Mr. YEAGLEY. My previous comments at the earlier hearing were based on the fact that the standard of "in the national interest" is the standard incorporated in Executive Order 10865 under which the program is presently being operated. It has been operated now for over 8 years, and this particular problem has not to my knowledge been raised as a serious one. I would have to admit, on the other hand, that the question of establishing a criterion, whether the one you suggest, the one in the bill or the one that is being used, is extremely difficult and one that someday will be resolved by the courts. In the personnel screening program of the Government the standard is "clearly consistent with interests of national security." Of course, under the present standard in the Industrial Security Program, if the Defense Department in its operation and application of the criterion would apply it in some of the ways pointed out by you as possibilities, I think then we would lose one of the requirements essential to such a determination. The Government must show that it has a legitimate concern and interest in a particular position that the employee occupies. We must show that we have a legitimate concern over the particular employee in that position; and, if we fail to make that application of the standard, then, of course, the particular case, and perhaps the program, would fall.

Mr. LIEBLING. This is exactly the point. There is no loose application, and it has been working well. We understand it. We are taking care of the Government's interests as well as the individuals. We take tremendous pride in our executive judgment.

Mr. TUCK (presiding). I understand the gentleman from South Carolina wishes to be recognized.

Mr. WATSON. Thank you, Mr. Chairman.

Mr. CULVER. I want to just thank the witnesses, Mr. Watson, for the very helpful information which I think perhaps will improve our ability to properly consider this legislation.

(The additional questions submitted to Mr. Yeagley by Mr. Culver and Mr. Yeagley's responses follow:)

Q. For individuals who will not have access to classified information, could not the relevant national interest in military security be reasonably adequately protected if inhibitions of their employment were made operative only during time of a formal state of war or a national emergency declared by the President? Particularly in the case of standby facilities, in which case the further argument could be made that no employment inhibitions should be enforced until such facilities are in fact converted to the purpose for which they had been designated? Would it not be reasonable to limit administrative discretion so that employment at a given facility could be inhibited only for particularly sensitive positions at that facility? (Revised page 3 of Yeagley's prepared statement indicates that employment restrictions should apply only to persons in "sensitive" positions.)

A. Someone connected directly with security in the Department of Defense could answer this better than I. However, I would think the answer to the first part of this question would be yes.

It is difficult to answer the question re clearances of employees of standby facilities on a hypothetical basis. It would depend on the facts, and it might be difficult to find a sound legal basis for such a program. On the other hand if the program is not initiated until the war or emergency begins, the time required to initiate and complete such a program may well result in a delay in the facility being activated or in its employees not being cleared.

The courts have indicated that if the position involved is not sensitive then the Government's interest in the person who might occupy that position is substantially reduced. It might be extremely difficult today to sustain a denial or