

FORFEITURE OF VETERANS' BENEFITS

August 11, 1959.—Ordered to be printed

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

REPORT

[To accompany H.R. 7106]

The Committee on Finance, to whom was referred the bill (H.R. 7106) to amend title 38, United States Code, with respect to forfeiture of benefits under laws administered by the Veterans' Administration, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

GENERAL STATEMENT

Under existing law the Administrator of Veterans' Affairs has authority to forfeit the rights of veterans, widows, children, and dependent parents, to all gratuitous benefits (1) where the veteran has been guilty of mutiny, treason, sabotage, or rendering assistance to an enemy and (2) where a false or fraudulent statement has been made concerning any claim for gratuitous benefits.

H.R. 7106 modifies this existing law by (1) providing automatic forfeiture of rights of veterans to gratuitous benefits in all cases of conviction of certain specified offenses involving loyalty or security; (2) eliminating the authority of the Administrator to impose a forfeiture based on false or fraudulent statements if the accused person resided, or was domiciled, within the United States at the time of the commission of the proscribed act. The bill continues the existing law respecting forfeiture of such rights based on false or fraudulent statements where the accused person resided, or was domiciled, outside the jurisdiction of the United States at the time of the commission of the offense.

The committee amendment strikes all after the enacting clause and inserts in lieu thereof a revised draft of the bill as recommended in the following letter from the Veterans' Administration:

AUGUST 4, 1959.

HON. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR SENATOR BYRD: This is in reply to your request for a report report on H.R. 7106, 86th Congress, as passed by the House of Representatives.

The purpose of the bill is to modify existing law relating to forfeiture of gratuitous benefits under laws administered by the Veterans' Administration.

Currently fraud in connection with a claim for any gratuitous benefit under laws we administer results in forfeiture under 38 U.S.C. 3503 by the person concerned of all such benefits. This is also true under 38 U.S.C. 3504 in cases of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies, where a person is shown by evidence satisfactory to the Administrator of Veterans' Affairs to be guilty. Administrative forfeiture is additional to any penalty which may be imposed under the criminal code.

The effective date of forfeiture in fraud cases is the date of the award on which the fraud is based, and in mutiny, treason, etc., cases, the date of the forfeiture decision. Forfeiture is a permanent bar to benefits unless the guilty person is granted a Presidential pardon.

Disability compensation forfeited for fraud is paid to the veteran's wife, child, or parents, if they did not participate in the fraud. Benefits forfeited for mutiny, treason, etc., may be apportioned and paid to dependents of the guilty person. In both cases payments may not exceed the amount payable if the veteran was dead.

Forfeiture of benefits by a veteran does not prohibit payment of benefits to eligible dependents in the event of his death. Moreover, one who has forfeited may be paid benefits based on subsequent service in our Armed Forces.

H.R. 7106 would continue the existing authority to forfeit gratuitous benefits under 38 U.S.C. 3503 and 3504 where the guilty person at the time of commission of the proscribed act resided, or was domiciled, outside of a State, Territory, or possession of the United States, District of Columbia, or the Commonwealth of Puerto Rico. However, where a person resided, or was domiciled, within such a political division at that time the first section of the bill would discontinue, effective the date of its enactment, the authority to impose administrative forfeiture. Forfeiture declared prior to the date of enactment would not be affected.

Section 2 provides that a conviction of specified offenses, which involve national security or loyalty, terminates the right to gratuitous benefits of the individual convicted as well as the entitlement of any other person on his account. The disentitlement would apply to benefits based on service before or after conviction.

The effective date of termination would be the date of conviction. The Attorney General or the Secretary of Defense, as appropriate, would be required to give notice of conviction to the Administrator of Veterans' Affairs. A Presidential pardon of the offense would restore the right to benefits as of the date of pardon.

We believe that the proposed elimination of administrative forfeiture in domestic fraud cases and reliance upon prosecution under the criminal code is worthy of trial. It is questionable whether such

forfeiture has proved an effective deterrent to the commission of fraud. We are not informed of any comparable forfeiture available to other Federal agencies. Administrative forfeiture proceedings are not surrounded by the safeguards of a criminal trial, although forfeiture is in the nature of a criminal penalty. Further, it is recognized that in some instances total administrative forfeiture may be too severe.

For almost 40 years the Federal statutes have provided for administrative forfeiture in veterans' fraud cases in addition to the criminal liability for the same act. If this administrative forfeiture penalty is removed, attainment of the bill's objective will depend to a large extent on the effectiveness of proceedings brought in these cases under the criminal code.

One aspect of the proposal, however, needs clarification. In view of the definition of "State" in 38 U.S.C. 101 (20), it is not clear whether the bill would preclude forfeiture of benefits based on offenses committed in the Philippine Islands prior to its independence, July 4, 1946.

The future bar to forfeiture in domestic cases apparently contemplates that conviction under the criminal code will constitute a sufficient penalty. There may be instances, however, where the guilty person resided or was domiciled in the United States at the time of the wrongful act but left the country prior to criminal action. In that event as a practical matter there would be no criminal punishment or administrative forfeiture for the offense. It would appear desirable, and in line with the philosophy of the bill, to continue the forfeiture authority in this type of case.

We believe that the proposed 38 U.S.C. 3505 (sec. 2 of the bill) is an improvement over the related existing 38 U.S.C. 3504. Clearly, an individual convicted of serious offenses against the Government, involving national security, should not be the recipient of our Government's gratuities.

The section would render the guilty person ineligible for gratuitous benefits as of the date of conviction. Offenses which involve national security are often difficult to discover. Considerable time may elapse in securing evidence warranting an indictment. Moreover, after indictment there could be delay before conviction. Hence, we feel that a more appropriate date for the termination of benefits would be the date of the commission of the offense, after enactment, for which convicted. Further, pending ultimate disposition of the criminal proceedings, authority should be given us to discontinue benefits, effective from the date of notification by the Department of Justice of the return of an indictment.

As previously noted the section would prohibit the granting of gratuitous benefits to an individual convicted of an offense therein listed, even though he served honorably in the Armed Forces thereafter. We doubt the equity of applying this prohibition to benefits based on subsequent service where the military department, with knowledge of the conviction, accepted the person into service.

Our study in the forfeiture field has shown that, because of the provisions authorizing or requiring apportionment of benefits to dependents, the guilty person has enjoyed the forfeited benefit. We, therefore, feel that existing apportionment authority should be withdrawn. Also, consistent with proposed 38 U.S.C. 3505, death benefits should not be payable in cases forfeited under the related 38 U.S.C. 3504.

There is not sufficient information available on which to base a worthwhile estimate of the fiscal effects of the bill.

Subject to the foregoing comments, we have no objection to the favorable consideration by your committee of H.R. 7106.

The Bureau of the Budget advises that there is no objection to the submission of this report to the committee.

Sincerely yours,

BRADFORD MORSE,
Deputy Administrator.

The changes recommended by the Veterans' Administration and approved by the Committee on Finance are shown by the *italicized* language of the following draft:

AN ACT To amend title 38, United States Code, with respect to forfeiture of benefits under laws administered by the Veterans' Administration

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3503 of title 38, United States Code, is amended by adding at the end thereof the following new subsections:

"(d) After the date of enactment of this subsection, no forfeiture of benefits may be imposed under this section or section 3504 of this title upon any individual who was a resident of, or domiciled in, a State at the time the act or acts occurred on account of which benefits would, but for this subsection, be forfeited unless such individual ceases to be a resident of, or domiciled in, a State before the expiration of the period during which criminal prosecution could be instituted. This subsection shall not apply with respect to (a) any forfeiture occurring before the date of enactment of this subsection, or (b) an act or acts which occurred in the Philippine Islands prior to July 4, 1946.

"(e) No apportionment award under subsection (b) of this section shall be made in any case after the date of enactment of this subsection."

SEC. 2. Section 3504 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) In the case of any forfeiture under this section there shall be no authority after the date of enactment of this subsection (1) to make an apportionment award pursuant to subsection (b) or (2) to make an award to any person of gratuitous benefits based on any period of military, naval, or air service commencing before the date of commission of the offense."

SEC. 3. (a) Chapter 61 of title 38, United States Code, is amended by adding at the end thereof the following:

"3505. Forfeiture for subversive activities

"(a) Any individual who is convicted after the date of enactment of this section of any offense listed in subsection (b) of this section shall, from and after the date of commission of such offense, have no right to gratuitous benefits under laws administered by the Veterans' Administration based on periods of military, naval, or air service commencing before

the date of the commission of such offense and no other person shall be entitled to such benefits on account of such individual. After receipt of notice of the return of an indictment for such an offense the Veterans' Administration shall suspend payment of such gratuitous benefits pending disposition of the criminal proceedings. If any individual whose right to benefits has been terminated pursuant to this section is granted a pardon of the offense by the President of the United States, the right to such benefits shall be restored as of the date of such pardon.

"(b) The offenses referred to in subsection (a) of this section are those offenses for which punishment is prescribed (1) in the following provisions of title 18, United States Code, sections 792, 793, 794, 798, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105; (2) in the Uniform Code of Military Justice, articles 94, 104, and 106; (3) in the following sections of the Atomic Energy Act of 1954, sections 222, 223, 224, 225, and 226; and (4) in the following sections of the Internal Security Act of 1950, sections 4, 112, and 113.

"(c) The Attorney General shall notify the Administrator in each case in which an individual is indicted or convicted of an offense listed in clauses (1), (3), or (4) of subsection (b) of this section. The Secretary of Defense or the Secretary of the Treasury, as may be appropriate, shall notify the Administrator in each case in which an individual is convicted of an offense listed in clause (2) of subsection (b) of this section."

(b) The table of sections for such chapter 61 is amended by adding at the end thereof the following:

"3505. Forfeiture for subversive activities."

Passed the House of Representatives June 15, 1959.

Attest:

RALPH R. ROBERTS,
Clerk.

The following information on the background of the bill and examples of cases forfeited by the Veterans' Administration, compiled by the House Committee on Veterans' Affairs, explains the purpose of and need for this legislation:

BACKGROUND OF THE BILL

A total of 9,206 cases have been considered for forfeiture by the Veterans' Administration. Of this number, 4,753 cases have been forfeited. Nonforfeiture decisions have been rendered in 4,356 cases. In the calendar year 1958, forfeiture was considered in 515 cases. Forfeiture was decreed in 303 cases and denied in 212 cases. Of the cases forfeited, 3,999 have been under the statute cited first below and 1,062 cases under the statute cited second below:

"§ 3503. Forfeiture for fraud.

"(a) Whoever knowingly makes or causes to be made or conspires, combines, aids, or assists in, agrees to, arranges for, or in any way procures the making or presentation of a

false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, concerning any claim for benefits under any of the laws administered by the Veterans' Administration (except laws pertaining to insurance benefits) shall forfeit all rights, claims, and benefits under all laws administered by the Veterans' Administration (except laws pertaining to insurance benefits).

"(b) Whenever a veteran entitled to disability compensation has forfeited his right to such compensation under this section, the compensation payable but for the forfeiture shall thereafter be paid to his wife, children, and parents. Payments made to a wife, children, and parents under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability. No wife, child, or parent who participated in the fraud for which forfeiture was imposed shall receive any payment by reason of this subsection.

"(c) Forfeiture of benefits by a veteran shall not prohibit payment of the burial allowance, death compensation, dependency and indemnity compensation, or death pension in the event of his death.

"§ 3504. Forfeiture for treason.

"(a) Any person shown by evidence satisfactory to the Administrator be guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies shall forfeit all accrued or future gratuitous benefits under laws administered by the Veterans' Administration.

"(b) The Administrator, in his discretion, may apportion and pay any part of benefits forfeited under subsection (a) to the dependents of the person forfeiting such benefits. No dependent of any person shall receive benefits by reason of this subsection in excess of the amount to which he would be entitled if such person were dead."

In the beginning it should be noted that the making of false or fraudulent statements to any agency of the Federal Government is a crime under Federal law for which severe penalties are provided. Consequently, we have a system, through forfeiture, under which additional penalties are imposed upon a particular class of persons (veterans, their surviving widows, children, or dependent parents), which are not imposed upon others; furthermore the present system results in the imposition of additional penalties for making false or fraudulent statements to the Veterans' Administration, but ignores comparable statements to other governmental agencies. The veterans program and other activities of the Federal Government have been vastly expanded since forfeiture legislation was first enacted in 1921. Social security, various programs of the Department of Agriculture, and other governmental programs have resulted in a system under which the submission of written statements in connection with some type of Federal benefit involve nearly every home and hamlet in the country. In considering the logic and justice of a forfeiture program under present-day conditions all these factors must be taken into account.

There are no comparable provisions of law under which any other agency of Government can administratively forfeit the right to gratuitous benefits because of a false statement made in connection with another and different benefit. In attempting to determine if the Veterans' Administration and those it serves should be subject to different rules, the committee undertook a study of the forfeiture program during the 85th Congress. The report of that study is contained in House Committee Print No. 196 of the 85th Congress, entitled "Forfeiture of Veterans' Rights." More than a hundred cases in which forfeiture had been considered by the Veterans' Administration were examined by the committee. In addition to problems involved in the basic philosophy of forfeiture the committee found the administration of the program was not uniform and created inequitable results. Consideration of forfeiture seemed to depend upon chance so that some cases were forfeited where many other instances of identical misrepresentation were not considered. Until recently there had not been any standard adopted for testing the materiality of a statement so that in many instances forfeiture was adjudged where the false statement had no bearing on entitlement to the benefit. In most instances the accused was not accurately informed of the charges against him and in other cases the Veterans' Administration was in possession of the true facts so they were not misled by the misrepresentation. Examples of some forfeited cases appear hereafter in this report.

Even if one adopted the basic philosophy that forfeiture should be retained as an additional penalty to be imposed on veterans and their dependents and even if the program were expertly administered, serious inequities would result from it. This is because the amount of the penalty imposed depends upon the amount of the benefit to which the forfeited person is entitled. Two veterans might execute identical false statements in connection with a housing loan. One might be receiving disability compensation of \$309 per month so that forfeiture would amount to a fine of \$74,160 over a period of 20 years. The other might not have, or even acquire, entitlement to benefits so that he would actually suffer no penalty for commission of the identical offense.

Under existing law service-connected disability compensation forfeited for the execution of false statements *shall* be paid to the veteran's wife, children, or parents, but not exceeding the amount that would be payable in case of service-connected death. If forfeiture is for treason or related offenses, either service-connected or non-service-connected benefits *may* be paid to dependents of the veteran, but not in excess of the amount that would be payable in case of his death. The result is that the entire amount of benefits forfeited in the case of a married veteran may be paid to another member of his household and thereby benefit the veteran just as much as if he had not been forfeited. In the case of an unmarried veteran without dependents the

benefit cannot be paid to any other person. It is therefore clear that in many cases the penalty imposed on the veteran is determined by his marital or dependency status and not by the gravity of false or fraudulent statement.

A different but related question arises from the fact that compensation for service-connected disability or death is payable and in many cases is being paid to inmates of penal institutions. (38 U.S.C. 505 prohibits the payments of non-service-connected pension benefits after the 60th day of confinement.) Payment during confinement is also the policy with respect to social security and nearly all Federal benefits. In only a few special cases are benefits terminated because of conviction for criminal offenses. Generally speaking, then, it can be said that established national policy does not favor withholding Federal benefits from persons, because they are unworthy according to our social and moral standards, i.e., conviction of criminal offenses. To do so is to provide unequal penalties for the same act. If it is suggested that continuation of the forfeiture laws is necessary as a deterrent to fraud, then the committee believes such laws should be extended to other Federal programs. There is no reason to make an exception of the Veterans' Administration.

False or fraudulent statements do not violate prohibitory statutes unless they are material. In the forfeiture statutes under consideration it seems that the test of materiality should be whether or not entitlement to the benefit depends upon the truth of the statement. Therefore, repeal of the forfeiture authority would not authorize payment of benefits to any person who does not have basic entitlement. If the false statement is material, basic eligibility would be terminated upon discovery of its falsity and, therefore, payments would be promptly stopped upon discovery of the true facts.

While the Veterans' Administration in the past has not applied uniform standards of materiality, the report of the Administrator on the bill indicates that current Veterans' Administration procedures require the element of materiality to be present. The principal effect of a false statement made in connection with a claim for benefits, therefore, is that the veteran loses only his right to other benefits.

EXAMPLES OF CASES FORFEITED BY THE VETERANS' ADMINISTRATION

(1)

This World War II veteran served from March 12, 1940, to April 19, 1945, at which time he was discharged for psychoneurosis rated at 50 percent by the Veterans' Administration. He was subsequently reduced to 30 percent and drew compensation from time of his discharge until payment was suspended on August 1, 1954. Forfeiture was adjudged by Central Committee on Waivers and Forfeitures on March 29, 1955, retroactive to January 4, 1950, and an overpayment charged to veteran for \$2,526.75, compensation paid:

from January 4, 1950, to August 1, 1954, and \$972 tuition paid from January 4, 1950, through June 30, 1951 (total \$3,498.75). At time of forfeiture a lump sum was awarded the wife for the period commencing with date of suspension on August 1, 1954, and monthly payments continued to her thereafter. This was done even though the Veterans' Administration apparently decided the veteran had made a false statement on January 4, 1950, on which his right to compensation depended.

The opinion of the Forfeiture Committee is vague but appears to adjudge forfeiture on the basis of a statement written by an interviewer in a report of physical examination which reads as follows: "Present occupation: Shoemaker. Is not making any money because he cannot work and has to hire helper." This report was signed by the veteran under a certification stating that the answers have been read to him and are correct. The forfeiture opinion indicates that it also considered as false statements of the veteran a report of a Veterans' Administration social worker under the same date. This report appears to be based on an interview with the veteran and contains the reporter's interpretation of the interview in the reporter's words without any quotations attributed to the veteran. In substance it indicates that the veteran is not doing well financially. It was not signed by the veteran and does not appear to have been read to him. The statement contained in the report of physical examination which the veteran signed is indefinite, as much conclusion as fact, and has not been disproved. It is written in the present tense and does not specify any period of time to which it applies.

On August 3, 1950, the veteran made application to the Veterans' Administration for a guaranteed home loan. The application is not in the file and there is no indication it was ever made a part of the record or even submitted to the Forfeiture Committee. The file indicates this application states that the veteran made a net profit of \$2,400 between January 1 and June 30, 1950. The Forfeiture Committee apparently considered that the statements in this application proved the statement or statements of January 4, 1950, to be false. It is not clear how this conclusion could be reached since the statements do not relate to the same period of time. On May 14, 1954, the veteran made another application for a loan guarantee. The preceding comments in regard to the application of August 3, 1950, apply to the application of May 14, 1954, except that the latter application covers a more recent period of time and involves different amounts of money. Other statements of the veteran, which the Forfeiture Committee apparently relies on to establish the falsity of the statement of January 4, 1950, relate to different periods of time and likewise cannot be considered as contradictory to the prior statement.

The letter of charges to the veteran is vague and uncertain in that it merely sets out statements of the veteran with the allegation they are conflicting, but does not point out which statement is false or in what particular it is false.

The veteran has only an eighth grade education. With the further handicap of his neuropsychiatric disability he is easily confused and appears incapable of comprehending the significance of much of the proceedings relating to forfeiture of his benefits. It is also significant that the U.S. attorney refused to prosecute.

(2)

This veteran served from December 31, 1942, until November 11, 1945. He was service connected with a 10-percent disability from shrapnel wounds. Forfeiture decision of Central Committee on Waivers and Forfeitures is dated January 7, 1955. Overpayment was set up from date of commission of wrongful act on November 17, 1952, through October 31, 1954, the date of suspension, totaling \$370.85.

The veteran was employed by the Veterans' Administration regional office in Brooklyn, N.Y. He and a fellow employee were convicted in Federal court in New York. The file contains no copies of court documents and does not disclose the section of the statute under which the veteran was charged. The file does not indicate whether he entered a plea of guilty or was convicted on trial and does not disclose the sentence of the court.

From the letter of charges dated November 12, 1954, the facts appear to be that in November 1954 a fellow employee appropriated and divided with the veteran a shipment of tools costing \$123.94, and, with knowledge and consent of veteran, made an entry in the warehouse record book, showing proper disposition of the tools. The false entry, manifestly made for the purpose of concealing theft of the tools, was considered by the Veterans' Administration to be a false statement concerning a claim for benefits. Two other similar instances involved tools of the value of \$202.34 and \$24.80. At no place does the file show what portion of the tools was given to veteran or the value of them.

The claims file contains an application for hospital care, dated December 7, 1951, in which it appears the veteran is married. At no place else is there mention of a wife and no indication that compensation payments were made to her after suspension.

The Board of Veterans' Appeals affirmed on June 4, 1956. The veteran did not appear before the Forfeiture Committee or the Board of Veterans' Appeals, but submitted a written Statement to the Board of Veterans' Appeals. A substantial part of the overpayment and value of the tools were recovered from the veteran.

(3)

This veteran had service in the U.S. Army as a member of the Philippine Scouts, as per the following dates: Enlisted, April 10, 1912; honorable discharge, April 9, 1915; reenlisted, April 24, 1915; honorable discharge, June 11, 1919; reenlisted, June 12, 1919; honorable discharge, June 11, 1922; reenlisted, June 12, 1922; dishonorable discharge, March 7, 1925.

He was tried by general court-martial for joining and conspiring to begin a mutiny, found guilty, and sentenced to be confined at hard labor for 2 years and 6 months.

The forfeiture opinion states and documents in file verify that the claims folder, in November 1930, contained information showing the veteran had been convicted of mutiny by general court-martial and given a dishonorable discharge from his last period of service. Rating board actions on July 25 and October 17, 1941, denied compensation on the ground that disabilities were not shown to be service connected and these rating sheets show the last period of service to have been terminated by dishonorable discharge. Benefits were first allowed January 17, 1950, when the Rating Board awarded pension for non-service-connected disabilities. This rating sheet also shows the last period of service to have been terminated by dishonorable discharge, thereby establishing that the Veterans' Administration considered and ignored the character of the discharge in making the pension award.

The Central Committee adjudged forfeiture under title 38, United States Code, section 3504 and also under title 38, United States Code, section 3503 on April 21, 1954. Forfeiture under the later statute was based on alleged false statements in various applications for benefits. These were: (1) A failure to list his last period of service and the dishonorable discharge therefrom; (2) the statement that the character of his discharge was "very good," and (3) a subsequent statement that the character and reason for discharge from all periods of service was "disabled to work."

It is clear that the Veterans' Administration was at all times in possession of the true facts in regard to the veteran's periods of service and the character of his discharges; that they did not rely on the veteran's representations, and that they were immaterial since they had no bearing on his entitlement to benefits. Authority to forfeit under title 38, United States Code, section 3504 may be doubtful since it involves the application of forfeiture to an offense committed prior to enactment of the statute. In any event it seems clear title 38, United States Code, section 3504 could not authorize creation of a debt from the veteran to the United States for pension paid prior to the forfeiture decision. The Veterans' Administration set up an overpayment against the veteran for \$3,639.40, the full amount paid him, and referred it to the General Accounting Office for collection on August 8, 1955.

The veteran protested forfeiture by letters but the Board of Veterans' Appeals does not appear ever to have considered the case. The letter of charges is not specific and informs the veteran that he "withheld the true facts concerning the character of and reason for your discharge on March 7, 1925." It does not charge the making of a false statement. Consequently, the veteran was never notified that he was charged with the commission of certain acts which the committee used to justify forfeiture. The false statements attributed

to the veteran were immaterial though forfeiture, because of the conviction for mutiny, may have been proper. The file shows the veteran was married and had several children, but no consideration was given to payment of the veteran's pension to them. If forfeiture for fraud was proper, they would not be entitled, but for forfeiture under section 3504 they would have entitlement within the discretion of the Administrator.

(4)

This veteran served from October 11, 1944, until April 24, 1946. He was drawing 10 percent service-connected disability compensation at the time of forfeiture on February 16, 1955. Payments was suspended on August 31, 1954, effective December 1, 1953, resulting in overpayment of \$141.75, which was referred to the General Accounting Office for collection on February 27, 1956.

The veteran was serving a sentence for automobile theft in the Oregon State Penitentiary at the time of forfeiture. While in the penitentiary he executed a sworn statement in writing in which he admitted altering a U.S. Treasury check in the amount of \$8.95 by increasing it to \$88.95, cashing the check and keeping the proceeds. The U.S. attorney in Oregon authorized prosecution on completion of the sentence for automobile theft. The altered check was in payment of veteran's 10-percent compensation, less the amount of monthly premium on his national service life insurance policy. Forfeiture was declared under title 38, United States Code, section 3503. The check was dated December 31, 1953, and was negotiated in altered form a few days thereafter. The overpayment was set up as of December 1, 1953, the commencement of the period for which the altered check was issued, which was 31 days prior to issuance of the check and more than 31 days prior to commission of the offense on which forfeiture was based.

The file contains no information as to marital status of the veteran since December 9, 1948, at which time he was reported to be single. There is no information at any time as to the existence of children or dependent parents. The forfeiture decision ignores the question of entitlement of any other person to the compensation after forfeiture of the veteran's rights. The veteran did not reply to the letter of charges and did not appeal the forfeiture decision.

(5)

The veteran served from November 23, 1942, to November 4, 1945, and was receiving compensation for disability resulting from a gunshot wound evaluated at 40 percent disabling.

Payment of compensation was suspended on December 31, 1953, for making a false statement in connection with a housing loan. The veteran admitted selling his loan entitlement for \$100 and falsely stating to the Veterans' Adminis-

tration that he intended to occupy the premises as a home. Suspension of compensation payments was made retroactive to August 13, 1951, the date of execution of the false statement. The decision of the Committee on Waivers and Forfeitures, dated June 23, 1954, assessed the veteran with an overpayment of compensation between August 13, 1951, the date of execution of the false statement, and December 31, 1953, the date of suspension. This sum amounted to \$1,770 and a claim against the veteran in that amount was referred to the General Accounting Office for collection.

When the Veterans' Administration notified the veteran of the forfeiture decision, they also requested repayment of the \$1,770. On the same date the Veterans' Administration addressed a letter to the wife of the veteran at the same address, informing her that she became entitled to the compensation at the time the veteran executed the false statement so that they were indebted to her in the amount of \$1,770, which they erroneously paid to the veteran. The Veterans' Administration then paid \$1,770 to the wife, so that the forfeiture decision actually resulted in double payment of compensation for the period between the date of the wrongful act and the suspension of payments.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman):

CHAPTER 61—PENAL AND FORFEITURE PROVISIONS

Sec.

- 3501. Misappropriation by fiduciaries.
- 3502. Fraudulent acceptance of payments.
- 3503. Forfeiture for fraud.
- 3504. Forfeiture for treason.
- 3505. *Forfeiture for subversive activities.*

§ 3503. Forfeiture for fraud

(a) Whoever knowingly makes or causes to be made or conspires, combines, aids, or assists in, agrees to, arranges for, or in any way procures the making or presentation of a false or fraudulent affidavit, declaration, certificate, statement, voucher, or paper, concerning any claim for benefits under any of the laws administered by the Veterans' Administration (except laws pertaining to insurance benefits) shall forfeit all rights, claims, and benefits under all laws administered by the Veterans' Administration (except laws pertaining to insurance benefits).

(b) Whenever a veteran entitled to disability compensation has forfeited his right to such compensation under this section, the compensation payable but for the forfeiture shall thereafter be paid to his wife, children, and parents. Payments made to a wife, children, and parents under the preceding sentence shall not exceed the amounts payable to each if the veteran had died from service-connected disability.

No wife, child, or parent who participated in the fraud for which forfeiture was imposed shall receive any payment by reason of this subsection.

(c) Forfeiture of benefits by a veteran shall not prohibit payment of the burial allowance, death compensation, dependency and indemnity compensation, or death pension in the event of his death.

(d) After the date of enactment of this subsection, no forfeiture of benefits may be imposed under this section or section 3504 of this title upon any individual who was a resident of, or domiciled in, a State at the time the act or acts occurred on account of which benefits would, but for this subsection, be forfeited unless such individual ceases to be a resident of, or domiciled in, a State before the expiration of the period during which criminal prosecution could be instituted. This subsection shall not apply with respect to (a), any forfeiture occurring before the date of enactment of this subsection, or (b) an act or acts which occurred in the Philippine Islands prior to July 4, 1946.

(e) No apportionment award under subsection (b) of this section shall be made in any case after the date of enactment of this subsection.

§ 3504. Forfeiture for treason

(a) Any person shown by evidence satisfactory to the Administrator to be guilty of mutiny, treason, sabotage, or rendering assistance to an enemy of the United States or of its allies shall forfeit all accrued or future gratuitous benefits under laws administered by the Veterans' Administration.

(b) The Administrator, in his discretion, may apportion and pay any part of benefits forfeited under subsection (a) to the dependents of the person forfeiting such benefits. No dependent of any person shall receive benefits by reason of this subsection in excess of the amount to which he would be entitled if such person were dead.

(c) In the case of any forfeiture under this section there shall be no authority after the date of enactment of this subsection (1) to make an apportionment award pursuant to subsection (b) or (2) to make an award to any person of gratuitous benefits based on any period of military, naval, or air service commencing before the date of commission of the offense.

3505. Forfeiture for subversive activities

(a) Any individual who is convicted after the date of enactment of this section of any offense listed in subsection (b) of this section shall, from and after the date of commission of such offense, have no right to gratuitous benefits under laws administered by the Veterans' Administration based on periods of military, naval, or air service commencing before the date of the commission of such offense and no other person shall be entitled to such benefits on account of such individual. After receipt of notice of the return of an indictment for such an offense the Veterans' Administration shall suspend payment of such gratuitous benefits pending disposition of the criminal proceedings. If any individual whose right to benefits has been terminated pursuant to this section is granted a pardon of the offense by the President of the United States, the right to such benefits shall be restored as of the date of such pardon.

(b) The offenses referred to in subsection (a) of this section are those offenses for which punishment is prescribed (1) in the following provisions of title 18, United States Code, sections 792, 793, 794, 798, 2381, 2382, 2383, 2384, 2385, 2387, 2388, 2389, 2390, and chapter 105;

(2) in the Uniform Code of Military Justice, articles 94, 104, and 106; (3) in the following sections of the Atomic Energy Act of 1954, sections 222, 223, 224, 225, and 226; and (4) in the following sections of the Internal Security Act of 1950, sections 4, 112, and 113.

(c) The Attorney General shall notify the Administrator in each case in which an individual is indicted or convicted of an offense listed in clauses (1), (3), or (4) of subsection (b) of this section. The Secretary of Defense or the Secretary of the Treasury, as may be appropriate, shall notify the Administrator in each case in which an individual is convicted of an offense listed in clause (2) of subsection (b) of this section.

