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MUSTERING-OUT PAYMENT ACT OF 1943

DECEMBER 15, 1943.—Ordered to be printed

Mr. JOHNSON of Colorado, from the Committee on Military Affairs, submitted the following

REPORT

[To accompany S. 1543]

The Committee on Military Affairs, to whom was referred S. 1543, by Senator Barkley, to provide for payment of mustering-out pay to members of the armed forces, and for other purposes, having considered the same, report favorably thereon with amendments and recommend that it do pass, as amended.

On November 23, 1943, Franklin D. Roosevelt, President of the United States, sent a message to the Congress requesting post-war benefits to members of the armed forces. This message follows:

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES TRANSMITTING A REQUEST FOR PASSAGE OF LEGISLATION TO GRANT TO ALL VETERANS OF OUR ARMED FORCES MUSTERING-OUT PAY, A UNIFORM SYSTEM OF ALLOWANCES FOR UNEMPLOYED VETERANS; ALSO LEGISLATION TO AMEND THE FEDERAL OLD-AGE AND SURVIVORS' INSURANCE LAW TO INCLUDE ALL VETERANS OF THE PRESENT WAR

To the Congress of the United States:

All of us are concentrating now on the one primary objective of winning this war. But even as we devote our energy and resources to that purpose, we cannot neglect to plan for things to come after victory is won.

The problem of reconverting wartime America to a peacetime basis is one for which we are now laying plans to be submitted to the Congress for action. As I said last July:

> The returning soldier and sailor and marine are a part of the problem of demobilizing the rest of the millions of Americans who have been working and living in

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a war economy since 1941. * * * But the members of the armed forces have been compelled to make greater economic sacrifice and every other kind of sacrifice than the rest of us, and are entitled to definite action to help take care of their special problems.

At that time I outlined what seemed to me to be a minimum of action to which the members of our armed forces are entitled over and above that taken for other citizens.

What our service men and women want, more than anything else, is the assurance of satisfactory employment upon their return to civil life. The first task after the war is to provide employment for them and for our demobilized war workers.

There were skeptics who said that our wartime production goals would never be attained. There will also be skeptics who will question our ability to make the necessary plans to meet the problems of unemployment and want after the war. But, I am confident that if industry and labor and government tackle the problems of economic readjustment after the war with the same unity of purpose and with the same ingenuity, resourcefulness, and boldness that they have employed to such advantage in wartime production, they can solve them.

We must not lower our sights to pre-war levels. The goal after the war should be the maximum utilization of our human and material resources. This is the way to rout the forces of insecurity and unemployment at home, as completely as we shall have defeated the forces of tyranny and oppression on the fields of battle.

There are, however, certain measures which merit the immediate attention of the Congress to round out the program already commenced for the special protection of the members of the armed forces.

The Congress has already enacted a generous program of benefits for servicemen and for the widows and dependents of those killed in action.

For example:

(1) Under the National Service Life Insurance Act, life insurance at low premium rates is now available to members of the armed forces in amounts not less than $1,000 and not more than $10,000 per person. A total of nearly $90,000,000,000 of insurance has already been applied for.

(2) In addition, provision has been made, under the Soldier's and Sailors' Relief Act, for the guaranty by the Government of the payment of premiums on commercial policies held by members of the armed forces while in service. Premiums on insurance totaling $135,582,000 have been guaranteed as a result of 56,276 applications by servicemen for such relief.

(3) The Congress has also enacted legislation making provision for the hospitalization and medical care of all veterans of the present war, and for the vocational rehabilitation and training of those suffering from disability incurred in, or aggravated by, military service, when such disability results in a vocational handicap preventing reemployment. Similar provision has been made for the rehabilitation of disabled persons in civil life, who, with proper training, can be equipped to play a useful part in the war effort at home. Men who are rejected for military service because of physical or mental defects, or who are discharged from the armed forces because of a disability existing at the time of induction, are thus eligible for such

rehabilitation services and training as may be necessary and feasible in order to fit them for useful and gainful employment.

(4) By recent legislation, our present service men and women have been assured the same pension benefits for death or disability incurred in the line of duty while in active military service as are provided for the veterans of prior wars. The pension rates for the family of those killed in this war were recently increased by the Congress.

The Veterans' Administration will, from time to time, request the consideration by the Congress of various amendments of existing laws which will facilitate administration, and which will correct any defects in our present statutory scheme which experience may disclose. I am confident that the Congress, in line with the historic policy of this Government toward its ill, injured, and disabled service men and women, will provide generous appropriations to the Veterans' Administration with which to carry out these laws.

(5) Numerous other measures have been adopted for the protection of our servicemen such as the Soldiers' and Sailors' Civil Relief Act, suspending the enforcement of certain obligations against members of the armed forces, the creation of reemployment rights under the Selective Service Act, and the provision for emergency maternity care to the wives and infants of enlisted men.

However, I believe that we must go much further.

We must make provision now to help our returning service men and women bridge the gap from war to peace activity. When the war is over our men and women in the armed forces will be eager to rejoin their families, get a job, or continue their education, and to pick up the threads of their former lives. They will return at a time when industry will be in the throes of reconversion. Our plans for demobilization of soldiers and sailors must be consistent with our plans for the reconversion of industry and for the creation of employment opportunities for both servicemen and war workers. Already the armed forces have returned many thousands of service men and women to civil life.

The following further steps seem desirable now:

(1) To help service men and women tide over the difficult period of readjustment from military to civilian life, mustering-out pay will be needed. It will relieve them of anxiety while they seek private employment or make their personal plans for the future. I, therefore, recommend to the Congress that it enact legislation and provide funds for the payment of a uniform, reasonable mustering-out pay to all members of the armed forces upon their honorable discharge or transfer to inactive duty. This pay should not be in a lump sum but on a monthly installment basis.

(2) We must anticipate, however, that some members of the armed forces may not be able to obtain employment within a reasonable time after their return to civil life. For them, unemployment allowances should be provided until they can reasonably be absorbed by private industry.

Members of the armed services are not now adequately covered by existing unemployment insurance laws of the States. It is estimated that approximately one-half of them will have no unemployment insurance protection at all when they leave military service. Benefits

payable to those who are covered by State law are unequal, and will vary greatly among the States because of the wide differences in the provisions of the State laws. The protection in many cases will be inadequate. It is plainly a Federal responsibility to provide for the payment of adequate and equitable allowances to those service men and women who are unable to find employment after their demobilization.

For these reasons, I recommend to the Congress that a uniform system of allowances for unemployed service men and women be established.

I believe that there should be a fixed and uniform rate of benefit for a fixed period of time for all members of the armed forces who, after leaving the service, are unable to find suitable work. In order to qualify for an unemployment allowance each person should be obliged to register with the United States Employment Service, and, following the usual practice in unemployment insurance, must be willing to accept available and suitable employment, or to engage in a training course to prepare him for such employment. The protection under this system should be continued for an adequate length of time following the period for which mustering-out payment is made.

At present, persons serving in the merchant marine are not insured under State unemployment insurance laws, primarily because the very nature of their employment carries them beyond the confines of any particular State. I believe that the most effective way of protecting maritime workers against post-war unemployment is to enact without delay a Federal maritime unemployment insurance act. There has been in effect since 1938 a railroad unemployment insurance act, and a similar act for maritime workers is long overdue. Marine workers are, however, insured under the existing Federal old-age and survivors' insurance law.

(3) Members of the armed forces are not receiving credit under the Federal old-age and survivors' insurance law for their period of military service. Credit under the law can be obtained only while a person is engaged in certain specific types of employment. Service in the armed forces is not included in these types. Since the size of the insurance benefits depends upon the total number of years in which credits are obtained, the exclusion of military service will operate to decrease the old-age retirement benefits which will eventually be payable to service men and women. Furthermore, a large number of persons whose dependents were protected by the survivors' insurance benefits at the time they entered the armed forces, are losing entirely those insurance rights while they are in service.

I, therefore, recommend that the Congress enact legislation to make it possible for members of the armed forces to obtain credit under the Federal old-age and survivors' insurance law during their period of military service. The burden of this extension of old-age and survivors' insurance to members of the armed forces should be carried by the Federal Government, and the Federal contributions should be uniform for all members of the armed forces irrespective of their rank.

I have already communicated with the Congress requesting the enactment of legislation to provide educational and training oppor-

tunities for the members of the armed forces who desire to pursue their studies after their discharge.

The Congress will agree, I am sure, that, this time, we must have plans and legislation ready for our returning veterans instead of waiting until the last moment. It will give notice to our armed forces that the people back home do not propose to let them down.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *November 23, 1943.*

Thereafter, on November 26, Senate bill 1543 was introduced by the senior Senator from Kentucky (Mr. Barkley) carrying out that part of the President's message recommending mustering-out pay for the members of the armed forces.

This bill was referred to the Committee on Military Affairs, which in turn referred it to a subcommittee.

After careful consideration, the subcommittee reported S. 1543 to the full committee with the recommendation that it be reported favorably by the full committee as drawn.

The full Committee on Military Affairs thereupon revised the bill, S. 1543, and ordered it reported to the Senate and recommended that it be enacted into law as revised and amended.

The revised bill reads as follows:

That each member of the armed forces of the United States, who shall have been engaged in active service in the present war, discharged or relieved from active service under honorable conditions, on or after December 7, 1941, shall be eligible to receive mustering-out payment: *Provided*, That mustering-out payment shall not be made to any person who, at the time of discharge or relief from active service, holds a commission, either permanent, temporary, or in any reserve capacity, of any rank above that of colonel in the Army, or of any equivalent rank in any of the other branches of the armed service of the United States: *Provided further*, That such payment shall not be made to members of the armed forces who, at the time of discharge or relief from active service, are transferred or returned to the retired list with retirement pay or to a status in which they receive retirement pay: *Provided further*, That such payment shall not be made to members of the armed forces who have had no service outside of the continental limits of the United States or in Alaska and who are discharged or relieved from active service solely on their own initiative for occupational reasons.

SEC. 2. Mustering-out payment for persons eligible under section 1 shall be in sums as follows:

(a) $500 for persons who have served outside the continental limits of the United States or in Alaska for eighteen months or more after December 6, 1941.

(b) $400 for persons who have served outside the continental limits of the United States or in Alaska for twelve to eighteen months after December 6, 1941.

(c) $300 for persons who have served outside the continental limits of the United States or in Alaska for less than twelve months after December 6, 1941.

(d) $300 for persons who have served within the continental limits of the United States (excluding Alaska) for twelve months or more after December 6, 1941.

(e) $200 for persons who have served within the continental limits of the United States (excluding Alaska) for less than twelve months after December 6, 1941.

Each individual eligible to receive mustering-out payment shall receive one-third of the stipulated amount at the time of discharge or relief from active duty. The remaining amount of mustering-out payment shall be made in two equal installments—one month and two months, respectively, from the date of the original payment.

SEC. 3. Any member of the armed forces entitled to mustering-out payment but who shall have been discharged or relieved from active service under honorable conditions before the effective date of this Act shall receive the benefits thereof, beginning within one month after application has been made by such person and received by the appropriate department: *Provided*, That no person entitled to benefit under this Act shall receive mustering-out payment more than once, and

such payment shall accrue and the amount thereof shall be computed as of the time of discharge for the purpose of effecting a permanent separation from the service or of ultimate relief from active service.

SEC. 4. If any member of the armed forces, after his discharge or relief from active service, shall die before receiving any portion of or the full amount of his mustering-out payment, the balance of the amount due him shall be payable, on appropriate application therefor, to his surviving spouse, if any; and if he shall leave no surviving spouse, then in equal shares to his child or children, if any; and if he shall leave no surviving spouse or child or children, then in equal shares to his surviving parents, if any: *Provided*, That no payments under this Act shall be made to any other person.

SEC. 5. No part of the mustering-out payment authorized by this Act shall be subject to deduction in settlement of debts due the United States or instrumentalities thereof, nor shall such payment be assignable or subject to the claims of creditors of any person to whom or on behalf of whom it is paid; and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever.

SEC. 6. As used in this Act—

(a) The term "member of the armed forces of the United States" means any member of the Army or Navy of the United States, the United States Marine Corps, the United States Coast Guard, or any of their respective components.

(b) The term "spouse" means a lawful wife or husband.

(c) The term "child" includes (1) a legitimate child; (2) a child legally adopted; and (3) a stepchild, if, at the time of death of the member of the armed forces, such stepchild was a member of the deceased's household.

(d) The term "parent" includes father and mother, stepfather and stepmother, and father and mother through adoption.

SEC. 7. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act. The Secretary of War and the Secretary of the Navy shall administer this Act within their respective services.

SEC. 8. This Act may be cited as "Mustering-out Payment Act of 1943."

Amend the title so as to read: "A bill to provide for mustering-out payments to members of the armed forces, and for other purposes."

Mr. Warren H. Atherton, national commander of the American Legion, appeared before the Senate Military Affairs Committee on behalf of the Barkley bill and endorsed mustering-out pay as proper and necessary. The Veterans of Foreign Wars and the Disabled American Veterans have also endorsed mustering-out pay as being essential and advisable.

Section 1 provides that each member of the armed forces of the United States, who shall have been engaged in active service in the present war, shall be eligible to receive mustering-out payment upon discharge or relief from active service under honorable conditions, on or after December 7, 1941. Such mustering-out payment would not be made to any person who, at the time of discharge or relief from active service, holds a commission, either permanent, temporary, or in any reserve capacity, of any rank higher than that of colonel in the armed forces. It would further preclude payment to members of the armed forces if, at the time of discharge or relief from active service, they are transferred or returned to the retired list with retirement pay or to a status in which they receive retirement pay. No benefits shall accrue to members of the armed forces who have had no service outside the continental limits of the United States and who are discharged or relieved from active service solely on their own initiative for occupational reasons.

The payments provided by section 2 are as follows:

For persons who have served outside the continental limits of the United States after December 6, 1941:

(*a*) For 18 months or more, $500.
(*b*) For 12 to 18 months, $400.
(*c*) Less than 12 months, $300.

For persons who have served within the continental limits of the United States after December 6, 1941:

(*a*) For 12 months or more, $300.
(*b*) Less than 12 months, $200.

One-third of the amount due, to be paid at the time of discharge. The remaining amount to be paid in two equal installments 1 month and 2 months respectively from the date of original payment.

Section 3 provides that persons entitled to the benefits who have been discharged or relieved from active service under honorable conditions before the effective date of the act shall receive mustering-out payment beginning within 1 month after application has been made. However, no person entitled to benefits under the act would receive payment for more than one period of service and payment would accrue and the amount thereof would be computed as of the time of separation from active service.

It is provided in section 4 that where any person entitled to the benefits of the act dies before receiving any portion of the mustering-out payment, the balance of the amount due him shall be paid to his surviving spouse, if any, or if no surviving spouse, to his child or children, if any, and if no surviving spouse, child, or children, then to his surviving parent or parents, if any, but payments shall be made to no other persons than the ones named.

It is provided by section 5 that the mustering-out payments shall not be subject to deduction in settlement of debts due the United States or any instrumentalities thereof and shall not be assignable subject to claims of creditors, liable to attachment, levy, or seizure under any legal or equitable process.

The term "member of the armed forces of the United States" as defined by section 6 of the bill includes any member of the Army or Navy of the United States, the United States Marine Corps, the United States Coast Guard, and any of their respective components.

Section 7 authorizes the appropriation of such sums as may be necessary to carry out the provisions of the act and provides that the Secretary of War and the Secretary of the Navy shall administer the act within their respective services.

Section 8 provides that the act shall be known as the Mustering-Out Payment Act of 1943.

It is believed that the provisions of this bill will aid materially in solving the problem of reconverting war-time America to a peace-time basis by providing the returning soldier, sailor, or marine with ready funds upon his discharge from the service so that he may be assured of having the necessary means during the period in which he is seeking satisfactory employment in civil life.

The report of the War Department on S. 1543 follows:

WAR DEPARTMENT,
Washington, December 10, 1943.

Hon. ROBERT R. REYNOLDS,
Chairman, Committee on Military Affairs,
United States Senate.

DEAR SENATOR REYNOLDS: The War Department has given consideration to S. 1543, Seventy-eighth Congress, a bill to provide for payment of mustering-out pay to members of the armed forces, and for other purposes.

The introduction of the bill followed receipt of the President's message of November 23, 1943, to the Congress, recommending the enactment of legislation to provide funds for the payment of a uniform reasonable mustering-out pay on

a monthly installment basis to all members of the armed forces upon their honorable discharge or transfer to inactive duty.

Specifically, the bill would authorize the Secretary of War and the Secretary of the Navy, within their respective services, to pay mustering-out pay in three $100 monthly installments to all members of the armed forces of the United States, with certain exceptions, who shall have been in active service during the present war and who shall have been discharged or relieved from active duty under other than dishonorable conditions after December 7, 1941. Any person who, at the time of discharge or relief from active service, holds a commission, either permanent or temporary, of any rank above captain in the Army, or of any equivalent rank in any of the armed services and any person who at the time of discharge or relief from active duty shall be eligible for placement on the retired list would not be entitled to mustering-out pay. All payments of mustering-out pay would be suspended in the case of persons selected for training under the Servicemen's Education and Training Act of 1943 (not yet enacted) during the time that such person has been selected for attendance at an approved educational institution. Members of the armed forces entitled to mustering-out pay who shall have been discharged or relieved from active duty under other than dishonorable conditions before the effective date of the act shall receive the first installment 1 month after the effective date of the act. Provision is made for the payment to the surviving widow, and if there be no widow then in equal shares to minor children, and if there be no widow or minor children, then in equal shares to surviving parents of any mustering-out pay which would have been paid to a member of the armed forces who dies after his discharge or relief from active duty before receiving the full amount of such pay payable to him.

The War Department is in accord with the general objective to help service men and women tide over the difficult period of readjustment from military to civilian life. The enactment of such legislation at this time will give notice to our armed forces, as the President stated in his message, "That the people back home do not propose to let them down."

Since it may be helpful to the committee in giving consideration to this proposed legislation to have the benefit of the War Department's experience and analysis of the bill, certain provisions are hereinafter discussed in some detail.

Lines 3–8 of page 1 of the proposed legislation provide "That all members of the armed forces of the United States, who shall have been in active service during the present war and who shall have been discharged or relieved from active duty under other than dishonorable conditions after December 7, 1941, shall be eligible to receive mustering-out pay." Since Congress has generally required in legislation of this character that no person should receive benefits when discharged under other than honorable conditions, it is believed that it should be pointed out that the verbiage referred to in S. 1543 would make eligible to receive mustering-out pay persons who have resigned for the good of the service or have received discharges for any one of a number of reasons such as minority, dependency, fraudulent enlistment or induction, desertion in some instances, inaptness or undesirable habits or traits of character, or conviction by a civil court. The War Department believes that no exception should be made of legislation providing for mustering-out pay that would not be applicable to other types of legislation granting benefits. It is desired to point out that this would be an exception to the usual provisions of legislation granting benefits.

It is noted that the bill provides, lines 8–11, page 1, and line 1, page 2, "That mustering-out pay shall not be payable to any person who, at the time of discharge or relief from active service, holds a commission, either permanent or temporary, of any rank above captain in the Army, or of any equivalent rank in any of the other armed services." If it is the desire of Congress to make ineligible for mustering-out pay those commissioned officers drawing pay of the grade of major or above, then it would seem that the language of the bill should describe the classification of persons who are ineligible by pay period rather than by rank since a captain in the Army with sufficient number of years service may be drawing the base pay of the fourth pay period to which a major is initially entitled. Such a change would cover the cases of Army and Navy nurses who do not hold commissions but hold relative rank with commissioned officers.

The proviso on page 2, lines 2–5, inclusive, reading "That mustering-out pay shall not be payable to members of the armed forces, who, at the time of discharge or relief from active duty, shall be eligible for placement on the retired list" is ambiguous to the War Department. Only members of the Regular Army are entitled to be retired, although officers of other components may be, under certain circumstances, entitled to retirement pay. It is believed that this language could be clarified.

The proviso commencing with line 11 and ending with line 15 on page 2 of the bill "That, in the case of persons selected for training under the Servicemen's Education and Training Act of 1943, all payments under this act shall be suspended during the time that such person has been selected for attendance at an approved educational institution," appears to suspend the payment of benefits granted by the bill but not exclude those persons taking advantage of the Servicemen's Education and Training Act. The legislation for education and training was recommended by the President in his message to the Congress on November 23, 1943, but has not yet been enacted into law. It would therefore seem desirable that this language be excluded from this bill and that consideration be given to the suspension of mustering-out pay to such persons by way of a provision in the bill providing for education and training.

Section 3 of the bill reading as follows: "Members of the armed forces entitled to mustering-out pay who shall have been discharged or relieved from active duty under other than dishonorable conditions before the effective date of this act shall receive the first installment of their mustering-out pay 1 month after the effective date of this act" does not require any affirmative act on the part of the eligible person to receive the first installment of mustering-out pay. It should be borne in mind that this section deals with men who will have been discharged from the service before the effective date of the act, and in order to avoid the confusion which would result from making payments on the basis of records which may be obsolete in many cases as to the addresses of those who are discharged or relieved, and as to whether they are living or dead, it is recommended that section 3 be amended so that it will provide that benefits will be paid within 1 month after application has been made by the person entitled thereto and received by the War Department.

In view of the fact that section 4 of the bill provides for the payment of the benefits to certain survivors where the veteran is deceased, it is believed that the language of the bill should require an application from the eligible beneficiary.

By the terms of section 3 of the bill individuals who have been discharged from the Army, such as persons who were in the status of enlisted men, have completed officers' training courses, and have since become commissioned officers would be entitled to receive benefits under this bill while on active duty in a pay status and such payments would presumably defeat the purposes of the bill. No prohibition is provided in the bill to prevent payments to an individual for more than one contract of service. In other words, the bill would authorize the sum of $300 to an enlisted man who was discharged to accept a commission and another payment of $300 to the same individual upon release from active duty or discharge under his commission. In some cases the absence of such a prohibition might result in the granting of even more than two awards of $300.

Section 4 of the bill provides the following: "If any member of the armed forces, after his discharge or relief from active duty, shall die before receiving the full amount of the mustering-out pay payable to such person, the amount which he would have received had he lived shall be payable to his surviving widow, if any; and if he shall leave no surviving widow, then in equal shares to his minor children, if any; and if he shall leave no surviving widow or minor children, then in equal shares to his surviving parents, if any: *Provided*, That no payments under this act shall be made to any other person." It is suggested that it would be desirable to amend the section so as to include cases involving a single child or a single parent. In view of the fact that there are now in the armed services married female personnel such as Army nurses and members of the Woman's Army Corps, a veteran's sole survivor may be a widower rather than a widow.

The committee may also desire to give consideration to the exclusion from the benefits of the bill (1) persons discharged on their own application to take immediate employment; (2) persons who were employees of the United States Government, its Territories or possessions, or the District of Columbia, who are entitled to their former positions or positions of like seniority, status, and pay under provisions of section 8 of the Selective Service and Training Act of 1940, as amended; and (3) cases of Air Corps Reserve officers who are entitled to a lump-sum payment of $500 in addition to their pay and allowances under the act of June 16, 1936 (49 Stat. 1524), after the completion of 3 years' service.

The bill makes no mention of any distinction between individuals of long length of service and persons of short length of service, nor any distinction between persons with dependents and those without dependents, and no provision is made for exemption of mustering-out pay from taxation. It is recommended that a new section be proposed to read as follows:

"No part of the mustering-out pay authorized by this act shall be subject to deduction in settlement of debts due the United States or instrumentalities

thereof, nor shall such pay be assignable or subject to the claims of creditors of any person to whom or on behalf of whom they are paid; and shall not be liable to attachment, levy, or seizure by or under any legal or equitable process whatever."

In view of the fact that it cannot be determined at the present time how many persons will be retained in the service or for what periods, or what persons may be discharged who are not eligible for benefits under the act, its over-all cost cannot be estimated. With respect, however, to the persons who have already been discharged or relieved from active duty up to the present time, it is estimated that the cost would be roughly a quarter of a billion dollars.

Inasmuch as the committee has requested that this report be expedited, it is submitted without a determination by the Bureau of the Budget as to whether it conforms to the program of the President.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

The report of the Navy Department on S. 1543 follows:

NAVY DEPARTMENT,
Washington, December 10, 1943.

Hon. ROBERT R. REYNOLDS,
Chairman of the Committee on Military Affairs,
United States Senate.

MY DEAR MR. CHAIRMAN: The bill S. 1543 to provide for payment of mustering-out pay to members of the armed forces, and for other purposes, was referred to the Navy Department by your committee with request for views thereon.

The purpose of the proposed legislation is to provide mustering-out pay for members of the armed forces, discharged or relieved from active duty after December 7, 1941. A total of $300 would be payable each eligible veteran, $100 at the time of discharge or relief from active duty, and the remainder in two consecutive monthly installments. Those discharged prior to the legislation becoming law receive their first installment 1 month after such date. Payments under the act would be suspended in the case of persons selected for training under the Servicemen's Education and Training Act of 1943, during the period of such training.

Veterans on discharge or relief from active duty under other than dishonorable conditions would be eligible for mustering-out pay unless at the time such individual (*a*) holds a commission, either permanent or temporary of any rank above captain in the Army, or of equivalent rank in any of the armed forces or, (*b*) is eligible for placement on the retired list. The bill would provide for payment to the surviving widow, if any, or if none, to minor children, if any, of a veteran who dies after discharge, or relief from active duty, and before receiving all his mustering-out pay.

The proposed legislation is one of several types of relief under consideration as part of a program to cope with economic effects of demobilization on discharged veterans, and appears designated to afford them immediate relief on termination of their military service.

The Navy Department is in accord with the general principles of granting mustering-out pay to afford this immediate relief, but believes that legislation to this end should be integrated with other demobilization measures. Accordingly, comments by the Navy Department on H. R. 1543 will be limited to pointing out a few of the features of the measure which merit very careful consideration because of their importance to the general problem, rather than making detailed comments on technicalities and suggestions as to the form of specific amendments.

The controlling date of December 7, 1941, would require including in the measure many who have been discharged for reasons such as their having reached 38 years of age, or because their services were deemed essential in vital war industry. It might be stated that, in general, the problem of unemployment has not faced such individuals, but instead they have found industrial, agricultural, or professional employment at remuneration, on the average, far in excess of their military pay and allowances. The impact of general demobilization will not fall upon these individuals because of their termination of military service, but any unfortunate consequences they may suffer will be the same as others in civilian life at the time of general demobilization, as their discharge during the present activity in industrial operations and manpower shortage should result in their almost immediate absorption into remunerative employment.

The measure appears to contemplate that its benefits will be limited to those who will, in general, be faced with need of immediate relief, and excludes those

whose military rank provides substantial pay and allowances, and those who are eligible for retirement. It should be pointed out in this connection, however, that the pay period and the total pay of an officer is dependent upon length of service as well as rank. Consideration of this fact should be given in framing any conditions of eligibility for the benefits of the bill.

The matter of the eligibility of certain officers for the benefits of this bill should also be considered from the angle of accumulated leave. An officer or warrant officer is privileged to accumulate leave at the rate of 2½ days per month while on active duty, to a maximum of 4 months' leave. Whenever such an officer is to be separated from active duty, it is the policy of the Navy Department to grant to him such leave as he will have accumulated before he is transferred to an inactive status. During this period he receives full pay and allowances. Under the provisions of this bill, he would, in addition, receive the $300 mustering-out pay.

The exclusion based on eligibility for retirement should be determined after review of existing law relating to retirement. The last proviso in section 1 provides that mustering-out pay shall not be payable to members of the armed forces who, at the time of discharge or release from active duty, shall be eligible for placement on the retired list. The Naval Reserve Act of 1938 provides for the placing of officers of the Naval Reserve on the honorary retired list "without pay or allowances." It is assumed that this provision intended to deny the mustering-out pay only to those who are placed on the retired list under laws which make them eligible for retired pay. If this assumption is correct, it is recommended that the bill be amended to provide for denying the mustering-out pay to those eligible for placement on the retired list with retired pay.

It should also be pointed out that under the provisions of the act of August 27, 1940, Public Law 775, Seventy-sixth Congress, members of the Naval Reserve or Marine Corps Reserve who are called or ordered to active service for periods in excess of 30 days, who suffer disability in line of duty or from disease or injury are entitled to receive the same retirement pay among other benefits as now or may hereafter be provided by law or regulation for members of corresponding grades in the Regular Navy or Marine Corps. It will not be possible to determine, at the time such members are released from active duty, if they might later be found eligible for retirement with retired pay because of a disability incurred while in active service. Since the determination of the eligibility for retirement will not always definitely be known at the time of release from active duty, this provision will involve complications in determining entitlement to mustering-out pay at the time of release from active duty. For example, the mustering-out pay might be paid to the individual and he or she be subsequently placed on the retired list with retired pay under the provisions of the act of August 27, 1940, because of a physical condition existing when the mustering-out pay was paid, but without knowledge by him or the Department that he was then eligible for retirement.

The exclusion based on the type of discharge from service is limited to those discharged "under dishonorable conditions." Discharge may be for bad conduct in the service, on sentence of a general or summary court martial, it may arise from misstatements in connection with enlistment or appointment, or from other causes. Very careful consideration should be given to this condition of eligibility for benefits, particularly if it is decided that individuals discharged prior to termination of hostilities are to be covered. It is suggested that the bill should be clarified in specifying the types of discharge which would be required for eligibility to benefits, or, if it is intended that the interpretations placed on the words "under dishonorable conditions" by the Administrator of Veterans' Affairs, in administering other acts should be followed by the Navy Department, it is suggested that this be clearly indicated.

The question as to whether the proposed payments will be considered as pay for military service within the meaning of the exemption provisions of the tax laws, and whether such payments shall be given a special exemption will doubtless be considered by your committee. It should be pointed out that subjecting any such payments to withholding provisions of the tax laws would involve considerable administrative difficulties, and would tend to cause delays in making payments.

Another matter of concern in connection with the administration of S. 1543 is the provision requiring that payment to those who have already been mustered out of the service shall be made within a month of the effective date of the proposed measure. Many payments would be required to persons whose whereabouts are at present unknown to the Navy Department. Further, it will be found that some of these veterans will have died, and it will be necessary to determine whether there is a surviving widow, or if none, minor children entitled

to payment. For this reason, it is recommended that the provision as to the time within which payment is to be made should be so modified as to require payment within a month only where such payment may be practically effected within such time.

It is also recommended that if the provision for paying surviving widows and minor children is retained in the bill, the terms should be either defined specifically or incorporation made by reference of definitions in other laws. It is also recommended that provisions either be inserted or incorporated by reference, authorizing payment to individuals standing in loco parentis, or other proper custodial relationship, as determined by the Secretary of the department concerned in the case of minors or other legally incompetent beneficiaries, so as to avoid the expense of appointment of guardians or committees.

Subject to the foregoing comments and recommendations, the Navy Department favors the enactment of the bill S. 1543.

The Navy Department has been advised by the Bureau of the Budget that there would be no objection to the submission of this recommendation.

Sincerely yours,

FRANK KNOX,
Secretary of the Navy.

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