82D CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT No. 614

MAJ. BRUCE B. CALKINS

JUNE 19, 1951.—Committed to the Committee of the Whole House and ordered to be printed

Mr. BYRNE of New York, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H. R. 828]

The Committee on the Judiciary, to whom was referred the bill (H. R. 828) for the relief of Maj. Bruce B. Calkins, having considered the same, report favorably thereon with amendment and recommend that the bill do pass.

The amendment is as follows:

Page 1, line 6, strike out "$962", and insert "$475.78".

The purpose of the proposed legislation is to pay Maj. Bruce Calkins, Air Force Reserve, AO385054, the sum of $475.78, in full settlement of all his claims against the United States arising when, as a result of a temporary change in Army regulations, he was deprived of terminal leave to which he would otherwise have been entitled.

STATEMENT OF FACTS

The Department of the Air Force, in its report dated June 5, 1951, recommends enactment of the proposed legislation if it be amended.

Therefore, your committee has amended the bill accordingly, and recommends favorable consideration to the bill as so amended.

The letter of the Department of the Air Force is as follows:

DEPARTMENT OF THE AIR FORCE,
Washington, June 5, 1951.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: I refer to your request to the Secretary of the Army on H. R. 8409, Eighty-first Congress, a bill for the relief of Maj. Bruce B. Calkins. The records on Major Calkins were transferred to the Air Force when the Air Force became a separate service. Therefore the Department of the Army transferred the action to prepare a report on the bill to the Department of the Air Force. The Department of the Air Force was unable to gain sufficient informa-

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tion for the preparation of a report on H. R. 8409 prior to the adjournment of the Eighty-first Congress. Now that sufficient material has been received, the Department of the Air Force desires to submit its report on H. R. 828, Eighty-second Congress, which bill is identical to H. R. 8409, Eighty-first Congress.

The purpose of this bill is to pay Major Calkins $962 in full settlement of all claims made by him because of a temporary change in regulations which deprived him of certain benefits during his period of hospitalization.

Major Calkins was admitted to Pasadena Regional Hospital, Pasadena, Calif., on November 14, 1945, while on terminal-leave status and was subsequently transferred to William Beaumont General Hospital, El Paso, Tex., on November 27, 1945. He was released from hospitalization, effective December 21, 1945. At this time AR 605–115, June 17, 1944, provided that officers hospitalized while on terminal leave would be regarded as being on a duty status from the date of hospitalization. Upon completion of hospitalization they would revert to leave status and would be credited with time spent in the hospital as time on duty. In administering this regulation the fact of admission to the hospital did not automatically return the officer to a duty status as an affirmative action was required to amend the release orders prior to the effective date of release from active duty specified therein. This regulation was superseded by AR 605–115, November 9, 1945. Paragraph 18 provided that officers admitted to Army hospitals while on terminal leave prior to separation from active service would continue on leave during such hospitalization. Change No. 1 to this regulation, January 16, 1946, provided that officers admitted to Army hospitals while on terminal leave, prior to separation from service, would be considered to be on a duty status from the date of admission to the hospital. Upon discharge from the hospitalization, the terminal leave of these officers would be recomputed so that the terminal leave used prior to hospitalization would be considered as ordinary leave. In the administration of cases coming under this change, the fact of admission to an Army hospital would automatically rescind so much of the officers' orders as pertained to separation or release from active duty. Similar provisions were contained in paragraphs 4b and 15, AR 600–115, August 20, 1946, and remained in effect until October 1, 1947. The present policy, which is outlined in AR 600–115, August 25, 1947, as amended, and which implements the Armed Forces Leave Act of 1946, states that personnel who are separated from the service under honorable conditions on or after October 1, 1947, who are not required to carry leave forward, are compensated in cash for unused accrued leave at the time of their separation. In addition, on the basis of opinion No. B–72571 rendered by the Comptroller General, February 11, 1948, officers admitted to Army hospitals from terminal leave which had not expired prior to January 16, 1946, in accordance with paragraph 18, Change No. 1, AR 600–115, January 16, 1946, and paragraph 4b and 15 of AR 600–115, August 20, 1946, were considered as having been automatically returned to duty status on the date of admission to the hospital.

It is to be noted from the above summary that those officers who were hospitalized while on terminal leave between November 9, 1945, and January 16, 1946, whose leave expired prior to January 16, 1946, did not receive the same consideration as other officers. Public Law 342, Eighty-first Congress, October 10, 1949, was enacted in an effort to alleviate this situation. This law provided that officers admitted to service hospitals prior to October 1, 1947, while on terminal leave, who reverted to inactive status prior to release from such hospitalization, and who were not subsequently retired or certified to the Veterans' Administration for retirement benefits, would be determined to have been on active duty for all purposes from the date of admission to the hospital to the date of release from such hospital. As Public Law 342 covered only one specific category of personnel, namely, those who reverted to an inactive status while hospitalized, officers such as Major Calkins, who did not revert to an inactive status prior to a release from hospitalization but who did revert to an inactive status prior to January 16, 1946, were not covered by Public Law 342 or by any other provision of law or regulation.

The amount claimed by Major Calkins includes claim for payment of terminal leave to cover his illness (November 6, 1945, to December 21, 1945, a total of 46 days); payment for his period of convalescence (30 days); and payment for the Air Force Reserve bonus (36 days). In the administration of cases of officers hospitalized from terminal leave consideration was never given to a period of convalescence inasmuch as regulations on this subject covered only the period of actual hospitalization. In view of this, and in view of the fact that Major Calkins was admitted to the hospital on November 14, 1945 (day of duty), and

was released from the hospital on December 21, 1945 (day of leave), and further in consonance with the intent of Public Law 342, any legislation providing for the relief of officers in this category should include payment only for the period of actual hospitalization. In the case of Major Calkins this would amount to 37 days, which would entitle him to the payment of $434.11. In addition, he would be entitled to 1 month's Air Force Reserve bonus pay in the amount of $41.67 or a total of $475.78.

The Department of the Air Force recommends therefore that H. R. 828 be amended to entitle Major Calkins to relief for the amount of $475.78. In addition, it is not known whether there are other former officers who experienced circumstances similar to those experienced by Major Calkins, and records are not available to this Department which would provide this information.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

EUGENE M. ZUCKERT,
Assistant Secretary of the Air Force.

DEPARTMENT OF THE AIR FORCE,
Washington, June 5, 1951.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: I refer to your request to the Secretary of the Army on H. R. 8409, Eighty-first Congress, a bill for the relief of Maj. Bruce B. Calkins. The records on Major Calkins were transferred to the Air Force when the Air Force became a separate service. Therefore the Department of the Army transferred the action to prepare a report on the bill to the Department of the Air Force. The Department of the Air Force was unable to gain sufficient information for the preparation of a report on H. R. 8409 prior to the adjournment of the Eighty-first Congress. Now that sufficient material has been received, the Department of the Air Force desires to submit its report on H. R. 828, Eighty-second Congress, which bill is identical to H. R. 8409, Eighty-first Congress.

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rendered by the Comptroller General, February 11, 1948, officers admitted to Army hospitals from terminal leave which had not expired prior to January 16, 1946, in accordance with paragraph 18, Change No. 1, AR 600-115, January 16, 1946, and paragraph 4b and 15 of AR 600-115, August 20, 1946, were considered as having been automatically returned to duty status on the date of admission to the hospital.

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