

FURNISHING ARTIFICIAL LIMBS OR OTHER APPLIANCES FOR
RETIRED OFFICERS AND ENLISTED MEN AND CERTAIN CIVILIAN
EMPLOYEES OF THE MILITARY AND NAVAL FORCES

APRIL 24 (legislative day, APRIL 12), 1944.—Ordered to be printed

Mr. CLARK of Missouri, from the Committee on Finance, submitted
the following

REPORT

[To accompany H. R. 3176]

The Committee on Finance, to whom was referred the bill (H. R. 3176) to regulate the furnishing of artificial limbs or other appliances to retired officers and enlisted men of the Army, Navy, Marine Corps, or Coast Guard and to certain civilian employees of the military and naval forces of the Regular Establishment, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The proposed legislation was recommended by the Veterans' Administration. Its purposes are fully explained in the following letter from the Administrator of Veterans' Affairs which was included in the report which accompanied the bill in the House of Representatives:

VETERANS' ADMINISTRATION,
Washington, June 25, 1943.

HON. SAM RAYBURN,
The Speaker's Rooms, House of Representatives,
Washington, D. C.

MY DEAR MR. SPEAKER: There are forwarded herewith two copies of a draft of a proposed bill entitled "A bill to regulate the furnishing of artificial limbs or other appliances to retired officers and enlisted men of the Army, Navy, Marine Corps, or Coast Guard and to certain civilian employees of the military and naval forces of the Regular Establishments," with a request that the same be introduced and referred to the appropriate committee for consideration.

The chief purpose of the proposed bill is to establish uniformity in the laws administered by the Veterans' Administration relating to the furnishing of prosthetic appliances to the former members of the Military and Naval Establishments by discontinuing the practice of paying commutation in lieu of artificial limbs or other appliances in certain cases where such commutation is still authorized by law and authorizing the furnishing of artificial limbs or other appliances in such cases whenever same are found to be reasonably necessary in medical judgment for the injury or disease instead of once every 3 years.

The bill would save the rights of a few civilian employees of the Military and Naval Establishments entitled to artificial limbs or other appliances or commutation in lieu thereof under existing law granting such benefits which is administered by the Veterans' Administration and which would be repealed by the proposed legislation, and transfer jurisdiction in such cases to the United States Employees' Compensation Commission. That agency has indicated its concurrence in the proposed legislation insofar as it affects civilian employees.

Artificial limbs appear to have been furnished former members of the Military and Naval Establishments, originally, by virtue of appropriation acts. Later, general legislation was enacted continuing and extending this practice authorizing necessary transportation to have artificial limbs fitted and providing for payment of commutation in lieu of artificial limbs. The law relating to this subject, as contained in chapter 5, sections 241-246, title 38, United States Code, as amended, was derived from sections 4787-4791, Revised Statutes, and amendments thereto, which in general provided for the furnishing of artificial limbs or commutation in lieu thereof, including necessary transportation to have such limbs fitted, at least once every 3 years, to all officers, noncommissioned officers, enlisted men, and certain civilian employees of the military and naval forces who lost a limb or the use of a limb through injury or disease incurred in line of duty.

The provision under which these benefits were extended to civilian employees of the Military and Naval Establishments was originally contained in the act of June 8, 1872 (17 Stat. 338). This provision, apparently, was inadvertently omitted from the Revised Statutes, as the act of February 27, 1877 (19 Stat. 240) which was enacted to correct errors and supply omissions and consolidate statutes of the United States in force on December 1, 1873, amended section 4787, Revised Statutes, so as to include "hired men of the land and naval forces." This provision became nonoperative as to civilian employees of the Military and Naval Establishments who lost a limb or use of a limb through injury or disease incurred in line of duty on or after September 7, 1916, date of approval of the United States Employees' Compensation Act, which provided, in section 9, for medical, surgical, and hospital treatment for injuries sustained by such employees in the performance of their duties. It remained in force, however, as to such employees who lost a limb or the use of a limb through injury or disease incurred in line of duty prior to that date (5 U. S. C. A., sec. 791).

Trusses were furnished every soldier of the Union Army, or petty officer, seaman, or marine in the naval service who was ruptured while in the line of duty during the Civil War, or thereafter in any war on making application therefor but not oftener than once in every 2 years and 6 months. The law relating thereto, as contained in sections 247-250, title 38, United States Code, as amended, was derived from sections 1177-1178, Revised Statutes, and amendments thereto.

Prior to December 1, 1930, this law, regulating the furnishing of artificial limbs and trusses to former members of the Military and Naval Establishments, except as to veterans of the World War, who were furnished prosthetic appliances as an incident of medical service authorized under laws then administered by the Veterans' Administration, was administered by the Surgeon General of the Army. Effective that date, by Executive order of the President of the United States, dated November 4, 1930, under the provisions of the act of July 3, 1930 (38 U. S. C., sec. 11), all activities pertaining to the administration of sections 241-250, title 38, United States Code, as amended, were transferred from the Office of the Surgeon General to the Veterans' Administration. Since then, this law has been administered by the Veterans' Administration. The provisions of the code make no reference to the authority for furnishing artificial limbs, and so forth, to civilian employees of the Military and Naval Establishments, presumably due to the necessity of establishing entitlement under the act of September 7, 1916, as amended, where injuries have been sustained since that date by civilian employees of the Military and Naval Establishments in the performance of their duties. However, the Office of the Surgeon General continued to furnish artificial limbs or other appliances, including transportation to effect the fitting thereof, or commutation in lieu of such artificial limbs or other appliances to civilian employees who had lost limbs or sustained bodily injuries depriving them of the use of any of their limbs prior to September 7, 1916, under the law then in effect and the Veterans' Administration has continued this practice.

Since March 20, 1933, date of approval of the Economy Act, Public, No. 2, Seventy-third Congress, section 6 of that act, and amendments thereto, and regulations and instructions issued pursuant thereto, encompass all rights of veterans, including retired officers and enlisted men who served honorably during a war period, to medical treatment or domiciliary care, under laws administered by the

Veterans' Administration, which includes the furnishing of prosthetic appliances, where deemed essential, but no commutation in lieu thereof is payable. The provisions of sections 241-250, title 38, United States Code, as amended, insofar as they relate to retired officers and enlisted men were not affected by the Economy Act, and under these provisions, such retired personnel, who lost a limb or the use of a limb, in line of duty, in active military or naval service at any time may be furnished artificial limbs or other appliances by the Veterans' Administration at least once every 3 years, including transportation for the fitting thereof, or commutation in lieu of such artificial limbs or other appliances, and if ruptured in line of duty in a war, may be supplied trusses every 2½ years.

Retired officers and enlisted men of the Military and Naval Establishments who are entitled to medical treatment or domiciliary care by the Veterans' Administration as war veterans by virtue of the provisions of section 4 of the act of July 19, 1939 (Public, No. 198, 76th Cong.), as amended by the act of December 22, 1941 (Public, No. 365, 77th Cong.), may be furnished prosthetic appliances (including trusses) where deemed essential, as an incident thereof, but no commutation in lieu of artificial limbs or other appliances, under section 6 of Public, No. 2, Seventy-third Congress, as amended, and regulations issued pursuant thereto, as amended, or they may be furnished artificial limbs or other appliances, including transportation for the fitting thereof, or commutation in lieu of such artificial limbs or other appliances, once every 3 years, or trusses, if ruptured in line of duty in any war, once in every 2½ years, under sections 241-250, title 38, United States Code, as amended.

Retired officers and enlisted men of the Military and Naval Establishments not entitled to medical treatment or domiciliary care by the Veterans' Administration as war veterans, may be furnished artificial limbs or other appliances, including transportation to effect the fitting thereof, or commutation in lieu of such artificial limbs or other appliances, once every 3 years, or trusses, if ruptured in line of duty in any war, once in every 2½ years under the code provisions afore-mentioned only.

Civilian employees of the Military and Naval Establishments who lost a limb or the use of a limb through injury or disease in line of duty prior to September 7, 1916, may be furnished artificial limbs or other appliances, including transportation to effect the fitting thereof, or commutation in lieu of such artificial limbs or other appliances, by the Veterans' Administration once every 3 years under sections 241-246, title 38, United States Code, as amended.

Section 1 of the proposed bill reenacts and continues the provisions of section 4 of the act of July 19, 1939, Public, No. 198, Seventy-sixth Congress, as amended by the act of December 22, 1941, Public, No. 365, Seventy-seventh Congress, under which retired officers and enlisted men of the Army, Navy, Marine Corps, or Coast Guard who served honorably during a war period, as recognized by the Veterans' Administration, are entitled to medical treatment or domiciliary care by the Veterans' Administration on a parity with other war veterans. This medical service, as stated above, includes the furnishing of prosthetic appliances, including trusses, where deemed essential, but no commutation in lieu thereof. The bill will repeal those laws under which such retired officers and enlisted men may be furnished artificial limbs or other appliances, including transportation for the fitting thereof, or commutation in lieu of such artificial limbs or other appliances, once every 3 years, or trusses, if ruptured in line of duty in any war, once in every 2½ years.

This section also amends section 4 of the act of July 19, 1939, as amended, by adding a new paragraph which would authorize the Administrator of Veterans' Affairs to furnish artificial limbs or other appliances, including transportation to effect the fitting thereof, but no commutation in lieu of artificial limbs or other appliances to those retired officers and enlisted men of the Army, Navy, Marine Corps, or Coast Guard, who lost a limb or the use of a limb through injury or disease incurred or contracted in line of duty in the military or naval service at any time, and who are not entitled to medical treatment or domiciliary care by the Veterans' Administration as war veterans and to prosthetic appliances furnished incident thereto. Such artificial limbs or other appliances will be furnished when found to be reasonably necessary, in medical judgment, for the injury or disease instead of once every 3 years. Transportation to effect the fitting thereof is also authorized. This paragraph saves the rights of those retired officers and enlisted men entitled to artificial limbs or other appliances only under the laws which would be repealed by the proposed bill, but provides for no commutation in lieu thereof.

Section 2 of the bill would save the rights of civilian employees entitled to artificial limbs or other appliances, or commutation in lieu thereof at least once

every 3 years, for injuries or diseases incurred or contracted in line of duty as such prior to September 7, 1916, under existing laws, which would be repealed by the proposed legislation, and provides that the commutation payable to any civilian employee in lieu of such artificial limb or other appliance shall be in the amount last paid to such employee under the laws repealed. There are only three civilian employees of the Military and Naval Establishments of record who would be affected by the provisions of the bill and since no monetary benefits are payable to such civilian employees under existing law for their injuries, other than commutation once every 3 years in lieu of artificial limbs or other appliances, it is felt that it would be inequitable to discontinue payment of commutation in such cases as proposed in the provisions of the bill relating to former members of the military and naval forces who would be eligible for pension or retirement benefits on account of such injuries or diseases incurred in active service in line of duty, in addition to artificial limbs or other appliances where deemed essential. As the administration of claims of civilian employees of the Federal Government for injuries sustained in line of duty as such on or after September 7, 1916, is under the jurisdiction of the United States Employees' Compensation Commission, the proposed bill would transfer administration of claims of civilian employees of the Military or Naval Establishments for such artificial limbs or other appliances, or commutation in lieu thereof, to that agency.

Section 3 of the proposed bill enumerates the laws which would be repealed thereby.

As the proposed changes not only will establish uniformity in the laws administered by the Veterans' Administration relative to the furnishing of artificial limbs and other appliances but will also be more beneficial to the disabled person, it is urged that favorable consideration be given by the Congress which may lead to early enactment of the proposed legislation.

Advice has been received from the Director, Bureau of the Budget, that there would be no objection by that office to submission of the proposed legislation to the Congress for its consideration.

Very truly yours,

FRANK T. HINES, *Administrator.*

