

SERVICEMEN'S DEPENDENTS ALLOWANCES

June 15, 1942.—Ordered to be printed

Mr. May from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany S. 2467]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2467) to provide family allowances for the dependents of enlisted men of the Army, Navy, Marine Corps, and Coast Guard of the United States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the Servicemen's Dependents Allowance Act of 1942.

TITLE I

SEC. 101. The dependent or dependents of any enlisted man of the fourth, fifth, sixth, or seventh grades in the Army of the United States, the United States Navy, the Marine Corps, or the Coast Guard, including any and all retired and reserve components of such services, shall be entitled to receive a monthly family allowance for any period during which such enlisted man is in the active military or naval service of the United States on or after June 1, 1942 during the existence of any war declared by Congress and the six months immediately following the termination of any such war.

SEC. 102. The monthly family allowance payable under this title to the dependent or dependents of any such enlisted man shall consist of the Government's contribution to such allowance and the reduction in or charge to the pay of such enlisted man.

SEC. 103. The dependents of any such enlisted man to whom a family allowance is payable under the provisions of this title shall be divided into

two classes to be known as "Class A" and as "Class B" dependents. The Class A dependents of any such enlisted man shall include any person who is the wife, the child, or the former wife divorced of any such enlisted man. The Class B dependents of any such enlisted man shall include any person who is the parent, grandchild, brother, or sister of such enlisted man and who is found by the Secretary of the department concerned to be dependent upon such enlisted man for a substantial portion of his support.

SEC. 104. A monthly family allowance shall be granted and paid by the United States to the Class A dependent or dependents of any such enlisted man upon written application to the department concerned made by such enlisted man or made by or on behalf of such dependent or dependents. A monthly family allowance shall be granted and paid by the United States to the Class B dependent or dependents of any such enlisted man upon written application to the department concerned made by such enlisted man, or upon written application to the department concerned made by or on behalf of such dependent or dependents in any case in which the Secretary of the department concerned finds that it is impracticable for such enlisted man to request the payment of such allowance. The payment of a monthly family allowance to any Class B dependent or dependents of any such enlisted man shall be terminated upon the receipt by the department concerned of a written request by such enlisted man that such allowance be terminated.

SEC. 105. (a) The amount of the Government's contribution to the family allowance payable to the dependent or dependents of any such enlisted man shall be the aggregate of the amount of the Government's contribution to the Class A dependent or dependents of such enlisted man and the amount of the Government's contribution to the Class B dependent or dependents of such enlisted man.

(b) The amount of the Government's contribution to the Class A dependent or dependents of such enlisted man shall be at a monthly rate of—

- (1) \$28, if such enlisted man has a wife but no child;
- (2) \$40, if such enlisted man has a wife and one child, and an additional \$10 for each additional child;
- (3) \$20, if such enlisted man has no wife but has one child;
- (4) \$30, if such enlisted man has no wife but has two children, and an additional \$10 for each additional child; and
- (5) \$20, in addition to the amounts, if any, payable under clauses (1), (2), (3), or (4) of this subsection, if such enlisted man has a former wife divorced.

(c) The amount of the Government's contribution to the Class B dependent or dependents of any such enlisted man shall be at a monthly rate of—

- (1) \$15, if such enlisted man has only one parent who is a Class B dependent, and an additional \$5 for each grandchild, brother, or sister which such enlisted man has who is a Class B dependent, but not more than \$50 in the aggregate;
- (2) \$25, if such enlisted man has two parents who are Class B dependents, and an additional \$5 for each grandchild, brother, or sister which such enlisted man has who is a Class B dependent, but not more than \$50 in the aggregate; and
- (3) \$5, if such enlisted man has no parent who is a Class B dependent, for each grandchild, brother, or sister which such en-

listed man has who is a Class B dependent, but not more than \$50 in the aggregate.

In any case in which the amount of the Government's contribution to the Class B dependents of any enlisted man would be greater than \$50, if there were no limitation upon the aggregate amount of the Government's contribution to such dependents, the amount contributed by the Government to each such dependent shall be reduced in the same proportion as the aggregate amount of the Government's contribution to all such dependents is reduced.

SEC. 106. (a) For any month for which a monthly family allowance is paid under this title to the dependent or dependents of any such enlisted man the monthly pay of such enlisted man shall be reduced by, or charged with, the amount of \$22, and shall be reduced by, or charged with, an additional amount of \$5 if the dependents to whom such allowance is payable include both Class A and Class B dependents. The amount by which the pay of any such enlisted man is so reduced or with which it is so charged shall constitute part of the monthly family allowance payable to his dependent or dependents.

(b) In any case in which the family allowance is payable to more than one dependent of any such enlisted man, the amount by which the pay of such enlisted man is reduced or with which it is charged shall be apportioned among and paid for the benefit of such dependents in the following proportions:

(1) If such dependents are all Class A dependents or are all Class B dependents, such amount shall be apportioned among such dependents in the same ratio in which they share the total Government contribution payable to them under section 105.

(2) If one or more of such dependents are Class A dependents and one or more of such dependents are Class B dependents, \$22 of such amount shall be apportioned among such Class A dependents in the same ratio in which they share the total Government contribution payable to such Class A dependents under section 105 and \$5 of such amount shall be apportioned among such Class B dependents in the same ratio in which they share the total Government contribution payable to such Class B dependents under section 105.

(c) Notwithstanding any other provision of this title, in any case in which a family allowance is granted under this title to a wife or a child living separate and apart from the enlisted man under a court order or a written agreement, or to a former wife divorced, the amount of the family allowance payable to such wife, child, or former wife divorced shall not exceed the amount fixed in the court order or decree or in the written agreement as the amount to be paid to such wife, child, or former wife divorced. In any case in which the application of the provisions of the preceding sentence results in a reduction in a family allowance which would otherwise be payable under this title, the amount by which the pay of the enlisted man is reduced or with which it is charged and the amount of the Government contribution to such family allowance may each be reduced in accordance with such regulations as may be prescribed by the Secretary of the department concerned.

SEC. 107. Any monthly family allowance provided for by this title shall be paid for the period beginning with the day on which application therefor is filed or the day on which the dependent or dependents first become entitled thereto under section 101, whichever is later, and ending

with the day on which the disbursing officer paying the allowance receives notice of a change in status of the enlisted man concerned which terminated the right of his dependent or dependents to receive such allowance or notice of the discharge from or death in the service of such enlisted man: Provided, That in the case of any dependent of an enlisted man in active service on the date of enactment of this Act, if application is filed for a monthly family allowance within six months after such date of enactment or within such longer period as may be prescribed in special cases by the Secretary of the department concerned, the period for which such family allowance shall be paid shall begin with the date on which such dependent first becomes entitled thereto under section 101: Provided further, That the Secretary of War and the Secretary of the Navy may, by regulations prescribed by them jointly, fix the dates of commencement and termination of any such family allowance on any dates not more than one month before or one month after the dates above prescribed. Such regulations shall in no event provide for the payment of such allowances for any period prior to the first day of the first calendar month following the date of enactment of this Act or for any period when the United States is not engaged in a war declared by Congress and which is more than six months later than the date of termination of any such war. Any allowances which accrue under this title for the period preceding November 1, 1942, shall not be actually paid until after November 1, 1942.

SEC. 108. In any case in which any allotment from the pay of an enlisted man is already in effect at the time a monthly family allowance becomes payable under this title to a dependent or dependents of such enlisted man, such allotment may be continued, modified, or discontinued in accordance with such regulations as may be prescribed by the head of the department concerned.

SEC. 109. Any family allowance to which any dependent or dependents of any enlisted man is entitled under the provisions of this title shall be paid on behalf of such dependent or dependents to any person who may be designated by such enlisted man unless the Secretary of the department concerned determines that the person so designated is not an appropriate payee. In any case in which the Secretary of the department concerned determines that the person so designated is not an appropriate payee or in any case in which the enlisted man has not designated a payee, such allowance shall be paid on behalf of such dependent or dependents to such person as may be designated in regulations prescribed by the Secretary of the department concerned.

SEC. 110. (a) Any family allowance granted under the provisions of this title to the dependent or dependents of any enlisted man shall continue to be paid irrespective of the pay accruing to such enlisted man.

(b) In case of the desertion or imprisonment of any enlisted man to the dependent or dependents of whom a family allowance has been granted under the provisions of this title, the family allowance thereafter payable to such dependent or dependents and the reduction of or charge to pay of such enlisted man shall be determined in accordance with such regulations as may be prescribed by the Secretary of the department concerned.

(c) In any case in which an enlisted man is entitled to receive or to have credited to his account pay and allowances for any period under the Act of March 7, 1942 (Public Law 490, Seventy-seventh Congress), such enlisted man shall be deemed to be an enlisted man during such period for the purposes of this title.

(d) Nothing contained in this Act shall be construed to modify the Act approved March 7, 1942 (Public Law 490, Seventy-seventh Congress).

SEC. 111. This title shall be administered by the Secretary of War in its application to enlisted men of the Army of the United States and the dependents of such enlisted men and shall be administered by the Secretary of the Navy in its application to enlisted men of the United States Navy, the Marine Corps, and the Coast Guard, and the dependents of such enlisted men. Said Secretaries are authorized to prescribe jointly or severally such regulations as they may deem necessary to enable them to carry out the provisions of this title and to delegate to such officers or employees of their respective departments as they may designate any of their functions under this title.

SEC. 112. The determination of all facts, including the fact of dependency, which it shall be necessary to determine in the administration of this title shall be made by the Secretary of the department concerned and such determination shall be final and conclusive for all purposes and shall not be subject to review in any court or by any accounting officer of the Government. The Secretary of the department concerned may at any time on the basis of new evidence or for other good cause reconsider or modify any such determination, and may waive the recovery of any money erroneously paid under this title whenever he finds that such recovery would be against equity and good conscience. The General Accounting Office shall not refuse to allow credit in the accounts of any disbursing officer for any erroneous payment or overpayment made by him in carrying out the provisions of this title unless such erroneous payment or overpayment was made by him as the result of his gross negligence or with the intent to defraud the United States. No recovery shall be made from any officer authorizing any erroneous payment or overpayment under this title unless such payment was authorized by him as the result of his gross negligence or with the intent to defraud the United States.

SEC. 113. Any appropriations heretofore or hereafter made to the department concerned for the pay of enlisted men shall be available for the payment of the family allowances payable under the provisions of this title.

SEC. 114. The Director of the Selective Service System is authorized and directed to cooperate with the Secretary of War and the Secretary of the Navy by providing them with such information in the possession of, or available to, the Selective Service System as may be necessary to enable them to efficiently administer the provisions of this title.

SEC. 115. The monthly family allowances payable under the provisions of this title shall not be assignable; shall not be 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.

SEC. 116. Whoever shall obtain or receive any money, check, or family allowance under this title, without being entitled thereto and with intent to defraud, shall be punished by a fine of not more than \$2,000, or by imprisonment for not more than one year, or both.

SEC. 117. Whoever in any claim for family allowance or in any document required by this title or by regulation made under this title makes any statement of a material fact knowing it to be false, shall be guilty of perjury and shall be punished by a fine of not more than \$5,000, or by imprisonment for not more than two years, or both.

SEC. 118. Any person who has been entitled to payment of a family allowance under this title and whose entitlement to payment of such

allowance has ceased shall, if he thereafter accepts payment of such allowance with the intent to defraud, be punished by a fine of not more than \$2,000, or by imprisonment for not more than one year, or both.

SEC. 119. No part of any amount paid pursuant to the provisions of this title shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with any family allowance payable under this title, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than \$100 nor more than \$1,000.

SEC. 120. As used in this title—

- (a) The term "wife" means a lawful wife.
- (b) The term "former wife divorced" means a former wife divorced who has not remarried and to whom alimony has been decreed and is still payable.
- (c) The term "child" includes—
 - (1) a legitimate child;
 - (2) a child legally adopted;
 - (3) a stepchild, if a member of the man's household, including a stepchild who continues as a member of the man's household after death of the mother or termination of the marriage; and
 - (4) an illegitimate child, but only if the man has been judicially ordered or decreed to contribute to such child's support; has been judicially decreed to be the putative father of such child; or, has acknowledged under oath in writing, that he is the father of such child.
- (d) The term "grandchild" means a child as above defined of a child as above defined, and is limited to persons to whom the enlisted man has stood in loco parentis for a period of not less than one year prior to his enlistment or induction.
- (e) The term "parent" includes father and mother, grandfather and grandmother, stepfather and stepmother, father and mother through adoption, either of the person in the service or of the spouse, and persons who, for a period of not less than one year prior to the man's enlistment or induction, stood in loco parentis to the man concerned: Provided, That not more than two within those named therein may be designated to receive an allowance, and in the absence of a designation by the enlisted man preference shall be given to the parent, or parents not exceeding two, who actually exercised parental relationship at the time of or most nearly prior to the date of the enlisted man's entrance into active service: Provided further, That if such parent or parents be not dependent or waive an allowance, preference may be extended to others within the class who at a more remote time actually supported the enlisted man prior to entrance into service.
- (f) The terms "brother" and "sister" include brothers and sisters of the half blood as well as those of the whole blood, stepbrothers and stepsisters, and brothers and sisters through adoption.
- (g) The terms "child", "grandchild", "brother", and "sister" are limited to unmarried persons either (1) under eighteen years of age, or (2) of any age, if incapable of self-support by reason of mental or physical defect.
- (h) The terms "pay" and "base pay" mean base pay and longevity pay only.

(i) The terms "man" and "enlisted man" mean any enlisted individual of the fourth, fifth, sixth, or seventh grade in any of the services mentioned in section 101 of this Act, but does not include any member of the Limited Service Marine Corps Reserve, the Philippine Army, the Philippine Scouts, the insular force of the Navy, the Samoan native guard or band of the Navy, or the Samoan reserve force of the Marine Corps.

(j) The term "department concerned" means the War Department or the Navy Department, whichever may be the appropriate one in the particular case.

TITLE II

SEC. 201. (a) Paragraph (1) of section 5 (e) of the Selective Training and Service Act of 1940, as amended, is amended to read as follows:

"(1) The President is authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service under this Act in the land and naval forces of the United States of any or all categories of those men whose employment in industry, agriculture, or other occupations or employment, or whose activity in other endeavors, is found in accordance with section 10 (a) (2) to be necessary to the maintenance of the national health, safety, or interest. The President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service under this Act in the land and naval forces of the United States (1) of any or all categories of those men in a status with respect to persons dependent upon them for support which renders their deferment advisable, and (2) of any or all categories of those men found to be physically, mentally, or morally deficient or defective. For the purpose of determining whether or not the deferment of men is advisable because of their status with respect to persons dependent upon them for support, any payments of allowances which are payable by the United States to the dependents of persons serving in the land or naval forces of the United States shall be taken into consideration but the fact that such payments of allowances are payable shall not be deemed conclusively to remove the grounds for deferment when the dependency is based upon financial considerations and shall not be deemed to remove the grounds for deferment when the dependency is based upon other than financial considerations and cannot be eliminated by financial assistance to the dependents. The President is also authorized, under such rules and regulations as he may prescribe, to provide for the deferment from training and service under this Act in the land and naval forces of the United States of any or all categories of those men who have wives or children, or wives and children, with whom they maintain a bona fide family relationship in their homes. No deferment from such training and service shall be made in the case of any individual except upon the basis of the status of such individual, and no such deferment shall be made of individuals by occupational groups or of groups of individuals in any plant or institution. Rules and regulations issued pursuant to this subsection shall include provisions requiring that there be posted in a conspicuous place at the office of each local board a list setting forth the names and classifications of those men who have been classified by such local board."

(b) Section 15 of such Act, as amended, is amended by striking out subsection (c) thereof.

And the House agree to the same.

ANDREW J. MAY,
R. E. THOMASON,
DOW W. HARTER,
W. G. ANDREWS,
LESLIE C. ARENDS,

Managers on the part of the House.

ELBERT D. THOMAS,
JOSH LEE,
LISTER HILL,
WARREN R. AUSTIN,
CHAN GURNEY,

Managers on the part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2467) to provide family allowances for the dependents of enlisted men of the Army, Navy, Marine Corps, and Coast Guard of the United States, and for other purposes, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

This bill was passed by the Senate and sent to the House after a similar House bill (H. R. 7119) had already been reported to the House by the Committee on Military Affairs. Consequently, the Senate bill was not referred to the House committee and, when the House passed the Senate bill, the House struck out all of the text of the Senate bill after the enacting clause and inserted in lieu thereof the text of the House bill, as it had been amended by the House. While it happened in this fashion that the House amendment was a complete substitute for the Senate bill and there were many differences in form between the two, there were relatively few important differences of substance between the Senate bill and the House amendment.

The more important differences between the Senate bill and the House amendment, and the provisions of the conference agreement with respect thereto, are as follows:

1. The Senate bill provided that allowances should be payable for the period beginning with the first day of the first month following the enactment of the act, but that allowances accruing for the period preceding the first day of the fourth calendar month following such enactment should not actually be paid until after the first day of such fourth calendar month. The House amendment provided that allowances should be payable for the period beginning with the first day of the second month following the enactment of the act. The conference agreement provides that allowances shall be payable for the period beginning with June 1, 1942, but that allowances accruing for the period preceding November 1, 1942, shall not actually be paid until after November 1, 1942.

2. The Senate bill provided that class B dependents should include any person who is the parent, grandchild, brother, or sister of the enlisted man and who is dependent upon the enlisted man for a substantial portion of his support. The House amendment required that a class B dependent be dependent on the enlisted man for his chief support. Both the Senate bill and the House amendment defined parents so as to include parents, parents-in-law, and grandparents. However, under the House amendment not more than two parents (as so defined) could be regarded as dependents of an enlisted man, while under the Senate bill there was an additional allowance of \$5 for each parent in excess of two. The Senate bill permitted grandchildren and brothers and sisters of the enlisted man to be included among class B dependents if they were either (1) under 18 years of age, or (2) of any age, if incapable of self-support by reason of mental or physical defect. The

House amendment did not permit grandchildren to be included as dependents in any case and permitted brothers and sisters (including those less than 18 years of age) to be included as dependents only if they were disabled. The conference agreement provides that persons having the required relationship may be included as class B dependents if they are dependent upon the enlisted man for a substantial portion of their support. The conference agreement follows the House amendment with respect to the limitation upon the number of parents who may receive allowances. The agreement provides that grandchildren, brothers, and sisters may be included among class B dependents only if they are (1) under 18 years of age, or (2) incapable of self-support by reason of mental or physical defect. There is an additional limitation in the case of grandchildren which permits them to be included only if the enlisted man stood in loco parentis to them for a period of at least 1 year prior to his entry into the service.

3. The Senate bill provided that the payment of an allowance to any class B dependent should be terminated upon the request of the enlisted man. The House amendment contained no such provision. This provision is retained by the conference agreement.

4. Both the Senate bill and the House amendment provided that the Government's contributions to the class B dependents of an enlisted man should not exceed \$50 a month in the aggregate. Under the Senate bill, in cases where the aggregate of such contributions to class B dependents would otherwise exceed \$50, there would be a proportionate reduction in the amount of such contribution payable to each such dependent. Under the House amendment, in such cases, the \$50 would be apportioned among the class B dependents as may be prescribed by regulations. The conference agreement provides for a proportionate reduction in such cases.

5. The House amendment contained a provision, which was not in the Senate bill, under which the enlisted man himself could determine the manner in which the amount taken from his pay should be divided among his dependents. The Senate bill provided that the amount taken from the pay of the enlisted man should be divided among his dependents in the same ratio in which the contribution from the Government was divided. The conference agreement follows the Senate bill in this respect.

6. Both the Senate bill and the House amendment provided that, subject to the general limitations upon the period for which allowances were payable, the allowance in any case should be paid for the period beginning with the date of filing application therefor. However, the Senate bill contained a provision, which was not in the House amendment, providing that in cases where the enlisted man is already in active service on the date of enactment of the act, if application is filed within 6 months after the date of enactment of the act or within such longer time as may be prescribed in special cases by the Secretary of the department concerned, the allowance should be paid for the period beginning with the date on which the dependent would have first become entitled thereto if an application had been filed at any earlier time. The conference agreement retains this provision of the Senate bill, which is particularly necessary in view of the fact that allowances are to begin to accrue as of June 1, 1942, and, of course, applications could not be filed by that date.

7. The Senate bill contained a provision, which was not in the House amendment, providing that the Secretary of the department

concerned might at any time for good cause reconsider or modify any determination previously made by him in the administration of the act, and that he might waive the recovery of money erroneously paid under the act whenever he found that such recovery would be against equity and good conscience. The latter part of this provision is similar to provisions of existing law relating to payments made by the Veterans' Administration (U. S. C., title 38, sec. 507a). The Senate bill also contained a provision relieving authorizing officers from liability for erroneous payments or overpayments made under the act, unless they authorized such payments as the result of gross negligence or with the intent to defraud. The conference agreement retains these provisions.

8. Title II of the Senate bill contained amendments to the Selective Training and Service Act of 1940 which were not contained in the House amendment. The conference agreement retains these provisions with clarifying changes. The purpose of these amendments to the Selective Training and Service Act of 1940 is largely to clarify the questions which will arise in the administration of that act by reason of the fact that the dependents of registrants would be entitled to allowances under this Act if such registrants were inducted for active service.

These amendments provide, first, that for the purpose of determining whether or not men shall be deferred because of their dependents, any payments of allowances which would be payable by the United States to such dependents should be taken into consideration but should not be deemed conclusively to remove the grounds for deferment when dependency is based upon financial considerations and should not be deemed to remove the grounds for deferment when dependency is based upon other than financial considerations and cannot be eliminated by financial assistance to the dependents, and, second, that the President may provide for the deferment of any or all categories of those men who have wives or children, or wives and children, with whom they maintain a bona fide family relationship in their homes. The definition of the term "dependent" contained in the existing law is also repealed.

The effect of these amendments is to make it clear that under the Selective Training and Service Act of 1940 it will be possible to carry out the policy expressed in the report of the House committee on H. R. 7119, to the effect that established families should be preserved in so far as is practicable and should not be indiscriminately uprooted. To this end, these amendments authorize the deferment of men with wives and children until after the available single men have been inducted. It will of course be necessary to induct married men when the supply of available single men is exhausted. At that time it may be deemed advisable to distinguish between married men without children and married men with children. Such a distinction would be authorized by these amendments.

ANDREW J. MAY,
R. E. THOMASON,
DOW W. HARTER,
W. G. ANDREWS,
LESLIE C. ARENDS,

Managers on the part of the House.