

## BANNING PENSION PAYMENTS TO CERTAIN PRISONERS

APRIL 12, 1957.—Ordered to be printed

Mr. BYRD, from the Committee on Finance, submitted the following

### REPORT

[To accompany H. R. 71]

The Committee on Finance, to whom was referred the bill (H. R. 71) to prohibit the payment of pensions to persons confined in penal institutions for periods longer than 60 days, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

#### EXPLANATION OF THE BILL

This bill provides that pension under public or private laws administered by the Veterans' Administration shall not be paid to an individual who has been imprisoned in a Federal, State, or local penal institution as a result of conviction for a felony or misdemeanor for any part of the period beginning on the 61st day of his imprisonment and ending when the imprisonment ends.

Pension is a gratuity payable solely to otherwise eligible veterans who served during a war or comparable period. Payment of pension for veterans of the Civil War, Spanish-American, and Indian Wars has been based on age or non-service-connected disability. However, in the case of veterans of World War I, II, and Korea, the requirement is essentially non-service-connected disability coupled with need, as set forth below:

Under existing law (Veterans Regulation No. 1 (a), pt. III, as amended), veterans of World War I, World War II, the Spanish-American War, Philippine Insurrection, and Boxer Rebellion are eligible for pension based on permanent and total non-service-connected disability. Pension is payable to any such veteran who served in the active military or naval service for a period of 90 days or more during such wars and who was discharged therefrom under conditions other than dishonorable, or who, having served less than 90 days,

was discharged for disability incurred in service in line of duty. The veteran must have been in active service before the cessation of hostilities and be suffering from non-service-connected permanent and total disability not incurred as a result of his own willful misconduct or vicious habits. The rate of \$66.15 per month, except that where the veteran shall have been rated permanent and total and has been in receipt of pension for a continuous period of 10 years or reaches the age of 65 years and is permanently and totally disabled, the rate is \$78.75 per month. A rate of \$135.45 per month is authorized in the case of an otherwise eligible veteran who is, on account of age or physical or mental disability, helpless or blind or so nearly helpless or blind as to need or require the regular aid and attendance of another person. Such pension is not payable to any unmarried person whose annual income exceeds \$1,400 or to any married person or any person with minor children whose annual income exceeds \$2,700. Any person who served in the active service in the Armed Forces of the United States on or after June 27, 1950, and prior to February 1, 1955, is also eligible for pension under part III as provided in the act of May 11, 1951 (Public Law 28, 82d Cong.).

In the administration of the aforementioned provisions the determination of permanent total disability is made on a very liberal basis. Such a rating is granted (where the requirement of permanence is met) when there is a single disability of 60 percent or 2 or more disabilities, 1 of which is 40 percent in degree, combined with other disability or disabilities to a total of 70 percent, and unemployability attributed thereto. Although age alone is not considered as a basis for entitlement to such pension, it is considered in association with disability and unemployability in determining permanent and total disability. The aforementioned percentage requirements are reduced on the attainment of age 55 to a 60-percent rating for 1 or more disabilities, with no percentage requirement for any 1 disability; at age 60 to a 50-percent rating for 1 or more disabilities; and at age 65 to 1 disability ratable at 10 percent or more. When these reduced percentage requirements are met and the disability or disabilities involved are of a permanent nature, a permanent and total disability rating will be assigned, if the veteran is determined to be unable to secure and follow substantially gainful employment by reason of such disability.

Widows are entitled to non-service-connected death pension based on their husband's war or comparable service, with various marriage and other requirements specified in the laws.

It has come to the attention of the committee, based on a survey (in the 84th Cong.) made of 10 States (Tennessee, Ohio, Colorado, California, New Mexico, Oregon, Pennsylvania, New York, Illinois, and Georgia) as well as the Federal penal institutions, that there are a number of veterans, and some widows, now incarcerated in penal institutions who are drawing pension, compensation, or retirement pay.

The committee is of the opinion that there is no valid basis why a man should receive a pension for non-service-connected disability or age while he is incarcerated in a penal institution for a crime of which he has been convicted. In the case of compensation for a service-connected disability the committee is of the opinion that that is an entirely different benefit, based on disability, and do deprive a man of his service-connected compensation would be imposing an additional penalty. The same is true of retirement pay which is paid on an entirely different basis from pension.

Section 2 of the bill provides that the Administrator may apportion and pay to the wife and children of a veteran the pension which such veteran would be eligible to receive if he had not been incarcerated in a penal institution. Provision is also made for paying to a child or children, where the widow is disqualified by imprisonment, the pension which would be payable if there were no widow. Similarly, in the case of a disqualified child, the widow would receive a reduced pension.

The period of 60 days was set as it is believed that most sentences for minor offenses would be below this length of imprisonment.

While there would be some additional administrative burden placed upon the Veterans' Administration as a result of the enactment of this legislation, it does appear that there will be savings rather than any additional cost and in any event the committee is of the opinion that sound public policy requires no pension for a non-service-connected disability or age be paid to a person who is serving a sentence for the conviction of a felony or misdemeanor.

The committee's investigation revealed that veterans in Federal and 10 State penal institutions had been convicted of various felonies and misdemeanors, including:

Automobile theft	Distilling, illegal
Impersonating Federal employee	Propation violation
Narcotic sale	Drunk and disorderly conduct
Forgery	Manslaughter
Bank robbery	Sodomy
Rape	Arson
False claims	Carnal abuse of child
Altering Government check	Incest
Murder	Bigamy
Counterfeiting	Abandonment of children
White slavery	Abortion
Tax evasion	Check, worthless passing
Firearms, unlawful possession	Kidnaping
Liquor-law violation	Rioting
False statement	Adultery
Burglary	Driving while drunk
Larceny	Vagrancy
Fraud	Stolen property, receiving
Assault	Confidence game
Obscene literature, mailing	Nonsupport of dependents
Conspiracy	

In reporting on this legislation the Administrator of Veterans Affairs stated:

There are no available data within the Veterans' Administration to indicate the number of veterans or dependents of deceased veterans receiving pension benefits who are now imprisoned in penal institutions, nor the extent of confinement of such persons. Therefore, it is not possible to estimate benefit savings which should result where the confined

person has no dependents eligible for apportionment, nor the extent of the administrative costs resulting from this proposal, if enacted.

In my judgment it is reasonable to deny pension to persons during their confinement for conviction of serious offenses. Accordingly, and in view of the fact that the proposal would authorize apportionment of the pension to dependents, I believe the bill has merit.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to your committee.

The Bureau of the Budget favors enactment of H. R. 71 and the Comptroller General of the United States had no objection to its enactment.

