

105TH CONGRESS
2D SESSION

H. R. 3710

To exonerate the late Rear Admiral Charles Butler McVay III, captain of the U.S.S. INDIANAPOLIS when it was sunk on July 30, 1945, from responsibility for that sinking, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 22, 1998

Mr. SCARBOROUGH (for himself, Ms. CARSON, Mr. CUNNINGHAM, Mrs. MINK of Hawaii, Mr. SAWYER, Mr. ABERCROMBIE, and Mr. FROST) introduced the following bill; which was referred to the Committee on National Security

A BILL

To exonerate the late Rear Admiral Charles Butler McVay III, captain of the U.S.S. INDIANAPOLIS when it was sunk on July 30, 1945, from responsibility for that sinking, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Charles Butler McVay
5 and U.S.S. INDIANAPOLIS Relief Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Shortly after midnight on the night of July
2 30, 1945, during the closing days of World War II,
3 the United States Navy heavy cruiser U.S.S. INDI-
4 ANAPOLIS (CA-35) was torpedoed and sunk by a
5 Japanese submarine.

6 (2) Of the 1,196 crew members, only 316 sur-
7 vived the attack and subsequent five-day ordeal
8 adrift at sea, the rest of the crew dying from battle
9 wounds, drowning, shark attacks, exposure, or lack
10 of food and water, making the sinking of the INDI-
11 ANAPOLIS the worst sea disaster in United States
12 naval history.

13 (3) Following the rescue of the surviving crew
14 members, the commanding officer of the INDIAN-
15 APOLIS, Captain Charles Butler McVay III, who
16 survived the sinking and the ordeal at sea, was
17 charged with “suffering a vessel to be hazarded
18 through negligence” and was convicted by a court-
19 martial of that charge, notwithstanding a great
20 many extenuating circumstances, some of which
21 were not presented at the court-martial trial.

22 (4) Captain McVay had an excellent record
23 throughout his naval career before the sinking of the
24 INDIANAPOLIS, beginning with his graduation
25 from the United States Naval Academy in 1919 and

1 including an excellent combat record throughout
2 World War II that included participation in the
3 landings in North Africa and award of the Silver
4 Star for courage under fire earned during the Solo-
5 mon Island campaign.

6 (5) Assuming command of the INDIANAP-
7 OLIS on November 18, 1944, Captain McVay led
8 the ship during her participation in the assaults on
9 Iwo Jima and Okinawa. During the latter assault,
10 the INDIANAPOLIS suffered a damaging kamikaze
11 attack, but was skillfully returned by Captain
12 McVay and her crew to San Francisco for repairs.

13 (6) Following completion of those repairs, the
14 INDIANAPOLIS was given the mission of trans-
15 porting to the island of Tinian the vital parts for the
16 two atomic bombs used in ending the war against
17 Japan, a mission which was completed successfully
18 on July 26, 1945, at a record average speed of 29
19 knots.

20 (7) Following the accomplishment of that mis-
21 sion, the INDIANAPOLIS sailed from Tinian to
22 Guam and from there embarked for Leyte Gulf in
23 the Philippines, to join with the fleet assembling for
24 the assault on Japan.

1 (8) Before that last voyage, the headquarters of
2 the Commander-in-Chief, Pacific Fleet (CINCPAC),
3 failed to inform Captain McVay of intelligence in its
4 possession concerning the activities of four Japanese
5 submarines sighted along the route the INDIANAP-
6 OLIS would be sailing and where a Japanese sub-
7 marine had sunk the U.S.S. UNDERHILL just
8 days earlier. Nevertheless, Captain McVay was in-
9 structed to sail a direct route from Guam to Leyte,
10 although this route brought the ship to the cross-
11 roads of the Guam-Leyte and Palau-Okinawa routes,
12 an area that Japanese submarines would likely have
13 heavily targeted due to the greater chance of spot-
14 ting United States naval traffic there.

15 (9) Because the INDIANAPOLIS did not have
16 the capabilities to detect enemy submarines, Captain
17 McVay in Guam requested a destroyer escort for the
18 voyage to Leyte Gulf, a request which was denied,
19 making the INDIANAPOLIS the first United States
20 heavy warship to make that crossing unescorted dur-
21 ing World War II.

22 (10) After the INDIANAPOLIS was sunk, var-
23 ious Navy shore offices compounded the previous er-
24 rors which had led to the ship being placed in jeop-
25 ardy by failing to report the ship's overdue arrival,

1 thus leaving the approximately 950 members of the
2 crew who survived the sinking of the ship adrift for
3 four days and five nights until by chance the sur-
4 vivors were spotted by a routine air patrol.

5 (11) Because the news of the sinking of the IN-
6 DIANAPOLIS, coinciding with the end of the war
7 in the Pacific, threatened to detract from the Navy's
8 role in that victory and from its desire for prominent
9 status in the post-war military establishment, the
10 Department of the Navy court-martialed Captain
11 McVay, who thus became the first United States
12 Navy commanding officer brought to trial for losing
13 his ship in combat in World War II, despite the fact
14 that over 700 ships were lost during World War II,
15 including some under questionable circumstances.

16 (12) A court of inquiry to investigate the sink-
17 ing, convened on August 13, 1945, just two weeks
18 after the sinking and 9 days after the survivors were
19 rescued (a date so soon after the sinking that Cap-
20 tain William Hillbert, the Navy judge advocate for
21 the inquiry, admitted that the inquiry was so rushed
22 that they were “. . . starting the proceedings with-
23 out having available all the necessary data”), rec-
24 ommended that Captain McVay be issued a Letter
25 of Reprimand and that he be court-martialed.

1 (13) The court-martial charge against Captain
2 McVay was entirely predicated upon his failure to
3 order that the ship maintain a zigzag course even
4 though (A) standing orders stated that zigzagging
5 was not necessary during poor visibility (reported to
6 have been at best “patchy” that night), (B)
7 Mochitsura Hashimoto, the Japanese submarine
8 commander who sank the ship, testified at the in-
9 quiry that it would not have made any difference if
10 the ship were zigzagging or not, and (C) the head-
11 quarters staff of CINCPAC concluded that the rule
12 requiring zigzagging would not have applied in any
13 event since Captain McVay’s routine orders gave
14 him discretion on the matter and took precedence
15 over all other orders (a point that was never made
16 by Captain McVay’s attorney).

17 (14) The headquarters staff of CINCPAC dis-
18 agreed with the recommendation of the court of in-
19 quiry that Captain McVay receive a Letter of Rep-
20 rimand and that he be court-martialed, stating that
21 in not maintaining a zigzag course Captain McVay
22 at worst was guilty only of an error in judgment and
23 not gross negligence.

1 (15) Captain McVay was convicted on February
2 23, 1946, of the charge of “suffering a vessel to be
3 hazarded through negligence”.

4 (16) Following his court-martial conviction,
5 Captain McVay remained on active duty until man-
6 datory retirement on June 30, 1949, upon comple-
7 tion of 30 years of active naval service, with a final
8 promotion, in accordance with then-applicable law,
9 to the grade of rear admiral, effective upon the date
10 of his retirement.

11 (17) Rear Admiral Charles Butler McVay III
12 (retired), died on November 6, 1968, without having
13 been exonerated from responsibility for the sinking
14 of the INDIANAPOLIS.

15 (18) Since the late 1980s, Navy documents
16 have been declassified that show that Captain
17 McVay was not given intelligence information in the
18 possession of the Navy that would have been instru-
19 mental in avoiding the disaster and that that infor-
20 mation, which was considered to be Top Secret, was
21 not made available for use in Captain McVay’s
22 court-martial, where it would have been critical to
23 his defense in showing that he was court-martialed
24 on “super-technical” charges which nevertheless
25 were unfounded.

1 (19) In 1993, Congress, in section 1165 of the
2 National Defense Authorization Act for Fiscal Year
3 1994 (Public Law 103–160; 107 Stat. 1765; 16
4 U.S.C. 431 note), recognized the memorial to the
5 U.S.S. INDIANAPOLIS (CA–35) in Indianapolis,
6 Indiana, as the national memorial to that historic
7 warship and to her final crew.

8 (20) In 1994, Congress, in section 1052 of the
9 National Defense Authorization Act for Fiscal Year
10 1995 (Public Law 103–337; 108 Stat. 2844), stat-
11 ing that it was acting on behalf of the grateful peo-
12 ple of the United States—

13 (A) recognized the invaluable contributions
14 of the U.S.S. INDIANAPOLIS to the ending of
15 World War II; and

16 (B) on the occasion of the 50th anniver-
17 sary of her tragic sinking, and the dedication of
18 the national memorial in Indianapolis on July
19 30th, 1995, commended that ship and her crew
20 for selfless and heroic service to the United
21 States.

22 **SEC. 3. CONGRESSIONAL EXONERATION.**

23 The Congress hereby—

24 (1) exonerates the late Rear Admiral Charles
25 Butler McVay III, United States Navy (retired),

1 from responsibility for the sinking of the U.S.S. IN-
2 DIANAPOLIS (CA-35) on July 30, 1945, while
3 under his command;

4 (2) expresses the sense of the Congress that the
5 subsequent court-martial conviction of Rear Admiral
6 McVay (while in the grade of captain) for “suffering
7 a vessel to be hazarded through negligence” was a
8 grave injustice; and

9 (3) urges the President to grant a posthumous
10 pardon to Rear Admiral McVay.

11 **SEC. 4. PRESIDENTIAL UNIT CITATION.**

12 (a) SENSE OF CONGRESS.—It is the sense of the Con-
13 gress that the President should award a Presidential Unit
14 Citation to the final crew of the U.S.S. INDIANAPOLIS
15 (CA-35) in recognition of the courage and fortitude dis-
16 played by the members of that crew in the face of tremen-
17 dous hardship and adversity after their ship was torpedoed
18 and sunk on July 30, 1945.

19 (b) WAIVER OF TIME LIMITATION.—A citation de-
20 scribed in subsection (a) may be made without regard to
21 any provision of law or regulation prescribing a time limi-
22 tation that is otherwise applicable with respect to rec-
23 ommendation for, or the award of, such a citation.

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