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APPROVED
JAN 2-1975

ACTION

THE WHITE HOUSE

WASHINGTON

Last Day: January 4

December 31, 1974

*Posted
1/3
To Archives
1/3*

MEMORANDUM FOR THE PRESIDENT

FROM: KEN COLE

SUBJECT: Enrolled Bill S. 2446 - For the Relief of Charles William Thomas, Deceased

Attached for your consideration is S. 2446, sponsored by Senator Pastore, which authorizes payment to the estate and survivors of Charles William Thomas, based upon a reconstruction of his Foreign Service career and a presumed death-in-service.

Mr. Thomas served as a Foreign Service Officer from 1952 until July 31, 1969 when he was involuntarily separated. After attempting unsuccessfully to obtain employment, Mr. Thomas committed suicide in 1971.

Max Friedersdorf (Loen) and Phil Areeda both recommend approval of the enrolled bill.

Also attached (Tab C) is a proposed letter to Mrs. Thomas, now an employee of the State Department, advising her of your approval of the bill.

RECOMMENDATION

That you sign S. 2446 (Tab B)

That you sign the letter to Mrs. Thomas (Tab C)



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 28 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2446 - For The Relief of
Charles William Thomas, Deceased
Sponsor - Sen. Pastore (D) Rhode Island

Last Day for Action

January 4, 1975 - Saturday

Purpose

Authorizes payments to Mr. Thomas's estate and survivors based upon a reconstruction of his Foreign Service career and a presumed death-in-service.

Agency Recommendations

Office of Management and Budget

Approval

Department of State

Approval

Discussion

Charles William Thomas served as a Foreign Service Officer from 1952 until July 31, 1969, when he was involuntarily separated, i.e., selected-out. At that time, he had reached the maximum time-in-class permitted for Class 4 Foreign Service Officers and was properly separated under regulations then in effect. Mr. Thomas was 46 years old, too young to qualify for an immediate annuity.

Prior to his leaving the Foreign Service in 1969, Mr. Thomas attempted unsuccessfully to obtain employment in the Department of State as a Foreign Service Reserve Officer. Subsequent to his selection out, he sought, also unsuccessfully, to obtain employment in the private sector. On April 12, 1971 Mr. Thomas took his own life. It has been alleged by Mr. Thomas's widow and others that his suicide was prompted by his involuntary separation.



Mr. Thomas's death provoked significant national publicity. His widow asked that the Department posthumously reinstate and promote her husband to the grade of FSO-1 with personal rank of Ambassador. In response to heavy congressional interest, an exhaustive restudy of the full circumstances of Mr. Thomas's separation was undertaken by the State Department. Again no error was found in either the decisions of eight successive selection boards not to place him in the promotion zone or the consequent application of time-in-class rules which required his selection out. However, in view of the tragic circumstances and the financial situation of the Thomas family, and in recognition of Mr. Thomas's years of service, Deputy Under Secretary for Administration William B. Macomber in May of 1971 offered Mrs. Thomas employment with the Department of State on the clear understanding that her acceptance was not meant to and need not restrain her from her declared intent to pursue a reversal of her husband's forced separation. Mrs. Thomas accepted, and has since been on the State Department employment rolls.

Provisions of S. 2446

The enrolled bill would reconstruct Mr. Thomas's Foreign Service career as if he had received a promotion to FSO Class 3 in 1967, and had continued in active service until his death in 1971. It would authorize payments to his estate of a lump sum amount representing the additional salary, annual leave, life insurance, and retirement benefits to which he, the estate, or his widow would have been entitled under such reconstruction. (A computation of these amounts, calculated through November 30, 1974, is attached to the views letter of the Department of State.)

In particular, enactment of the bill would require payments of the following:

- (1) FSO-3 salary (as determined by the Secretary) for the period April 23, 1967 through the date of his death on April 12, 1971 (which includes a period of about 21 months after his separation during which he performed no service for the Government). This amount would be offset by the actual FSO-4 salary he received during part of this period.
- (2) A recomputed survivor's annuity for his widow and children based upon the higher salary level, both prospectively and retroactively. The retroactive payment has been computed through November 30, 1974 to total \$5,959.52.



(3) Since the bill would reconstruct Mr. Thomas's career in a manner that would result in his death having occurred in service, his beneficiaries would be entitled to \$27,000 in Federal Employee Group Life Insurance benefits.

(4) Recomputation of the value of his accumulated annual leave through the date of his actual separation in 1969.

Recommendation

The State Department, in reports to the Senate Foreign Relations Committee, and the House Committee on the Judiciary, indicated that an exhaustive examination of Mr. Thomas's case showed no inequity or error of treatment. The Department, nevertheless, concluded that:

"There are tragic elements in this case which may motivate the Committee to exercise compassion. In this respect we defer to the Congress."

Citing this position and other factors, the State Department, in its attached views letter on S. 2446, recommends approval. The Department states:

"...it should be noted that if present time-in-class rules had been in effect at the time of Mr. Thomas's retirement, he would instead have been permitted to remain in the Service as an FSO-4 until February 1976, by which time he would have reached the age of 54 and would have become eligible for an immediate retirement annuity. Under these circumstances the Department does not favor a veto of this bill, and accordingly recommends that the President sign S. 2446."

This bill is highly preferential and would grant an extraordinary range of benefits for which we know of no precedent--including retroactive salary for a two-year period when Mr. Thomas performed no service for the Government. However, we recognize that the circumstances in his case are tragic and somewhat unique, and the Congress has determined that special legislation is warranted. Accordingly, we concur with the State Department in recommending approval.

Wilfred H. Powell

Assistant Director for
Legislative Reference

Enclosures





DEPARTMENT OF STATE

Washington, D.C. 20520

DEC 26 1974

Honorable Roy L. Ash
Director, Office of Management
and Budget
Washington, D. C. 20037

Dear Mr. Ash:

This is in response to Mr. Rommel's request of December 18 for the views and recommendations of the Department of State upon enrolled bill S. 2446.

This bill reconstructs the Foreign Service career of Charles William Thomas (deceased) as if he had been promoted from FSO-4 to FSO-3 on April 23, 1967, and had continued in active service until his death on April 12, 1971. The practical effect of such reconstruction would be to provide a lump sum payment to his family for past salary and increased government life insurance benefits, and a recomputation of Mrs. Thomas's survivor annuity based on the salary Mr. Thomas would have been receiving had he been a Class 3 officer at the time of death. A calculation of the total cost, as of November 30 of this year, is attached.

Mr. Thomas was involuntarily retired (selected-out) from the Foreign Service on July 31, 1969, because he had reached the maximum time-in-class allowed an FSO-4 under the regulations then in effect. Because he had not yet reached age 50, and was not an FSO-3, Mr. Thomas was not eligible under the Foreign Service Act for an immediate annuity. However, he did receive a separation gratuity of \$18,974, under Section 634 of the Act. Before and immediately following Mr. Thomas's retirement, the Department received several inquiries from members of Congress concerning the correctness of that action, and of the repeated failure of annual Selection Boards, to promote him to FSO-3. In response, a thorough re-examination was conducted to determine whether the selection-out system had operated fairly, or if there were facts which would justify a reconsideration of the judgment of the selection boards. It was concluded



that, although Mr. Thomas had performed honorably and creditably, he had not while an FSO-4 displayed sufficient qualification for advancement to merit promotion in competition with his peers. Allegations that Mr. Thomas's promotional opportunities had been prejudiced by administrative error were disproved, it being specifically noted that the initial mis-filing in 1966 of a favorable Inspector's Report (noted in the House Report on S. 2446) did not affect his promotion prospects, since that document had been received in the Department after the 1966 Selection Board had completed its work and had been properly refiled before the convening of the 1967 board. In these circumstances the Department concluded that no inequity had occurred and that, on the contrary, it would be unfair to others selected-out for similar well-founded reasons were the Department to reverse the selection-out decision concerning Mr. Thomas.

On April 12, 1971, Mr. Thomas took his own life. This tragic deed provoked significant national publicity. His widow asked that the Department posthumously reinstate and promote her husband to the grade of FSO-1 with personal rank of Ambassador. In response to heavy Congressional interest an exhaustive restudy of the full circumstances of Mr. Thomas's retirement was undertaken. Again no error was found in either the decisions of eight successive selection boards not to place him in the promotion zone or the consequent application of time-in-class rules which required his selection out. However, in view of the tragic circumstances and the straitened situation of the Thomas family, and in recognition of Mr. Thomas's years of loyal service, Deputy Under Secretary for Administration William B. Macomber in May of 1971 offered Mrs. Thomas employment with the Department of State, to supplement the modest survivor annuities for which she and her children had become eligible by her husband's death. This offer was made on the clear understanding that her acceptance was not meant to and need not restrain her from her declared intent to pursue a reversal of her husband's forced separation. Mrs. Thomas accepted, and has since then been on the State Department rolls.

For the reasons described above, the Department rejects the allegations in the House Report on S. 2446 that the failure to promote Mr. Thomas in 1967 was due in part to administrative error and that his subsequent forced retirement was arbitrary. However, as the House Report



indicates, the Department did not oppose this bill, and in a letter to Senator Fulbright of February 27, 1974, deferred to the judgment of the Congress because of the tragic elements in the case. In this regard it should be noted that if present time-in-class rules had been in effect at the time of Mr. Thomas's retirement, he would instead have been permitted to remain in the Service as an FSO-4 until February 1976, by which time he would have reached the age of 54 and would have become eligible for an immediate retirement annuity. Under these circumstances the Department does not favor a veto of this bill, and accordingly recommends that the President sign S. 2446.

Cordially,



Linwood Holton

Assistant Secretary for
Congressional Relations

Enclosure:

Calculation of Benefits
Payable if Legislation Enacted



THE WHITE HOUSE
WASHINGTON

December 23, 1974

MEMORANDUM FOR: BOB LINDER
FROM: KATHY CORCORAN *Kathy*
SUBJECT: Enrolled Bill S.2446

As you can see from the attached, Don Rumsfeld has suggested a letter be prepared for Mrs. Charles Williams Thomas. The problem is that we have no address on her. Can you help out?

Thanks.

Attachments



THE WHITE HOUSE

WASHINGTON

December 21, 1974

MEMORANDUM FOR: ROLAND ELLIOTT
FROM: WARREN HENDRICKS
SUBJECT: Enrolled Bill S. 2446

The above enrolled bill for the relief of Charles Williams Thomas has passed both Houses of Congress and should be received at the White House on Monday, December 23.

Don Rumsfeld has suggested that a letter be prepared to Mrs. Charles Williams Thomas commenting on the fact that the President is signing the bill. He also suggests some nice statement on the problem and wishing her the best in the new year.

It has been suggested that the letter should be included with the enrolled bill so that the President may sign both at the same time. Our present plan is to send this bill to Vail on or about December 28.

Thanks.

cc: Jerry Jones
Judy Johnston



THE WHITE HOUSE

WASHINGTON

December 18, 1974

December 18, 1974

NOTE FOR JERRY JONES:

I understand legislation is coming up from the Hill on Charles Thomas, restoring him to FSO-3. I want to handcarry that into the President. Please call it to my attention.

Also, you might consider drafting a letter to go to Mrs. Thomas from the President commenting on the fact that he is signing it and some nice statement about the problem and wishing him a merry Christmas or something.

DON RUMSFELD

difference between the amount actually paid by the said Charles William Thomas in group life and accidental death and dismemberment insurance premiums and the amount of such premiums he would have paid for the coverage of such insurance during that period had he been a Foreign Service officer of class 3;

(2) the amount of any lump sum payment to which the said Charles William Thomas would have been entitled under section 5551 of title 5, United States Code (relating to accumulated and accrued leave), upon his death on April 12, 1971, as a Foreign Service officer of class 3;



THE WHITE HOUSE
WASHINGTON

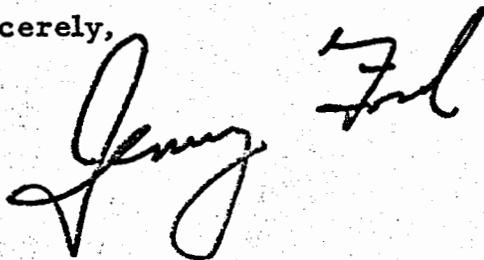
January 2, 1975

Dear Mrs. Thomas:

There are no words that can ease the burden you have carried over these years. The circumstances surrounding your husband's death are a source of deepest regret to the government he served so loyally and well, and I only hope that the measures which came about as a result of this tragedy will prevent reoccurrences of this kind in the future. I also hope that the enclosed legislation will bring some comfort to you and your family.

Mrs. Ford joins me in sending you our warmest wishes and prayers at this holiday season and for the years ahead.

Sincerely,



Mrs. Charles William Thomas
5432 Wolf River Lane
Columbia, Maryland 21043



RECEIVED

JAN 17 1975

CENTRAL FILES

a glossy copy of the attached bill was sent to Mrs. Thomas in the same package

This was mailed from the WH mail room on 1/10/75 by 1st class mail.

Husband - Foreign Service officer

7501100000

20C

THE WHITE HOUSE
WASHINGTON

MEMORANDUM FOR: WARREN HENDRIKS
FROM: *Max L. Friedersdorf* MAX L. FRIEDERSDORF
SUBJECT: Action Memorandum - Log No. 894
Enrolled Bill S. 2446

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment



Payment would be required of retroactive salary, life insurance proceeds, and increased retroactive and future widow's annuity

	Gross Salary	F.S. Retirement Contributions	Life Insurance Premiums	Net Actual Salary
<u>Salary:</u> Thomas actually rec. as FSO-4 4/23/67* - 7/31/69**:	(less) \$60,197.20#	(less) \$2,463.32	= 287.56	57,446.32
 If constructively promoted to FSO-3 on April 23, 1967 and if considered on active duty in that grade until death 4/12/71, salary would be:	(less) \$82,370.80##	(less) \$5,201.03	= \$588.77	Net Constructive Salary \$76,581.00

Net constructive salary under S-2446
less net salary actually paid: \$19,134.68

- *Date as of which FSO-3 pay would commence, under S-2446
- *Actual date of separation from Service
- #Includes lump-sum leave payment of \$3,356.16 and separation gratuity of \$18,974.00
- ##Includes lump-sum leave payment of \$4,309.28



Life Insurance Proceeds:

Federal Employees' Group Life Insurance, based on FSO-3 salary of \$24,349.00 \$27,000.00

Widow's Annuity:

Mrs. Thomas has received an annuity since April 13, 1971, which as of November 30, 1974 had totaled \$12,855.74. Had Thomas been promoted to FSO-3 in 1967, Mrs. Thomas' annuity for the period April 13, 1971 to November 30, 1974, would have been \$18,815.26. The difference, a one-time, lump-sum adjustment of past annuity payments (calculated through November 30, 1974): \$5,959.52

For each month since November 30, 1974, and prospectively, Mrs. Thomas would be entitled by S-2446 to approximately \$162 per mo. more than she now receives.

(One dependent Thomas child receives an annuity now of approximately \$1357 per year, and an annuity which will terminate in 1983. An older child received an annuity of about \$1,000 per year from May 1, 1971 until he reached age 18 in November, 1971. S-2446 would have no impact on the children's annuities.)

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DEC 20 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2446 - For The Relief of
Charles William Thomas, Deceased
Sponsor - Sen. Pastore (D) Rhode Island

Last Day for Action

January 4, 1975 - Saturday

Purpose

Authorizes payments to Mr. Thomas's estate and survivors based upon a reconstruction of his Foreign Service career and a presumed death-in-service.

Agency Recommendations

Office of Management and Budget Approval

Department of State Approval

Discussion

Charles William Thomas served as a Foreign Service Officer from 1952 until July 31, 1969, when he was involuntarily separated, i.e., selected-out. At that time, he had reached the maximum time-in-class permitted for Class 4 Foreign Service Officers and was properly separated under regulations then in effect. Mr. Thomas was 46 years old, too young to qualify for an immediate annuity.

Prior to his leaving the Foreign Service in 1969, Mr. Thomas attempted unsuccessfully to obtain employment in the Department of State as a Foreign Service Reserve Officer. Subsequent to his selection out, he sought, also unsuccessfully, to obtain employment in the private sector. On April 12, 1971 Mr. Thomas took his own life. It has been alleged by Mr. Thomas's widow and others that his suicide was prompted by his involuntary separation.

Handwritten
12-28-74

Mr. Thomas's death provoked significant national publicity. His widow asked that the Department posthumously reinstate and promote her husband to the grade of FSO-1 with personal rank of Ambassador. In response to heavy congressional interest, an exhaustive restudy of the full circumstances of Mr. Thomas's separation was undertaken by the State Department. Again no error was found in either the decisions of eight successive selection boards not to place him in the promotion zone or the consequent application of time-in-class rules which required his selection out. However, in view of the tragic circumstances and the financial situation of the Thomas family, and in recognition of Mr. Thomas's years of service, Deputy Under Secretary for Administration William B. Macomber in May of 1971 offered Mrs. Thomas employment with the Department of State on the clear understanding that her acceptance was not meant to and need not restrain her from her declared intent to pursue a reversal of her husband's forced separation. Mrs. Thomas accepted, and has since been on the State Department employment rolls.

Provisions of S. 2446

The enrolled bill would reconstruct Mr. Thomas's Foreign Service career as if he had received a promotion to FSO Class 3 in 1967, and had continued in active service until his death in 1971. It would authorize payments to his estate of a lump sum amount representing the additional salary, annual leave, life insurance, and retirement benefits to which he, the estate, or his widow would have been entitled under such reconstruction. (A computation of these amounts, calculated through November 30, 1974, is attached to the views letter of the Department of State.)

In particular, enactment of the bill would require payments of the following:

(1) FSO-3 salary (as determined by the Secretary) for the period April 23, 1967 through the date of his death on April 12, 1971 (which includes a period of about 21 months after his separation during which he performed no service for the Government). This amount would be offset by the actual FSO-4 salary he received during part of this period.

(2) A recomputed survivor's annuity for his widow and children based upon the higher salary level, both prospectively and retroactively. The retroactive payment has been computed through November 30, 1974 to total \$5,959.52.

(3) Since the bill would reconstruct Mr. Thomas's career in a manner that would result in his death having occurred in service, his beneficiaries would be entitled to \$27,000 in Federal Employee Group Life Insurance benefits.

(4) Recomputation of the value of his accumulated annual leave through the date of his actual separation in 1969.

Recommendation

The State Department, in reports to the Senate Foreign Relations Committee, and the House Committee on the Judiciary, indicated that an exhaustive examination of Mr. Thomas's case showed no inequity or error of treatment. The Department, nevertheless, concluded that:

"There are tragic elements in this case which may motivate the Committee to exercise compassion. In this respect we defer to the Congress."

Citing this position and other factors, the State Department, in its attached views letter on S. 2446, recommends approval. The Department states:

"...it should be noted that if present time-in-class rules had been in effect at the time of Mr. Thomas's retirement, he would instead have been permitted to remain in the Service as an FSO-4 until February 1976, by which time he would have reached the age of 54 and would have become eligible for an immediate retirement annuity. Under these circumstances the Department does not favor a veto of this bill, and accordingly recommends that the President sign S. 2446."

This bill is highly preferential and would grant an extraordinary range of benefits for which we know of no precedent--including retroactive salary for a two-year period when Mr. Thomas performed no service for the Government. However, we recognize that the circumstances in his case are tragic and somewhat unique, and the Congress has determined that special legislation is warranted. Accordingly, we concur with the State Department in recommending approval.

(signed) Wilfred H. Koppel

Assistant Director for
Legislative Reference

Enclosures

ACTION MEMORANDUM

THE WHITE HOUSE
WASHINGTON

Date: December 28, 1974

Time: 8:00 p.m.

FOR ACTION: Max Friedersdorf *oh* cc (for information): Warren Hendriks
Phil Areeda *no ohj* Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bill S. 2446 - for the relief of Charles William Thomas, Deceased

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

Date: December 28, 1974

Time: 8:00 p.m.

FOR ACTION: Max Friedersdorf
Phil Areeda

cc (for information): Warren Hendriks
Jerry Jones
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Monday, December 30

Time: 1:00 p.m.

SUBJECT:

Enrolled Bill S. 2446 - for the relief of Charles William Thomas, Deceased

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*No objection
P. Areeda*

NC



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

FOR THE RELIEF OF CHARLES WILLIAM THOMAS, DECEASED

MARCH 22, 1974.—Ordered to be printed

Mr. SPARKMAN, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany S. 2446]

The Committee on Foreign Relations, to which was referred the bill (S. 2446) for the relief of Charles William Thomas, deceased, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to reconstruct Charles William Thomas' career as if he had received a promotion on April 23, 1967, and had continued active service until his death on April 12, 1971, and to provide his estate the additional salary, annual leave, life insurance and retirement benefits to which he, the estate or his widow would have been entitled under such reconstruction. According to the Department of State, the total net adjustments and amounts involved to date, including life insurance benefits, will be \$50,700 plus an increment of approximately \$1,716.00 to the annual annuity payment of \$3,719.00 now received by Mrs. Cynthia Ann Thomas, his widow.

BACKGROUND

The following facts leading to the death of Mr. Thomas have been taken from documents supplied the Committee on Foreign Relations by Mrs. Thomas, the Department of State and the Charles William Thomas Memorial Legal Defense Fund, sponsored by the Foreign Affairs Employees Council, AFGF, at the hearings before the Committee on U.S. Foreign Service Grievance and Appeals Procedures (S. 2023, S. 2659 and S. 2662) October 7 and 18, 1971, and subsequently.

Charles William Thomas was born at Orange, Texas, on June 20, 1922. He was president of his high school class at Fort Wayne, Indiana. He was chosen as an alternate to the United States Military Academy. He graduated with honors from Northwestern University and Northwestern University Law School. He received a Doctorate in International Law from the University of Paris. He was a United States naval aviator and night fighter pilot during World War II. He was admitted to practice before the Bar of Illinois, the District of Columbia Bar, and the Supreme Court. He was fluent in French and Spanish and had a working knowledge of German, Italian, Portuguese and Creole.

Mr. Thomas passed the oral and written examinations for the Foreign Service in 1950 and 1951. He entered the Foreign Service in 1951 initially as a Foreign Service Staff Officer, Class 11. In 1952, he became a career Foreign Service Officer, Class 6. He was promoted to Class 5 on February 5, 1958, and to Class 4 in February 1961.

During his nineteen years in the Foreign Service, Charles William Thomas carried out the following assignments:

1951-1953: American Embassy, Monrovia, Liberia. Consular, Political and Public Affairs Officer.

1953-1954: American Consulate General, Accra, Gold Coast, West Africa, Acting Consul General.

1954-1956: American Consulate General, Tangier, Morocco. Economic Officer.

1957-1959: Bureau of Intelligence and Research, Department of State, Washington, D.C. Political Analyst for West African Affairs, and 1958-1959 for West European Affairs.

1959-1960: United States Delegation to the Fifteenth United Nations General Assembly, New York, Advisor on African Affairs.

1961-1963: American Embassy, Port-au-Prince, Haiti. Chief of Political Section.

1963-1964: Bureau of Inter-American Affairs, Department of State. Staff Assistant to Assistant Secretary of State for Inter-American Affairs.

1964-1967: American Embassy, Mexico City. Political Officer.

1967-1969: UNESCO Staff, Department of State, Natural Science Officer, also spokesman for U.S. Delegation to the UNESCO General Conference, Paris, 1968.

Throughout his career Charles William Thomas demonstrated devotion to the highest ideals of public service. With one exception, all of his supervisors throughout the years recommended that he should be promoted. He was never low-ranked by any Selection Board.

Ambassador Robert McClintock inspected the Embassy in Mexico City in October and November 1966. In his inspection report, dated October 20, 1966, he wrote regarding Charles William Thomas' performance: "From past efficiency ratings and from a present evaluation of Mr. Thomas' work, it is evident to the Inspector that he is one of our most valuable officers in the Embassy in Mexico." He added that his report was "being submitted without delay because the Inspector would hope that the Selection Board now sitting would take it into consideration in judging Mr. Thomas' qualification for immediate

promotion. It seems to this Inspector that promotion is long overdue since his last advancement in grade took place in February, 1961."

Mr. Thomas was not promoted by the 1966 Selection Board. Upon the completion of his tour at Mexico City, he returned to the Department. While reviewing his personnel file in late April or early May, 1967, he found that Ambassador McClintock's laudatory report was missing, and immediately advised personnel officers of that. After a search, personnel officers found it in the file of another Charles W. Thomas, who was then serving as Consul General at Antwerp, Belgium. The absence from his personnel file of this important document at a key time in his time-in-class may well have had a detrimental effect upon Mr. Thomas' promotion prospects in 1966.

Mr. Thomas' performance ratings for the first six months of his 1964-1967 tour of duty in Mexico City were written by his supervisor, Mr. Joseph Montllor, who was then completing his assignment there. In two ratings for brief periods covering April-May and June through September 1964, Mr. Montllor recommended that Mr. Thomas should not be promoted. Mr. Thomas was not aware of this adverse recommendation until he reviewed his personnel file in the Department two and one-half years later. He did not see the Montllor performance ratings in Mexico City nor was he given an opportunity to discuss them with him. Had he known of the prejudicial nature of Montllor's recommendations against promotion, Mr. Thomas could have exercised his right under Foreign Service regulations to submit a rebuttal for inclusion in his personnel file. As it was, for over two years and without his knowledge, Mr. Thomas' personnel file contained influential documents which were considered by his Ambassador to be inaccurate and prejudicial. By the same token, his file was incomplete in that it did not contain the rebuttal he would have written.

The Chief of Mission at Mexico City, Ambassador Fulton Freeman took serious exception to Mr. Montllor's rating. He expressed his views in a letter of May 6, 1968 to Mr. John M. Steeves, Director General of the Foreign Service:

The sketchy, perfunctory nature of the statement prepared in December, 1964, on the departure of the rating officer, Joseph J. Montllor, containing the gratuitous (after only 8 months in Mexico) remark that Mr. Thomas was not 'ready for promotion to Class 3 this year' was needlessly prejudicial and contrary to my own judgment. Although the reviewing officer, Mr. Wallace J. Stuart, some 6 months thereafter in commenting on the foregoing report, stated specifically that he would recommend Mr. Thomas for promotion—the nearly irreparable damage had already been done.

Mr. Thomas did not request a formal grievance hearing relating to his situation when, in April 1967, he discovered the prejudicial 1964 Montllor performance rating in his personnel file and the fact that Ambassador McClintock's laudatory report was missing from the file, because Foreign Service regulations at that time specifically excluded grievance hearings on any aspect of performance ratings, promotion or non-promotion.

Also significant for Mr. Thomas' career was the Department's Circular Instruction of 1967 in which it announced that effective June 30, 1968 the maximum allowable time-in-class for Class 4 officers would be reduced from 10 to 8 years. The anniversary date of Mr. Thomas' promotion to Class 4 was February 1961. Under the new regulation, effective June 30, Mr. Thomas would be 7½ years in Class under the new maximum allowable 8 years instead of 7½ years in class out of the former maximum allowable 10 years. Through the operation of this retroactive regulation, Mr. Thomas was deprived of two crucial years in which to achieve promotion.

A second administrative dictum the following year compounded the threat to Mr. Thomas' career, and in effect, brought it to an end. The Department's general policy guidelines for the 1968 Selection Boards stated:

The Department's Boards should exercise particular care in reviewing the file of officers at Class 5 and above who are approaching maximum time-in-class. While there is a possibility that an officer in this situation has recently demonstrated definitively that he is capable of broader utilization at a higher level, these circumstances would be considered exceptional and the Boards should weigh carefully the recommendation of such an officer for promotion.

This precept had the effect of removing Mr. Thomas and others in similar circumstances from serious consideration by the 1968 Selection Board. It thereby deprived him of his rights under Foreign Service regulations to be judged on an equal competitive basis with others in his class at a critical time in his career.

Mr. Thomas was not promoted in 1967 or 1968. The Director General of the Foreign Service, Mr. John M. Steeves, informed him in a letter dated January 7, 1969, that in accordance with Section 633 of the Foreign Service Act of 1946, as amended, he was to be selected-out of the Foreign Service for having reached the new maximum time-in-class of eight years for Class 4 officers without having been promoted.

Throughout 1969, Mr. Thomas attempted, without success, to obtain employment in the Department of State as a Foreign Service Reserve Officer.

For the next two years, he tried to obtain new employment. He made over 2000 individual contacts in this effort, but again without success. As part of the circumstances leading up to Mr. Thomas' death following his separation from the Foreign Service, was the fact that job opportunities repeatedly evaporated as potential employers learned from the State Department of the "involuntary" nature of his retirement. In 1970, his total earnings consisted of \$1,500.00 which he received in legal fees for his work in the District of Columbia as a public defender and \$1,500.00 in consulting fees.

On April 12, 1971, Mr. Thomas took his own life. U.S. Probate Court records show that his net worth at that time was made up of assets totalling \$500 (a used car) and debts of \$14,000.

His suicide precipitated public reaction and led to the first serious efforts to establish by statute a grievance and adverse actions appeals

system. The Senate three times voted overwhelmingly for legislated Foreign Service Grievance Procedures and the State Department has, itself, established such procedures along the lines suggested by Senate bills. It has also rectified the selection out process for time-in-class to avoid any repetition of a Thomas case. In a statement to the Committee dated February 20, 1974, Mr. Stanton D. Anderson, Acting Assistant Secretary for Congressional Relations wrote:

If an officer in Class 4 or 5 becomes subject to selection out for time-in-class before he attains eligibility for an immediate annuity, he is no longer considered eligible for promotion to a higher class but he is continued in Service until he attains eligibility for retirement on immediate annuity—reaches age 50 or over with 20 years of creditable service. Officers at Class 3 or above who are selected out are eligible for immediate annuities irrespective of age.

U.S.I.A. Director James Keogh wrote the Committee on Foreign Relations on March 12, 1974, that similar action will be followed by that Agency.

These Department and U.S.I.A. decisions have come too late to help Mr. Thomas, but the enactment of S. 2446 would provide a measure of relief for his widow. Precedent for this legislation on behalf of Mr. Thomas is found in P.L. 92-104, 92nd Congress, approved July 26, 1972 (S. 2359), "For the Relief of Willard O. Brown." It authorized the retroactive appointment of a Foreign Service Officer, retired from the service for time-in-class, to one grade higher because of the loss of a file which denied a Promotion Panel the opportunity to review his full personnel dossier at a critical period of that officer's career. The Act also offered financial retribution comparable to that which the Department of State has informed the Congress could only be given Mr. Thomas' estate and survivors through legislation.

COMMITTEE ACTION

On March 13, 1974, the Foreign Relations Committee considered the bill in executive session and ordered it favorably reported to the Senate without amendment.

On the basis of the evidence presented to the Committee, particularly during the hearings on the U.S. Foreign Service Grievance and Appeals Procedure on October 7 and 18, 1971, it was felt that Mr. Charles William Thomas had been the victim of a series of errors in the personnel evaluation and promotion system in the Department of State which had the direct effect of depriving him of an opportunity for further advancement in the Foreign Service and affected his search for employment after separation. In view of the tragic ending of this case, the Committee believes the time for redress is long overdue. The Committee therefore recommends that the Senate take early and favorable action of S. 2446.

APPENDIX

DEPARTMENT OF STATE,
Washington, D.C., February 27, 1974.

HON. J. WILLIAM FULBRIGHT,
*Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: I refer to your letter of September 27, 1973 to the Secretary requesting comments on S. 2446, a bill "For the relief of Charles William Thomas, deceased."

Mr. Thomas served as a Foreign Service Officer from 1952 until July 31, 1969, when he was involuntarily separated, having reached maximum time-in-class permitted under regulations then in effect. Mr. Thomas was one of fourteen officers so separated, in that fiscal year, in Class IV or below, who were too young to qualify for an immediate annuity. Mr. Thomas, as you know, took his own life on April 12, 1971. Mr. Thomas' widow and others have linked his suicide with his involuntary separation from the Service.

Before Mr. Thomas' separation a high level review of his case was carried out in the Department. Deputy Under Secretary Macomber reported to you on June 3, 1971 on its results as follows: ". . . the Department conducted an exhaustive examination of Mr. Thomas' case. His file was examined with great care to determine whether or not the system operated equitably and if the specific allegations of unfairness were such as to require a reconsideration of the judgments of the successive Selection Boards which reviewed his case. We concluded that there was no inequity or error in the treatment of Mr. Thomas that would justify such a reconsideration."

S. 2446 would reconstruct Mr. Thomas' Foreign Service career as if he had received a promotion in 1967 and had continued in *active* service until his death in 1971. It would provide his estate the additional salary, annual leave, life insurance and retirement benefits to which he, the estate, or his widow would have been entitled under such reconstruction. This would provide a range of payments for which we know no precedent.

The effect of S. 2446 is to require recomputation and payment of salary and lump-sum leave to reflect a promotion from Class 4 to Class 3 on April 23, 1967, such payment to cover not only the period from the promotion through his separation from the Foreign Service in 1969, but also until his death in 1971. This would mean payment to the estate of \$19,134.68 in additional salary (of which \$4,309.28 represents lump-sum annual leave payment). In addition, his widow would now be entitled to life insurance benefits, based on the assumed death in service in 1971, amounting to \$27,000. Finally, the survivor annuity of his widow would be recomputed, based upon the Class 3 salary, effective in 1967, which would provide an aggregate adjustment of \$4,136.52 computed through November 30, 1973, and pro-

spectively, of approximately \$143.00 a month more than she is now receiving.

A detailed computation of these amounts is attached for your information.

There are tragic elements in this case which may motivate the Committee to exercise compassion. In this respect we defer to the Congress.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to submission of this report.

Sincerely,

STANTON D. ANDERSON,
Acting Assistant Secretary
for Congressional Relations.

Enclosure: Computation.

S-2446 Thomas, Charles W.—Calculation of benefits payable if legislation enacted

Payment would be required of retroactive salary, life insurance proceeds, and increased retroactive and future widow's annuity.

Salary: Thomas actually received as FSO-4 Apr. 23, 1967¹—July 31, 1969:²

Gross salary	\$60,197.20
Less F.S. retirement contributions	2,463.32
Less life insurance premiums	287.56
Net actual salary	<u>57,446.32</u>

If constructively promoted to FSO-3 on Apr. 23, 1967; and if considered on active duty in that grade until death Apr. 12, 1971, salary would be:

Gross salary	82,370.80
Less F.S. retirement contributions	5,201.03
Less life insurance premiums	588.77
Net constructive salary	<u>76,581.00</u>

Net constructive salary under S-2446 less net salary actually paid	<u>19,134.68</u>
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Life insurance proceeds: Federal Employees' Group Life Insurance, based on FSO-3 salary of \$24,349.00	27,000.00
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Widow's annuity: Mrs. Thomas has received an annuity since April 13, 1971, which as of Nov. 30, 1973 had totaled \$8,920.74. Had Thomas been promoted to FSO-3 in 1967, Mrs. Thomas' annuity for the period Apr. 13, 1971 to Nov. 30, 1973, would have been \$13,057.26. The difference, a one-time, lump-sum adjustment of past annuity payments (calculated through Nov. 30, 1973)	4,136.52
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¹ Date as of which FSO-3 pay would commence, under S-2446.

² Actual date of separation from service.

³ Includes lump-sum leave payment of \$3,356.16 and separation gratuity of \$18,974.00.

⁴ Includes lump-sum leave payment of \$4,309.28.

For each month since Nov. 30, 1973, and prospectively, Mrs. Thomas would be entitled by S-2446 to approximately \$143 per month more than she now receives.

(One dependent Thomas child receives an annuity now of approximately \$1,200 per year, an annuity which will terminate in 1983. An older child received an annuity of about \$1,000 per year from May 1, 1971 until he reached age 18 in November 1971. S-2446 would have no impact on the children's annuities.)

CHARLES WILLIAM THOMAS, DECEASED

DECEMBER 10, 1974.—Committed to the Committee of the Whole House and ordered to be printed

Mr. MOORHEAD of California, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 2446]

The Committee on the Judiciary, to whom was referred the bill (S. 2446) for the relief of Charles William Thomas, deceased, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to reconstruct Charles William Thomas' career as if he had received a promotion on April 23, 1967, from FSO-4 to FSO-3, and continued active service until his death on April 12, 1971. The bill provides his estate with the additional salary, annual leave, life insurance and retirement benefits to which he, the estate or his widow would have been entitled had he continued in active service. According to the Department of State, the total net adjustments and amounts involved to date, including life insurance benefits, will be \$51,932.20 plus an increment of approximately \$1,944 to the annual annuity payment of \$3,719.00 now received by Mrs. Cynthia Ann Thomas, his widow. The relief would be granted on the basis that the failure to promote Thomas in 1967 was due, in part, to administrative error by the State Department and that his subsequent dismissal was arbitrary.

STATEMENT

The State Department indicates that they have no objection to the enactment of this legislation and defers to Congress, noting that there are "tragic elements" in the case.

Mr. Thomas served as a Foreign Service Officer from 1951 until July 31, 1969, when he was involuntarily separated, having reached maximum time-in-class permitted under the regulations then in effect. At the time he was separated, Thomas was too young to qualify for an immediate annuity. On April 12, 1971, he took his own life. The Com-

mittee feels that Thomas' selection out in 1969 was arbitrary and prejudicial. Further, it was determined that negligence by State Department personnel contributed to his not being promoted at a critical time. Subsequently, he was unable to appeal the final decision of the promotion panel.

Charles William Thomas was born at Orange, Texas, on June 20, 1922. He was president of his high school class at Fort Wayne, Indiana. He graduated with honors from Northwestern University Law School. He received a Doctorate in International Law from the University of Paris. He was a United States naval aviator and night fighter pilot during World War II. He was admitted to practice before the Bar of Illinois, the District of Columbia Bar, and the Supreme Court. He was fluent in French and Spanish and had a working knowledge of German, Italian, and Portuguese.

Mr. Thomas entered the Foreign Service in 1951 as a Foreign Service Staff Officer, Class 11. In 1952, he became a career Foreign Service, Class 6. He was promoted to Class 5 on February 5, 1958, and to Class 4 in February 1961.

During his nineteen years in the Foreign Service, Charles William Thomas carried out the following assignments:

1951-1953: American Embassy, Monrovia, Liberia. Consular, Political and Public Affairs Officer.

1953-1954: American Consulate General, Accra, Gold Coast, West Africa, Acting Consul General.

1954-1956: American Consulate General, Tangier, Morocco. Economic Officer.

1957-1959: Bureau of Intelligence and Research, Department of State, Washington, D.C. Political Analyst for West African Affairs, and 1958-1959 for West European Affairs.

1959-1960: United States Delegation to the Fifteenth United Nations General Assembly, New York, Advisor on African Affairs.

1961-1963: American Embassy, Port-au-Prince, Haiti. Chief of Political Section.

1963-1964: Bureau of Inter-American Affairs, Department of State. Staff Assistant to Assistant Secretary of State for Inter-American Affairs.

1964-1967: American Embassy, Mexico City. Political Officer.

1967-1969: UNESCO Staff, Department of State, Natural Science Officer, also spokesman for U.S. Delegation to the UNESCO General Conference, Paris, 1968.

As is outlined in the Senate report on the bill, throughout his career Charles William Thomas demonstrated ability and loyalty. With one exception, all of his supervisors throughout the years recommended that he should be promoted. He was never low-ranked by any Selection Board.

Ambassador Robert McClintock inspected the Embassy in Mexico City in October and November 1966. In his inspection report, dated October 20, 1966, he wrote regarding Charles William Thomas' performance: "From past efficiency ratings and from a present evaluation of Mr. Thomas' work, it is evident to the Inspector that he is one of our most valuable officers in the Embassy in Mexico." He added that his report was "being submitted without delay because the Inspector would hope that the Selection Board now sitting would take it into

consideration in judging Mr. Thomas' qualification for immediate promotion. It seems to this Inspector that promotion is long overdue since his last advancement in grade took place in February, 1961."

Mr. Thomas was not promoted by the 1966 Selection Board. Upon the completion of his tour at Mexico City, he returned to the Department. While reviewing his personnel file in late April or early May, 1967, he found that Ambassador McClintock's laudatory report was missing, and immediately advised personnel officers of that. After a search, personnel officers found it in the file of another Charles W. Thomas, who was then serving as Consul General at Antwerp, Belgium. The absence from his personnel file of this important document at a key time in his time-in-class may well have had a detrimental effect upon Mr. Thomas' promotion prospects in 1966.

Mr. Thomas' performance ratings for the first six months of his 1964-1967 tour of duty in Mexico City were written by his supervisor, Mr. Joseph Montllor, who was then completing his assignment there. In two ratings for brief periods covering April-May and June through September 1964, Mr. Montllor recommended that Mr. Thomas should not be promoted. Mr. Thomas was not aware of this adverse recommendation until he reviewed his personnel file in the Department two and one-half years later. He did not see the Montllor performance ratings in Mexico City, nor was he given an opportunity to discuss them with him. Had he known of the prejudicial nature of Montllor's recommendations against promotion, Mr. Thomas could have exercised his right under Foreign Service regulations to submit a rebuttal for inclusion in his personnel file. As it was, for over two years and without his knowledge, Mr. Thomas' personnel file contained influential documents which were considered by his Ambassador to be inaccurate and prejudicial. By the same token, his file was incomplete in that it did not contain any rebuttal.

The Chief of Mission at Mexico City, Ambassador Fulton Freeman took serious exception to Mr. Montllor's rating. He expressed his views in a letter of May 6, 1968 to Mr. John M. Steeves, Director General of the Foreign Service:

The sketchy, perfunctory nature of the statement prepared in December, 1964, on the departure of the rating officer, Joseph J. Montllor, containing the gratuitous (after only 8 months in Mexico) remark that Mr. Thomas was not 'ready for promotion to Class 3 this year' was needlessly prejudicial and contrary to my own judgment. Although the reviewing officer, Mr. Wallace J. Stuart, some 6 months thereafter in commenting on the foregoing report, stated specifically that he would recommend Mr. Thomas for promotion—the nearly irreparable damage had already been done.

Mr. Thomas did not request a formal grievance hearing relating to his situation when, in April 1967, he discovered the prejudicial 1964 Montllor performance rating in his personnel file and the fact that Ambassador McClintock's laudatory report was missing from the file, because Foreign Service regulations at that time specifically excluded grievance hearings on any aspect of performance ratings, promotion or non-promotion.

Also significant for Mr. Thomas' career was the Department's Circular Instruction of 1967 in which it announced that effective June 30,

1968 the maximum allowable time-in-class for Class 4 officers would be reduced from 10 to 8 years. The anniversary date of Mr. Thomas' promotion to Class 4 was February 1961. Under the new regulation, effective June 30, Mr. Thomas would be 7½ years in Class under the new maximum allowable 8 years instead of 7½ years in class out of the former maximum allowable 10 years. Through the operation of this retroactive regulation, Mr. Thomas was deprived of two crucial years in which to achieve promotion.

A second administrative dictum the following year compounded the threat to Mr. Thomas' career, and in effect, brought it to an end. The Department's general policy guidelines for the 1968 Selection Boards stated:

The Department's Boards should exercise particular care in reviewing the file of officers at Class 5 and above who are approaching maximum time-in-class. While there is a possibility that an officer in this situation has recently demonstrated definitively that he is capable of broader utilization at a higher level, these circumstances would be considered exceptional and the Boards should weigh carefully the recommendation of such an officer for promotion.

This precept had the effect of removing Mr. Thomas and others in similar circumstances from serious consideration by the 1968 Selection Board. It thereby deprived him of his rights under Foreign Service regulations to be judged on an equal competitive basis with others in his class at a critical time in his career.

Mr. Thomas was not promoted in 1967 or 1968. The Director General of the Foreign Service, Mr. John M. Steeves, informed him in a letter dated January 7, 1969, that in accordance with Section 633 of the Foreign Service Act of 1946, as amended, he was to be selected-out of the Foreign Service for having reached the new maximum time-in-class of eight years for Class 4 officers without having been promoted.

Throughout 1969, Mr. Thomas attempted, without success, to obtain employment in the Department of State as a Foreign Service Reserve Officer.

For the next two years, he tried to obtain new employment, but without success. As part of the circumstances leading up to Mr. Thomas' death following his separation from the Foreign Service, was the fact that job opportunities repeatedly evaporated as potential employers learned from the State Department of the "involuntary" nature of his retirement. In 1970, his total earnings consisted of \$1,500.00 which he received in legal fees for his work in the District of Columbia as a public defender and \$1,500.00 in consulting fees.

On April 12, 1971, Mr. Thomas took his own life. U.S. Probate Court records show that his net worth at that time was made up of assets totalling \$500 (a used car) and debts of \$14,000.

His suicide precipitated public reaction and led to the first serious efforts to establish by statute a grievance and adverse actions appeals system. The Senate three times voted overwhelmingly for legislated Foreign Service Grievance Procedures and the State Department has, itself, established such procedures along the lines suggested by Senate bills. It has also rectified the selection out process for time-in-class to avoid any repetition of a Thomas case. In a statement to the Com-

mittee dated February 20, 1974, Mr. Stanton D. Anderson, Acting Assistant Secretary for Congressional Relations wrote:

If an officer in Class 4 or 5 becomes subject to selection out for time-in-class before he attains eligibility for an immediate annuity, he is no longer considered eligible for promotion to a higher class but he is continued in Service until he attains eligibility for retirement on immediate annuity—reaches age 50 or over with 20 years of creditable service. Officers at Class 3 or above who are selected out are eligible for immediate annuities irrespective of age.

U.S.I.A. Director James Keogh wrote the Committee on Foreign Relations on March 12, 1974, that similar action will be followed by that Agency.

These Department and U.S.I.A. decisions have come too late to help Mr. Thomas, but the enactment of S. 2446 would provide a measure of relief for his widow. Precedent for this legislation on behalf of Mr. Thomas is found in P.L. 92-104, 92nd Congress, approved July 26, 1972 (S. 2359), "For the Relief of Willard O. Brown." It authorized the retroactive appointment of a Foreign Service Officer, retired from the service for time-in-class, to one grade higher because of the loss of a file which denied a Promotion Panel the opportunity to review his full personnel dossier at a critical period of that officer's career. The Act also offered financial retribution comparable to that which the Department of State has informed the Congress could only be given Mr. Thomas' estate and survivors through legislation.

COMMITTEE ACTION

On December 10, 1974, the Committee on the Judiciary considered the bill and ordered it favorably reported to the House without amendment.

On the basis of the evidence presented to the Committee, particularly during the hearings on the U.S. Foreign Service Grievance and Appeals Procedure on October 7 and 18, 1971, it was felt that Mr. Charles William Thomas had been the victim of a series of errors in the personnel evaluation and promotion system in the Department of State which had the direct effect of depriving him of an opportunity for further advancement in the Foreign Service and affected his search for employment after separation. In view of the tragic ending of this case, the Committee believes the time for redress is long overdue. The Committee therefore recommends that the House take early and favorable action of S. 2446.

[The following is a report on the companion House bill from the Department of State.]

DEPARTMENT OF STATE,
Washington, D.C., February 27, 1974.

HON. PETER W. RODINO, JR.,
*Chairman, Committee on the Judiciary, U.S. House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: I refer to your letter of December 13, 1973 to the Secretary requesting comments on H.R. 11003, a bill "for the relief of Charles William Thomas, deceased."

Mr. Thomas served as a Foreign Service Officer from 1952 until July 31, 1969, when he was involuntarily separated, having reached maximum time-in-class permitted under regulations then in effect. Mr. Thomas was one of fourteen officers so separated, in that fiscal year, in Class IV or below, who were too young to qualify for an immediate annuity. Mr. Thomas, as you know, took his own life on April 12, 1971. Mr. Thomas' widow and others have linked his suicide with his involuntary separation from the Service.

Before Mr. Thomas' separation a high level review of his case was carried out in the Department. Deputy Under Secretary Macomber reported to Senator Fulbright on June 3, 1971 on its results as follows: ". . . the Department conducted an exhaustive examination of Mr. Thomas' case. His file was examined with great care to determine whether or not the system operated equitably and if the specific allegations of unfairness were such as to require a reconsideration of the judgments of the successive Selection Boards which reviewed his case. We concluded that there was no inequity or error in the treatment of Mr. Thomas that would justify such a reconsideration."

H.R. 11003 would reconstruct Mr. Thomas' Foreign Service career as if he had received a promotion in 1967 and had continued in *active* service until his death in 1971. It would provide his estate the additional salary, annual leave, life insurance and retirement benefits to which he, the estate, or his widow would have been entitled under such reconstruction. This would provide a range of payments for which we know no precedent.

The effect of H.R. 11003 is to require recomputation and payment of salary and lump-sum leave to reflect a promotion from Class 4 to Class 3 on April 23, 1967, such payment to cover not only the period from the promotion through his separation from the Foreign Service in 1969, but also until his death in 1971. This would mean payment to the estate of \$19,134.68 in additional salary (of which \$4,309.28 represents lump-sum annual leave payment). In addition, his widow would now be entitled to life insurance benefits, based on the assumed death in service in 1971, amounting to \$27,000. Finally, the survivor annuity of his widow would be recomputed, based upon the Class 3 salary, effective in 1967, which would provide an aggregate adjustment of \$4,136.52 computed through November 30, 1973, and prospectively, of approximately \$143.00 a month more than she is now receiving.

A detailed computation of these amounts is attached for your information.

There are tragic elements in this case which may motivate the Committee to exercise compassion. In this respect we defer to the Congress.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to submission of this report.

Sincerely,

STANTON D. ANDERSON,
*Acting Assistant Secretary
for Congressional Relations.*

Enclosure.

[The following is a revised computation supplied the committee showing the amounts as of Oct. 31, 1974, and it is included in place of the original furnished with the report on the companion House bill.]

S. 2446—THOMAS, CHARLES W.

CALCULATION OF BENEFITS PAYABLE IF LEGISLATION ENACTED

[Payment would be required of retroactive salary, life insurance proceeds, and increased retroactive and future widow's annuity]

	Gross salary	FS retirement contributions	Life insurance premiums	Net actual salary
Salary:				
Thomas actually received as FSO-4, Apr. 23, 1967, ¹ to July 31, 1969, ² -----	\$60,197.20	—\$2,463.32	—\$287.56	\$57,446.32
If constructively promoted to FSO-3 on Apr. 23, 1967, and if considered on active duty in that grade until death Apr. 12, 1971, salary would be... ³	\$82,370.80	—5,201.03	—588.77	76,581.00
Net constructive salary under S. 2446 less net salary actually paid.....				19,134.68

¹ Date as of which FSO-3 pay would commence, under S. 2446.

² Actual date of separation from service.

³ Includes lump-sum leave payment of \$3,356.16 and separation gratuity of \$18,974.00.

⁴ Includes lump-sum leave payment of \$4,309.28.

Life insurance proceeds: Federal employees' group life insurance, based on FSO-3 salary of \$24,349.00----- \$27,000.00

Widow's annuity: Mrs. Thomas has received an annuity since Apr. 13, 1971, which as of Oct. 31, 1974 had totaled \$12,505.74. Had Thomas been promoted to FSO-3 in 1967, Mrs. Thomas' annuity for the period Apr. 13, 1971, to October 31, 1974, would have been \$18,303.26. The difference, a 1-time, lump-sum adjustment of past annuity payments (calculated through Oct. 31, 1974) for each month since Oct. 31, 1974, and prospectively, Mrs. Thomas would be entitled by S. 2446 to approximately \$162 per month more than she now receives ----- 5,797.52

One dependent Thomas child receives an annuity now of approximately \$1357 per year, an annuity which will terminate in 1983. An older child received an annuity of about \$1,000 per year from May 1, 1971, until he reached age 18 in November 1971. S. 2446 would have no impact on the children's annuities.)

()

CHARLES WILLIAM THOMAS, DECEASED

DECEMBER 10, 1974.—Committed to the Committee of the Whole House and ordered to be printed

Mr. MOORHEAD of California, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 2446]

The Committee on the Judiciary, to whom was referred the bill (S. 2446) for the relief of Charles William Thomas, deceased, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to reconstruct Charles William Thomas' career as if he had received a promotion on April 23, 1967, from FSO-4 to FSO-3, and continued active service until his death on April 12, 1971. The bill provides his estate with the additional salary, annual leave, life insurance and retirement benefits to which he, the estate or his widow would have been entitled had he continued in active service. According to the Department of State, the total net adjustments and amounts involved to date, including life insurance benefits, will be \$51,932.20 plus an increment of approximately \$1,944 to the annual annuity payment of \$3,719.00 now received by Mrs. Cynthia Ann Thomas, his widow. The relief would be granted on the basis that the failure to promote Thomas in 1967 was due, in part, to administrative error by the State Department and that his subsequent dismissal was arbitrary.

STATEMENT

The State Department indicates that they have no objection to the enactment of this legislation and defers to Congress, noting that there are "tragic elements" in the case.

Mr. Thomas served as a Foreign Service Officer from 1951 until July 31, 1969, when he was involuntarily separated, having reached maximum time-in-class permitted under the regulations then in effect. At the time he was separated, Thomas was too young to qualify for an immediate annuity. On April 12, 1971, he took his own life. The Com-

mittee feels that Thomas' selection out in 1969 was arbitrary and prejudicial. Further, it was determined that negligence by State Department personnel contributed to his not being promoted at a critical time. Subsequently, he was unable to appeal the final decision of the promotion panel.

Charles William Thomas was born at Orange, Texas, on June 20, 1922. He was president of his high school class at Fort Wayne, Indiana. He graduated with honors from Northwestern University Law School. He received a Doctorate in International Law from the University of Paris. He was a United States naval aviator and night fighter pilot during World War II. He was admitted to practice before the Bar of Illinois, the District of Columbia Bar, and the Supreme Court. He was fluent in French and Spanish and had a working knowledge of German, Italian, and Portuguese.

Mr. Thomas entered the Foreign Service in 1951 as a Foreign Service Staff Officer, Class 11. In 1952, he became a career Foreign Service, Class 6. He was promoted to Class 5 on February 5, 1958, and to Class 4 in February 1961.

During his nineteen years in the Foreign Service, Charles William Thomas carried out the following assignments:

1951-1953: American Embassy, Monrovia, Liberia. Consular, Political and Public Affairs Officer.

1953-1954: American Consulate General, Accra, Gold Coast, West Africa, Acting Consul General.

1954-1956: American Consulate General, Tangier, Morocco. Economic Officer.

1957-1959: Bureau of Intelligence and Research, Department of State, Washington, D.C. Political Analyst for West African Affairs, and 1958-1959 for West European Affairs.

1959-1960: United States Delegation to the Fifteenth United Nations General Assembly, New York, Advisor on African Affairs.

1961-1963: American Embassy, Port-au-Prince, Haiti. Chief of Political Section.

1963-1964: Bureau of Inter-American Affairs, Department of State. Staff Assistant to Assistant Secretary of State for Inter-American Affairs.

1964-1967: American Embassy, Mexico City. Political Officer.

1967-1969: UNESCO Staff, Department of State, Natural Science Officer, also spokesman for U.S. Delegation to the UNESCO General Conference, Paris, 1968.

As is outlined in the Senate report on the bill, throughout his career Charles William Thomas demonstrated ability and loyalty. With one exception, all of his supervisors throughout the years recommended that he should be promoted. He was never low-ranked by any Selection Board.

Ambassador Robert McClintock inspected the Embassy in Mexico City in October and November 1966. In his inspection report, dated October 20, 1966, he wrote regarding Charles William Thomas' performance: "From past efficiency ratings and from a present evaluation of Mr. Thomas' work, it is evident to the Inspector that he is one of our most valuable officers in the Embassy in Mexico." He added that his report was "being submitted without delay because the Inspector would hope that the Selection Board now sitting would take it into

consideration in judging Mr. Thomas' qualification for immediate promotion. It seems to this Inspector that promotion is long overdue since his last advancement in grade took place in February, 1961."

Mr. Thomas was not promoted by the 1966 Selection Board. Upon the completion of his tour at Mexico City, he returned to the Department. While reviewing his personnel file in late April or early May, 1967, he found that Ambassador McClintock's laudatory report was missing, and immediately advised personnel officers of that. After a search, personnel officers found it in the file of another Charles W. Thomas, who was then serving as Consul General at Antwerp, Belgium. The absence from his personnel file of this important document at a key time in his time-in-class may well have had a detrimental effect upon Mr. Thomas' promotion prospects in 1966.

Mr. Thomas' performance ratings for the first six months of his 1964-1967 tour of duty in Mexico City were written by his supervisor, Mr. Joseph Montllor, who was then completing his assignment there. In two ratings for brief periods covering April-May and June through September 1964, Mr. Montllor recommended that Mr. Thomas should not be promoted. Mr. Thomas was not aware of this adverse recommendation until he reviewed his personnel file in the Department two and one-half years later. He did not see the Montllor performance ratings in Mexico City, nor was he given an opportunity to discuss them with him. Had he known of the prejudicial nature of Montllor's recommendations against promotion, Mr. Thomas could have exercised his right under Foreign Service regulations to submit a rebuttal for inclusion in his personnel file. As it was, for over two years and without his knowledge, Mr. Thomas' personnel file contained influential documents which were considered by his Ambassador to be inaccurate and prejudicial. By the same token, his file was incomplete in that it did not contain any rebuttal.

The Chief of Mission at Mexico City, Ambassador Fulton Freeman took serious exception to Mr. Montllor's rating. He expressed his views in a letter of May 6, 1968 to Mr. John M. Steeves, Director General of the Foreign Service:

The sketchy, perfunctory nature of the statement prepared in December, 1964, on the departure of the rating officer, Joseph J. Montllor, containing the gratuitous (after only 8 months in Mexico) remark that Mr. Thomas was not 'ready for promotion to Class 3 this year' was needlessly prejudicial and contrary to my own judgment. Although the reviewing officer, Mr. Wallace J. Stuart, some 6 months thereafter in commenting on the foregoing report, stated specifically that he would recommend Mr. Thomas for promotion—the nearly irreparable damage had already been done.

Mr. Thomas did not request a formal grievance hearing relating to his situation when, in April 1967, he discovered the prejudicial 1964 Montllor performance rating in his personnel file and the fact that Ambassador McClintock's laudatory report was missing from the file, because Foreign Service regulations at that time specifically excluded grievance hearings on any aspect of performance ratings, promotion or non-promotion.

Also significant for Mr. Thomas' career was the Department's Circular Instruction of 1967 in which it announced that effective June 30,

1968 the maximum allowable time-in-class for Class 4 officers would be reduced from 10 to 8 years. The anniversary date of Mr. Thomas' promotion to Class 4 was February 1961. Under the new regulation, effective June 30, Mr. Thomas would be 7½ years in Class under the new maximum allowable 8 years instead of 7½ years in class out of the former maximum allowable 10 years. Through the operation of this retroactive regulation, Mr. Thomas was deprived of two crucial years in which to achieve promotion.

A second administrative dictum the following year compounded the threat to Mr. Thomas' career, and in effect, brought it to an end. The Department's general policy guidelines for the 1968 Selection Boards stated:

The Department's Boards should exercise particular care in reviewing the file of officers at Class 5 and above who are approaching maximum time-in-class. While there is a possibility that an officer in this situation has recently demonstrated definitively that he is capable of broader utilization at a higher level, these circumstances would be considered exceptional and the Boards should weigh carefully the recommendation of such an officer for promotion.

This precept had the effect of removing Mr. Thomas and others in similar circumstances from serious consideration by the 1968 Selection Board. It thereby deprived him of his rights under Foreign Service regulations to be judged on an equal competitive basis with others in his class at a critical time in his career.

Mr. Thomas was not promoted in 1967 or 1968. The Director General of the Foreign Service, Mr. John M. Steeves, informed him in a letter dated January 7, 1969, that in accordance with Section 633 of the Foreign Service Act of 1946, as amended, he was to be selected-out of the Foreign Service for having reached the new maximum time-in-class of eight years for Class 4 officers without having been promoted.

Throughout 1969, Mr. Thomas attempted, without success, to obtain employment in the Department of State as a Foreign Service Reserve Officer.

For the next two years, he tried to obtain new employment, but without success. As part of the circumstances leading up to Mr. Thomas' death following his separation from the Foreign Service, was the fact that job opportunities repeatedly evaporated as potential employers learned from the State Department of the "involuntary" nature of his retirement. In 1970, his total earnings consisted of \$1,500.00 which he received in legal fees for his work in the District of Columbia as a public defender and \$1,500.00 in consulting fees.

On April 12, 1971, Mr. Thomas took his own life. U.S. Probate Court records show that his net worth at that time was made up of assets totalling \$500 (a used car) and debts of \$14,000.

His suicide precipitated public reaction and led to the first serious efforts to establish by statute a grievance and adverse actions appeals system. The Senate three times voted overwhelmingly for legislated Foreign Service Grievance Procedures and the State Department has, itself, established such procedures along the lines suggested by Senate bills. It has also rectified the selection out process for time-in-class to avoid any repetition of a Thomas case. In a statement to the Com-

mittee dated February 20, 1974, Mr. Stanton D. Anderson, Acting Assistant Secretary for Congressional Relations wrote:

If an officer in Class 4 or 5 becomes subject to selection out for time-in-class before he attains eligibility for an immediate annuity, he is no longer considered eligible for promotion to a higher class but he is continued in Service until he attains eligibility for retirement on immediate annuity—reaches age 50 or over with 20 years of creditable service. Officers at Class 3 or above who are selected out are eligible for immediate annuities irrespective of age.

U.S.I.A. Director James Keogh wrote the Committee on Foreign Relations on March 12, 1974, that similar action will be followed by that Agency.

These Department and U.S.I.A. decisions have come too late to help Mr. Thomas, but the enactment of S. 2446 would provide a measure of relief for his widow. Precedent for this legislation on behalf of Mr. Thomas is found in P.L. 92-104, 92nd Congress, approved July 26, 1972 (S. 2359), "For the Relief of Willard O. Brown." It authorized the retroactive appointment of a Foreign Service Officer, retired from the service for time-in-class, to one grade higher because of the loss of a file which denied a Promotion Panel the opportunity to review his full personnel dossier at a critical period of that officer's career. The Act also offered financial retribution comparable to that which the Department of State has informed the Congress could only be given Mr. Thomas' estate and survivors through legislation.

COMMITTEE ACTION

On December 10, 1974, the Committee on the Judiciary considered the bill and ordered it favorably reported to the House without amendment.

On the basis of the evidence presented to the Committee, particularly during the hearings on the U.S. Foreign Service Grievance and Appeals Procedure on October 7 and 18, 1971, it was felt that Mr. Charles William Thomas had been the victim of a series of errors in the personnel evaluation and promotion system in the Department of State which had the direct effect of depriving him of an opportunity for further advancement in the Foreign Service and affected his search for employment after separation. In view of the tragic ending of this case, the Committee believes the time for redress is long overdue. The Committee therefore recommends that the House take early and favorable action of S. 2446.

[The following is a report on the companion House bill from the Department of State.]

DEPARTMENT OF STATE,
Washington, D.C., February 27, 1974.

HON. PETER W. RODINO, JR.,
Chairman, Committee on the Judiciary, U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: I refer to your letter of December 13, 1973 to the Secretary requesting comments on H.R. 11003, a bill "for the relief of Charles William Thomas, deceased."

Mr. Thomas served as a Foreign Service Officer from 1952 until July 31, 1969, when he was involuntarily separated, having reached maximum time-in-class permitted under regulations then in effect. Mr. Thomas was one of fourteen officers so separated, in that fiscal year, in Class IV or below, who were too young to qualify for an immediate annuity. Mr. Thomas, as you know, took his own life on April 12, 1971. Mr. Thomas' widow and others have linked his suicide with his involuntary separation from the Service.

Before Mr. Thomas' separation a high level review of his case was carried out in the Department. Deputy Under Secretary Macomber reported to Senator Fulbright on June 3, 1971 on its results as follows: ". . . the Department conducted an exhaustive examination of Mr. Thomas' case. His file was examined with great care to determine whether or not the system operated equitably and if the specific allegations of unfairness were such as to require a reconsideration of the judgments of the successive Selection Boards which reviewed his case. We concluded that there was no inequity or error in the treatment of Mr. Thomas that would justify such a reconsideration."

H.R. 11003 would reconstruct Mr. Thomas' Foreign Service career as if he had received a promotion in 1967 and had continued in *active* service until his death in 1971. It would provide his estate the additional salary, annual leave, life insurance and retirement benefits to which he, the estate, or his widow would have been entitled under such reconstruction. This would provide a range of payments for which we know no precedent.

The effect of H.R. 11003 is to require recomputation and payment of salary and lump-sum leave to reflect a promotion from Class 4 to Class 3 on April 23, 1967, such payment to cover not only the period from the promotion through his separation from the Foreign Service in 1969, but also until his death in 1971. This would mean payment to the estate of \$19,134.68 in additional salary (of which \$4,309.28 represents lump-sum annual leave payment). In addition, his widow would now be entitled to life insurance benefits, based on the assumed death in service in 1971, amounting to \$27,000. Finally, the survivor annuity of his widow would be recomputed, based upon the Class 3 salary, effective in 1967, which would provide an aggregate adjustment of \$4,136.52 computed through November 30, 1973, and prospectively, of approximately \$143.00 a month more than she is now receiving.

A detailed computation of these amounts is attached for your information.

There are tragic elements in this case which may motivate the Committee to exercise compassion. In this respect we defer to the Congress.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to submission of this report.

Sincerely,

STANTON D. ANDERSON,
*Acting Assistant Secretary
for Congressional Relations.*

Enclosure.

[The following is a revised computation supplied the committee showing the amounts as of Oct. 31, 1974, and it is included in place of the original furnished with the report on the companion House bill:]

S. 2446—THOMAS, CHARLES W.

CALCULATION OF BENEFITS PAYABLE IF LEGISLATION ENACTED

[Payment would be required of retroactive salary, life insurance proceeds, and increased retroactive and future widow's annuity]

	Gross salary	FS retire- ment contri- butions	Life insurance premiums	Net actual salary
Salary:				
Thomas actually received as FSO-4, Apr. 23, 1967, ¹ to July 31, 1969, ^{1, 2}	\$ 60,197.20	—\$2,463.32	—\$287.56	\$57,446.32
If constructively promoted to FSO-3 on Apr. 23, 1967, and if considered on active duty in that grade until death Apr. 12, 1971, salary would be.....	\$ 82,370.80	—5,201.03	—588.77	76,581.00
Net constructive salary under S. 2446 less net salary actually paid.....				19,134.68

¹ Date as of which FSO-3 pay would commence, under S. 2446.

² Actual date of separation from service.

³ Includes lump-sum leave payment of \$3,356.16 and separation gratuity of \$18,974.00.

⁴ Includes lump-sum leave payment of \$4,309.28.

Life insurance proceeds: Federal employees' group life insurance,
based on FSO-3 salary of \$24,349.00..... \$27,000.00

Widow's annuity: Mrs. Thomas has received an annuity since Apr. 13,
1971, which as of Oct. 31, 1974 had totaled \$12,505.74. Had Thomas
been promoted to FSO-3 in 1967, Mrs. Thomas' annuity for the period
Apr. 13, 1971, to October 31, 1974, would have been \$18,303.26.
The difference, a 1-time, lump-sum adjustment of past annuity
payments (calculated through Oct. 31, 1974) for each month since
Oct. 31, 1974, and prospectively, Mrs. Thomas would be entitled
by S. 2446 to approximately \$162 per month more than she now
receives..... 5,797.52

One dependent Thomas child receives an annuity now of approxi-
mately \$1357 per year, an annuity which will terminate in 1983. An
older child received an annuity of about \$1,000 per year from May 1,
1971, until he reached age 18 in November 1971. S. 2446 would have no
impact on the children's annuities.)

()

FOR THE RELIEF OF CHARLES WILLIAM THOMAS, DECEASED

MARCH 22, 1974.—Ordered to be printed

Mr. SPARKMAN, from the Committee on Foreign Relations,
submitted the following

REPORT

[To accompany S. 2446]

The Committee on Foreign Relations, to which was referred the bill (S. 2446) for the relief of Charles William Thomas, deceased, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to reconstruct Charles William Thomas' career as if he had received a promotion on April 23, 1967, and had continued active service until his death on April 12, 1971, and to provide his estate the additional salary, annual leave, life insurance and retirement benefits to which he, the estate or his widow would have been entitled under such reconstruction. According to the Department of State, the total net adjustments and amounts involved to date, including life insurance benefits, will be \$50,700 plus an increment of approximately \$1,716.00 to the annual annuity payment of \$3,719.00 now received by Mrs. Cynthia Ann Thomas, his widow.

BACKGROUND

The following facts leading to the death of Mr. Thomas have been taken from documents supplied the Committee on Foreign Relations by Mrs. Thomas, the Department of State and the Charles William Thomas Memorial Legal Defense Fund, sponsored by the Foreign Affairs Employees Council, AFGE, at the hearings before the Committee on U.S. Foreign Service Grievance and Appeals Procedures (S. 2023, S. 2659 and S. 2662) October 7 and 18, 1971, and subsequently.

Charles William Thomas was born at Orange, Texas, on June 20, 1922. He was president of his high school class at Fort Wayne, Indiana. He was chosen as an alternate to the United States Military Academy. He graduated with honors from Northwestern University and Northwestern University Law School. He received a Doctorate in International Law from the University of Paris. He was a United States naval aviator and night fighter pilot during World War II. He was admitted to practice before the Bar of Illinois, the District of Columbia Bar, and the Supreme Court. He was fluent in French and Spanish and had a working knowledge of German, Italian, Portuguese and Creole.

Mr. Thomas passed the oral and written examinations for the Foreign Service in 1950 and 1951. He entered the Foreign Service in 1951 initially as a Foreign Service Staff Officer, Class 11. In 1952, he became a career Foreign Service Officer, Class 6. He was promoted to Class 5 on February 5, 1958, and to Class 4 in February 1961.

During his nineteen years in the Foreign Service, Charles William Thomas carried out the following assignments:

1951-1953: American Embassy, Monrovia, Liberia. Consular, Political and Public Affairs Officer.

1953-1954: American Consulate General, Accra, Gold Coast, West Africa, Acting Consul General.

1954-1956: American Consulate General, Tangier, Morocco. Economic Officer.

1957-1959: Bureau of Intelligence and Research, Department of State, Washington, D.C. Political Analyst for West African Affairs, and 1958-1959 for West European Affairs.

1959-1960: United States Delegation to the Fifteenth United Nations General Assembly, New York, Advisor on African Affairs.

1961-1963: American Embassy, Port-au-Prince, Haiti. Chief of Political Section.

1963-1964: Bureau of Inter-American Affairs, Department of State. Staff Assistant to Assistant Secretary of State for Inter-American Affairs.

1964-1967: American Embassy, Mexico City. Political Officer.

1967-1969: UNESCO Staff, Department of State, Natural Science Officer, also spokesman for U.S. Delegation to the UNESCO General Conference, Paris, 1968.

Throughout his career Charles William Thomas demonstrated devotion to the highest ideals of public service. With one exception, all of his supervisors throughout the years recommended that he should be promoted. He was never low-ranked by any Selection Board.

Ambassador Robert McClintock inspected the Embassy in Mexico City in October and November 1966. In his inspection report, dated October 20, 1966, he wrote regarding Charles William Thomas' performance: "From past efficiency ratings and from a present evaluation of Mr. Thomas' work, it is evident to the Inspector that he is one of our most valuable officers in the Embassy in Mexico." He added that his report was "being submitted without delay because the Inspector would hope that the Selection Board now sitting would take it into consideration in judging Mr. Thomas' qualification for immediate

promotion. It seems to this Inspector that promotion is long overdue since his last advancement in grade took place in February, 1961."

Mr. Thomas was not promoted by the 1966 Selection Board. Upon the completion of his tour at Mexico City, he returned to the Department. While reviewing his personnel file in late April or early May, 1967, he found that Ambassador McClintock's laudatory report was missing, and immediately advised personnel officers of that. After a search, personnel officers found it in the file of another Charles W. Thomas, who was then serving as Consul General at Antwerp, Belgium. The absence from his personnel file of this important document at a key time in his time-in-class may well have had a detrimental effect upon Mr. Thomas' promotion prospects in 1966.

Mr. Thomas' performance ratings for the first six months of his 1964-1967 tour of duty in Mexico City were written by his supervisor, Mr. Joseph Montllor, who was then completing his assignment there. In two ratings for brief periods covering April-May and June through September 1964, Mr. Montllor recommended that Mr. Thomas should not be promoted. Mr. Thomas was not aware of this adverse recommendation until he reviewed his personnel file in the Department two and one-half years later. He did not see the Montllor performance ratings in Mexico City nor was he given an opportunity to discuss them with him. Had he known of the prejudicial nature of Montllor's recommendations against promotion, Mr. Thomas could have exercised his right under Foreign Service regulations to submit a rebuttal for inclusion in his personnel file. As it was, for over two years and without his knowledge, Mr. Thomas' personnel file contained influential documents which were considered by his Ambassador to be inaccurate and prejudicial. By the same token, his file was incomplete in that it did not contain the rebuttal he would have written.

The Chief of Mission at Mexico City, Ambassador Fulton Freeman took serious exception to Mr. Montllor's rating. He expressed his views in a letter of May 6, 1968 to Mr. John M. Steeves, Director General of the Foreign Service:

The sketchy, perfunctory nature of the statement prepared in December, 1964, on the departure of the rating officer, Joseph J. Montllor, containing the gratuitous (after only 8 months in Mexico) remark that Mr. Thomas was not 'ready for promotion to Class 3 this year' was needlessly prejudicial and contrary to my own judgment. Although the reviewing officer, Mr. Wallace J. Stuart, some 6 months thereafter in commenting on the foregoing report, stated specifically that he would recommend Mr. Thomas for promotion—the nearly irreparable damage had already been done.

Mr. Thomas did not request a formal grievance hearing relating to his situation when, in April 1967, he discovered the prejudicial 1964 Montllor performance rating in his personnel file and the fact that Ambassador McClintock's laudatory report was missing from the file, because Foreign Service regulations at that time specifically excluded grievance hearings on any aspect of performance ratings, promotion or non-promotion.

Also significant for Mr. Thomas' career was the Department's Circular Instruction of 1967 in which it announced that effective June 30, 1968 the maximum allowable time-in-class for Class 4 officers would be reduced from 10 to 8 years. The anniversary date of Mr. Thomas' promotion to Class 4 was February 1961. Under the new regulation, effective June 30, Mr. Thomas would be 7½ years in Class under the new maximum allowable 8 years instead of 7½ years in class out of the former maximum allowable 10 years. Through the operation of this retroactive regulation, Mr. Thomas was deprived of two crucial years in which to achieve promotion.

A second administrative dictum the following year compounded the threat to Mr. Thomas' career, and in effect, brought it to an end. The Department's general policy guidelines for the 1968 Selection Boards stated:

The Department's Boards should exercise particular care in reviewing the file of officers at Class 5 and above who are approaching maximum time-in-class. While there is a possibility that an officer in this situation has recently demonstrated definitively that he is capable of broader utilization at a higher level, these circumstances would be considered exceptional and the Boards should weigh carefully the recommendation of such an officer for promotion.

This precept had the effect of removing Mr. Thomas and others in similar circumstances from serious consideration by the 1968 Selection Board. It thereby deprived him of his rights under Foreign Service regulations to be judged on an equal competitive basis with others in his class at a critical time in his career.

Mr. Thomas was not promoted in 1967 or 1968. The Director General of the Foreign Service, Mr. John M. Steeves, informed him in a letter dated January 7, 1969, that in accordance with Section 633 of the Foreign Service Act of 1946, as amended, he was to be selected-out of the Foreign Service for having reached the new maximum time-in-class of eight years for Class 4 officers without having been promoted.

Throughout 1969, Mr. Thomas attempted, without success, to obtain employment in the Department of State as a Foreign Service Reserve Officer.

For the next two years, he tried to obtain new employment. He made over 2000 individual contacts in this effort, but again without success. As part of the circumstances leading up to Mr. Thomas' death following his separation from the Foreign Service, was the fact that job opportunities repeatedly evaporated as potential employers learned from the State Department of the "involuntary" nature of his retirement. In 1970, his total earnings consisted of \$1,500.00 which he received in legal fees for his work in the District of Columbia as a public defender and \$1,500.00 in consulting fees.

On April 12, 1971, Mr. Thomas took his own life. U.S. Probate Court records show that his net worth at that time was made up of assets totalling \$500 (a used car) and debts of \$14,000.

His suicide precipitated public reaction and led to the first serious efforts to establish by statute a grievance and adverse actions appeals

system. The Senate three times voted overwhelmingly for legislated **Foreign Service Grievance Procedures** and the State Department has, itself, established such procedures along the lines suggested by Senate bills. It has also rectified the selection out process for time-in-class to avoid any repetition of a Thomas case. In a statement to the Committee dated February 20, 1974, Mr. Stanton D. Anderson, Acting Assistant Secretary for Congressional Relations wrote:

If an officer in Class 4 or 5 becomes subject to selection out for time-in-class before he attains eligibility for an immediate annuity, he is no longer considered eligible for promotion to a higher class but he is continued in Service until he attains eligibility for retirement on immediate annuity—reaches age 50 or over with 20 years of creditable service. Officers at Class 3 or above who are selected out are eligible for immediate annuities irrespective of age.

U.S.I.A. Director James Keogh wrote the Committee on Foreign Relations on March 12, 1974, that similar action will be followed by that Agency.

These Department and U.S.I.A. decisions have come too late to help Mr. Thomas, but the enactment of S. 2446 would provide a measure of relief for his widow. Precedent for this legislation on behalf of Mr. Thomas is found in P.L. 92-104, 92nd Congress, approved July 26, 1972 (S. 2359), "For the Relief of Willard O. Brown." It authorized the retroactive appointment of a Foreign Service Officer, retired from the service for time-in-class, to one grade higher because of the loss of a file which denied a Promotion Panel the opportunity to review his full personnel dossier at a critical period of that officer's career. The Act also offered financial retribution comparable to that which the Department of State has informed the Congress could only be given Mr. Thomas' estate and survivors through legislation.

COMMITTEE ACTION

On March 13, 1974, the Foreign Relations Committee considered the bill in executive session and ordered it favorably reported to the Senate without amendment.

On the basis of the evidence presented to the Committee, particularly during the hearings on the U.S. Foreign Service Grievance and Appeals Procedure on October 7 and 18, 1971, it was felt that Mr. Charles William Thomas had been the victim of a series of errors in the personnel evaluation and promotion system in the Department of State which had the direct effect of depriving him of an opportunity for further advancement in the Foreign Service and affected his search for employment after separation. In view of the tragic ending of this case, the Committee believes the time for redress is long overdue. The Committee therefore recommends that the Senate take early and favorable action of S. 2446.

APPENDIX

DEPARTMENT OF STATE,
Washington, D.C., February 27, 1974.

HON. J. WILLIAM FULBRIGHT,
Chairman, Committee on Foreign Relations,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I refer to your letter of September 27, 1973 to the Secretary requesting comments on S. 2446, a bill "For the relief of Charles William Thomas, deceased."

Mr. Thomas served as a Foreign Service Officer from 1952 until July 31, 1969, when he was involuntarily separated, having reached maximum time-in-class permitted under regulations then in effect. Mr. Thomas was one of fourteen officers so separated, in that fiscal year, in Class IV or below, who were too young to qualify for an immediate annuity. Mr. Thomas, as you know, took his own life on April 12, 1971. Mr. Thomas' widow and others have linked his suicide with his involuntary separation from the Service.

Before Mr. Thomas' separation a high level review of his case was carried out in the Department. Deputy Under Secretary Macomber reported to you on June 3, 1971 on its results as follows: ". . . the Department conducted an exhaustive examination of Mr. Thomas' case. His file was examined with great care to determine whether or not the system operated equitably and if the specific allegations of unfairness were such as to require a reconsideration of the judgments of the successive Selection Boards which reviewed his case. We concluded that there was no inequity or error in the treatment of Mr. Thomas that would justify such a reconsideration."

S. 2446 would reconstruct Mr. Thomas' Foreign Service career as if he had received a promotion in 1967 and had continued in *active* service until his death in 1971. It would provide his estate the additional salary, annual leave, life insurance and retirement benefits to which he, the estate, or his widow would have been entitled under such reconstruction. This would provide a range of payments for which we know no precedent.

The effect of S. 2446 is to require recomputation and payment of salary and lump-sum leave to reflect a promotion from Class 4 to Class 3 on April 23, 1967, such payment to cover not only the period from the promotion through his separation from the Foreign Service in 1969, but also until his death in 1971. This would mean payment to the estate of \$19,134.68 in additional salary (of which \$4,309.28 represents lump-sum annual leave payment). In addition, his widow would now be entitled to life insurance benefits, based on the assumed death in service in 1971, amounting to \$27,000. Finally, the survivor annuity of his widow would be recomputed, based upon the Class 3 salary, effective in 1967, which would provide an aggregate adjustment of \$4,136.52 computed through November 30, 1973, and pro-

spectively, of approximately \$143.00 a month more than she is now receiving.

A detailed computation of these amounts is attached for your information.

There are tragic elements in this case which may motivate the Committee to exercise compassion. In this respect we defer to the Congress.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to submission of this report.

Sincerely,

STANTON D. ANDERSON,
Acting Assistant Secretary
for Congressional Relations.

Enclosure: Computation.

S-2446 Thomas, Charles W.—Calculation of benefits payable if legislation enacted

Payment would be required of retroactive salary, life insurance proceeds, and increased retroactive and future widow's annuity.

Salary: Thomas actually received as FSO-4 Apr. 23, 1967¹—July 31, 1969:²

Gross salary.....	³ \$60,197.20
Less F.S. retirement contributions.....	2,463.32
Less life insurance premiums.....	287.56
Net actual salary.....	<u>57,446.32</u>

If constructively promoted to FSO-3 on Apr. 23, 1967; and if considered on active duty in that grade until death Apr. 12, 1971, salary would be:

Gross salary.....	82,370.80
Less F.S. retirement contributions.....	5,201.03
Less life insurance premiums.....	588.77
Net constructive salary.....	<u>76,581.00</u>

Net constructive salary under S-2446 less net salary actually paid.....	<u>19,134.68</u>
---	------------------

Life insurance proceeds: Federal Employees' Group Life Insurance, based on FSO-3 salary of \$24,349.00..... 27,000.00

Widow's annuity: Mrs. Thomas has received an annuity since April 13, 1971, which as of Nov. 30, 1973 had totaled \$8,920.74. Had Thomas been promoted to FSO-3 in 1967, Mrs. Thomas' annuity for the period Apr. 13, 1971 to Nov. 30, 1973, would have been \$13,057.26. The difference, a one-time, lump-sum adjustment of past annuity payments (calculated through Nov. 30, 1973)----- 4,136.52

¹ Date as of which FSO-3 pay would commence, under S-2446.

² Actual date of separation from service.

³ Includes lump-sum leave payment of \$3,356.16 and separation gratuity of \$18,974.00.

⁴ Includes lump-sum leave payment of \$4,309.28.

For each month since Nov. 30, 1973, and prospectively, Mrs. Thomas would be entitled by S-2446 to approximately \$143 per month more than she now receives.

(One dependent Thomas child receives an annuity now of approximately \$1,200 per year, an annuity which will terminate in 1983. An older child received an annuity of about \$1,000 per year from May 1, 1971 until he reached age 18 in November 1971. S-2446 would have no impact on the children's annuities.)



Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

For the relief of Charles William Thomas, deceased.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Charles William Thomas, of Orange, Texas, died in Washington, District of Columbia, shall be held and considered—

(1) to have been appointed as a Foreign Service officer of class 3 under sections 511 and 621 of the Foreign Service Act of 1946, on April 23, 1967;

(2) to have served, during the period from April 23, 1967, through April 12, 1971, as a Foreign Service officer of class 3;

(3) to have died on April 12, 1971, as a Foreign Service officer of class 3; and

(4) to have had in effect for the period from April 23, 1967, through April 12, 1971, that amount of group life insurance, and an equal amount of group accidental death and dismemberment insurance (purchased by the Civil Service Commission) to which he would have been entitled as a Foreign Service Officer of class 3 during such period.

(b) The Secretary of State shall determine—

(1) the amount of salary (including increases in salary under section 625 of the Foreign Service Act of 1946) to which the said Charles William Thomas would have been entitled during the period from April 23, 1967, through April 12, 1971, as a Foreign Service officer of class 3, less an amount equal to the difference between the amount actually paid by the said Charles William Thomas in group life and accidental death and dismemberment insurance premiums and the amount of such premiums he would have paid for the coverage of such insurance during that period had he been a Foreign Service officer of class 3;

(2) the amount of any lump sum payment to which the said Charles William Thomas would have been entitled under section 5551 of title 5, United States Code (relating to accumulated and accrued leave), upon his death on April 12, 1971, as a Foreign Service officer of class 3;

(3) the amount of annuity to which the widow of the said Charles William Thomas would have been entitled under section 821 of the Foreign Service Act of 1946 from April 12, 1971, through the day prior to the date of enactment of this Act had such annuity been computed on the basis of the amount of salary referred to in clause (1) of this subsection and the service referred to in subsection (a) of this section;

(4) the amount of any insurance lump sum or other benefit payments to which the widow and children of Charles William Thomas, deceased, would be entitled to pursuant to paragraph (4) above.

(c) Each amount determined by the Secretary under subsection (b) of this section shall be (1) reduced by any amount paid to the said Charles William Thomas as salary during the period referred to in clause (1) of such subsection, as an annuity payable to the widow of the said Charles William Thomas, and (2) as so reduced, paid by the Secretary out of funds available for the payment of salaries of Foreign Service officers, lump sum payments, or annuities to such officers or their survivors, as appropriate.

S. 2446—2

(d) In the administration of section 832 of the Foreign Service Act of 1946, as amended, and surviving widow of the said Charles William Thomas shall be entitled to be paid an annuity as recomputed on the basis of the provisions of subsection (a) of this section.

SEC. 2. No part of any payment authorized in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of the provisions of this section is a misdemeanor punishable by a fine not to exceed \$1,000.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

THE WHITE HOUSE
WASHINGTON

Lee handle
letter to her

Judy - very important
letter for Eric's
human standpoint
long story which
and he knows.
acknowledged
Lee



4741 Fulton Street, N.W.
Washington, D.C. 20007

February 25, 1975

Honorable Gerald Ford
President of the United States
The White House
Washington, D.C.

Dear Mr. President:

There are no adequate words to express my profound appreciation to you for the most eloquently expressed letter you wrote regarding the circumstances surrounding the death of my husband, U.S. diplomat, Charles William Thomas which accompanied Private Law 93-108, 93rd Congress, S 2446.

It has inspired my children Zelda and Jeanne-Marie and I hope, in time, will serve as an inspiration to the younger generation that honor, integrity, excellence and devotion to the highest ideals of public service do indeed matter and that the individual is very important in our democratic process, however, sadly those most intimately involved remember these events.

Sincerely,

Cynthia Thomas

Mrs. Cynthia Thomas