

## MOBILIZATION OF CIVILIAN MANPOWER

JANUARY 24, 1945.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. MAY, from the Committee on Military Affairs, submitted the following

### REPORT

[To accompany H. R. 1752]

The Committee on Military Affairs, to whom was referred the bill (H. R. 1752) to amend the Selective Training and Service Act of 1940, and for other purposes, having considered the same, reports favorably thereon without amendment and recommend that the bill do pass.

The purpose of the bill is to provide means of meeting during war-time the manpower requirements in civilian activities, occupations, and endeavors found essential to the war effort. On January 6, 1945, there was referred to the committee a bill (H. R. 1119) having the same purpose. Hearings were held by the committee on that bill. After considering numerous amendments thereto, the committee requested the chairman to introduce a bill embodying the provisions of H. R. 1119 as so amended. That was done on January 24, 1945, and it is that bill (H. R. 1752) which is herewith reported.

#### NEED FOR LEGISLATION

At the opening of this session of Congress the President recommended the adoption of a national service act "for the total mobilization of all our human resources for the prosecution of the war." He urged that this be done "at the earliest possible moment."

Last week the President, in a letter to the chairman of the committee, renewed his recommendation. He said:

I am familiar with the provisions of H. R. 1119, on which hearings are now being held before your committee. While this bill is not a complete national service law, it will go far to secure the effective employment in the war effort of all registrants under the selective-service law between the ages of 18 and 45.

While there may be some difference of opinion on the details of the bill, prompt action now is much more important in the war effort than the perfecting of detail.

The President enclosed a joint letter to him from the Chief of Naval Operations and the Chief of Staff of the Army, copy of which is set

forth in full at the end of this report. These officers, directly responsible for the conduct of military operations, voiced the urgent necessity for immediate action—

to provide the necessary manpower to increase the production of critical items of munitions, accelerate ship construction, and effect the rapid repair of damaged vessels.

They reported that in the next 6 months the Army and Navy will require 900,000 additional men. They estimated that in the same period 700,000 industrial workers must be added to the force working on munitions production and supporting industries. They added that "new devices and weapons in production and ready for production require additional facilities and civilian labor." They concluded their appeal with the statement:

You are intimately familiar, Mr. President, with the great importance of regaining the offensive on the western front and pressing it, together with operations against the Japanese, with constantly increasing intensity in the months to come. To this end, therefore, we feel that the United States should make every conceivable effort to enable the armed forces to carry out your instructions.

The Government officials responsible for the production of war supplies—the Under Secretary of the Navy, the Under Secretary of War, and the Chairman of the War Production Board—while expressing the belief that the full solution to the manpower problem would require enactment of a comprehensive national service law, were unanimous in stating that enactment into law of the basic principles embodied in H. R. 1119 was essential to provide immediate relief and was a long and a good step in the right direction.

The basic principles of H. R. 1119 were also strongly endorsed by the Chief of Production for the Army Air Forces, the Acting Chairman of the War Manpower Commission, the War Food Administrator, the representative for the Selective Service System, and the representative of the American Farm Bureau Federation.

Spokesmen for the War Production Board and for the Army and the Navy declared that, without Government authority to draw more workers into war plants, they could not meet military requirements. Production schedules since October have gone up sharply in a number of critical items for both the Army and the Navy. Perhaps foremost among these is ammunition for heavy artillery, mortars, and small arms. Heavy expenditure in ammunition saves lives and quickens our offensive.

Other pressing requirements include tanks, heavy trucks, tires, radar, ship construction and repair, rockets, field wire, and cotton duck. One of the most pressing requirements is for foundry workers to turn out key items, such as housings for truck axles.

These shortages are real and immediate. They are bottlenecks that must be broken. The forward sweep of the war into enemy territory cannot await the outcome of debate as to past action or omission to act, but must press constantly and increasingly on. We cannot allow the commissioning of a new warship to be held up for lack of a single item, such as radar. And we cannot jeopardize the life of one soldier or one sailor by sending him into combat without the fullest protection that we know how to give him in the way of weapons and equipment.

The manpower problem cannot be measured alone in terms of the total number of workers needed today in war plants. The problem

today is primarily one of spot shortages, and shortages, though overcome today, will show up tomorrow in other places, as shifts in the course of the war, changes in military strategy, and the development of new weapons (by the Allies and by the enemy) compel swift and radical changes in war output.

Moreover, the armed forces require 900,000 additional men during the first half of 1945. We must send our fighting men the best possible reinforcements. And the places of these men in industry will also have to be filled.

As the war reaches its climax and more and more men are drawn into the armed forces, our labor supply grows tighter. The committee believes that its bill will go a long way toward obtaining the fullest utilization of this tight supply and toward making manpower as flexible as possible with a minimum of individual hardship or displacement.

The committee has studied this problem closely during the last 3 years. It recognizes the urgency of the present situation and the need for speed. The bill reported will provide immediate action to increase the labor supply in war industry. The committee believes that it merits immediate consideration and prompt passage.

The measure is designed, as far as possible, to encourage those of draft age who are neither in uniform nor in war industry to transfer voluntarily into essential work without formal order from their local boards. We believe that the mandatory provisions of the legislation will be invoked only rarely; that the presence of the law on the statute books will in itself result in an immediate increase in the labor available at war plants. We believe that it will also help to hold men on their jobs, thus reducing wasteful turn-over.

The passage of such a law will have a still wider effect. To the millions already employed in essential war work, just as to the millions already in the Army and Navy throughout the world, it will be a sign to strengthen their spirit and increase their confidence in the cause for which they labor and fight. It will show to them, and to our allies, that neither the flurry of volunteer recruitment since this measure was first proposed nor the sweeping Russian offensive in eastern Germany has deterred the American people from taking decisive action to finish the war promptly and at the least cost to human life.

The Nation has a proud record of production during 3 years of war, a record built by the teamwork of labor and management and agriculture. But we cannot stop here. Our military leaders all urge that legislation is needed to assure meeting our supply requirements.

The invasion of France and the Philippines set us to a course on which we cannot falter. Prior to these invasions, the decision as to when we should go forward with these great engagements was ours. If the war equipment was not ready, we could even delay the day or the month of attack.

But now we have committed our armed forces to battle on two sides of the globe. D-day tied our battle lines to our production lines.

We must marshal our full strength and resources to keep the battle lines moving forward. It is unthinkable that we give the men who are fighting and dying for us less than our full support.

We must produce the weapons they need, in the quantities indicated, and on time.

If we fail, our young men pay with their lives.

## DETAILED EXPLANATION OF THE BILL

Section 1 of the bill adds a new subsection (n) to section 5 of the Selective Training and Service Act of 1940, as amended.

Section 5 (n) (1) imposes upon every registrant between the ages of 18 and 45, who is not on active duty in the armed forces or exempted or deferred under sections 5 (c) (1) and (d) of the act (certain elected and other officials and certain religious personnel), a liability to perform work in an activity in war production, or in support of the national health, safety, or interest, or in an agricultural occupation or endeavor essential to the war effort, designated by the Director of War Mobilization and Reconversion (or by an agency named by him).

Other paragraphs of section 5 (n) give effect to this liability to work in the war effort in two ways.

First. Registrants so liable to work who are now or hereafter employed in a designated activity, occupation, or endeavor are "frozen" in their jobs. That is, section 5 (n) (2) imposes on such registrants a duty not to voluntarily discontinue such employment unless their local boards find it is in the best interest of the war effort for them to leave such employment.

Second. If the Director of War Mobilization and Reconversion certifies under section 5 (n) (3) (after consultation with representatives of labor, management, agriculture, and Government) that, in any area, the manpower requirements in a designated activity, occupation, or endeavor have not been met by such "freezing" or by voluntary recruiting by labor, industry, management, and Government, registrants so liable to work (to be drawn from categories of such registrants prepared by the Director of Selective Service, which categories may, as the Director determines fair and equitable, not include veterans) may under section 5 (n) (4) be requested by their local boards to become employed in a designated activity, occupation, or endeavor, and, if within a certain time such manpower requirements are not met by action taken pursuant to such requests, such registrants may be ordered by their local boards to make application for employment in a designated activity, occupation, or endeavor and to enter upon such employment when accepted therefor. Any such order must give to registrants a reasonable choice of employers for whom to work.

Every registrant so liable to work has a right, if "frozen" in a job under section 5 (n) (2), to apply for transfer to other employment; or if ordered to take a job under section 5 (n) (4) (C), to apply for a revocation or modification of such order, with rights of appeal from any denial of such an application.

For a violation of a duty imposed by section 5 (n) (either the duty to stay on a job in which "frozen" or the duty to obey an order to take a new job), a registrant, if such violation is found to be willful, is subject to the same fine and imprisonment provided for violation of an induction order under the Selective Training and Service Act. However, section 4 of the bill provides certain specific defenses to a registrant charged with such violation, including the defense that the denial of his application to transfer to other employment or to obtain a revocation or modification of the order to take a certain job was not based upon a fair consideration of his application.

Under the act as it is now written, registrants who are ordered to submit to induction into the armed forces may not refuse and defend

such refusal in a criminal prosecution on the ground that their classifications were not given fair consideration by their boards. In order to obtain a judicial determination of such issues such registrants must first submit to induction and raise the issue by habeas corpus. (See *Ex parte Stanziale* (1943), 3d Cir., 138 F. 2d, 312, cert. den., 320 U. S. 797.) Since a habeas corpus proceeding is not available to registrants ordered to accept employment under section 5 (n), they are in a status different from registrants ordered to submit to induction into the armed forces, and thus are permitted under the bill to raise these issues in the criminal proceeding.

The provisions above described for meeting manpower requirements in activities, occupations, and endeavors designated by the Director of War Mobilization and Reconversion as essential to the prosecution of the war do not in any way affect the regular selective-service processes for meeting the needs of the armed forces for additional fighting men. Any registrant liable to work under section 5 (n), who violates a duty to work imposed upon him by such section, may be drafted into the armed forces. (See sec. 5 (n) (8).)

The so-called Tydings amendment (sec. 5 (k) of the Selective Training and Service Act) is not affected in any manner by this bill. (See sec. 5 (n) (5).)

Registrants who become employed as a result of a request or order under section 5 (n) (4) are entitled to the reemployment benefits of section 8 (b), (c), (e), and (g) of the Selective Training and Service Act (see sec. 2 of the bill), to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (see sec. 6 of the bill), and to allowances for travel, and subsistence during travel, to the new place of occupation and, at the conclusion of employment, back to their homes or places of original departure (see sec. 3 of the bill).

Section 5 (n) (6) provides that persons who are found to be conscientiously opposed, by religious training and belief, to participating in civilian war activities shall, in lieu of being ordered to employment in any such activity, be ordered to employment in some other activity in the national interest.

Finally, section 5 of the bill provides that the provisions of section 5 (n), under which persons may be "frozen" in, or ordered to, employment, shall cease to apply on the date of the termination of hostilities in the present war (as proclaimed by the President or as specified in a concurrent resolution of both Houses, whichever is earlier) or on such earlier date as may be specified by concurrent resolution of both Houses.

## CONSTITUTIONAL BASIS

The war power of the National Government is "the power to wage war successfully" \* \* \*. It extends to every matter and activity so related to war as substantially to affect its conduct and progress. The power is not restricted to the winning of victories in the field and the repulse of enemy forces. It embraces every phase of the national defense \* \* \* (*Hirabayashi v. United States* (1943) 320 U. S. 81, at 93).

In the exercise of its war powers and the power to raise and support armies and maintain a navy, Congress enacted the Selective Draft Act of 1917 and the Selective Training and Service Act of 1940. Insofar as these acts compelled service in the armed forces of the United States, they are immune from constitutional attack, including attack on the

ground that such compulsion constitutes involuntary service under the thirteenth amendment (*Selective Draft Law Cases* (1918) 245 U. S. 366). Both acts made provision for deferment from such service—not as a matter of grace to individuals eligible therefor, but in order to insure that those individuals who were relatively more essential to the civilian war activities at home would be kept at home. Thus there can be no question but that Congress can require as a condition to continued deferment from service in the armed forces that such individuals continue engaged in such activities. Whether, if they cease to engage in such activities, Congress can provide for their induction into the armed forces with a less favorable status than others in such forces is a question which is not presented by the bill.

The question presented is whether Congress can require that those permitted to stay at home perform work without which the war cannot be waged successfully, and make violators of such requirement subject to fine and imprisonment. A similar question has been considered in the cases dealing with conscientious objectors. The conscientious objector has been permitted to remain at home and under section 5 (g) of the Selective Training and Service Act of 1940 is required to perform work of national importance under civilian direction. Violation of this requirement subjects the conscientious objector to a penalty of a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both. The constitutionality of this provision has been considered in at least seven circuits (*Heflin v. Sanford* (1944), 5th cir., 142 F. 2d 799; *Hopper v. United States* (1944), 9th cir., 142 F. 2d 181; *Rase v. United States* (1942), 6th cir., 129 F. 2d 204; *Roodenko v. United States* (1944), 10th cir., decided December 22, 1944; *United States v. Van Den Berg* (1944) 7th cir., 139 F. 2d 654; *Weightman v. United States* (1944), 1st cir., 142 F. 2d 188). See also *United States v. Osborne* ((1944) D. C. N. Y., 54 F. Supp. 984) and *United States v. Brooks* ((1944) D. C. N. Y., 54 F. Supp. 995). In each case the decision of the court on the constitutional question was unanimous. In *Heflin v. Sanford*, supra, the court, speaking through Judge Sibley, said:

The answer to appellant's complaint lies in the broad principle that the thirteenth amendment has no application to a call for service made by one's government according to law to meet a public need, just as a call for money in such a case is taxation and not confiscation of property. Where by law able-bodied male persons between 25 and 45 years were required to labor on the highways of the county for 6 days each year, failure being punished as a crime, and such a person was convicted and on habeas corpus contended there was violation of the thirteenth amendment, it was held that such service, like compulsory service in the Army, on juries, and the like, was no violation of the amendment (*Butler v. Perry, Sheriff*, 240 U. S. 328, 36 S. Ct. 258, 60 L. Ed. 672). During the First World War convictions for refusing Army service were attacked as violations of this amendment. The contention was overruled without being dignified by being argued (*Arver v. United States*, 245 U. S. 366, 38 S. Ct. 159, 62 L. Ed. 349, L. R. A. 1918 C, 361, Ann. Cas. 1918 B, 856). The service required here is "work of national importance," that is to say it is of a public nature. It is in lieu of Army service which might have been required of appellant, the substitution being allowed as of grace because of conscientious objection to military service. The present war is described by its authors as "total war," meaning that every means of destruction will be used, and men, women, and children alike killed. It means also that total effort may be necessary to resist it, men, women, and children all doing what they can. Such a total call has not yet been made by the United States, but is within its power under those parts of the Constitution which authorize Congress to declare war and raise and equip armies. There can be no doubt whatever that Congress has the constitutional power to require appellant, an able-bodied man,

to serve in the Army, or in lieu of such service to perform other work of national importance. The thirteenth amendment abolished slavery and involuntary servitude, except as a punishment for a crime, but was never intended to limit the war powers of government or its right to exact by law public service from all to meet the public need.

In the case of *Butler v. Perry*, cited in the above opinion, the Supreme Court, speaking through Mr. Justice McReynolds, said, at pages 332 and 333:

By their several constitutions the States within the limits of the Northwest Territory prohibited involuntary servitude substantially in the language of the 1787 Ordinance, and with the possible exception of Wisconsin, all of them early enacted and long enforced laws requiring labor upon public roads.

Utilizing the language of the Ordinance of 1787, the thirteenth amendment declares that neither slavery nor involuntary servitude shall exist. This amendment was adopted with reference to conditions existing since the foundation of our Government, and the term "involuntary servitude" was intended to cover those forms of compulsory labor akin to African slavery which in practical operation would tend to produce like undesirable results. It introduced no novel doctrine with respect of services always treated as exceptional, and certainly was not intended to interdict enforcement of those duties which individuals owe to the State, such as services in the Army, militia, on the jury, etc. The great purpose in view was liberty under the protection of effective government, not the destruction of the latter by depriving it of essential powers.

In the case of *United States v. Osborne*, supra, the Court, at page 986, said:

We are not concerned with the power to conscript individuals in time of peace. We are concerned with that power in time of war. The conclusion, it seems to this Court, based both upon reason and authority, is inescapable that Congress has full power to conscript individuals for work of national importance under civilian direction in time of war.

LETTER TO THE PRESIDENT FROM THE CHIEF OF STAFF OF THE ARMY AND THE CHIEF OF NAVAL OPERATIONS

JANUARY 16, 1945.

DEAR MR. PRESIDENT: As the agents directly responsible to you for the conduct of military operations, we feel that it is our duty to report to you the urgent necessity for immediate action to improve the situation relative to the acute need for young and vigorous replacements for the Army and Navy and to provide the necessary manpower to increase the production of critical items of munitions, accelerate ship construction, and effect the rapid repair of damaged vessels.

Personnel losses sustained by the Army in the past 2 months have, by reason of the severity of the weather and the fighting on the European front, taxed the replacement system to the breaking point. The Army must provide 600,000 replacements for overseas theaters before June 30, and, together with the Navy, will require at total of 900,000 inductions by June 30.

Losses or wastage of equipment due to the German offensive and winter fighting conditions must be made good, and there must also be provided the equipment for eight French divisions and for the accumulation of reserves and equipment which do not exist at the present time. It is estimated that 700,000 industrial workers must be added to the force producing Army and Navy munitions and supporting industries in the next 6 months if our urgent needs are to be met.

The increased intensity of the operations in the Pacific, particularly the operations of the fleet in support of the Philippine operations, has resulted in extensive damage to naval vessels, many of which require major repairs. Due to the overall shortage of ship workers, this increased repair load is already being reflected in a slow-down in the construction of new ships which have been counted on for future operations.

New devices and weapons in production and ready for production require additional facilities and civilian labor. The fast tempo and increased damage have introduced demands for additional naval personnel in the way of replacements. Items of particular moment are replacements for casualties and war-fatigued men, particularly pilots and crews for aircraft.

The Navy also requires a considerable number of additional Medical Corps personnel.

Due to ever-increasing demands for the support of the large forces, Army and Navy, deployed overseas and for the minimum relief of liberated areas, the availability of shipping also presents problems calling for early solution. The building, repair, and manning of ships of the merchant marine require to be taken fully into account in the over-all military situation.

You are intimately familiar, Mr. President, with the great importance of regaining the offensive on the western front and pressing it, together with operations against the Japanese, with constantly increasing intensity in the months to come. To this end, therefore, we feel that the United States should make every conceivable effort to enable the armed forces to carry out your instructions.

E. J. KING,  
Chief of Naval Operations.

G. C. MARSHALL,  
Chief of Staff.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 2a of rule XIII of the Rules of the House of Representatives, 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):

#### SECTION 5 OF THE SELECTIVE TRAINING AND SERVICE ACT OF 1940

SEC. 5. (a) Commissioned officers, warrant officers, pay clerks, and enlisted men of the Regular Army, the Navy, the Marine Corps, the Coast Guard, the Coast and Geodetic Survey, the Public Health Service, the federally recognized active National Guard, the Officers' Reserve Corps, the Regular Army Reserve, the Enlisted Reserve Corps, the Naval Reserve, and the Marine Corps Reserve; cadets, United States Military Academy; midshipmen, United States Naval Academy; cadets, United States Coast Guard Academy; men who have been accepted for admittance (commencing with the academic year next succeeding such acceptance) to the United States Military Academy as cadets, to the United States Naval Academy as midshipmen, or to the United States Coast Guard Academy as cadets, but only during the continuance of such acceptance; cadets of the advanced course, senior division, Reserve Officers' Training Corps or Naval Reserve Officers' Training Corps; and diplomatic representatives, technical attachés of foreign embassies and legations, consuls general, consuls, vice consuls, and consular agents of foreign countries, and persons in other categories to be specified by the President residing in the United States, who are not citizens of the United States, and who have not declared their intention to become citizens of the United States, shall not be required to be registered under section 2 and shall be relieved from liability for training and service under section 3 (b).

(b) In time of peace, the following persons shall be relieved from liability for training and service under section 3 (b) and from the liability to serve in any reserve component of the land or naval forces imposed by this Act:

(1) Any person who shall have satisfactorily served as an officer or enlisted man for at least three consecutive years in the Regular Army, Navy, Marine Corps, or Coast Guard before or after or partially before and partially after the time fixed for registration under section 2, or any enlisted man who has been or is hereafter honorably discharged from the Regular Army or the Coast Guard for the convenience of the Government within six months prior to the completion of his regular three-year period of enlistment: *Provided*, That any person who has had such prior service and who has already been inducted for service may upon application be discharged and shall not be liable for further training and service in time of peace.

(2) Any person who as a member of the active National Guard shall have satisfactorily served as an officer or enlisted man for at least one year in active Federal service in the Army of the United States, and subsequent thereto for at least two consecutive years in the Regular Army or in the active National Guard, before or after or partially before and partially after the time fixed for registration under section 2; or any person who as a member of the Naval Reserve or Marine Corps Reserve shall have satisfactorily served for at least

three consecutive years on active duty before or after or partially before and partially after the time fixed for such registration; or any person who as a member of the Naval Reserve or Marine Corps Reserve shall have satisfactorily served for at least one year on active duty and for at least two consecutive years in the Regular Navy or Marine Corps or with an organized unit of the Naval Reserve or Marine Corps Reserve, before or after or partially before and partially after the time fixed for such registration.

(3) Any person who is an officer or enlisted man in the active National Guard at the time fixed for registration under section 2, and who shall have satisfactorily served therein for at least six consecutive years, before or after or partially before and partially after the time fixed for such registration.

(4) Any person who is an officer in the Officers' Reserve Corps on the eligible list at the time fixed for registration under section 2, and who shall have satisfactorily served therein on the eligible list for at least six consecutive years, before or after or partially before and partially after the time fixed for such registration.

(5) Any person who is an officer or an enlisted man in the organized Naval Reserve or the organized Marine Corps Reserve at the time fixed for registration under section 2, and who shall have satisfactorily served therein for at least six consecutive years, before or after or partially before and partially after the time fixed for such registration or any person who is an officer or an enlisted man in the Naval Merchant Marine Reserve or Volunteer Naval Reserve or Volunteer Marine Corps Reserve at the time fixed for registration under section 2, and who shall have satisfactorily served therein for at least eight consecutive years, before or after or partially before and partially after the time fixed for such registration.

(c) (1) The Vice President of the United States, the Governors, and all other State officials chosen by the voters of the entire State, of the several States and Territories, members of the legislative bodies of the United States and of the several States and Territories, judges of the courts of record of the United States and of the several States and Territories and the District of Columbia, shall, while holding such offices, be deferred from training and service under this Act in the land and naval forces of the United States.

(2) 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 person holding an office (other than an office described in paragraph (1) of this subsection) under the United States or any State, Territory, or the District of Columbia, whose continued service in such office is found in accordance with section 10 (a) (2) to be necessary to the maintenance of the public health, safety, or interest.

(d) Regular or duly ordained ministers of religion, and students who are preparing for the ministry in theological or divinity schools recognized as such for more than one year prior to the date of enactment of this Act, shall be exempt from training and service (but not from registration) under this Act.

(e) (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 au-

thorized, 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.

(2) Anything in this Act to the contrary notwithstanding, the President is authorized, under such rules and regulations as he may prescribe, to provide for the deferment, by age group or groups, from training and service under this Act in the land and naval forces of the United States, of those men whose age or ages are such that he finds their deferment to be advisable in the national interest: *Provided*, That the President may, upon finding that it is in the national interest, terminate the deferment by age group or groups of any or all of the men so deferred.

(f) Any person eighteen or nineteen years of age who, while pursuing a course of instruction at a high school or similar institution of learning, is ordered to report for induction under this Act during the last half of one of his academic years at such school or institution, shall, upon his request, have his induction under this Act postponed until the end of such academic year, without regard to the date during the calendar year on which such academic year ends, or until he ceases to pursue such course of instruction, whichever is the earlier. The induction of any such person shall not be postponed under this subsection beyond the date which would constitute the end of his academic year if he continued to pursue such course of instruction.

(g) Nothing contained in this Act shall be construed to require any person to be subject to combatant training and service in the land or naval forces of the United States who, by reason of religious training and belief, is conscientiously opposed to participation in war in any form. Any such person claiming such exemption from combatant training and service because of such conscientious objections whose claim is sustained by the local board shall, if he is inducted into the land or naval forces under this Act, be assigned to noncombatant service as defined by the President, or shall, if he is found to be conscientiously opposed to participation in such noncombatant service, in lieu of such induction, be assigned to work of national importance under civilian direction. Any such person claiming such exemption from combatant training and service because of such conscientious objections shall, if such claim is not sustained by the local board, be entitled to an appeal to the appropriate appeal board provided for in section 10 (a) (2). Upon the filing of such appeal with the appeal board, the appeal board shall forthwith refer the matter to the Department of Justice for inquiry and hearing by the Department or the proper agency thereof. After appropriate inquiry by such agency, a hearing shall be held by the Department of Justice with respect to the character and good faith of the objections of the person concerned, and such person shall be notified of the time and place of such hearing. The Department shall, after such hearing, if the objections are found to be sustained, recommend to the appeal board (1) that if the objector is inducted into the land or naval forces under this Act, he shall be assigned to noncombatant service as defined by the President, or (2) that if the objector is found to be conscientiously opposed to participation in such noncombatant service, he shall in lieu of such induction be assigned to work of national importance under civilian direction. If after such hearing the Department finds that his objections are not sustained, it shall recommend to the appeal board that such objections be not sustained. The appeal board shall give consideration to but shall not be bound to follow the recommendation of the Department of Justice together with the record on appeal from the local board in making its decision. Each person whose claim for exemption from combatant training and service because of conscientious objections is sustained shall be listed by the local board on a register of conscientious objectors.

(h) No exception from registration, or exemption or deferment from training and service, under this Act, shall continue after the cause therefor ceases to exist.

(i) Notwithstanding any other provisions of law, no person between the ages

of eighteen and twenty-one shall be discharged from service in the land or naval forces of the United States while this Act is in effect because such person entered such service without the consent of his parent or guardian.

(j) No individual who has been convicted of any crime which may not be punished by death or by imprisonment for a term exceeding one year shall, by reason solely of such conviction, be relieved from liability for training and service under this Act.

(k) Every registrant found by a selective service local board, subject to appeal in accordance with section 10 (a) (2), to be necessary to and regularly engaged in an agricultural occupation or endeavor essential to the war effort, shall be deferred from training and service in the land and naval forces so long as he remains so engaged and until such time as a satisfactory replacement can be obtained: *Provided*, That should any such person leave such occupation or endeavor, except for induction into the land or naval forces under this Act, his selective service local board, subject to appeal in accordance with section 10 (a) (2), shall reclassify such registrant in a class immediately available for military service, unless prior to leaving such occupation or endeavor he requests such local board to determine, and such local board, subject to appeal in accordance with section 10 (a) (2), determines, that it is in the best interest of the war effort for him to leave such occupation or endeavor for other work.

(l) In the case of any registrant whose principal place of employment is located outside the appeal board area in which the local board having jurisdiction over the registrant is located, any occupational deferment under subsection (c) (2) or subsection (e) of this section existing at the date of enactment of this subsection shall within thirty days after such date, and any such occupational deferment made after the date of enactment of this subsection shall within ten days after such deferment is made, be submitted for review and decision to the selective service appeal board having jurisdiction over the area in which is located the principal place of employment of the registrant. Such decision of the appeal board shall be final unless modified or changed by the President, and such decision shall be made public. The President, upon appeal or upon his own motion, shall have power to determine all claims or questions with respect to inclusion for, or exemption or deferment from, training and service under this Act; and the determination of the President shall be final.

(m) Notwithstanding the provisions of section 4 (b), under such rules and regulations as the President may prescribe, on the basis of the best inventory information available to him at the time of allocating calls, without affecting the usual regular and orderly flow of the Nation's manpower into the armed forces as required for service therein, and in accordance with the requisitions of the land and naval forces and with the other provisions of this Act, registrants shall, on a Nation-wide basis within the Nation and a State-wide basis within each State, be ordered to report to induction stations in such a manner that registrants, regardless of their occupations or the activities in which they may be engaged, who were married prior to December 8, 1941, who have maintained a bona fide family relationship with their families since that date and who have a child or children under eighteen years of age, will be inducted after the induction of other registrants not deferred, exempted, relieved from liability, or postponed from induction under this Act or the rules and regulations prescribed thereunder who are available for induction and are acceptable to the land and naval forces. The term "child" as used in this section means a legitimate child born prior to September 15, 1942, a stepchild, adopted child, foster child, or a person who is in the relationship of child to the registrant, who became such prior to December 8, 1941, who is less than eighteen years of age, or who by reason of mental or physical defects is incapable of self-support, who is unmarried, and with whom the registrant has maintained a bona fide family relationship in their home since December 7, 1941, or since the date of birth if such date of birth is later than December 7, 1941: *Provided*, That no individuals shall be called for induction, ordered to report to induction stations, or be inducted because of their occupations, or by occupational groups, or by groups in any plant or institutions, except pursuant to a requisition by the land or naval forces for persons in needed medical professional and specialist categories.

(n) (1) In addition to the liability for training and service in the land or naval forces, every registrant between the ages of eighteen and forty-five who is not a member of such forces on active duty and is not exempted or deferred from training and service therein by section 5 (c) (1) or (d) shall be liable to perform work in an activity in war production or in support of the national health,

safety, or interest, or in an agricultural occupation or endeavor essential to the war effort. For the purposes of this subsection, the Director of War Mobilization and Reconversion, or the agency designated by him, shall from time to time by regulations designate, and certify to the Director of Selective Service, the plants and facilities, and the activities therein, in war production or in support of the national health, safety, or interest, and the farms and agricultural occupations and endeavors essential to the war effort. In making such designations, the Director of War Mobilization and Reconversion may make classifications on the basis of geographical areas, types of activities, types of occupations within activities, and types of plants, facilities, and farms.

(2) A registrant liable to perform such work who is now or hereafter employed by an employer, or now or hereafter self-employed, in an activity or agricultural occupation or endeavor which is so certified shall have a duty not to voluntarily discontinue such employment unless his selective-service local board (subject to appeal in the same manner as is provided in section 10 (a) (2)) has determined that it is in the best interest of the war effort for him to leave such employment.

(3) The Director of War Mobilization and Reconversion shall from time to time (after consultation with the appropriate representatives of management, labor, agriculture, and Government) certify or cause to be certified to the Director of Selective Service the extent to which, in the various areas, the plants, facilities, and farms described in paragraph (2) are unable, through the operation of paragraph (2) and by voluntary recruiting by management, labor, agriculture, and Government, to meet their manpower requirements in the activities, occupations, and endeavors so described.

(4) Upon receiving such a certification for a particular area, the Director of Selective Service—

(A) shall designate the categories (by age and other status) of registrants who are liable to perform work under paragraph (1) and who are not deferred under subsection (k) or by reason of being engaged in an activity in war production or in support of the national health, safety, or interest, from which categories men capable of performing the work involved shall be called before calls are made from other categories. In designating such categories the Director shall first designate categories which include registrants who are, by reason of their age and other status, the type of men he deems can transfer to such work with the least disruption to the civilian economy and to themselves in comparison with men in other categories, and may exclude, or by regulations provide for the exclusion, from any category so designated, of those types of veterans (discharged or released from active duty in the land or naval forces under conditions not dishonorable) whose exclusion from such category the Director deems fair and equitable;

(B) shall direct the local boards in such area, and also local boards outside the area to the extent that he may deem necessary, to request their registrants within the categories so designated to become employed, within a time fixed by the Director, in the activities, occupations, and endeavors covered by the certification;

(C) if the requirements of the certification have not been met under subparagraph (B) within the time fixed, shall direct the local boards in such area, and also local boards outside the area to the extent that he may deem necessary, to order (subject to regulations prescribed by him) registrants within the categories so designated and capable of performing the work involved (in numbers sufficient to meet the requirements of the certification) to make, within such time as he may prescribe, application for employment in the activities, occupations, and endeavors specified in the certification and to enter upon such employment when accepted therefor. Such orders shall be subject to appeal in the same manner as is provided in section 10 (a) (2). It shall be the duty of the registrant to whom such an order is directed to comply therewith, provided the order gives him a reasonable choice of employers for whom to work.

(5) In order to aid the selective-service local boards and the appeal boards in the exercise of the additional duties required of them under this subsection, the Director of War Mobilization and Reconversion may assign to such boards, in an advisory capacity, representatives of such other agencies of the Government as he may deem advisable.

(6) A registrant who is found, in the same manner as is provided in subsection (g), to be conscientiously opposed, by reason of religious training and belief, to participation in war in any form, and whose opposition thereto is found in such

manner, to include opposition to participation in civilian war activities shall, in lieu of being ordered to make application for, and to accept, employment in any such activity, be ordered to make application for, and to accept, employment in another activity in the national interest.

(7) Nothing in this subsection shall affect in any manner any of the provisions of subsection (k).

(8) Nothing in this subsection shall affect the powers under other provisions of this Act with respect to the classification and selection of persons for, or the induction, or deferment from induction, of persons into, the land or naval forces; or preclude the Selective Service System from classifying and selecting for induction any registrant who violates a duty imposed upon him by this subsection or preclude the land or naval forces from inducting such a registrant.

#### SECTION 8 OF THE SELECTIVE TRAINING AND SERVICE ACT OF 1940

(b) In the case of any such person who, in order to perform such training and service, has left or leaves a position, other than a temporary position, in the employ of any employer and who (1) receives such certificate, (2) is still qualified to perform the duties of such position, and (3) makes application for reemployment within ninety days after he is relieved from such training and service or from hospitalization continuing after discharge for a period of not more than one year—

(A) if such position was in the employ of the United States Government, its Territories or possessions, or the District of Columbia, such person shall be restored to such position or to a position of like seniority, status, and pay;

(B) if such position was in the employ of a private employer, such employer shall restore such person to such position or to a position of like seniority, status, and pay unless the employer's circumstances have so changed as to make it impossible or unreasonable to do so;

(C) if such position was in the employ of any State or political subdivision thereof, it is hereby declared to be the sense of the Congress that such person should be restored to such position or to a position of like seniority, status, and pay.

If such position is in an activity, occupation, or endeavor not designated by the appropriate Government agency as being in war production or in support of the national health, safety, or interest, or in an agricultural occupation or endeavor essential to the war effort, and if—

(i) such person, within ninety days after being relieved from such training and service or from such hospitalization (whether before, on, or after the date upon which this sentence takes effect), becomes employed in an activity which is so designated; and

(ii) such person continues to be employed in an activity which is so designated until (a) section 5 (n) ceases to be operative (disregarding any period not exceeding fifteen days between leaving one such employment and entering upon another such employment), or (b) he has secured a determination by his selective-service local board, subject to appeal in accordance with section 10 (a) (2), that it is no longer necessary for him to be employed in an activity in war production or in support of the national health, safety, or interest, or in an agricultural occupation or endeavor essential to the war effort, whichever is the earlier;

the period beginning with the date upon which he first becomes employed in an activity, occupation, or endeavor which is so designated and ending with the date on which section 5 (n) ceases to be operative, or with the date of such determination by his selective-service local board, whichever is the earlier, shall be disregarded in computing the ninety-day period within which application for reemployment in his former position must be made.

(c) Any person who is restored to a position in accordance with the provisions of paragraph (A) or (B) of subsection (b) shall be considered as having been on furlough or leave of absence during his period of training and service in the land or naval forces, shall be so restored without loss of seniority, shall be entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person was

inducted into such forces, and shall not be discharged from such position without cause within one year after such restoration.

(e) In case any private employer fails or refuses to comply with the provisions of subsection (b) or subsection (c), the district court of the United States for the district in which such private employer maintains a place of business shall have power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, to specifically require such employer to comply with such provisions, and, as an incident thereto, to compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action. The court shall order a speedy hearing in any such case and shall advance it on the calendar. Upon application to the United States district attorney or comparable official for the district in which such private employer maintains a place of business, by any person claiming to be entitled to the benefits of such provisions, such United States district attorney or official, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof to specifically require such employer to comply with such provisions: *Provided*, That no fees or court costs shall be taxed against the person so applying for such benefits.

(g) The Director of Selective Service herein provided for shall establish a Personnel Division with adequate facilities to render aid in the replacement in their former positions of, or in securing positions for, members of the reserve components of the land and naval forces of the United States who have satisfactorily completed any period of active duty, and persons who have satisfactorily completed any period of their training and service under this Act.

(j) Any registrant—

(1) who becomes employed as a result of a request or order under section 5 (n) (4); and

(2) with respect to whom it has been determined under section 5 (n) (if such subsection is still operative) that it is no longer necessary for him to be employed in an activity in war production or in support of the national health, safety, or interest, or in an agricultural occupation or endeavor essential to the war effort;

shall be entitled, in respect of the position left by him in order to become so employed, to the benefits of subsections (b), (c), (e), and (g) of this section to the same extent as if he had been inducted into the land or naval forces for training and service, had been relieved therefrom on the day on which the determination provided for in paragraph (2) is made (or on the day on which section 5 (n) ceases to be operative, if he is still in any such employment on such day and no such determination has been made), and had been given the certificate referred to in subsection (a).

#### SECTION 10 OF THE SELECTIVE TRAINING AND SERVICE ACT OF 1940

##### SEC. 10. \* \* \*

(e) In order to assist in the determination of whether or not men should be deferred from training and service because they are physically, mentally, or morally deficient or defective, and to delay as long as possible the induction of men living with their families, the President is authorized and directed forthwith to appoint a commission of five qualified physicians, of whom one only shall be an Army officer and one only a Navy officer, and the three remaining members shall be qualified civilian physicians not employed by the Federal Government, who shall examine the physical, mental, and moral qualification requirements for admission to the Army, Navy, and Marine Corps, and recommend to the President any changes therein which they believe can be made without impairing the efficiency of the armed services. The commission shall especially consider the establishment of special standards for men who will be inducted only for limited service. The Director of Selective Service shall cause to be reexamined those men, including those previously discharged from the armed services, because of physical disability, who may qualify under any new standards established.

(f) A person volunteering for, or ordered to, employment under section 5 (n) (4) shall receive the same travel, and subsistence during such travel, which he would receive if the request (in the case of a volunteer) or the order (in other cases) constituted an order to report for induction at the place of such employment; and on or after the date of a determination under section 5 (n) (2) that it is no longer necessary for him to be employed in an activity in war production or in support of the national health, safety, or interest, or in an agricultural occupation or endeavor essential to the war effort, or on or after the date upon which section 5 (n) ceases to be operative (if he is employed in such an activity on such date), or on or after the date of his being involuntarily separated from such employment, he shall receive similar travel and subsistence back to the place from which he was first allowed travel under this subsection (or, at his election, to his home if that is not farther distant), if application is made therefor within thirty days after such date.

#### SECTION 11 OF THE SELECTIVE TRAINING AND SERVICE ACT OF 1940

SEC. 11. Any person charged as herein provided with the duty of carrying out any of the provisions of this Act, or the rules or regulations made or directions given thereunder, who shall knowingly fail or neglect to perform such duty, and any person charged with such duty, or having and exercising any authority under said Act, rules, regulations, or directions who shall knowingly make, or be a party to the making, of any false, improper, or incorrect registration, classification, physical or mental examination, deferment, induction, enrollment, or muster, and any person who shall knowingly make, or be a party to the making of, any false statement or certificate as to the fitness or unfitness or liability or nonliability of himself or any other person for service under the provisions of this Act, or rules, regulations, or directions made pursuant thereto, or who otherwise evades registration or service in the land or naval forces or any of the requirements of this Act, or who knowingly counsels, aids, or abets another to evade registration or service in the land or naval forces or any of the requirements of this Act, or of said rules, regulations, or directions, or who in any manner shall knowingly fail or neglect to perform any duty required of him under or in the execution of this Act, or rules or regulations made pursuant to this Act, or any person or persons who shall knowingly hinder or interfere in any way by force or violence with the administration of this Act or the rules or regulations made pursuant thereto, or conspire to do so, shall, upon conviction in the district court of the United States having jurisdiction thereof, be punished by imprisonment for not more than five years or a fine of not more than \$10,000, or by both such fine and imprisonment, or if subject to military or naval law may be tried by court martial, and, on conviction, shall suffer such punishment as a court martial may direct. No person shall be tried by any military or naval court martial in any case arising under this Act unless such person has been actually inducted for the training and service prescribed under this Act or unless he is subject to trial by court martial under laws in force prior to the enactment of this Act. Precedence shall be given by courts to the trial of cases arising under this Act. No individual shall be subject to the penalties of this section for having violated any duty imposed by section 5 (n), except for willful violations thereof, and—

(a) in the case of an alleged violation of section 5 (n) (2), it shall be a defense to such alleged violation for the individual to show (1) that he made application to his selective-service local board for a determination described in section 5 (n) (2), and (2) that the denial of such application was not based on a fair consideration of his application; and it shall also be a defense to such alleged violation for the individual to establish a determination by such board (which shall be subject to appeal in the same manner as is provided in section 10 (a) (2)) that he had a justifiable reason for not complying with such duty;

(b) in the case of an alleged violation of section 5 (n) (4), it shall be a defense to such alleged violation for the individual to show (1) that he made timely application for revocation or modification of the order under section 5 (n) (4), and (2) that the denial of the revocation or modification requested was not based on a fair consideration of his application.

#### SECTION 16 OF THE SELECTIVE TRAINING AND SERVICE ACT OF 1940

SEC. 16. (a) Except as provided in this Act, all laws and parts of laws in conflict with the provisions of this Act are hereby suspended to the extent of such conflict for the period in which this Act shall be in force.

(b) All the provisions of this Act, except the provisions of sections 3 (c), 3 (d), 5 (n), 8 (g), and 12, shall become inoperative and cease to apply on and after May 15, 1945, except as to offenses committed prior to such date, unless this Act is continued in effect by the Congress. *The provisions of section 5 (n) shall become inoperative and cease to apply on the date of the termination of hostilities in the present war, or on such earlier date as may be specified in a concurrent resolution of the two Houses of Congress for that purpose. As used in this section the term 'date of the termination of hostilities in the present war' means the date proclaimed by the President as the date of such termination or the date specified in a concurrent resolution of the two Houses of Congress as the date of such termination, whichever is the earlier.*

(c) There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary to carry out the provisions of this Act.

#### AMENDMENT TO SOLDIERS' AND SAILORS' CIVIL RELIEF ACT OF 1940

SEC. 106. Any person who has been ordered to report for induction under the Selective Training and Service Act of 1940, as amended, shall be entitled to the relief and benefits accorded persons in military service under articles I, II, and III of this Act during the period beginning on the date of receipt of such order and ending on the date upon which such person reports for induction; and any member of the Enlisted Reserve Corps who is ordered to report for military service shall be entitled to such relief and benefits during the period beginning on the date of receipt of such order and ending on the date upon which he reports for such service.

SEC. 107. Nothing contained in this Act shall prevent—

(a) the modification, termination, or cancelation of any contract, lease, or bailment or any obligation secured by mortgage, trust deed, lien, or other security in the nature of a mortgage, or

(b) the repossession, retention, foreclosure, sale, forfeiture, or taking possession of property which is security for any obligation or which has been purchased or received under a contract, lease, or bailment,

pursuant to a written agreement of the parties thereto (including the person in military service concerned, or the person to whom section 106 is applicable, whether or not such person is a party to the obligation), or their assignees, executed during or after the period of military service of the person concerned or during the period specified in section 106.

SEC. 108. *The benefits of this Act shall extend to a person volunteering for, or ordered to, employment pursuant to section 5 (n) (4) of the Selective Training and Service Act of 1940, as amended, to the same extent as if—*

(a) *the application for such employment constituted an order to report for induction into the land or naval forces;*

(b) *such employment constituted military service;*

(c) *entering upon such employment constituted induction into the land or naval forces; and*

(d) *the period beginning with the date of entering upon such employment and ending with either (1) the date on which such section 5 (n) ceases to be operative, or (2) the date of a determination under such section 5 (n) that it is no longer necessary for him to be employed in an activity in war production or in support of the national health, safety, or interest, or in an agricultural occupation or endeavor essential to the war effort, or (3) the date on which he violates a duty imposed on him by paragraph (2) of such section 5 (n), whichever of such dates occurs first, constituted the period of military service.*

For the purposes of this section the period during which the relief and benefits provided in section 106 are to be in effect shall in no event extend beyond thirty days from the date of making application for employment.