OSWALD H. HALFORD ET AL.

FEBRUARY 21, 1933.—Committed to the Committee of the Whole House and ordered to be printed

Mr. ELLZEY, from the Committee on Claims, submitted the following

SUPPLEMENTAL REPORT

[To accompany H. R. 3840]

The Committee on Claims, to whom was referred the bill (H. R. 3840) for the relief of Oswald H. Halford et al., having considered the same, further report thereon with the recommendation that it do pass, with the following amendments:

At the end of line 5, after the word "appropriation" insert "in full settlement of all claims against the Government of the United States".

At the end of the bill, add the following:

: *Provided*, That no part of the amount appropriated in this act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 per centum thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

There are attached hereto, to be made a part of this report, several letters from the War Department, under dates of June 2, 1932, March 28, 1924, June 7, 1932, and June 10, 1932.

WAR DEPARTMENT,
Washington, June 2, 1932.

Hon. LORING M. BLACK,
Chairman Committee on Claims, House of Representatives.

DEAR MR. BLACK: I have your letter of May 25, 1932, in which you ask for information regarding House bill 3840, seventy-second Congress, first session, proposing to reimburse Oswald H. Halford and 11 other former soldiers the amount of salary deducted on account of general court-martial sentences adjudged in June, 1918.

The bill, H. R. 3840, now pending before the committee is identical with prior bills—H. R. 993, sixty-eighth Congress, first session, dated December 5,

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1923; H. R. 6810, sixty-ninth Congress, first session, dated January 5, 1926; and H. R. 1822, seventy-first Congress, first session, dated April 23, 1929, which bills were referred to this department by the Committee on Claims January 21, 1924, April 28, 1926, and January 22, 1930, respectively.

Careful consideration has been given to these bills, and an expression of opinion regarding the merits of House bill 993 is contained in the inclosed copy of the letter from this department, dated March 28, 1924, to the chairman Committee on Claims. For the reasons therein expressed, I do not recommend favorable consideration of the pending bill, H. R. 3840.

Sincerely yours,

PATRICK J. HURLEY,
Secretary of War.

WAR DEPARTMENT,
Washington, March 28, 1924.

Hon. G. W. EDMONDS,
Chairman Committee on Claims, House of Representatives.

MY DEAR MR. EDMONDS: I acknowledge receipt of your letter of January 21, 1924, inclosing a copy of House bill 993, now pending before your committee, to reimburse Oswald H. Halford and 11 other former soldiers the amount of salary deducted on account of general court-martial sentences adjudged in June, 1918, and requesting copies of all papers on file in the War Department relating to the matter, together with an expression of opinion as to the merits of the bill.

It appears from the court-martial order promulgating the sentence in each case that the soldiers in the bill were tried at Camp Beauregard, La., in May, 1918, and each was convicted of absenting himself without proper leave from his organization from about May 10 to May 16, 1918, after having been designated for overseas service and informed of such designation. They were severally sentenced to terms of confinement at hard labor for from one to three years and forfeiture of two-thirds of their unallotted pay for a like period. In each case the reviewing authority in approving the sentence suspended that portion thereof adjudging confinement.

Your attention is invited to the action taken by the reviewing authority in the case of Private Halford (General Court-Martial Order No. 220, attached), which is typical of the others, giving his reasons for suspending the confinement adjudged against Halford:

"In the foregoing case of Pvt. Oswald H. Halford, Battery B, One hundred and fortieth Field Artillery the particular conditions of the case were brought to the court's attention when the record of trial was returned for reconsideration of the sentence.

"A sentence which imposes a long term of confinement without dishonorable discharge is unwise, and, in a degree, subversive of military discipline in retaining in ranks a man whose punishment in itself brands him undesirable as a soldier. Still, in order that the accused may not escape a deservedly severe punishment, the sentence is approved, except that the execution of that portion thereof imposing confinement is suspended under the provisions of the fifty-third article of war, in order that the United States may, during the time the accused is undergoing punishment, give him the training essential to fit him for the efficient performance of his military duties."

The unexecuted portion of the sentence imposed was remitted in each case by paragraph 2, Special Orders, No. 124, General Headquarters, American Expeditionary Forces, France, dated May 4, 1919, and the soldiers continued to serve with their organizations until discharged from the service on June 19, 1919.

The records of the General Accounting Office, military division, show deductions as follows from the pay of each soldier under his court-martial sentence:

Oswald H. Halford	$77. 20
Charles G. Ventrees	217. 87
William C. Horne	226. 77
Felix M. Smith	192. 37
Edwin C. Smith	79. 80
Robert S. Sutherland	77. 67
Hunter M. Henry	192. 13
Rupert R. Johnson	221. 34
David L. Lacey	214. 33
Fenton F. Rogers	151. 87
William Z. Lee	212. 60
Henry F. Seale	193. 17

I have given full and careful consideration to the circumstances attending the offense for which each soldier was convicted. In each case the evidence shows that they were regularly selected for overseas service and notified thereof and that they left their organizations on the night following notification or shortly thereafter. The only excuse given was that they wished to visit their homes and relatives before going to France. They were all young men at the time, and I am not unmindful of the manner in which such a desire, assuming that to have been the sole motive for leaving, may have completely controlled their actions. Within three or four days after reaching their homes they reported to the civil authorities that they were ready to return. Their conduct, however, just as effectively deprived the country of their services for the time being as if they had deserted or were actuated by cowardice. It need not be stated that we were then engaged in a war requiring full use of the man power of the Nation and that in leaving their command in the manner stated they measurably lowered that high degree of efficiency and discipline essential for success in war.

The evidence shows that the decision of one or two to leave their organization led others to follow. Thousands of others could have urged the same excuse for leaving and unless checked would have skeletonized that and other organizations. Experience has taught that with many soldiers the principal deterring force is a certainty of adequate punishment for the commission of an offense. Light sentences are considered a license for the commission of offenses by others. In my opinion, the sentences here adjudged were not overcommensurate with the offenses of which they were found guilty.

There are some mitigating circumstances in the present cases. Each soldier is shown to have conscientiously and faithfully performed his duties prior to his absence and even after his return to military control.

They failed, however, at a critical moment to appreciate properly the duty each owed to his country. To reimburse them in any sum for forfeitures incurred by reason of their lack of respect for authority would only serve to condone their offenses. Their pay, of which they have been deprived by the execution of the sentences should not be restored to them. The passage of the proposed bill would establish, in my opinion, an unusual and harmful precedent.

For these reasons I do not recommend favorable action on the proposed bill.

It is the policy of the War Department not to remove its original records from the files where no duplicate copies are available, but to furnish photostat copies of such originals. In view of the expense of making photostat copies of the evidence in the 12 trials by court-martial, and further that the principal facts shown therein are substantially stated above, I venture the hope that the statement will be sufficient without making photostat copies of the evidence in each record of trial. If the committee still desires the record in each case I will promptly, upon being advised of your wishes, furnish photostat copies of the evidence in each case. There are inclosed a copy of the court-martial order in each case and a copy of the order remitting the unexecuted portion of the sentence.

Sincerely yours,

JOHN W. WEEKS, *Secretary of War.*

WAR DEPARTMENT,
Washington, June 7, 1932.

Hon. LORING M. BLACK, Jr.,
Chairman Committee on Claims, House of Representatives.

DEAR MR. BLACK: I have your letter of May 31, 1932, with which you inclosed a copy of H. R. 3840, for the relief of Oswald H. Halford and 11 other former soldiers, and call attention to the case of Charles P. Hardy (1599403), in which so much of his sentence as was in excess of the reduction to the rank of private, hard labor for three months, without confinement, and forfeiture of two-thirds of his unallotted pay per month for a like period, was remitted on August 5, 1918. You state that in the opinion of the committee similar consideration should be given to the claimants whose names appear in H. R. 3840.

The matter is receiving consideration, and you will be fully advised therein at an early date.

A copy of a letter from this department to the chairman Committee on Claims, House of Representatives, dated March 28, 1924, containing an expression of opinion regarding the merits of House bill 993, which is identical with H. R. 3840, was forwarded to the committee on June 2, 1932.

Sincerely yours,

PATRICK J. HURLEY, *Secretary of War.*

WAR DEPARTMENT,
Washington, June 10, 1932.

Hon. LORING M. BLACK,
Chairman Committee on Claims,
House of Representatives, Washington, D. C.

DEAR MR. BLACK: Supplementing my letter to you of June 7, 1932, regarding H. R. 3840, Seventy-second Congress, first session, proposing to reimburse Oswald H. Halford and 11 other former soldiers the amount of salary deducted on account of general court-martial sentences adjudged in June, 1918, and in response to the expressed opinion of the committee, as stated in your letter of May 31, 1932, that similar consideration should be given to the claimants in H. R. 3840 as was given to Pvt. (First Class) Charles P. Hardy (C. M. 116864), I submit the following:

Pvt. (First Class) Charles P. Hardy, Battery E, One Hundred Fortieth Field Artillery, was tried on May 16, 1918, by a general court-martial, Headquarters Thirty-ninth Division, Camp Beauregard, La., on the following charge and specification:

"Charge: Violation of the sixty-first article of war.

"Specification: In that Pvt. (First Class) Charles P. Hardy (1599403), Battery E, One Hundred Fortieth Field Artillery, did, at Camp Beauregard, La., after having been designated by his commanding officer for oversea service and notified of such designation, without proper leave, absent himself from Camp Beauregard, La., from about May 9, 1918, to about May 16, 1918."

The accused plead guilty to, and was found guilty of, the specification and charge, and was sentenced to be reduced to the grade of private, confined at hard labor at such place as the reviewing authority might direct for a period of two years, and to forfeit two-third of his unallotted pay per month for a like period.

The action taken by the reviewing authority, as published in General Court-Martial Order No. 277, Headquarters Thirty-ninth Division, Camp Beauregard, La., June 26, 1918, was as follows:

"In the foregoing case of Pvt. (first class) Charles P. Hardy, Battery E, One Hundred and Fortieth Field Artillery, the particular conditions of the case were brought to the court's attention when the record of trial was returned for reconsideration of the sentence.

"A sentence which imposes a long term of confinement without dishonorable discharge is unwise and, in a degree, subversive of military discipline in retaining in ranks a man whose punishment in itself brands him as undesirable as a soldier. Still, in order that the accused may not escape a deservedly severe punishment, the sentence is approved except that the execution of that portion thereof imposing confinement is suspended under the provisions of the fifty-third article of war, in order that the United States may, during the time the accused is undergoing punishment give him the training essential to fit him for the efficient performance of his military duties."

The case of Private Hardy was examined in the military justice division, office of the Judge Advocate General, and as a result of such examination a recommendation was made to The Adjutant General by letter dated July 30, 1918, that so much of Hardy's sentence as exceeded hard labor for three months, without confinement, and forfeiture of two-thirds of his unallotted pay for a like period, be remitted. It was stated in that letter that—

"It is the policy of the War Department that a court shall not, by a single sentence, which does not include dishonorable discharge, adjudge against a soldier forfeiture of pay in an amount greater than two-thirds of his pay for six months or confinement at hard labor for a period greater than six months; and that a soldier shall not be required to perform as a punishment hard labor without confinement for a period greater than three months."

The War Department records show that Pvts. Charles P. Hardy, Hunter M. Henry, Rupert R. Johnson, Charles G. Ventress, William Z. Lee, Oswald H. Halford, David L. Lacey, Fenton F. Rodgers, Felix M. Smith, William C. Horne, Henry F. Seale, Robert S. Sutherland, and Edwin C. Smith, all of Battery B, One hundred and fortieth Field Artillery, were tried by general courts-martial at Beauregard, La., in May, 1918, and each was convicted of absenting himself without leave from his organization at Camp Beauregard, La., from about May 10 to May 16, 1918, after having been designated for overseas service and informed of such designation. They were severally sentenced to terms of confinement at hard labor for from one to three years, and forfeiture of two-thirds of their unallotted pay for a like period. In each case the reviewing authority

approved the sentence but suspended that portion thereof adjudging confinement under the provisions of the fifty-third article of war.

In addition to the above-mentioned case of Pvt. Charles P. Hardy, the cases of the other soldiers named above were also examined in the military justice division of the Judge Advocate General's office in June or July, 1918, and were held legally sufficient to support the sentences approved. The War Department records show that the unexecuted portion of the sentence imposed in the case of each soldier named in H. R. 3840, was remitted by paragraph 2, Special Orders, No. 124, General Headquarters, American Expeditionary Force, France, dated May 4, 1919, and the soldiers continued to serve with their organizations until discharged from the service on June 19, 1919.

I trust that the foregoing will furnish your committee the desired information with respect to the case of Pvt. Charles P. Hardy (C. M. 116864).

Sincerely yours,

PATRICK J. HURLEY,
Secretary of War.

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