger as we go, and as each day passes. Some of the youngsters out there feel there is an erosion of benefits, and they perceive a greater erosion of benefits, and they feel that the union may be an answer to their problem.

Senator Thurmond. Unless something is done?

Mr. McKinney. That is right.

Senator Thurmond. Then do you feel there is a real threat that we must meet to prohibit unionizing the military?

Mr. McKinney. That is absolutely correct, Senator.

Senator Thurmond. Now, some feel we should not enact legislation. What is your response to them?

Mr. McKinney. Well, I think legislation is the only answer, Mr. Chairman, the only answer we can possibly give to this threat of unionization.

Senator Thurmond. The Secretary of Defense claims that within 9 to 12 months he is going to have regulations to prohibit negotiating and so forth and that would take care of it. Do you feel that that is adequate?

Mr. McKinney. No, sir, I do not. In fact, I brought along an article here which says, "Law can't prevent military unionization." This is a Navy Times article of March 14, 1977, which states that Mr. Kenneth Blaylock, president of the American Federation of Government Employees, said, "No law can prevent unionization of the military if servicemen want to organize." I think he is wrong. I agree that if he said "regulate" he may be correct.

Senator Thurmond. He is head of the AFGE union?

Mr. McKinney. Yes, sir.

Senator Thurmond. He is saying no law can prevent it?

Mr. McKinney. That is right.

Senator Thurmond. And, therefore, he is virtually telling the Congress you can pass a law but it won't have any effect, we are going to do it anyway?

Mr. McKinney. That is so according to this article.

Senator Thurmond. That is the essence of what he is trying to convey?

Mr. McKinney. Yes. If the Senator would like to have that——

Senator Thurmond. If there is no objection, I would ask unanimous consent this article be placed in the record.

Senator McIntyre. Without objection.

[The information follows:]

[From the Navy Times, Mar. 14, 1977]

Laws Can't Prevent Military Unionization

Washington.—No law can prevent unionization of the military if servicemen want to organize, according to President Kenneth Blaylock of the American Federation of Government Employees.

AFGE, which has 300,000 members, is planning a referendum of its members to decide whether to attempt to unionize the military. A spokesman for AFGE says that results may not be known for several months.

Blaylock said in a statement, "If our fighting men and women feel the need to join together in unions of their own interest, no bill or law or force can stop them. America fights for its ideals and a union is apparently necessary to keep those ideals among men who now serve in the military service."

A spokesman for AFGE continues to leave open the possibility of strikes by military personnel.

"Conditions determine whether people strike and we can't guarantee that no-strike provisions will prevent strikes" said a spokesman.

He gave as an example—postal employees who struck in 1970 despite laws against it.

If AFGE organizes the military, the spokesman said, probable goals would be (1) to stop erosion of benefits, (2) guarantee that the government does not break enlistment contracts and (3) reform the military system of justice.

Regulations of the quality of weapons also would be considered, a spokesman said.

Senator THURMOND. Now, some feel we should not prohibit unions from soliciting military members to join the union which would represent them in connection wtih their military service. How do you respond to that?

Mr. MCKINNEY. As we indicated earlier, and I think the final paragraph of our statement we submitted for the record, states, there is a requirement and a necessity for a law to be enacted that will prevent any member of the uniformed services from being a member of the union provided it is based on his or her military grade or service.

Senator THURMOND. Now, the present policy of the Secretary of Defense is more or less leave these matters to the local commanders.

We have a large number of bases, stations, forts, and so forth all over the country. Do you feel that a decentralized approach placing much of the legal burden on local commanders to determine which unions are good and which are bad for servicemen to join or stated another way, which ones present a threat to military discipline and which ones don't, is adequate? How would you respond to that, leave it to the local commanders?

Mr. MCKINNEY. I disagree with leaving it to the local commanders. I fully believe that it should be at the national level and a law should be provided to direct those base commanders not to permit any unions as long as they are involved with military personnel.

Senator THURMOND. We need to have a law which will make the matter uniform throughout the whole Defense Department——

Mr. MCKINNEY. Yes, sir.

Senator THURMOND. —— And all the forts, bases and stations everywhere, then the military members including commanders and all know exactly what the situation is?

Mr. MCKINNEY. Yes, sir.

Senator THURMOND. Otherwise, aren't you leaving too much discretion with the commanders? Some commanders will act one way and some another way, and you will hardly know just what the situation is.

Mr. MCKINNEY. I think you would be placing a lot of undue pressure on certain commanders, particularly those who have large groups of Federal employees working on their installations that do have a union, I think they would be under undue pressure in this particular case.

So whereas a law passed by Congress, signed by the President, would provide but one and only one door, and that would be a closed

one. That is exactly what we need in the military as far as unions are concerned.

Senator THURMOND. AFGE, as you know, is working now to unionize the military, and they are taking a poll of their members and so forth.

Now, I want to ask you this question.

How would AFGE or any other union properly and adequately represent the members of the military and also the civilian members when in many cases there is a conflict about jobs and other matters that may come up concerning the military and the civilian segment?

Mr. MCKINNEY. Well, as we pointed out in my verbal statement, Senator Thurmond, we picked up one of those pamphlets that AFGE was offering on the Pentagon concourse, and this was after they had stated they would unionize the military, and that pamphlet stated that they wanted to work together and needed help; that is, any Federal worker, to control the use of military personnel encroaching on civilian jobs. And my question under the civilianization program, for example, is who are they going to defend, the civilians or the military? I think they would be prone to lean towards the civilian membership. After all, they built that particular union at this time, the civilian membership, not the military. And I just feel, as I also further stated in my verbal testimony, that they are looking for more money and greater numbers to provide safeguards for their present civilian members.

Senator THURMOND. I would like to ask you this question. If AFGE or any other union were successful in organizing the military, were allowed to do so, do you feel that their primary purpose in doing so is to help the members of the military or is it to collect their dues and enrich their own coffers with those dues?

Mr. MCKINNEY. The latter part is exactly my belief.

Senator THURMOND. If they are not allowed to negotiate, and even now they aren't allowed to negotiate, how could they really help the members?

Mr. MCKINNEY. They are not going to do anything for the members that we can't do. In fact, we have enough associations right around Washington, D.C. to help these members.

Senator THURMOND. Now, in case war should come, do you feel if the military were organized that the unions would withdraw, as they claim they would do, or do you think of the millions of dollars they would be getting that they would cling in there and want to hold on?

Mr. MCKINNEY. The history of unions, and particularly the history of public employees unions, have indicated in the last few years that they have become very militant, and in many cases involving teachers, refuse collectors, firemen, policemen, they have shown no intention to even think of anything else other than their demands.

Senator THURMOND. Haven't the unions in fact stated that they wouldn't strike against the public, but in fact didn't they strike? Didn't the policemen strike in Baltimore?

Mr. MCKINNEY. Yes, sir.

Senator THURMOND. Didn't the firemen strike in San Francisco?

Mr. MCKINNEY. Yes.

Senator THURMOND. And only last week, was there not a strike of some public employees in Michigan?

Mr. McKINNEY. There are always those strikes, Senator, and they continually forget about the other citizens and their needs, which I refer to as humanities, and proceed at any length to get anything they can probably get.

Senator THURMOND. And if unions don't get what they want, isn't their weapon the strike?

Mr. McKINNEY. Yes, or the threat of a strike.

Senator THURMOND. Or to actually strike?

Mr. McKINNEY. Yes, sir.

Senator THURMOND. And could we countenance strikes in the military?

Mr. McKINNEY. I don't know how we could do it. We have used the military to counter strikes of the civilians, but I don't know who is going to counter any military strikes. For example, at Fort Hood, Tex., if 5,000 of those soldiers walked out down there and decided to strike, I don't know what we are going to do. Are we going to take 5,000 other soldiers and ask them to go break up their own buddies' strike and do other things against them necessary to break that strike?

Senator THURMOND. In closing, I would like to ask you this. Do you feel there a real threat today for the unions to organize the military, and, if there is, do you feel that that would be a vrey detrimental step to the security of the people of this Nation?

Mr. McKINNEY. There is a threat and it continues to grow and it would be detrimental to this Nation, particularly its defense posture. As I stated earlier, that union would be there interested in people programs and not the units' primary missions.

Senator THURMOND. Mr. McKinney, I want to thank you very much and I am familiar with your Noncommissioned Officers Association and its 150,000 members, and the great job they are doing. I commend you for your excellent testimony here today.

Senator McINTYRE. Just one question.

Leaving the military aside, you are not antiunion, are you?

Mr. McKINNEY. No, sir; I pointed this out in my statement I submitted for the record.

Senator McINTYRE. Right.

Mr. McKINNEY. We are not opposed to unions in the civilian sector.

Senator McINTYRE. Thank you.

Mr. McKINNEY. Senator Thurmond, you are very gracious and I thank you, sir. You have been always a good friend of the military and we certainly appreciate everything you have done, and also you, Senator McIntyre.

Senator McINTYRE. Thank you.

Senator THURMOND. We again thank you for your fine appearance.

[Whereupon, at 10:10 a.m., the hearing was concluded.]

[At the request of Senator Thurmond, the following statements were submitted for the hearing record:]

DISABLED AMERICAN VETERANS,
Washington, D.C., July 25, 1977.

Hon. JOHN C. STENNIS,
Chairman, Armed Services Committee, U.S. Senate, Washington, D.C.

Dear SENATOR STENNIS: This letter is written on behalf of the 448,000 members of the Disabled American Veterans and is in reference to recent hearings, con-

ducted by the Senate Armed Services Committee on legislation—S. 274 and S. 997—which, if enacted, would prohibit the unionization of America's Armed Forces.

I sincerely regret that DAV National Convention activities prevented this office from participating in the above mentioned hearings.

However, I do wish to inform you that the Disabled American Veterans is opposed to the unionization of our Armed Forces. This position is derived from a Resolution that was unanimously approved by the delegates to our 1977 National Convention which was held in Las Vegas, Nevada in July of this year. For your information I have attached a copy of that Resolution.

In our opinion, any positive aspects of the unionization of America's Armed Forces (if any) would be far outweighed by the detrimental effect such unionization would have on our Country's ability to maintain a strong, disciplined, effective military force.

The DAV therefore strongly supports legislation such as S. 274 and S. 997, and we urge its favorable consideration and passage by the Congress.

Sincerely yours,

WILLIAM B. GARDINER,
National Director of Legislation.

Enclosure.

RESOLUTION NO. 132, LEGISLATIVE—OPPOSING THE UNIONIZATION OF THE ARMED FORCES

Whereas there are efforts to unionize the Armed Forces of the United States, and

Whereas, legislation has been introduced which would prohibit union organization in the Armed Forces: Now therefore, be it

Resolved, That the Disabled American Veterans in National Convention assembled in Las Vegas, Nevada, July 10 through July 15, 1977, go on record favoring the enactment of legislation which would prohibit unionization of the Armed Forces.

STATEMENT OF C. DENNIS MCCLURE, AMVETS NATIONAL SERVICE AND LEGISLATIVE DIRECTOR

Mr. Chairman and members of the committee, AMVETS appreciates this opportunity to express our views on the extremely vital and controversial issue of unionization of the Armed Forces of the United States.

In his testimony to the Senate Committee on Veterans Affairs on March 25th, AMVETS National Commander Thomas J. McDonough alluded to AMVETS concern on this issue and clearly reiterated our historical opposition to any attempts directed at the unionization of the Armed Forces or to the granting to military personnel of any collective bargaining rights not provided for in the Uniform Code of Military Justice as that Code currently exists.

We reaffirm our stand on this issue at this time. We wish to make clear that AMVETS does not dispute or oppose the principles of organized labor, but does question the effects such a practice would have on military discipline should military personnel be given the right to question or disobey the orders of their superiors.

Unionization of military personnel is, in our opinion, inconceivable. We are confident that the introduction of such a concept to the military services would result in irreparable damage to the time tested effectiveness of the disciplinary system arising from a clear, unencumbered chain of command.

In view of past and current international and domestic "restlessness," we do not believe that the United States can afford to undermine or compromise its National defense posture, and the breakdown in military discipline which would result from unionization of our armed services would seriously hinder, if not destroy, our "manned" capabilities.

Again, and finally, Mr. Chairman, we thank the Committee for this and past kindnesses and respectfully request that, without objection, our statement be accepted for the record.

STATEMENT BY MAJ. GEN. FRANCIS S. GREENLIEF, EXECUTIVE VICE PRESIDENT OF THE NATIONAL GUARD ASSOCIATION OF THE UNITED STATES

Mr. Chairman and members of the committee, With the ending of the draft and the arrival of the All-Volunteer military force, the National Guard Association has noted a growing tendency, on the part of both service members and civilians alike, to regard military service as a job rather than a calling. Along with that tendency there has arisen the wish of some service members for a union which could represent them in disputes with military management, the Administration and Congress over job conditions, benefits, pay, work hours and grooming standards.

The Association is strongly opposed to the development of such a situation in the Armed Forces of this nation. The unionization of service members would dilute the loyalty that each service member must offer to his commander alone. Combat readiness and combat effectiveness would be reduced in any unit threatened by a union job action or strike. Officers and non-commissioned officers would rapidly lose control of an organization in which enlisted grievances were handled by a shop steward or union agent.

The immediate threat of military unionization is probably minor, and will likely remain so until a major American union decides to make a determined effort to organize the armed forces. However, the potential for unionization exists and should be eliminated by legislation as soon as possible. We support S. 274 and S. 997 and urge their adoption.

The National Guard Association of the United States recognizes the threat that military unions pose to our armed forces. At our 98th General Conference, held in Washington, D.C., in September 1976, the National Guard delegates from each State, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands, unanimously adopted the following resolution pertaining to enrollment of members of the armed forces of the United States in certain labor organizations:

RESOLUTION NO. 4—SUBMITTED BY ALABAMA, FLORIDA, KANSAS, PENNSYLVANIA, AND TENNESSEE RELATING TO THE ENROLLMENT OF MEMBERS OF THE ARMED FORCES OF THE UNITED STATES, INCLUDING THE RESERVE COMPONENTS, IN CERTAIN LABOR ORGANIZATIONS

Whereas labor organizations exist for the purpose of dealing with employers concerning grievances, labor disputes, wages, hours of employment and other conditions of work; and

Whereas effective command control, and discipline of the armed forces, including the Army National Guard of the United States, the Air National Guard of the United States, and the other reserve components is central and indispensable to the accomplishment of their military missions; and

Whereas the command structure, the system of military justice, and many of the duties and responsibilities of members of the armed forces are unique, and cannot be equated with the conditions of employment of civilian employees of government or industry; and

Whereas a number of labor organizations have signified an interest in enrolling members of the armed forces for the purpose of representing them in matters related to their military status and membership; and

Whereas legislation has been introduced in the Congress to make it a criminal offense for any individual or entity to enroll a member of the armed forces, including the reserve components, in a labor organization, or for such a member to join such an organization unless the activity, purpose, or function of the organization is unrelated to membership in an armed force; and

Whereas the enactment of such legislation would not impair the right of a National Guard technician employed under section 709 of title 32, United States Code, to remain in, or to become a member of a labor organization whose activities are unrelated to membership in the armed forces, or the right to encourage or solicit others to become members of such organizations: Now, therefore, be it

Resolved, That the National Guard Association of the United States, assembled in Washington, D.C. this 1st day of September 1976, strongly supports the enactment into law of legislation prohibiting unionization of the Armed Forces; and

Be it further resolved, That copies of this resolution be furnished members of the Armed Services Committees of both Houses of Congress of the United States, the Secretaries of the Army and Air Force, and the Secretary of Defense.

AIR FORCE ASSOCIATION,
Washington, D.C., July 19, 1977.

Hon. JOHN C. STENNIS,
Chairman, Senate Armed Services Committee,
Washington, D.C.

DEAR MR. CHAIRMAN: On behalf of the more than 160,000 members of the Air Force Association we commend the injury by your Committee into the very real threat to our national defense posed by the possibility of unionization of the military.

As the only military-oriented Association whose membership includes all the elements of the Air Force—enlisted; officers (both junior and senior); civilian employees (many of whom do belong to unions); retirees; cadets; reservists and guardsmen; and civilian supporters, we feel it is important that this issue be investigated thoroughly, as you are indeed doing, and faced squarely.

With this in mind we respectfully submit, for inclusion with the record of your proceedings, the Air Force Association's position on this grave issue.

Again, we salute your initiative in opening this inquiry and we look forward with interest to learning of your conclusions.

Sincerely,

GEORGE M. DOUGLAS, *President.*

Enclosure.

AIR FORCE ASSOCIATION POSITION PAPER: UNIONIZATION OF THE MILITARY

The following statement was adopted unanimously by the Air Force Association Board of Directors, meeting on May 29, 1976 in Colorado Springs, Colo.

Any plausible reaction to the military unionization movement must begin with the acknowledgement that unions are a fundamental element in our democratic system, and that organized labor is a major contributor to our defense posture.

Beyond that, the AFL–CIO must be recognized as a potent force in keeping our citizens alert to the threat posed by the Soviet Union and to the resulting need for a strong American military establishment. Indeed, during the past twelve months the Air Force Association has issued three special reports to its leaders, each directly related to the AFL–CIO, and each recommended as a valuable source for remarks in support of AFA objectives.

The first of these reports carried a message from the AFL–CIO Executive Council which called upon "the President, the Congress, and the American people to do what must be done to provide for the common defense." We hailed it as "a perceptive and concise analysis of our defense position vis-a-vis the Soviet threat."

The second report was the reprint of an article by Aleksandr Solzhenitsyn, the Nobel Prize-winning Russian author who was exiled from his native country in 1974. The article was entitled "The Third World War Has Ended." Author Solzhenitsyn had visited this country under the sponsorship of the AFL–CIO and his message to America was a breakthrough in obtaining wider recognition of the nature and criticality of the Soviet Threat.

Our third report carried excerpts from an article by George Meany, President of the AFL–CIO, which featured an incisive analysis of detente. It strongly supported the theme of our current Statement of Policy.

If, as surveys indicate, there has been a swing in public opinion toward greater recognition of the Soviet Threat and greater interest in a larger U.S. Defense Budget, the AFL–CIO deserves much credit for this important shift in public attitude.

Against this background, it would seem that Mr. Meany and the majority of other labor leaders, plus the rank and file of organized labor, will find it difficult to support the proposal to be considered by the American Federation of Government Employees, an AFL–CIO affiliate, at its convention in September. This proposal would have the AFGE serve as bargaining agent for uniformed military personnel.

Clyde M. Webber, the National President of AFGE, in testimony before the Defense Manpower Commission, reported that "the mutual benefits of bringing military personnel into AFGE" was based on the premise that the pay systems of uniformed military and civilian government employees were linked by statute. AFGE claims to represent more than 300,000 civilian employees in the Department of Defense.

Mr. Webber makes the point that pay scales for both civilian and uniformed government personnel are based on comparability with industry pay scales, and that budgetary considerations of defense personnel costs always include both the expenses for civilians and for the uniformed military as a single entity.

Although noting that the original concept of military unionization centered primarily on pay, Mr. Webber told the Commission that "other areas of mutual concern have also come to the fore." He identified several of these areas as "common or similar problems in the pension subsidies of both civilian and military personnel, changes in the health care system for both groups, identification of military and civilian positions in the regular operation of military installations . . ."

In all of his statements on the subject, Mr. Webber has, in effect, configured military personnel in a peacetime setting, as civil servants in uniform.

Leo Pellerzi, General Counsel of the AFGE, put it more succinctly to the Wall Street Journal when he stated, "It is a volunteer Army and that means people are selecting a military career as a means of livelihood, and not for patriotic reasons. Servicemen today aren't responding to an attack on the country. They want to be paid."

Our initial reaction to this is clear cut. If, as Mr. Pellerzi states, the All-Volunteer Force is producing people who select military careers merely as a means of livelihood, and "not for patriotic reasons," the nation has only one logical alternative: go back to the draft.

As for Mr. Webber's comparability argument, we have long since noted that the comparability concept is based on the assumption that military and civilian jobs are "comparable" to begin with.

More than a year ago, in a special report to AFA leaders, we commented on this assumption with the question, "Are they?" and added: "Are many civilian employees called upon to uproot their families involuntarily every few years . . . to endure 24-hour alert duty assignments . . . to work overtime without additional compensation . . . to serve in remote and isolated areas . . . to give up certain freedoms and rights . . . risk injury, personal disability, or death, in battle?"

Proponents of military unionization invariably respond to this with the argument that firemen and policemen are unionized, and even go on strike now and again. While we believe that these jobs, for which we have the greatest respect, can be compared to miiltary service only in relation to hazardous duty assignments, it behooves us to consider what can happen when firemen and policemen strike.

Admiral John S. McCain, Jr. (USN-Ret.), in a recent newsletter published by the Public Service Research Council, describes an incident and poses a question which deserves serious consideration: "During the fireman's strike in Kansas City, Missouri, late last year," the Admiral reports, "firefighters from surrounding communities would not cross the so-called 'picket lines' of the striking Kansas City firemen. The situation became so dangerous to the citizens that the National Guard was called in to help quell the raging fires throughout that city. If the military is unionized this would also mean the National Guard. Would they, under unionization, eschew as firemen in areas surounding Kansas City, the moral law of helping a neighbor, and not cross the so-called 'picket lines'?"

When you project a military man's right to strike into a combat situation you, of course, come up with an impossible situation which turns critics of military unionization into fanatics.

But the leaders of the American Federation of Government Employees have made it clear that they are referring to the peacetime training mode of military people when they talk about unionization—and we are inclined to believe them. We can't believe that union authority could extend into warfare, or that union leaders could sell the idea, or would even try.

The Supreme Court has repeatedly ruled that only the military has the constitutional authority to participate in defense activity. As recently as March of this year, the Court stated (*Greer* v. *Spock*): "One of the very purposes for which the Constitution was ordained and established was to 'provide for the common defense, and this Court over the years has on countless occasions recognized the special constitutional function of the military in our national life, a function both explicit and indispensable."

It also seems logical to assume that union leaders, at least at the outset, would shy away from supporting the right to strike for unionized military per-

sonnel. The specter of a military unit being unable to cross a picket line to save lives, as projected by Admiral McCain, presents another unsalable item for union leaders. On the other hand, the right to strike (or sit-down, stay-home, play-sick maneuvers) is a union's ultimate weapon. This presents something of a dilemma. But it is not the immediate problem.

Assuming wartime duty and the right to strike are eliminated from the equation, how does military unionization stack up?

First, it's worth considering the observation of AFGE's legal counsel, Mr. Pellerzi, that "servicemen today aren't responding to an attack on the country" as part of his justification for unionizing servicemen.

This betrays complete misunderstanding of the training function in military life, and no appreciation of what military readiness really means. You can't separate training from combat that neatly—not without the danger of unnecessarily losing military lives and failing to carry out missions in the process. Again it points to the basic fallacy in the union's argument—that of thinking of military people as civil servants in uniform.

With this as a basic premise, AFGE leaders argue that uniformed military people deserve access to the same rights—through unionization—as those available to civilians who work for the Department of Defense. All this, presumably, as a part of the "democratic process" and supported by the First Amendment.

But the Supreme Court doesn't seem to agree. The Court stated (again in the *Greer* v. *Spock* decision of March 3, 1976) : "A military organization is not constructed along democratic lines and military activities cannot be governed by democratic procedures. Military institutions are necessarily far more authoritarian; military decisions cannot be made by vote of the interested participants . . . (T)he existence of the two systems (military and civilians) (does not) mean that constitutional safeguards, including the First Amendment, have no application at all within the military sphere. It only means that the rules must be somewhat different."

In 1974 the Supreme Court enlarged on the latter point (*Parker, Warden, et al.* v. *Levy*) in these words: ". . . while military personnel are not excluded from First Amendment protection, the fundamental necessity for obedience, and the consequent necessity for discipline, may render permissible within the miiltary that which would be constitutionally impermissible outside it."

Indeed, the Supreme Court, in repeated decisions over the past twenty-five years, has drawn a clear distinction between military people and civilians. The Court in 1955 (*U.S. ex rel. Toth* v. *Quarles*) had this to say on the subject: "This Court has long recognized that the military is, by necessity, a specialized society separate from civilian society. We have also recognized that the military has, again by necessity, developed laws and traditions of its own during its long history. The differences between the military and civilian communities result from the fact that 'it is the primary business of armies and navies to fight or be ready to fight wars should the occasion arise'."

Note the reference to "or be ready to fight wars" in that decision. That's what the military training mission is all about. Anything that might compromise that mission presumably would not be upheld by the highest tribunal in the land.

Could unionization compromise it?

In 1953 (*Orloff* v. *Willoughby*) the Supreme Court had this to say: " 'An army is not a deliberative body. It is the executive arm. Its law is that of obedience. No question can be left open as to the right to command in the officer, or the duty of obedience in the soldier.' "

And the Court enlarged on this point in 1974 (*Parker, Warden, et al.* v. *Levy*) in these words: " . . . within the military community there is simply not the same autonomy as there is in the larger civilian community. The military establishment is subject to the control of the civilian Commander in Chief and the civilian departmental heads under him and its function is to carry out the policies made by those civilian superiors."

What if union policies do not agree with those of the Commander in the field or with those of the Commander in Chief in the White House or with "the civilian departmental heads under him"?

The answer, of course, is that military people have no alternative but to fulfill "the duty of obedience in the soldier" or face prosecution under the Uniform Code of Military Justice—a Code which the Supreme Court has ruled (*Parker* v. *Levy*, 1974) " 'cannot be equated to a civilian criminal code.' "

Military people must not be faced with this dilemma. If they are, something must give—and it could be national security. The stakes are too high for that risk.

In courtroom parlance, the evidence is overwhelmingly against military unionization, and adequate statutory provisions seem to exist to prevent it. Thus, in expressing our unalterable opposition to unionization of the military, the Air Force Association calls upon the Administration to exercise its authority and prohibit it.

A STATEMENT BY THE ASSOCIATION OF THE U.S. ARMY

Mr. Chairman, I am Maj. Gen. Robert F. Cocklin, Executive Vice President of the 97,000-member Association of the United States Army. I thank you for the opportunity to present this statement on the Association of the United States Army's unalterable opposition to any effort to unionize the military personnel of the Armed Forces. At our Annual Meeting in October of last year, the delegates assembled passed unanimously a resolution putting our Association on record firmly in opposition to unionization of the military forces.

On December 30, 1976, in furtherance of our resolution, the Association of the United States Army issued a position paper entitled, "Military Unionism: A Hoax and Deception." This paper establishes, in detail, the rationale for our opposition to any unionization of the military and outlines several courses of action that we believe should be taken immediately by the Executive Branch of the government and by the Congress. I request that a copy of both our resolution and the position paper be made part of the record of these proceedings. I might add that this testimony is the latest of several papers, editorials and news columns the Association has published on the subject.

I would like to summarize briefly the concerns and actions we deem most germane, then would be happy to address any questions you may have on either our position or the subject as a whole.

For almost the past two years the Services and the Congress have been concerned with suggestions by one or more unions that they might try to organize military personnel into unions and take strong actions aimed at changed working conditions and compensation for uniformed personnel. There has been a great deal of rhetoric, confusion and general discussion, the ebb and flow of which seems to be controlled by spokesmen for the union who decide on their own when they would like to keep things stirred up. Such a situation for a nation of our stature is both incredible and intolerable and needs to be brought promptly to a halt for the good of the services and the country.

The whole union concept being put forth, principally by the American Federation of Government Employees, is a cruel hoax and deception. Implicit in all of their fanfare is the idea that by some magic means the union could obtain for the serviceman increased compensation, better working and living conditions and a much stronger voice in the management of the Armed Forces. Such proposals display either little respect for the intelligence of the individual serviceman or a complete ignorance of our governmental system, our Constitution and the body of law which governs our society.

This divisive issue impacts seriously on the morale of those who serve and, if for no other reason, should be stopped now.

We urge several courses of action. First, the President should immediately issue a revised Executive order that would prohibit service personnel from joining a union. He already has the authority as Commander in Chief of the Armed Forces to do so.

Secondly, the Department of Defense should issue a directive to be promulgated into service Regulations that prohibit service personnel from joining military unions, bar organizing activities on military installations and continue the prohibition of Commanders from dealing with unions. The Secretary of Defense seems to doubt he can do this. We say he can and should.

Third, the Congress should enact promptly legislation redefining these prohibitions in clear language so that there can be no misunderstanding of the intent of Congress and the unanimity in the Government on this subject.

Finally, the Services need to insure that wide publicity is given to all ranks explaining more clearly existing grievance machinery and insuring that all in the chain of command understand fully their responsibilities.

I will not attempt to deal with issues of constitutionality. We recognize fully that military personnel enjoy the protection of constitutional rights. However,

those rights in this instance, as they do in others, must yield to the unique role of the military. The need for discipline, obedience and unswerving loyalty is an absolute military necessity. In our earlier position paper we have cited a number of Supreme Court decisions and other legal data which satisfy us that all of the courses of action we have suggested are indeed constitutional and I am sure that other supportive legal basis can be developed.

This whole issue of unionization has gained momentum in part because of the past changes wrought in the services under the all-volunteer concept. In the great atmosphere of urgency to make the all-volunteer system work, we have gotten away from much of the tradition of military service and there are those who have tried more and more to equate military service with civilian employment—an 8 to 5 job—with contracts for service. The Armed Forces could not possibly function successfully in the role and missions for which they are intended in such a mode. Congress, under its Constitutional mandate to raise and support armies, has a clear responsibility in this area. It is Congress with whom any union would have to negotiate. It is Congress, after all, that controls the purse strings upon which pay, benefits and working conditions are based.

We recommend that we move forward in several areas. The mechanics of part of the problem could be solved promptly by Presidential Executive Order augmenting Executive Order 11491 which covers the administration of labor management relations in the Federal Government, recognition of units, negotiation of contracts, rights and conduct of management, labor unions and employees. It already prohibits striking or bargaining for wages by federal unions or employees. It also prohibits collective bargaining with National Security Organizations, specifically the Federal Bureau of Investigation and Central Intelligence Agency. It scarcely seems credible that it should be necessary to specifically identify the Armed Forces as "National Security Organizations." But if that is a semantic roadblock, we urge the President, in the new Executive Order, to make the point clear.

In our view, the Department of Defense should now issue a directive which the Services could pass downward in the form of regulations that would prohibit uniformed personnel from joining military unions.

Instead, the Secretary of Defense has recommended to the distinguished chairman of this committee that legislative action to ban military unions be suspended while the Department promulgates and experiments with new regulations which, in our opinion, do not get to the root of the problem.

We are concerned first of all because we read the Secretary's proposal as encouraging unions rather than prohibiting them.

Even more incredible, the burden of proof, under Secretary Brown's proposal, rests with the Commander as to whether or not an action by the union constitutes "a clear danger to the discipline, obedience to lawful orders of the chain of command." Senior commanders have already indicated that in their view any unionization activity is prejudicial to "discipline, obedience, et al." Having made this decision, they are being asked to do it over and over on a case-by-case basis. This is passing the buck. If we are to maintain civilian control of the military—and we strongly advocate this—then civilian responsibility must accompany it. In our view this responsibility includes eliminating union harassment from the commanders' lot. Field commanders have more than enough to take care of now in their prime responsibilities for training and readiness without the further distractions of the legalistic nightmare that will ensue when the guradhouse lawyers take on the proposed DOD Directive.

Testimony you heard recently from the President of the American Federation of Government Employees supports this conviction. Mr. Blaylock described a possible type of interface between the union and commanders as ". . . work site representation on grievances concerning non-combat working and living conditions . . ." This is further amplified to include, ". . . housing, commissary and post exchange privileges, recreational facilities, medical and dental care, dress and hair codes, equal opportunities, women's rights, and so on."

A post commander's flexibility is severely limited in all these areas. He can request the very finest housing for his people and make the strongest possible case to support the request but unless the civilian management in Washington is favorably disposed to spend money at that post and the Congress agrees the post commander's efforts are to no avail. Certainly no commander is going to deprive a soldier of his or her access to exchanges or the commissary unless the individual has abused the privilege somehow. As far as better stores or exchanges are concerned, the local commander, once again, can request but he cannot dis-

pose. A post commander can let it be known in the strongest terms that his hospital does not have an adequate medical staff or lacks essential facilities, but the solution is out of his hands once he has outlined the problem and has taken every action available as far as local management is concerned. In the matter of dress and hair codes, equal opportunity, women's rights, etc., the commander has little latitude to vary from policy set at the national level. Adequate grievance machinery already exists for those soldiers who find the commander's interpretation unsatisfactory. The result of the kind of representational interface between a commander and a union suggested by Mr. Blaylock must necessarily be endless, pointless bickering detracting seriously from the accomplishment of the military mission as well as affecting seriously the moral of the troops involved.

In his questioning of Mr. Blaylock, Senator Thurmond was able to extract the scope of what the union has been referring to as "overwhelming response" from military personnel to the concept of a military union. He said the number of expressions of interest was about 10,000, or less than one half of one percent of the armed forces—hardly a ground swell of support for the unionization notion. When the definitive matter of dues is broached even these expressions of interest could be expected to diminish.

We would urge as well prompt passage of legislation along the lines of that proposed by the distinguished Chairman of this Committee, Senator Strom Thurmond, and their 42 Senate colleagues which would prohibit servicemen from joining military unions. This legislation would clear up that gray constitutional area between the Congress and the Executive Branch with respect to specific controls of the military.

The Chief of Staff of the Army has quite rightly made the point that he is the principal ombudsman for the Army. And he has pointed up clearly that the chain of command functioning properly will consistently reflect the morale and concerns of those who serve. If the system functions efficiently, soldiers will look to the chain of command for problem solving, and that is a plus.

For those instances where the chain of command falters, and there will be instances, the soldiers must know that the existing grievance machinery—beginning in the lowest unit and working up formally through the Inspector General—will work fairly and impartially and that any who seek to impede it will be dealt with harshly. These are areas which the Chiefs of Staff of the Services are currently giving great emphasis—and that will help immeasurably.

Organizations such as our own Association of the U.S. Army need to increase their efforts to insure that the legitimate needs and concerns of those who serve in uniform are widely publicized to reach the Executive Branch, the Congress and the public. Those who serve must know that their needs are being considered at all levels, starting with the Department of Defense. I pledge you that the Association has already materially increased our efforts in this direction and will do even more in the future.

We wish to thank this Committee and the other members of Congress who have been so quickly alert to the dangers to both morale and operations that these suggestions for unionization of the military have caused.

We will support fully your prompt efforts to lay these to rest by the legislation you are now considering.

UNIONIZATION OF THE ARMED FORCES

TUESDAY, JULY 26, 1977

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

The committee met, pursuant to recess, at 9 a.m., in room 1114, Dirksen Senate Office Building, Hon. John C. Stennis, chairman, presiding.

Present: Senators Stennis, Nunn, Thurmond, Goldwater, and Garn.

Also present: Francis J. Sullivan, staff director; John C. Roberts, general counsel; John T. Ticer, chief clerk; Phyllis A. Bacon, assistant chief clerk; Kenneth W. Fish, Edward B. Kenney, and George F. Travers, professional staff members; Louise R. Hoppe and Roberta Ujakovich, research assistants; Christopher Lehman, assistant to Senator Byrd; Jeffrey Record, assistant to Senator Nunn; and David M. Fitzgerald, assistant to Senator Garn.

Chairman STENNIS. Ladies and gentlemen, the committee will come to order.

I want to especially thank you gentlemen who are going to testify today for your preparation and being here on time. This is kind of an odd situation here in the Senate now with so many hearings going on, particularly in the morning. Senator McClellan is out of town for a few days so he has asked me to proceed with the Defense Appropriation bill, which is a monstrous thing; we already have had debate on it in the Senate but it is in conference with the House starting in the morning. Those of you who are familiar with legislation know what kind of undertaking that is.

So, with the greatest regret, I am going to have to leave before the morning is over. I will arrange for someone to substitute for me at another appropriations meeting and stay here instead but I will have to leave sometime during this morning's meeting.

Mr. Blaylock, are you ready?

Mr. BLAYLOCK. Yes, sir.

Chairman STENNIS. You have whomever you wish to have with you, is that right?

Mr. BLAYLOCK. Yes, sir.

Chairman STENNIS. We also have Mr. Paterno, Mr. Sweeney and Mr. Goldstein. We are going to proceed, gentlemen, and give all of you a chance to present your testimony and your statements, along with any additional observations. We will have some questions now and may want to present some to you later.

All right, gentlemen, with the thanks of the committee, I am going to ask you to proceed now. I have a brief statement here that I will

put in the record. It is repetitious to a degree but what we are trying to get at are the facts, discover the problem if there is any problem and so forth. We are by no means trying to have a proceeding here that is anti-union, pro-union, anything like that; we just want to get at the thing.

The committee has been holding a series of very productive hearings on the issue of whether legislation is necessary to prevent the unionization of the military services. We have tried to hear a full range of opinions on this matter and we will put into the record statements of other individuals and organizations that have indicated an interest in the bills.

I particularly wanted to hear the views of labor unions on this question because I think their opinions, whether for or against unionization of the military services, are especially helpful in formulating this legislation.

I do want to emphasize what I have stated many times, and that is that the intent of these bills is not to attack unions generally. All of us recognize the great contributions made by the union movement in this country. Our intent in advocating a prohibition against military unions is rather to preserve the integrity of our military services and thus the strength of our national defenses.

We want to find out today whether union organizing of the military is planned and, if so, what the rationale for it might be. We have had requests from three unions to testify and have invited all of them to be with us today. Mr. Blaylock represents the American Federation of Government Employees, Mr. Paterno is from the Association of Civilian Technicians, and Mr. Sweeney and Mr. Goldstein are here to give the views of the International Brotherhood of Teamsters. Gentlemen, we are happy to have you here.

All right, Senator Thurmond, this is Mr. Blaylock. I have just given all the welcome. We are ready to proceed now.

Senator THURMOND. I have a brief statement.

Mr. Chairman, this is the 5th day of hearings conducted by the committee on this highly important issue. To date we have received testimony from the Secretary of Defense Harold Brown; the Secretary of the Navy Graham Clayton; the Chief of Staff of the Army, and Bernard Rogers, also representing the Joint Chiefs of Staff.

In addition we have received testimony from other military witnesses of varying ranks to get opinions on this subject at all levels of the chain of command. We have heard testimony from several military associations and veterans' organizations. Testimony has been unanimous that the effects of military unions would be disastrous.

Today's hearing is very important in that we will hear from some of this country's most important labor unions. It is very important that we hear all sides of this issue.

On many prior occasions I have said that my bill is not an anti-union bill; it is a pro-national defense bill. Unions have accomplished much good for the working man in this country. However, the military is not nor can it ever be a democratic, deliberative society. There can be no intervention in the chain of command. There can be no division of loyalty in the military. The soldier's loyalty and dedication to duty must come ahead of any personal consideration. Therefore, I feel that the military and a union in any form are totally incompatible.

While reliable authority has recognized the legal right to form unions for more than 100 years, the history and progress of the union movement has rightfully been confined to the private civilian sector. The peaceful strike against private ownership for higher wages or better working conditions has been accepted for years.

The goal which led to the trade union's becoming an institution in this country was designed to balance the forces of capital and labor. That goal was and is to insure that the individual worker receives his fair share of economic benefits. However, the military mission is not one of individual profit; it is one of national defense.

Therefore, collective bargaining, arbitration and the right to strike must remain alien to the uniformed members of our Armed Forces. It is easy to imagine the consequences of union work rules, shop stewards and negotiable orders, not to mention strikes on the efficiency of a military unit. Many union people themselves will agree that organized labor has no role in the military community.

It is my firm conviction that an effective military force is built and maintained upon a foundation of discipline, command authority, patriotism, and quick responsiveness. There is no rational way to mesh unions and service in the Armed Forces. Unionization of the armed services would mean the end of an effective defense force in this country.

Legislation to ban organized labor in the military ranks is not a bill against unions. Rather, it is a bill for a sound and responsive force for our country. Thank you, Mr. Chairman.

Chairman STENNIS. Without objection, I will insert the prepared statement of Senator Goldwater.

[The statement follows:]

STATEMENT OF SENATOR BARRY GOLDWATER

Mr. Chairman, after hearing from the Department of Defense witnesses and various military associations and veterans' organizations on unions in the military, it is appropriate that the Committee also hear from some of the nation's labor unions.

I emphasize that I am a union member myself and feel that unions have done a great deal for this country. I support and will continue to support unions in the civilian sector of our society.

However, I am 100 percent against unions in our military services. There is no place in a military unit for collective bargaining or other union activities that could detract from the discipline and loyalty critical to the success of any military unit. In that regard, there can also be no compromise when it comes to a commander's right to command his troops. There cannot be two authorities in competition with each other.

I am aware that certain unions believe they can represent the military and not interfere with the time tested chain of command. I do not accept that.

Nevertheless, I will be interested to hear the statements of our witnesses today and I thank them for coming to speak on this important subject.

Thank you, Mr. Chairman.

Chairman STENNIS. All right; proceed, sir, in your own way. There is no time limitation on any witness.

STATEMENT OF KENNETH T. BLAYLOCK, NATIONAL PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. BLAYLOCK. Thank you, Mr. Chairman. I am Kenneth Blaylock, president of American Federation of Government Employees. We rep-

resent some 700,000 Federal employees. I have with me this morning my executive vice president, Mr. Joe Gleason; my director for legislation and also the assistant director.

I do appreciate the opportunity to give you our views on this very controversial subject and I will keep my testimony short. We would explain to you how and why AFGE became involved in this matter, why the members of the uniformed services are attempting to organize—which, I think, is the most important subject that this committee should consider—and what our present plans and our thoughts are. We reach no conclusions in this testimony.

First, how did AFGE become involved? We got involved because military personnel came to us. We did not go to them. We did not advertise, publicize, or merchandise the idea. Military people wrote and came to talk to us on their own initiative. These contacts were prompted in part by the linkage of white-collar civilian pay and military pay in accordance with the Pay Comparability Act of 1970.

Mr. Chairman, it was the hope of AFGE and, I believe, the intent of the Congress to utilize that act to establish a fair, equitable, and automatic method of determining pay rates for Federal employees based on the principle of comparability—in other words, like pay for like work, both in comparison with counterparts in the private sector and throughout the different agencies of Government.

That goal has yet to be achieved. One way or another each administration since 1970 has found a way to make the issue political and throw it back into the lap of the Congress. We then have found ourselves involved in a lobbying situation every year, asking the Congress to overturn the administration's proposals for arbitrary pay caps, postponement or alternate plans.

As you know, Mr. Chairman, when we talk percentage points in Federal pay we are talking big money. Each percentage point equals roughly one-half billion dollars.

Since 54 percent of the amount we found ourselves fighting for goes to the uniformed military, we felt that they should assist in the lobbying effort. In 1975 we prepared and distributed 50,000 flyers through our DOD locals directed to the uniformed military, asking them to contact their Senators and Congressmen. Needless to say, we were overwhelmed by the response.

I might say, Mr. Chairman, at this point, in that situation the military responded better than the civilian employees as far as contacts with the Congressmen and Senators about the pay situation that year.

After that we began receiving requests for membership applications, for assistance to organize military locals and for representation. The matter reached such magnitude that it was brought before our national executive council. The council did a serious study in late 1975 and early 1976 as to the feasibility of organizing the military. The study revealed the following facts:

The interest of the uniformed military members was very positive.

There is no legal barrier to uniformed military's organizing.

The uniformed military in six European countries has been successfully organized for many years.

There are no facts or records that would indicate that unionization of the uniformed military in those European countries has had any

adverse effect on combat readiness or military capability of those forces.

Records do indicate that unionization of the military in the European coutries has resulted in improved morale, which seems to be directly linked to improved pay, fringe benefits, working conditions, and representation or communications.

Mr. Chairman, AFGE for a number of years has represented thousands of National Guard and Reserve technicians who are required to be both military members of those components of the armed services and civilian employees of the military department concerned.

In addition, AFGE has long represented several hundred thousand civilian employees of the Defense Department, many of whom work side by side with military personnel and experience similar conditions of work and problems.

So you can see that AFGE became involved in this issue as a result of (1) linkage of the civilian and military pay systems; (2) continuing, numerous requests from the uniformed members of the military services; (3) conclusions of our own study; (4) federation experience in representing National Guard and Reserve technicians and civilian employees of the Defense Department who work in the same work environment with the regular military members.

In September of 1976 the issue was brought before our national convention in Las Vegas, Nev. The delegates assembled at that convention, representing most of the 1,547 locals in this federation, voted to amend our national constitution to expand organizational jurisdiction to uniformed members of the military service as well as to contractor employees.

Chairman STENNIS. You said that first it was the pay. What was the second point?

Mr. BLAYLOCK. The second one was the continuing numerous requests from the uniformed military service for membership and for assistance and representation.

Mr. Chairman, the next part of my presentation raises the most serious concerns of the whole issue. It concerns me and should concern the Congress and the American people more than any other part of this entire subject—that is, why members of the uniformed military services want to unionize.

With the possible exception of the Marine Corps, each of the military services now recruits, sells, and promotes its service as a career-oriented organization looking for manpower. They sell it to the untrained or unskilled civilian on the basis of "We will educate and train you in a civilian skill." They sell it to the skilled civilian on the basis of "We will provide you career opportunity for advancement, further career development, and job security."

They have created an integrated work situation where the uniformed military work side by side with the civilian workers performing the same tasks, many of which are not combat-readiness-related, but they work under different rules and receive different benefits and privileges.

For instance, GIs working with civilians in any situation receive no overtime while the civilians do. In fact, many times the military members are called on to perform the required overtime because of lack of funds to pay civilians overtime.

Where hazardous work situations are involved, civilians draw hazardous pay or environmental differential pay to compensate but the military member who is exposing his or her body to the same hazard get no such compensation.

GIs are assigned to latrine cleanings or yard work or janitorial work, many times after hours or on weekends. This mainly is the result of poor performance of private contractors who do not keep the spaces adequately clean. This alone is very demoralizing to the troops but the effects are compounded by the fact that there is no offsetting compensation.

We also find that the career military members are seriously concerned about the continuous attack on their fringe benefits. These benefits are those things used to attract civilians into the military service and they are used supposedly to help retain competent military members. In effect, it is a contract between them and the U.S. Government upon enlistment if you will.

In this area, the Congress as well as the American public must share the blame—for instance, the proposal to eliminate commissaries, the continuous reduction of medical benefits for the members and their dependents, the reducing of the quality of medical care, the quota system that aborts the career development that they were promised or forces them out of the service prior to reaching retirement eligibility and, of course, the proposal to eliminate the 20-year retirement system.

They are also concerned about the severe family housing problem and the rotation plans that require continuous relocation of their families. There are also well-publicized EEO problems in the military and it is especially important to resolve these with respect to women and minority groups interested in voluntary military careers.

Mr. Chairman, the list goes on and it is so familiar to those of us in the labor movement who have heard these same concerns many times in other work forces. We have also seen these concerns grow until the employees did organize when it became obvious that the employer did not intend to recognize and address the needs of the employees.

History shows that if any work force has serious enough problems, it will organize. Historians and sociologists have noted this trait in the American character. Americans tend to organize to handle problems they can't handle individually, and a labor union is the natural kind of organization to handle problems of working conditions.

Now, what are the current plans and thinking of AFGE on this matter? The national executive council of AFGE has requested AFGE locals across the country to poll their members on this question—this is the question on the ballot out in the field now: "Shall the national president be directed now to proceed with organization of the uniformed military?" It is an unqualified "Yes" or "No" vote.

Ballots from all locals are to be returned to the national office of AFGE by August 1, 1977 and full results of the poll will be announced no later than October 1, 1977. I do not know what those results will be.

If it so happens that I am directed by the membership and the national executive council to do so, I shall proceed with a program to

organize uniformed military personnel. If the vote is negative, it is a dead issue with this organization for the time being.

What would that mean? We firmly believe that the unionization of the military, focused on peacetime living and working conditions outside combat command channels, could and should strengthen military morale, order, and discipline, especially in the context of a volunteer Army.

There would be no shop stewards in foxholes. Indeed we expect that in time of war or a declaration of a national defense emergency by the Congress, the union's recognition would be suspended.

There would be no bargaining, even in peacetime, on matters that would interfere with necessary military discipline or create troublesome divided loyalties. The Congress would be asked to legislate very carefully the limits of collective bargaining and to define the make-up of bargaining units.

We anticipate that there would be three main areas of representation furnished by the union:

First, work site representation on grievances concerning noncombat working and living conditions and not including tactical operational matters. Subjects appropriate for such representation might include housing, commissary and post exchange privileges, recreational facilities, medical and dental care, dress and hair codes, equal opportunities, women's rights, and so on.

Second, representation in certain legal matters, primarily in connection with various administrative boards and Uniform Code of Military Justice proceedings, including special and general courts-martial.

Third, legislative and executive branch policy level representation on such matters as pay—through the pay council, which we now do, anyway—fringe benefits, retirement, dual compensation, insurance, equal opportunity and the like.

We are convinced that a union can provide effective representation of these three kinds to military personnel without harming military order and discipline.

Cooperation between a military commander and a union can be mutually beneficial in identifying sources of friction and irritation and resolving them before they grow into large disciplinary or morale problems or cause the loss of well-trained personnel.

A strong union can also aid a military commander in achieving military discipline among the members of the union because the union is concerned with the standards, prestige, status and public reputation of its members and is also committed to living up to agreements reached in any negotiations with management on behalf of its members.

Furthermore, unions can be effective in increasing the status and attractiveness of voluntary military service to the competent young people of the country who also have the options of taking jobs in private industry or of seeking civil service jobs in municipal, county, State or Federal governments.

A volunteer military service must attract men and women of intelligence, aptitude, education and commitment and it must do this in competition with other employers seeking to attract the same people

if it is to have the caliber of personnel it needs for the high technology jobs in the modern armed forces.

In summary, Mr. Chairman, we believe and I strongly recommend that the military members' concerns are not only leading them to look toward the possibility of organizing but those same concerns and problems are having an adverse effect on the success of the All-Volunteer concept of maintaining an adequate defense for this country.

The question of whether or not we should maintain an adequate defense is not up for decision. That answer is obviously, yes. What is adequate and how do we maintain it is the hard question. The Congress seems to be able to deal quite effectively with the weapons and hardware side of that question but seems to have real problems dealing with the manpower and people side of the issue.

The American people seem to want the best of both worlds. On one hand they want to enjoy the freedoms and human rights that this country offers and stands for, yet some are not willing to share in the basic responsibility of defending those rights and privileges. They say they want an All-Volunteer Military Force, yet they don't want to spend the tax dollars to compensate the people who are willing to serve in such a force.

I personally think that the protection of freedom is every citizen's responsibility and favor some type of mandatory service obligation for every able-bodied American. However, that view is not popular right now, so it is my opinion that the military service must be made competitive with the private sector and civilian government sector if we expect to attract and retain competent, capable people to serve in the military service of this country.

We believe that military personnel need union representation and that unionization of such personnel is inevitable sooner or later. We also believe that, properly managed, such unionization, rather than harming, would make a positive contribution to the success of the volunteer Army concept and to military discipline, command authority and the combat quality and readiness of our Armed Forces.

This concludes my prepared testimony. I thank you again for the opportunity to give you our views on this issue and would be glad to try to answer any questions you may have.

Mr. Chairman, I would also like to submit for the record a copy of the ballot that is now in the field in our locals.

Chairman STENNIS. Without objection, a copy of the ballot will be placed in the record.

[The ballot referred to and the attached memorandum and envelope follow:]

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Washington, D. C., May 19, 1977.

To: All AFGE local presidents.
From: Kenneth T. Blaylock, National President.
Subject: Referendum on organization of the uniformed military.

As stated publicly, the National Executive Council has decided that prior to AFGE's involvement in organization of the uniformed military, the matter would be placed by referendum before the membership.

After an in-depth study by a committee of the National Executive Council, the time has come for a determination on the subject of organization of the uniformed military.

Enclosed is a ballot which must be completed and signed by the President and Secretary-Treasurer of your local. The ballot must be returned to the National Office of AFGE by August 1, 1977, in order to be counted.

A notice should be sent to each member of your Local advising:

1. Time, date, and place where meeting is to be held.
2. The notice should contain, as part of the agenda for the meeting: "discussion and a vote on the question of organization of the uniformed military."

I also recommend that the notice suggest reading the Pro and Con on the question as published in the May issue of the Government Standard.

The voting strength of the Local will be based on the membership total reported as of February 28, 1977.

Enclosure.

SPECIAL BALLOT

ORGANIZING THE MILITARY

AFGE LOCAL _____

Should the National President of the American Federation of Government Employees be directed to commence Organizing and Representing members of the Uniformed Military Services?

☐ YES ☐ NO

The above vote was cast by the membership of Local _____ at the regular meeting on _____(date). All members were notified of the date, time, place and subject matter of the meeting.

The vote was by:

☐ MAJORITY ☐ ACCLAMATION

_____
Local President

_____
Local Secretary-Treasurer

SAMPLE

American Federation of Government Employees
1325 Massachusetts Avenue, N.W.
Washington, D. C. 20005

BALLOT

Do Not Open in Mail Room

Chairman STENNIS. I want to commend you for the forthrightness of your ballot that you just referred to. You have a direct question there and you call for an answer "yes" or "no" and that is it. You have a good statement there too; you hit your points straight on, and it is going to be helpful to the committee.

Summed up, though, you think the controlling reason for unionizing within the services is to make them competitive, to carry out the concept of being competitive with civilian employment?

Mr. BLAYLOCK. Under the All-Volunteer Force concept, I think it is going to have to be, yes, sir.

Chairman STENNIS. But it is summed up to the idea that you can contribute to the competitiveness or complete the concept of making it really, actually competitive; that is correct, isn't it?

Mr. BLAYLOCK. I think proven in other work forces is that once they organize, then fringe benefits, pay and what have you are improved. I think if they unionize, that will be the effect.

Let me go further, if you would, Mr. Chairman. I think the Congress and the administration has the ability to do that without the union, and I would be less than frank if I did not say that. And I think if you are really concerned about the military members organizing and if you are really concerned about the defense of this country, you have the power to do something about it now, and I think the idea of unionization would go away if you address those problems but, if you do not address those problems, it will not go away.

Chairman STENNIS. Those problems are what you have already specified in your statement?

Mr. BLAYLOCK. Yes, sir.

Chairman STENNIS. At the same time, you seem to have shown—and it is commendable—a certain hesitation about going into this matter and you even have this poll of your membership. I say caution is well placed. But why do you hesitate? You seem to have a doubt in your mind about whether it is wise to go into the military.

Mr. BLAYLOCK. One, of course, the controversial nature of the issue. Two, the issue being so controversial, it is also very controversial within our own organization obviously. We have many members that are opposed to it. We have many that are for it. That was the reason for the poll.

This organization, Mr. Chairman, has a reputation of being a very responsible union. We are citizens of this country and we work with

all agencies of government, and one of the controlling criteria in our national constitution is not only that we work to improve the welfare of the civilian employee but also that we work for more effective, efficient Government.

We are concerned about this Government and we are concerned about the defense of this country. We are convinced that unionization would not deter from the capabilities of the uniformed military but it would be a very trying time for our organization should we move into that area and I am very much aware of that. That brings about my hesitancy.

Chairman STENNIS. You certainly have grounds for your statement about your concern and your patriotism. I don't think anyone questions that at all. This is a matter of judgment of what is best for military efficiency and competency and the things that go to make it up, the chain of command, discipline and so forth.

One thing in passing, there is so much about the fringe benefits. I notice you use the words "proposal to eliminate commissaries." I have not heard anyone propose that we eliminate the commissaries. No one has suggested anywhere—and I have been right in the middle of all these discussions for years in the subcommittees—no one I know in the Senate wants to eliminate commissaries. There are some who want to regulate them a little more and require that the cost of a pair of shoes be fixed in, for example. That is about as far as I have heard anybody go.

But the fringe benefits as a whole, I think we should put a volume some way on these fringe benefits, add that to the salary and abolish the whole idea of fringe benefits except in remote areas, say where you know you have to have some kind of a substitute, and I believe that is the best way to get at it.

But I mention that just to show—and you are a well-informed man; there is no doubt about that; but look into that matter about abolishing the commissaries. It is not advocated in Congress.

Mr. BLAYLOCK. Could I make a comment there. I don't think there has been a bill proposing elimination of the commissaries but we have been involved in lobbying efforts for the last 2 or 3 years as the appropriations bills went through. Proposals were there to eliminate the money, and obviously if the money were eliminated the commissaries would be eliminated.

The Senate and the House, the majority in their wisdom, have refused to take that money out, but the concern is there among the uniformed military. The point we are making is that it continuously floats and that is one of their concerns—that there is an effort to do that.

Chairman STENNIS. I agree; the whole fringe benefit is up in the air and it is questioned, but the commissary matter—

You now are passing judgment and this is a kind of tender subject and I am going to close on it, but you mentioned women's rights, the rights of women in the services. Don't you have to yield to the military there and let them make a judgment within a military organization as to what would be the most effective way to have military units? Aren't there a lot of matters you have to yield to them on?

Mr. BLAYLOCK. I think the legislative background as well as the Supreme Court actions have shown many times—and there are quite a few Supreme Court decisions on the subject—that they indicate clearly

that even some of the constitutional rights, you know, are subject to military decision.

So we are very much aware of that, but when we talk about women's rights and we talk about equal opportunity, the record speaks for itself. Some of the problems we have had brought to us by female members deal with the subject of rape, where female members of the military service were raped and they went to the company commanders and the authorities and the answer was: "You can't rape a WAC."

Now, those things concern these people. When you look at the record as to the numbers and types of treatment—we are not saying women should go into all positions; that is up to the commanders to decide. But the record is there.

Also, you know, we talk about job actions, the possibility of strike. We have had job actions in the military without unions, as you know. The Navy and the Army both have experienced those. So the union does not have to be there to have job actions. Again, the people were concerned about a problem.

Chairman STENNIS. I thank you very much. My time is up. I pass on to Senator Thurmond.

Senator THURMOND. Thank you, Mr. Chairman.

Mr. Blaylock, I would like to welcome you to our hearing and express the belief that your willingness to testify will be most helpful to the committee in its deliberations on these important matters. As you know, we have corresponded through the mail frequently, and I have assisted AFGE and its members when I felt to do so was in the national interest.

I am pleased you brought out about some of the fringe benefits which there are efforts to eliminate because I do think it is important that they be retained. Mr. Blaylock, as a former paratrooper do you agree discipline is very important in any military unit?

Mr. BLAYLOCK. Yes, sir.

Senator THURMOND. Do you agree that discipline required in the military is different from that in the civilian society?

Mr. BLAYLOCK. I don't think there is a difference there, Senator, as far as the discipline being honest, direct and equitable and fair. I think those criteria are involved in any disciplinary system.

Senator THURMOND. In your opinion, can the military be a democratic deliberative body?

Mr. BLAYLOCK. No, sir.

Senator THURMOND. Mr. Blaylock, does AFGE presently have any military members?

Mr. BLAYLOCK. No. Only in effect we have the Guard and Reserve technicians who in effect have to serve in dual capacity.

Senator THURMOND. Is AFGE currently signing up military members in its unions?

Mr. BLAYLOCK. No, sir.

Senator THURMOND. Is it true there is considerable opposition within AFGE to organizing the military?

Mr. BLAYLOCK. Yes, sir.

Senator THURMOND. Mr. Blaylock, have the results to date of the AFGE military union poll revealed a majority opinion on this issue by the members?

Mr. BLAYLOCK. Is the question, would your poll indicate a majority, are you saying as of today?

Senator THURMOND. Have the results to date of AFGE military union——

Mr. BLAYLOCK. No, sir; the ballots were mailed the first of June and they have until the first of August to get them back. As they come into our office they are going into a locked box in the mailroom. They won't be opened until they are past the deadline.

Senator THURMOND. If all ballots are to be in by August 1, why are you waiting until October 1 to announce it?

Mr. BLAYLOCK. We won't necessarily wait until then. The resolution said that the announcements would be made by October 1 but I doubt it will be that long.

Senator THURMOND. Mr. Blaylock, what is the significance of removal of the no strike clause from AFGE's constitution?

Mr. BLAYLOCK. The reasoning behind that, Senator, was the delegates felt that as a labor union we should not be constitutionally opposed to strikes, the delegates were much aware of the fact that taking that provision out of the constitution did not change the law in any form and our members and our organization—it is a law-abiding organization. Until such time we have legislation that would allow that, this organization will not sanction strikes.

Senator THURMOND. If this provision "no strikes" is removed then they would be in a position to strike?

Mr. BLAYLOCK. Providing the laws are changed to do so.

Senator THURMOND. In the March 14, 1977, edition of Army Times, you were asked in an interview and I quote, "Would there be a no-strike clause?" Your answer was and I quote, "The AFGE constitution does not have a no-strike clause. We took that out many years ago. We'll be organizing the military under our constitution." That sounds to me as if AFGE may condone illegal strikes. Would you care to comment?

Mr. BLAYLOCK. Yes; I made that point twice already. Until the law is changed, AFGE will not condone strikes in the civilian work force. I may make a point here if you would. The union can't create a strike situation, Senator. The strike situation is created at the work place. We find ourselves constantly as officers of this organization sitting on different units in the field, if you would, holding down the strike issue and so officially we don't condone it and we don't sanction them but we find from time to time work situations creating and evolving to the point that the people themselves are wanting to strike.

This organization has not sanctioned one job action and will not.

Senator THURMOND. A little later I will go into a situation in Alabama with which you are familiar. There was an article in the September 24, 1976, edition of the Washington Post entitled "AFGE Asks Strike Ability" which reported as follows:

> The new president of the American Federation of Government Employees says his union will call a strike against the Government if necessary to protest "inadequate" pay raises or unfavorable proposals from either Congress or the White House.
>
> Kenneth Blaylock, the 41-year-old North Carolinian who was elected early today, told AFGE delegates that he wanted them to eliminate the no-strike provision in the union constitution and to begin building a strike fund in the event

a walkout were called. Blaylock also told that he wants the union to remove its constitutional restriction against organizing uniformed members of the Armed Forces.

"We've got to place every doubt in the minds of those in power," Blaylock said. "The idea is to keep the Pentagon, Congress, and the White House guessing as to what weapons the union would use if Government workers are faced with a crisis."

Did you make those statements?

Mr. BLAYLOCK. Yes, sir.

Senator THURMOND. That sounds to me as if AFGE intends to use strikes as a bargaining lever. Would you please comment on that?

Mr. BLAYLOCK. Yes, sir, Senator Thurmond. As you know we have been working for quite some time toward legislation for labor relations in the Federal sector. Somewhere in the future we see the unions in the Federal sector operating basically under NLRB rules. The legislation that the Congress passes will determine that. There well may be a no-strike provision in that legislation. I don't know but I do know one thing, as a union you cannot use this tool if you do not have funds to support your members in case it is used, and we did establish a strike fund at that convention, the purpose being—and it is a small amount that is being contributed—looking toward somewhere down the road when that would be one of the tools of unions in the Federal sector.

At that time we would be in position to use that tool if it was necessary.

Senator THURMOND. Since you have established a strike fund, I presume you did not establish it with no purpose in mind. So it is possible that a strike would be used?

Mr. BLAYLOCK. It is possible if legislation is changed, yes, sir.

Senator THURMOND. Mr. Blaylock, do you believe the military members should remain politically neutral as a group?

Mr. BLAYLOCK. I did not get the question.

Senator THURMOND. Do you believe the military members should remain politically neutral as a group?

Mr. BLAYLOCK. No, sir. I don't think any class of citizens should have to remain neutral politically.

Senator THURMOND. In view of the fact that your union always endorses a particular candidate and supports him or her, how do you propose to keep politics out of the military if you organize?

Mr. BLAYLOCK. I don't propose to, Senator. To correct your statement we don't always endorse candidates. This last year was the first time we ever endorsed a candidate. That was the first time in the history of the organization that a candidate was endorsed by AFGE.

Senator THURMOND. Do you plan to follow that policy in the future?

Mr. BLAYLOCK. Yes, sir.

Senator THURMOND. On March 16, 1977, you granted an interview to Donald Harlow of the Air Force Sergeants Association. In this interview you were quoted as follows:

Back to your questions as to what do they get for their money. In this situation, one thing they'll be getting for their money, would be representation, I'm talking about the Local Level, or at a court-martial situation, provide them an attorney. Two, in this lobbying effort, which concerns me, and we are honestly concerned about the problems the guys have, and we know you guys are working very hard on this lobbying. But, see, we have, in place, throughout this

country, a legislative program, we've got over a hundred people in the field, full time employees, national representatives, and officers that service these Locals.

But in the legislative program, they are setting up, and with the Locals, of course, we have got this legislative program set up in every Congressional district, every State in this country. We also have the tie-in to PAC which means these political candidates running for office have got to get an endorsement out in that State, out of the state Fed or the central labor body, if they are going to get any PAC money. So they listen to us, they listen. With that legislative clout tied together somehow, we could swing a lot more legislation for the G.I.s. Because, if we have a problem with a Congressman, say up in New Jersey and we may not have the clout up there, but you better believe that the Building Trades or the IBEW, somebody up there has got some clout in that Congressional district, that we've got access to. So, . . . that's what the whole thing operates on, power and money and politics, that's what makes this thing turn in a democratic society."

Did you make that statement?

Mr. BLAYLOCK. Verbatim.

Senator THURMOND. Mr. Blaylock, if politics and money is what it is all about then is that why you want to organize the military?

Mr. BLAYLOCK. No, sir, if it was I would already have signed them up because we have several thousand applications voluntarily.

Senator THURMOND. Mr. Blaylock, reports I have read indicate your union is interested in only bread and butter issues. Could you elaborate on what types of representation you envision for the military?

Mr. BLAYLOCK. Yes, sir. Really three types of representation. One is pointed out in part of the statement there I made. That would be article 15, disciplinary-type representation and in those cases the military members entitled to representation under the Uniform Code of Military Justice.

Senator THURMOND. Doesn't the military have lawyers now to represent them?

Mr. BLAYLOCK. Yes they do. In many cases it is like taking a family fight to your mother-in-law. You are taking it to the same people that generate the problem. Many of the military are not satisfied with the representation they are able to get from military-provided representatives.

If you would let me finish answering the questions you asked. You asked how can we represent. One would be article 15 which does not require legal representation by the way and they are entitled to a representative of their choosing. Under the summary, general or special court-martial, we could provide representation. In those cases it does require attorneys. The third area of representation would be in the lobbying efforts. With the existing situation, the problems we discussed that the military have, the only hope they have of getting those problems resolved is here with the Congress and that involves lobbying and that is the way the system operates.

As you are familiar.

Senator THURMOND. Mr. Blaylock, who will decide what is an operational or purely military matter and what is not? In other words, how is your representation going to avoid impacting on strictly military issues.

Mr. BLAYLOCK. Mr. Chairman, they would be represented under the Uniform Code of Military Justice and if the individual has a disciplinary problem, he has had charges filed against him, then under that code he is entitled to representation. And that would make

no change other than the fact that the union would offer or provide that guy with a representative whereas now he goes to some other source. The code itself establishes the representational procedures.

Senator THURMOND. My time is up for the moment. I will be back.

Chairman STENNIS. Senator Garn.

Senator GARN. Mr. Blaylock, I am impressed with your candor. Most of my experience with union leaders is they would make good candidates for public office because of their lack of candor. But I congratulate you for being very direct and I am one who appreciates that very much. Beyond that I have some real problems with your testimony because I will say to you what I said to the military the other day, I think unionization of the military is one of the most ridiculous proposals I have ever heard.

I think it is totally incompatible with the military situation. You have mentioned a great deal about the poor military. I still happen to be in the National Guard of the United States, 21 years in military service and the changes in that 21 years in working conditions, in privileges, in pay and fringe benefits I doubt has been matched anyplace in the private sector or in other governmental areas. It is unbelievable how my pay has automatically gone up every October first of each year as a reservist to the point where when I was just a captain in the Utah National Guard and mayor of Salt Lake City. I made one-third as much going on weekends as a captain—not a colonel, a captain—one-third as much as my salary for running an entire city of 200,000 people with a $50 million a year budget.

So comparability—I am a defender of the military. I voted against taking away the subsidy for the clerk hire but I just can't accept the fact that they are so hard put. As a matter of fact I made the statement to the generals and admirals I thought military discipline has been severely weakened because of the All-Volunteer military, the need to attract, and we are painting all the barracks and we are making everything nice and allowing beer in the bunk houses and long hair and beards. I think strict discipline is one of the things that made the American military so good. I think unionization would only further that weakening of discipline that has already taken place.

I don't think it hurt you. I don't think it hurt me as a Navy man. As a matter of fact I rather appreciate what I learned in the military, getting kicked around rather than being one of the fair-haired children of today's generation that are not disciplined by their parents. I am not asking a question yet but I just want to be as candid as you. I think unionization of the military is a ludicrous proposal and I can't see that they are in such bad shape now.

Again the difference in my 21 years of military service, my $221 a month pay as a brand new ensign in the Navy compared to what they make today—average lieutenant colonel or colonel and the enlisted pay, except at the very beginning ranks, is rather significant and fringe benefits not matched anyplace, 20 years retirement at half pay with no contribution whatsoever. Peacetime, wartime, it does not make any difference, it comes, and I am a defender of that.

I am not willing to take it away. I just want to make the point strongly that I can't see that the military is in such bad shape today. They don't lack for weekend passes, they are off every night. It is

more or less like a job. They are off most weekends so I just want to let you know candidly how I feel about it.

But there is another area that disturbs me more. Senator Thurmond was talking about strikes, and this whole attitude. What you have said in your statement is very good, what you said in response to questions about how you follow this. What I have had trouble with—it may be primarily State, county and municipal employees but I have seen it happen all over this country that unions say the right words and they are not going to strike and they are not going to deny people needed public service such as police and fire, and yet that has been meaningless. It has been meaningless all over this country so your assurances are not too reassuring to me and I don't mean this personally.

I am just talking from past experience. There was a no-strike clause in the firemen's contract. Their constitution in the International Association of Fire Fighters at that time prohibited strike. There was a city ordinance against it and a State ordinance against it. They did not strike. They just all got sick, the Blue fly—you know what I am talking about. What would you do? Do you know about blue flue in the military? That is what we were faced with and the assurances of union leaders were not worth anything.

Mr. BLAYLOCK. I can only speak for myself and my own organization. I think you already recognize that I as president of this organization pretty well face things head-on. And I can say this, a job action is a job action by any name you call it. Whether it is blue flue or whether it is called a strike. But in those cities and States, counties that have passed ordinances that establish a system of dealing with the problem between the work force and the management they don't have those job actions and that is one of the points I am trying to get across to this committee.

You need to address the problem that is causing the people to want to organize—you can take the position that the idea is ridiculous but I am telling you those military members out there don't think it is so ridiculous. That is where the problem is.

Senator GARN. I think most of them do.

Mr. BLAYLOCK. That is where the problem is coming from, it is not here.

Senator GARN. Would you further amplify. Would you say that always having a procedure solves the problem? New York City is the tightest union city in the country and they pay garbage collectors $14,000 a year and I was making $12,900 to run a whole city at that time. Who let the garbage pile up in New York City? They had collective bargaining, set procedures, binding arbitration. Very tight. The same thing in Michigan. So don't say to me just having a procedure prevents that kind of irresponsible action. People of New York, with the garbage piled high and police allowing crime to go on, firemen allowing buildings to burn—they have a procedure and it is still going on.

That is what concerns me. I am not distrusting you. I have heard assurances over and over again that would not happen. While it was going on I heard it was not happening. But it was happening.

Mr. BLAYLOCK. To answer your question about would the procedures solve the problem, no. No procedure or statute is any better than the application or the people that follow it. If the procedure was followed they would not have the problem.

Senator GARN. What assurances can you give me that if the union were military——

Mr. BLAYLOCK. You did not accept the assurance so I don't think I could give any assurance that you would accept.

Senator GARN. On the basis of what I have seen happen, not on opinion.

Mr. BLAYLOCK. Again, if the problem——

Senator GARN. Could you guarantee me as union president you would have the authority to tell them they would abide by the law, they would abide by the Constitution, they would not endanger the national security? I don't think you can.

Mr. BLAYLOCK. I have that authority, yes, sir, and I exercise that authority on a weekly basis almost right now with the civilian work force because the law prohibits strikes in the Federal sector. As has been pointed out by the other Senator, the no-strike provision was taken out of our constitution but that did not change the law.

Senator GARN. It did not change the law in New York City either.

Mr. BLAYLOCK. We exercise that authority every day or at least on a weekly basis when we are telling some group of employees to cease and desist to the threat of receivership or suspension so we do exercise that authority. Now I recognize also—and I am sure you do—political situations change and I may not be president of this organization 2 years from now. Somebody else may and you would have to deal with that person. I can only speak as long as I have this.

Senator GARN. Isn't there also an out? In your statement you said if membership directs you, then you are bound, so regardless of what your personal assurance would be—

Mr. BLAYLOCK. I made that comment, Senator, on the issue of organizing. That is up to vote of the membership of whether we organize. An issue of strike is not at stake there at all.

Senator GARN. I would hope that would be true. In the others I was experienced with that was the usual out. The president would stand up and say:

> We are opposed to strike but I cannot control these people. They decided by a majority vote they are going to do it and I have to go along because I work for them.

Mr. BLAYLOCK. That is one of the points I have been trying to make, Senator. That in the area of organization whether AFGE organizes the military or not, unless some of the problems that the military experience are resolved, they will organize, they will either convert their associates to a union or one way or another I feel they will and that is the point I am making. When the membership stands up and says, "We are walking," what can the leadership do?

Under the constitution the leadership—and I have the authority in that case to issue cease and desist orders—that does not necessarily mean that the people will obey. Just like the laws of this land, we have many civil disturbances. We have already had them in the military.

We have had them on board ships. We have had them in combat situations and there was no union there but the people themselves took an action and the military leader was not able to stop that action.

Senator GARN. The only point I am trying to make is I abide by the law and I expect others to do the same. My trouble and the reasons I am bitter—I was burned—is because I dealt with the firefighter's union that did not have any concept of following the law. I canned the union president and it took 3½ years through State court, Federal, district court of the U.S. Supreme Court; I won because I followed the law and he did not.

It took all that money and all that time to prove that I had followed the law and he had not but it has happened all over the cities of the country. I was vice president of the National League of Cities. Even the most liberal Democratic mayors who were very, very pro-union usually had their bellyfull of this kind of action and again I am not accusing you personally at all. It is just from past experience over a 7-year period of this kind of detail that makes me very skeptical that a military union would be any different than any of the municipal unions I saw. On the other hand, the water department employees union was no problem at all. None. They got along fine. Never had any problem, never any job action. I was running both departments. It was simply difference in the unions.

And frankly, to put it bluntly again I am scared to death, regardless of the assurances you give, of what would happen, not the first year, not the second, but looking down a few years.

Mr. BLAYLOCK. Can I make a point there while you are discussing municipalities. The example you used, the union did not abide by the law. On the inverse side of that we have had a lot of public officials, mayors and otherwise who also have lost because they did not abide by the law.

Senator GARN. I don't doubt that.

Mr. BLAYLOCK. So I think the point you make is true on both sides.

Chairman STENNIS. Gentlemen, I am sorry I have to intervene. Under our commitee rules your time has expired.

Senator GARN. You used the example of working—in the testimony of Mr. Paterno—talking about the National Guard technicians—I would like to make the point that there is a dual capacity there. Although the union represents those technicians in their civilian capacity, in their capacity as National Guardsmen and reservists they do not, so I just did not want that left that they were representing them in their military capacity. They are representing them in their civilian capacity as other GS ratings in the Government.

Mr. BLAYLOCK. I would restate the statement. We represent no military members at this time and we have no military members within our ranks to our knowledge.

Senator GARN. Neither does the technician's association. They represent them in their civilian capacity not in their military.

Chairman STENNIS. Thank you. Senator Nunn, as you know Mr. Blaylock had a statement here and we had a question and answer period. He represents AFGE.

Senator NUNN. I notice in your statement—I have read it since I have been here—you make reference to the campaign in the service as far

as voluntary service is concerned. On page 4 you say, "With possible exception of Marine Corps, each of the military service now recruits, sells, and promotes its service as a career-oriented organization looking for manpower." They sell it to the untrained or unskilled civilian on the basis "We will educate you and train you in a civilian skill." They sell it to the skilled civilian on the basis "We will provide you with an opportunity for advancement, security." You go on and on.

I don't disagree with that assessment but just one question along that line. It is pretty obvious that the advent of the voluntary force has led to that kind of salesmanship and it is also obvious to me—and I will ask you if you agree with this—that the voluntary force atmosphere and the fact it is being sold as a career and a job has also led to the sentiment building in the military for possible representation by union.

Mr. BLAYLOCK. I think you are 100 percent right.

Senator NUNN. The next question is: Do you believe a volunteer force is in the best interests of our Nation? I know you had a very reputable military career and you have been in the military. Do you think the volunteer force is in the best interest of the national security?

Mr. BLAYLOCK. I do not. In my statement I pointed this out. Personally I favor some type of service obligation for every able-bodied American. I think the defense of this country is a responsibility of every citizen that enjoys the benefits of this country.

Senator NUNN. I agree with that completely. Since the volunteer force gave rise, at least in large part or major part, to the sentiment toward unionization, since you believe we, in the long run, I guess, should not have a volunteer force, that we should have some form of national service obligation, if we move to that kind of system, would you then continue to believe that unions have a place in the military?

Mr. BLAYLOCK. The basic problem, I believe, in many areas would be eliminated, Senator, if we had that. I think we are a long way from getting the American public to reverse themselves and go back to some type of involuntary service.

One of the serious problems—I hope in my testimony the thrust of it reached that point—was that with All-Volunteer concept, then the military service is going to have to be competitive with the private sector, especially with the improving economy. One of the serious problems we have today is medical care for military, and the reason we do is that doctors are not going into military service. They can make as much on Tuesday outside as they can make out there all week.

Senator NUNN. It is a funny circle we are in. We have the volunteer force and that has given rise to the move toward unions, and one of the reasons for that is because the volunteer force itself does not produce enough medical personnel and one of the frustrations of the people in the service is that they are not getting their benefits. It is circular in nature.

Mr. BLAYLOCK. I think that is the reason the fringe benefit area is so important. Because we talk about total compensation—and it is true that military pay has improved drastically since it was linked to the civilian pay—but if you take just the compensation, an individual can make that pay in civilian work, so you have to have something added that would entice that young man who is operating a bulldozer in the private sector making $14 an hour where he can buy his fringe bene-

fits, to come into the military service; and the 20-year retirement, commissaries, medical care, dental care, better rotation, housing—are the things you are going to have to use to attract these people to come in and to stay. Otherwise we are going to have serious problems in keeping competent people.

Senator NUNN. As the economy gets better, as unemployment gets lower—and hopefully it will—the pressures will become even more intense, will they not? The pressure is going to build. We are seeing that now. How far is the Army below its quota for personnel? Something like 10,000 or 15,000, and it is getting worse every day.

Mr. BLAYLOCK. And the quality is going down.

Senator NUNN. Would you agree that if we went back to some form of national service—I am not suggesting the Vietnam-draft kind but some form of service for everybody, serving in the Reserves for a period of time or active duty or doing something else in Government like Peace Corps, VISTA—would you think that kind of system would lend itself to the need for unions as much as the present system?

Mr. BLAYLOCK. I think it would do two things, Senator. One, I think it would resolve the manpower problem, which is a serious problem, in quality of people, which is a serious concern of ours. I don't want to mislead you into thinking, though, that I am saying all of these problems that people have would automatically go away.

By statute it would because they are going to be forced in and they are going to serve whether they have any benefits or not. I don't think that is necessarily the way to approach the problem.

I still think Congress should focus on the problems that the individual military have because morale plays a big part in performance, as you well know. So I think those problems still need to be addressed and I think if you address those problems that the idea of unionization would go away even without the draft.

Senator NUNN. If those problems were addressed and if frustrations were to go down in the military, would you still then be in a position of wanting to unionize the military?

Mr. BLAYLOCK. Let me clear the record there. We are not necessarily wanting to organize the military. We have several stacks, as I told you before, of applications over there from the military wanting to organize. Let me put it that way. I think if those problems are addressed that would go away, yes, because history shows unions can spend millions of dollars on organizing campaigns and in those companies where employees have very few problems they can't organize. And there is some good examples in this country, Du Pont, IBM, Sears and Roebuck, and the list goes on.

They have equal or better conditions than unions are able to negotiate for them and they won't organize. We had a situation in government like that. For years we could not organize the Social Security Administration. Then the SSI program came along and workload increased, Congress put on arbitrary manpower ceilings, people were not able to keep up with the workload, the situation degenerated, and now they are about 100 percent organized so I think the idea would go away if the problems were not there, yes.

Senator NUNN. Being frank about it do you find it somewhat of a paradox that some people who are the most favorable toward the voluntary force are also the most opposed to unionization?

Mr. BLAYLOCK. No, sir, I think it is just the opposite. I would like for the record, Mr. Chairman, if you would—we talked about the bread-and-butter issues and the way this union would represent the military. I would like to make you aware that there are three or four groups in this country that have tried to tie on to our coattails and we have instructed every one of them rapidly, and they want to get into the philosophical idealistic area of the legality of orders, legal orders, humane weapons, challenging the legality of orders, and we don't want anything to do with that and we will not.

Those are decisions best left up to the military experts and the chain of command. So I want you to understand that for the record.

Chairman STENNIS. All right.

Senator NUNN. When you said "just the opposite," I want to pursue that a minute. What I am saying is that there are those who are very strong proponents of the voluntary force and I believe by your testimony you made clear you believe the voluntary force is one of the reasons that we have a building sentiment for unionization of the military and what I am saying is isn't it somewhat inconsistent to be totally in favor of a volunteer force but then to be totally opposed to unionization of the military?

Mr. BLAYLOCK. It may be. Yes; it is inconsistent in some ways but the groups I just mentioned are very strong advocates of the unionization of the military and they are also very strong advocates of the All-Volunteer concept. Now in dealing with some of the Members in the Senate and in the House, I find that we do have that contradiction, yes.

Senator NUNN. Thank you Mr. Chairman. Has my time expired?

Chairman STENNIS. Yes; it has.

You have this very frank statement here. It is full of the main points. I want to mention for the record that we have some questions for Mr. Blaylock. I have an important one now I would like you to discuss fully and frankly. Your position is that you do have the right to organize but you are just taking the ballot to see what the will of the union is, is that correct?

Mr. BLAYLOCK. Yes, sir.

Chairman STENNIS. Now there was something said—and I don't have the words yet—but something was said about an Executive order. The Secretary of Defense would regulate and control and perhaps limit or prohibit to the extent desired the activities of the union with the military. You don't think they could do that by regulation do you? They could regulate you out of business so to speak with the military. What is your idea about that?

Mr. BLAYLOCK. Mr. Chairman, I am not totally qualified to answer that question at this point. I will say this. We have done a serious legal study of the Constitution and a constitutional question may arise, if that is attempted. We have not taken a position that legislation even regulating the organization, military, the methods of dealing was unconstitutional. In certain forms it would be and you are very much aware of that. In certain forms it would not be.

We would have to look at the Executive order before I could make that determination.

Chairman STENNIS. I am not holding back on you. I don't have the Executive order. It is just a vague indefinite thing now and you have heard about it and I have heard about it but we don't have it. I wanted just to get your frank opinion. My idea is that Secretary of Defense could not control your activities merely by an order or something like that unless it is in a limited area.

Mr. BLAYLOCK. It is a strange area we find ourselves in, Mr. Chairman, in that there are no rules or regulations determining, for instance, scope of bargaining, makeup of bargaining units, who is in and who is out. We are all dealing in an area that we have no rules. Now the civilian work force we were in the same situation for years and when they did organize finally Executive orders were issued and rules were defined. The same thing happened in the private sector when statutes were passed to deal with the situation. So to say what we would or would not do, could or could not, I don't think any of us know today because those rules are not with us.

Chairman STENNIS. I believe you would be better off for Congress to pass a law or refuse to pass a law, and then you would know where you are. Until that happens, you are not going to know where you are. Is that right?

Mr. BLAYLOCK. I agree with that, Senator, and I hope you follow that same line of thinking when H.R. 13 reaches the House. We need a law for civilians too.

Chairman STENNIS. Now you referred to your poll here and I have already commented on that. I don't criticize you or anything. Are you going to let them vote one for one or by chapters or what? What is going to control that?

Mr. BLAYLOCK. Under our constitution, the way we are set up we charge a per capita tax based on the membership of each local. In other words if a local has 300 members they pay representation fee for 300 members to the national organization. We elect our officers by that same method. In fact we are bound by Landon-Griffith that is supplied to us through the Executive order. If we charge on representation basis then elections must be on a representational basis. We are using the same methods for this poll. In other words if a local votes negative on the issue and they have 300 members, they will be 300 count go in the "no" column. If they vote positive there will be a 300 count go in the "yes" column. That is the way we tabulate it.

Chairman STENNIS. You mean if the majority votes no it will go into the column of 300 votes no?

Mr. BLAYLOCK. For the total membership of that local, yes.

Chairman STENNIS. Well, I am not going to press you on this, but how is the ballot going?

Mr. BLAYLOCK. Senator, I honestly don't know. We have over 500 ballots in and as they come in they are being dropped in a locked box in the mail room. We will open them all at one time.

Chairman STENNIS. I won't press you on that.

Mr. BLAYLOCK. We really don't know.

Chairman STENNIS. Senator Thurmond, that brings us back to you.

Senator THURMOND. Mr. Blaylock, an editorial in the Indianapolis

News last year read as follows:

> While union leaders may pledge that nothing destructive of military discipline and effectiveness will be done, there is little reason to take such pledges seriously. In defending the proposal, president-elect Blaylock pointed out that other unions, notably the Teamsters, may attempt to unionize the military and it was important for AFGE "to be in a position to get a piece of the pie."

What did you mean by your remarks?

Mr. BLAYLOCK. That is relating to the constitutional change and that brings us also to the point—and I think you raised the question Senator—in that I had the authority under the constitution to organize the military and why haven't I. That basically was the idea at the convention, that under the existing structure of the constitution at that time we had no authority to organize the military and we also had no jurisdiction to organize contractor personnel. But should the situation arise that it became an issue, other unions did start to organize and we had a constitutional bar to us being able to participate, we obviously felt being the largest union in government we should be the union that organized the military if it happened.

So that is the reason, that is the mood under which that constitutional amendment was made and that is one of the real reasons at this time when the column kept building on this issue, that we decided to go back to the membership. I had the authority but I knew the situation under which that resolution was passed. And so that is the reason we are conducting the poll, going back and saying to the members, "You gave us the authority then, the situation has now arisen, do you think we should." That is where we stand.

Senator THURMOND. What do you see coming from the military in any case, strong interest in the unions?

Mr. BLAYLOCK. We have, several thousand—we have had all kinds of requests. We have application blanks come in filled out. Some of them have come in with dues money. We sent that back. There is a continuous contact with my office and with the field offices by the military members requesting that we go ahead and organize, requesting that we help them set up unions so that is where it is coming from and so I would say this. It is not from the first termers so much as it is from the career type, NCOs and junior and military officers.

Senator THURMOND. We have a good many questions and I will try to make them brief and we will try to go ahead and make as much time as we can so as not to detain you gentlemen too long.

Mr. Blaylock, do you believe that unit morale would suffer if some members joined the union and others did not. For example, say an E–6 section chief is a member of your union, some of his men are and some are not. What would that do to unit morale?

Mr. BLAYLOCK. I don't think it would have any more effect, Senator. We have that situation now with civilian work force and it is an open shop as you know. From time to time there are problems between the different groups. I don't see that that would be any problem.

Senator THURMOND. What conflicts of interest do you see if your union represents both Federal civilian employees and military members?

Mr. BLAYLOCK. We don't see a real conflict because like I pointed out in my testimony, the military services themselves have created an

integrated work force with civilian and military working side by side in many situations. So I don't see that is a real conflict.

Senator THURMOND. How could you keep both a civilian and a military member content on such issues as double-dipping or the case where military work late with no additional pay and civilians leave at 5 o'clock?

Mr. BLAYLOCK. That is one of the problem areas that I mentioned in my testimony and that is one of the problems and as to how we would keep them content I don't see the conflict there. I see the military as having a problem. They are having to stay and work and the civilians are not. So we would represent the military in trying to get that straightened out.

Senator THURMOND. Are you proposing the military be paid for overtime?

Mr. BLAYLOCK. If you are going to work them in the same situation you either have to pay them overtime or have some compensation for them.

Senator THURMOND. A recent Gallop poll shows that 74 percent of Americans are opposed to unionization of the military. Does public opinion influence any of your union's decisions?

Mr. BLAYLOCK. No, sir. I would say at this point they don't.

Senator THURMOND. Mr. Blaylock, do you really believe it is in the best interest of this country to have the military unionized?

Mr. BLAYLOCK. Under the All-Volunteer concept, yes, sir.

Senator THURMOND. If we should go back to the draft would you still take that position?

Mr. BLAYLOCK. I think the issue would go away to a great extent if you went back to the draft but here again that is a controlling method and it is not addressing the basic problems that people have as to what the military members themselves would do under the draft. I am not sure, Senator.

Senator THURMOND. Speaking of overtime, as you well know having been a former serviceman, field units, out in the field on field exercises, sometimes stay overnight or maybe 2 or 3 nights, would you favor paying them overtime?

Mr. BLAYLOCK. Under combat or tactical training situation, no, sir.

Senator THURMOND. For training purposes?

Mr. BLAYLOCK. That is what I am saying. Tactical training, I would say no. I am saying under the peacetime concept of an 8 to 5 day that most of them are operating under, then especially where there is an integrated work situation and they are working with civilians, doing the same job, that is one of the things that is causing the friction.

Senator THURMOND. Mr. Blaylock, isn't it true that the ultimate weapon of any union is the threat of a strike or withholding its services to get its demands and that without such a weapon, the union is powerless?

Mr. BLAYLOCK. I don't think they are powerless and I am not sure—that term has been used a lot of times—that there is an ultimate weapon. I think the weapon—if you want to call it that—I would prefer to call it a tool—is whatever methodology the parties agree they are going to use to resolve disputes and in many cases strike has not proven to be that good even in the private sector as you well know.

Senator THURMOND. Who do you know that favors the concept of military unions other than yourself and the people within the military who have contacted you?

Mr. BLAYLOCK. That question is broad as to who I know. Are you talking about individuals?

Senator THURMOND. Organizations or prominent individuals, either.

Mr. BLAYLOCK. Like I said earlier we have had several groups we have turned off completely that are advocating unionization. And we have discussed different groups around. You get pro and con, to be specific.

Senator THURMOND. Would you care to give us the names of the groups?

Mr. BLAYLOCK. I don't have those but I will be more than glad to supply them for you. There is about four of them.

Senator THURMOND. Would you supply them for the record and the names of any prominent individuals who favor unionizing the military?

(The information requested had not been supplied at press time.)

Mr. BLAYLOCK. Yes, sir.

Senator THURMOND. Mr. Blaylock, the American Legion, Veterans of Foreign Wars, and other veterans organizations are opposed to unionizing the military. What can you do for military members that you feel would offset the influence of such organizations as this?

Mr. BLAYLOCK. One of course, Senator, is 3 types of representation that I already mentioned. In those areas I don't think the organizations you mentioned provide representation. That is the same type of representation we provide to civilian employees of this Government.

Senator THURMOND. Of course the American Legion and Veterans of Foreign Wars are vitally interested in national security and active military personnel as well as the veterans. They take a strong position for strong national defense and they are working all the time to try to keep this country strong. Now I want to ask this question. How can you represent servicemen and women when the policy of the DoD is not to bargain or negotiate with any union regarding conditions of military service?

Mr. BLAYLOCK. The only rights of representation that we would have under existing regulations or laws is those rights that the individual has under the Uniform Code of Military Justice and those regulations do not preclude or supercede the Uniform Code of Military Justice.

Senator THURMOND. Do you believe a member of a military union should have the same rights as the members of a civilian union?

Mr. BLAYLOCK. No, sir. I think there are some differences. As we mentioned, tactical training, combat readiness, several areas that it would have to be precluded and I would see that it would be precluded.

Senator THURMOND. Do you know of any other union interested in organizing the military?

Mr. BLAYLOCK. No, sir. I have heard several are but I don't know that for a fact.

Senator THURMOND. Mr. Blaylock, when you talk about unions you must first have an employer-employee relationship. Do you feel such a relationship exists in the case of servicemen?

Mr. BLAYLOCK. Yes. That situation and that relationship has been developed by the services.

Senator THURMOND. At what grade levels would you divide the line between labor and management?

Mr. BLAYLOCK. That is a good question with no rules. In some cases you might have a PFC who might be a fire team leader and under existing rules would be a supervisor. On the other hand you have colonels who are technicians who are not supervisors so with no rules I don't know where the line would be drawn.

Senator THURMOND. Mr. Blaylock, I understand the Alabama Council of your union recently tentatively voted to strike against the Federal Government. Is it not illegal for the American Federation of Government Employees to strike against the Federal Government?

Mr. BLAYLOCK. Yes, sir, but that council did not vote to strike. That council voted to ask the national union to circulate a strike vote if those three steps of the wage rate system were eliminated. Of course that was simply a vote by that council at that level saying that if those events occurred they were going to ask the national union to circulate a strike ballot.

Senator THURMOND. And if they circulated that strike notice would they have struck?

Mr. BLAYLOCK. The strike ballot request would have come to me and I would have to have reminded that council of the law that prohibits strikes.

Senator THURMOND. If you had reminded them, would that effect the strike. The policemen struck in Baltimore. The garbage people struck in New York. Firemen struck in San Francisco. There have been various other strikes all over the country.

Mr. BLAYLOCK. The only way I can answer that is both in Vietnam and on board two Navy ships military members have already struck and no union was involved. So here again how do you control individuals in any particular situation?

Senator THURMOND. Suppose some of you men struck at Fort Rucker, Ala. If soldiers there were members of AFGE and were ordered to replace your civilian members, what would you do?

Mr. BLAYLOCK. There would be very little I could do. In the first place I would not authorize a strike. In the second place, military members would be under the command of that base commander and they would carry out their orders I would assume.

Senator THURMOND. Mr. Blaylock, should the AFGE poll results favor military unionization in October, what would be the goal in numbers of military members to be sought by AFGE?

Mr. BLAYLOCK. There would be no goal, Senator.

Senator THURMOND. How many uniformed military have informal applications into AFGE now?

Mr. BLAYLOCK. Somewhere over 10,000.

Senator THURMOND. Applied now for membership?

Mr. BLAYLOCK. Just volunteer, requests and petitions and applications. Letters that have come in, yes.

Senator THURMOND. How many uniformed military have written to AFGE expressing an interest in joining the union?

Mr. BLAYLOCK. That was the same figure I just gave you, Senator.

Senator THURMOND. Have you analyzed the group wishing to join AFGE by grade or rank?

Mr. BLAYLOCK. No, sir, we have not. Like I said it looks like the majority of them are from the career type. NCOs, junior and middle grade officers. There is not too many from the first termers.

Senator THURMOND. How about grades?

Mr. BLAYLOCK. Well obviously gradewise—career NCO at E–4, E–5, E–6 and lieutenant up to major is where most of the interest seems to be coming from.

Senator THURMOND. Now on December 9, 1976, in the Washington Post, Terry Anzur and T. R. Reid reported that AFGE was recuriting military members at Fort Dix and McGuire Air Force Base. I would like to specifically call your attention to the following: "we are ready to go" said Bill Harper, Vice President of AFGE local 1778, which represents nearly all civilian workers at McGuire Air Force Base. "Our shop stewards have been recruiting all over the base." The other base involved is the Army's Fort Dix."

Was this report by the Washington Post accurate? I am aware that you later delayed the formal recruiting drive.

Mr. BLAYLOCK. No, sir, it was not.

Senator THURMOND. Would you care to comment on that?

Mr. BLAYLOCK. There was some activity in an interview by a local president up there. And I think that was prompted by military types coming to him but they immediately received an order from headquarters that no organizing activity was to take place in the military.

Senator NUNN. On page 8, Mr. Blaylock, you say what the union would do. "Second, representation in certain legal matters, primarily in connection with various administrative boards Uniform Code," and so forth. Administrative boards. What do you mean by those kinds of boards? Are you talking about promotion boards?

Mr. BLAYLOCK. That would be one area, yes, Senator. That would be one area.

Senator NUNN. The union would be involved in representing members in their promotion?

Mr. BLAYLOCK. Not necessarily but could be. Here again the Uniform Code of Military Justice, military regulations and of course the laws spell out those areas under which they can have representation and presently that is the only area that we would be able to provide representation.

Senator NUNN. Is promotion boards one of those, can they be represented?

Mr. BLAYLOCK. I think so, yes, sir. I believe it is.

Senator NUNN. How about discharge boards?

Mr. BLAYLOCK. In certain situations they do have a right to representation for certain types of discharges.

Senator NUNN. You have been in the military, how is it going to work if the union starts representing military people before promotion boards? Won't that change the whole nature of the chain of command in the military?

Mr. BLAYLOCK. It would not change if the regulations now allow for representation under these certain actions and certain situations. They are entitled to that now and in many cases they do have representation now so the fact that the union was providing the representation would not change that one bit.

Senator NUNN. I am not familiar with the promotion board representation now. I did not realize they had lawyers or anyone else appear before the promotion board.

Mr. BLAYLOCK. I don't think they have lawyers but they have the right to appear before the board after an action has been taken and I think they have the right to have a representative with them.

Senator NUNN. What I am wondering about, it is one thing to have an individual represent you but when a union is representing everybody—let us say a union is representing 10 people competing for three slots in a promotion, how can you represent all of them when they are competing for the same slot unless you go to some kind of seniority system which is basically the way promotions operate. If we go to that it seems to me the whole military is changed, the whole nature of it has changed.

Mr. BLAYLOCK. The same way we represent Federal employees now, and keep this in mind. We use the word union and we seem to think about the central organization. But 90 percent of our representation now for civilian employees is done by local shop stewards or officers who are working in the same situation with the guy who has a problem.

Senator NUNN. But the military has different things. We have an "up or out." You either get promoted at certain levels or you get out. You have a 20-year retirement policy. That is totally different from civilians. I could see how a lawyer could represent one person if he had been treated unfairly but for a union to represent everybody who is competing for a few posts, I don't see how that could work.

Mr. BLAYLOCK. The policy you mention is one of the serious concerns because many of the military types feel they have been booted out because they did not go up and they feel they did not go up because of some reason other than their ability and performance. But as to how we would represent 10 people being considered and only 1 is going to be selected—you have one happy and nine mad obviously but we have to represent them based on the qualifications for the position and also under the regulations that the right to selection is there.

Senator NUNN. Wouldn't you have to make a judgment just like the promotion board does? If you represent 10 and there was one slot you would have to go through a procedure whereby you judged which was best qualified or you would have to go to some kind of straight seniority rules.

Mr. BLAYLOCK. We don't make a judgment there. The regulation or the criteria spells out the qualifications and if an individual comes to us and complains "I was qualified" and we look at it and we see you did not have this specialized experience that was required for the position we tell the guy that. We have more to do than waste our time representing cases for which there is no merit.

Senator NUNN. Most of the time there is more than one qualified person for those slots and the competitive judgment of the military becomes subjective judgment as to who is qualified. It seems to me to be able to represent anybody before the promotion board you would have to come to that subjective judgment. You would never have a case where you could line up and say this particular person is not qualified to be sergeant and this one is. Most of the people who are not qualified will drop out.

Mr. BLAYLOCK. The issue comes in that case, Senator, as to the one, whether they have proper consideration, two, whether they ranked against criteria and maybe wind up with all 10 of them being qualified in the example we are using but then under the regulations that board has the authority then to select the one so they were all considered, they were all qualified but the board exercised its authority and selected this one and that is it.

Senator NUNN. It seems to me if you got very involved in the promotion board the union will be in the same shape some of us get in politically, you will have more enemies than friends.

Mr. BLAYLOCK. That is not unusual to us, Senator.

Senator NUNN. What about grievances, that is the other area? What kind of grievances would you be representing them on? You are talking about working and living conditions. Does that include sleeping on the hard ground or being out on bivouac for 3 days when it should be 2 days, or what are these grievances?

Mr. BLAYLOCK. The grievances could evolve from any work related dissatisfaction in the area. Again we already talked a couple of times to the point of tactical training. The areas that are directed at combat readiness would obviously have to be excluded and sleeping on the hard ground on bivouac is part of tactical training. Long days and nights are part of tactical training in that situation but then the guys come back into the area and he works in the motor pool and half are civilians and the other half are military. In those situations he would have representation.

As far as tactical areas, combat readiness areas, those are areas that would have to be excluded.

Senator NUNN. Would you include overtime pay as one of the areas?

Mr. BLAYLOCK. Overtime or compensation in peacetime type work, 8 to 5 situation, yes. Especially where you have integrated work forces.

Senator NUNN. That would increase the percentage of pay in the military—percentage of military dollars going into pay, wouldn't it?

Mr. BLAYLOCK. Yes.

Senator NUNN. Inherently your representation almost per se gets the percentage of dollars going into manpower up in the military?

Mr. BLAYLOCK. It probably would.

Senator NUNN. As an American citizen and former serviceman, are you concerned at all about the fact that we are spending more and more of our defense dollars in the area of manpower costs and less and less in research and development?

Mr. BLAYLOCK. I think that is definitely so but on the other hand—and I was on the podium a while back with a Congressman who made the comment that the cost of hardware is escalating rapidly and we can't do anything about that so we have to cut the manpower to save any money—my only comment was that at what point and are we going to reach that point when we ask tanks to drive themselves and airplanes to fly themselves and all that hardware to fix itself. Manpower is an intricate part of the defense machinery of this country.

Senator NUNN. No doubt about that. We are seeing the danger, much greater in that direction, decreasing the number of people. A lot of that has been brought about because of comparability pay, volun-

tary force, living conditions, all of these things. Many of them are justified and will continue to be but the Soviet Union is not going to be deterred by fringe benefits and commissaries. They are deterred by bullets, tanks, guns, planes and military.

Mr. BLAYLOCK. The Soviet Union has a statutory service obligation too, Senator, and we don't.

Senator NUNN. You and I are not far apart on that view.

Mr. BLAYLOCK. I think you have two choices. I think we either have to have a statutory service obligation or I think you have to make the military service competitive with the private sector and I think that is the choice this Senate faces.

Senator NUNN. I cannot disagree with you on that. I think that that is the choice we are talking about—all of these are symptoms of the underlying problem, but we are not facing the real problem. The real problem is whether we are going to have the expectation that people owe something to a free society in order to live in it and enjoy the rights thereof. That is the essential question the administration has not faced, Congress has not faced it, and the American people have not faced it.

Mr. BLAYLOCK. I could not agree with you more.

Chairman STENNIS. All right, Senator Thurmond.

Senator THURMOND. I ask unanimous consent that an article from the Washington Post of December 9, 1976 entitled "Campaign Is Set by AFGE Union to Enlist Military" be inserted in the record at this point.

Chairman STENNIS. Without objection.

[The article referred to follows:]

[From the Washington Post, Dec. 9, 1976]

CAMPAIGN IS SET BY AFGE UNION TO ENLIST MILITARY

(by Terry Anzur and T. R. Reid)

The American Federation of Government Employees has begun recruiting organizers among servicemen and women at two bases in New Jersey in the first step of a nationwide effort to unionize military personnel.

"We're ready to go," said Bill Harper, vice president of AFGE local 1778, which represents nearly all civilian workers at McGuire Air Force Base. "Our shop stewards have been recruiting all over the base." The other base involved is the Army's Ft. Dix.

National officials of AFGE, the largest public employee union in the country, said in Washington they expect to officially begin their nationwide drive next month to enroll service personnel.

Dick Calistri, an AFGE spokesman, said the union's executive council is meeting this week in Washington to develop "the detailed machinery—the procedures on how to sign up the uniformed servicemen."

Although there have been local efforts to organize servicemen in the past, the 300,000-member federation, affiliated with the AFL-CIO, is the first major union to seek enrollment of active duty service personnel.

The prospect of a unionized military provoked angry reactions at the Pentagon and in Congress, where numerous bills have been introduced to prohibit union organization of service personnel.

The union's push began when AFGE changed its constitution to admit military members last September at its national convention.

Since then, union officials have been meeting in Washington with officials of non-profit support groups, such as the Enlisted People's Organizing Committee and the Friends Military Counseling Service.

Chris Hodge and Joe Kelemen of the Friends office in Wrightstown, N.J., said they attended one such strategy meeting Nov. 30, the same day the Defense

Department issued a directive condemning unionization as "a potential for erosion of central command authority."

Hodge and Kelemen said 15 military personnel at the two bases have volunteered to help with organizing.

The AFGE leadership reportedly is willing to agree that all union rights would be voided by a declaration of national emergency in war. This concession is designed to counter the image of soldiers forming picket lines on the battlefields to protest commands.

Kelemen's organization is preparing to circulate a pamphlet that gives service personnel an idea of what to expect from a military union:

It would provide legal representation for GIs as part of efforts to reform the military justice system and cut down on the "lifetime norm" of bad conduct discharges, which AFGE said account for 11.7 percent of all discharges last year, the highest recorded level.

It would seek improved wages, benefits, service contracts and housing arrangements.

It would support the soldiers' "right to resist illegal orders," and attempt to end saluting, passwords, and other" demeaning rituals."

Of the first 10,000 pamphlets being printed in Washington by the Enlisted People's Organizing Committee, about 5,000 will be distributed at Ft. Dix.

At Ft. Dix, an Army training installation that processes almost 20,000 recruits a year, "we have a unique opportunity to reach a lot of people," Kelemen said. "The people who are coming and going here are going to settle down someplace in the military."

A spokesman for the Ft. Dix director of personnel and community activities said there was "no indication of local interest" in unionizing base personnel. Ft. Dix and McGuire officials refused comment on the union question, referring to statements by the Department of Defense.

Defense Secretary Donald H. Rumsfeld has said labor organization is "incompatible with the mission of the armed forces." He suggested this year that union organizers might be prosecuted under federal statutes prohibiting counseling service personnel to mutiny.

Federal employees are not covered by the National Labor Relations Act, the law that gives most workers the right to organize and bargain collectively.

But executive orders issued by every President since John F. Kennedy establish those rights for federal employees as well.

Since 1969, employees in national security agencies such as the CIA and the FBI have been excluded from the executive orders, but the armed services have not.

Unionization leaders in New Jersey and Washington are more worried about the Pentagon's reaction than about efforts to stop unionization through congressional action.

Sen. Strom Thurmond (R.-S.C.) said yesterday that Sen. John C. Stennis (D.-Miss.), chairman of the Senate Armed Services Committee, had promised to hold hearings early in the next Congress on a Thurmond bill to ban military unions. At latest five similar bills were introduced in the House last year.

Senator THURMOND. Mr. Blaylock, what, if any, connection is there between the Enlisted People's Organizing Committee and AFGE?

Mr. BLAYLOCK. None whatsoever.

Senator THURMOND. Did AFGE meet with Enlisted People's Organizing Committee as you report?

Mr. BLAYLOCK. Yes, sir, they came to my office.

Senator THURMOND. And the Washington Post stated— —

Mr. BLAYLOCK. I would have to read the particular article. I am not sure, Senator. There have been a lot of them by the Washington Post.

Senator THURMOND. But you did meet with them?

Mr. BLAYLOCK. They came to my office and that is one of the groups I indicated we did not care to associate with.

Senator THURMOND. Do you know how many military installations on which the EPOC pamphlet has been distributed?

Mr. BLAYLOCK. I don't.

Senator THURMOND. Do you know whether about 5,000 pamphlets were distributed at Fort Dix and McGuire AFB as the Washington Post reported was planned?

Mr. BLAYLOCK. No, sir.

Senator THURMOND. Are you familiar with an organization called Citizen Soldier?

Mr. BLAYLOCK. Yes, sir.

Senator THURMOND. This organization has a mailing address of 175 Fifth Avenue, New York, N.Y. Has AFGE met with this group?

Mr. BLAYLOCK. Yes, sir. I met with a representative from that group.

Senator THURMOND. Is there an affiliate or any cooperative agreement between AFGE and Citizen Soldier?

Mr. BLAYLOCK. None whatsoever.

Senator THURMOND. The reason I asked if AFGE was the only union mentioned in the paper being mailed to military quarters at Fort Bragg, N.C. Citizen Soldier claims to have sent out 20,000 questionnaires soliciting responses favoring military unionization.

Mr. Blaylock, assuming military unions are organized, what control does the national office have over the local?

Mr. BLAYLOCK. The national officers, national executive council and the president have certain constitutional controls over the locals, Senator, in that they must abide by, one, the Department of Labor. They must abide by the Landon-Griffith provision of the Executive order and they must abide by the provisions of our national constitution. I have the authority to place locals in receivership. I have the authority to suspend officers.

Senator THURMOND. Mr. Blaylock, could the national headquarters prevent a local at a military base from a walk out or a sick out?

Mr. BLAYLOCK. Yes, sir.

Senator THURMOND. The national headquarters could prevent that?

Mr. BLAYLOCK. I have that authority to issue an order of cease and desist. If they don't abide by it then I have the authority to suspend the officers or place a local in receivership. As to the control over the individuals, I would say in a particular shop if they walk you know really the laws, the courts or nobody else could stop them from walking. We may penalize them later but I have no physical authority to send troops in there or I don't have a goon squad I could send in and physically restrain them.

Senator THURMOND. Have you had any experience along this line?

Mr. BLAYLOCK. Yes, as I testified earlier here, Senator, on a weekly basis I exercise that authority.

Senator THURMOND. Have you had to expell any?

Mr. BLAYLOCK. Officers, yes, sir?

Senator THURMOND. Union locals?

Mr. BLAYLOCK. We have disbanded locals. I have not expelled a local. Usually it is the result of leadership and we suspend them or put the local in receivership. In that case we take over the control of the local. We have several in receivership today.

Senator THURMOND. Do locals operate under the rules of the National Office or may they act independently of national policy?

Mr. BLAYLOCK. Locals have their own constitution. One, they are required to have a constitution and by-laws. The local constitution and

by-laws must conform with the national constitution. It has to be written in other words. It also must conform with the provisions of the Executive order. So they have that right to develop their own constitution but it must conform with the rules and regulations of the national organization—which is the term you continue to use—the constitution as adopted by delegates at a convention. That is the controlling document.

Senator THURMOND. If you had unions in another term, at what organizational level would unions have representatives in the military stucture—battalion level, company level, or just what?

Mr. BLAYLOCK. With no rules we don't know what the structure of the unit would be.

Senator THURMOND. It could be anywhere in the military?

Mr. BLAYLOCK. Yes, sir.

Senator THURMOND. Would the union representative in the units be expected to handle grievances of the soldiers with say the company or battalion commander?

Mr. BLAYLOCK. The structure for representation would be identical to the system we used for representing civilian employees and like I said earlier 90 percent of the representation is provided at the local level where the problem exists and local officers, local stewards provide representation.

Senator THURMOND. So there would be dealing with the company commander or battalion commander?

Mr. BLAYLOCK. Yes; could be.

Senator THURMOND. What levers or pressure can the union members say at company level apply to get the desired response?

Mr. BLAYLOCK. The lever they are operating under any system where the personnel policies are under regulations you are using the provisions of the regulation and the position would be if a commander violated a regulation in taking certain action then that would be the position of representation, the form of representation.

Senator THURMOND. What is in your rules to prohibit unions from exerting pressure on any level of command to win action on various grievances?

Mr. BLAYLOCK. I don't understand how they would exert pressure in the first place, Senator. We are not in position to exert pressure as we represent civilians. We represent them under rules, regulations and laws and collecting bargaining agreements.

Senator THURMOND. How would you accomplish your purpose in the military?

Mr. BLAYLOCK. By the same thing. Representing under the existing regulations.

Senator THURMOND. If you dealt with a company commander and he did not agree to the request then would you appeal to the battalion commander?

Mr. BLAYLOCK. If the company commander was in violation of a regulation and did not resolve the problem than it would elevate apparently in that structure to the battalion commander and the point would be made to the battalion commander, you have a company commander down here who is violating regulation x so and so—whatever it is—and these are the facts in the case. Would you take action on it? That is the way it operates.

Senator THURMOND. So you would first deal with the company commander and then you would go to the battalion commander and then on up to brigade commander?

Mr. BLAYLOCK. Yes, depending on the regulations that provided redress. You have to operate within the regulations and in most cases we would be operating within the Uniform Code of Military Justice and it spells out the steps of redress.

Senator THURMOND. Mr. Blaylock, on page 3 of your statement you state that an AFGE study in 1976 revealed five reasons supportive of military unions. Three of the reasons you cited were based on AFGE conclusions that unions in six European countries were successful for all concerned. Reports I have received, and a study by a member of our staff, indicates otherwise. To what extent has AFGE studied the European experience?

Mr. BLAYLOCK. We have talked with people from—I am talking about governmental type—from those six countries. We have also talked with military types from those six countries. As to the success—I reckon that particular word, the unions or the military types did organize, three are operating, and in those countries and there does not seem to be—they are able to resolve many of the problems their people had through the systems those governments have set up.

Senator THURMOND. Did David Cortright do that study?

Mr. BLAYLOCK. David Cortright was in Europe and we did charter him to do 2 days' travel while he was there to bring back some information from West Germany.

Senator THURMOND. Mr. Blaylock, if AFGE approves enrollment of military members when would you begin efforts to sign up these union members?

Mr. BLAYLOCK. It would take us I would say 30 to 60 days to get the machinery in motion after the determination was made. That would be some time in the fall, Senator.

Senator THURMOND. Do you plan to accept all grades and ranks?

Mr. BLAYLOCK. Yes, sir.

Senator THURMOND. How high would you go, Colonel?

Mr. BLAYLOCK. If they comply with the rules. No rules existing, Senator, I would have to say if they apply for membership they are not going to be excluded at this point.

Senator THURMOND. Mr. Blaylock, earlier this year officials of local 3486 of the AFGE reportedly encouraged and condoned a job action by employees of the 177th Fighter Interceptor Group. This was a finding by Administrative Law Judge Gordon Myatt relative to absenteeism of several union members of the above-stated Air National Guard unit of the New Jersey Department. How would AFGE prevent such incidents in the future if the military is organized?

Mr. BLAYLOCK. Senator, I think we are back to the point we made a couple of times. There is no way you can physically restrain people in every local situation. Just like the laws and the courts of this land, people commit crimes and then they are brought to task for it. If we have locals or local members or officers who violate the provisions of our national Constitution, our law, then we bring them to task for it but there is no way you can stop them from doing it out front.

Senator THURMOND. Mr. Blaylock, you stated that the unions in Europe are successful, I believe, and you are pleased with them. I

would like to quote from an article in U.S. News and World Report dated March 28, 1977, an excerpt from the Netherlands. Most foreign criticism of military unions has centered on the Armed Forces of the Netherlands.

"With their long hair, refusal to salute superiors, and militant campaigns for individual freedoms, Dutch soldiers have acquired a reputation, which some experts claim is undeserved, of being an undisciplined, unreliable force.

"There are 15 unions in the Dutch Armed Forces of 112,000. The most powerful is the VVDM, a union for conscripts that has resorted to frequent mass protests and petition campaigns to win demands.

"But like the West Germans, Dutch military men are forbidden to strike.

"Among benefits the VVDM already has achieved are improved quarters and recreational facilities, an end to saluting and polishing shoes, and fewer rollcalls and inspections. Still sought is compensation for overtime.

"In disciplinary matters, a unit that refused to take part in a maneuver because it was too cold was given 3 weeks' detention." And so forth.

Mr. Chairman, I ask unanimous consent that this article from the U.S. News and World Report, March 28, 1977 entitled "Drive to Organize GI's Picks up Steam" be printed in the record.

Chairman STENNIS. All right Senator, without objection.

[The article referred to follows:]

[From U.S. News & World Report, Mar. 28, 1977]

DRIVE TO ORGANIZE GI'S PICKS UP STEAM

Once considered unthinkable, even ridiculous, unionization of the U.S. armed forces is beginning to emerge as a pressing and controversial issue.

There is hardly any middle ground in the argument, as shown by the interviews on the following pages.

On one side, senior commanders and other opponents warn of the adverse impact that unions might have on the effectiveness of America's armed forces. Often cited is a danger of striking soldiers' refusing orders to fight.

On the other side, union supporters insist that moves by the White House and Congress to reduce defense costs make it mandatory in an all-volunteer force that officers and enlisted men, as "employes" of the U.S., have a union to look after their interests.

President Carter has come out firmly against military unions. He told Pentagon workers on March 1: "My own opinion, which is strongly held, is that it would not be advisable to have the military personnel unionized. . . . I know it has been discussed in isolated areas and by some responsible people, but I think the national leaders, even in the labor movement, have no commitment to this proposition."

Actually, unionization of the military is moving forward. In September, the American Federation of Government Employes (AFGE), a union of 255,000, revised its constitution to permit military membership. AFGE now is polling its locals to determine whether it should start organizing the 2.1 million men and women in the armed forces.

Although military unions are a relatively new concept in the U.S., they are well developed in Europe. Belgium, Denmark, the Netherlands, Norway, Sweden and West Germany have a total of more than 60 soldier organizations.

Both opponents and proponents of military unions in the U.S. cite the experiences of European unions—good and bad—to support their aguments.

From the magazine's bureaus overseas come the following cabled reports on how such unions operate in three European nations.

SWEDEN

Most of Sweden's 65,000 military personnel belong to three major groups: the Swedish Officers' Union of top-level officers; the Company Officers' Union of lower-grade officers and the Platoon Officers' Union, which includes senior noncommissioned officers.

Technically, military men in Sweden have the right to strike. But the unions voluntarily have banned walkouts by higher officers, and restrictions are so tight that walkouts by other ranks are considered impossible. Before strikes can be called, the situation must be reviewed by a board of Government, Parliament and union representatives. If it is decided a strike would endanger the nation, it would be prohibited.

Conscripts wield influence through elected representatives who present demands and discuss grievances. Most demands are for higher pay, more fringe benefits and a shorter workweek.

WEST GERMANY

Military unions in Bonn's 495,000-man armed forces date back more than two decades, to July 1956.

Yet union power is severely limited, even in peacetime. By West German law, Beamter (senior civil servants) are prohibited from striking. And all men and women in uniform, plus civilian employes of the Defense Ministry, are classified as Beamter.

The 200,000-member German Armed Forces Association, the principal organization representing military men, is more a professional association or a company union than it is a labor union. It maintains close ties with the Defense Ministry and is not associated with the civilian West German Labor Federation.

The federation has one foot inside the barracks through a branch of the ÖTV, the Union of Public Service and Transport Workers. But this branch has only 41,000 members, all but 4,000 of them civilian employes of the military.

West German military men have not had a pay hike since 1974, and both the association and federation are pushing for a raise. They also are campaigning for overtime payments of from $25 to $50 per month and bonuses of $80 to $120 to help finance vacations.

NETHERLANDS

Most foreign criticism of military unions has centered on the armed forces of the Netherlands.

With their long hair, refusal to salute superiors and militant campaigns for individual freedoms, Dutch soldiers have acquired a reputation, which some experts claim is undeserved, of being an undisciplined, unreliable force.

There are 15 unions in the Dutch armed forces of 112,000. The most powerful is the VVDM, a union for conscripts that has resorted to frequent mass protests and petition campaigns to win demands.

But like the West Germans, Dutch military men are forbidden to strike.

Among benefits the VVDM already has achieved are improved quarters and recreational facilities, an end to saluting and polishing shoes and fewer roll calls and inspections. Still sought is compensation for overtime.

In disciplinary matters, a unit that refused to take part in a maneuver because it was too cold was given three weeks' detention. A draftee who refused to move against the hijackers who had seized a Dutch train last year was discharged from the Army. But he had to put in an equivalent period of community service.

Senator THURMOND. Also, I ask unanimous consent that an article which appeared in the Chicago, Ill., Tribune, March 5, 1977, entitled "Don't Force Our Troops into Unions" be printed in the record. I will read you a few lines. "Last year, American marines and unionized Danish troops had to reschedule a North Atlantic Treaty Organization war game because of a dispute involving overtime pay for the Danes."

I ask that this article in its entirety be printed.

Chairman STENNIS. Without objection.

[The article referred to follows:]

[From the Chicago Tribune, Mar. 5, 1977]

DON'T FORCE OUR TROOPS INTO UNIONS

Last year American marines and unionized Danish troops had to reschedule a North Atlantic Treaty Organization war game because of a dispute involving overtime pay for the Danes.

Had the exercise been for real, the Nordic warriors hopefully would have deferred their labor grievance to a more convenient time.

However, the event served to dramatize for the foes of a unionized American military the divided loyalties that could arise if a soldier's allegiance to his country were pitted against his trade union membership.

That kind of occurrence has hardened the resistance of long-time professional officers and enlisted men in the United States armed forces whose responsibility it is to maintain a battle-ready military establishment.

They acknowledge that it is unlikely any combat soldier would pull the plug on a mission during wartime because another assault would violate his union rights.

But they are convinced that unionization would destroy discipline and dilute authority of commanders charged with fielding a split-second response in the event of war.

"Unionization has no place in the military; it just wouldn't work," says Chief Master Sgt. Thomas N. Barnes, who is the top noncommissioned officer in the Air Force.

"I think that it would be a disaster. It would spawn divided loyalties and authority. It would be disruptive. It would create an intolerable situation.

"Nothing should ever interfere between a commander and his personnel. Loyalty above all has to be to the service and to the Nation and nowhere else."

Sgt. Barnes is a veteran of 28 years service who served in both the Korean and Viet Nam wars. He has made the defense of his country a career.

And he attained his lofty position as an adviser to the Air Force secretary in 1973 because he was the best.

Therefore, his views should carry weight with the members of Congress when they take up later this year several bills that would prohibit attempts at unionizing the American armed forces by the American Federation of Government Employees, AFL–CIO.

"A Union would have the obligation to intervene in grievances over assignments, transfers, and working conditions, many of which are made necessary by the uniqueness of a military mission.

"But in the Air Force, when you have to keep the jet bombers flying to protect the country, hours don't mean anything. You keep working until the job is done.

"And if it's raining or bitter cold or snowing, that doesn't mean anything. There aren't any eight-hour days in that kind of situation.

"Further, what if some airmen complained to the union about being transferred to a remote radar installation. Sure, they're remote. There is no other place such a unit can be placed.

"Spartan conditions are often necessary. But what if the personnel complained about that, too? What if the union demanded that there be constant rotation of personnel at remote bases? What if it demanded limitations on tours of duty there?

"The cost factor to the taxpayers would be impossible. And the job wouldn't get done."

Barnes warned, however, that there is growing dissatisfaction among enlisted men and officers alike over what they perceive to be a continual erosion of service and retirement benefits.

"A GI doesn't sign a contract when he enlists," Barnes explained. "But there were certain benefits that were implied because they existed when he enlisted and he assumed would continue during his length of service.

"Now, the public and Congress think that the military cost too much. The public thinks it's a real gravy train for those guys and what have they been doing for 20 years, anyway.

"Well, I'll tell you what they've been doing—moving often and sometimes without their families, working long hours under severe hardships, and getting shot at when it was necessary.

"That's how they paid for these benefits. Now people want to take them away."

That kind of apprehension among service personnel, Barnes said, is helping create a climate for unionzation that could hamper the ability of the military to perform their duties.

"The personnel who are making a career of the Air Force feel insecure and that helps the unions become more attractive because they claim they could negotiate benefits with Congress," Barnes said .

Last year, there were about 1.1 million military personnel receiving retirement benefits. Of those, 751,244 or 69 percent were former enlisted persons. The average retirement pay was less than $8,000, hardly a handsome sum on which to live today.

Barnes reports the nation's military people still retain positive attitudes towards their duties. He does not mean to suggest they are disheartened cry babies.

But, congressional threats to cut GI retirement benefits even further are helping fuel the fires for unionization. And Congress ought to weigh one against the other.

Senator THURMOND. I ask that an article from the Baltimore, Md., News American, dated March 15, 1977, be placed in the record and I will just read one sentence.

In Holland, as a result, only the windmills can be depended on, a dismal fact which the present commander of NATO forces would quickly affirm in private.

I ask that that be printed in the record.

Chairman STENNIS. Without objection.

[The article referred to follows:]

[From the Baltimore, Md., News American, Mar. 15, 1977]

ORGANIZING FOR DISORDER

If you are a member of the armed forces in some western European nations you can grow a beard like Solomons, shave your head like Telly Savalas, or let it sprout into the most defiant hirsute halo imaginable. You won't even have to salute a superior officer unless you happen to feel like it.

The reason why you could get away with such independence in allied countries like The Netherlands is because you belong to a union, the purpose of which—naturally—is to promote the maximum self-interest of its members.

In Holland, as a result, only the windmills can be depended on, a dismal fact while the present commander of NATO forces would quickly affirm in private. He might also have some strong private opinions on the general reliance of this nation's present all-volunteer army.

Nothing is ever so bad that it can't be made worse. And that is precisely what our largest union of federal employes has in mind. Unless a pending referendum of present members nixes the idea, the union this fall will attempt to sign up our 3.2 million uniformed military personnel.

Kenneth Blaylock, president of the American Federation of Government Employes, attempts to take the built-in curse off his ambition by declaring his proposed union never would consider going on strike. Its sole purpose, he claims, would be to organize grievances and better the working conditions of G.I. Joe.

Well, just think that over. If you are a healthy young man or woman unable to find work elsewhere, you can enlist in our armed forces tomorrow and everything will be provided—the best food, clothing and social insurance available to military personnel anywhere in the world.

In exchange, from any reasonable viewpoint, you are supposed to realize that you are part of a machine whose function depends on coordinated, unquestioned teamwork. You are expected to take orders.

Congress, to its credit, has produced numerous pending bills to block the proposal for a unionized military personnel. President Carter and Labor Secretary Ray Marshall are vehemently opposed. So are we, and so—we are convinced—should be the American people in general.

Collecting dues from a potential 3.2 million persons is a mighty attractive idea to a union leader. What is really due—and far more important to the United States of America—is an organized, committed and reliable force whose sole allegiance is to serve the common cause.

The very idea of unionizing our armed forces is nutty, extremely poisonous, and an invitation to open challenge by those whose fundamental conviction is that might makes right.

It should be shot down, right now, and we urge President Carter to take the initiative with an unqualified statement of renunciation.

Senator THURMOND. Mr. Chairman, I will also ask unanimous consent that an article from the New York Times, March 4, 1977, be printed in the record entitled "Unionization of Armed Forces."

Chairman STENNIS. Without objection the request will be complied with.

[The article referred to follows:]

[From the New York, N.Y. Times, Mar. 4, 1977]

UNIONIZATION OF ARMED FORCES

CARTER'S OPPOSITION UNLIKELY TO COOL CONTROVERSY; DEBATE COMPLICATED BY EXPERIMENT IN EUROPE

(By Drew Middleton)

President Carter's negative comments on unionization of the armed forces have focused attention on the often heated debate over the subject that has agitated the services in the last three months.

MILITARY ANALYSIS

Speaking to Defense Department employees on Tuesday, Mr. Carter said he was opposed to unionization of the armed forces and was unaware of any "strong movement" toward it supported by leaders of national and international unions.

His words are unlikely to cool the controversy centered on the decision by the American Federation of Government Employees last December to authorize military membership. Supporters of the move say that a recruiting drive in the services may begin soon.

Senior officers of the services, including the Chief of Naval Operations and the Army's Chief of Staff, as well as Senator Thurmond of South Carolina, senior Republican on the Senate Armed Services Committee, and George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, oppose unionization, along with military and veterans' organizations.

ON THE OTHER SIDE

The advocates include the leadership of the Government employees federation, which has a membership of close to 300,000, and a number of students of military affairs including David Cortright of the Center for National Security Studies and Charles C. Moskos Jr. of Northwestern University.

Both sides apparently agree that the reasons for the controversy are rooted in the character of today's volunteer forces and in the resentment in the forces over attempts by the Federal Government to curtail expenditure for personnel.

"The big brass shouldn't be surprised if the lower echelons in the military machine are interested in unionization," one veteran observer said.

"The brass has complained so long and so loudly about the prospective loss of benefits that, of course, this trickled down to the enlisted men, the employees, and they're very uneasy about their benefits," the source explained.

The prospect that the forces may prove a fertile field for unionization is attributable, many sources said to the emphasis on the occupational aspects of service. The concept of military life as a calling, still held by many officers and noncommissioned officers, has been obscured to some extent by recruiting appeals that picture service life as a job, comparable to those in civilian life, rather than as a patriotic vocation.

The debate has been complicated by arguments over the effect of unionization on European forces. Six countries—Sweden, a neutral, and Norway, Denmark,

Belgium, West Germany and the Netherlands, all members of the North Atlantic Treaty Organization—have more than 60 soldier unions of various types.

The European unions are not all-inclusive. In some countries they include separate unions for different grades. In Sweden, for example, there is a platoon officers' union and a company officers' union. There is another division in Europe between unions for professionals, usually officers, and conscripts.

Those who, like Mr. Cortright, support military unionism here, argue that European military unions have won considerable gains for servicemen. A conscript union in the Netherlands has forced increases in pay to the point that Dutch military pay is now the highest in NATO. The union has also brought about the elimination of inspections and unnecessary formations, made the length of hair and saluting optional and forced a reformation of the penal code, eliminating the most severe forms of punishment.

Senator Thurmond believes that "to all appearances, the Dutch army today is responsible to the union as much as to the Government."

"If military unions have proved irresponsible in other countries," Senator Thurmond wrote in "Defense Review," a publication of the American Enterprise Institute for Public Policy Research," we can hardly permit them to be organized in the United States on the flimsy hypothesis that they may possibly be more responsible here."

Senator Thurmond introduced a bill to prohibit unionization of American uniformed military forces last January 19. It was supported by 33 other senators.

The basic fears among opponents of unionization are that it would weaken discipline and might even lead to strikes against unpopular wars or operations.

Adm. James L. Holloway Jr., Chief of Naval Operations, wrote last year: "Unionism in the sense that there would be collective bargaining to determine whether or not certain operations would be undertaken is unthinkable in the military sense."

DUTCH ARMY CALLED WEAK

The Veterans of Foreign Wars said in a statement that "unions would interfere with the chain of command, would impair discipline and response to orders."

Many senior officers, including Gen. Bernard W. Rogers, the Army Chief of Staff, and Gen. Russell E. Doughterty, commander of the Strategic Air Command, believe that intelligent responsible leadership obviates the need for unions.

The evidence from Europe, according to Mr. Cortright, indicates "rather compellingly the unionization has had little negative consequence."

This view is contested by active officers. Most who have served in Europe regard the heavily unionized Netherlands army as the least efficient force in NATO's Central European front.

One consequence of unionization seldom cited was noted by Mr. Moskos in a paper recently delivered to a symposium at the University of Maryland.

He said there is a "potentially disquieting implication" that organized military unions might lead to a politicization of the services "arising from the usually close working relationship of the A.F.L.–C.I.O. with the Democratic party at national and local levels." Unionization faces several legal hurdles. Defense Department regulations forbid commanders from negotiating with unions although service members are allowed to join. However, military commanders are allowed to negotiate, and have done so, with unionized civilian employees on military installations.

Despite President Carter's chilly, attitude toward unions in the service, the tumult and the shouting are unlikely to die. The basic reason, cited repeatedly by soldiers and civilians is that as long as the military offers itself to the recruit as just another job, the soldier, sailor and airman will ask for one of the fundamental rights of other job holders, membership in a union.

Senator THURMOND. That is all I have of this witness. Thank you very much Mr. Blaylock.

Chairman STENNIS. Mr. Blaylock, I have already said that I have some additional questions but I will send them to you very shortly. Is there anything further you want to say before you retire as a witness? We thank you for being here and you have had a very intelligent paper and presentation here. I don't agree with your conclusions, and you don't agree with me, but you certainly have been a valuable witness.

Mr. BLAYLOCK. Senator, I would like to thank you as the chairman and the committee for giving us this opportunity and I think you gathered from our presentation, our comments, that we have some very serious concerns about the problems that our military has in defense of this country and I think that is the major question that faces all of us.

Chairman STENNIS. Thank you gentlemen who were with Mr. Blaylock, too.

QUESTIONS SUBMITTED BY SENATOR JOHN C. STENNIS

[Additional questions of Senator Stennis are as follows:]

Senator STENNIS. Mr. Blaylock, you testified that members of the military should not be required to remain politically neutral. What exactly did you mean by that? If we allow the military to unionize, and also allow military members to become active in politics, don't we run serious risks of eroding our tradition of separation of military and civilian authority? Could you envisage a unionized Army and Navy endorsing a candidate for President of the United States?

Mr. BLAYLOCK. (1) I don't believe that allowing military members to exercise their political rights as citizens would adversely affect the separation of civilian and military authority; (2) yes, the organization to which the members belonged could very well endorse a candidate.

Senator STENNIS. Mr. Blaylock, you place great stress in your statement on the satisfactory experience of European countries as a basis for concluding that military unions in this country would be a good idea. Isn't it true that many of the unions you refer to, particularly in Denmark and Germany, are not true unions at all, and confine their activities mainly to lobbying and working with the government itself, as opposed to individual commands?

Mr. BLAYLOCK. Yes.

Senator STENNIS. Mr. Blaylock, which military members would be eligible for AFGE membership under your plan?

Mr. BLAYLOCK. Presently with no guidelines, all members would be eligible.

Senator STENNIS. Would non-commissioned officers and lower-ranking enlisted men belong to the same local union?

Mr. BLAYLOCK. Yes.

Senator STENNIS. If not, how do you define "supervisors" in the military context? Won't the fact that even lower-ranking enlisted men sometimes perform supervisory functions create problems for your union?

Mr. BLAYLOCK. No.

Senator STENNIS. Do you anticipate that officers will also be members of the same union?

Mr. BLAYLOCK. Yes.

Senator STENNIS. Could there be separate unions for different categories of military personnel?

Mr. BLAYLOCK. Yes, it would depend on the needs and desires of the membership.

Senator STENNIS. Mr. Blaylock, I assume your proposed military union would seek the right to bargain collectively on behalf of military members, is that correct? Would you seek exclusive bargaining rights?

Mr. BLAYLOCK. I have previously defined the three areas of representation we would provide. Present law and regulation does not provide for collective bargaining.

Senator STENNIS. What entities would you seek to bargain with? Local commands? Military Services? Department of Defense?

Mr. BLAYLOCK. [See above.]

Senator STENNIS. How would you define the scope of bargaining in the military context? Would you bargain over wages? Hours of duty? Saluting? Dress and grooming? Duty assignments? Food and commissaries? Military training activities? Transfers? Promotions?

Mr. BLAYLOCK. Reference above answer regarding collective bargaining.

Senator STENNIS. Isn't it true that many of the issues that concern service members are not really under the control of local commands?

Mr. BLAYLOCK. Yes.

Senator STENNIS. I speak of pay and benefits, retirement and similar issues? How can there be real collective bargaining over such issues with local commanders, or even the Services themselves?

Mr. BLAYLOCK. You have assumed that there would be collective bargaining we have not proposed it.

Senator STENNIS. Union Role in Grievance Representation. Mr. Blaylock, do you see a need for the representation of service members outside the chain of command over grievances and complaints arising out of military duties?

Mr. BLAYLOCK. Yes.

Senator STENNIS. Who would perform this representation role if a union became involved?

Mr. BLAYLOCK. Stewards, union officers or staff.

Senator STENNIS. Would they be civilians?

Mr. BLAYLOCK. Possibly.

Senator STENNIS. Don't you see a danger of weakening the chain of command as it relates to discipline when a third party intervenes between a commander and his subordinates?

Mr. BLAYLOCK. That is the major problem, the Command structure does not now provide. Not when the intervention provides justice or equity for the subordinate.

Senator STENNIS. Would an individual service member still be allowed to present his grievance personally, or would he be required to entrust his complaint to a union representative?

Mr. BLAYLOCK. That would be his choice.

Senator STENNIS. Representation in legal matters. In discussing the functions your union might perform, you point out on page 8 of your prepared statement that the union could engage in "representation in certain legal matters." What do you mean here, representation of the union itself, or providing legal counsel to members?

Mr. BLAYLOCK. Providing legal counsel to the members.

Senator STENNIS. When you refer to "various administrative boards" do you include in that category promotion boards and similar bodies?

Mr. BLAYLOCK. Only those matters in which the UCMJ now provides appeal or review and allows representation.

Senator STENNIS. Union job actions. Mr. Blaylock, does your union assert the right to strike for your civilian members?

Mr. BLAYLOCK. No.

Senator STENNIS. Would it assert the right to strike in any situation for military members?

Mr. BLAYLOCK. No.

Mr. STENNIS. Would you be ready to renounce the right to strike for uniformed servicemen and women?

Mr. BLAYLOCK. Yes.

Senator STENNIS. How could a strike be tolerated in a military command given the need for tight discipline and flexible response of our military forces?

Isn't it true that a strike would currently be a violation of the Uniform Code of Military Justice?

Mr. BLAYLOCK. Yes.

Senator STENNIS. Do you see a role for slowdowns or other job actions short of a strike in the military context?

Mr. BLAYLOCK. No.

Senator STENNIS. Would you anticipate that military members of your union might in some circumstances refuse to cross civilian picket lines at the time of a civilian labor dispute?

Mr. BLAYLOCK. No.

Senator STENNIS. Limited Union Role in War or Emergency, Mr. Blaylock, it has been reported that you have stated your union's intent to suspend its representation of military members in time of war or national emergency. Is it realistic to expect a union organization, with its own developed day-to-day activities and services, to immediately and voluntarily renounce its role?

Mr. BLAYLOCK. In cases of national emergency, yes.

Senator STENNIS. Do you agree that union activity in a war-time situation would be dangerous?

Mr. BLAYLOCK. Yes.

Senator STENNIS. Conflict between military and civilian interests. Mr. Blaylock, isn't it the case that the interests of uniformed service members and civilian

employees of the Department of Defense often are not the same? Don't they often compete for the same scarce budget dollars?

Mr. BLAYLOCK. No.

Senator STENNIS. Won't there be cases where your union cannot really represent both civilian members, such as in disputes over performance of certain functions by civilian or military personnel?

Mr. BLAYLOCK. No.

Senator STENNIS. I note that your union has announced its support of so-called "double dipping." Aren't retired military officers who seek civilian jobs while receiving this retired pay a threat to your civilian members' jobs?

Mr. BLAYLOCK. Only if they use their military connection to secure the job, rather than competing.

Senator STENNIS. Isn't this an instance where the interests of civilian and military AFGE members would clash?

Mr. BLAYLOCK. No.

Senator STENNIS. Use of military for civilian disturbance control. Mr. Blaylock, isn't it true that there is potential for great danger in expecting a unionized military force to deal adequately with violence in the labor-management sphere?

Mr. BLAYLOCK. No.

Senator STENNIS. Can we take the risk that a unionized force of Army or National Guard personnel would be reluctant to enforce the law in a union dispute?

Mr. BLAYLOCK. I don't agree that there is a risk.

Senator STENNIS. How would you dispel the fear that this conflict might arise?

Mr. BLAYLOCK. I don't believe that there is a widespread fear. It sounds like the same old anti-union rhetoric that we have heard for many years when any group attempts to organize.

Senator STENNIS. Role of military associations. Mr. Blaylock, how do you assess the effectiveness of the current military associations in protecting the interests of current and retired military members?

Mr. BLAYLOCK. Weakened and ineffective they represent their own organizational views and not the needs of their people.

Senator STENNIS. Can't they do much of what you seek to do for the serviceman?

Mr. BLAYLOCK. They could if they would.

Senator STENNIS. What additional services can you realistically offer?

Mr. BLAYLOCK. Personal representation and unencumbered representation lobbying.

Senator STENNIS. Effect of actions to block unionization activity. Mr. Blaylock, I presume that your union would not intentionally violate Federal law and continue to organize if the Congress passed a statute outlawing such activity, is that correct?

Mr. BLAYLOCK. If the act is constitutionally sound we will abide by it.

Senator STENNIS. What if Secretary Brown promulgates a directive, as he has announced that he will do, which restricts the rights of unions on military bases, prohibits commands from bargaining, and in certain respects prohibits military members from joining your union. Considering that such a directive does not operate directly against your union, and contains no penalties against a union, would you continue your organizing efforts?

Mr. BLAYLOCK. This organization has always abided by regulation of proper authority and will continue to do so.

Senator STENNIS. Would you seek ways around the directive and try to apply pressure to those commanders who seemed most susceptible to it?

Mr. BLAYLOCK. We may attempt to get the regulation changed.

Senator STENNIS. In other words, Mr. Blaylock, wouldn't you consider a law which prohibited union organizing activities and containing criminal penalties applicable to the union and its leadership to be more of a deterrent than a directive aimed at DOD personnel only?

Mr. BLAYLOCK. No. I feel that you are overreacting and focusing on the wrong issue. I think you would be well advised to focus on the reasons for which military members want to organize.

Senator STENNIS. Relation to all-volunteer force. Mr. Blaylock, in your prepared remarks you put great stress as a reason for unionization on the advent of the all-volunteer force and its alleged effect of turning military service into a "job." If we were to have a draft again, as some think we might, would that

mean that the justification for union organization would be correspondingly diminished?

Mr. BLAYLOCK. The only problem that would be solved is the serious manpower problem.

Chairman STENNIS. All right gentlemen. We also have other witnesses here today.

Gentlemen, I am going to ask all of you to come up here to the table. We have to condense things some. Time has run out. I am going to have to leave before long. I am subject to call from now on and I want to hear from all of you. Mr. Sweeney and Mr. Goldstein.

First, gentlemen, I want to thank you for the committee for responding to our interests and coming here to testify. You have prepared statements in advance which is always helpful and I am going to call on you now to present your statements and any other points or ideas that you may wish. This is an open session and it is really for the witnesses. It is your day in court so to speak for your ideas so proceed now in your own way as we have some questions later.

For the record, state your name please, and the association you represent.

STATEMENT OF VINCENT J. PATERNO, PRESIDENT OF THE ASSOCIATION OF CIVILIAN TECHNICIANS

Mr. PATERNO. My name is Vincent J. Paterno. I am president of the Association of Civilian Technicians. I have with me Mr. John Hunger, executive vice president.

Chairman STENNIS. Proceed.

Mr. PATERNO. I think my biography will show my military experience and background.

Chairman STENNIS. You might mention that though. We will put the biographical sketch in the record at this point.

[The biographical sketch follows:]

BIOGRAPHY OF VINCENT J. PATERNO

Vincent J. Paterno, CW–4 (Reserves Retired List). Graduate of Long Island University, B.A., 1949. Service as a National Guard civilian employee from 1950 to 1970 and from 1970 to 1973 on leave of absence without pay.

My military service dates December 29, 1942 to August 1974 when physical status required my involuntary resignation. Last rank held was Chief Warrant Officer Grade 4 and I am still carried on the U.S. Army Reserve Retired list.

I presently receive no pensions from either my military or civilian status and will not be eligible until age 60 and 62 respectively, provided that in each instance I live that long. There are no survivor benefits.

My present position is that of National President of the Association of Civilian Technicians, an employee organization representing those employees who work for the National Guard as civilians. The vast majority are also members of the Reserve forces.

The organization was founded by myself and twelve other National Guard employees in 1960. I have been the only President and am elected by individual mail ballot from the membership.

I was born on October 18, 1923 in Brooklyn, N.Y. I am married to Phyllis Paterno and am the father of three children, the youngest being nineteen. I reside at 1509 Auburn Avenue, Rockville, Md. and have resided in the Metropolitan Washington, D.C. area since 1970, having moved there from Syracuse, N.Y., where I had lived since 1952.

My civilian experience other than as Association President was mainly in the National Guard where I have served as an administrative assistant, now known as AST, a supply clerk, a field auditor, and an Army and Air examiner.

Much of this time from 1952 until 1970 was devoted to traveling extensively in inspecting the supply and accounting records of Army and Air units of the National Guard.

My military experience has been varied as I have served as a basic soldier, a radio repairman, military policeman, personnel sergeant, communications officer, cryptographic technician, signal supply officer, acting Battalion S–4, assistant to Brigade S–4, Battalion supply officer and varied other individual assignments that have given me contacts from State and Divisional levels down to platoon and sections.

I have also been a member of the National Guard Assn., the New York State Militia Assn., and the Society of Federal Labor Relations Professionals.

Chairman STENNIS. Make reference to your military experience. I would like to know it. I don't have the biographical sketch here.

Mr. PATERNO. I am on the retired reserve list of Chief–4. I am a graduate of Long Island University in 1949. I served as a National Guard employee from 1950 to 1970 actively and from 1970 to 1973 on leave of absence without pay. My military services dates from December 29, 1942 with some interruption up until August of 1974 when I had to leave the National Guard because I had had a heart attack and I was no longer capable of sustaining membership.

Chairman STENNIS. That is a commendable record.

Mr. PATERNO. I presently receive no pensions from military or civilian source and will not receive them until age 60 and 62 respectively.

I come before you with no little experience in either military or employee associate activity. I would estimate that my credentials are, in fact, unique having participated for a major portion of my adult life in the representation of employees and in military and militia activity. The vast majority of our membership have the requirement to live within a militia and civilian society and to accommodate each to the other in what we conclude has been an environment that has produced more effectively than most realize and less than it is capable of, if proper representation were available.

At the outset I should state that while our organization has unanimously approved an affiliate organization entitled the Association of Guard and Reserves we have not in any large scale effort attempted an organizing effort. We have recognized that associate rights that should become available to the military are going to be subject to rules of procedure that are not readily adaptable to current American private sector rules and procedures.

We start with the basic assumption that command relationships within the tactical area must be maintained and that representation would mainly be interested in a cumulative legislative voice that derives from the peer group in a noncommand dominated association. We can see the possibility of representative protection against administrative actions that deprive a military member who deserves fair and equitable treatment in a fashion that will not disrupt military functions but only serve to enlighten higher command of problems that are hindering both equitable treatment and efficient operation.

It is my thinking that an organization to represent military members should be started in an environment, such as we have today, where political dissidents will not be establishing an organization to foster antimilitary feelings. Rather, if a group with no previous

history of political response except as pertains to benefits, and appropriate treatment, were to offer peer group representation and a voice to protect the security of their careers and mutual interest, it could be healthy.

I can certainly agree with prohibitions against strikes and job actions but I think that the Department of Defense must arrange to hear the responsible complaints in a fairly arranged circumstance. I am not certain that the shop steward arrangement would be at all workable but that spokesmen could be arranged for at headquarters levels to present group or individual complaints in reasonable terms and without disruption of military training or necessities.

It is my belief that rational people do exist and that many of the ills that cost the retention of valuable military members become a matter of fact, not reversible, because the problems had not been displayed.

For the first 10 years of our organization we existed under no set of bargaining laws or Executive orders and were able to put together an organization that did successfully represent National Guard employees. When conversations started and communications were established we were capable of a degree of representation and in accommodating change that was healthy for both the militia and the employee.

This can happen in the military but the sense must exist that the peer group itself chooses its spokesmen. Too, we should consider not restricting these organizations by rank or they will become hostile each to the other, and the results less than desirable.

It is my intention herein to develop a thesis that a modern military force needs a voice and that the voice must have developed, or be capable of developing, a reputation that will insure that its members do not feel that it is not working for them.

As we approach the realities of pay, pension, and benefit reevaluations it is essential that the servicemen gain spokesmen in the planning phases and in the ultimate legislative actions.

I know that many in the military, and some in the Congress, feel that the draft must return to maintain sufficient forces. It is my feeling that, unless there is a valid need in terms of a near hostile engagement, the American people will not abide in and that our now quiet school system would again rebel.

One of the answers to a viable continuing volunteer force might be the availability of an associate voice.

The many conflicts that seem so apparent are not real. "Shop stewards in foxholes" and that sort of statement are cheap shots. The right to associate and petition your Government is not.

We have been relatively inactive despite the fact that our affiliate has been formed because we have been waiting for these hearings and for the administration response.

I suggest that the real questions are how to allow association and maintain a military command relationship. I further suggest that it can be done and it can be healthy.

I know that when we started our own organization in 1960, despite the fact that we were civilian employees, many of the same questions were raised. It is now 17 years that we have coexisted and while there have been disputes we have had a communicative relationship.

No manager or commander wants to have to deal with a third party but at least some have found it healthy.

I stand ready to deal constructively in talking with responsible groups on how best to arrange for a n associate relationship that can benefit the military person and the military service.

I feel that those who would legislate against such actions are wrong and that if the matter is not handled rationally a day will come when it will be a problem, law or no law.

The time is coming for the happening. I doubt that ACT will, in its present independent circumstance, be the initiator of any rash circumstance but we would like to be part of a rational beginning under honorable and legal circumstances.

Because of the short notice that I would be appearing, I apologize for the brevity of this presentation but stand at your pleasure to answer whatever questions you may pose to the best of my ability.

Chairman STENNIS. We thank you for your statement. The meaning is clear. Your point is clear.

Without objection I am going to pass over now to our other gentlemen who are here. You gentlemen represent Mr. Fitzsimmons?

Mr. SWEENEY. Yes, sir.

Chairman STENNIS. And you have a prepared statement?

Mr. SWEENEY. Yes, sir.

Chairman STENNIS. We will hear from one or both of you but not both at the same time.

STATEMENT OF DAVID A. SWEENEY, DIRECTOR OF LEGISLATION AND POLITICAL EDUCATION FOR THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS

Mr. SWEENEY. Mr. Chairman and members of the committee, my name is Dave Sweeney, director of legislation and political education for the International Brotherhood of Teamsters. I have with me our legislative counsel Bartley O'Hara. I am appearing on behalf of General President Frank E. Fitzsimmons who is unable to be with you today.

Our views on the issue are contained in a press release dated December 17, 1976, where General President Fitzsimmons stated:

> Aside from the debate on whether members of the armed forces should or should not be union members, we view such organization as very impracticable from traditional union posture.
>
> Therefore, it can be written as absolute fact that the Teamsters will not be conducting organizing campaigns to bring members of the Armed Forces into our union, now or in the future.

Thus, we believe trade unions as we know them are not a practical means for resolving personnel problems in the military.

Beyond that, however, we would urge the Congress to study the factors which brought this matter to public attention.

Clearly, there are members of the Armed Forces who do have grievances that need resolution. A study of such problems would indicate a pattern in which correction is needed in terms of policy.

We suggest that accountability would be a good starting point. To whom does the individual bring a legitimate grievance? Be-

yond that, how can the faults of overzealous recruiting practices be overcome.

Such problems, in our opinion, cannot be resolved simply by legislatively prohibiting unionization of the Armed Forces. Anti-union legislation would leave the grievance still alive.

As to affirmative resolution of personnel policy in the Armed Forces, we believe the issue was stated best by Mr. David Cortright in a recent study on unions and the Armed Forces.

> In reality the issue is much more complex and ambiguous than portrayed. Military effectiveness per se may be only a minor factor. Much more significant in the long run are the larger political issues of civilian control and democratic accountability.

We believe Mr. Cortright brings the proper focus to the discussion, although we disagree with his means of achieving accountability in the military, that is, unionization.

Grievances are the core of the issue, and should not be overlooked. A fair system needs to be created so that the serious complaints of members of the armed services can be aired and dealt with constructively.

We would suggest Congress establish, in a very broad sense, an overall, equitable personnel policy for members of the Armed Forces with the aim of plowing under the weeds of military dissatisfaction.

In summary, Mr. Chairman, I think that in very short and concise terms collective bargaining as we understand it in this country is a very impractical and very possibly unworkable way of solving the problems that do exist in the armed services. Our organization which you may or may not know is very possibly the most successful organizing labor organization in the country and we know from experience what can and what cannot be done. We see organizing the armed services in traditional trade union fashion just very very impracticable and almost unworkable.

Thank you Mr. Chairman.

Chairman STENNIS. What was the last you said?

Mr. SWEENEY. What I said, Senator, was that we find organizing the armed services in traditional industrial relations or collective bargaining fashion very very impractical and very possibly almost unworkable.

Chairman STENNIS. All right. Well, that is clear cut and that is valuable testimony on that side. I think that is about the way I see it but now here in the last sentence you say,

> We would suggest Congress establish in a very broad sense, an overall equitable personnel policy for members of the Armed Forces with the aim of plowing under the weeds of military dissatisfaction.

We know that is made in good faith very much from your minds and heart. Would that be inside the military or outside the military or would you comment on that more?

Mr. SWEENEY. Mr. Chairman. I feel as a trade unionist that I think any time you have a group of people you are going to have problems. You are going to have dissatisfaction. It would seem to me that if Congress in its wisdom could address itself to the problems and to the dissatisfaction that quite obviously is taking place in some of our Armed Forces, then very possibly we would not be here having these hearings. It just seems to us that we have to address ourselves to the problem.

Not having any experience in organizing members of the Armed Forces we simply are not in a position to dictate to the Congress or suggest to the Congress on how they should proceed; but we are simply saying for the record that there are quite obviously problems in the Armed Forces; and the Congress should be cognizant of those problems and try to set up or establish a system that will address itself to the resolution of the problems.

Chairman STENNIS. In my contacts with military organizations, non-commissioned officers and commissioned officers, when I have a chance I try to emphasize the responsibility of these men, say the sergeant to the private, or the captain to the lieutenant within the military organization, to hear the men, hear the grievances, make adjustments where they think they should and can be made and instill into these men a confidence that they do have a forum, they do have a place to which they can go, so to speak. But I know that is the intent of the better military commander be it a large unit or a small unit.

Of course, success varies with the individuals involved, but are you saying then that you think it is not filling its full mission, the present setup, the officers, not reaching the men enough? Would you comment on that?

Mr. SWEENEY. Senator, again, we are not an expert in the Armed Forces.

Chairman STENNIS. You talk a lot of sense though, go ahead.

Mr. SWEENEY. We have no experience in organizing members of the military. It is just simply the position of our international union. From experience, if nothing else, where you have a large number of people you are going to have some problems. You have some very very competent witnesses here this morning with long, long experience in dealing with employees of the Federal Government. I think that it is just incumbent upon the Congress to insist that the leaders, the admirals, if you will, communicate some way, somehow with members of their particular Armed Forces and try to address themselves to the resolution of the problems because quite obviously the Members of the U.S. Senate don't off the top of their head introduce pieces of legislation to prohibit organizing members of the Armed Forces unless they feel there is a need.

Ten thousand people don't make application to AFGE or any other labor organization unless those people feel wronged or unless there are some grievances. It just seems a matter of common sense that apparently the Department of Defense or the Army, Navy, Marine Corps and the Air Force still have some problems out there. If we are going to have competent efficient military organization—it just stands to reason a happy organization is much more competent and much more efficient.

So quite obviously there are some problems and there has to be a resolution of the problems and it is the opinion of our organization that traditional trade union practices as we know and understand them are not necessarily the solution to the problem.

Chairman STENNIS. It does not fit in, I see your point.

Let me ask Mr. Paterno to address himself to the very point here that I have raised with Mr. Sweeney.

Mr. PATERNO. We have a specific relationship—the fact that our membership are both guardsmen, reservists, and employees of the Federal Government. But two matters do come into conflict. Recent Supreme Court decision—*Dunlop* v. *Tennessee*—where a man failed to be reenlisted for no reason, had done no ill and thereby no longer had a job, without hearing of any sort, places a burden upon us having a system that does probably respond to individuals who are employed as technicians.

We further find that the military channel itself needs a separate address. In other words, we don't feel that as an employee organization within the civilian environment among the technicians that we should address the military problem, that this should be addressed by a military organization. Obviously, we have only one person embodied in the situation who is also an active representative in the country, the technician. We could attempt to do this through our own organization. However, we are existing under an Executive order that pertains to civilian employees and under a set of rules that pertain to civilian employees.

What we would like is to have an organization that represents guardsmen and technicians and interestingly enough we have had quite a bit of response from active duty people, although we invited none whatsoever, that this would allow them to feel someone is representing them who is not command dominated. I myself have been a delegate to two conventions of the National Guard Association.

On one occasion, I took the floor, when General Greenlief was on the platform making an address and the microphone was available to ask questions. It just so happened the commanding general of my State did not like what I said and he came back and said, "In our delegation you only go up and take the microphone when I say you can." I don't consider this a very democratic type of organization nor responsive type. Nor was I elected as a delegate. I was chosen as a delegate. This was in the nicer days of our relationship as an employee organization but something had come up that General Greenlief said that I disagreed with.

The Reserve Officers' Association is a very fine organization for its own purpose, but it does not present to the average military person a peer group type of representation. So I think we have to have this. There has to be an outlet. Whether you can actually bring the shop steward down into a unit level—I would think you would be creating some kind of difficulty in a tactical training operation. I have spent most of my time in tactical units—artillery, signal—but I do feel that communication can be established and perhaps some sort of ombudsman operation.

I think if we are going to have a healthy voluntary military that they have to have the capacity of forming an organization that they consider their own, that it should have a method of addressing its problems to commands at the Pentagon, of coming to the Congress, and it should be done by people who have the experience within the military framework to do it properly. But they have to have the confidence to elect these people as their people. They don't have the confidence if the general speaks for them.

Chairman STENNIS. Thank you very much. You gentlemen are getting to the nub of things. Senator Thurmond, may I call on you?

Senator THURMOND. Mr. Sweeney, I might take you first. I want to thank you for your appearance here and commend you for your statement. Mr. Sweeney, the press release of December 17, 1976, which you referred to in your statement, further reads and I quote, "In fact, I personally believe that unionization of the Armed Forces would be neither desirable nor feasible." I am very pleased that you have taken this statement. There is no quibbling. It is a direct statement. Now, in your statement you say and I quote, "Thus we believe trade unions as we know them are not a practical means for resolving personnel problems in the military."

I want to commend you for that statement. Now I agree with you that some of this desire for unions has come from grievances and some from an erosion of benefits and I do think that the Congress and members of the Armed Forces Committees have got to study these matters because the military man is subject to call 24 hours a day. He is subject to be sent to any part of the world. His family is sent to various countries of the world, in one place one year and the next year they are somewhere else.

It sends them around a lot and they deserve consideration. I have tried to recognize that and that is the reason I have favored the fringe benefits for the military such as paying clerks in commissaries and PX for the military and other fringe benefits. I guess that is what you have in mind, somewhat, to recognize these grievances and the suggestion that we have an equitable personnel policy, I presume, is it not?

Mr. SWEENEY. Yes, sir.

Senator THURMOND. I want to thank you for your appearance here and commend you for your statement today.

Mr. SWEENEY. Thank you.

Senator THURMOND. Mr. Paterno, I have a few questions here I would like to propound to you.

Mr. Paterno, who composes your union? I will make my questions brief and you make your answers as brief as you can.

Mr. PATERNO. Our union is composed purely of these people who work as technicians for the Reserve components.

Senator THURMOND. How many civilian members do you now have?

Mr. PATERNO. We represent about 10,000. About 6,000 of these voluntarily pay dues.

Senator THURMOND. Of these members are any of them active duty military people?

Mr. PATERNO. No.

Senator THURMOND. They are all Reserve?

Mr. PATERNO. Yes.

Senator THURMOND. I note you do not refer in your statement to your association being a union. Would you comment on that for me?

Mr. PATERNO. I think we are dealing with semantics here. I think if you are talking about the military unions in Europe—you are not talking about unions in an American concept unless you are talking about the ones in Scandinavia that have collective bargaining rights. The union that we are talking about in Germany and in Holland are unions certainly not in any American concept. They are associations that represent these groups before the government and before the

military. And in my statement I state that I don't think that what we have here yet achieved, even discussed and that we should not legislate, what would the ground rules be. What could we do to give the military persons some degree of feeling that he had a peer group spokesman, that he has some method of resolving grievances, some person speaking before the Congress and going to the Pentagon who was speaking for him. Not someone designated by command. In my vast experience I can state I have seen sergeant majors selected—and this is supposed to be an enlisted spokesman for battalion or higher command level—picked on how well their shoes were polished and how well they brewed a pot of coffee for the commander. This does not make for good enlisted relationships. Supposedly this sergeant major is the enlisted staff adviser for all the people on the staff.

The military men have a great fear because of the arbitrary actions that can be taken against them. I know. I myself operated in a very hazardous situation for about 10 years while we were forming our organization. But we did exist. We did communicate. I operate now under an Executive order that permits collective bargaining because that is what the Government designed in 1970. We became Federal employees in 1969. I think we need something different in the military but I think we need something that represents the peer groups and represents them responsibly. I am not saying the Veterans of Foreign Wars, the American Legion, some of the other organizations do not do a fine job within their respective areas but I don't believe the average American soldier, sailor, or marine feels he has an organization speaking for him at the moment. Some organizations are very interested in selling insurance and doing things like that.

We for instance don't sell any insurance but we would be interested in being a valuable spokesman. I have testified before you on the technician legislation in 1967 and I think I did a responsible job at that time.

Senator THURMOND. Mr. Paterno, do you represent your members in problems they have with their commanders when serving during military drills or annual training?

Mr. PATERNO. Sometimes they are not completely separable. I will give you an instance. We were representing a black in an equal opportunity complaint. At the time that the hearing was to be held before the Civil Service Commission his enlistment came up, his reenlistment, and they refused to reenlist him. We asked them to extend the reenlistment of the individual for 1 year pending the result of the equal opportunity hearing. They refused and it ended up with one of our union spokesmen being demoted one rank because he had attempted to talk about this action through the commander.

We have these situations that develop and I would like to see an alternate way of handling them. We, in fact, in our affiliate operation have designed a complete independent set of officers and everything else and a set of bylaws that does not derive from the bargaining process.

Senator THURMOND. Is there any other way that you care to give an example, of how you represent your members in their civilian capacity?

Mr. PATERNO. Well, the fact that they have to maintain certain military ranks in order to hold their jobs provides a constant conflict.

The fact that they have to be reenlisted to hold their jobs provides a constant conflict. We happily have not had too much of this but we have had enough instances of it where we cannot completely divorce ourselves from exploring both areas because of the duplicity of membership both being enlisted or officer and civilian employee.

Senator THURMOND. I want to ask you this question: Does your union support the right to strike?

Mr. PATERNO. We don't have a position on it per se because we have never had any strike. We are not affiliated with any other organization. We have no experience. There is a law against it in the United States. We have not had a question evolve as to whether we would strike. I don't think we would want to break the law. We have no history of having broken the law. We have exercised the administrative capabilities to the maximum degree available. The hearings, the various processes. But we have not had any job actions of any sort in 17 years.

Senator THURMOND. Have any members of your group ever practiced sickouts or walkouts or anything of that kind?

Mr. PATERNO. No.

Senator THURMOND. Or failed to respond to call of duty?

Mr. PATERNO. No. We have had a number of instances where a problem did arise of this nature. For instance when we were called out as Guardsmen in the postal strike.

Senator THURMOND Are you an affiliate of AFGE or in any way connected?

Mr. PATERNO. We are an affiliate of no organization whatsoever. We are completely an independent organization. We always have been.

Senator THURMOND. You don't do any collective bargaining?

Mr. PATERNO. Yes; we do within the terms of the civilian relationship and under the Executive order. This did not begin until 1970 when the collective bargaining arrangement was put in by the amendments that President Nixon made in the Executive order.

Senator THURMOND. In other words, you do negotiate in collective bargaining?

Mr. PATERNO. On the technicians side. Not on military issues. I would say this collective bargaining is very limited. It does not go into pay. Most of the Federal collective bargaining is a very limited scope bargaining because most of the practice of the civilian employees is controlled by law, 40-hour weeks, 8-hour days. You are dealing with minimal bargaining at best.

Senator THURMOND. Do you feel it is necessary for the civilians to negotiate and bargain collectively?

Mr. PATERNO. I think it is a reality that is going to come. I don't know of another answer. I think that the whole society of public employees is such now that it is what is happening. It is where it is at and I don't think you could establish a set of laws that would stop it from happening. I don't think this has been successful in the States that have attempted it. We came into this late in the game in 1970.

We have lived within only the Federal framework and only that of the Executive order so I am not qualified to——

Senator THURMOND. If you had a union it would necessarily follow that you would expect to negotiate and bargain collectively, wouldn't it, for the military?

Mr. PATERNO. The Executive order for Federal employees established this ground work. Whether or not this could be done under the military I don't know. I have some open questions. If it could be done, on what level it could be done, how it could be done. Actually Congress establishes the pay. The Congress establishes the leave. Congress establishes all the military benefits system by law. What would be left for the collective bargaining process, if one developed, would purely be possibly a grievance system in some limited scope areas.

Unless the Congress of its own willingness changed the laws that controlled the pay structure and the Uniform Code of Military Justice no amount of collective bargaining can do this. The collective bargaining even if there were any, regardless of what previous witnesses may have said, would be limited in scope and I don't think anyone should go out and organize the military on the premise they are going to produce miracles for them.

The best they can produce for them is a voice. This is the best we can produce for Federal employees themselves.

Senator THURMOND. If military unions should be allowed would the main effort of your group be to sign up Guard and reserve members as opposed to active duty members?

Mr. PATERNO. This was the intention. This is what our limited bylaws say and by the way our bylaws are copied almost exclusively from the Enlisted Men's Association which is an affiliate of the National Guard Association, for that organization. However, we have had a number of requests come in from active duty people having read about us. We have not done much in the field of public relations although we have mentioned and when we heard there were going to be hearings and when you introduced your legislation we decided rather than take any type of action we would want to see what was going to happen before we moved.

We are not in the business of breaking laws. Possibly trying to affect them but we are not in the business of breaking laws.

Senator THURMOND. Could you tell us approximately how many requests you received from active duty people to join your union?

Mr. PATERNO. I would say under 100. Some from overseas. They read the Army Times or something like this. They hear about something and they respond. They have sent checks in. None of them have been cashed. We have put no moneys in despite the fact we have been authorized to do this for 1½ years, we have collected no moneys.

I felt that since there was a possibility that the law could be passed that would put us in an untenable position that we did not want to make any financial gains. By the way our annual dues structure as established is a limited one, $10 which would not allow any great amount of shop steward representation. It would be a beginning but the people themselves have to decide what they want in the way of representation.

Senator THURMOND. I believe you stated you needed collective bargaining to represent the civilians?

Mr. PATERNO. This is the only way we exist.

Senator THURMOND. How would you distinguish from the military? Do you need it for the military too?

Mr. PATERNO. Let me go back. When we began in 1960 we had no bargaining rights. Thirteen of us sat down and started an organiza-

tion. The National Guard organization had no status in life. We had no pension, no retirement. You remember some of this and we were the only organization in being. In 1969 when we became Federal employees all of the unions that were in the business suddenly shot into the thing and began organizing. We had to live under the same rules that existed for all other Federal employees. We did become expert in them and I think use them about as well as anyone uses them within responsible areas but we use them because that is the system that is there and legally desired.

Senator THURMOND. Do you have anything else you would like to say, Mr. Paterno?

Mr. PATERNO. I just would like to state that I feel that the civilian technician program has worked very well and it can work, it can continue to work well. I think this attempt to militarize it is a sad one. I think what we have here—the technician is a very responsive part of the community and identifies well with other guardsmen and reservists because he is a civilian and does respond to his military needs in the same terms and obligations as the rest of us.

Senator THURMOND. I wish to thank you gentlemen for your appearances here. Mr. Chairman, I have a number of articles that I would ask unanimous consent be put in the record and I don't think it is necessary to list each one, the name of the article and date unless you want me to.

Chairman STENNIS. All right. You have them there. Without objection those articles will be put in the record at this point.

[The articles referred to follow:]

[From the *Chicago Tribune*, July 17, 1977]

THE U.S. ARMY (AFL-CIO?)

There is a sense of unreality as we listen to the debate over whether the Constitution permits the armed forces to be unionized. The framers of the Constitution could never in their wildest dreams have imagined a unionized army or navy.

But experience has taught us that what may seem unreal at one moment can become very real the next, and military unions already exist in six northern European countries. In Sweden there is full collective bargaining including the right to strike [maybe Sweden can afford this; it has managed to keep out of every wars since 1814]. The Dutch draftees' union has fought for such "reforms" as the elimination of inspections and of compulsory saluting.

And so we're glad to see that the Senate is taking seriously the efforts of the American Federation of Government Employees, an affiliate of the AFL-CIO, to organize the Army, Navy, and Air Force. The union says that the government has become "insensitive" to the needs of servicemen.

It's a little hard to imagine a drill sergeant or boatswain's mate whining about insensitivity; but insensitivity is a fashionable charge these days and maybe it's the sergeants and the bos'ns who are being insensitive to the needs of the raw recruits. It may also be that some insensitive recruiting officers give an unduly glowing account of life in uniform; but if this were a serious problem there would be a greater clamor than there is to get out of uniform. Instead, the volunteer services are holding their own tolerably well. And the old disciplines have been crumbling—faster, we sometimes think, than they should.

The union bases its campaign on the Constitutional right of free association; its opponents cite the Constitutional provision empowering Congress "to make rules for the government of the land and naval forces," and the Supreme Court has generally agreed that the armed services are a "specialized society separate from the civilian society."

Before some legal eagle points out that the air force is omitted from the provision just quoted, Congress should recognize that this is a matter it is going to

have to cope with anyway, Constitution or no. One bill, sponsored by Sen. Thurmond of South Carolina and 39 other Senators, would prohibit labor unions from soliciting or enrolling servicemen. Another, backed by Senator Stennis of Mississippi, long chairman of the Armed Services Committee, would include a provision prohibiting servicemen from belonging to a union.

The Thurmond bill has almost enough backers already to carry the Senate; it is preferable, in our opinion, because it would achieve its purpose without inviting confusion over what organizations a serviceman may or may not join.

The pressure to unionize, after all, is coming primarily from the union, not from the servicemen. It is one more thrust in organized labor's effort to overcome its inertia in the private sector by signing up government workers.

We're solemnly assured that there is no intent to shut down the government by a strike or to change the law against strikes by Federal employees. But we've heard similar assurances in the state and local arenas, and the number of strikes seems to grow with unionization. Some postal unions have even defied the Federal law by striking.

So the real question has little to do with servicemen's needs or rights; it is whether a union—especially a national and politically active union—can be allowed to intervene between the generals and the troops, or can be given what might prove a decisive voice in whether our troops obey orders, whether a naval vessel sails as scheduled, or whether a missile is launced. We count on Congress to make it clear, in one form or another, that the answer is no.

[From United States Army Association: The Union Doesn't Suit; Fact Sheet, May 7, 1976]

Among the most timely resolutions approved during the 1975 Association of the United Army Annual Meeting was the following:

UNIONIZATION OF THE MILITARY

"The American Federation of Government Employees, a union affiliated with the AFL–CIO, has announced that it is considering plans to organize and unionize the men and women of the Armed Forces.

"Since there exists now legal prohibitions against a union engaging in traditional contract bargaining and grievance processing for servicemen, the union envisions initially a limited role on behalf of servicemen—beginning with representation in disciplinary proceedngs and other military hearings where outside counsel is currently authorized. Once established, it seems clear that the union would commence lobbying to remove the bars to complete collective bargaining.

"The training and discipline of Armed Forces is predicated on the essential requirement for immediate response to orders in combat. There can be no room for bargaining or negotiation in the critical moments of battle.

"Even more basic is the further effort to equate service in the Armed Forces as just another job or means of employment. Military service is a career service that, to function effectively, requires highly motivated, dedicated people. There can be no adequate remuneration for the hardships and dangers to which the military may be subjected. Nor can hourly wage scales be meaningfully applied.

"We therefore resolve to place AUSA in unalterable opposition to any effort to unionize the military personnel of the Armed Forces."

Since this resolution was passed last October, a number of associations and organizations, including the AUSA, which support a strong United States defense posture have studied in detail the impact of unionization on U.S. military forces. The matter has also received considerable attention from the Department of Defense. This fact sheet summarizes some of the highlights of this research and analysis.

WHY UNIONIZATION WON'T WORK

The security and tranquility of the United States in peace and its defense in war is wholly and unconditionally dependent on the unswerving obedience of each member of the Armed Forces. In other words, the need for discipline, obedience, and undivided loyalty is an absolute military necessity. These precepts would be seriously eroded were military members allowed to join servicemen's unions. The chain of command would be disrupted and discipline undermined.

A union would create the dilemma of divided loyalties—a soldier would have to choose between his officer and union representative. This problem would be even more acute for the officer who was a union member.

Based on past experience, the most likely areas of discontent within the military lie in the areas of compensation and benefits. These are in the final analysis determined by the Congress. There is no difficulty now in presenting the servicemen's point of view to the Congress. No union would be able to coerce the Congress, nor present the servicemen's case better than is currently being done by the services and the various associations which support the military and national defense.

The union attitude of "it's just a job" belies the unique character of military service and undermines esprit de corps and patriotic motivation. There can be no standard, adequate remuneration for the hardships and dangers to which the military may be subjected. Nor can hourly wage scales be meaningfully applied.

The history of unions in the United States has amply demonstrated that they will strike if they think that it is in their best interest, regardless of any existing prohibition in law. To deny a military union the right to strike would be no guarantee of its compliance with the law. Clyde Webber, president of AFGE, has stated that "it doesn't matter if we have a law or we don't have a law. There isn't anything that is going to keep me from asking the Government . . . to give us the right to strike under certain conditions . . ."

Current union statements, therefore, appear to offer a cruel deception by seeming to hold out the hope for improvements in service life through collective bargaining Such bargaining would be illegal if carried beyond the present system of informing the Congress of servicemen's needs and desires, as well as against the best interests of the American people.

Assuming that the union would not be given the right of compulsory membership, substantial friction would surely be created between the union and nonunion members of the Armed Forces.

Union bargaining for wages, etc., would force a sovereign government to negotiate with a private organization (the union). "By definition, collective bargaining suggests a parity of powers which is essential to the bargaining process. In the public section, this parity is non-existent." (Rep. Marjorie S. Holt, R-Md. in Congressional Record (V. 121 No. 113) dated 17 July 1975.)

It is the NCOs who enforce discipline and see that orders are carried out properly. This NCO leadership lies at the heart of a service's performance and reliability, especially in time of war or emergency, and this is why the NCO's are called the backbone of the service. In a real sense, the NCO corps is an integral part of the command and management of each service. Our NCO's understand this and know that their authority depends upon their remaining part of the command and supervisory echelon. Conversely . . . joining a union would clearly dilute, if not destroy, their traditional position of authority. (From Defense Manpower Commission Report, April 1976.)

Membership in military associations provides a viable alternative to unions.

CURRENT LEGAL BARRIERS TO UNIONIZATION

Presidential: Executive Order 11491 bars unions from engaging is contract and grievance negotiations with the armed services (uniformed military personnel).

DOD: Under title 10, USC, 133 (b), the Secretary of Defense is the regular constitutional organ of the President for the administration of the military establishment of the nation; and rules and orders publicly promulgated through him must be received as the acts of the executive, and as such, be binding upon all within the sphere of his legal and constitutional authority.

Under this authority, DOD Directive 1325.6 says; "Commanders are not authorized to recognize or to bargain with a so-called servicemen's union."

Congressional: Article 1, section 8, U.S. Constitution—The Congress shall have power . . . to make rules for the Government and regulation of the land and naval forces . . . to provide for organizing, arming and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States . . . To make all laws which shall be necessary and proper for carrying into execution the foregoing powers . . .

Under this authority, Congress has enacted several laws impacting directly or indirectly on unionization.

18 U.S.C. 1918—Striking against the Government.

18 U.S.C., 2387—Counseling insubordination, disloyalty, mutiny or refusal of duty

18 U.S.C., 2388—Causing or attempting to cause insubordination.

10 US.C., 889 (article 89, UCMJ)—Disrespect toward a superior commissioned officer.

10 U.S.C., 891 (article 91, UCMJ)—Disrespect toward a warrant officer or noncommissioned officer in the execution of his office.

10 U.S.C., 917 (article 117, USMJ)—Provoking speech or gestures.

Supreme Court Cases: ". . . the rights of men in the Armed Forces must perforce be conditioned to meet certain overriding demands of discipline and duty." United States Ex Sel. *Toth v. Quarles*, 350 U.S. 11 (1955). See also: *Orlff* v. *Willoughby*, 345 U.S. 83 (1953); *Parker v. Levy*, 417 US. 733 (1974) which states in part:

> The fundamental necessity for obedience, and the consequent necessity for imposition of discipline, may render permissable with the military that which would be constitutionally impermissible outside it.

This is only a partial listing of cases that take a similar position.

UNIONS DIRECTLY OR INDIRECTLY INVOLVED WITH U.S. ARMED FORCES

Association of civilian technicians (ACT). This union has 8,000 members among the 47,000 civilian technicians who work at National Guard and Reserve armories and bases. ACT has bargaining rights for 10,000 Guard and Reserve technicians in 17 States.

National Maritime Union (NMU). NMU has 55,000 civilian members working mostly on American vessels. "The union has many members working for the Federal Government with the military commands, including the Military Sealift Command and the Corps of Engineers."

American Federation of Government Employees (AFGE): This union has approximately 300,000 members—about half of them civilian employees in DOD. The act is a branch of AFGE. AFGE is currently the largest union representing Federal employees.

MILITARY UNIONS IN EUROPE

Holland: Unions concerned with wages, benefits, do not get involved with military decisions. In national emergencies, union operations can be suspended. Prohibited from striking.

Denmark: Membership in union automatic unless otherwise requested. (All eligible except draftees.) Union primarily concerned with imporvement in pay and working conditions. Cannot interfere with military decisions or chain of command. No right to strike under any circumstances.

Austria: In 1967, a specific servicemen's union was formed. Union authority is restricted to economic and welfare matters. Military decisions outside the purview of unions. During national emergencies, union may not interfere in any matters. GEU (Government employees union) can strike, but the servicemen's union, a part of GEU, cannot. Though not specifically prohibited by Austrian law from striking military personnel have an unwritten, self-imposed rule that they will not strike.

Germany: Union is limited to nonmilitary aspects of service life—concentrates on pay, promotion, recreational facilities, health coverage. Union forbidden by law to strike. Union in Germany is in a unique position since there is still a great fear of the armed forces in Germany, and the union is primiarily concerned with PR work, bettering the image of the serviceman and attracting recruits to serve in this warily-regarded institution.

Norway: Governed by a labor party from 1935 to 1965, the country is highly unionized. Armed forces belong to the BFO union, which is concerned with wages, hours, promotions, housing, retirement, and other social benefits for its members. Union membership is mandatory. No right to strike. No interference with military law. No union control in battle or other national emergencies.

Finland: No information or specifics.

Belgium: No information.

Italy: No information.

France: Military prohibition from union or political activities while on active duty.

CURRENT STATUS OF UNIONIZATION ACTIONS

AFGE, part of the AFL-CIO, has not take any action at present. The question as to whether or not it will attempt to move into the military will be decided at its annual convention, to be held in September, 1976.

On the legislative front, several bills have been introduced to prohibit unionization of the armed forces. They are:

S. 3079 introduced by Senator Strom Thurmond (R) South Carolina

H.R. 12526 introduced by Representative Floyd Spence (R) South Carolina

H.R. 12691 introduced by Representative "Sonny" Montgomery (4) Mississippi

The Defense Manpower Commission in its report of April 1976 (page 64) recommends: "Whereas all officers, whether commissioned, warrant, or noncommissioned, are an essential and integral part of command and management, the Secretary of Defense should prepare and publish a regulation throughout the Services that membership in any union by any such officer is expressly prohibited, and that in the event any such officer in violation of such regulation joins a union, charges shall be perferred against him under the Uniform Code of Military Justice to the effect that such officer has committed an offense against good order and discipline. The term "union" should be defined as any organization of any kind, or any agency or employee represetation committee or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, disputes, wages, rates of pay, hours of employment, or conditions of work."

CURRENT ASSOCIATION POSITIONS AGAINST UNIONIZATION

VFW: Unions would interfere with the chain of command, would impair discipline and response to orders.

NAUS: Unions within the military would still be likely to strike even if prohibited by law; also, "benefits provided by Congress in recent years are considered equal to or greater than those that could have been provided by a military union."

AFSA: "Unionization tears at the very heart of Command authority and military discipline."

American Legion: Unions are not needed because "armed forces personnel are adequately represented" by officers, military associations, Congress, etc.

NCOA: Military personnel cannot have divided loyalties between the Government and the unions.

FRA: If all enlisted men belonged to military associations, they would be more effective and get better representation. The associations provide a viable alternative to unions.

Navy League: "It may be that unionization serves other countries well. If so, more power to those countries. But we do not believe it would serve America well, whether we be at peace or at war. Therefore, we urge promptness in having it forbidden by the law of the land."

TROA: "Unions are alien to our defense system. We, and all concerned Americans, must stand firm against them."

CONCLUSION

There can be no question but that unionization of the Armed Forces would present myriad problems detrimental to the operations of those forces. Therefore, both congressional legislation and positive action by the administration is required now to ensure that the needs of the military remain paramount and to foreclose any further actions on the part of the unions. Otherwise, the unionization issue will engender thousands of needless and costly man-hours of study and evaluation by the Department of Defense, the administration and the Congress to a fruitless end. Any potential disruption of the ability of our Armed Forces to respond immediately to the country's needs is unthinkable.

[From the Air Force magazine July 1, 1976]

AFA Position Paper on Unionization of the Military

Any plausible reaction to the military unionization movement must begin with the acknowledgment that unions are a fundamental element in our democratic system, and that organized labor is a major contributor to our defense posture.

Beyond that, the AFL-CIO must be recognized as a potent force in keeping our citizens alert to the threat posed by the Soviet Union and to the resulting need for a strong American military establishment. Indeed, during the past twelve months the Air Force Association has issued three special reports to its leaders, each directly related to the AFL-CIO, and each recommended as a valuable source for remarks in support of AFA objectives.

The first of these reports carried a message from the AFL-CIO Executive Council which called upon the President, the Congress, and the American people to do what must be done to provide for the common defense." We hailed it as "a perceptive and concise analysis of our defense position vis-a-vis the Soviet threat."

The second report was the reprint of an article by Aleksandr Solzhenitsyn, the Nobel Prize-winning Russian author who was exiled from his native country in 1974. The article was entitled "The third World War Has Ended." Author Solzhenitsyn had visited this country under the sponsorship of the AFL-CIO, and his message to America was a breakthrough in obtaining wider recognition of the nature and criticality of the Soviet threat.

Our third report carried excerpts from an article by George Meany, President of the AFL-CIO, which featured an incisive analysis of détente. It strongly supported the theme of our current Statement of Policy.

If, as surveys indicate, there has been a swing in public opinion toward greater recognition of the Soviet threat and greater interest in a larger U.S. defense budget, the AFL-CIO deserves much credit for this important shift in public attitude.

Against this background, it would seem that Mr. Meany and the majority of other labor leaders, plus the rank and file of organized labor, will find it difficult to support the proposal to be considered by the American Federation of Government Employees, an AFL-CIO affiliate, at its convention in September. This proposal would have the AFGE serve as bargaining agent for uniformed military personnel.

Clyde M. Webber, the National President of AFGE, in testimony before the Defense Manpower Commission, reported that "the mutual benefits of bringing military personnel into AFGE" was based on the premise that the pay systems of uniformed military and civilian government employees were linked by statute. AFGE claims to represent more than 390,000 civilian employees in the Department of Defense.

Mr. Webber makes the point that pay scales for both civilian and uniformed government personnel are based on comparability with industry pay scales, and that budgetary considerations of deefnse personnel costs always include both the expenses for civilians and for the uniformed military as a single entity.

Although noting that the original concept of military unionization centered primarily on pay, Mr. Webber told the Commission that "other areas of mutual concern have also come to the fore." He identified several of these areas as "common or similar problems in the pension subsidies of both civilian and military personnel, changes in the health care system for both groups, identification of military and civilian positions in the regular operation of military installations. . . ."

In all of his statements on the subject, Mr. Webber has, in effect, configured military personnel in a peacetime setting, as civil servants in uniform.

Leo Pellerzi, General Counsel of the AFGE, put it more succinctly to *The Wall Street Journal* when he stated, "It is a volunteer Army, and that means people are selecting a military career as a means of livelihood, and not for patriotic reasons. Servicemen today aren't responding to an attack on the country. They want to be paid."

Our initial reaction to this is clear cut. If, as Mr. Pellerzi states, the all-volunteer force is producing people who select military careers merely as a means of livelihood, and "not for patriotic reasons," the nation has only one logical alternative: go back to the draft.

As for Mr. Webber's comparability argument, we have long since noted that the comparability concept is based on the assumption that military and civilian jobs are "comparable" to begin with.

More than a year ago, in a special report to AFA leaders, we commented on this assumption with the question, "Are they?", and added: "Are many civilian employees called upon to uproot their families involuntarily every few years . . .

to endure twenty-four-hour alert duty assignments . . . to work overtime without additional compensation . . . to serve in remote and isolated areas . . . to give up certain freedoms and rights . . . risk injury, personal disability, or death, in battle?"

Proponents of military unionization invariably respond to this with the argument that firemen and policemen are unionized, and even go on strike now and again. While we believe that these jobs, for which we have the greatest respect, can be compared to military service only in relation to hazardous-duty assignments, it behooves us to consider what can happen when firemen and policemen strike.

Adm. John S. McCain, Jr., USN (Ret.), in a recent newsletter published by the Public Service Research Council, describes an incident and poses a question that deserves serious consideration: "During the firemen's strike in Kansas City, Mo., late last year," the Admiral reports, "firefighters from surrounding communities would not cross the so-called 'picket lines' of the striking Kansas City firemen. The situation became so dangerous to the citizens that the National Guard was called in to help quell the raging fires throughout that city. If the military is unionized, this would also mean the National Guard. Would they, under unionization, eschew, as firemen in areas surrounding Kansas City, the moral law of helping a neighbor, and not cross the so-called 'picket lines'?"

When you project a military man's right to strike into a combat situation, you, of course, come up with an impossible situation that turns critics of military unionization into fanatics.

But the leaders of the American Federation of Government Employees have made it clear that they are referring to the peacetime training mode of military people when they talk about unionization—and we are inclined to believe them. We can't believe that union authority could extend into warfare, or that union leaders could sell the idea, or would even try.

The Supreme Court has repeatedly ruled that only the military has the constitutional authority to participate in defense activity. As recently as March of this year, the Court stated (*Greer* v. *Spock*): "One of the very purposes for which the Constitution was ordained and established was to 'provide for the common defense,' and this Court over the years has on countless occasions recognized the special constitutional function of the military in our national life, a function both explicit and indispensable."

It also seems logical to assume that union leaders, at least at the outset, would shy away from supporting the right to strike for unionized military personnel. The specter of a military unit being unable to cross a picket line to save lives, as projected by Admiral McCain, presents another unsalable item for union leaders. On the other hand, the right to strike (or sit-down, stay-home, play-sick maneuvers) is a union's ultimate weapon. This presents something of a dilemma. But it is not the immediate problem.

Assuming wartime duty and the right to strike are eliminated from the equation, how does military unionization stack up?

First, it's worth considering the observation of AFGE's legal counsel, Mr. Pellerzi, that "servicemen today aren't responding to an attack on the country" as part of his justification for unionizing servicemen.

This betrays complete misunderstanding of the training function in military life, and no appreciation of what military readiness really means. You can't separate training from combat that neatly—not without the danger of unnecessarily losing military lives and failing to carry out missions in the process. Again it points to the basic fallacy in the union's argument—that of thinking of military people as civil servants in uniform.

With this as a basic premise, AFGE leaders argue that uniformed military people deserve access to the same rights—through unionization—as those available to civilians who work for the Department of Defense. All this, presumably, as a part of the "democratic process" and supported by the First Amendment.

But the Supreme Court doesn't seem to agree. The Court stated (again in the *Greer* v. *Spock* decision of March 3, 1976): "A military organization is not constructed along democratic lines and military activities cannot be governed by democratic procedures. Military institutions are necessarily far more authoritarian; military decisions cannot be made by vote of the interested participants. . . . The existence of the two systems (military and civilian) (does not) mean that constitutional safeguards, including the Firt Amendment, have no application at all within the military sphere. It only means that the rules must be somewhat different."

In 1974, the Supreme Court enlarged on the latter point (*Parker, Warden, et al.* v. *Levy*) in these words: ". . . while military personnel are not excluded from First Amendment protection, the fundmental necessity for obedience, and the consequent necessity for discipline, may render permissible within the military that which would be constitutionally impermissible outside it."

Indeed, the Supreme Court, in repeated decisions over the last decade, has drawn a clear distinction between military people and civilians. The Court in 1955 (*U.S. ex rel. Toth* v. *Quarles*) had this to say on the subject: "This Court has long recognized that the military is, by necessity, a specialized society separate from civilian society. We have also recognized that the military has, again by necessity, developed laws and traditions of its own during its long history. The differences between the military and civilian communities result from the fact that "it is the primary business of armies and navies to fight or be ready to fight wars should the occasion arise'."

Note the reference to "or be ready to fight wars" in that decision. That's what the military training mission is all about. Anything that might compromise that mission presumbably would not be upheld by the highest tribunal in the land.

Could unionization compromise it?

In 1953 (*Orloff* v. *Willoughby*), the Supreme Court had this to say: " 'An army is not a deliberative body. It is the executive arm. Its law is that of obedience. No question can be left open as to the right to command in the officer, or the duty of obedience in the soldier."

And the Court enlarged on this point in 1954 (*Parker, Warden, et al.* v. *Levy*) in these words: ". . . within the military community there is simply not the same autonomy as there is in the larger civilian community. The military establishment is subject to the control of the civilian Commander in Chief and the civilian departmental heads under him, and its function is to carry out the policies made by those civilian superiors."

What if union policies do not agree with those of the Commander in the field, or with those of the Commander in Chief in the White House, or with the "civilian departmental heads under him"?

The answer, of course, is that military people have no alternative but to fulfill "the duty of obedience in the soldier" or face prosecution under the Uniform Code of Military Justice—a code which the Supreme Court has ruled (*Parker* v. *Levy*, 1974) "cannot be equated to a civilian criminal code."

Military people must not be faced with this dilemma. If they are, something must give—and it could be national security. The stakes are too high for that risk.

In courtroom parlance, the evidence is overwhelmingly *against* military unionization, and adequate statutory provisions seem to exist to prevent it. Thus, in expressing our unalterable opposition to unionization of the military, the Air Force Association calls upon the Arministration to exercise its authority and prohibit it.

[From Retired Officers Magazine: UNIONS ARE ALIEN TO OUR DEFENSE SYSTEM; May 1976]

As readers of this magazine know, Sen. Strom Thurmond (R–S.C.) has introduced S. 3079 which would prohibit the unionziation of military personnel. A similar bill (H.R. 12526) has been introduced in the House by Rep. Floyd Spence (R–S.C.)

We are four square against any effort by unions to organize the armed forces. In a letter from our president, LGen. John W. Carpenter III, USAF–Ret., to each senator and representative, he made it very clear that we fully support the Thurmond and Spence bills. Carpenter said, "Collective bargaining, arbitration and the right to strike must remain alien to the uniformed members of the armed forces. I am sure many union men will agree that the union has no role in the military community."

CONGRESSIONAL RESPONSES

Responses to the general's call for support of the proposed legislation have been of interest. While not all can be reprinted, here are excerpts from some of the more notable letters received to date:

—Sen. Eastland (D-Miss.) : "I am in perfect agreement with the stand taken by TROA in support of this legislation."

—Rep. Bob Wilson (R–Calif.) : "You can be sure that this legislation has my whole-hearted support and I am pleased to know that TROA has thrown its weight behind the Thurmond-Spence Bills."

—Sen. Nunn (D-Ga.) : "Unionization could have an adverse impact upon command and authority . . . such a development could erode our national security."

—Rep. J. P. Johnson (R-Colo.) : "I am against unionization of our armed forces."

—Sen. Church (D-Idaho) : "I appreciate your concern over efforts to unionize the military. I would oppose such a move.

—Rep. Wydler (R-N.Y.) : "I agree that unionization of the armed forces would be totally inappropriate and I will oppose this type activity. I cannot really imagine that the servicemen of this Nation would wish to go on strike."

—Rep. Teague (D-Tex.) : "I am against any form of unionization of military personnel."

—Sen. Domenici (R-N.M.) : "Unionization of our military would be a dangerous national policy and one that must be resisted . . . we cannot have command decisions, especially in war time, subject to collective bargaining negotiations or grievance procedures."

—Rep. Stratton (D-N.Y.) : "I am totally opposed to military unionization . . . I have a very strong interest in our military forces, and I do not see them being strengthened by allowing military personnel to join unions."

—Sen. McClellan (D-Ala) : "I am a co-sponsor of S. 3079 which would prevent unionization . . . I am hopeful it will receive favorable consideration when it reaches the full Senate."

—Rep. Montogomery (D-Miss) : "Unionization of the military would be in complete opposition to the principles on which our armed forces were formed."

—Sen. Helms (R-N.C.) : ". . . Such an idea is absolutely absurd. . . . The security of this nation would be compromised. . . . To unionize the armed services would be a disaster."

—Rep. A. W. Johnson (R-Pa) : "To unionize the military would make the union barons more sovereign than the people, and this would be absolutely intolerable."

Many other Senators and Congressmen have expressed similar views to Gen. Carpenter; however, a disappointing number have hedged with, "You can be sure I will bear your views in mind when the matter comes up for consideration."

Despite the great number of positive congressional views, some tell us unionization is inevitable. That would be a self-fulfilling prophecy only if we together with the Congress and the Administration, allow it.

MUST STAND FIRM

Few men would question that discipline and loyalty are essential to fighting forces. Few doubt that unionization would weaken those qualities in any nation's forces. Despite this, there are both active duty and retired personnel who feel the only recourse to prevent further "erosion of benefits" is to turn to unions.

Problems do arise over our earned service benefits, but there is no doubt in our minds that this republic and its military forces will continue to be far better represented by our elected congressmen than by labor leaders who are not beholden to the American people.

Unions are alien to our defense system. We, and all concerned Americans, must stand firm against them.

[From National Guard Magazine: A Case Against Military Unions, May 1976]

An attempt has been launched to unionize the nation's armed forces—active, National Guard and reserve. Unlike the poorly coordinated effort of a few radicals to form "servicemen's unions" at the height of the Vietnam War, this one is the work of several prosperous, well-established labor organizations which will spare no effort or expense to attain their goal.

The American Federation of Government Employees (AFGE) and the National Maritime Union (NMU) both revealed several months ago that they were considering such a plan. Soon thereafter, the Association of Civilian Technicians (ACT) publicly announced that it would create a new offshoot called the "Asso-

ciation of Guard and Reserve" to start a membership drive in the reserve components. The Teamsters also are reported to be eying thearmed forces as a new source of members.

The AFGE has sad it will seek approval from its membership and from its parent federation, the AFL-CIO, later this year. The unionizing effort appears to be further advanced than such cautious language would indicate, however. Union representatives have appeared at several locations, including Guard installations, to test the waters.

Anyone who believes that "it can't happen here," as some have been quoted as saying, is being unrealistic. It is happening. Department of Defense and the Services have reiterated their directive, that commanders are not authorized to recognize or negotiate with military unions. A few senior Pentagon officials have made public statements in opposition to a unionized military but the official reaction general has been cautious and low-key.

A counter-move has been launched on Capitol Hill. Senator Strom Thurmond (S.C.) and 30 other senators have introduced a bill (S. 3079) which would outlaw military unions. Similar measures (H.R. 12526 and H.R. 12691) have been introduced in the House of Reps. Floyd Spence (S.C.) and G.V. (Sonny) Montgomery (Miss.).

In addition, most veterans organizations and military associations have taken strong stands against unionization, spearheaded by the Fleet Reserve Association with its sizeable membership of Navy enlisted personnel.

Let there be no mistake about the attitude of the National Guard Association of the United States. The idea of military unions is abhorrent to us. We believe their introduction into the armed forces would inevitably lead to practices that would be the very antithesis of good discipline and effective military performance. We believe, as Senator Pete V. Domenici (N.M.) recently declared:

> We cannot have command decisions, especially in war time, subject to collective bargaining, negotiations or grievance procedures.

And we believe that the only way to halt current moves to organize military unions is to prohibit them in law.

The NGAUS Executive Council made its opposition very clear when it adopted an in-house policy statement last January which reads:

> The NGAUS will make every effort to reinforce the present prohibition against recognition for "servicemen's unions," collective bargaining, pay negotiations, grievance procedures, or related labor practices, for any and all components of the Armed Forces. (It will) combat any effort to unionize Army National Guardsmen and Air National Guardsmen in their military capacity.

The final phrase was emphasized because we most assuredly do not oppose unions per se. Thousands of Army and Air Guardsmen belong to unions related to their civilian employment. These include National Guard technicians, who are employees of the federal government working fulltime for the National Guard and concurrently are military members of the Guard. Their union affiliation relates to their federal employee status, however, and not to their military role.

[From Sea Power, April 1976]

CONCERNING UNIONIZATION

". . . and I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; thta I will bear true faith and allegiance to the same: and that I will obey the orders of the President of the United States and the orders of the officers appointed over me, according to regulations and the Uniform Code of Military Justice, so help me God."

An excerpt from the oath taken by an enlistee into the Navy.)

Just last month, Senator Strom Thurmond (R–S.C.) and Representative Floyd Spence (R-S.C.) introduced legislation which would prohibit unionization of the armed services. We applaud their initiative, for it is our belief that action by the Congress to ban unionization is the simplest, most direct way to keep the lid on this potential Pandora's box. And we urge members of both houses to consider such proposed legislation promptly.

We anticipate disagreement with the proposals. There will inevitably be those who will claim that those in uniform will be denied their constitutional rights

if not permitted to unionize. Not being experts on constitutional law, we will not debate such a claim. But we would point out that it should be constitutionally justifiable for the legislative branch of our government to determine that membership by servicemen in organizations having the power to impede actions of constitutionally justified and ordered forces should not be authorized. And there appears little doubt that situations could arise wherein a union by collective action could decide upon a course of action in opposition to that of command, to the detriment of all, including the country.

Americans seem to have an unusual reluctance to accept the fact that a military organization cannot be a democracy in every sense of the word. In this respect we seem to want to have our cake and eat it, too, which is impossible. Sound discipline is the basis for any capable armed service, but sound discipline cannot be achieved by affording one in uniform a right of dissent through a channel other than that prescribed by military law. Further, those who assume the burden of command must have the understanding that their orders will be responded to, and that the response will be a predictable one, not one arrived at through negotiation.

It will be argued—in fact, is being argued now—that Congress and the Defense Department are not adequately looking after the needs of our men and women in uniform. It is true that there has been a steady erosion of prerogatives which the military have become used to over the years, and that this is one of the root causes for discontent among those in uniform. We deplore the loss of benefits, for we believe that to nickle and dime the military to death will in the long run cost the country more in the form of lowered morale and poor retention rates than all the dollar savings projected on the budget balance sheet. And we firmly believe that the Commander in Chief of the Defense Department, and the Congress, have a responsibility to insure the *foundation* for high morale just as a commander in the field must inspire it by sound leadership. In recent years, however, there have been those in both the Executive and Legislative branches whose comments and actions appear to have contributed more to lowering morale than to raising it.

Be that as it may, we do not believe that a union would be more effective than, or even as effective as, those charged by the Constitution with the responsibility for the welfare of the armed services in maintaining and improving upon that welfare. To us it would be far, far better in the long run for an enlightened public to prevail upon their elected representatives, which includes the Commander in Chief, to insure the needs of our servicemen and women are met, rather than having that cause taken up by an organization or organization which would not necessarily represent the American people nor even the majority of those in uniform. However, if the deepening of discontent is to be avoided, we do believe Congress in particular must heed the concerns of those who are seeking to halt the erosion of benefits.

We have been given to understand that the senior leadership of the major labor organizations in the country, and particularly of those involved in maritime activities, do *not* wish to see unionization of the armed services. That is heartening indeed. We would presume, therefore, that they also would concur that legislation forbidding it would be the simplest solution to a potentially thorny problem.

It may be that unionization serves other countries well. If so, more power to those countries. But we do not believe it would serve America well, whether we be at peace or at war. Therefore, we urge promptness in having it forbidden by the law of the land.

DEWITT JAMES GRIFFIN, *President.*

[From the NAUS Newsletter No. 45, July 1976]

IS UNIONIZATION AVOIDABLE?

The thought of unionization of the Armed Forces of the United States is unthinkable to some, alarming to others and brushed aside by most. But such unionization is as inevitable as the next sunrise unless those who have historically protected the interests in people in uniform do not, once again and soon, resume their determinant role.

Service in uniform is an honorable following but the honor devoted must be matched by honor on the part of those who control the lives and welfare of those who serve. Until recent years the serviceman felt no need for "political clout" because, almost invariably, the Commander-in-Chief or the Congress acted in his behalf. Certainly in any debate involving his interests, the Office of the Secretary of Defense stood four-square by his side.

The years of this decade have been marked by a quickening crescendo of attacks on practically every facet of service benefits. Fortunately, many have been blunted but most recently each seeming reassurance of the continuance of a benefit has been followed by a new attack on that benefit from a new, and sometimes surprising, person or office. Curiously, a reason frequently cited for the slash is existence of the "all volunteer" Armed Services, as thought they are any less sensitive or any more manipulative than their predecessors. Or as though the legion of people who served long before an all volunteer force was dreamed of, did not exist.

Another reason for the slashes, say the slashers, is because service people earn "comparable" pay. Did the eight men who perished in BELKNAP receive comparable pay? Or the aviators who have been lost at sea? Or the thousands of men who have been separated from their families for a quarter or more of their married lives?

The carrots of pay, benefits and perquisites held out to a member of the Armed Forces when he is deciding to make military service a career must not be diminished or withdrawn after he has made his commitment. To do so is simply breach of promise and, even more important, makes any subsequent promise flimsy. When it occurs early in a military man's career he has the alternative of leaving the service for a new pursuit; when later in his career, he either prematurely retires and deprives the services of talent they can ill afford to lose, or, embittered, he hangs in there anxiously awaiting the next deprivation. What else can he do today?

To whom should the serviceman complain over the erosion of benefits when he, generally, is a non-voter? Would a letter to his Congressman receive as much consideration as a resident, voting constituent? Should he write to the Office of Management and Budget? What good would that do? Or the Secretary of Defense? Or the Deputy? Or an Assistant Secretary? Not likely. He can complain to his Commanding Officer, where he probably would find a sympathetic ear but also someone as ineffectual as he is getting a grievance redressed. He could talk to his peers and find others who have common complaints, common interests and a common sense of frustration. And since common complaints, common interests and common frustrations have always been the culture media for union movements, he will soon think union.

Let us not delude ourselves that a union of people in uniform would be a benign and passive association content meekly to argue its position and quietly accept an adverse decision. Let us not believe those who cite unionization of foreign armed forces as proof positive that the blandness experienced there would be duplicated here. This volatile, violent, beautiful nation of ours cannot be compared with any country on earth, least of all in the comparative history of unions. The courage, persistence and compelling stature of our great union leaders has made the lot of the American working man the best on earth. But those accomplishments have not been achieved without bloodshed, crippling strikes and vast personal hardships. The idea that a unionization of the Armed Forces would promise, *in extremis*, anything less is ridiculous.

The unionization of various "service" segments of our society—teachers, postal workers, police, firemen, garbage men—occurred at a time when strikes by those segments were unthinkable, not to mention illegal. Yet they occur, and frequently. Our children have lost some education, our streets have become littered and fouled, our mail delayed, and our personal safety threatened. But so far either the government or the union has capitulated or compromised before real disaster occurred. In no case was the overall security of the nation or the fabric of the governmental structure threatened. A strike by the Armed Forces could do both.

The chilling, and perhaps logical, end result of Armed Forces unionization rests not in prospect of a strike by men and women in uniform. Whereas the ultimate weapon of the laboring man and woman is the "strike"—and we should all count our blessings that strikes are permissible under our laws—"strike" is not the ultimate weapon of the Armed Forces. The ultimate is the use by them

against those who oppose them of the ships and tanks and airplanes in their charge. The goon squads, scrabs, threats, lockouts, beatings or even killings available to the opposite sides of a labor management dispute shrink to insignificance when compared to the implements of opposition which could be employed in a strike by the Armed Forces.

There is no intent to invoke scare tactics or Orwellian fantasy in these words. Nor does it infer that the people of the Armed Forces are less than totally loyal and patriotic. But it must be remembered thta whenver the Armed Forces of any nation has usurped power it has been with a conviction, or at least a profession on their part, of a greater patriotism than those they usurped. The voices of the few who now argue for unionization must be quieted by an exhibition on the part of the Commander-in-Chief, the Congress and the Office of the Secretary of Defense that promises made, or inferred, when a man or woman dedicates his working lifetime to the service of his country are not broken during his entire lifetime. They must show that a union is totally unnecessary because they will afford at least as much protection of the individual's interests as a union.

Increasingly cast adrift in the winds of change, the apolitical serviceman has no options, now, except to seek some kind of an arrangement with a nongovernmental organization to protect his near term and long term interest. That arrangement is called "Union"—from a national interest point of view it is also called tragedy.

Rear Admiral THOMAS J. RUDDEN, Jr.,
USN (Ret.).

NAUS Comment: This article is published with permission of Shipmate magazine, U.S. Naval Academy. We invite your comments concerning it.

RESOLUTION OF THE SOUTH CAROLINA GENERAL ASSEMBLY

H. 3784. Introduced by Representative Rudnick, Arrants, Van Osdell, C. Collins, Busbee, McGowan.

A CONCURRENT RESOLUTION

To express the sentiment of the General Assembly that members of the Armed Forces of the United States should not be unionized.

Whereas, the Aiken County Retired Officers' Association has recently brought to the attention of the General Assembly that several national unions may be attempting to organize members of the Armed Forces of the United States; and

Whereas, the long-term implications of members of the armed forces of this country belonging to a union could have adverse affects on the efficiency and fighting ability of our military personnel; and

Whereas, the possibility of strikes by members of our armed forces could leave the United States undefended in a time of military conflict; and

Whereas, the members of the General Assembly are desirous of taking a public stand against unionization of the armed forces of this country; now, therefore, be it

Resolved by the House of Representatives, the Senate concurring, That the members of the General Assembly hereby express their sentiment that members of the Armed Forces of the United States should not belong to a union but should remain nonunionized in order to assure this country of a ready and effective fighting force; be it further

Resolved, That a copy of this resolution be forwarded to each United States Senator from South Carolina and to each Congressman from South Carolina.

State of South Carolina, In the House of Representatives, Columbia, South Carolina, March 24, 1976.

We hereby certify that the foregoing is a true and correct copy of a Resolution passed in the House of Representatives and concurred by the Senate.

REX L. CARTER,
Speaker.
SYLVIA W. ORANGE,
Clerk of the House.

Chairman STENNIS. I have permission to insert additional questions into the record and that means if any member has additional questions for you we will get them to you right away and you can return the answered questions for the record.

Gentlemen, we are all grateful, all of us are for your attention and your interest. You certainly have made worthwhile statements; a real contribution to the record. It will be carefully gone over. You bring back very vividly to me the debates we had here about renewal of the Selective Service Act. The last time we reviewed it for 2 years with the understanding that after 2 years, power of induction by the President would cease to be.

We still have a skeleton organization of the Selective Service Act as you recall but that power to induct is no longer in the law and we are depending on voluntary forces. There has been a real effort to make that system work and I don't want to discourage anyone. But I am concerned about whether or not we are going to be able to make a go of it in a proper way; and, if we are not, there are a lot of people who are going to misunderstand it as you suggested a minute ago.

I don't think you can make it work just with money but certainly they are entitled to a fair compensation and right kind of treatment.

Your testimony has been helpful and we have learned a lot from you. I have a letter here from Mr. Charles H. Morin, dated April 11, 1977, to me as chairman of the committee and I though it would fit right in with the testimony in which he said he would appreciate the opportunity of presenting testimony on behalf of the International Brotherhood of Teamsters. We contacted all of you in the course of things and we appreciate the fact that you appeared.

Without objection that letter will be inserted in the record at this point.

[The letter referred to follows:]

DICKSTEIN, SHAPIRO & MORIN,
Washington, D.C., April 11, 1977.

Hon. JOHN C. STENNIS,
Chairman Senate Armed Services Committee,
Washington, D.C.

DEAR SENATOR STENNIS: I am writing you on behalf of the International Brotherhood of Teamsters in connection with S. 274 and S. 997, which I understand will be the subject of hearings before your Committee sometime late this month.

I should very much appreciate the opportunity of presenting testimony on behalf of the Teamsters Union who support both bills and are unalterably opposed to the unionization of the Armed Forces.

I would hope that the General President of the Union would appear personally before your Committee to present testimony.

Yours very truly,

CHARLES H. MORIN.

Chairman STENNIS. Senator Thurmond, do you have anything more?

Senator THURMOND. That is all, Mr. Chairman, thank you very much.

Chairman STENNIS. Does professional staff have anything else?

Do you gentlemen wish to say anything additionally?

Mr. PATERNO. Just thank you for this opportunity.

Mr. SWEENEY. Thank you very much for the opportunity to appear before the committee.

Chairman STENNIS. All right. With the thanks of the committee and with knowledge you rendered a real public service we bid you adieu and may call you back and may not.

Questions Submitted by Senator John C. Stennis

[Additional questions by Chairman Stennis to Mr. Paterno and Mr. Sweeney are as follows:]

Senator Stennis. Mr. Paterno, for how many years has your union represented dual status technicians in the Reserve and National Guard? What kind of bargaining has taken place? How has the relationship with non-member Reservists and National Guard members worked out?

Have you had occasion to deal with issues related, to military duties, such as uniforms, training schedules, etc.?

Has your union included dual status technicians who were non-coms as well as lower-ranking enlisted personnel? If you expanded your membership to include those not in a dual status, would all grades and ranks be represented by a single union?

Mr. Paterno. Our organization, started in 1960, has represented the dual status civilian employees for seventeen years. Bargaining, limited as it is in the Federal employee area since laws establish wages, annual and sick leave, health and life insurance, disability and pension compensation, reduction-in-force, and required military membership, has been limited to the aspects of day to day working relationships that place the emphasis on civilian employee working conditions in matters pertaining to grievances, equitable working relationships, fair distribution of work, safe working conditions, and the proper application of rules and regulations.

We have attempted to deal with work attire, the wearing of military uniforms during civilian working hours, in the bargaining process, but have limited this to administrative procedures made available through Presidential Executive Order procedures. This issue being brought about by the requirement to identify the civilian identity of the dual status. Because our employee representation is limited to the time periods of their civilian employment when the Uniform Code of Military Justice does not apply and because the jobs are paid and classified under Civil Service procedures this matter assumes an essential role. The technicians are unique, in that many of the duties required of them do not relate to a specific military assignment and that the stability of maintaining the National Guard and Reserve program requires that these employees stay in static assignments in their military organizations. If these employees lose their civilian identity the essential bridge to community and state would be endangered. Their military membership, under the same conditions as all other Guardsmen and Reservists, is essential for them to relate to the program. We have a rational understanding of the necessities of maintaining reserve strength and have not put any pressure on relieving the membership requirement—nor have we attempted to collectively bargain the military training requirements.

I would be less than sincere if I did not point out that frequently both military and civilian careers are limited by ill advised limitations on military promotions and rank and that we have attempted to promote the capacity of our membership to advance to the best capability in each category. Present limitations present morale and other problems that sometimes interfere with the best possible performance.

Our organization at present does not represent employees by military rank and only those who legitimately supervise or manage are excluded by Federal rules.

The military association, call it union if you will, that we have developed an organizational capacity to advance would not be limited by rank since we do not envision a collective bargaining relationship but rather one of consultation in any foreseeable future. I would doubt that the military representation would respond to present labor rules but would have to develop procedures and rules of its own.

As we developed a consultive process with the military the exclusion of certain military personnel might well become essential to determine the avenues of communication. However, problems that exist for career and volunteer personnel are not such that only certain ranks are affected. I further suggest that the organization and the military might be ill served if groups were alienated by separation.

Rules for the future should develop from experience and be the product of that experience. The union experience in military circumstances is extremely limited.

Our membership, for one, seeks a separate method to deal with the problems as they relate to their military membership as against civilian job performance. I believe this illustrates a recognition that two categories exist and cannot be dealt with using the same methodology.

Senator STENNIS. Mr. Paterno, I would like to ask you some of the same questions that they asked Mr. Blaylock, regarding how your repersentation of uniformed military members would operate.

Mr. Paterno, I assume your proposed military union would seek the right to bargain collectively on behalf of military members, is that correct? Would you seek *exclusive* bargaining rights?

What entities would you seek to bargain with? Local commands? Military Services? Department of Defense?

How would you define the scope of bargaining in the military context? Would you bargain over wages? Hours of duty? Saluting? Dress and grooming? Duty assignments? Food and Commissaries? Military training activities? Transfers? Promotions?

Isn't it true that many of the issues that concern service members are not really under the control of local commands? I speak of pay and benefits, retirement and similar issues? How can there be real collective bargaining over such issues with local commanders, or even the Services themselves?

Mr. PATERNO. The assumption that collective bargaining is our aim is not a fact—nor is the exclusive right. I would assume that our immediate aims would be to consult meaningfully with commands at various levels on those conditions, aside from tactical requirements, to display problems that are hurting morale, and provoking grievances.

I would hope to be able to present problems at all levels to the degree that they interfere with fair and proper treatment and to do this with the understanding that retention and efficiency of a volunteer force require a diminishment of arbitrary and capricious treatment.

We could not bargain over wages—they are established by law—but we would seek the right to have input into studies and to gain legislative consideration.

Hours of duty—again not bargainable—would certainly be discussed where morale was being affected without reasonable military cause.

Saluting I do not see as a problem.

Dress and grooming might be if the mode was socially nonadoptable. Men and women in the service require sane sex lives and a degree of personal expression that is not limited without good cause.

It is true that many of the issues that concern service members are not really under local control. In these matters I would like the right to consult and comment at the appropriate managerial and legislative levels.

Collective bargaining as we know it in the American labor scene is not within my view of those covered under the Uniform Code of Military Justice.

But a voice, however it emerges, that persuades a response to legitimate needs and fairness is essential to the well being of an all volunteer force.

Senator STENNIS. Mr. Paterno, do you see a need for the representation of service members outside the chain of command over grievances and complaints arising out of military duties?

Who would perform this representation role if a union became involved? Would they be civilians?

Don't you see a danger of weakening the chain of command as it relates to discipline when a third party intervenes between a commander and his subordinates?

Would an individual service member still be allowed to present his grievance personally, or would he be required to entrust his complaint to a union representative?

Mr. PATERNO. I certainly see the need for representation of service members that can move up the chain of command without undue restriction. Wrongs that can be righted should be.

The representative role would have to be the result of discussion between the DOD and the organization. The use of civilians might result from constraints put upon military members. Since in our own organization representation is largely done by the employees themselves I see this as the desirable path.

I see no danger to the chain of command as it relates to discipline when that chain may be being weakened by some of its links. Representation, of itself, is not intervention. Many more grievances are set aside by the advice of our union representatives, as being frivolous or without cause, than are ever raised. Other

grievances are won or lost on merit and accepted. It does not change or weaken command or supervision.

As I said there is no forseeable bargaining and without such matter being mutually agreed to by both command and association a requirement that only the union could represent an individual is not possible.

Senator STENNIS. Do you see a role for ACT to play in the administration of the Uniform Code of Military Justice? If so, what role do you foresee?

Mr. PATERNO. Our association assumes the right to choice of counsel would remain with the individual and that we might be called upon to represent a member.

I see no further role other than the right ot comment upon the administration of the law or seek legislative change.

Senator STENNIS. Mr. Paterno, do you anticipate types of issues and decisions that your union would *not* seek to become involved in in the military context? What would be the limits of your union's representation?

Let me ask you about some of the following items, and get your thinking as to whether they would fall within the range of command prerogatives, or would be subject to bargaining by the union—duty assignments within a unit? Scheduling of training exercises? Recommendations for promotion? Leave policy? Emergency assignments of personnel outside their specialities?

Mr. PATERNO. We would not seek to involve the Association in tactical or tactical training matters. On matters pertaining to individual or family welfare we would reserve the right to comment.

We would do our best to convince the military at all levels to assign duties fair and equitably. Promote those deserving. Give leave in a fair and just manner.

Today in the federal employee area emergncy assignments outside of their specialties is a regular thing and merely requires that the assignments be noted on their personnel records.

Senator STENNIS. Mr. Paterno, does your union assert the right to strike for your civilian members?

Would it assert the right to strike in any situation for military members? Would you be ready to renounce the right to strike for uniformed servicemen and women? How could a strike be tolerated in a military command given the need for tight discipline and flexible responses of our military forces?

Isn't it true that a strike would currently be a violation of the Uniform Code of Military Justice?

Do you see a role for slowdowns or other job actions short of a strike in the military context?

Would you anticipate that military members of your union might in some circumstances refuse to cross civilian picket lines at the time of a civilian labor dispute?

Mr. PATERNO. We have never had a strike and do not assert the right.

I would be ready to renounce the right to strike and do not foresee the use of such a method for resolving disputes.

The strike would probably be considered mutiny under the Uniform Code of Military Justice and punishable.

We, in seventeen years, have not utilized job actions and do not see a role for them that would gain any sympathy or benefits.

I do not anticipate military members failing to respond to orders and refusing to cross civilian picket lines. We have had no incident in seventeen years of this happening.

Senator STENNIS. Mr. Paterno, some who have advocated unionizing of the military have said the union would suspend its representation of military members in time of war or national emergency. Is it realistic to expect a union organization, with its own developed day-to-day activities and services, to immediately and voluntarily renounce its role?

Do you agree that union activity in a war-time situation would be dangerous?

Mr. PATERNO. The type and level of representation of military members would change in time of war or national emergency but I would anticipate the organization developing a program to protect its members upon cessation of hostilities and to provide a legislative voice for conditions under which they might return.

Because I do not foresee union activity in any tactical or strategic circumstance I can see no danger.

Senator STENNIS. Mr. Paterno, isn't it the case that the interests of uniformed service members and civilian employees of the Department of Defense often are not the same? Don't they often compete for the same scarce budget dollars?

Won't there be cases where your union cannot really represent both civilian and military members, such as in disputes over performance of certain functions by civilian or military personnel?

Isn't so-called "double dipping" an issue that illustrates the conflict? Aren't retired military officers who seek civilian jobs while receiving this retired pay a threat to your civilian members' jobs?

Mr. PATERNO. Because our membership consists 95% of those serving in the reserve forces I can see no conflict.

When these conflicts are embodied in the same person, as in the technician program, I can only see methodology for representing our membership, military or civilian, in a more comprehensive fashion.

Double dipping is not a problem in the reserve structure except at the Pentagon level. While the National Guard Bureau may have some "double dippers" the technician program does not.

I do, however, strongly support the continuance of military leave for federal employees as an added incentive to much needed membership. That "double dipping" presents us no conflict.

As far as other unions are concerned their problems might be different.

Senator STENNIS. Mr. Paterno, isn't it true that there is potential for great danger in expecting a unionized military force to deal adequately with violence in the labor-management sphere? Can we take the risk that a unionized force of Army or National Guard personnel would be reluctant to enforce the law in a union dispute?

How would you dispel the fear that this conflict might arise?

Mr. PATERNO. Military involvement in labor disputes has a long and not too inviting history in the United States. I do not foresee members of my organization failing to respond and enforce the law. We did respond in the Postal Strike.

I see no risk in this area. As an independent organization we suffer no directive due to affiliation.

If a risk evolves it will come from a social response not a union response. I can assure you that the union suffers no problems that would not be equivalently suffered were there no union.

The use of the military in a labor-management environment should only take place when there is a clear identifiable need for public protection.

Senator STENNIS. Mr. Paterno, how do you assess the effectiveness of the current military associations in protecting the interests of current and retired military members? Can't they do much of what you seek to do for the serviceman? What additional services can you realistically offer?

If you should decide to have only an "associate" type of membership for the uniformed members, with lobbying as the main activity, how would such an organization be an improvement over the activities of existing military associations?

Mr. PATERNO. I can assess the effectiveness of current military associations as not adequate to all needed responses. They represent, by and large, senior officers or veterans. They are not democratically organized and have no history of providing other than campaigns to maintain the status quo and increase compensation—mainly in higher ranks.

Many are used by the military as their voices but not as responsive to their membership. Some seem to be more interested in selling insurance than what should be matters of legitimate concern.

Our organization would be democratic. It would sponsor test cases before the courts when such are needed. It would be guided only by its membership and would respond to Congressional purposes in the sense of its membership.

We would seek to be "ombudsman" for our membership and provide more personal service. There is much more to be said and done than is going on.

Our association would be of, by, and for service people.

AUGUST 10, 1977.

Hon. JOHN C. STENNIS,
Chairman, Committee on Armed Services, U.S. Senate,
Washington, D.C.

DEAR CHAIRMAN STENNIS: Thank you for inviting our organization's views on unionization of the military.

The additional questions submitted by you and our answers to them are attached.

If you need any additional assistance please contact our office.

Sincerely,

DAVID A. SWEENEY,
Legislative and Political Director.

Enclosure.

Question. Gentlemen, what is the position of your union on this issue of whether military service members should be unionized?

Answer. As we stated in our testimony before the Committee, we won't organize military; and we will be guided by the wisdom of Congress, on how best to resolve the situation. However, we do not believe the prohibition of unions answers the basic problem—personnel problems within an all-volunteer army.

Question. Why in your view would it be a bad idea to unionize the military?

Answer. Unionization of the military is neither a "good" nor a "bad" idea. It is our opinion that the trade union concept is unworkable as it applies to the military structure.

Question. Mr. Goldstein, can you give us your opinion as to how other labor organizations that do not represent government employees feel about this issue of military unions?

Answer. We have had no occasion to discuss this matter with other Trade Unions.

Question. Have you talked with other labor leaders about it?

Answer. No.

Question. Considering that in a recent poll nearly three-fourths of the American people indicated opposition to the idea of military unions, do you think this possible organizing effort could have a harmful effect on the labor movement generally?

Answer. Again, unless we were familiar with the means by which public reaction was determined, we are unable to comment on this.

Question. Could it erode their public support?

Answer. Again, unless we were familiar with the means by which public reaction was determined, we would be unable to comment on this.

Question. Can you see any other harms to organized labor generally from the push to organize the military?

Answer. Because we believe unionization of the military is neither desirable nor feasible, public reaction may be adverse if it is handled in an irresponsible manner.

Question. Mr. Sweeney, I believe the only unions actively interested in unionizing the military today are organizations, like AFGE, which presently represent civilian employees to the federal government. Can you see the possibilities of conflict of interest between military and civilian members in such representation?

Answer. Yes.

Question. Do you think it is possible to represent both types of members effectively?

Answer. No.

Question. Mr. Sweeney, as you probably know Secretary Brown has announced that he prefers to deal with any threat of unionization in the services through a directive administered by local commanders, and not by legislation. Based on your union's long experience, do you think that kind of measure would be an adequate deterrent to union organization?

Answer. We see neither legislation nor directives as an answer to the overall problem. Rather, we urge the Committee to establish a system in which an individual can have his—or her—concerns resolved fairly.

Put another way, unionization versus non-unionization is not the real issue.

Question. Recognizing that a DOD directive would control only the conduct of military and civilian employees of the Department, and activities only on military bases, isn't it the case that the union would have little to fear in continuing to pressure for unionization, and even to try to enroll members? After all, the only sanctions would be against the military member, not the Union, isn't that right?

Answer. Senator, we honestly don't understand these questions.

Question. Do you think we need legislation to deal with this problem?

Answer. Prohibiting, by legislation, unionization of the military services will not solve the basic problem. However, legislation may be needed to solve the personnel problems of the military.

Question. Mr. Goldstein, based on your knowledge of development in the labor movement, do you consider that there is a genuine threat of military unionization today?

Answer. Senator, I don't feel qualified to answer that question. The concept, at least in this country, is so novel that I haven't been able to provide an accurate analysis of this matter.

Question. Mr. Sweeney, some who advocate military unions argue that they are not a threat to discipline and readiness because in time of war or national emergency the union would simply step aside and not assert its representation role. Does it seem reasonable to expect that this would happen?

Answer. Yes.

Question. Isn't it true that organizations such as unions, with established procedures, staffs and loyalties cannot just disappear voluntarily in time of emergency?

Answer. No.

Question. If the war or emergency were an unpopular one, could not the union become a rallying point for those who oppose it?

Answer. No.

Chairman STENNIS. The committee is adjourned, subject to call of the Chair.

[Whereupon, at 11:55 a.m., the meeting of the committee was adjourned, subject to the call of the Chair.]

APPENDIX

Senator STENNIS. I feel that it is important to insert as an Appendix to these hearings, reports by Dean Griswold, former Dean of the Harvard Law School and former Solicitor General and University of Texas Law Professor Charles Alan Wright. These two legal authorities were consulted regarding the constitutional aspects of the bills on unionization of the military and I would like to recognize their efforts.

MEMORANDUM

TO: Senate Committee on Armed Services

FROM: Erwin N. Griswold and John C. Reitz

DATE: June 16, 1977

SUBJECT: Unions in the Military

CONSTITUTIONAL LIMITATIONS ON CONGRESSIONAL POWER TO OUTLAW OR RESTRICT MILITARY UNIONS

BACKGROUND AND ISSUES

Senators Thurmond and Stennis have introduced bills, S. 274 and S. 997, respectively, to prohibit union organization of the armed forces, and these bills have been referred to the Senate Committee on Armed Services. The purpose of this memorandum, prepared at the request of the Committee, is to analyze the legal and constitutional issues raised by these bills, with particular reference to the extent of the power of Congress under the Constitution to prohibit or otherwise restrict the formation and activity of military unions. No attempt has been made to assess whether Congress should exercise the full extent of its constitutional power as described in this memorandum. That judgment must be made by the Committee and eventually by the Congress in light of its consideration of all aspects of the question.

The Constitution grants Congress express authority in Article I, Section 8, Clause 14, to make "Rules for the Government and Regulation of the land and naval Forces." In the absence of countervailing constitutional considerations, a congressional enactment pursuant to an express power conferred by the Constitution must be sustained by the courts as long as the enacted measure bears some reasonable relationship to its legislatively intended purpose. In this case, the fundamental question is the extent to which the First Amendment may protect union membership and union activities, including solicitation for union membership, and thus inhibit action by Congress in this area.

In examining this question, this memorandum first summarizes, in Section I, the extent to which the First Amendment has been held to protect union membership and union activities in civilian life. This is set out by way of background. To the extent that the First Amendment does not provide protection in the civilian area, it is clear that no greater limits are required for the military. Thus regulations which are valid as to civilians must be equally valid in the military area, and Congress is free to enact such legislation pursuant to its express power to regulate the military. Such legislation will be subjected only to the minimal judicial scrutiny of the rational relationship test. The memorandum then analyzes in Section II the extent to which the Supreme Court has sustained exercise by

the Congress of its express power to regulate the military in ways that infringe on individual liberties that are constitutionally protected in civilian life. In Section III, the conclusions from these two areas are applied to specific issues that confront the drafters of a statute to bar or restrict military unions, including (a) banning of military strikes and collective bargaining; (b) banning of membership in a union; and (c) prohibition of advocacy of military strikes and military unions. Wherever relevant, this discussion focuses on the bills presently before the Committee. Section IV briefly summarizes the most important conclusions that we believe are to be drawn from the analysis contained in this memorandum.

I. THE APPLICATION OF THE FIRST AMENDMENT WITH RESPECT TO CIVILIAN UNION MEMBERSHIP AND UNION ACTIVITIES

A. Self-Organization For Collective Bargaining

Since the early case of Adair v. United States, 208 U.S. 161 (1908), which struck down a federal law making it a crime for an employer to discharge an employee simply because he was a member of a union, the Supreme Court has changed radically the degree of protection accorded to unions in the civilian world. It is now clear that the federal government may pass legislation to protect the right to unionize and that that right is founded upon the First Amendment and receives the high protection accorded to First Amendment rights.

The first step in this development was NLRB v. Jones & Laughlin Steel Corp., 301 U.S. 1 (1937), sustaining the constitutionality of the National Labor Relations Act (the "NLRA"), 29 U.S.C. §§ 151-68. In Jones & Laughlin, the Supreme Court termed the right of the employees to organize themselves and to select representatives for collective bargaining or other mutual protection without restraint or coercion by their employer a "fundamental right." 301 U.S. at 33. In Thomas v. Collins, 323 U.S. 516, 532 (1945), the Supreme Court implied that the right to unionize is protected by the First Amendment by stating that

> the right thus to discuss, and inform people concerning, the advantages and disadvantages of unions and joining them is protected not only as part of free speech, but as part of free assembly.

Both that case and a series of three cases in which the Court held that the First Amendment protects union efforts to assist its members in pursuing their legal remedies for work-related injuries proceed from the premise that the right to join a union is a part of the First Amendment free speech right to advocate unionism. See, e.g., Brotherhood of Railroad Trainmen v. Virginia, 377 U.S. 1 (1964); United Mine Workers v. Illinois State Bar Association, 389 U.S. 217 (1967); United Transportation Union v. State Bar of Michigan, 401 U.S. 576 (1971). In Railroad Trainmen, for example, after discussing NAACP v. Button, 371 U.S.

415 (1963), one of a series of cases in which the Supreme Court recognized that the First Amendment right of free speech includes a concomitant right of free association, the Court stated that "the Constitution protects the associational rights of the members of the union precisely as it does those of the NAACP." 377 U.S. at 8.

Most recently, in NLRB v. Gissel Packing Co., 395 U.S. 575 (1969), the Supreme Court has used language that implies, though not with complete clarity, that the right to unionize is a First Amendment right. The case concerned the extent to which the First Amendment protects the employer's ability to persuade employees not to join a union, and in interpreting the various provisions of the NLRA, the Court stated, 395 U.S. at 617 (emphasis added), that

> § 8(c) (29 U.S.C. § 158(c)) merely implements the First Amendment by requiring that the expression of "any views, argument, or opinion" shall not be "evidence of an unfair labor practice," so long as such expression contains "no threat of reprisal or force or promise of benefit" in violation of § 8(a)(1). Section 8(a)(1), in turn, prohibits interference, restraint or coercion of employees in the exercise of their right to self-organization.
>
> . . . Thus, an employer's rights cannot outweigh the equal rights of the employees to associate freely, as those rights are embodied in § 7 and protected by § 8(a)(1) and the proviso to § 8(c).

The decisions of lower courts have included much more direct statements of the constitutional protection for union membership and the concomitant right to choose union representatives for collective bargaining. See, e.g., Lontine v. VanCleave, 483 F.2d 966, 967 (10th Cir. 1973) ("The District Court was correct in its holding that sheriff's deputies have such a First Amendment right to participate and retain membership in a union."); American Federation of State, County and Municipal Employees, AFL-CIO v. Woodward, 406 F.2d 137, 139 (8th Cir. 1969) ("Union membership is protected by the right of association under the First and Fourteenth Amendments."); United Federation of Postal Clerks v. Blount, 325 F.Supp. 879, 883 (D.D.C. 1971), aff'd, 404 U.S. 802 (1971) (the district court calling "[t]he right to organize collectively and to select representatives for the purposes of engaging in collective bargaining" a "fundamental and constitutionally protected" right).

B. Strikes And Other Collective Bargaining Tactics

Although civilian employees have a constitutional right to organize themselves for collective bargaining, they do not have a constitutional right to coerce the employer into collective bargaining through the use of strikes and related tactics. Mr. Justice Brandeis' statement in Dorchy v. Kansas, 272 U.S. 306, 311 (1926), that "[n]either the common law, nor the Fourteenth Amendment, confers the absolute right to strike," is still the law today. As the Court explained in International Union. U.A.W.A.,

A.F. of L., Local 232 v. Wisconsin Employment Relations Board, 336 U.S. 245, 259 (1949),

> The right to strike, because of its more serious impact upon the public interest, is more vulnerable to regulation than the right to organize and select representatives for lawful purposes of collective bargaining which this Court has characterized as a "fundamental right" . . . .

Thus, the Court stated in that case that the right to strike was solely a creation of statutes like the NLRA. 336 U.S. at 259. Accord, Lontine v. VanCleave, supra, 483 F.2d at 968; United Federation of Postal Clerks v. Blount, supra, 325 F.Supp. at 882.

C. Advocacy And Solicitation

1. Advocacy of Unionism and Solicitation for Union Membership

While the Supreme Court's concept of the right of association and its application to labor unions has undergone considerable development, protection for advocacy of unionism has been clear in the express language of the First Amendment. Any thought that direct union solicitation could be distinguished from abstract advocacy for the purposes of First Amendment protections was swept aside in Thomas v. Collins, 323 U.S. 516 (1945). In Collins, Texas had sought to enforce its statute requiring union organizers to register with the state government by enforcing a temporary restraining order preventing the appellant Thomas, a vice president of the Congress of Industrial Organizations, from soliciting members for or memberships in labor unions affiliated with the C.I.O.

until he had obtained the statutorily required organizers card. Thomas had been jailed for contempt of the temporary restraining order when he came to Texas and solicited members for his union at a mass meeting without obtaining the required card.

The Supreme Court struck down his contempt conviction because it had previously recognized "that employers' attempts to pursuade to action with respect to joining or not joining unions are within the First Amendment's guaranty. . . . . The Constitution protects no less the employees' converse right." 323 U.S. at 537-38. No meaningful distinction, the Court stated, could be drawn between advocacy of unionism in the abstract and solicitation of union membership. The Court explained, 323 U.S. at 537, that

> [t]he First Amendment is a charter for government, not for an institution of learning. "Free trade in ideas" means free trade in the opportunity to pursuade to action, not merely to describe facts.

Accord, Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc., 425 U.S. 748, 757 (1976), citing Collins.

2. Reasonable Regulation as to Time, Manner, and Place

Despite the strong holding in Collins, the First Amendment right to solicit for union membership is not absolute. First Amendment rights are subject to reasonable regulation concerning the "time, place, and manner" of expression. Grayned v. City of Rockford, 408 U.S. 104, 115 (1972) (citing seven other cases for

support). Cases decided under the NLRA have held, for example, that an employer may restrict non-employee union organizers from distributing leaflets on its property if other means of communication with workers are reasonably available to the organizers. NLRB v. Babcock & Wilcox Co., 351 U.S. 105 (1956). Similarly, an employer may limit his employees' endeavors on behalf of a union so that such solicitation will not interfere with job performance or drive away customers. See, e.g., Montgomery Ward & Co. v. NLRB, 339 F.2d 889 (6th Cir. 1965); NLRB v. May Department Stores, Co., 154 F.2d 533 (8th Cir.), cert. denied, 329 U.S. 725 (1946); cf. National Labor Relations Board v. Daylin, Inc., Discount Division, 496 F.2d 484 (6th Cir. 1974) (invalidating an employer's "no solicitation rule" as overbroad because it not only prohibited union solicitation on the job, but also during employee breaks and in the employee locker room.)

3. Collection of Funds

In Collins the Supreme Court expressly limited its holding to the protection of public speeches in favor of joining unions. The Court stated, 323 U.S. at 540 (emphasis added), that

> [o]nce the speaker goes further, however, and engages in conduct which amounts to more than the right of free discussion comprehends, as when he undertakes the collection of funds or securing subscriptions, he enters a realm where a reasonable registration or identification requirement may be imposed.

The Court would sanction such regulation because the activity of collecting membership dues, for example, "would be free speech plus conduct akin to the activities which were present, and which it was said the State might regulate, . . ." 323 U.S. at 540.

As support for that statement, the Court relied on its previous holding in Cantwell v. Connecticut, 310 U.S. 296, 306 (1940), in which it held that the free expression of religious ideas could be subjected to reasonable registration or identification requirements where the solicitation of money was involved. The Court there had reasoned that such registration requirements could be justified as methods to prevent fraudulent solicitation.

4. Picketing

The Supreme Court has long recognized that labor picketing includes substantial elements of speech or expression and therefore is entitled to First Amendment protection. Thornhill v. Alabama, 310 U.S. 88 (1940) (5-4 decision). Subsequent elaboration, however, of the boundaries of First Amendment protection for picketing has involved the drawing of extremely fine -- and sometimes confusing -- distinctions.

The Supreme Court has held, for example, that peaceful picketing may not be enjoined. American Federation of Labor v. Swing, 312 U.S. 321 (1941). However, the Court upheld an injunction against peaceful picketing where there had been violence and "it could justifiably be concluded that the momentum

of fear generated by past violence would survive even though future picketing might be wholly peaceful." Milk Wagon Drivers Union v. Meadowmoor Dairies, 312 U.S. 287, 294 (1941). But where the violence had been scattered through time and much of it had been unconnected with the picketing, the Court held that the state should proceed against the violence, not against the picketing. Youngdahl v. Rainfair, Inc., 355 U.S. 131, 139 (1957).

The Supreme Court has also sanctioned injunctions against peaceful union picketing which does not pose the danger of violence but which violates other valid state policies. For example, in Giboney v. Empire Storage & Ice Co., 336 U.S. 490 (1949), the Court upheld an injunction restraining a union from picketing a wholesaler because the state court had found that the union's picketing was designed to prevent the wholesaler from selling to nonunion peddlers and thus operated as a restraint of trade in violation of the state's antitrust policies. In Hughes v. Superior Court, 339 U.S. 460 (1950), the Court upheld an injunction against a union which was trying through picketing to coerce an employer into hiring according to racial quotas in violation of the state's policy against discrimination on the basis of color. In Local Union No. 10, United Association of Journeymen Plumbers & Steamfitters v. Graham, 345 U.S. 192 (1953), the Court similarly upheld an injunction against a union which had picketed a work site with signs announcing that a contractor was employing non-union labor. The state court had found that the union was attempting to pressure the general contractor into

eliminating nonunion members from the job in violation of the state's Right to Work law.

The Court summarized this series of cases in International Brotherhood of Teamsters, Local 695, A.F.L. v. Vogt, Inc., 354 U.S. 284, 293 (1957), by stating that they

> established a broad field in which a State, in enforcing some public policy, whether of its criminal or its civil law, and whether announced by its legislature or its courts, could constitutionally enjoin peaceful picketing aimed at preventing effectuation of that policy.

In Vogt the Court upheld an injunction restraining peaceful picketing because the state court had found that the purpose of the picketing was to coerce an employer to put pressure on his employees to join a union in violation of the state policy protecting the employees' freedom to choose a bargaining representative.

The decision in Vogt drew a sharp dissent by Justice Douglas, joined by Chief Justice Warren and Justice Black, who pointed out that the Vogt rule makes the state court's characterization of the picketers' purpose conclusive and leaves state courts and state legislators free "to decide whether to permit or suppress any particular picket line for any reason other than a blanket policy against all picketing." 354 U.S. at 297. Nevertheless, the Vogt rule was cited with approval in American Radio Association, AFL-CIO v. Mobile Steamship Association, Inc., 419 U.S. 215, 228-232 (1974), although that decision was opposed by four dissenters who argued that the

National Labor Relations Board, not the state courts, should have jurisdiction in such cases.

In summary, Vogt and the line of cases discussed in that opinion suggest that picketing will never enjoy First Amendment protection when it is engaged in for the purpose of soliciting union membership because such a motive for picketing will run afoul of state policies protecting an employee from employer coercion in the choice of a bargaining representative and also possibly afoul of state Right to Work laws. To the extent labor picketing serves only to educate others about the facts of a labor dispute, it appears to remain protected, subject, of course, to reasonable time, place, and manner regulation, as discussed above in subsection 2.

D. Summary

The foregoing discussion shows that the First Amendment protects the efforts of civilian employees to organize themselves or to join any group for the purpose of collective bargaining. But the First Amendment does not protect efforts such as strikes, boycotts, sick-outs, or slow-downs to coerce an employer to bargain collectively with its employees. Similarly, the right to advocate unionism and to solicit for union membership is protected, but labor picketing is not protected if it is used to coerce others into union membership. All forms of advocacy and solicitation are subject to reasonable regulation of time, place, and manner.

II. THE POWER OF CONGRESS TO REGULATE THE MILITARY AND THE EFFECT OF THE FIRST AMENDMENT

Prior to the 1974 case of Parker v. Levy, 417 U.S. 733 (1974), the Supreme Court had never faced the question of the extent of the protection, if any, which the First Amendment gives to military servicemen. 417 U.S. at 768 (Douglas, J., dissenting). Levy and the subsequent case of Avrech v. Secretary of the Navy, 418 U.S. 676 (1974), dealt squarely with servicemen's rights of expression, and Greer v. Spock, 424 U.S. 828 (1976), concerned the First Amendment rights of both military and non-military persons on a military reservation. All three cases clearly grant broad authority to Congress and to the military command to regulate expression, but the opinions do not set out with much precision where the boundaries of such power lie. In order to see more clearly the implications of these three leading cases, it is necessary first to consider earlier cases concerning the power of Congress under Article I, Section 8, Clause 14.

A. Cases Prior to 1974

The earlier cases were primarily concerned with the proper scope of the jurisdiction of military courts, and the application to such courts of various aspects of the procedural guarantees which the Bill of Rights confers on civilian criminal defendants. The earlier cases established that the Bill of Rights does apply to the military -- except for the specific

exemption included in the Fifth Amendment for "cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger." And the pre-1974 holdings consistently resisted expansion of the jurisdiction of the military courts to any non-military persons, while at the same time refusing to interfere directly in military control over persons actually in the military. Thus, for example, the Court held that court-martial jurisdiction may not apply to civilians accused of capital offenses, even if they are military dependents living on-base overseas. Reid v. Covert, 354 U.S. 1 (1957). That holding was extended to non-capital offenses in Kinsella v. United States ex rel. Singleton, 361 U.S. 234 (1960), and to civilian employees of the military whether accused of capital or non-capital crimes. McElroy v. United States ex rel. Guagliardo, 361 U.S. 281 (1960); Grisham v. Hagan, 361 U.S. 278 (1960). On the other hand, in an early case, the Court refused to release an enlisted man from the military because he was overage when he knowingly enlisted, In re Grimley, 137 U.S. 147 (1890). And more recently it declined to grant de novo review of convictions in the military courts, Burns v. Wilson, 346 U.S. 137 (1953); was unwilling to review duty assignments of servicemen or to find that a physician-enlistee was entitled to a commission as a matter of law, Orloff v. Willoughby, 345 U.S. 83 (1953); and has refused to grant a federal habeas corpus petition by a military prisoner before he had exhausted his military appeals, Noyd

v. Bond, 395 U.S. 683 (1969). Several earlier cases applied a standard that has become traditional in civilian First Amendment cases, but these cases also frequently emphasized the unique nature of the military and the broad deference to which Congress was entitled in legislating in this area.

1. The "Least Restrictive Alternative" Standard

In United States v. Robel, 389 U.S. 258 (1967), the Supreme Court stated the general principle that Congress must, to the greatest extent possible, exercise its enumerated powers in consonance with the Bill of Rights. In Robel, the Court held that a section of the Subversive Activities Control Act which made it a criminal act for a member of the Communist Party to work for a "defense facility" could not be constitutionally sustained, although the government sought to defend the section as an exercise of its "war powers." The government justified the section on the grounds that it was intended to prevent saboteurs from gaining access to defense facilities. The Supreme Court found that the alleged danger of sabotage was not presented by all members, both active and passive, of the Communist Party. The Court therefore held, 389 U.S. at 264-66 (emphasis added), that

> [w]hen Congress' exercise of one of its enumerated powers clashes with those individual liberties protected by the Bill of Rights, it is our "delicate and difficult task" to determine whether the resulting restriction on freedom can be tolerated. . . . The Government's interest in [reducing the threat of sabotage] is not insubstantial. But it cannot be

> doubted that the means chosen to implement that governmental purpose in this instance cut deeply into the right of association. . . .
>
> It has become axiomatic that "[p]recision of regulation must be the touchstone in an area so closely touching our most precious freedoms." NAACP v. Button, 371 U.S. 415 438 (1963); . . . thus, [the section of the statute barring Communists] contains the fatal defect of overbreadth because it seeks to bar employment both for association which may be proscribed and for association which may not be proscribed consistently with First Amendment rights.

The Court summarized its holding, 389 U.S. at 268 (footnoote omitted), by stating that

> when legitimate legislative concerns are expressed in a statute which imposes a substantial burden on protected First Admendment activities, Congress must achieve its goal by means which have a "less drastic" impact on the continued vitality of First Amendment freedoms. Shelton v. Tucker, [364 U.S. 479, 488 (1960)]; cf. United States v. Brown, 381 U.S. 437, 461 (1965). The Constitution and the basic position of First Amendment rights in our democratic fabric demand nothing less.

Robel involved the relation of the First Amendment and Congress' war powers, which do not include the specific power granted to Congress to prescribe rules and regulations for the military, although they are based on many of the same policies that underlie the specific power to regulate the military. In O'Callahan v. Parker, 395 U.S. 258 (1969), the Supreme Court applied a similar standard in resolving a question concerning

Congress' power to regulate the military and individual liberties protected by the Bill of Rights. In O'Callahan, the Court considered the question whether the jurisdiction of courts-martial extended to crimes committed off base by a serviceman who was off duty and out of uniform. In ruling that it did not, the Supreme Court stated, 395 U.S. at 273 (emphasis added), that

> [t]he power of Congress to make "rules for the Government and Regulation of the land and naval Forces," Art. I, § 8, cl. 14, need not be sparingly read in order to preserve those two important constitutional guarantees [indictment by grand jury and trial by jury]. For it is assumed that an express grant of general power to Congress is to be exercised in harmony with express guarantees of the Bill of Rights.

The Court therefore followed the test it had applied in United States ex rel. Toth v. Quarles, 350 U.S. 11 (1955), in which it held that the jurisdiction of military courts did not extend to persons discharged from the military, even for crimes allegedly committed during military service. The test applied in O'Callahan, 395 U.S. at 265, quoting United States ex rel. Toth v. Quarles, 350 U.S. 11, 23 (1955) (emphasis in original), which quoted Anderson v. Dunn, 6 Wheat. 230-231, was that

> determining the scope of the constitutional power of Congress to authorize trial by court-martial presents another instance calling for limitation to "the least possible power adequate to the end proposed."

In Gosa v. Mayden, 413 U.S. 665 (1973), there are suggestions that the O'Callahan holding should not be read too broadly. In Gosa, the Court refused to apply O'Callahan retroactively.

Three partly concurring opinions by Justices Douglas, Rehnquist, and Stewart would hold that a serviceman who deserted his post during a time of congressionally declared war and stole a non-military automobile was guilty of a "service connected" offense. The plurality opinion stated that O'Callahan "did not hold that a military tribunal was and always had been without authority to exercise jurisdiction over a nonservice-connected offense." 413 U.S. at 677-78. However, the plurality also reaffirmed the applicability of the Toth test in limiting the jurisdiction of military courts. 413 U.S. at 682.

Robel, O'Callahan, and Gosa thus point to a long tradition of allowing Congress in the exercise of its enumerated power to make regulations for the military to infringe upon the guarantees of the Bill of Rights, including the First Amendment, only to the minimum extent required by legitimate interests. This standard for weighing the constitutionality of congressional action is commonly denominated the "least drastic means" or "least restrictive alternative" test.

2. Cases Recognizing the Unique Nature of the Military and Granting Deference to Congress

In an often quoted passage, the Supreme Court wrote in In re Grimley, 137 U.S. 147, 153 (1890):

> An army is not a deliberative body. It is the executive arm. Its law is that of obedience. No question can be left open as to the right to command in the officer, or the duty of obedience in the soldier.

Similar expressions of the unique nature of the military which emphasize the paramount importance of duty and discipline can be found in Noyd v. Bond, 395 U.S. 683, 694 (1969) ("In reviewing military decisions, we must accommodate the demands of individual rights and the social order in a context which is far removed from those we encounter in the ordinary run of civilian litigation, . . ."), and Orloff v. Willoughby, 345 U.S. 83, 94 (1953) ("The military constitutes a specialized community governed by a separate discipline from that of the civilian.") And in Reid v. Covert, 354 U.S. 1, 36 (1957), the Supreme Court said:

> there has always been less emphasis in the military on protecting the rights of the individual than in civilian society and in civilian courts.

As a result of this special character of the military and as a result of the express grant of power to Congress, the Supreme Court has often stated that Congress must be granted wide latitude to legislate in this area. For example, the Court explained in Burns v. Wilson, 346 U.S. 137, 140 (1953) (footnote omitted), that

> [t]he rights of men in the armed forces must perforce be conditioned to meet certain overriding demands of discipline and duty, and civil courts are not the agencies which must determine the precise balance to be struck in this adjustment. The Framers expressly intrusted that task to Congress.

More recently, in Gilligan v. Morgan, 413 U.S. 1, 10 (1973), the Court stated (emphasis in original) that

> [i]t is difficult to conceive of an area of governmental activity in which the courts have less competence. The complex, subtle, and professional decisions as to the composition, training, equipping, and control of a military force are essentially professional military judgments, subject always to civilian control of the Legislative and Executive Branches.

As indicated, the emphasis is the Court's. This is rather broad language, and it may go far to resolve the problem of the powers of Congress in this area.

B. The Leading Cases: Levy and Avrech

In Parker v. Levy, 417 U.S. 733 (1974), the Supreme Court upheld the court-martial conviction of Dr. Levy, a military doctor and officer in the Army who, while on active duty, had made public statements to enlisted personnel at the post where he was serving expressing his opposition to the war in Viet Nam and counseling soldiers to disobey if they were ordered to go to Viet Nam. Dr. Levy had also refused to conduct a training clinic he had been ordered to hold for personnel to be sent to Viet Nam. He had been convicted under provisions of the Uniform Code of Military Justice for willfully disobeying an order, and under two sections which provided for punishment of "conduct unbecoming an officer and a gentleman," and "all disorders and neglects to the prejudice of good order and discipline in the armed forces." As violations of these latter two articles, his military indictment had listed his public statements to enlisted personnel in opposition to the war.

Dr. Levy sought habeas corpus in the federal courts, arguing among other grounds that the latter two articles under which he had been convicted were void for vagueness under the Due Process Clause of the Fifth Amendment and overbroad in violation of the First Amendment. A six-man majority of the the Supreme Court rejected both arguments. The Supreme Court, and indeed all the lower federal courts, found that Dr. Levy's conduct, "that of a commissioned officer publicly urging enlisted personnel to refuse to obey orders which might send them into combat, was unprotected under the most expansive notions of the First Amendment." 417 U.S. at 761. Only dissenting Justice Douglas argued that Dr. Levy's statements were protected by the First Amendment. The other two dissenters, Justice Stewart and Justice Brennan, dissented solely on the grounds of vagueness.

The majority opinion reaffirms the Court's many previous statements to the effect that the First Amendment does apply to members of the military to some extent. Justice Rehnquist, writing for the majority, 417 U.S. at 758 (emphasis added), stated that

> [w]hile the members of the military are not excluded from the protection granted by the First Amendment, the different character of the military community and of the military mission requires a different application of those protections. The fundamental necessity for obedience and the consequent necessity for imposition of discipline, may render permissible within the military that which would be constitutionally impermissible outside it.

The Court then quoted with approval, 417 U.S. at 758-59 (emphasis added), the following portion of the opinion of the United States Court of Military Appeals in United States v. Priest, 21 U.S.C.M.A. 564, 570, 45 C.M.R. 338, 344 (1972):

> In the armed forces some restrictions exist for reasons that have no counterpart in the civilian community. Disrespectful and contemptuous speech, even advocacy of violent change, is tolerable in the civilian community, for it does not directly effect capacity of the Government to discharge its responsibilities unless it both is directed to inciting imminent lawless action and is likely to produce such action. Brandenburg v. Ohio [395 U.S. 444 (1969)]. In military life, however, the armed forces depend on a command structure that at times must commit men to combat, not only hazarding their lives but ultimately involving the security of the Nation itself. Speech that is protected in the civil population may nonetheless undermine the effectiveness of response to command. If it does, it is constitutionally unprotected.

Similarly, the Court stated, 417 U.S. at 751, that

> [w]hile members of the military community enjoy many of the same rights and bear many of the same burdens as do members of the civilian community, within the military community there is simply not the same autonomy as there is in the larger civilian community.

The Court also referred several times to the passage quoted above in subsection 2 from In re Grimley, 137 U.S. 147, 153 (1890). See 417 U.S. at 743-44, 751.

The rejection of Dr. Levy's overbreadth argument suggests that the Court will not apply the least restrictive alternative standard to regulation of persons in the military, as it has in cases where it had been claimed that military necessity justified regulation of civilians or the jurisdiction of military courts over civilians. See Section II A 1, supra. As the Court stated, 417 U.S. at 756,

> [f]or the reasons which differentiate military society from civilian society, we think Congress is permitted to legislate both with greater breadth and with greater flexibility when prescribing the rules by which the former shall be governed than it is when prescribing rules for the latter.

The Levy Court did not, however, articulate any more definite standard. The decision clearly stands for the principle that an officer, while on duty on a military base cannot publicly counsel servicemen subject to his command to disobey military orders, but it does not attempt to define the limits of the power to suppress dissent in the military. Justice Douglas, in dissent, stated, 417 U.S. at 768-69, that

> I cannot imagine, however, that Congress would think it had the power to authorize the military to curtail the reading list of books, plays, poems, periodicals, papers, and the like which a person in the Armed Services may read. Nor can I believe Congress would assume authority to empower the military to suppress conversations at a bar, ban discussions of public affairs, prevent enlisted men or women or draftees from meeting in discussion groups at times and places and for such periods of time that do not interfere with the performance of military duties.

Justice Blackman, in his concurrence to the majority opinion, answered that "[m]y Brother Douglas' rendition of Captain Levy's offense in this case would lead one to believe that Levy was punished for speaking against the Vietnam war at an Army wives' tea party." 417 U.S. at 765 n. Apparently Justice Blackman would have found that the First Amendment does protect such informal expression of dissent within the military.

That Levy cannot be limited to on-duty expressions of dissent made to military personnel who are under the dissenter's command was made clear in the otherwise enigmatic case of Avrech v. Secretary of the Navy, 418 U.S. 676 (1974). In Avrech, the Court sustained the court-martial conviction of an enlisted Marine private who had been convicted of attempting to publish a statement disloyal to the United States to members of the Armed Forces "with design to promote disloyalty and disaffection among the troops." 418 U.S. at 677. The actual acts for which Avrech had been convicted involved composing a statement -- while on a military base in Vietnam during the Vietnamese war -- criticizing United States involvement in that war. Avrech had intended to copy and distribute the statement to his fellow Marines. The statement did not include any call to disobey orders or to take any action at all; it was as "pure" as advocacy ever can be, seeking only to persuade to its point of view. Nor was there any indication that Avrech intended to distribute

his statement to the troops while they were on-duty. Nevertheless, the Supreme Court sustained the conviction in one sentence on the strength of Levy.

In the civilian world, the Supreme Court has made it clear that the First Amendment permits the federal or state government to proscribe speech only in very narrow contexts. In Hess v. Indiana, 414 U.S. 105, 108 (1973), the Supreme Court summarized the constitutional limitations on mere advocacy as follows:

> Under our decisions, "the constitutional guarantees of free speech and free press do not permit a State to forbid or proscribe advocacy of the use of force or of law violation except where such advocacy is directed to inciting or producing imminent lawless action and is likely to incite or produce such action." Brandenburg v. Ohio, 395 U.S. 444, 447 (1969) (Emphasis added.) See also Terminiello v. Chicago, 337 U.S. [1,] 4 [(1949)].

In Hess, the Court reversed a criminal convication under a state disorderly conduct statute because, as it said, 414 U.S. at 109,

> there was no evidence, or rational inference from the import of the language [for which the defendant had been convicted], that his words were intended to produce, and likely to produce, imminent disorder. . . .

The Court held that a State could not constitutionally punish the defendant on the ground that his words had "a 'tendency to lead to violence.'" Id. Similarly, in Brandenburg v. Ohio, 395 U.S. 444 (1969), the Court reversed the conviction of a Ku Klux

Klan leader who had been convicted under an Ohio statute which forbade advocacy of the violent overthrow of the United States government. The Court's holding was grounded on the fact that, 395 U.S. at 448-49 (footnote omitted),

> [n]either the indictment nor the trial judge's instructions to the jury in any way refined the statute's bald definition of the crime in terms of mere advocacy not distinguished from incitement to imminent lawless action.

While Dr. Levy's public calls to disobey orders did exhort to lawless action, there was no suggestion that he was counseling anyone to imminent disobedience. Thus it is clear that Levy applies a weaker First Amendment test than applies to the civilian world. Moreover, as already mentioned, Avrech denies protection to mere advocacy by a serviceman, at least in a combat zone. And yet, Levy expressly reaffirmed that the First Amendment does have some application to the military. In the absence of any helpful analytic guideposts from the Court, it is appealing to try to discern limits from the facts of the two cases, and indeed, one commentary has concluded that the two cases together stand for the propositions that (a) the First Amendment does not protect a serviceman's call for illegal action in the specific form of disobedience to orders or the commission of an offense particular to the military such as desertion, even if there is no intent to produce, nor likelihood of producing, imminent illegality and (b) the First Amendment does not protect political advocacy by a serviceman on active duty in a combat zone if that

advocacy takes the form of an attack on the aims of the war in which the United States is then engaged. Imwinkelreid & Zillman, An Evolution in the First Amendment: Overbreadth Analysis and Free Speech Within the Military Community, 54 Texas L. Rev. 42, 78-79, 81 (1975). However, nothing in the Court's opinions in those two cases confirms that its holdings are limited to those factual situations.

C. Spock: The "Clear Danger" Standard

Some of the confusion engendered by Levy and Avrech was cleared up by Greer v. Spock, 424 U.S. 828, 840 (1976), which at least articulated a standard in the following words (emphasis added):

> [T]here is nothing in the Constitution that disables a military commander from acting to avert what he perceives to be a clear danger to the loyalty, discipline, or morale of troops on the base under his command.

The majority's standard significantly omits the further qualification that the danger be an imminent one as would be required by Hess and Brandenburg. This ommission drew strong criticism from dissenting Justices Brennan and Marshall. 424 U.S. at 863.

In Greer v. Spock, the question presented for decision was the constitutional validity of army regulations which permitted the commander of a military base to ban political speeches on the military reservation and to prohibit the distribution of any literature without prior approval by the military commander.

The regulations in this instance had been applied to prevent candidates of the Peoples Party from campaigning on the base. The Supreme Court upheld the regulations and upheld the commander's determination that overtly political campaign literature presented a "clear danger" to the loyalty, discipline, and morale of the troops. The Court also implicitly approved army guidelines on dissent which authorized a commander to prohibit distribution on a base of publications which counselled disloyalty, mutiny or refusal of duty. 424 U.S. at 832 n.2. The Court also mentions that army regulations permitted a post commander to prohibit distribution of particular issues of commercial magazines and newspapers distributed through such outlets as post exchanges whenever he determined such publications to present a clear danger to the loyalty, discipline, or morale of the troops. The validity of such a regulation was not before the Court, and it noted only that the regulation appeared to be inconsistent with a Department of Defense directive prohibiting a commander from interfering with the distribution of publications through post exchanges or military libraries.

In addition to arguments based on the special nature of the military, the majority supported its decision by reference to the policy of keeping official military activities wholly free from entanglement with partisan political campaigns. 424 U.S. at 839. In this case, the base had a history of applying the policy in an even-handed manner to all political parties.

Chief Justice Burger's concurrence emphasized the "200-year tradition of keeping military separate from political affairs." 424 U.S. at 841. The dissent disagreed entirely with the conclusion to be drawn from this factor, arguing instead that isolating the military from the political process would tend to contribute to the creation of a military faction in domestic politics. 424 U.S. at 868-69 (Brennan, J., dissenting.)

Like the earlier cases of Levy and Avrech, Spock reaffirms that the First Amendment applies in some measure to the military. But the reach of the "clear danger" test is patently quite large. The apparent breadth of the restrictions sanctioned in Spock is, however, diminished by the geographic narrowness of the regulations at issue. Although free speech rights of both servicemen and civilians were at issue, the regulations applied only to the military reservation itself. As the Court observed, the restrictions the Court upheld did not preclude servicemen as individuals from attending political rallies, out of uniform and off base. 424 U.S. at 839. Thus both the candidates' and the servicemen's First Amendment rights were only regulated, not cut off entirely.

D. Other Recent Cases

Other recent decisions by the Supreme Court, while not involving precisely the resolution of questions involving the First Amendment and military regulation, have demonstrated the Supreme

Court's reluctance to invalidate military regulation. In Middendorf v. Henry, 425 U.S. 25 (1976), the Court held that Congress was not required to provide for participation of counsel in summary court-martial proceedings because such proceedings are not "criminal prosecutions" within the meaning of the Sixth Amendment, and there is therefore no right to counsel in such proceedings. The Court emphasized again that it would generally defer to Congress in this area, stating, 425 U.S. at 43,

> we must give particular deference to the congressional determination, made under its authority to regulate the land and naval forces, United States Constitution, Art. I, § 8, that counsel should not be provided in summary courts-martial.

In Schlesinger v. Councilman, 420 U.S. 738 (1975), the Court declined to decide whether a prosecution for possession of marijuana was sufficiently "service related" to justify military court jurisdiction, but reversed a federal court injunction barring a military prosecution on the grounds that the military defendant must first exhaust his remedies within the military system before seeking federal court protection. The Court again emphasized the unique nature of the military, stating that "[t]o prepare for and perform its vital role, the military must insist upon a respect for duty and discipline without counterpart in civilian life." 420 U.S. at 757.

There have been few lower court cases in this area decided since Levy, Avrech and Spock. Carlson v. Schlesinger, 511

F.2d 1327 (D.C. Cir. 1975), which presented an issue very similar to that in Spock, was decided after Levy and Avrech but without the guidance of the Spock decision. Nevertheless, the majority in Carlson reached the decision that Spock would certainly have required. The question presented was whether a military base commander in Viet Nam could prohibit on-base solicitation of signatures for a petition opposing the Viet Nam war. The majority concluded that, at least in the setting of a combat zone, such regulation was permissible. Judge Bazelon dissented vigorously.

The only case in this area that was decided after all three of the leading Supreme Court decisions is Huff v. Secretary of the Navy, 413 F. Supp. 863 (D.D.C. 1976). In that case, Judge Parker -- whose order granting an injunction against the military in Carlson had been reversed by the Court of Appeals for the District of Columbia Circuit -- discussed Levy, Spock, and Carlson and applied the "clear danger" test. Nevertheless, he ruled that Marine regulations requiring prior command approval for the distribution of any written material on a base in Japan in 1974 was unconstitutional. The regulations had been invoked to prevent the distribution of petitions addressed to various congressmen on subjects ranging from the use of the National Guard in labor disputes to United States support for the government of South Korea. Permission had also been denied to

circulate a leaflet critical of the military command. The narrow holding of the case, that such materials did not constitute a "clear danger," was in fact conceded by the military. 413 F. Supp. at 868. The broader holding, 413 F. Supp. at 868, that

> the very system of prior restraints for servicemen-to-servicemen distribution of materials on-base during off-hours and away from restricted or work areas, is unconstitutionally restrictive of First Amendment freedoms,

appears to be inconsistent with the broad language of Spock. On the strength of comments by Justice Powell in his concurrence in Spock, Judge Parker limits Spock to situations involving basic training. But this is an unjustifiably narrow reading of Spock. Furthermore, the distinction between basic training facilities and other facilities may be impossible to maintain in many, if not most, situations. Nevertheless, despite the questionable breadth of the decision in Huff, the case does illustrate a situation in which even the military conceded that no "clear danger" could be shown by servicemen's exercise of First Amendment rights.

Huff also involved an important consideration concerning United States military posts abroad. Some of the plaintiffs in Huff had also been denied permission to distribute petitions or statements off base. These restrictions had been justified on the basis of the requirements of the Status of Forces

Agreement between the United States and Japan, pursuant to which American troops are stationed in Japan. That agreement specifically forbade members of the United States armed forces from engaging in "any political activity in Japan." In light of the military's duty to ensure compliance with this international agreement, Judge Parker sustained the prior approval requirement on off-base distribution of petitions, leaflets, and the like. Even in the absence of an international agreement, the Federal District Court for the District of Columbia has upheld a court-martial conviction for violation of a regulation prohibiting a member of the armed services from participating in a demonstration in a foreign country, although the serviceman was at the time off duty and out of uniform. Culver v. Secretary of the Air Force, 389 F. Supp. 331 (D.D.C. 1975). In Culver the court stated, 389 F. Supp. at 334, that

> the exigencies and considerations attendant to service in a foreign country, as they relate to morale, discipline and effectiveness of mission, present conditions peculiar to military life so as to warrant the prohibition of demonstrations.

E. Summary

In tracing the dividing line between persons subject to Congress' power under Article I, Section 8, Clause 14, and those not subject to that power, the Supreme Court applies the "least restrictive alternative" test. But where military personnel only are involved, Congress may enact legislation "with greater breadth" to achieve its purposes and the Court has displayed

great reluctance to interfere with such military regulation. As the Spock case establishes, military regulation that infringes on the First Amendment rights of servicemen will be upheld if it serves to suppress a "clear danger to the loyalty, discipline or morale of troops." Although the test is broadly framed, the Supreme Court has applied it thus far only to expressive activities on a military base. Lower court cases following Levy have permitted restriction of expression off base at least in foreign countries.

It might be argued that O'Callahan, holding that military courts do not have jurisdiction over offenses committed by a serviceman while off duty, off base, and out of uniform, suggests that the Supreme Court would not sustain off-base and off-duty regulation of expression at least within United States territory. However, it is not clear after Gosa and Councilman how much vitality the O'Callahan holding has. While Gosa can be read as affirming O'Callahan, both Justices Rehnquist and Stewart said that they would overrule it, and the result in the case was to avoid applying its holding. In Councilman the court avoided on procedural grounds an issue similar to that in O'Callahan. Thus the inferences to be drawn from O'Callahan are ambiguous at best. The only other clue as to the Supreme Court's view on off-base expression is the observation by the Court in Spock that the regulations it upheld in that case left service personnel free to exercise their First Amendment rights while off duty, off base, and out of uniform.

III. APPLICATION OF CONSTITUTIONAL PRINCIPLES TO ISSUES RAISED BY PROPOSALS TO BAN OR RESTRICT MILITARY UNIONS

A. Strikes and Collective Bargaining

As Section IB, supra, shows, there is no constitutional right to force an employer into collective bargaining through strikes or similar techniques. Therefore, Congress may prohibit strikes, slow downs, "sick-ins", and the like by members of the military, as it has prohibited strikes by civilian federal employees. 5 U.S.C. § 7311(3); 18 U.S.C. § 1918(3) (providing criminal penalties for violation of 5 U.S.C. § 7311(3)). In fact, Congress has already proscribed such activity in Article 92, of the Uniform Code of Military Justice ("UCMJ"), 10 U.S.C. § 892, which prohibits willful disobedience of a lawful order. A strike would necessarily involve violations of Article 92.

Congress, on the other hand, may direct the military command not to recognize any servicemen groups for the purpose of collective bargaining about any aspect of military service. An announced policy of non-recognition of unions by the military commands might be sufficient to deter the formation of servicemen groups for the purpose of collective bargaining. Short of engaging in illegal strikes or similar pressure tactics, there would be only one avenue open to such groups to advance their purpose: lobbying efforts aimed at Congress, or at the general public. In the face of congressional determination

not to permit collective bargaining in the armed services -- perhaps expressed in a joint resolution of Congress -- there might be little incentive for service personnel to incur the expense of forming a union lobbying group with such little chance of success.

B. Membership in Unions

The question whether mere membership by service personnel in a union may be prohibited presents a much more difficult issue. In light of the conclusion argued in the next section that a serviceman can be restricted to a considerable degree in even abstract advocacy of the view that members of the military should be permitted to strike, it seems likely that membership in a union that advocates that view could be prohibited also.

The more difficult, and more practical, question is whether membership in a union by military personnel may be forbidden if the union officially eschews the strike as a collective bargaining tactic, for this is almost certainly the only type of union that would attempt to organize the military in view of the obvious illegality of a military strike. As shown above in Section II A, in the civilian world mere membership in a union is clearly protected. Civilians have a First Amendment right to join any group, provided it is not conspiring to commit a crime.

Among the cases decided thus far, the situations most analogous to the question of military unions have involved

police forces. Like the military, policemen are authorized to use deadly force in certain situations, sometimes are called upon to function in situations approximating a combat zone, and are expected to subject themselves to stricter discipline than ordinary civilians. Moreover, it can be argued that police forces must also be kept disentangled from politics. Nevertheless, it is well established that policemen have a right to join a union even though they have no right to strike. See, e.g., Lontine v. VanCleave, 483 F.2d 966 (9th Cir. 1973); Vorbeck v. McNeal, 407 F. Supp. 733 (E.D. Mo. 1976) (3-judge court); Police Officers' Guild, National Union of Police Officers, AFL-CIO v. Washington, 369 F. Supp. 543 (D.D.C. 1973) (3-judge court); Melton v. City of Atlanta, 324 F. Supp. 315 (N.D.Ga. 1971). Cf. Atkins v. City of Charlotte, 296 F. Supp. 1068 (D.N.C. 1969) (same holding for firemen).

These cases are not dispositive of the issue of military union membership, however, because of the unique nature of the military and because of the unique and express power Congress has to regulate military affairs. Despite the similarities, the military is different from a police force. It is clear, for example, that members of the military are subject to stricter discipline than a police officer. Military service personnel cannot terminate their military career whenever they please, as police officers can. Moreover, the danger of politicization of the military far outweighs the dangers of politicization of

police forces because the modern military far outnumbers the largest of the relatively small and decentralized police forces.

There are two major arguments against recognition of a First Amendment right for military personnel to organize themselves into unions for collective bargaining: (1) collective bargaining is so incompatible with the requirements of military life that no efforts to introduce collective bargaining can be tolerated, and (2) unionization will, as a practical matter, inevitably lead to strikes (or slowdowns or sick-ins) by the military, which are unlawful acts.

With respect to the first argument, Supreme Court recognition of the incompatibility of the union bargaining structure with the military seems implicit in its observations about the UCMJ, which it has consistently upheld as a proper exercise of Congress' power to regulate the military. In Parker v. Levy, 417 U.S. 733, 750 (1974), for example, the Court stated, referring to the many minor penalties in the UCMJ which are clearly not criminal in nature, that "[f]orfeiture of pay, reduction in rank, and even dismissal from the service bring to mind the law of labor-management relations as much as the civilian law." In Orloff v. Willoughby, 345 U.S. 83, 93-94 (1953), the Court stated

> We know that from top to bottom of the Army the complaint is often made, and sometimes with justification, that there is discrimination, favoritism or other objectionable handling of men. But judges are not given the task of running the Army. The responsibility for setting up channels

> through which such grievances can be considered and fairly settled rests upon the Congress and upon the President of the United States and his subordinates. The military constitutes a separate discipline from that of the civilian. Orderly government requires that the judiciary be as scrupulous not to interfere with legitimate Army matters as the Army must be scrupulous not to intervene on judicial matters.

It seems clear from such cases that the Supreme Court would attach great weight to the argument that in the UCMJ Congress has provided all that it must provide with respect to labor relations in the military. Any pressure from another source to add to or change the congressionally mandated system would be incompatible with that system.

The American Federation of Government Employees ("AFGE") has recognized the incompatibility of the military with union bargaining as far as combat command channels are concerned. AFGE is now apparently considering a proposal to unionize the military only with respect to peacetime living and working conditions. See 123 Cong. Rec. S 9018 (daily ed., June 7, 1977) (remarks of Sen. Thurmond introducing into record an AFGE internal memorandum). That proposal would even provide that military union recognition be suspended during time of war or congressionally declared national defense emergency. However, the distinction between matters subject to combat command channels and matters subject to collective bargaining could be a pernicious one. A soldier must be constantly schooled to follow orders with disciplined efficiency, not to be continually distinguishing

between issues that are subject to bargaining and those that are not. A peacetime regimen that included collective bargaining would therefore detract significantly from the combat readiness of the troops, even if provision were made for suspension of military unions during war. Moreover, once a military union were entrenched and used to flexing its bargaining muscle, it might be tempted to lobby in Congress to resist declarations of national defense emergencies in order to retain its power. The military would then have entered directly into political affairs.

The second argument is that allowing the formation of an organization of service personnel with the express goal of instituting collective bargaining, but refusing to recognize the organization for collective bargaining, is virtually certain to result in resort to pressure tactics by the members of the organization, eventually escalating to a strike, slow down, "sick-in," or the like. The logic of this argument is borne out by experience with public sector unions, which are generally forbidden to strike but which have engaged in notable strikes, statutes and union charters to the contrary notwithstanding. One commentary on the history of public sector strikes has noted that "[s]tatistics gathered by the Department of Labor Bureau of Labor Statistics illustrate the meteoric rise of the public sector strike from near oblivion in 1958 to large proportions in 1970." R. Smith, H. Edwards & R. Clark, Jr., Labor Relations Law in the Public Sector: Cases and Materials 655 (1974).

That commentary also observed that "[w]hatever the causes for these strikes, it is noteworthy that they have persisted during a period when, for the most part, strikes by public employees have been illegal." Id. at 658. See generally, id. at 655-59.

In the civilian world, even where police forces are involved, the courts have insisted that the statutory remedy be narrowly drawn to prohibit the actual vice sought to be prevented, strikes, rather than permitting an overbroad infringement of First Amendment associational rights in order to avoid the potential of strikes. See, e.g., Vorbeck v. McNeal, 407 F. Supp. 733 (E.D. Mo. 1976); Police Officers' Guild, National Union of Police Officers, AFL-CIO v. Washington, 369 F. Supp. 543 (D.D.C. 1973). But in the military context, the Supreme Court made clear in Levy, 417 U.S. at 756, that

> [f]or the reasons which differentiate military society from civilian society, we think Congress is permitted to legislate both with greater breadth and with greater flexibility when prescribing the rules by which the former shall be governed that it is when prescribing rules for the latter.

Thus Congress need not stand by until a military strike is inevitable, even though illegal; it may, consistent with the Constitution, forbid the organization of associations for the purpose of collective bargaining over any aspect of military service.

The provisions of S. 274 broadly prohibit military membership in any labor union. It is our understanding that current

concern is over military unions only and that current military policy in fact permits members of the military to join a civilian union for the purposes of civilian jobs they may hold during their off-duty hours. The broad prohibition on military membership in civilian unions that do not assert the right to bargain over aspects of military service is thus far broader than the Committee's actual concerns and cannot be justified by the danger of military strikes. S. 997 also bans military membership in unions, but specifically exempts civilian unions that do not attempt to represent members of the armed services in collective bargaining with the military and that do not advocate military strikes. The effect of this statute, to ban membership by military personnel in an organization formed for the purpose of collective bargaining over aspects of military service, meets the current concern and appears to be consistent with constitutional limitations.

However, a statute prohibiting members of the military from joining or being members of any organization which exists in whole or in part for the purpose of collective bargaining over the terms of military service may be objectionable in one regard. The problem arises because of the decision in Scales v. United States, 367 U.S. 203 (1961). That case was a prosecution of a civilian under the Smith Act for membership in the communist party. The Court held the statute to be too broad, and said that the statute must be drafted so as to prohibit only membership by "one 'knowing the [forbidden] purposes

thereof,' . . . with specific intent to further those purposes." 367 U.S. at 208. It is far from clear that this decision is applicable to membership in a labor union by a person in the military. It is also far from clear that a person in the military could be a member of a labor union without being aware of the objectives of the unions, and that such membership was illegal, if Congress has acted to make it so. In any event, it would seem that the problem could be taken care of by making the statute applicable only to "knowing membership" in a union.

Alternatively, Congress would certainly have the power to restrict the membership of military unions to members of the military. Section 9(b)(3) of the NLRA, 29 U.S.C. § 159(b)(3), provides that an employer need not recognize for collective bargaining purposes a union that includes "together with other employees, any individual employed as a guard to enforce against employees and other persons rules to protect property of the employer or to protect the safety of persons on the employer's premises." The policy behind such a rule is to assure to the employer that his plant guards will not be hindered by a conflict of interest in the performance of their duties to protect the employer's property during a strike by other workers. If Congress were willing to permit unionization of the military, it could at a minimum insist on the separation of military unions from civilian unions so that, in the case of a strike by civilian unions affecting a military base,

military personnel would be available to keep order on the base and protect base facilities without any conflicting community of interests with the civilian unions. Such a policy might also be justified as a means of avoiding the politicization of the military since civilian unions are often politically active organizations. Such a policy of separating military unions from civilian unions would obviously deprive civilian unions of any incentive to lobby and solicit for union organization of the military.

C. Advocacy And Solicitation

1. Advocacy of the Right to Strike

Although it is well settled that Congress may withhold the right to strike from federal employees, the federal statute prohibiting a person from holding a position with the government solely because he advocates the right to strike has been held unconstitutional. United Federation of Postal Clerks v. Blount, 325 F. Supp. 879, 881 (D.D.C.), aff'd on appeal by Postal Clerks, 404 U.S. 802 (1971); National Association of Letter Carriers v. Blount, 305 F. Supp. 546 (D.D.C. 1969), appeal by United States dismissed on motion of the Government, 400 U.S. 801 (1970). A civilian employee of the federal government is clearly protected by the First Amendment when he merely advocates striking by federal employees as an abstract proposition or when he joins a union that advocates the right

to strike, as long as he himself does not participate in a strike.

With respect to military strikes, it is clear that Congress can proscribe military and civilians alike from laying plans for or inciting military personnel to join a specific strike where there is an imminent danger that such a strike might take place. That kind of direct and concrete advocacy would constitute a form of participation in the illegal act of a military strike and could be proscribed even under the First Amendment standards applicable to civilian life, as expressed in Hess and Brandenburg, quoted in Section II B, supra. The much harder issue is whether the unique nature of the military and the special danger strikes would pose to the combat readiness of the military forces justifies any broader proscriptions on advocacy of military strikes.

a. Abstract Advocacy by the Military

Avrech and Levy indicate, at a minimum, that Congress or the military command may forbid a member of the military from advocating the right to strike while on duty on a military base or at any time while in a combat zone. It seems clear from the Supreme Court's repeated recognition of the importance of discipline in the military that Avrech and Levy would also at least support the broader rule that such advocacy may be forbidden whenever a member of the military is on duty or on a

military base. In fact, in view of the patent violations of military discipline that a strike would involve, and in view of the obvious omission from the "clear danger" test of a requirement of imminency, it might be argued that as long as a person is a member of the military, he or she may be prohibited from any advocacy of the right to strike directed at any other members of the military, whether on base or off base, whether on duty or off. At the other extreme, advocacy of strikes by a service member when he or she is off duty talking with nonmilitary persons clearly presentes little danger to military discipline and there is doubt that it can be constitutionally proscribed.

The greatest danger to military discipline is probably posed by discussions about striking between military personnel while on duty. There is at that time the greatest likelihood that advocacy will be translated into disobedience of an order. When service personnel are off duty but on base, as for example in on-base living quarters, there is still a relatively great danger because of the high concentration of military personnel in the area. One would scarcely need a union structure to start a strike in such circumstances if the troops were sufficiently aggrieved over some issue. The ease with which discontented troops can be stirred up beyond control by those most willing to voice their complaints is a danger that has plagued societies much older than our own. For example, for a vivid account of the course of mutinies among the Roman

legions over conditions of service during the first century A.D., see Tacitus, Annals I. 16-49, in Tacitus, The Annals of Imperial Rome 43-60 (Penguin ed., M. Grant transl. 1956). Moreover, where troops are quartered on a base, there is presumably a requirement that such troops be kept in readiness for combat. That requirement would justify suppressing the expression of such potentially disruptive ideas on the base. Many of our military bases are abroad, however, where, as the Huff case indicates, foreign policy and international law may require that military personnel be restricted in the expression of political ideas. In such cases, it may be necessary to provide a non-duty area on base, in peace time or outside of combat areas, where soldiers can exercise their free speech rights, lest regulation of the time, place, and manner of expression be in effect the suppression of expression. Spock expressly noted that the regulations the Supreme Court upheld there still permitted the exercise of First Amendment rights off base.

Once a military person leaves his or her base and enters the civilian world, the danger to the military of the advocacy of strikes diminishes considerably. Moreover, the complexity of the problem of drafting a clear rule that would adequately cover all situations increases tremendously because of the many different situations involved. With respect to many military bases, a high percentage of the service personnel assigned there actually live off base and report to the base

only for work assignments. A rule that proscribes advocacy of strikes only while on base will fail to prevent military personnel in such cases from meeting to advocate the strike power in their living quarters off base, where there may be a high concentration of service persons, and hence an appreciable danger that advocacy could be translated into action. On the other hand, advocacy of the abstract idea of military strikes by military members directed at other military members in small groups away from a base during off-duty hours does not seem to present a "clear danger to the loyalty, discipline, or morale of the troops" -- especially if there is no institutional structure, like a union, available to propagate whatever sparks such abstract advocacy might generate.

As a generally applicable rule that does not carry a high risk of invalidation by the courts, it would appear that Congress may proscribe the advocacy of military strikes by members of the armed services while on duty, while on military bases, or while off base but in uniform. The last part of the rule seems justified by the sense of respect and authority that the uniform is designed to foster. Greer v. Spock, 424 U.S. 828, 833 n.3 (1976), mentions without comment the similar regulation prohibiting military personnel from participating in any public demonstration in uniform. It may be that a better solution is to leave regulation in this area in the hands of base commanders, as it is presently, so that in

view of the particular circumstances of their bases, they may take such steps as necessary to protect the troops under their command from the "clear danger" that advocacy of military strikes might pose to the discipline and morale of the troops. Indeed, Congress need not enact additional legislation to achieve substantially this result since under the regulations approved in Spock and Carlson, a military commander has the authority to ban demonstrations and speeches on the base and to prohibit the distribution of any literature on the base that presents a "clear danger." As noted above, current regulations also prohibit servicemen from attending public demonstrations in uniform.

The UCMJ also presently enables the military to restrict expression by military personnel. Article 134 of the UCMJ, 10 U.S.C. § 934, permits the military courts to punish "all disorders and neglects to the prejudice of good order and discipline in the armed forces," and Article 133, 10 U.S.C. § 933, permits the military courts to punish officers for "conduct unbecoming an officer and a gentleman." The constitutional validity of Articles 133 and 134 was sustained in Levy. The court-martial conviction upheld in Culver, for example, which had concerned participation by an officer in a demonstration, was under Article 133. Both articles would thus clearly apply to statements by military personnel advocating the illegal conduct of a military strike in contexts that pose a "clear danger"

to discipline or morale, but Articles 133 and 134 would appear not to cover truly abstract advocacy. Leaving regulation of military personnel expression in this area to a combination of regulation by military base commanders and prosecutions under Articles 133 and 134 of the UCMJ is thus the most flexible approach and also least vulnerable to constitutional attack. The language of S. 274 and S. 997 includes very broad proscriptions on advocacy, going beyond the limits established above, and therefore appears to involve considerable risk of unwarranted infringements on the First Amendment rights of military personnel.

b. Abstract Advocacy by Civilians

Civilian First Amendment rights are entitled to the high standards of protection expressed in Hess and Brandenburg. Moreover, the Supreme Court has narrowly defined the scope of Congress' power under Article I, Section 8, Clause 14, to apply only to members of the military and, in cases like Spock, to military facilities. Therefore, while Congress or a military commander may exclude civilian advocacy of military strikes from a military base, civilian expression off base cannot be regulated in the name of military necessity, unless there is no "less restrictive alternative means." See Robel, discussed in Section II A 1, supra. In this case, it would seem that the permissible restrictions on members of the military outlined above adequately safeguard the military from actual strikes or associated

detriment to discipline and morale. Therefore, to the extent the proposed bills would restrict civilian expression off base, they appear likewise to involve considerable risk of being held to constitute unwarranted infringements of the First Amendment rights of civilians.

2. Advocacy of Military Unions and Solicitation Therefor

If Congress can prohibit military membership in military unions, it also can clearly prohibit solicitation of military personnel by anyone, military or civilian, to join a specific military union. However, although Congress may ban military unions, restrict considerably a serviceman's right to advocate military strikes in the abstract, and prohibit all such advocacy on military bases, it is not therefore self-evident that Congress can similarly restrict abstract advocacy of organizing the military for collective bargaining. Although one of the evils from which the military is to be protected by the foregoing rules is collective bargaining itself, it is clear that the military command is adequately protected from that evil by its ability to refuse to bargain with a union. The foregoing restrictions on First Amendment freedoms are all justified by the further necessity of avoiding military strikes. If strikes are the evil to be avoided, it requires more extended reasoning to conclude that advocacy of unions may be prohibited

than was the case with advocacy of strikes. One has to argue that advocacy of unions will lead to the attempt to bargain collectively, which in turn will necessarily lead to resort to strikes. It appears that restrictions on advocacy of strikes should be sufficient to prevent the evil of strikes.

Nevertheless, in view of the degree to which the two issues, collective bargaining and strikes, could be intertwined and in view of the wide discretion granted to Congress in regulating the military, it seems likely that the courts would uphold a ban on such advocacy at least on military bases. Such a restriction would appear justified by the obvious need for bases to be free to conduct their training and other duties without undue disturbances and by the large concentration of military personnel on a base. But any greater restriction would appear to involve unwarranted infringements on the First Amendment, especially where civilians are concerned. The remarks above in Section III C 1 concerning the greater flexibility of control exercised by regulations of individual base commanders and prosecutions under Articles 133 and 134 of the UCMJ apply here with equal weight.

3. Lobbying Activities

As defined above in Section III B, the permissible ban on military unions would apply to any organization which asserts the right of any persons in the armed services to strike or to

bargain collectively over aspects of military service. The ban would therefore apply to any lobbying group established by members of the military to assert such rights. However, the Congress might want to make any ban inapplicable to organizations which would make representations to Congress on specific issues of military service like pay, benefits, and so forth. There now exist within the military a number of professional or fraternal organizations which perform this function. S. 274 would exempt these organizations as long as they do not assert the right of employees of the federal government or members of the armed forces to strike. The language of S. 997 exempting such organizations as long as they do not advocate military members' right to strike or assert that they have the right to bargain collectively would appear to be preferable as it conforms to the tenor of the arguments presented in Section III B, supra, in support of a ban on military unions.

IV. CONCLUSIONS

The following are the major conclusions to be drawn from this analysis of Congress' power under the Constitution to regulate or ban military unions. As noted at the outset of this memorandum, these conclusions undertake to describe the limits of congressional power under the Constitution. They are not intended to be recommendations that that power necesarily be exercised. That decision is for the political judgment of

Congress in light of the information gained from the hearings to be held on this subject.

A. Banning Military Strikes and Military Unions.

The fundamental purpose of the bills, to ban military strikes and military unions, appears to be one that Congress can achieve in a manner consistent with the Constitution. Despite the great protection the First Amendment gives to the right of association in the civilian world, it is clear that the Supreme Court has determined that Congress has wide scope in the exercise of its power to regulate the military, at least where the regulation is directed solely at persons in the armed forces. Thus a ban on membership by military personnel in an organization that asserts the right of members of the military to strike or to bargain collectively over any aspect of military service would appear justified by the danger of strikes or other concerted actions which are the likely outcome of union organization. The Court has also recognized that military base commanders have wide authority to govern activities on a base. Therefore it appears likely that the courts would uphold a ban on advocacy of military strikes and military unions by either military or civilians on a military base.

B. Civilian Advocacy

With respect to advocacy by civilians, the bills presently pending before the Committee contain provisions that appear to go considerably beyond the scope of Congress' power under Article I, Section 8, Clause 14, to regulate the military. The blanket restrictions on civilian advocacy of military unions and strikes apparently involve infringements on First Amendment rights.

C. Regulation of Expression by the Military Off Duty and Off Base

The most difficult area involves regulation of expression by the military off duty and off base. The Supreme Court has not yet dealt with a case involving the exercise of free speech rights by members of the military off base. In view of the uncertainty over the permissible limits of regulation of off-duty, off-base activities by the military, and in view of the many different situations presented by United States military bases around the world and in this country, the Congress may wish to consider a provision which would allow each military base commander to determine the extent to which off-base regulation of expression is necessary, preferably requiring a specific finding by any commander making such a regulation of the reasons which, in his judgment, make such regulation necessary. Even in the absence of specific

regulations, Articles 133 and 134 of the UCMJ presently give the military authority to prosecute military personnel whose advocacy or solicitation presents a clear danger to troop discipline or morale. This form of regulation appears not only adequate but most preferable because of its flexibility. Leaving the regulation of expression to the UCMJ will permit the specialized military courts to adjust the "clear danger" standard to the great variety of situations that could arise among our military forces throughout the world without necessarily proscribing many forms of abstract advocacy, as any flat rule would tend to do.

May 26, 1977

The Honorable John C. Stennis
Committee on Armed Services
United States Senate
Washington, D. C. 20510

Dear Chairman Stennis:

Senator Tower transmitted to me the request of the Armed Services Committee that I give the Committee my opinion on the constitutionality of S. 274 and S. 997, and, more generally, on whether the Constitution permits Congress to restrict or ban unionization of the armed forces. I am very happy to comply with that request, and have preferred to do this without compensation as a public service.

I am the Charles T. McCormick Professor Of Law at The University of Texas. For more than 20 years I have taught Constitutional Law and I have written extensively on constitutional matters. In addition, I have had the privilege of arguing a number of cases in the United States Supreme Court, almost all of which have involved significant constitutional issues.

With regard to the issue on which my opinion was asked, any opinion must necessarily be at best an educated guess. Neither the text of the Constitution nor the existing case law provide a clear answer. There have been in recent years a number of cases, both from the Supreme Court and from the lower courts, on how the First Amendment applies in the military environment, but none of these has involved activity very similar to unionization. Similarly there are many cases in the lower courts dealing with union activity among public employees. Some of these, and in particular those involving policemen and firemen, concern what has been described as "quasi-military" functions, but as the prefix suggests, though these departments resemble the armed forces insome ways they are not the armed forces and there are risks in extrapolating from one area to the other. In addition, this second

class of cases are from lower courts, and it is particularly true in First Amendment matters that only the Supreme Court can speak with clear authority.

A final complication is that there are indications that the judicial attitude toward issues of this kind is in flux. A well-informed commentator, Major Dennis M. Corrigan of the Judge Advocate General's School, has referred to "the shift of the Burger Court to a hands-off approach when dealing with military or even para-military cases." Corrigan, The Lonely Flower: Command Control of Civilian Activities at Military Installations after Greer v. Spock, The Army Lawyer, June 1976 (DA Pam 27-50-42) at 3. At the same time the very recent decision in Abood v. Detroit Board of Education, 45 U.S.L.Wk. 4473 (May 23, 1977), has language that seems to go a long way toward equating the rights of public employees with private employees, but it is not unreasonable to wonder whether it will be extended byond its specific holding.

Under the circumstances the most that I can do is identify the issues that seem to me important, point to the cases that bear on those issues, and then make the best forecast I can of how the Court would be likely to resolve the specific questions raised by unionization of the armed forces. Some of the conclusions I will state I feel quite confident about, while other of the conclusions are put forward with far more diffidence.

In reviewing the materials the Committee's staff made available to me, I note that on occasion weight has been given to the clauses of Article I, § 8, defining the extensive power Congress has over the armed forces, and particularly to clause 14, authorizing Congress "To make Rules for the Government and Regulation of the land and naval Forces." With respect to those who think otherwise, this seems to me a false lead. Congress can do nothing unless

it is within the powers delegated to it in Article I, but all of those powers must be measured against the restrictions imposed elsewhere, notably in the Bill of Rights. Clause 17 gives Congress power "to exercise exclusive Legislation in all Cases whatsoever" over the District of Columbia but this would hardly permit Congress to ban newspapers from the District. As the Supreme Court said in United States v. Robel, 389 U.S. 258, 265 (1967):

> When Congress' exercise of one of its enumerated powers clashes with those individual liberties protected by the Bill of Rights, it is our "delicate and difficult task" to determine whether the resulting restriction on freedom can be tolerated.

As will be seen, the courts have been properly conscious of the unique function of the armed forces, and this may well lead to different answers to First Amendment issues in the military than would be reached in civilian life, but the fact that Congress has power to make rules for the government of the land and naval forces does not permit Congress to ignore the First Amendment when it makes those rules.

Basic Premises

I start with the premise that, while freedom of association is not mentioned in the Constitution, there is properly derived from the First Amendment guarantees of speech, assembly, and petition a "freedom to engage in association for the advancement of beliefs and ideas." NAACP v. Alabama ex rel. Patterson, 357 U.S. 449, 460 (1958). See also Bates v. City of Little Rock, 361 U.S. 516, 522-523 (1960); NAACP v. Button, 371 U.S. 415, 429-430 (1963); Healy v. James, 408 U.S. 169, 181 (1972). The right of employees to join in a labor union is within this freedom of association. Abood v. Detroit Board of Education, 45 U.S.L.Wk. 4473, 4480 (May 23, 1977); United

Transportation Union v. State Bar of Michigan, 401 U.S. 576, 578-579 (1971); Thomas v. Collins, 323 U.S. 516, 532 (1945).

But freedom of association, like other First Amendment rights, has not been read as being absolute. Instead, when Congress acts within one of its delegated powers to accomplish what it considers the national interest requires, and this action limits First Amendment rights, "resolution of the issue always involves a balancing by the courts of the competing private and public interests at stake in the particular circumstances shown." Barenblatt v. United States, 360 U.S. 109, 126 (1959). See also, e.g., American Communications Assn. v. Douds, 339 U.S. 382, 399 (1950); Konigsberg v. State Bar of California, 366 U.S. 36, 50-51 (1961) Pickering v. Board of Education, 391 U.S. 563, 568 (1968). But see United States v. Robel, 389 U.S. 258, 268 n. 20 (1967). These are the broad principles that must be applied to the specific problem of unionization of the armed forces.

Special Role of the Military

There were expressions in some of the early cases that could have been read to say that constitutional protections do not apply to those in the military. See Ex parte Milligan, 4 Wall. (71 U.S.) 2, 138 (1866); Reaves v. Ainsworth, 219 U.S. 296, 304 (1911). It is now quite clear that this is not the case. Constitutional protections apply, but must be read in the context of the special needs of the military. As the Court said in an important recent case:

> While the members of the military are not excluded from the protection granted by the First Amendment, the different character of the military community and of the military mission requires a different application of those protections. The fundamental necessity for obedience, and the consequent necessity for imposition of discipline, may render permissible within the military that which would be constitutionally impermissible outside it.

Parker v. Levy, 417 U.S. 733, 758 (1974). The Court went on, at 759, to quote with approval the following language from United States v. Priest, 21 U.S.C.M.A. 564, 570, 45 C.M.R. 338, 344 (1972):

> The armed forces depend on a command structure that at times must commit men to combat, not only hazarding their lives but ultimately involving the security of the Nation itself. Speech that is protected in the civil population may nonetheless undermine the effectiveness of response to command. If it does, it is constitutionally unprotected.

The more recent statement in Greer v. Spock, 424 U.S. 828, 837 (1976), that "this Court over the years has on countless occasions recognized the special constitutional function of the military in our national life, a function both explicit and indispensable," is fully supported by the decisions. See, e.g., In re Grimley, 137 U.S. 147, 153 (1890); Orloff v. Willoughby, 345 U.S. 83, 93-94 (1953); Schlesinger v. Councilman, 420 U.S. 738, 757 (1975). See also Emerson, The System of Freedom of Expression 57 (1970). The Court has also observed that "it is difficult to conceive of an area of governmental activity in which the courts have less competence" than in determining what military needs require, and that these decisions should be left to professional military judgments subject to civilian control by the Legislative and Executive Branches. Gilligan v. Morgan, 413 U.S. 1, 10 (1973).

But the courts have not abdicated entirely, and the decisions, almost all from lower courts, involving particular First Amendment challenges to military decisions are a mixed bag. A civilian employee cannot be excluded from a base for organizing an anti-war rally off the base, Kiiskila v. Nichols, 433 F.2d 745 (7th Cir. 1970), but a regulation barring members of the armed forces from participating in demonstrations while in a foreign country was valid even as applied to an officer who was off duty and out of uniform.

Culver v. Secretary of the Air Force, 389 F.Supp. 331 (D.D.C. 1975). A ban on circulating petitions on Air Force bases in South Vietnam was upheld, Carlson v. Schlesinger, 511 F.2d 1327 (D.C.Cir. 1975), but similar bans have been held invalid in areas that are not part of a combat zone. Allen v. Monger, 404 F.Supp. 1081 (N.D. Cal. 1975); Glines v. Wade, 401 F.Supp. 27 (N.D. Cal. 1975). A regulation requiring prior approval of distribution of written material on a base, and permitting disapproval only of materials that are "a clear danger to loyalty, discipline, or morale" is valid on its face, Greer v. Spock, 424 U.S. 828, 840 (1976); Committee for GI Rights v. Callaway, 518 F.2d 466, 479 (D.C.Cir. 1975), but cannot validly be applied where military necessity does not so require. Huff v. Secretary of Navy, 413 F.Supp. 863 (D.D.C. 1976). (That case seems to hold that any requirement of approval for distribution of materials from one serviceman to another during off hours and away from restricted or work areas is unconstitutional.) Outsiders need not be allowed to come on to a base to make speeches, Greer v. Spock, 424 U.S. 828 (1976); cf. Cafeteria & Restaurant Workers Union v. McElroy, 367 U.S. 886 (1961), and the commander of a base can refuse to allow a meeting to be held on the base that will promote discontent among military men with their military responsibilities and tasks. Dash v. Commanding General, 307 F.Supp. 849 (D.S.C. 1969), affirmed on the opinion below 429 F.2d 427 (4th Cir. 1970), certiorari denied 401 U.S. 982 (1971).

If there is a common thread in these cases, it seems to be that the First Amendment rights of the military can be restricted but only where military necessity so requires, and that while deference will be given to the judgment of the military authorities about military necessity, that judgment is not controlling and can be reviewed by the courts. It deserves emphasis

again, however, that most of the decisions cited in the preceding paragraph are from lower courts, and that not one of those decisions involves union activity.

Public Employees Generally

The other body of case law that is available for use by way of analogy are the decisions, again almost entirely from the lower courts, dealing with union activity by civilian government employees. Although the decisions here are from lower courts, there is essential unanimity on the more important propositions.

First, government employees have a constitutional right to belong to a union. As Judge -- now Justice -- Stevens wrote in Hanover Township Federation of Teachers v. Hanover Community School Corp., 457 F.2d 456, 460 (7th Cir. 1972):

> the courts * * * have accepted a general proposition that public employees cannot be discharged for engaging in "union activities." * * * Such protected "union activities" include advocacy and persuasion in organizing the union and enlarging its membership, and also in the expression of its views to employees and to the public. For that reason, the State may not broadly condemn all union activities or discharge its employees simply because they join a union or participate in its activities.

There are many other cases to the same effect, and no modern cases to the contrary. See Lontine v. VanCleave, 483 F.2d 966 (10th Cir. 1973) (sheriffs); Orr v. Thorpe, 427 F.2d 1129 (5th Cir. 1970); American Federation of State, County & Municipal Employees, AFL-CIO v. Woodward, 406 F.2d 137 (8th Cir. 1969); McLaughlin v. Tilendis, 398 F.2d 287 (7th Cir. 1968); Vorbeck v. McNeal, 407 F.Supp. 733 (E.D. Mo. 1976) (policemen), affirmed 426 U.S. 943 (1976); Police Officers' Guild v. Washington, 369 F.Supp. 543 (D.D.C. 1973)(policemen); Teamsters Public Employees Union v. City of West Point, 338 F.Supp. 927 (D.Neb. 1972); Melton v. City of Atlanta, 324 F.Supp. 315 (N.D.Ga. 1971)(policemen);

Service Employees Intl. Union v. County of Butler, 306 F.Supp. 1080 (W.D. Pa. 1969); Atkins v. City of Charlotte, 296 F.Supp. 1068 (W.D.N.C. 1969) (firemen). Although these cases have involved all kinds of government employees, quite a few of them, as the parenthetical notations show, have involved policemen and firemen. In the case last cited, the Atkins case, Judge Craven wrote, 296 F.Supp. at 1076:

> It is said that fire departments are quasi-military in structure, and that such a structure is necessary because individual firemen must be ready to respond instantly and without question to orders of a superior, and that such military discipline may well mean the difference between saving human life and property, and failure. The extension of this argument is, of course, that affiliation with a national labor union might eventuate in a strike against the public interest which could not be tolerated, and the very existence of which would imperil lives and property in the City of Charlotte. * * * The thought of fires raging out of control in Charlotte while firemen, out on strike, Neroicly watch the flames, is frightening. We do not question the power of the State to deal with such a contingency. We do question the overbreadth of G.S. § 95-97, which quite unnecessarily, in our opinion, goes far beyond the valid state interest that is suggested to us, and strikes down indiscriminately the right of association in a labor union -- even one whose policy is opposed to strikes.

Similar reasoning has been applied to other "quasi-military" public employees such as policemen and sheriffs.

There is some suggestion in the case law that a different rule may be applied to employees who are in a supervisory capacity and that they can either be barred from union membership entirely or at least barred from joining the same union as those whom they supervise. Norbeck v. Davenport Community School Dist., 545 F.2d 63 (8th Cir. 1976) (high school principal); Elk Grove Firefighters Local No. 2340 v. Willis, 400 F.Supp. 1097 (N.D. Ill. 1975) (captains and lieutenants in fire departments), affirmed without opinion 539 F.2d 714 (7th Cir. 1976); Shelofsky v. Helsby, 32 N.Y.2d 54,

295 N.E.2d 774 (1973), appeal dismissed for want of a substantial federal question 414 U.S. 804 (1973).[1] This is similar to the public policy expressed in § 14(a) of the Taft-Hartley Act, 29 U.S.C. § 164(a), and seemingly approved by the Supreme Court, but without discussing First Amendment issues, in Beasley v. Food Fair of North Carolina, 416 U.S. 653 (1974).

Second, it is so well settled as to be, literally, hornbook law that an absolute prohibition against strikes by public employees is constitutionally valid. Gorman, Basic Text on Labor Law 210-211 (1976). The cases so holding include: Bullock v. Mumford, 509 F.2d 384 (D.C.Cir. 1974); Bennett v. Gravelle, 451 F.2d 1011 (4th Cir. 1971), certiorari dismissed 407 U.S. 917 (1972); Johnson v. City of Albany, 413 F.Supp. 782 (M.D.Ga. 1976); United Federation of Postal Clerks v. Blount, 325 F.Supp. 879 (D.D.C. 1971), affirmed 404 U.S. 802 (1971); Kirker v. Moore, 308 F.Supp. 615, affirmed per curiam 436 F.2d 423 (4th Cir. 1971), certiorari denied 404 U.S. 824 (1973). In addition to these cases, many of the cases cited earlier for the proposition that there is a constitutional right to union membership by public employees state, by way of dictum, that the state may prohibit strikes by such a union. See also the dictum to the same effect in Amell v. United States, 384 U.S. 158, 161 (1966). As appears particularly in the Fourth Circuit's decision in the Bennett case, and in the decision of the three-judge court, summarily affirmed by the

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1. A summary affirmance by the Supreme Court, or a dismissal for want of a substantial federal question, is a decision on the merits and, as such, binding on the lower courts, Hicks v. Miranda, 422 U.S. 332, 344-345 (1975), although to the Supreme Court itself they do not have "the same precedential value" as a case decided by opinion after plenary consideration. Edelman v. Jordan, 415 U.S. 651, 671 (1974).

Supreme Court, in the Blount case, the prohibition against strikes can be absolute. It does not matter whether there was or was not good cause for the strike nor does it matter whether the employees are essential or nonessential.

Here, however, there is a distinction that must be noted. Although government may absolutely prohibit a strike by its employees, it may not bar its employees from membership in a union that "asserts" the right to strike against the government. This was first held in National Assn. of Letter Carriers v. Blount, 305 F.Supp. 546 (D.D.C. 1969), appeal dismissed by stipulation 400 U.S. 801 (1970), holding unconstitutional so much of 5 U.S.C. § 7311(3) and (4) as prohibit government employees from asserting the right to strike against the United States government and from belonging to any organization that the employee knows asserts a right to strike against the government. This was followed in United Federation of Postal Clerks v. Blount, 325 F.Supp. 879 (D.D.C. 1971). A similar result was reached in Police Officers Guild v. Washington, 369 F.Supp. 543 (D.D.C. 1973), with regard to a portion of the District of Columbia Code that prohibited police officers from being members of any organization that "holds, claims or uses" the right to strike, and in Aurora Education Assn. East v. Board of Education, 490 F.2d 431 (7th Cir. 1973), with regard to a school board policy that gave bargaining rights to labor organizations but excluded any organization that "asserts the right to strike against any * * * agency of the government."

Third, government cannot be required to engage in collective bargaining with a union representing its employees. Vorbeck v. McNeal, 407 F.Supp. 733 (E.D. Mo. 1976), affirmed 426 U.S. 943 (1976); University of New Hampshire Chapter of A.A.U.P. v. Haselton, 397 F.Supp. 107 (D.N.H. 1975); Winston-Salem/

Forsyth County Unit of the North Carolina Assn. of Educators v. Phillips, 381 F.Supp. 644 (M.D.N.C. 1974); Newport News Fire Fighters Assn. v. City of Newport News, 339 F.Supp. 13 (E.D.Va. 1972); Beauboeuf v. Delgado College, 303 F.Supp. 861 (E.D.La. 1969); Atkins v. City of Charlotte, 296 F.Supp. 1068 (W.D.N.C. 1969). The rationale, which the later cases have accepted, is stated in the Atkins case, 296 F.Supp. at 1077:

> There is nothing in the United States Constitution which entitles one to have a contract with another who does not want it. It is but a step further to hold that the state may lawfully forbid such contracts with its instrumentalities. The solution, if there be one, from the viewpoint of the firemen, is that labor unions may someday persuade state government of the asserted value of collective bargaining agreements, but this is a political matter and does not yield to judicial solution. The right to a collective bargaining agreement, so firmly entrenched in American labor-management relations, rests upon national legislation and not upon the federal Constitution. The State is within the powers reserved to it to refuse to enter into such agreements and so to declare by statute.

See also Petro, Sovereignty and Compulsory Public-Sector Bargaining, 10 Wake Forest L.Rev. 25 (1974); Summers, Public Employee Bargaining: A Political Perspective, 83 Yale L.J. 1156 (1974); Summers, Public Sector Bargaining: Problems of Governmental Decisionmaking, 44 U.Cinn.L.Rev. 669 (1976).

The only doubt on the proposition just stated is cast by a recent decision of the Seventh Circuit. Confederation of Police v. City of Chicago, 529 F.2d 89 (7th Cir. 1976), dealt with the organizational rights of policemen. The court first considered whether the policemen had a due process right to a grievance procedure, and held that they did. It said, at 92:

> The grievance procedures to be afforded the patrolmen need not mirror in all respects those afforded other civil servants. The quasi-military quality of the police force does not justify complete denial of all grievance procedures. It does, however, justify use of a different grievance procedure within the police department.

The court then considered whether there was a right to collective bargaining. It rejected the policemen's claim that equal protection required that they be given that right since it was given to non-academic employees of the Board of Education. The court held that the Board of Education is not comparable to the police department for equal protection purposes. But the court then, at 93, suggested, without deciding, the possibility that collective bargaining may in fact be required. It said:

> Although we refrain from holding today that patrolmen have a per se constitutional right to collective bargaining, we recognize that the district court, upon analysis of the protection required for the procedural rights discussed in Part I of this opinion, may conclude that collective bargaining is a necessary adjunct to such protection. That issue is not presently before us, of course, and we thus withhold further comment.

Conclusion

It remains, then, to attempt to apply, by analogy, the lower court cases on union activities by public employees to members of the armed forces, having in mind the very special role that, as the Supreme Court has frequently recognized, the military has in our national life. It seems to me safe to suppose that the armed forces are an a fortiori case from public employees generally. To the extent that the cases hold that First Amendment rights of postal clerks, policemen, and the like can be restricted, where such restrictions would not be proper in the private sector, surely Congress can impose the same restrictions on the military. The harder question is to what extent, if any, greater restrictions can be put on the armed forces then on civilian governmental employees.

Taking what is said in the preceding paragraph as my premise, I have no doubt at all that Congress can validly bar strikes by members of the armed

forces. It seems to me equally clear that Congress can provide that the services shall not engage in collective bargaining with labor organizations.

I feel almost as certain that Congress can provide that labor organizations may not represent members of the armed forces on grievances. In Orloff v. Willoughby, 345 U.S. 83, 93-94 (1953), the Supreme Court said:

> The responsibility for setting up channels through which grievances can be considered and fairly settled rests upon the Congress and upon the President of the United States and his subordinates. The military constitutes a specialized community governed by a separate discipline from that of the civilian.

The services quite wisely have already provided several different channels through which grievances can be aired. I cannot think that it is beyond the constitutional power of Congress to determine that these channels are sufficient, and to enact legislation preventing a third party, such as a labor union, from participating in the resolution of grievances.

Can Congress bar members of the armed forces from belonging to a labor organization? This is a more difficult question, on which no one can responsibly give a firm answer. The presumption of constitutionality of an Act of Congress is, and ought to be, strong. Congress is in a far better position than the courts to decide whether mere membership in a union would be so disruptive of military discipline and of the chain of command that it ought to be prohibited. The cases holding that civilian governmental employees have a constitutional right to union membership are all from lower courts. Despite all this, I feel that Congress would be on risky ground if it were to prohibit members of the armed forces from joining a labor organization. On the handful of cases that are available, I think Congress might prohibit those in a supervisory position -- officers? -- from joining a union

or at least prohibit them from joining a union that includes the rank and file. Possibly, given the difference between military and civilians, Congress could prohibit membership in a union that "supports, advocates, or asserts" the right of federal employees or members of the armed forces to strike against the government. The cases in the civilian sector are unanimously against such a prohibition, and it would certainly entail constitutional risks, but it might be upheld. It is certainly possible that the Court would accept a determination by Congress that any membership by an man or woman in the armed services in any kind of labor organization poses dangers to military discipline and effectiveness that cannot be tolerated, but my prediction is to the contrary.

With regard to soliciting members of the military to join a union, I would think that the usual rules on access to a base, recently reaffirmed in Greer v. Spock, 424 U.S. 828 (1976), would apply, and that to the extent to which others soliciting for private causes are barred, union organizers could be barred. It is possible that some light will be shed on this question next month when the Supreme Court decides Jones v. North Carolina Prisoners' Labor Union, Inc. In that case the state did not challenge the right of prisoners to belong to a union, and the lower court held that the state could not prohibit one prisoner from soliciting another to join the union, although it could bar outsiders from access to the prison. 409 F.Supp. 937 (E.D.N.C. 1976). Military bases are not prisons, and soldiers, sailors, and airmen are hardly prisoners, so that the decision, when it comes down, will not clearly answer questions about solicitation of union membership in the military, but it may provide one more analogy.

In sum, I doubt that Congress can prohibit members of the armed forces from joining a labor union, provided that the activities of that union are limited to presenting its members' views to Congress and to the public and to providing representation for its members, where counsel is permissible, in disciplinary proceedings. I think that Congress can ban strikes, that it can ban collective bargaining with unions representing members of the armed forces, and that it can provide that unions are not to participate in the existing military systems for dealing with grievances.

I hope that this opinion will be of some help to the Committee on Armed Services as it considers this important question.

Respectfully yours,

Charles Alan Wright

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