

LEGAL MEDICINE

LAWS REGULATIONS AND INSTRUCTIONS
RELATING TO
CARE OF THE INSANE

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LAWS, REGULATIONS AND INSTRUCTIONS

RELATING TO

CARE OF THE INSANE

FOREWORD

The following laws, regulations and instructions relative to the care and handling of insane patients in the Navy have been taken from the Manual of the Medical Department, the Bureau of Navigation Manual, Revised Statutes (Melling's Laws Relating to the Navy, Annotated, 1921 edition and 1929 Supplement), Court Martial Orders, decisions by the Secretary of the Navy, the Judge Advocate General, the Comptroller General, the District Court of the United States for the District of Columbia, and the District Code.

The object of this compilation is to furnish a convenient and ready reference for medical officers and other members of the Medical Department of the Navy having to do with the care of the insane.

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INSANE PATIENTS

(Manual of the Medical Department, Chap. XIII, Sec. IV)

The following index of instructions contained in the Manual of the Medical Department (Chap. XIII, Sec. IV) relative to care and treatment of insane patients is included here for ready reference.

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TRANSFER OF INSANE PATIENTS

Whenever practicable, patients showing evidence of being insane shall be transferred to a naval hospital for treatment and determination of their mental condition.

Patients under treatment for mental disease in naval hospitals in the United States who require commitment to an institution for the care of the insane, or who require prolonged observation to establish diagnosis, will be transferred upon approved recommendation of a board of medical survey to the United States Naval Hospital, Washington, D. C., on the Atlantic Coast, or to the United States Naval Hospital, Mare Island, California, on the Pacific Coast. (Par. 2151, M.M.D.) (Also see Appendix "A"). Paragraph 2151 MMD has been modified, see also appendix P.

DISCHARGE OF INSANE PATIENTS BY MEDICAL SURVEY

Boards of medical survey recommending the discharge of harmless insane, able to care for themselves or to be cared for by friends or their families, shall enter on the report of medical survey the statement "Not a menace to himself or the community." (Par. 2160(a), M.M.D.)

INSANE PATIENTS ENTITLED TO TREATMENT UNDER THE VETERANS ADMINISTRATION

The survey board shall make a statement as to the line of duty status of the disease and shall recommend discharge from the naval service if the patient is eligible for transfer to a Veterans Administration facility. The board also shall make recommendation as to the advisability of retention as a supernumerary until arrangements have been completed for the transfer to a Veterans Administration facility. For procedure see paragraph 2122(d). (Par. 2160(b), M.M.D.) (Also see Appendix "B"-1,2,3,4 and 5.)

ATTENDANTS

Boards of medical survey concerned with recommending the transfer of insane to hospital should consider the practicability in each individual case of having the patient transferred under the charge of an officer or a responsible chief pharmacist's mate, with other attendants, if necessary. Statement as to necessity for such detail shall be incorporated in the recommendation of the board for transfer. (Par. 2152, M.M.D.)

RECORDS

Medical officers having charge of an insane patient, prior to recommending transfer to a hospital for the insane, shall endeavor to obtain an accurate family and personal history of the patient and to secure statements relative to the case from any institution for the insane of which the patient may have been an inmate. Any such statement shall be appended to the report of medical survey. (Par. 2153, M.M.D.)

The service record and all other records pertaining to an insane patient, except the health record which will accompany the patient, shall be retained at the naval hospital from which he was transferred to an institution for the insane. (This paragraph concerns the naval hospital at Washington, D. C., with reference to insane patients cared for in Saint Elizabeths Hospital.) Insane patients who have been transferred from a naval hospital to an institution for the insane shall be carried as still attached to the naval hospital and shall be accounted for by ratings on the reverse side of N. Nav. 25 and navigation roster reports. These patients shall be retained under the cognizance of the naval hospital until they are surveyed and discharged from the Navy or final disposition is made. (Par. 2216, M.M.D.)

TRANSPORTATION OF INSANE

Transportation of the insane is provided for in the annual appropriation act making appropriations for the Navy Department and the naval service, and is included under the Bureau S&A appropriation for "Pay, Subsistence, and Transportation of Naval Personnel", which among other things provides for -

"Transportation of sick or insane enlisted men and apprentice seamen and insane supernumerary patients to hospitals, with subsistence and transfers enroute, or cash in lieu thereof." (See Appendix "C").

DEFINITION OF INSANITY AND INCOMPETENCY

For general purposes an insane person or lunatic may be defined as one who, while not mentally defective or constitutionally psychopathic, except when a psychosis has been engrafted upon such basic condition, exhibits, due to disease, a more or less prolonged deviation from his normal method of behavior, and who is thereby rendered incapable of managing his own affairs or transacting business with ordinary prudence; or who is dangerous to himself, to others, or to property; or who interferes with the peace of society; or who has so departed (become anti-social) from the accepted standards of the community to which by birth and education he belongs, as to lack the adaptability to make further adjustment to the social customs of the community in which he resides. (Par. 1174, Adjudication, Veterans Administration Regulations).

SAINT ELIZABETHS HOSPITAL

The "Government Hospital for the Insane" (chapter 4, p. 938, R.S.), was established in 1855. Its name subsequently was changed to Saint Elizabeth's Hospital. 39 Stat. 309. Its objects are stated to be "the most humane care and enlightened curative treatment of the insane of the Army and Navy of the United States and of the District of Columbia." Section 4838, R.S.(Comp. St. Sec. 9292). While subsequent acts make provision for the admission of persons other than those indicated, the primary object of the institution remains the care and treatment of the insane of the Army and Navy, whose commitment thereto may be made by the respective heads of the Army and Navy Departments without judicial inquiry. 31 Op. Attys. Gen. 431.

The current appropriation Act for the Interior Department under the head "Saint Elizabeths Hospital" provides funds "For support, clothing, and treatment in Saint Elizabeths Hospital for the Insane, of insane persons from the Army, Navy, Marine Corps and Coast Guard" and "all persons who have become insane since their entry into the military and naval services of the United States."

Expenses of Indigent Insane Admitted to Saint Elizabeths Hospital from District of Columbia.--By the Act of June 29, 1922 (42 Stat. 668), it was provided that thereafter 60 per cent of the expenses of the District of Columbia should be paid from the revenues of the District and the remaining 40 per cent by the United States. The annual appropriation acts thereafter made lump-sum appropriations from the United States Treasury toward the expenses of the District, but without changing the basic law.

PERMITS FOR ADMISSION OF NAVAL PATIENTS TO
SAINT ELIZABETHS HOSPITAL

Permits for the admission of Navy patients to Saint Elizabeths Hospital are issued by the Chief of the Bureau of Medicine and Surgery, by direction of the Secretary of the Navy, and in accordance with Section 4843 of the Revised Statutes.

(see Appendix "D").

RECORDS REQUIRED FOR ADMISSION TO SAINT
ELIZABETHS HOSPITAL

For the information of the superintendent of St. Elizabeths Hospital the following records shall accompany each patient upon his admission to the hospital:

- (1) Order for admission.
- (2) Copy of report of medical survey.
- (3) Copy of hospital ticket.
- (4) Health record, to be given to the naval medical officer on duty at St. Elizabeths Hospital, who will make a concise record of the case and upon completion of the record will forward it to the commanding officer, United States Naval Hospital, Washington, D. C., for disposition. (par. 2216).
- (5) Copy of Department of Interior form 12-3 (Medical Certificate). (See Appendix "E").

PERSONS ELIGIBLE FOR ADMISSION TO ST. ELIZABETHS HOSPITAL.

(a) Section 4843, R. S. provides--

The superintendent, upon the order of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Treasury, respectively, shall receive, and keep in custody until they are cured, or removed by the same authority which ordered their reception, insane persons of the following descriptions:

First. Insane persons belonging to the Army, Navy, Marine Corps, and Revenue-Cutter Service.

Second. * * *

Third. Men who, while in the service of the United States, in the Army, Navy, or Marine Corps, have been admitted to the hospital, and have been thereafter discharged from it on the supposition that they have recovered their reason, and have, within three years after such discharge, become again insane from causes existing at the time of such discharge, and have no adequate means of support.

Fourth. Indigent insane persons who have been in either of the said services and been discharged therefrom on account of disability arising from such insanity.

Fifth. Indigent insane persons who have become insane within three years after their discharge from such service, for causes which arose during and were produced by said service.

(b) Retired personnel of the Navy and Marine Corps and enlisted men of the Fleet Reserve and Fleet Marine Corps Reserve, transferred thereto after 16 or more years of naval service, may be committed to St. Elizabeths Hospital by the Navy Department.

(Paragraph 2155, Manual of the Medical Dept.)

ACTIVE DUTY PERSONNEL

ADMISSION TO SAINT ELIZABETHS HOSPITAL.

Section 4843, Revised Statutes, authorizes the admission to Saint Elizabeths Hospital of "insane persons belonging to the Army, Navy, Marine Corps and Revenue-Cutter service."

Persons who enter the naval service voluntarily submit to and agree to be bound by the laws and regulations established for the government of the Navy. These laws include that which expressly empowers the Secretary of the Navy to commit them to Saint Elizabeths Hospital under specified conditions and requires the Superintendent of the hospital to keep them in custody until they are cured or removed by the same authority which ordered their reception. (Appendix "F"-1, p. 5).

AUTHORITY OF BOARDS OF MEDICAL SURVEY.

Military and naval boards which pass upon the physical and mental condition of service personnel are established, and are recognized by statute, as necessary instrumentalities in the administration of the Army and Navy, the same as courts-martial. And it is well settled that the principles of military law as provided by Congress constitute due process of law in a constitutional sense as applied to members of the military service. (Appendix "F"-1, p. 5).

PATIENTS CANNOT BE RETAINED IN SAINT ELIZABETHS HOSPITAL AFTER DISCHARGE FROM SERVICE.

The Supreme Court of the District of Columbia has consistently held that the Superintendent has no authority to retain patients in Saint Elizabeths Hospital after they have been discharged from the military service (includes Navy and Marine Corps), unless they have been found to be of unsound mind in accordance with the civil laws of this jurisdiction. (Appendix F-2 and 4).

RESERVE
NAVAL AND MARINE CORPS/PERSONNEL

MEDICAL TREATMENT.

Members of the Naval Reserve and Marine Corps Reserve when on active duty being subject to the laws, regulations, and orders for the government of the regular Navy and being entitled to the same pay and allowances, are subject to the 20-cent deduction authorized by section 4808 R. S. (hospital tax), and are entitled to medical treatment under the same conditions as members of the regular Navy.

Any member of the Organized Reserve, Volunteer Reserve, or Merchant Marine Reserve who becomes ill or contracts a disease in line of duty during the performance of active duty or training duty with or without pay shall be entitled, at Government expense, to such medical, hospital, or other treatment as is necessary for the appropriate treatment of such illness or disease until the disability resulting from such illness or disease cannot be materially improved by further hospitalization or treatment, and to the necessary transportation and subsistence incident to such medical and hospital treatment and return to their homes when discharged therefrom. Treatment or hospitalization for such illness or disease shall not be continued for more than 10 weeks following discharge from active or training duty except on the approved recommendation of a Board of Medical Survey, consisting of one or more medical officers of the Navy or on authorization of the Surgeon General of the Navy based on the certificate of a reputable physician that the illness or disease is a continuation of the illness or disease which was sustained or contracted during the period of active or training duty and that further benefit will result from continued treatment. (Par. 7303, Bu.Nav. Manual).

NAVAL AND MARINE CORPS RESERVE PERSONNEL

All officers, nurses, warrant officers, and enlisted men of the United States Naval Reserve or United States Marine Corps Reserve, who, if called or ordered into active naval or military service by the Federal Government for extended naval or military service in excess of thirty days, suffer disability or death in line of duty from disease or injury while so employed shall be deemed to have been in the active naval service during such period, and they or their beneficiaries shall be in all respects entitled to receive the same pensions, compensation, retirement pay, and hospital benefits as are now or may hereafter be provided by law or regulation for officers, warrant officers, nurses, and enlisted men of corresponding grades and length of service of the Regular Navy or Marine Corps:
Provided, That if a person who is eligible for the benefits prescribed by this Act be also eligible for pension under the provisions of the Act of June 23, 1937 (50 Stat. 305), compensation from the United States Employees' Compensation Commission under the provisions of section 304 of the Naval Reserve Act of 1938 (52 Stat. 1181) or retired pay under the provision of section 310 of the Naval Reserve Act of 1938 (52 Stat. 1183), he shall elect which benefit he shall receive. (Sec. 4, Public No. 775--76th Congress, Chapter 694 - 3d Session).

Approved August 27, 1940.

NAVAL AND MARINE CORPS RESERVE PERSONNEL

TREATMENT IN CIVIL HOSPITALS.--When medical officers and medical facilities of the Navy are not available, treatment may be procured for the personnel on active or training duty from sources outside of the Navy under the following conditions: For injuries received in the line of duty, necessary treatment will be furnished at the expense of the Navy only during the period of active or training duty, upon the expiration of which they come under the jurisdiction of the Employees' Compensation Commission (except as noted in par. 3175); those who become ill or contract diseases in the line of duty during the period of active or training duty, with or without pay, are entitled to necessary medical, hospital or other treatment during the period of recovery. Treatment in such cases shall not be continued for more than ten weeks following discharge from active or training duty, except on the approved recommendation of a board of medical survey or on authorization of the Surgeon General of the Navy. (Naval Reserve Act of 1938). When the disability of a reservist, incurred while on active or training duty, necessitates his retention in a hospital other than naval or medical treatment from other than a navy medical officer beyond the period of active duty, telegraphic instructions shall be requested from the Bureau, giving diagnosis, prognosis and present condition, with information as to the practicability of removal to a naval or other government hospital in appropriate cases. (Par. 3172, M.M.D.)

AVIATION CADETS.--Aviation cadets (U. S. Naval Reserve) while on active duty or active duty undergoing training are entitled to medical treatment under the same conditions as other members of the Naval Reserve and Marine Corps Reserve except that when suffering from sickness or injury incurred in line of duty while performing active duty, they may, in the discretion of the Secretary of the Navy, be retained on such active duty status beyond the specified date of termination thereof. (Par. 3169, M.M.D.)

NAVAL AND MARINE CORPS RESERVE PERSONNEL

INACTIVE NOT ENTITLED TO MEDICAL OR HOSPITAL TREATMENT.--

While in an inactive status, members of the Naval Reserve and Marine Corps Reserve (with the exception next noted) are not entitled to medical or hospital treatment. (Par. 3170, M.M.D.)

Members of the Naval Reserve Force or of the Naval Reserve, while in an inactive status on and after July 1, 1925, will not be entitled to admission to Saint Elizabeths Hospital under section 4843, Revised Statutes, as persons "belonging" to the Navy. (L.R.N.A., 1929 Supplement, page 340).

FLEET AND MARINE CORPS RESERVES (16 and 20 yr. men)

MAY BE COMMITTED TO SAINT ELIZABETHS HOSPITAL.--Retired personnel of the Navy and Marine Corps and enlisted men of the Fleet Reserve and Fleet Marine Corps Reserve, transferred thereto after 16 or more years of naval service, may be committed to Saint Elizabeths Hospital by the Navy Department. (Par. 2155(b), M.M.D.)

The Supreme Court of the District of Columbia has held that a transferred member of the Fleet Naval Reserve is subject to confinement in Saint Elizabeths Hospital. (In Re: Petition of Henri Stanley Lill for a Write of Habeas Corpus, decided in the Supreme Court of the District of Columbia, December 14, 1934.) (C.M.O. 1-1935, p. 9).

MEDICAL TREATMENT ON INACTIVE DUTY.--Enlisted men transferred to the Fleet Reserves after 16 or more years of service, on inactive duty, are entitled to naval hospital treatment and to naval medical treatment upon applying for same where such facilities or services are available. Treatment will be given under the same local rules as govern treatment of enlisted personnel of the Navy. They are not entitled to treatment by other than naval medical officers or in other than naval hospitals, except as provided by the act of January 19, 1929. (~~par. 2166~~) (also see par. 3168). (Par. 3171, M.M.D.) (Also see Par. 3168, M.M.D.)

CARE AND TREATMENT IN OTHER GOVERNMENT HOSPITALS.--Under provisions of an act of January 19, 1929, the Bureau is authorized to provide for the care and treatment, in Government hospitals other than naval, of officers and enlisted men of the Navy and Marine Corps, active and retired, and of members of the Naval Reserve or Marine Corps Reserve entitled to treatment in naval hospitals. Such hospitalization, however, is subject to three conditions: First, the authorization of the Bureau; second, the unavailability of appropriate naval hospital facilities; and, third, the consent of the authorities of other Government hospitals concerned. (Par. 2170(a), M.M.D.)

FLEET AND MARINE CORPS RESERVES (16 and 20 yr. men)

HOSPITALIZATION AND DOMICILIARY CARE BY THE VETERANS ADMINISTRATION. -- Officers and enlisted men:--Retired officers and enlisted men of the Army, Navy and Marine Corps and Coast Guard who served during a war period may be provided hospitalization and domiciliary care in a Veterans Administration Facility "on parity with other war veterans." Application should be made directly to the nearest Veterans Administration Hospital or Regional Office. For the purpose of hospitalization, the Veterans Administration holds that transferred members of the Fleet Reserve are retired enlisted men. Extending the privileges of the Veterans Administration hospitals to the retired officers and men who are veterans "on parity with other war veterans" makes them subject to the same regulations as govern other war veterans, and in some cases will subject them to a reduction in their retired or retainer pay. In other words, a retired officer, enlisted man, or a fleet reservist who has no dependents (neither wife, child nor dependent parent) will have his retired or fleet reserve pay reduced to \$15. per month while a patient in a Veterans Hospital, provided there exists a service-connected disability, and to \$6. per month if there is no service-connected disability on record. The retired officer or man or fleet reservist who has dependents will suffer no actual reduction in his retired or retainer pay, although he will receive only \$15. or \$6. as the case may be, and the balance will be apportioned to the dependents as the Administrator of Veterans Affairs may direct. (See Section 4, Act of July 19, 1939, Public No. 198-76th Congress).

TRANSFER TO FLEET NAVAL RESERVE OF INSANE MAN. --Where a man is qualified for transfer to the Fleet Naval Reserve under the provisions of Section 26 of the Naval Reserve Act of February 28, 1925 (34 U.S.C., sec. 787), he may legally be so transferred, regardless of the fact that he has been declared insane and because of such mental incapacity is incapable of submitting a request for such transfer. (See Court Martial Order No. 8-1935, pp. 8 and 9.)

RETIRED PERSONNEL

MAY BE COMMITTED TO SAINT ELIZABETHS HOSPITAL.--Retired personnel of the Navy and Marine Corps and enlisted men of the Fleet Reserve and Fleet Marine Corps Reserve, transferred thereto after 16 or more years of naval service, may be committed to Saint Elizabeths Hospital by the Navy Department. (Par. 2155(b), M.M.D.) (See Appendix "G", 3 and 4).

A retired officer of the Navy is a person in the naval service within the meaning of section 1551, Revised Statutes, and section 4843, Revised Statutes, as amended by act of February 9, 1900 (31 Stat. 7). (L.R.N.A., 1929 Supplement, page 339). (See Appendix "G", 1 and 2).

A retired officer of the Navy is still subject to jurisdiction of the Secretary of the Navy, within Revised Statutes, section 4843, and when committed to Saint Elizabeths Hospital by the direction of the Secretary of the Navy is not entitled to be discharged by writ of habeas corpus on the ground that his commitment was not authorized by that section. (L.R.N.A., 1929 Supplement, page 340) (Also see Appendix "G"-1 and 2).

SHOULD NOT BE ORDERED TO A NAVAL HOSPITAL FOR OBSERVATION.--A retired officer not on active duty who is deemed to be suffering from mental derangement should not be ordered to proceed to a naval hospital for observation and treatment unless his transfer thereto is requested by his legal guardian or is directed by the Secretary of the Navy. Such action on the part of the Secretary should be based on the facts and circumstances of each case, and is in general warranted only where the officer is given to acts of extreme violence, has been declared mentally deranged by the proper local civil authorities, or where his conduct is such as to bring opprobrium on the naval service. Where it appears to an individual in the naval service that an officer on the retired list not on active duty is apparently suffering from mental derangement, he should make a confidential report of the matter to the commandant of the naval district in which such officer is domiciled or sojourning, for investigation. Should the commandant deem the investigation to have developed facts warranting further action, he should make appropriate report and recommendation to the Secretary of the Navy. (L.R.N.A., 1929 Supplement, page 339).

RETIRED PERSONNEL

SECRETARY OF THE NAVY MAY ORDER APPREHENSION OF.--The Secretary of the Navy may order the apprehension and return to the hospital of a retired officer who has escaped from that institution and may direct naval personnel to carry out his orders for that purpose. (L.R.N.A., 1929 Supplement, page 339).

RETIRED ENLISTED MEN OF COAST GUARD.--Retired enlisted men of the Coast Guard are "persons belonging to" the Coast Guard within the meaning of the statute governing admission of insane persons into Saint Elizabeths Hospital, and are entitled to admission and treatment therein in the same manner and subject to the same conditions as retired enlisted men of the Army, Navy, and Marine Corps. (L.R.N.A., 1929 Supplement, page 339).

POLICY OF THE BUREAU OF MEDICINE AND SURGERY IS TO REQUEST ADJUDICATION BY CIVIL AUTHORITIES.--The present policy of the Bureau of Medicine and Surgery is to request that when a retired officer or retired enlisted man is under observation at a naval hospital on account of a mental condition and his transfer to Saint Elizabeths Hospital is contemplated, the necessary steps be taken, if practicable, to have him declared mentally incompetent by a local civil court, and that the report of medical survey recommending his transfer to Saint Elizabeths Hospital, or to the Naval Hospital at Washington, D. C. for further transfer to Saint Elizabeths Hospital, be accompanied by a certified copy of the court's action. (See Appendix "G"-3 and 4).

EX-SERVICE PERSONNEL

MAY BE ADMITTED TO SAINT ELIZABETHS HOSPITAL.--Section 4843, Revised Statutes, authorizes the admission to Saint Elizabeths Hospital of the following classes of ex-service personnel:

(a) Men who, while in the service of the United States, in the Army, Navy, or Marine Corps, have been admitted to the hospital, and have been thereafter discharged from it on the supposition that they have recovered their reason, and have, within three years after such discharge, become again insane from causes existing at the time of such discharge, and have no adequate means of support.

(b) Indigent insane persons who have been in either of the said services and been discharged therefrom on account of disability arising from such insanity.

(c) Indigent insane persons who have become insane within three years after their discharge from such service, for causes which arose during and were produced by said service.

HOSPITALIZATION AND DOMICILIARY CARE BY THE VETERANS ADMINISTRATION.--Under the regulations of the Veterans Administration provision is made for hospitalization or domiciliary care, in the facilities of that Administration, of naval personnel honorably discharged by reason of physical disabilities incurred or aggravated in line of duty during peace time enlistments. Included are those in need of hospital treatment for such diseases and injuries and those suffering with permanent disabilities, or tuberculosis, or neuro-psychiatric ailments which incapacitate them from earning a living and who have no adequate means of support. (Par. 2173(c) M.M.D.)

EX-SERVICE PERSONNEL (continued)

CASES TO BE REFERRED TO THE VETERANS ADMINISTRATION.--The Secretary of the Navy in a letter addressed to the Chief of the Bureau of Medicine and Surgery on September 13, 1933, directed that cases hereafter arising of which the Administrator of Veterans' Affairs has cognizance under the law shall be referred to that official for action. (See Appendix "B"-3). (Also see C.M.O. 9-1933, p. 7).

CASES TO BE CONFINED IN SAINT ELIZABETHS HOSPITAL ONLY IN ACCORDANCE WITH THE LAW.--The Superintendent of Saint Elizabeths Hospital, with the support of the Secretary of the Interior, has taken the position that an individual who has been discharged from the naval service can be confined in that institution only in accordance with the laws and procedure applicable to other civilians, that is, after a hearing in court, an adjudication of unsoundness of mind, and a commitment upon that basis; and the Navy Department will not issue orders for the commitment of former naval personnel so long as the Superintendent of Saint Elizabeths Hospital declines to accept such orders as lawful authority for him to keep such persons in custody. (See Appendix "F"-4).

NAVY CANNOT FURNISH TRANSPORTATION.--The Navy Department has no authority to pay the cost of any transportation or other expense involved in the readmission of ex-Service personnel to Saint Elizabeths Hospital.

NOT LINE OF DUTY CASES MAY BE ADMITTED TO SAINT ELIZABETHS HOSPITAL.--Ex-Service personnel whose admission to Saint Elizabeths Hospital is authorized by Section 4843, Revised Statutes, and who are not entitled to hospitalization or domiciliary care by the Veterans Administration may be admitted to Saint Elizabeths Hospital by direction of the Secretary of the Navy. Such cases include persons whose disability did not originate in the line of duty. (See Appendix "H"-1 and 2).

RE-ADMISSION TO U. S. PUBLIC HEALTH SERVICE HOSPITALS AT FORT WORTH, TEXAS AND LEXINGTON, KENTUCKY.--The procedure to be followed within a period of 3 years after their release therefrom. (See Appendix "H"-3).

EX-SERVICE PERSONNEL (continued)

APPROPRIATION AVAILABLE FOR BURIAL EXPENSES EX-SERVICE PERSONNEL.--The appropriation considered available for burial expenses of the remains of personnel re-admitted within 3 years to U. S. Public Health Service hospitals at Fort Worth, Texas and Lexington, Kentucky. (See Appendix "H"-3).

CASES TO BE REFERRED TO THE VETERANS ADMINISTRATION

1. The Administrator of Veterans' Affairs, within the limits of Veterans' Administration facilities, is authorized to furnish domiciliary or hospital care, including medical treatment, to the following persons and in the specified order of preference:

(a) To honorably discharged veterans of any war, including the Boxer Rebellion and the Philippine Insurrection, who are suffering with injuries or diseases which were incurred or aggravated in line of duty in the active military or naval service when in need of hospital treatment for such injuries or diseases;

(b) To persons honorably discharged from the United States Army, Navy, Marine Corps, or Coast Guard for disabilities incurred in line of duty, who are suffering with injuries or diseases which were incurred or aggravated in line of duty in the active military or naval service when in need of hospital treatment for such injuries or diseases;

(c) To honorably discharged veterans of any war, including the Boxer Rebellion and the Philippine Insurrection, who served in the active military or naval service for a period of ninety days or more who are suffering with permanent disabilities or tuberculous or neuro-psychiatric ailments, which incapacitate them from earning a living, and who have no adequate means of support;

(d) To persons honorably discharged from the United States Army, Navy, Marine Corps, or Coast Guard for disabilities incurred in line of duty, who served in the active military or naval service for a period of ninety days or more, who are suffering with permanent disabilities or tuberculous or neuro-psychiatric ailments, which incapacitate them from earning a living, and who have no adequate means of support.

2. The Secretary of the Navy in a letter addressed to the Chief of the Bureau of Medicine and Surgery on September 13, 1933, directed that cases hereafter arising of which the Administrator of Veterans' Affairs has cognizance under the law shall be referred to that official for action. (see Appendix "B"-3).

VETERANS ADMINISTRATION FACILITIES

(Par. 2173, M.M.D.)

PERSONNEL ON THE ACTIVE LIST.--Officers and enlisted men of the Navy and Marine Corps on the active list, and members of the Naval Reserve and Marine Corps Reserve when on active duty status, may be admitted to Veterans Administration facilities upon authority from the Medical Director, Veterans Administration, Washington, D. C., or upon request made by their immediate commanding officers upon the manager of a facility in the regional area in which the immediate commanding officer is stationed.

For Navy personnel on active duty all transportation, including attendants, if necessary, incident to admission to and discharge from Veterans Administration facilities will be supplied by the Navy Department. At a sufficient time in advance of contemplated discharge of a Navy patient from a facility, the manager will directly notify the proper naval authority (as shown on the back of Form 2557) of the impending discharge, and will request transportation to be forwarded for the patient's return travel. If an attendant or attendants will be required to accompany the patient upon discharge, the manager will so state in his communication requesting the forwarding of return transportation.

RETIRED PERSONNEL.--Retired personnel (including enlisted men transferred to the Fleet Reserve or Fleet Marine Corps Reserve after 16 or more years of service) may be admitted to Veterans Administration facilities as naval patients under an act of January 19, 1929 (par. 2170) on request of the Bureau and approval by the Medical Director, Veterans Administration, in which case hospital charges will be billed to the Bureau for settlement.

The above classes of personnel also may be admitted to Veterans Administration facilities as patients of the Veterans Administration, provided that a part, at least, of their active service was war service. Application should be made directly to the Veterans Administration facility in which hospitalization is desired. Transportation expenses to and from the facility will be at the expense of the applicant.

EX-SERVICE PERSONNEL.--Under the regulations of the Veterans Administration provision is made for hospitalization or domiciliary care, in the facilities of that Administration, of naval personnel honorably discharged by reason of physical disabilities incurred or aggravated in line of duty during peace time enlistments. Included are those in need of hospital treatment for such diseases and injuries and those suffering with permanent disabilities, or tuberculosis, or neuropsychiatric ailments which incapacitate them from earning a living and who have no adequate means of support.

The procedure for transfer to a Veterans Administration facility is set forth in paragraph 2122(d).

VETERANS ADMINISTRATION
NEUROPSYCHIATRIC FACILITIES

<u>Address</u>	<u>Manager</u>
American Lake, Washington	Dr. George R. Stalter
Augusta, Georgia	Dr. Marion L. Compton
Bedford, Massachusetts.	Dr. Winthrop Adams
Camp Custer, Michigan	Dr. Harry G. Clarke
Canandaigua, New York	Dr. Hans Hansen
Chillicothe, Ohio	Dr. Harry H. Botts
Coatesville, Pennsylvania	Dr. Appleton H. Pierce
Danville, Illinois	Dr. John A. Pringle
Ft. Lyon, Colorado	Dr. Clarence R. Miller
Gulfport, Mississippi	Dr. George M. Melvin
Knoxville, Iowa	Dr. O. C. Willhite
Lexington, Kentucky	Mr. Silas B. Dishman, Jr.
Lyons, New Jersey	Mr. M. E. Head
Marion, Indiana	Dr. Dennis J. Murphy
Mendota, Wisconsin	Dr. Frank E. Leslie
Northampton, Massachusetts	Dr. William M. Dobson
North Chicago, Illinois	Dr. Delmar Goode
North Little Rock, Arkansas	Dr. John H. Baird
Northport, L. I., New York	Dr. George F. Brewster
Palo Alto, California	Dr. P. G. Lasche
Perry Point, Maryland	Dr. Duncan D. Campbell
Roanoke, Virginia	Dr. Edwin W. Jordan
Roseburg, Oregon	Col. Elon F. Tandy
Sheridan, Wyoming	Dr. Richard W. Soper
St. Cloud, Minnesota	Dr. Roger P. Wentz
Waco, Texas	Dr. Harry Rubin

NAVY AND MARINE CORPS PATIENTS
IN SAINT ELIZABETHS HOSPITAL

MEDICAL ATTENTION.--A medical officer of the Navy is assigned to duty at Saint Elizabeths in addition to his duty at the Naval Hospital, Washington, and as an instructor at the Naval Medical School, and he is by courtesy a member of the Saint Elizabeths staff. His duties are that he shall constantly visit all Naval and Marine Corps patients, both active and retired of the regular Navy, and also, reservists, and that he shall prepare and handle all records, surveys, correspondence, etc., in connection therewith, but his care and keeping of records automatically ceases when the patients are discharged from the service, even though they are retained at the hospital for further treatment. (See Appendix "I"). (Also Appendix "C").

FINANCIAL AFFAIRS.--The law which authorizes the establishment of Saint Elizabeths Hospital provides that the Superintendent of that institution shall: "subject to the approval of the board of visitors, appoint a responsible disbursing agent for the institution, who shall give a bond satisfactory to the Secretary of the Interior, and the said superintendent shall engage and discharge all needful and useful employees in the care of the insane and all laborers on the farm and determine their wages and duties; he shall also be an ex officio secretary of the board of visitors. The said disbursing agent, under the direction of the superintendent, shall have the custody of and pay out all moneys appropriated by Congress for the Government Hospital for the Insane, or otherwise received for the purposes of the hospital, and all moneys received by the superintendent in behalf of the hospital or its patients, and keep an accurate account or accounts thereof. The said disbursing agent shall deposit in the Treasury of the United States under the direction of the superintendent, all funds now in the hands of the superintendent or which may hereafter be intrusted to him by or for the use of patients, which shall be kept in a separate account; and the said disbursing agent is authorized to draw therefrom, under the direction of the said superintendent, from time to time, under such regulations as the Secretary of the Interior may prescribe, for the use of such patients, but not to exceed for any one patient the amount intrusted to the superintendent on account of such patient."

NAVY AND MARINE CORPS PATIENTS
IN SAINT ELIZABETHS HOSPITAL

ADJUDICATION AND COMMITMENT.--Very few of the Navy and Marine Corps patients at Saint Elizabeths Hospital have been adjudged insane and legally committed by a civil court. The majority of these patients have been transferred to that institution upon the approved recommendation of boards of medical survey and by direction of the Secretary of the Navy. Such persons have not been declared mentally incompetent by civil authority, and have the legal right to receive their pay, endorse checks and disburse funds under the supervision of the Superintendent of the Hospital. (See Appendix "J").

The Superintendent of Saint Elizabeths Hospital, with the support of the Secretary of the Interior, has taken the position that an individual who has been discharged from the naval service can be confined in that institution only in accordance with the laws and procedures applicable to other civilians; that is, after a hearing in court and adjudication of unsoundness of mind, and a commitment upon that basis. (See Appendix "F"-4).

The Supreme Court of the District of Columbia has consistently held that the Superintendent has no authority to retain patients in Saint Elizabeths Hospital after they have been discharged from the service, unless they have been found to be of unsound mind in accordance with the civil laws of this jurisdiction. (See Appendix "F" -2).

Once adjudged insane, the status of the individual remains fixed until it is voided or revoked by law. Should the individual recover his sanity, he may petition the court for a writ of supersedeas to set aside the finding of the commission in lunacy. At any time during his sojourn in the asylum, a person adjudged insane may apply for a writ of habeas corpus, which, if granted, brings on an inquiry as to the sanity of the individual, or may secure a mandamus for a writ of discharge.

NAVY AND MARINE CORPS PATIENTS
IN SAINT ELIZABETHS HOSPITAL

GUARDIANSHIP.--There is no provision of law authorizing or requiring the appointment of a guardian at public expense for an enlisted member in the active naval service while a patient in Saint Elizabeths Hospital. Whether or not a guardian should be appointed in the case of an enlisted man who is a patient in Saint Elizabeths Hospital and a known mental incompetent is primarily a matter of immediate concern to the man's relatives. In any such case it would appear that the relatives should be advised of the man's mental condition and of the desirability of having a guardian appointed in his case. Should none of his relatives apply for appointment as guardian, it would then appear that any other person who is interested in the future welfare and comfort of the man may then properly apply for guardianship.

Whether or not a member of the naval service or other Government official or employee should petition the court for appointment as guardian in any such case is, of course, a matter of private concern. It should be stated in this connection that if any such person should apply for and obtain appointment as guardian, there is no existing authority of law or available naval appropriation under which he might be reimbursed for expenses incurred in securing such appointment. (See Appendix "K").

An officer's pay is paid direct to him except in the event that he has been legally adjudged insane, in which case payment is made to his guardian or to the conservator of his estate. (L.R.N.A., 1929 Supplement, p. 341).

Without the appointment of a guardian or committee, there appears to be no authority for the payment of pay accruing to an officer to any person other than the officer himself. Where an officer is a patient in Saint Elizabeths Hospital, emergency payments may not be made to his wife without waiting for the appointment of a guardian. The Secretary of the Navy has no discretion which he may exercise to give relief to the officer's wife. (Section 4843, Revised Statutes, page 342).

NAVY AND MARINE CORPS PATIENTS
IN SAINT ELIZABETHS HOSPITAL

SUBSISTENCE.--Commissioned officers of the Army, Navy and Marine Corps, both on active and retired lists, who are admitted to Saint Elizabeths Hospital under orders of the Secretary of War or Navy, respectively, are not entitled while undergoing treatment in said institution, to subsistence at the expense of the Government. (4 Comp. Gen. 934-May 12, 1925).

Insane retired officers of the Army, Navy and Marine Corps are not veterans within the meaning of that portion of Section 202 (10) of the World War Veterans Act (43 Stat. 620), authorizing treatment by the Veterans' Bureau x x x x x x x , and may not, therefore, be relieved of the one dollar per day subsistence charge while inmates of Saint Elizabeths Hospital. (See Appendix "L").

Under Section 11, Act of June 10, 1922 (42 Stat. 630), warrant officers of the Army, Navy, Marine Corps and Coast Guard are for subsistence purposes on the same basis as commissioned officers of such services when admitted to Saint Elizabeths Hospital for treatment, and are subject to the one dollar per day subsistence charge while inmates. (6 Comp. Gen. 550, Feb. 24, 1927).

Non-commissioned officers of the Army, chief petty officers and petty officers of the Navy and similar grades in other services are enlisted men, and may be admitted to Saint Elizabeths Hospital for treatment without expense to themselves. (6 Comp. Gen. 550, Feb. 24, 1927).

The pay of an officer, active or retired, cannot be checked to pay for subsistence while he is a patient at Saint Elizabeths Hospital. If a guardian has been appointed by the courts, collection of charges for subsistence is a matter between the hospital and the guardian, and if the guardian refuses payment, legal redress may be obtained through the courts. (See Appendix "M"). (Also C.M.O. 5-1936, p. 7).

NAVY AND MARINE CORPS PATIENTS
IN SAINT ELIZABETHS HOSPITAL

ALLOWANCES FOR PERSONAL EXPENSES.--The Secretary of the Navy has no authority to increase allowances made to patients at Saint Elizabeths Hospital for personal expenses. (See Appendix "N").

DISPOSITION OF PATIENTS IN ST. ELIZABETHS HOSPITAL

(a) COMMISSIONED AND WARRANT OFFICERS.

(1) Commissioned and warrant officers under treatment in St. Elizabeths Hospital shall be returned to a duty status only upon the approved recommendation of a board of medical survey.

(2) As soon as it becomes definitely established that a commissioned or warrant officer under treatment in St. Elizabeths Hospital is permanently incapacitated for active service, he shall be surveyed and recommendation made that he appear before a retiring board.

(b) ENLISTED PERSONNEL. -- Before disposition is made of enlisted men of the Navy or Marine Corps under treatment in St. Elizabeths Hospital, a medical survey shall be held. If they are found definitely insane, recommendation for disposition shall be made, as follows:

(1) Men who are able to care for themselves, and who will not be a menace to themselves or to the community, will be discharged from the service and from treatment at St. Elizabeths Hospital.

(2) When it is deemed advisable, patients in St. Elizabeths Hospital may be discharged from the service and delivered into the custody of the next of kin upon written request and receipt.

(3) Patients who require permanent or prolonged treatment will be discharged from the service and retained in St. Elizabeths Hospital. (Par. 2158, M.M.D.)

INSANITY PROCEEDINGS IN THE DISTRICT OF
COLUMBIA

The District of Columbia has a "Commission on mental health" which examines alleged insane persons and makes reports and recommendations to the court as to the necessity of their treatment and commitment. This Commission consists of nine (9) members; one lawyer and eight (8) physicians, all of whom must be residents of the District of Columbia. The lawyer is the chairman and devotes his entire time to the Commission. He and any two of the physicians have power to act. The Commission acts under the direction of the Equity Court of the District Court of the United States for the District of Columbia.

Petitions for the adjudication or commitment of alleged insane persons are referred to the Commission on mental health for report and recommendation. The Commission examines the person, questions his relatives, friends, etc., and if the Commission finds the person to be mentally incompetent, he is notified to appear in the Equity Court for a hearing. At all hearings, the person alleged to be insane has the right to be represented by counsel.

Upon the receipt of the report and recommendation of the Commission, a copy shall be served personally upon the alleged insane person, his guardian ad litem, or his attorney, if he has one, together with notice that he has five days within which to demand a jury trial. A demand for hearing by the court, or a demand for jury trial for the purpose of determining the sanity or insanity of the alleged insane person may be made by the said alleged insane person or by anyone in his behalf, or a jury trial may be ordered by the court upon its own motion.

INSANITY PROCEEDINGS IN THE DISTRICT OF
COLUMBIA (continued)

If no demand be made for a jury trial, the judge holding court shall determine the sanity or insanity of said alleged insane person, but such judge may, in his discretion, require other proofs, in addition to the petition and report of the Commission, or such judge may order the temporary commitment of said alleged insane person for observation or treatment for an additional period of not more than thirty days. The judge may, in his discretion, dismiss the petition notwithstanding the recommendation of the Commission. If the judge be satisfied that the alleged insane person is of sound mind, he shall forthwith discharge such person and dismiss the petition.

If the judge be satisfied that the alleged insane person is insane, or if a jury shall so find, the judge may commit the insane person as he in his discretion shall find to be for the best interests of the public and of the insane person.

Persons alleged to be insane in the District are usually sent to Gallinger Municipal Hospital. The Superintendent of that Hospital may transfer such persons to Saint Elizabeths Hospital at any time within 30 days after their apprehension and detention. The Superintendent of Saint Elizabeths Hospital has authority to receive and detain persons so transferred at the expense of the District of Columbia.

If any person while a patient at the Gallinger Municipal Hospital under observation for a mental condition cannot be cared for or treated adequately at that hospital, or if in need of treatment which cannot be given properly there, the Superintendent may transfer such persons to Saint Elizabeths Hospital.

(TITLE 16, DISTRICT CODE)

LAWS, REGULATIONS AND INSTRUCTIONS

RELATING TO
CARE OF THE INSANE

APPENDIX A

Copy of letter dated July 14, 1938 from the Chief of the Bureau of Medicine and Surgery to the Judge Advocate General re: care of the insane of the Navy on the West Coast.

APPENDIX B(1)

Copy of letter DJO'B:LC PQ&MR 126702(111) dated November 15, 1924 from the Chief of the Bureau of Medicine and Surgery to the Director, U. S. Veterans' Bureau, Washington, D. C. re: disposition of insane members of the naval service on the West Coast.

APPENDIX B(2)

Copy of letter GAR: DSM: mb:O.233 dated December 13, 1924 from the Medical Director, U. S. Veterans Bureau to the Bureau of Medicine and Surgery in reply to Appendix B(1).

APPENDIX B(3)

Copy of letter MM/P3-2(330824) over CA-KE dated September 13, 1933 from the Secretary of the Navy to the Chief of the Bureau of Medicine and Surgery directing that cases hereafter arising of which the Administrator of Veterans Affairs has cognizance be referred to that official for action.

APPENDIX B(4)

Copy of letter dated April 16, 1935 from the Director of Public Welfare, District of Columbia to the Bureau of Medicine and Surgery requesting that William W. Miller, ex-Torpedoman first class, U. S. Navy, be admitted to Saint Elizabeths Hospital.

APPENDIX B(5)

Copy of letter MM/P3-2(330824-3) over J:fmh dated December 2, 1936 from the Judge Advocate General to the Chief of the Bureau of Medicine and Surgery directing that Claude Milton Boss, ex-Private, U. S. Marine Corps, be referred to the Veterans Administration.

APPENDIX C

Copy of letter P3-1/L1(051) dated May 7, 1927 from the Chief of the Bureau of Medicine and Surgery to the Chief of the Bureau of Navigation re: transportation of insane supernumerary patients.

APPENDIX D

Copy of order for admission of an insane patient to Saint Elizabeths Hospital.

APPENDIX E

Sample of Department of Interior Form 12-3 (Medical Certificate).

APPENDIX F(1)

Copy of letter MM/P3-2(330106) dated January 30, 1933 from the Secretary of the Navy to the Secretary of the Interior requesting that the Superintendent of Saint Elizabeths Hospital be required to retain Navy patients until cured or released by the Secretary of the Navy.

APPENDIX F(2)

Copy of letter dated February 3, 1933 from the Superintendent of Saint Elizabeths Hospital to the Secretary of the Interior replying to Appendix F(1).

APPENDIX F (3)

Copy of letter dated February 18, 1933 from the Secretary of the Interior to the Secretary of the Navy in reply to Appendix F(1).

APPENDIX F(4)

Copy of letter P3-1/E 120(063) dated January 30, 1934 from the Superintendent of Saint Elizabeths Hospital to the Bureau of Medicine and Surgery re: retention of Navy patients in Saint Elizabeths Hospital after they have been discharged from the naval service.

APPENDIX G(1)

Copy of decision of the Court of Appeals of the District of Columbia on May 2, 1927 re: Charles E. Treibly (MC), USN, Retired.

APPENDIX G(2)

Copy of the decision Justice Proctor, District Court of the United States for the District of Columbia on October 24, 1939 re: Major Harold R. Rivers, U. S. Army, Retired.

APPENDIX G(3)

Copy of letter P3-144854 dated March 30, 1940 from the Chief of the Bureau of Medicine and Surgery to the Commanding Officer, U. S. Naval Hospital, Great Lakes, Illinois re: adjudication of retired personnel by civil authorities.

APPENDIX G(4)

Copy of a letter P3-1/El20(041) dated April 2, 1940 from the Chief of the Bureau of Medicine and Surgery to the Judge Advocate General re: admission of retired officers and retired enlisted men to Saint Elizabeths Hospital.

APPENDIX H(1)

Copy of a letter dated March 21, 1940 from the Medical Director, Veterans Administration to the Bureau of Medicine and Surgery re: Melving E. Neville, ex-Apprentice Seaman, USN, whose disability was incurred not in the line of duty.

APPENDIX H(2)

Copy of a letter MM/P3-2(361026-1) over J:fmh dated April 29, 1940 from the Judge Advocate General to the Secretary of the Navy authorizing the admission of Melvin Neville, ex-Apprentice Seaman, U. S. Navy, to Saint Elizabeths Hospital.

APPENDIX I

Copy of a letter MM/P3-1(4)/El20(261019) dated November 2, 1926 from the Secretary of the Navy to the Comptroller General of the United States re: Navy patients in Saint Elizabeths Hospital.

APPENDIX J

Copy of a narrative report submitted by the Field Director, American Red Cross at Saint Elizabeths Hospital re: Navy Patients in Saint Elizabeths Hospital.

APPENDIX K

Copy of letter MM(1)/P7(390124) dated February 8, 1939 from the Judge Advocate General to the Medical Officer in Charge, Naval Detail, Saint Elizabeths Hospital, Washington, D. C. re: appointment of guardians for Navy patients in Saint Elizabeths Hospital.

APPENDIX L(1)

Copy of a letter dated April 7, 1925 from the Assistant to the Superintendent of Saint Elizabeths Hospital to the Secretary of the Interior re: ration checkages of officer patients in Saint Elizabeths Hospital.

APPENDIX L(2)

Copy of a letter dated May 12, 1925 from the Comptroller General of the United States to the Secretary of the Interior re: subsistence of officers of the Army, Navy and Marine Corps while patients in Saint Elizabeths Hospital.

APPENDIX M

Copy of letter OO/Pl3-11(381026) over K Du dated December 20, 1938 from the Secretary of the Navy to the Secretary of the Interior re: charges for subsistence of Navy patients in Saint Elizabeths Hospital.

APPENDIX N

Copy of letter L16-4(21)(370116) over K Du dated February 1, 1937 from the Judge Advocate General to the Officer in Charge of Navy and Marine Corps patients, Saint Elizabeths Hospital, re: allowances for personal expenses in the case of Gilbert A. Jones, Lieutenant (SC), USN, Retired, a patient in Saint Elizabeths Hospital.

APPENDIX O

Information regarding the care and treatment of Navy patients in Saint Elizabeths Hospital, furnished by the Chief Pharmacist's Mate in that institution.

APPENDIX P, P-1, P-2, P-3, P-4.

Copy of letter authorizing West Coast Hospitals to send patients direct to USPHS Hospital, Fort Worth, Texas., instead of to Mare Island for further transfer to St. Elizabeths Hospital. And, other data concerning subject cases.

APPENDIX Q - 1 - 2 - 3 - 4.

Hospitalization of insane members of the U. S. Coast Guard, while the Coast Guard is a part of the Navy.

APPENDIX R, R - 1

Correspondence concerning bills incurred by ex- service personnel while patients in St. Elizabeths Hospital.

APPENDIX H - 3

Letter from Secretary of the Navy to Surgeon General, Public Health Service re: Re-admission of ex-service personnel to U. S. Public Health Service hospitals at Fort Worth, Texas and Lexington, Kentucky, within a period of 3 years after they have been discharged therefrom; and appropriation available for burial expenses.

C-LEH

14 July 1938.

From: The Chief of the Bureau of Medicine and Surgery.
To: The Judge Advocate General.
Subject: Appropriation "Medical Department" 1940;
proposed change in language of.

1. For the fiscal year 1940 it is recommended that the language of the appropriation "Medical Department", as it appears in the Naval Appropriation Act for the fiscal year ending June, 1939, be modified by striking out the following language: "for the care, maintenance, and treatment of the insane of the Navy and Marine Corps on the Pacific Coast, including supernumeraries held for transfer to Saint Elizabeths Hospital."

2. The above language was inserted in this appropriation many years ago as a basis for a contract between the Navy Department and the Department of Institutions, State of California, providing for the treatment of insane persons of the Navy and Marine Corps of the United States at the Mendocino State Hospital and at the Napa State Hospital of California.

3. The last contract with the Department of Institutions, State of California, for this purpose covered the fiscal year 1931, but no use of these annual contracts had been made for several years prior to that date as over-crowded conditions at both hospitals had made it impossible for them to receive Naval patients. In the meantime, the facilities of the Naval Hospital, Mare Island, Calif., were increased so that it was possible to provide in that hospital for the temporary care of the insane of the Navy on the West Coast until such time as transfer to St. Elizabeths Hospital in Washington, D. C., could be effected. With the present facilities at the Mare Island Naval Hospital, and the policy of two or more yearly group transfers to St. Elizabeths Hospital, the subject language has no present or prospective usefulness or effect.

P. S. ROSSITER.

November 15, 1924.

From: The Chief of the Bureau of Medicine and Surgery.
To: The Director, U. S. Veterans' Bureau, Washington, D. C.
Subject: Disposition of insane members of the Naval Service on the West Coast who are entitled, subsequent to discharge, to hospitalization and treatment in institutions under the jurisdiction of the Veterans' Bureau.

1. The attention of this Bureau has been invited to the increasing difficulty existing on the West Coast in obtaining the necessary authority from District Managers of Veterans' Bureau Districts Nos. 12 and 13, relative to the transfer, hospitalization, and treatment of insane members of the Naval Service who, when discharged, are clearly entitled to treatment in institutions under the jurisdiction of the Veterans' Bureau in accordance with provisions of the World War Veterans' Act of June 7, 1924.

2. The District Manager of District No. 13, under date of October 28, 1924, stated in effect that there were no available facilities in the Veterans' Bureau hospitals within that district for the treatment of insane patients. It also appears from information on file in this Bureau that the Manager of District No. 12 states that there are no vacancies in the Veterans' Bureau hospitals in that district for the care of said class of cases.

3. The Navy Department has no facilities on the West Coast for the care and threatment of insane patients, and, at present, insane members of the Naval Service, not entitled to treatment from the Veterans' Bureau, are cared for at the Napa State Hospital until such time as their transfer to Saint Elizabeth's Hospital, Washington, D. C., may be accomplished. It is, therefore, urgently recommended that steps be taken to facilitate the prompt transfer of insane patients, eligible for hospitalization under the provisions of the World War Veterans' Act of June 7, 1924, to Veterans' Bureau hospitals in Districts Nos. 12 and 13, or that arrangements be made for their care and treatment at state institutions in the states of California, Oregon, and Washington, as it would appear from information on file that there are at present a number of Veterans' Bureau insane patients being cared for in state institutions.

E. R. STITT

UNITED STATES VETERANS BUREAU
WASHINGTON

13 December 1924.

GAR: DSM: mb:0.233

Bureau of Medicine and Surgery,
Navy Department,
Washington, D. C.

Attention: Mr. D. J. O'Brien,
Room 1321, Navy Bldg.

Dear Sir:

This will acknowledge receipt of communication dated November 15, 1924, DJO'B:IC PQ&MR 126702(111), and memorandum of December 1, 1924, respectively, relative to disposition of insane members of the Naval Service on the West Coast who are entitled, subsequent to discharge, to hospitalization and treatment in institutions under the jurisdiction of the Veterans' Bureau.

In view of the fact that there are no available vacancies in the Veterans' Bureau hospitals, for the treatment of insane patients within Districts No. 12 and No. 13 at the present time and the further fact that this Bureau is unable to execute a contract with the Napa State Hospital, Imola, California, the Bureau will authorize hospitalization and treatment of those patients having a legal residence on the West Coast who, when discharged, are clearly entitled to such care and treatment in institutions under the jurisdiction of the Veterans' Bureau in accordance with the provisions of the World War Veterans' Act of June 7, 1924, at St. Elizabeth's Hospital, Washington, District of Columbia, it being understood that such patients will be discharged from the U. S. Navy into the custody of the Veterans' Bureau at the door of the hospital. In each case where it appears that the patient has a legal residence in the 12th or 13th Veterans' Bureau Districts, which comprise the states of Washington, Oregon, Idaho, Nevada, Arizona and California a request may be made to the Central Office or to the Regional Manager of the State of residence of the claimant for assignment to a hospital.

It is requested that an Abstract of Medical History be furnished in each case.

For the Director:

E. O. Crossman,
Medical Director.

COPY

DEPARTMENT OF THE NAVY
WASHINGTON, D.C.

File MM/P3-2(330824)
CA-KE

September 13, 1933.

From: The Secretary of the Navy.
To: The Chief of the Bureau of Medicine and Surgery.
Subject: BYNE, Thomas, alias KELLY, Thomas, Ex-Coal Passer, U. S. Navy - authority for admission to Saint Elizabeths Hospital.
References: (a) Bu.M.&S. letter P3-1/EL20(063), dated June 14, 1933.
(b) J.A.G. File MM(1)/P3-2(330614), dated August 9, 1933.
(c) Bu.M&S. letter P3-1229526, August 24, 1933.

1. It appears from reference (c) and enclosures therewith that the above named man is a veteran of the Spanish-American War; that in 1906, while still in the naval service, he was committed to Saint Elizabeths Hospital by order of the Secretary of the Navy pursuant to section 4843, Revised Statutes (U.S.Code, title 24, sec. 191); that shortly thereafter he was discharged from the naval service by reason of expiration of enlistment, but was retained in Saint Elizabeths Hospital for treatment until he escaped from that institution in September 1932; and that he is now in the custody of the State of New York Department of Medical Hygiene, which has requested that the Secretary of the Navy issue authority for his return to Saint Elizabeths Hospital. The Bureau asks whether the Secretary of the Navy has authority to readmit this man to Saint Elizabeths Hospital, and whether section 4843, Revised Statutes (U.S. Code, title 24, sec. 191) has been repealed in part by the Maintenance of Credit Act approved March 20, 1933.

2. The action to be taken in this case is indicated by the following provision in Title I of the Maintenance of Credit Act, approved March 20, 1933 (Public No. 2) as amended by the Independent Offices Appropriation Act of June 16, 1933 (Public No. 78, p. 20):

"In addition to the pensions provided in this title the Administrator of Veterans' Affairs is hereby authorized under such limitations as may be prescribed by the President, and within the limits of existing Veterans' Administration facilities, to furnish to men discharged from the Army, Navy, Marine Corps, or Coast Guard for disabilities incurred in line of duty and to veterans of any war, including the Boxer rebellion and the Philippine insurrection, domiciliary care where they are suffering with permanent disabilities, tuberculosis, or neuropsychiatric ailments and medical and hospital treatment for diseases or injuries."

COPY

3. The limitations prescribed by the President pursuant to the above enactment are embodied in Executive Order No. 6232 of July 28, 1933 (Veterans Regulation No. 6(a)), which reads in part as follows:

"The Administrator of Veterans' Affairs, within the limits of Veterans' Administration facilities, is authorized to furnish domiciliary or hospital care, including medical treatment, to the following persons and in the specified order of preference:

"(a) To honorably discharged veterans of any war, including the Boxer Rebellion and the Philippine Insurrection, who are suffering with injuries or diseases which were incurred or aggravated in line of duty in the active military or naval service when in need of hospital treatment for such injuries or diseases;

"(b) To persons honorably discharged from the United States Army, Navy, Marine Corps, or Coast Guard for disabilities incurred in line of duty, who are suffering with injuries or diseases which were incurred or aggravated in line of duty in the active military or naval service when in need of hospital treatment for such injuries or diseases;

"(c) To honorably discharged veterans of any war, including the Boxer Rebellion and the Philippine Insurrection, who served in the active military or naval service for a period of ninety days or more who are suffering with permanent disabilities or tuberculous or neuro-psychiatric ailments, which incapacitate them from earning a living, and who have no adequate means of support;

"(d) To persons honorably discharged from the United States Army, Navy, Marine Corps, or Coast Guard for disabilities incurred in line of duty, who served in the active military or naval service for a period of ninety days or more, who are suffering with permanent disabilities or tuberculous or neuropsychiatric ailments, which incapacitate them from earning a living, and who have no adequate means of support.

* * * * *

COPY

"The Administrator of Veterans' Affairs is authorized to continue hospital care of those persons properly admitted under the laws in effect prior to March 20, 1933, until such time as they may be discharged without jeopardizing their health or life."

4. In view of the foregoing, the Bureau will take the necessary steps, to refer the case of the subject named man to the Administrator of Veterans' Affairs for appropriate action.

5. The Secretary of the Navy does not find it necessary at this time to determine whether or not the Maintenance of Credit Act repeals section 4843, Revised Statutes (24 U.S.C., sec. 191), in so far as that section provides for admitting former members of the Navy and Marine Corps to Saint Elizabeths Hospital. Cases hereafter arising of which the Administrator of Veterans' Affairs has cognizance under the above quoted law and Executive order will be referred to that official for action. As to former naval personnel whose cases do not come under the jurisdiction of the Administrator of Veterans' Affairs as defined in the above quoted executive order, the parties in interest will be informed that the superintendent of Saint Elizabeths Hospital, with the support of the Secretary of the Interior, has taken the position that an individual who has been discharged from the naval service can be confined in that institution only in accordance with the laws and procedure applicable to other civilians, that is, after a hearing in court, an adjudication of unsoundness of mind, and a commitment upon that basis; and that the Navy Department will not issue orders for the commitment of former naval personnel so long as the Superintendent of Saint Elizabeths Hospital declines to accept such orders as lawful authority for him to keep such persons in custody.

/s/ H. L. ROOSEVELT
Acting.

COPY

BOARD OF PUBLIC WELFARE
District of Columbia

April 16, 1935.

Re: MILLER, William W.
C 908 680

Your file - P3-1262399

Mr. O.J.Mink, Acting Chief,
Bureau of Medicine and Surgery,
Department of the Navy,
Washington, D. C.

Dear Sir:

In further reference to your letter of November 30, 1934 in regard to the above named patient, who is being detailed in the St. Elizabeths Hospital as a charge to the District of Columbia, we enclose herewith a letter just received from the Veterans Administration refusing to accept the patient.

In view of the present status of this case, we are now requesting that the patient be accepted by your department and transferred to the Navy Roll.

Thanking you for an early consideration, we are,

Very truly yours,
Director Public Welfare,
Per:

/s/ R. F. Tobin,
R.F. Tobin, M.D.,
Medical Officer.

In reply refer to
C. E. Geiger, Deportation Agent

CEG/C

COPY

MM/P3-2(341121)

J

Department of the Navy
Office of the Judge Advocate General
Washington, D. C.

1st Endorsement

May 11, 1935

From: The Judge Advocate General.
To: The Chief of the Bureau of Medicine and Surgery.
Subject: MILLER, William Walter, Ex-Torpedoman, first class, USN
Re: Transfer to Navy Roll, Saint Elizabeths Hospital.

References: (a) Secretary of the Navy letter MM/P3-2(330824),
dated September 13, 1933.
(b) Veterans Administration Facility letter D7 Ki
C 908 680, dated April 12, 1935, to Mr. C. E.
Geiger, Deportation Agent, Board of Public
Welfare, Washington, D. C.; this case.

1. Returned.

2. The basic letter forwarded to this office for disposition the case of William Walter Miller, Ex-torpedoman, first class, U. S. Navy, whose transfer, as a patient at St. Elizabeths Hospital, from his present status as a charge of the District of Columbia to the Navy Roll at that hospital, has been requested by the Board of Public Welfare of the District of Columbia.

3. The records in the case of the subject-named man show that, while serving in the Navy, he was, on 17 May 1932, transferred from the Naval Hospital, Washington, D.C., to Saint Elizabeths Hospital, to which institution he was committed by the Secretary of the Navy. On 6 June, 1932, Miller was discharged from the Navy, because of physical disability (dementia praecox), not the result of his own misconduct. Thereafter, due to his violent mental condition, he was apprehended by the aforementioned Board of Public Welfare, at the request of the authorities of Saint Elizabeths Hospital, was taken to Gallinger Municipal Hospital and was ultimately adjudged of unsound mind in the Supreme Court of the District of Columbia and was thereupon re-committed to Saint Elizabeths Hospital by order of that Court.

4. Reference (b) states that the subject-named man is eligible for hospitalization in a Veterans Administration Facility, but that, in the opinion of the Medical Director of the Veterans Administration, that agency does not have a suitable institution for such hospitalization. With respect to the question of admission to Saint Elizabeths Hospital of former members of the Navy and Marine Corps, reference (a) states as follows:

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MM/P3-2(341121)

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"Cases hereafter arising of which the Administrator of Veterans Affairs has cognizance under the above-quoted law and Executive Order will be referred to that official for action".

The law and Executive Order referred to are set out in full in reference (a). Discharged men of the Navy, suffering from diseases incurred in the line of duty, are included within the provisions thereof.

5. In view of the fact that the subject-named man is eligible for hospitalization in a Veterans Administration Facility (reference (b)), and for the reasons stated in reference (a), wherein it is indicated that there is considerable doubt whether, under existing law, the Secretary of the Navy is empowered to authorize the admission to Saint Elizabeths Hospital of former members of the Navy who are suffering from insanity incurred in line of duty, it appears that Miller's hospitalization is a matter between the District of Columbia and the Veterans Administration, and the Board of Public Welfare should be so informed.

/s/ C.C.Bloch.

COPY

MM/P3-2(330824-3)

J:fmh

DEPARTMENT OF THE NAVY
Office of the Judge
Advocate General

Washington, D. C.

December 2, 1936

From: The Judge Advocate General.
To: The Chief of the Bureau of Medicine and Surgery.
Subject: BOSS, Claude Milton, Ex-Private, U.S.M.C.

References: (a) Bu. M. & S. let. of Nov. 5, 1936, No. P3-98499.
(b) SecNav. letter to M. & S. of Sept. 13, 1933,
File MM/P3-2(330824).

1. In reference (a) information is requested as to whether Claude Milton Boss, formerly private, U. S. Marine Corps, who is now a patient at Saint Elizabeth's Hospital as a charge to the District of Columbia, may be transferred to the Navy rolls in accordance with a request made by the Board of Public Welfare of the District of Columbia.

2. The records in the case of the subject-named man show that he was discharged from the U. S. Marine Corps on October 16, 1926, on account of the disability "Dementia praecox", which was held to have been incurred in line of duty. At the time of his discharge from the Marine Corps, Boss was a patient at Saint Elizabeth's Hospital, where he was retained for further treatment. Subsequent to his discharge from that institution he was readmitted on two occasions, namely, on March 13, 1929, and February 2, 1933. His present admission to that hospital was effected by the authorities of the District of Columbia on July 27, 1936. On August 8, 1936, he received a lunacy hearing in the District Court of the United States for the District of Columbia and was adjudged of unsound mind.

3. Since the disability in Boss' case was apparently incurred in line of duty while in the naval service, it appears that he is clearly eligible for hospitalization under the Veterans Administration. In this connection Veterans Regulation No. 6(c), authorizes hospitalization for the following classes, among others:

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MM/P3-2(330824-3)

J:fmh

"Persons honorably discharged from the United States Army, Navy, Marine Corps or Coast Guard for disability incurred in the line of duty or who are in receipt of pension for service-connected disability, when suffering from injuries or diseases incurred or aggravated in line of duty in the active service, and for which they are in need of hospital treatment." (Underscoring supplied).

4. In view of the fact that the subject-named man is eligible for hospitalization in a Veterans Administration facility, and for the reasons stated in reference (b) wherein it is indicated that there is some doubt whether, under existing law, the Secretary of the Navy is empowered to authorize the admission to Saint Elizabeth's Hospital of former members of the naval service who are suffering from insanity incurred in line of duty, it appears that Boss' hospitalization is a matter between the authorities of the District of Columbia and the Veterans Administration, and the Board of Public Welfare should be so informed.

G. J. ROWCLIFF

P3-1/L1(051)

C-TMF

May 7, 1927.

To: The Chief of the Bureau of Navigation.

Subject: Estimates for 1929; transportation of insane supernumeraries.

1. Since the time following immediately after the Spanish-American War, it has been the practice of the Bureau of Medicine and Surgery to avoid the transfer of single insane patients from the Pacific to the Atlantic coast, because of the inavailability of medical officers and because of the very great overhead expense incident to the transfer of guards and attendants, and instead, the practice has been to hold insane patients in a California State hospital until the autumn of each year and to then bring all patients so accumulated in one party to the Government Hospital for the Insane.

2. The first contract made by the Navy Department with the State of California was based upon a distinct prior understanding between the Department (Secretary John D. Long) and the California State officials that the Navy Department would never permit any of its insane patients to become a public charge upon the State through failure to support, or to remove from the State, such patients after expirations of enlistments; this pledge of faith, though not written into any contract, has been strictly kept. It is regretted that the papers embodying this agreement were withdrawn from the files of the Office of the Secretary of the Navy many years ago, as shown by a Charge-out-memorandum.

3. For a number of years past this Bureau's appropriations have provided for the care of these supernumerary patients (between the expirations of enlistments and the time of transfer from the State hospitals) in the following language:

"* *; for the care, maintenance, and treatment of the insane of the Navy and Marine Corps on the Pacific coast, including supernumeraries held for transfer to the Government Hospital for the Insane;"

4. In order that the authorized transfer of these patients may be made practicable by annual appropriations, it is requested that appropriate language be inserted in "Transportation and Recruiting of Naval Personnel", as follows; immediately after the phrase "Transportation of sick or insane enlisted men," insert the words "and insane supernumerary patients", so that the item as amended will read:

P3-1/L1(051)

"; transportation of sick or insane enlisted men, and
insane supernumerary patients, and apprentice seamen to hospitals,
with subsistence and transfers enroute, or cash in lieu thereof;"

5. The enactment of the foregoing suggested change
will not add a thousand dollars a year to the appropriation concerned.

E. R. STITT,

M. & S. Files.



DO NOT ADDRESS THE SIGNER OF THIS LETTER
BUT ADDRESS YOUR REPLY TO
BUREAU OF MEDICINE AND SURGERY
NAVY DEPARTMENT, WASHINGTON, D. C.
AND REFER TO NO.

R-TMS

P3-

WASHINGTON, D. C.

From: The Chief of the Bureau of Medicine and Surgery.
To: The Superintendent, Saint Elizabeths Hospital,
Washington, D. C.

Subject: Insane patient.

By direction of the Secretary of the Navy, and
in accordance with Sec. 4843 of the Revised Statutes, please
receive into the Saint Elizabeths Hospital, under your charge,

U. S.

inmate of U. S. Naval Hospital, Washington, D. C.

The Commanding Officer, U. S. Naval Hospital,
Washington, D. C., will have him delivered to you with this
order.

(Order for admission)

Department of the Interior,
ST. ELIZABETHS HOSPITAL.

MEDICAL CERTIFICATE.

We certify, that after a personal examination of the within-named person, we find to be in need of hospital treatment for mental disease. The following is a history of the case as far as we have been able to obtain it:

Name,; age,; race,; sex,
Married, single, widowed. Nativity,; education,
occupation,; religion,; post-office address of friends,
.....
telegraph address,

What relatives, including grandparents and cousins, have suffered from mental disease, epilepsy, chorea, hysteria, neurasthenia, tuberculosis?

Were parents addicted to excessive use of alcohol, opium, chloral, or other narcotics?

Habits of patient as to same,

Previous peculiarity of patient as to temper, conduct, etc.,

Has patient had epilepsy, apoplexy, syphilis, tuberculosis, heat exhaustion, or other serious physical disease?

Evidence of sexual excess or abnormal sexual habits?

History of previous attacks, if any,

When and how did the first symptoms of the present illness become manifest?

Was there, previous to that date, any change in disposition, or evidence of physical or mental depression or disorder?

[OVER.]

COPY

MM/P3-2(330106)

CA-KE

January 30, 1933.

The Honorable,
The Secretary of the Interior,
Washington, D. C.

Sir:

Members of the naval personnel who are committed to Saint Elizabeths Hospital upon order of the Secretary of the Navy are usually discharged from the service after their condition has been definitely determined to be such as to unfit them for further duty in the Navy. This is necessary because appropriations are insufficient to provide active pay for men who are no longer capable of performing duty. At the same time, the Navy Department quite naturally continues to feel an interest in these men, who were mentally alert when they entered the Navy and who have become incapacitated for duty during their service. Accordingly, although discharged from the Navy, this Department considers that they should be retained in Saint Elizabeths Hospital, under treatment, until the Superintendent decides that they have so far recovered as not to be a menace to society, and that, in any event, they should never be released simply upon their own demand if their mental condition is such that they are unable to take care of themselves.

My reason for writing you on the subject at this time is that the Chief of the Bureau of Navigation in this Department has recently brought to my attention a letter addressed to him by Saint Elizabeths Hospital, November 11, 1932, wherein it is stated to be the policy of that institution to release any patient who has been discharged from the Navy, either into his own custody or, where possible, into the custody of a relative, whenever the patient himself demands his release; that, where the hospital is strongly of the opinion that such discharge would be dangerous, either to the patient or to society, the man is nevertheless released, but in such cases the hospital has reported the patient to the civil authorities in order that they might apprehend him and take steps for his legal adjudication. Although conceding that this situation is an unfortunate one, both for the patient and for society, the hospital feels that it cannot take any other action because of certain habeas corpus proceedings which have been instituted in the past, with the result that "the court has usually ordered the dismissal of the patient without inquiry into his mental condition."

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MM/P3-2(330106)
CA-KE

As you are aware the existing law, as embodied in Title 24, Section 191 of the United States Code, provides in terms that the Superintendent, upon order of the Secretary of the Navy, shall receive, "and keep in custody until they are cured, or removed by the same authority which ordered their reception," insane persons of certain descriptions, including the following:

Insane persons belonging to the Navy and Marine Corps:

Men who, while in the Navy or Marine Corps, have been admitted to the hospital and have been thereafter discharged from it on the supposition that they have recovered their reason and have, within three years after such discharge, become again insane from causes existing at the time of such discharge, and have no adequate means of support;

Indigent insane persons who have been in the Navy and Marine Corps and have been discharged therefrom on account of disability arising from such insanity;

Indigent insane persons who have become insane within three years after discharge from the Navy or Marine Corps, from causes which arose during and were produced by said service.

It will be noted that, as to each of these classes, the statute is explicit that patients who have once been committed to the hospital by the Secretary of the Navy shall be kept in custody by the Superintendent until cured or removed by authority of the Secretary of the Navy. The statute is equally explicit in empowering the Secretary of the Navy to order the commitment of indigent insane persons who have been discharged from the Navy or Marine Corps, as well as those who belong to the Navy or Marine Corps at the time of commitment. It would seem plainly to result that the Superintendent of Saint Elizabeths Hospital has no alternative under the law but to receive any patients of the above classes who are committed by the Secretary of the Navy, and to retain them in custody until cured or removed by authority of the Secretary of the Navy. A contrary position could be maintained only upon the ground that the statute itself is invalid as being in excess of the constitutional powers of Congress. Such a contention, in the opinion of this Department, should not be accepted by the administrative officers in the absence of an authoritative decision to that effect rendered by the court of last resort.

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MM/P3-2(330106)
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This Department is familiar with the cases involving this question which arose in 1926, and which are referred to in the above cited letter from Saint Elizabeths Hospital. At that time a conference was held in the office of the United States Attorney for the District of Columbia, which was attended by representatives of the War, Navy and Interior Departments, Saint Elizabeths Hospital, the Veterans' Bureau, and the Government of the District of Columbia. At that time it appeared that certain members of the Supreme Court of the District of Columbia were interpreting the statute above cited as not empowering the Superintendent of Saint Elizabeths Hospital to detain in that institution persons who were not on the active list of the Army, Navy, Marine Corps, or Coast Guard, and who had not been adjudged insane by civil courts of competent jurisdiction, notwithstanding that they were committed to that institution by the Secretary of War, the Secretary of the Navy, or the Secretary of the Treasury in supposed conformity with the statute, or by the Director of the Veterans' Bureau under authority of an opinion rendered by the Attorney General (31 Op. Atty. Gen. 431). Such persons were accordingly being released from said hospital upon habeas corpus proceedings in their behalf without any inquiry by the court into their mental condition but solely on the ground that the order of the executive officer under which they were being held was not adequate authority in law for their detention. This resulted in some instances in setting at large persons who were regarded by the Superintendent of Saint Elizabeths Hospital as a menace to the community. Steps were taken by the United States Attorney to have the Court of Appeals review the aforesaid action of the Supreme Court of the District of Columbia and, pending a decision by the appellate court, it was agreed, among other things, that inmates of the hospital who were not on the active list of the Navy but were held under the commitment of the Secretary of the Navy would be retained in the hospital if, in the opinion of the Superintendent, they would be a menace to the community, and that, if habeas corpus proceedings should be instituted in any such case, the Corporation Counsel of the District of Columbia would be promptly informed of the pendency of such proceedings to the end that he might have the said patients taken into custody immediately upon their release and recommitted to the hospital according to the laws applicable to insane persons at large in the District of Columbia.

The case of Lieutenant Commander Charles N. Treibly, a retired officer of the Medical Corps of the Navy, was selected as the test case to be taken to the Court of Appeals in order to obtain an authoritative

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CA-KE

decision as to the duty of the Superintendent of Saint Elizabeths Hospital to retain in custody persons not on the active list of the Army, Navy, Marine Corps or Coast Guard, but whose commitment had been ordered by the executive officers named in the statute. That case was decided by the Court of Appeals on May 2, 1927 (White v. Treibly, 19 Feb. (2d) 712), with the result that the judgment of the lower court was reversed and Lieutenant Commander Treibly remanded to the custody of the Superintendent of Saint Elizabeths Hospital.

It is true that in its opinion the Court of Appeals confined itself to the specific case before it, which involved the legal authority of the Secretary of the Navy to commit a retired officer to Saint Elizabeths Hospital without prior adjudication of insanity. However, the statute above cited was quoted in full by the court and there was nothing said in its opinion to indicate that the court considered it to be invalid in any of its provisions. The understanding of the Navy Department has been that this decision resulted in a cessation of the habeas corpus proceedings which were being instituted in behalf of the several classes of patients not on the active list of the Army, Navy, Marine Corps, or Coast Guard, but who were held in custody pursuant to the statute, and that the legal authority to retain custody of such patients ceased to be a problem confronting the hospital authorities. If there have been any later judicial decisions on the subject, this Department does not appear to have been furnished any information with respect thereto, nor are they cited in the above mentioned letter from the hospital to the Chief of the Bureau of Navigation.

It must, of course, be conceded that persons who have been discharged from the naval service do not occupy the same status as those who have been merely retired. Nevertheless, in the class of cases now under consideration, it appears that the patients were committed to the hospital while members of the naval service and, as such, amenable to naval jurisdiction. As the United States Supreme Court has stated, "the principle that where jurisdiction has attached it cannot be divested by mere subsequent change of status has been applied as justifying the trial and sentence of an enlisted man after expiration of the term of enlistment * * * and the execution of sentence after the lapse of many years and the severance of all connection with the Army." (Carter v. McLaughry, 183 U. S. 365, 383).

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MM/P3-2(330106)

CA-KE

Military and naval boards which pass upon the physical and mental condition of service personnel are established, and are recognized by statute, as necessary instrumentalities in the administration of the Army and Navy, the same as courts-martial. And it is well settled that the principles of military law as provided by Congress constitute due process of law in a constitutional sense as applied to members of the military service. (French v. Weeks, 259 U. S. 326, May 29, 1922, citing Reeves v. Ainsworth, 219 U. S. 296, 304; see also, to the same effect, Creary v. Weeks, 259 U. S. 336)."

Persons who enter the naval service voluntarily submit to and agree to be bound by the laws and regulations established for the government of the Navy. These laws include that which expressly empowers the Secretary of the Navy to commit them to Saint Elizabeths Hospital under specified conditions and requires the Superintendent of the hospital to keep them in custody "until they are cured or removed by the same authority which ordered their reception." Accordingly, when persons in the naval service are committed to Saint Elizabeths Hospital in strict conformity with the statute and the procedure established pursuant thereto, it may very well be urged, upon reason and authority, that naval jurisdiction to which they are subject is not divested by their subsequent change of status; that Congress, under its constitutional power "to make rules for the government and regulation of the land and naval forces" has the right to provide, as it has in fact provided, that they shall be retained in custody until cured or removed by authority of the Secretary of the Navy; that the determination in accordance with naval procedure that they are insane is, as to them, due process of law, the same as is an adjudication by a civil court in the cases of persons not subject to naval law; and that their retention in custody pursuant to such determination by a naval board is authorized by law to the same extent as is the retention in custody of a former member of the service pursuant to the sentence of the naval court.

In view of the foregoing, it is requested that appropriate instructions be given to the Superintendent of Saint Elizabeths Hospital, requiring that, in compliance with the United States Code (Title 24, section 191), naval patients received upon order of the Secretary of the Navy, shall be kept in custody by him until they are cured or removed by the same authority, notwithstanding their discharge from the naval service.

Respectfully,

/s/ C. F. ADAMS
Secretary of the Navy.

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United States
Department of the Interior
Saint Elizabeths Hospital
Washington, D. C.

February 3rd, 1933.

The Honorable
The Secretary of the Interior,
Washington, D. C.

Sir:

I have the honor to acknowledge, by Departmental reference, a letter dated January 13th from the Honorable The Secretary of the Navy in re the matter of retaining patients committed by the Navy Department in the Hospital who are not yet recovered but whose enlistments have expired.

The situation is as follows: A representative of the Navy Department called at the Hospital some time ago to inquire into the practices of the Hospital in the matter under consideration and the reasons therefor, and at his request a letter was prepared and sent him, copy of which, together with the enclosure of a written opinion of the Court, is included herewith. This is the letter to which the Secretary of the Navy refers.

This whole matter is an old story, which I will review in a few words. It is quite true that the original legislation which created this Institution provided for the receipt of such patients as the Secretary of the Navy refers to, upon commitment by the head of the Navy Department, or in similar situations, the War Department, and that the Hospital should retain such patients until discharged by the authority committing them or until they were cured. It has been the custom, however, for a great many years now, when an enlisted man from the Army or Navy was sent to the Hospital because of mental illness, to very shortly discharge him from the service, and from time to time these men who have been discharged from the service but who are still mentally ill, have had issued on their behalf writs of Habeas Corpus and their cases have been heard in Court. The opinion of the Court has been, as stated in the letter from the Hospital of November 11th above referred to, that the Hospital had no authority to retain patients who had been discharged from the military service and who had not been found of unsound mind in accordance with the laws of this jurisdiction. Whatever may be thought of the rightness or wrongness, justice or propriety of this decision, it is perfectly understandable and means simply that so long as a man is a member of the Army or Navy he is under their jurisdiction and can be ordered here, there, or elsewhere in accordance

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military regulations. So he can be sent to this Institution under military orders and kept here, but from the moment that he is discharged from the military service, then the authority of the military establishment over him ceases. He can no longer be confined or his liberty restricted by the order of the Secretary of War or Secretary of Navy, or their representatives. He can then only have his liberty restricted by due process of law, which, in this jurisdiction, means a hearing in Court, with all that that implies, an adjudication of unsoundness of mind, and a commitment upon that basis.

The situation as above described has been brought to pass by repeated decisions of the Supreme Court of the District of Columbia. Now this Court is a United States Court, and the decisions of the character referred to have been so numerous and so consistent that it would hardly be possible for the hospital to ignore them. The Hospital has therefore felt that it was obliged to take notice of the nature of these decisions and to act accordingly. This is especially so because the situation as set out in the letter of the Secretary of the Navy has been specifically brought to the attention of the Court, and you will note that in one decision (Nov. 7, 1901, 19 App. D.C. 48) United States vs. Frizzell, quoted in the little booklet on Laws and Regulations relating to the Government Hospital for the Insane, page 29, Justice Morris, who delivered the opinion of the Court, took exactly the position taken by the Secretary of the Navy. This decision has been called to the attention of Justices in recent years, and with a knowledge of that decision before them they have continued repeatedly and consistently to decide that when a patient in the Hospital was discharged from the Army or the Navy that these respective military establishments ceased to have control over them, and that whatever their power of commitment before their discharge may have been, after their discharge that power ceased.

The Secretary of the Navy, in his letter, quotes the Treibly case and while he acknowledges that it does not stand on all fours with the other cases such as I have described above, he nevertheless uses it in his argument as if it did. Dr. Treibly was a retired medical officer of the Navy and the Court of Appeals held that the Naval authorities had control over his person and could continue to exercise that in the form of a commitment to this Hospital. It will of course be understood that a retired officer of the military establishment is in receipt of pay from the United States Government, and under these circumstances accepts certain obligations - in this instance to abide by the Articles of War. Should such a retired

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officer refuse to accept retired pay his status might be different. In any case a retired officer can be ordered back to duty at any time and then he would be subject to military orders.

The strength of the opinions, so far as their controlling force upon the Hospital is concerned, is further increased by the fact that the same opinions have been rendered with reference to members of the Soldiers' Homes, despite the fact that these members at the time of entrance to the Homes, I believe, sign the Articles of War, agreeing to abide by them, and placing themselves under military authority. Nevertheless, the Court, apprised of these facts, has decided that such individuals, committed to us in the usual way from the National Homes for Disabled Volunteer Soldiers, are held without due process of law; that having been discharged from the Army, and of course it will be recalled that an honorable discharge from the Army is a condition precedent to admission to one of the Homes, the Army ceases to have authority over their person.

Under all the circumstances of the case as above stated, therefore, it seems to me that the course which the Hospital has been pursuing is the only logical one under the circumstances. The commitment by the Secretary of War or the Secretary of Navy authorizes the Hospital to receive the patient and after the patient's discharge from the service it acts as adequate authority for the incurring of the necessary expenses of his care and maintenance. Beyond that the implication of the above orders of the Court are that it has no function. So long, therefore, as the patient is willing to stay, the Hospital may keep him. The order of the Secretary has opened the doors of the Institution to him and made its advantages available. When, however, he wishes to leave the Hospital must let him do so, but in those cases in which the Superintendent believes that the man is a social danger then it naturally becomes his duty to inform the proper authorities which, in this case, can be no other than the authorities of the District of Columbia, and they are bound, therefore to take notice of the fact that the discharge of a dangerous man of unsound mind is contemplated, and to act accordingly. The usual course is to transfer him to the municipal hospital-the psychopathic ward-, institute formal inquiry into his mental condition, and have him presented in Court for adjudication. Thus the community is protected.

You ask in addition for my recommendation. The secretary of the Navy expresses himself strongly in the belief that the Superintendent should continue to detain men after their discharge from the service. I feel, as

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a result of my experience, that an attempt to secure a decision of this sort from the Court of Appeals would probably fail, but as the Navy is so deeply interested in this question I think it would be eminently proper that the attempt should be made, and my recommendation therefor is that in some specific case that arises and a decision of the sort described is rendered that an appeal be taken along the lines outlined in the Secretary of the Navy's letter. In the meantime I do not feel that I should be instructed to keep these patients beyond the period of their enlistment and over their protest, as suggested by the Secretary of the Navy, because such action on my part would undoubtedly lead to a greater or less number of suits for damages against me, and the attempt of course would be made to sue me in my personal rather than in my official capacity. The result might inflict considerable hardship upon me in meeting the costs of such suits. Heretofore all suits for damages of this sort have been handled officially through the District Attorney's Office. There are several pending at the present time, but no question of personal liability enters. If the practice should be changed the question might well arise as to whether the Superintendent should not have taken notice of the nature of the decisions of the Supreme Court of the District of Columbia and acted accordingly, and if he did not, whether he was not liable, and if, Sir, you should order me to the contrary, then the question would arise as to the liability of the Secretary of the Interior.

Respectfully,

(Sgd) Wm. Q. White
Superintendent.

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THE SECRETARY OF THE INTERIOR
WASHINGTON

Feb 18 1933

The Honorable,

The Secretary of the Navy.

My dear Mr. Secretary:

I have your letter of January 30 in reference to members of the naval personnel committed to St. Elizabeths Hospital upon order of the Secretary of the Navy and discharged from the service after it is determined that their condition is such as to unfit them for further duty.

In view of the letter of the First Assistant Physician of the Hospital to the Bureau of Navigation of your Department, dated November 11, 1932, advising of the action of the hospital authorities with respect to such personnel and persons in similar status, as the result of decisions of the Supreme Court of the District of Columbia, you request that appropriate instructions be given to the Superintendent requiring that in compliance with the United States Code (Title 24, sec. 191), naval patients received upon order of the Secretary of the Navy shall be kept in custody by him until they are cured or removed by the same authority notwithstanding their discharge from the service.

Your letter was referred to the Superintendent of the Hospital for report, and I am inclosing herewith copy of the Superintendent's letter of February 3, containing a statement of the facts and the reasons for the action taken in cases of this character. Special attention is invited to the concluding paragraph in said letter, in which the Superintendent advances certain reasons which, in his view, render it impractical to comply with your request.

It appears that the action of the Supreme Court of the District of Columbia in the cases referred to by the Superintendent, involving habeas corpus proceedings, is not in harmony with the views expressed by the Court of Appeals in the case of United States v. Frizzell (19 App. D.C. 48, decided November 7, 1901), and it seems that appeal should be taken in an appropriate case with a view to securing a decision which may serve to clear up an unsatisfactory situation.

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Obviously, the case of White v. Treibly (57 App. D.C. 238; 19 Fed. 2d, 712), concerning the case of a retired officer of the Navy, is not decisive of the class of cases referred to in your letter and that of the Superintendent, although the Court concluded that, as Treibly's incapacity was a result of an incident of the service, his care and protection, while thus incapacitated and unable to act for himself, are the concern and duty of the Government and that his commitment therefor was authorized by section 4843 of the Revised Statutes (Title 24, sec. 191, U.S.C.)

As stated in the correspondence, efforts have been made to secure legislation to remedy the situation, and particular attention was directed to H.R. 9762, introduced January 20, 1928. This bill provided that such orders and commitments shall be regarded as legal authority for reception of such patients and the detention of same in the hospital until cured or until release or transfer by order of the committing authority. It also provided that the Supreme Court of the District should have jurisdiction to try and determine the question of legal competency of any of such patients by a petition in his behalf except as to soldiers, sailors, or marines still in the service. This bill was not enacted.

You express the view that the statute requires the Superintendent to receive such patients and to retain them in custody until cured or removed by authority of the Secretary of the Navy, and that a contrary position can be maintained only upon the ground that the statute itself is invalid as being in excess of the constitutional powers of Congress. Further, that such view should not be accepted by administrative officers in the absence of an authoritative decision to that effect rendered by the court of last resort.

The Superintendent recommends that an appeal be taken in an appropriate case along the lines suggested in your letter where the question is directly involved and a decision adverse to the view expressed is rendered. It is apparent that an appeal in such a case where the matter is fully presented would result in a decision which, at least, will aid in remedying a condition which is unsatisfactory to your Department and the administrative authorities of the hospital as well.

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The Superintendent accordingly has been requested to advise this Department when an appropriate case arises in order that the necessary steps may be taken to carry the case to the higher court on appeal, and the cooperation of your Department and others vitally interested in this matter may be enlisted. A decision on the merits should result through this procedure.

In the meantime, for the reasons stated by the Superintendent, the Department does not believe that the issuance of instructions, as requested in your letter, would be advisable in view of the construction placed upon the statute by the Supreme Court of the District of Columbia and the adverse action taken in the numerous cases referred to by the Superintendent. The public interest, however, should be safeguarded against such releases as might constitute a social danger by continuing the practice now followed with respect to such cases, as outlined in the Superintendent's letter.

Very truly yours,

/s/ Ray Lyman Wilbur.

(COPY)

UNITED STATES
DEPARTMENT OF THE INTERIOR
SAINT ELIZABETHS HOSPITAL
Washington, D. C.

P3-1/E 120 (063)
BUR. M. & S.
NAVY DEPARTMENT
10 FEB 1934

January 30, 1934

Address Only
The Superintendent
Saint Elizabeths Hospital

Bureau of Medicine and Surgery,
Navy Department,
Washington, D. C.

Gentlemen:

Reverting to your letter of December 14, P3-1233320, relative to the "admission of former Naval personnel to Saint Elizabeths Hospital, in accordance with Revised Statutes 4843," in which it is stated, "This Bureau wishes to advise that the enclosures are forwarded for information regarding the procedure for admission of former Navy and Marine Corps personnel to Saint Elizabeths Hospital," may I state most emphatically that there has been no change in the policy of this hospital relative to the admission of Navy or Marine Corps patients to this institution upon an order of the Secretary of the Navy, and that the authority of that Department to order the admission of Navy personnel or ex-Marine Corps personnel to this institution, under the provisions of R.S. 4843, has not been questioned by this office.

In reference to paragraph five of letter from the Secretary of the Navy to the Chief of the Bureau of Medicine and Surgery - file MM/P3-2 (330824) - of September 13, 1933, which states:

**As to former naval personnel whose cases do not come under the jurisdiction of the Administrator of Veterans' Affairs as defined in the above quoted executive order, the parties in interest will be informed that the superintendent of Saint Elizabeths Hospital, with the support of the Secretary of the Interior, has taken the position that an individual who has been discharged from the naval service can be confined in that institution only in accordance with the laws and procedures applicable to other civilians, that is, after a hearing in court, an adjudication of unsoundness of mind, and a commitment upon that basis; and that the Navy Department will not issue orders for the commitment of former naval personnel so long as the Superintendent of Saint Elizabeths Hospital declines to accept such orders as lawful authority for him to keep such persons in custody."

It has always been our understanding, which so far as I know has never been questioned, that commitment and adjudication are two different processes and that adjudication is not necessarily a condition precedent for commitment. Commitment, so far as this hospital is concerned, and in relation to patients from the Navy, merely authorizes the reception of a patient to an institution which is maintained for his benefit and to the privileges of which he is entitled, and in so doing certifies to the Superintendent that the patient is a proper case under the law for such care and treatment as the hospital extends. So far as I know the Supreme Court of the District of Columbia has never questioned this practice. The question has only arisen when the patient has objected to further confinement and where he has claimed that there is no legal authority for his involuntary retention.

Under these circumstances, and these circumstances only, the Supreme Court has ruled that the practice in this jurisdiction must maintain, namely, that for the involuntary detention of a patient an adjudication is required. In accordance with this practice as above described, the great majority of patients from the military branches of the service are cared for and treated without the question of adjudication ever arising. When, however, a patient demands his release it is granted, provided it is considered safe that he should be at large, but if it is not considered safe, then the District Commissioners are so notified and it is their practice at once to institute an inquiry into the mental condition of the patient so that the community may be properly safeguarded from the release of a potentially dangerous individual. This you will see is a very different state of affairs from that described in the letter previously quoted, which states in substance that the Superintendent of this hospital declines to accept orders of commitment from the Secretary of the Navy as constituting lawful authority upon which he may receive patients for care, custody and treatment.

Very truly yours,

(signature) Wm. A. WHITE

Superintendent.

(Through The Honorable
The Secretary of the Interior)

DEPARTMENT OF THE INTERIOR

February 6, 1934.

Respectfully forwarded:

(signature) OSCAR L. CHAPMAN
Assistant Secretary.

COPY

The Federal Reporter, Volume 19, Second Series.

WHITE V. TREIBLY.

Court of Appeals of District of Columbia.

Submitted April 6, 1927. Decided

May 2, 1927.

No. 4548.

Army and Navy (key) 10 - Retired navy officer is subject to jurisdiction of Secretary of the Navy as respects commitment to hospital for insane (Comp. St. Sections 2620, 2632, 2633, 2635, 2639, 2652, 9301).

A retired officer of the navy is still subject to jurisdiction of Secretary of the Navy, within Rev. St. Sec. 4843 (Comp. St. Sec. 9301), relating to commitment of insane persons belonging to army, navy, marine corps, or revenue cutter service to hospital, in view of Rev. St. Sections 2620, 2632, 2633, 2635, 2639, 2652).

Appeal from Supreme Court of District of Columbia.

Habeas corpus proceedings by Charles E. Treibly against William A. White, Superintendent of Saint Elizabeth's Hospital. From a judgment discharging petitioner from custody, respondent appeals. Reversed and remanded.

Payton Gordon and Neil Burkinshaw, both of Washington, D. C., for appellant.

C. F. Curtis, of Washington, D. C., for appellee.

Before MARTIN, Chief Justice, and ROBB and VAN ORSDEL, Associate Justices.

ROBB, Associate Justice. Appeal from a judgment in the Supreme Court of the District of Columbia in habeas corpus proceedings discharging from the custody of Saint Elizabeth's Hospital Charles E. Treibly, appellee here, Lieutenant Commander, retired, Medical Corps, United States Navy.

The question for decision is whether a retired officer of the Navy is still subject to the jurisdiction of the Secretary of the Navy, within the provisions of section 4843, R.S. (Comp. St. Sec. 9301).

The "Government Hospital for the Insane" (chapter 4, p. 938, R.S.), was established in 1855. Its name subsequently was changed to Saint Elizabeth's Hospital. 39 Stat. 309. Its objects are stated to be "the most humane care and enlightened curative treatment of the insane of the Army and Navy of the United States and of the District of Columbia." Section 4838, R.S. (Comp. St. Sec. 9292). While subsequent acts make provision for the admission of persons other than those indicated, the primary object of the institution remains the care and treatment of the insane of the Army and Navy, whose commitment thereto may be made by the respective heads of the Army and Navy Departments without judicial inquiry. 31 Op. Attys. Gen. 431.

COPY

Sec. 4843, R. S. (Comp. St. Sec. 9301), provides:

"The Superintendent (of Saint Elizabeth's), upon the order of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Treasury, respectively, shall receive, and keep in custody until they are cured, or removed by the same authority which ordered their reception, insane persons of the following descriptions:

"First. Insane persons belonging to the Army, Navy, Marine Corps, and Revenue Cutter Service.

"Second. Civilians employed in the Quartermaster's and Subsistence Departments of the Army who may be, or may hereafter become, insane while in such employment.

"Third. Men who, while in the service of the United States, in the Army, Navy, or Marine Corps, have been admitted to the hospital, and have been thereafter discharged from it on the supposition that they have recovered their reason, and have, within three years after such discharge, become again insane from causes existing at the time of such discharge, and have no adequate means of support.

"Fourth. Indigent insane persons who have been in either of the said services and been discharged therefrom on account of disability arising from such insanity.

"Fifth. Indigent insane persons who have become insane within three years after their discharge from such service, from causes which arose during and were produced by said service."

Commander Treibly was honorably retired from the Navy on or about November 27, 1922, and on October 31, 1923, by direction of the Secretary of the Navy, was committed to Saint Elizabeth's Hospital. The superintendent of the hospital concludes his return to the writ in the habeas corpus proceedings as follows: "It is the opinion of the respondent that the petitioner is suffering from general paralysis of the insane, that he is of unsound mind, that he is unable to care for himself, and that he should be retained in the hospital for his own protection, as well as to protect the community from acts which he might commit as the result of his mental disorder."

Any officer of the Navy, who for 40 years has been in the service of the United States, "may be retired from active service by the President upon his own application." Section 1443, R.S. (Comp. St. Sec. 2620). When a retiring board finds that an officer is incapacitated "for active service," and that his incapacity is the result of an incident of his service, he may, with the approval of the President, "be retired from active service with retired pay." Section 1453, R.S. (Comp. St. Sec. 2632). When a retiring board finds that an officer is incapacitated for active service, and that his incapacity is not the result of an incident of the service, such officer, with the approval of the President, may be retired from active service on furlough pay, "or wholly retired from service with one year's pay." Section 1454, R.S. (Comp. St. Sec. 2633).

COPY

No officer guilty of misconduct is eligible to retirement. Section 1456, R.S. (Comp. St. Sec. 2635), Section 1457, R.S. (Comp. St. Sec. 2639), reads as follows: "Officers retired from active service shall be placed on the retired list of officers of the grades to which they belonged respectively at the time of their retirement, and continue to be borne on the Navy Register. They shall be entitled to wear the uniform of their respective grades, and shall be subject to the rules and articles for the government of the Navy and to trial by general court-martial. The names of officers wholly retired from the service shall be omitted from the Navy Register."

An officer on the retired list of the Navy may be assigned to active duty in time of war (Section 1462, R.S. (Comp. St. Sec. 2652)), and with his consent, in the discretion of the Secretary of the Navy, he may "be ordered to such duty as he may be able to perform at sea or on shore, and while so employed in time of peace shall receive the pay and allowances of an officer of the active list of the same rank." Act of August 22, 1912, 37 Stat. 329 (Comp. St. Sec. 2653).

The status of a retired officer of the Army was the subject of inquiry in *United States v. Tyler*, 105 U.S. 244, 26 L. Ed. 985. Section 1256, R.S. (Comp. St. Sec. 2070), provides that "officers retired from active service shall be entitled to wear the uniform of the rank on which they may be retired. They shall continue to be borne on the Army Register, and shall be subject to the rules and articles of war, and to trial by general court-martial for any breach thereof." This section is the substantial equivalent of section 1457, relating to retired officers of the Navy. The Supreme Court said: "It is impossible to hold that men who are by statute declared to be a part of the Army, who may wear its uniform, whose names shall be borne upon its register, who may be assigned by their superior officers to specified duties by detail as other officers are, who are subject to the rules and Articles of War, and may be tried, not by a jury, as other citizens are, but by a military court-martial, for any breach of those rules, and who may finally be dismissed on such trial from the service in disgrace, are still not in the military service. * * * We are of opinion that retired officers are in the military service of the government. * * *" See, also, *United States v. Morton* 112 U. S. 7, 5 S. Ct. 1, 28 L. Ed. 613; *Thornley v. United States*, 113 U.S. 310, 5 S. Ct. 491, 28 L. Ed. 999; *United States v. Frizzell*, 19 App. D. C. 48.

In our view, the decision in the *Tyler Case* is determinative of the issue here. Commander Treibly's "incapacity is the result of an incident of the service." Section 1453, R. S. (Comp. St. Sec. 2632). His care and protection, while thus incapacitated and unable to act for himself, are the concern and duty of the government. His commitment, therefore, was authorized by section 4843, R. S., and it follows that the judgment must be reversed, with costs, and the cause remanded.

Reversed and remanded.

DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF COLUMBIA

In Re: HAROLD R. RIVERS, MAJOR, U. S. ARMY.

Habeas Corpus; Insane Persons.

1. The transfer to and detention of a retired army officer at St. Elizabeth's Hospital held unsupported by any legal adjudication of insanity, proceedings before the army medical and retirement boards being insufficient to constitute due process of law as to such transfer and detention.
2. Sec. 1251, R. S., and Sec. 4843, R. S., cited or construed.

Habeas Corpus No. 2028. Decided October 24, 1939.

RICHARD TEDROW, guardian ad litem, for the petitioner.
DAVID A. PINE, United States Attorney, and Albert Goldstein,
Assistant, for the respondent.

Mr. Justice PROCTOR delivered the opinion of the court:

The writ of habeas corpus was issued to the Superintendent of Saint Elizabeth's Hospital to produce Harold R. Rivers and show the cause of his detention. The petition was filed by Rivers himself and, though informal in its nature, alleged that no legal authority existed for his commitment or detention at the hospital. The return of the Superintendent shows that Rivers was received into the hospital on December 23, 1936, by transfer from the Letterman General Hospital at San Francisco, pursuant to an order of the Secretary of War based on Section 4843, Revised Statutes. The letter dated October 30th, 1936, addressed to the Superintendent requests that Major Rivers, Air Corps, an insane person belonging to the Army and now under treatment at Letterman General Hospital, be received into Saint Elizabeth's General Hospital, under the provisions of Section 4843, Revised Statutes. The return of the Superintendent further states that the continued detention of Rivers has been necessary by reason of a mental disorder known as dementia precox, continuing to the present time and requiring care and treatment. Circumstances suggesting the need of counsel to assist Rivers and also the court, Richard Tedrow, Esq., was appointed guardian ad litem. Finally, the matter coming on for hearing, certain material facts were stipulated in open court by counsel, including the records of the War Department. From these sources it appears that August 25, 1936, an army medical board at Letterman General Hospital examined Major Rivers, finding him to be suffering from a mental disorder permanently incapacitating him from performance of military duty and recommending that he be brought before a retiring board for disposition. On September 22, 1936,

Major Rivers was ordered to report in person before a retiring board for examination. October 8, 1936, the board, apparently legally appointed and convened, met with Major Rivers present and represented by an officer. After testimony and reports concerning the condition of Major Rivers, the board found him to be incapacitated for active service because of dementia precox, originating on or about July 5, 1936; that the incapacity was incident to service and permanent. On January 15, 1937, followed a War Department order announcing the retirement of Major Rivers from active service January 31, 1937, under Section 1251, Revised Statutes and of the Act approved April 23, 1930, and directing that "at the proper time he would proceed to his home." A copy of the order was apparently sent to Major Rivers at Saint Elizabeth's Hospital, to which he had been transferred from Letterman General Hospital. It further appears that since the finding of the medical board Major Rivers has been treated by the War Department as incompetent to handle his affairs, with the result that his entire compensation has accumulated from month to month and no disbursements have been made therefrom except the sum of \$30 per month to Saint Elizabeth's Hospital to cover the patient's board. This unfortunate condition induced a request from Saint Elizabeth's for the War Department to institute steps to have a committee appointed for Major Rivers so he might secure needed clothing and other necessities. The patient's mother was consulted by the War Department concerning such steps and by reason of her expressed reluctance nothing was done, with the result that Major Rivers still is without any funds, although there is a large accumulation held by the Government for him.

The District Attorney, representing respondent, rests the legality of the commitment and detention of Major Rivers at Saint Elizabeth's upon the fact that he is a retired officer and under the control of the War Department. Reliance is placed upon the case of *White v. Treibly*, 57 App. D.C. 238, 55 Wash. Law Rep. 397. It is conceded that there are no statutes or Army Regulations expressly providing any method of adjudicating an officer of unsound mind. However, it is contended that the physical examination by a medical board in August, 1936, followed by the proceedings before the retirement board, did in their essence contain the essential elements of due legal process and formed the necessary basis for the transfer of Major Rivers to Saint Elizabeth's. But in neither instance was the immediate purpose to determine mental condition and involuntary commitment to an institution. Major Rivers might very well have acquiesced in findings that he was unfit for active duty and should be retired. But it is quite another matter to have such findings, without more, treated as a basis for commitment to an insane asylum with deprivation of his liberty and property rights, as also the ignominy of a virtual insane status. He was never given notice that such steps were contemplated. He has had no opportunity to be heard in opposition thereto. The transfer and detention at Saint Elizabeth's was not supported by any legal adjudication of insanity. In my opinion, the proceedings before the medical and retirement boards are wholly insufficient to give such support. They do not constitute due process of law as respects the transfer and detention at Saint Elizabeth's.

I cannot escape the principles recently laid down by the Court of Appeals in Barry v. Hall, 68 App. D. C. 352, 66 Wash Law Rep. 590, and the very strong reasons tendered in support thereof. These principles must apply with equal force to this case. They constitute a virtual rejection of the earlier holding in White v. Treibly, 57 App. D. C. 238, 55 Wash. Law Rep. 397. In a case such as this which involves the liberty and property rights of a citizen, I feel bound to follow the principles so clearly stated in the Barry case. Accordingly, I hold that the present detention of Major Rivers is without authority of law and that he is entitled to release unless by further proceedings he is legally adjudicated insane. In view of the Superintendent's return that Major Rivers is now of unsound mind and in need of care and treatment, an order for his release will not be made immediately. An order will be made on November 3rd unless in the meantime appropriate proceedings are instituted to determine the present mental condition of Major Rivers.

I wish to add that neither this decision nor anything stated therein, is intended to reflect upon the entire good faith of army officials in connection with this case.

March 30, 1940

From: The Chief of the Bureau of Medicine and Surgery.
To: The Commanding Officer, U. S. Naval Hospital,
Great Lakes, Illinois.

Subject: Report of Medical survey in the case of
George Clarence HEFTA, BM 2c., USN, Retired.

Enclosure: One (1).

1. Returned.

2. In view of recent decisions by the District Court of the United States in the District of Columbia to the effect that a retired officer or a retired enlisted man can be confined in Saint Elizabeths Hospital only in accordance with the laws and procedures applicable to other civilians, it is recommended that the next of kin or other relatives be informed that the above named man should be declared mentally incompetent by a civil court before being transferred from the Naval Hospital at Great Lakes. In the absence of any relatives, the local Red Cross representative may be requested to lend assistance in securing the necessary court action. There is no law authorizing or requiring that such action be taken at government expense and the Bureau does not recommend that the Commanding Officer of the hospital petition the court in these cases.

3. Taking into consideration the District Court decisions referred to above, the present policy of the Bureau of Medicine and Surgery is to request that when a retired officer or retired enlisted man is under observation at a naval hospital on account of a mental condition and his transfer to Saint Elizabeths Hospital is contemplated, the necessary steps be taken, if practicable, to have him declared mentally incompetent by a local civil court, and that the report of medical survey recommending his transfer to Saint Elizabeths Hospital, or to the Naval Hospital at Washington, D. C. for further transfer to Saint Elizabeths Hospital, be accompanied by a certified copy of the court's action.

ROSS T. McINTIRE
Chief of Bureau.

ADMISSION TO SAINT ELIZABETHS
HOSPITAL OF RETIRED PERSONNEL

R. R. Gasser,
By direction.

COPY

R-DBD

P3-1/EL20(041)

April 2, 1940

From: The Chief of the Bureau of Medicine and Surgery.
To: The Judge Advocate General.
Subject: Admission of retired officers and retired enlisted men to Saint Elizabeths Hospital.

1. It is understood that the U. S. District Court for the District of Columbia has recently held that the determination of a board of medical survey that a retired officer or a retired enlisted man is insane is not legally sufficient to warrant commitment to Saint Elizabeths Hospital.

2. In view of these decisions, information is requested as to what legal action should be taken to declare a retired officer or a retired enlisted man to be insane before he is transferred to Saint Elizabeths Hospital.

3. Heretofore, retired Navy and Marine Corps personnel requiring prolonged institutional care on account of their mental condition have been brought to Washington from the various naval hospitals and admitted to Saint Elizabeths Hospital by direction of the Secretary of the Navy and in accordance with Sec. 4843, of the Revised Statutes.

September 20, 1940

NOTE:- No reply has been received to this letter but according to verbal instructions received from the Judge Advocate General's Office (Mr. McGrath), the policy of the Navy Department will be to continue to admit retired personnel to Saint Elizabeths Hospital as has been the practice in the past. The Navy Department will continue to be guided by the decision of the Court of Appeals of the District of Columbia of May 2, 1927, relative to the case of Lieutenant Commander Charles E. Treibly (MC), USN, Retired. (See Appendix "D".)

COPY

Irwin

VETERANS ADMINISTRATION

WASHINGTON

March 21, 1940

Bureau of Medicine and Surgery,
Navy Department,
Washington, D. C.

NEVILLE, Melvin E.
C-2,737, 495

Delaware State Hospital,
Farnhurst, Delaware.

Gentlemen:

This is in reference to your letter of March 11, 1940, with inclosures relative to the hospitalization of the captioned veteran in a Veterans Administration Facility.

According to the record this veteran enlisted in the Navy as a Seaman March 24, 1936; he was honorably discharged July 29, 1936 for physical disability, dementia praecox, not incurred in line of duty. His claim has been considered by an adjudicating agency of this Administration and he was not granted service connection for any condition.

As this veteran's service was other than in time of war, from which service he was not discharged for disability in line of duty, and as he is not in receipt of pension for a service connected disability, he is not eligible to receive hospital treatment or domiciliary care as a beneficiary of this Administration.

Very truly yours,

/s/ CHAS. M. GRIFFITH,
Medical Director

COPY

April 29, 1940

MM/P3-2(361026-1)
J:fmh

From: The Judge Advocate General.
To: The Secretary of the Navy.

Subject: Melvin Eugene Neville, formerly A.S., U.S.N. -
Regarding readmission to Saint Elizabeths Hospital
in accordance with the provisions of section 4843, Revised
Statutes.

References: (a) Ltr. of Ch. Bu. M. & S. to J.A.G. dated Mar. 28, 1940.
(b) Surgeon General's ltr. file P3-1319494 of Dec. 21, 1936.
(c) Section 4843, Revised Statutes.

1. In reference (a) a decision is requested as to whether the subject-named man can be readmitted to Saint Elizabeths Hospital, at this time, by order of the Secretary of the Navy in accordance with the provisions of section 4843 of the Revised Statutes.
2. The subject-named man enlisted in the Navy as an Apprentice Seaman at Philadelphia, Pennsylvania, on March 24, 1936. His medical record contains no entry showing the existence of any physical or mental disability at that time, nor is there any evidence that he had every been treated for mental disability prior to his entry into the naval service.
3. Neville was admitted to the sick list at the Naval Training Station, Newport, Rhode Island and transferred to the Naval Hospital at Newport on March 27, 1936, with diagnosis Undetermined (Psychoneurosis, psychasthenia). The diagnosis was changed to Dementia Praecox on March 31, 1936, and he was transferred to the Naval Hospital, Washington, D. C., on April 3, 1936, for further transfer to Saint Elizabeths Hospital. Neville was discharged from the service at Saint Elizabeths Hospital on July 29, 1936, and retained for further treatment.
4. Correspondence on file in the Bureau of Medicine and Surgery indicates that Neville was discharged from Saint Elizabeths Hospital into the custody of his mother, Mrs. John Neville, 629 North Union Street, Wilmington, Delaware, on September 21, 1936, and that he was readmitted to that hospital by direction of the Secretary of the Navy in accordance with reference (c) on December 30, 1936, after having been committed to the Delaware State Hospital at Farnhurst by a civil court order. According to information received by the Bureau of Medicine and Surgery Neville was again discharged from Saint Elizabeths Hospital into the custody of his mother on August 2, 1939, "Condition Improved."

5. Neville has never been pronounced cured nor declared sane by any competent authority and the facts indicate that his present mental instability is a continuance of the insanity for which he was treated while in the Navy and hospitalized in Saint Elizabeths until less than one year ago. He has again been admitted to the Delaware State Hospital at Farnhurst. His parents through the superintendent of that institution have asked that his readmission to Saint Elizabeths be authorized.

6. Except for the fact that Neville, as indicated in paragraph 3 above, was admitted to Saint Elizabeths Hospital after having been discharged from the naval service on July 29, 1936, and from that hospital on September 21, 1936, into the custody of his mother, there is nothing contained in information furnished this office to show that he is at the present time indigent.

7. Section 4843, Revised Statutes, which is the Secretary of the Navy's authority in cases of this nature, provided for the admission to Saint Elizabeths of five classes of insane persons. The first class consists of persons who belong to the Army, Navy, Marine Corps or Coast Guard at the time of their admission; the second class, of certain civilian employees of the Army; and the remaining three classes, of former members of the Army; and the remaining three classes, of former members of the Army, Navy or Marine Corps who are "indigent" or "have no adequate means of support."

8. Pertinent parts of section 4843, Revised Statutes, supra, are as follows:

"The superintendent, upon the order of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Treasury, respectively, shall receive, and keep in custody until they are cured, or removed by the same authority which ordered their reception, insane persons of the following descriptions:

* * * * *

"Fourth. Indigent insane persons who have been in either of the said services and have been discharged therefrom on account of disability arising from such insanity."

9. The wording of the above act makes it clear that the Secretary of the Navy may authorize the admission of insane persons who meet the conditions therein specified. In view of the fact that Neville was admitted to the hospital for insanity while in the naval service; has subsequently been declared insane by a civil court, and has never been cured, this office is of the opinion that the Secretary of the Navy may authorize his readmission to Saint Elizabeths Hospital; provided, it is established that he is now indigent.

W. B. WOODSON.

Approved

LEWIS COMPTON

Acting Secretary of the Navy.

JAG:K:WJG:gb
MM CD/MH22

January 26, 1943

Sir:

Reference is made to your letter of December 18, 1942, addressed to the Surgeon General of the Navy, wherein information is requested as to (1) the procedure to be followed with respect to the readmission to U. S. Public Health Service hospitals at Fort Worth, Texas, and Lexington, Kentucky, within a period of three years after their release therefrom, of former enlisted men who have been discharged from the naval service, and (2) the appropriation considered available for burial expenses of the remains of such personnel who die in these hospitals and the responsibility which they are expected to assume in effecting such burial.

The Veterans Administration now has authority to provide hospitalization or domiciliary care for naval personnel honorably discharged by reason of physical disability incurred or aggravated in the line of duty including those suffering with neuropsychiatric ailments which incapacitate them from earning a living and who have no adequate means of support. It is assumed, therefore, that the information you desire is whether former enlisted personnel of the Navy, whose insanity did not originate in the line of duty and who are not entitled to hospitalization or domiciliary care by the Veterans Administration, can be readmitted to the U. S. Public Health Service hospitals in question and, if so, whether they should first be adjudged insane and committed by a civil court. ✓

U. S. Code, Title 24, section 161 (Sec. 4838, Revised Statutes, as amended), provides:

"There shall be in the District of Columbia a Government Hospital for the insane, which shall be known and designated as Saint Elizabeths Hospital, and its objects shall be the most humane

care and enlightened curative treatment of the insane of the Army and Navy of the United States and of the District of Columbia."

U. S. Code, Title 24, Section 191 (Sec. 4843, Revised Statutes), provides:

"The superintendent, upon the order of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Treasury, respectively, shall receive, and keep in custody until they are cured, or removed by the same authority which ordered their reception, insane persons of the following descriptions:

"First. Insane persons belonging to the Army, Navy, Marine Corps, and Coast Guard.

"Second. Civilians employed in the Quartermaster Corps of the Army who may become insane while in such employment.

"Third. Men who, while in the service of the United States, in the Army, Navy, or Marine Corps, have been admitted to the hospital, and have been thereafter discharged from it on the supposition that they have recovered their reason, and have, within three years after such discharge, become again insane from causes existing at the time of such discharge, and have no adequate means of support.

"Fourth. Indigent insane persons who have been in either of the said services and been discharged therefrom on account of disability arising from such insanity.

"Fifth. Indigent insane persons who have become insane within three years after their discharge from such service, from causes which arose during and were produced by said service."

Executive Order No. 9079 of February 26, 1942, "Making Certain Public Health Service Hospitals Available for the Care and Treatment of Insane Persons," provides, in part as

"1. The Federal Security Administrator is authorized to admit, to the extent that he may deem desirable, insane persons (except those

from the District of Columbia) to Public Health Service Hospitals at Lexington, Kentucky, and Fort Worth, Texas, for care and treatment upon the same terms and conditions as such persons, may be entitled to admission to St. Elizabeth's Hospital, at Washington, D.C."

The status of a person after discharge from the naval service clearly is that of a civilian. For that reason, the confinement of such a person in an institution for the insane must conform with the laws and procedure applicable to civilians.

In the case of Barry v. Hall (98 F. 2d. 222) decided April 11, 1938, which considered an appeal from an order of the District Court of the United States for the District of Columbia discharging a writ of habeas corpus and dismissing the petition upon which it was founded, the order of the trial court was reversed with directions to enter an order discharging the appellant from the custody of the appellee unless within five days after the entry of the order proper lunacy proceedings were instituted. The appellant in this case was a seaman in the U. S. Merchant Marine and was admitted to Saint Elizabeths Hospital pursuant to the request of the Secretary of the Treasury upon the Superintendent of Saint Elizabeths Hospital, to the effect that appellant be received in that institution "to be cared for as prescribed by the Acts of Congress approved March 3, 1875, and July 1, 1918." The court held, inter alia, that -

"The appellant's confinement in Saint Elizabeths under the Treasury Department letter until the time of the order of remand on the writ of habeas corpus of January 26, 1937, was illegal. Insanity is not a crime and therefore the constitutional guaranty of jury trial is not applicable; nevertheless, confinement in a mental hospital is as full and effective a deprivation of personal liberty as is confinement in jail. The Fifth Amendment is applicable in the District of Columbia, Sims v. Rives, 1936, 66 App.D.C. 24, 31, 84 F. 2d 871, 878, and cases cited; and it guarantees that no person shall be deprived of liberty without due process of law. Due process of law does

not necessarily mean a judicial proceeding-- the proceeding may be adapted to the nature of the case-- but it does necessitate an opportunity for a hearing and a defense. Ballard v. Hunter, 1907, 204 U. S. 241, 255, 27 S. Ct. 261, 51 L. Ed. 461; Simon v. Craft, 1901, 182 U.S. 427, 437, 21 S. Ct. 836, 45 L.Ed. 1165; In re Bryant, 1885, 3 Mackey 489, 14 D.C. 489; see Logue v. Fenning, 1907, 29 App.D.C. 519, 525; of Matter of Lambert, 1901, 134 Cal. 626, 66 P. 851, 55 L.R.A. 856, 86 Am.St.Rep. 296; In re Wellman, 1896, 3 Kan.App. 100, 45 P. 726; State v. Billings, 1894, 55 Minn. 467, 57 N.W. 206, 794, 43 Am.St.Rep. 525; Allgor v. New Jersey State Hospital, 1912, 80 N.J.Eq. 386, 84 A. 711; In re Allen, 1909, 82 Vt. 365, 73 A. 1078, 26 L.R.A., N.S., 232. * * *"

With particular reference to the case of In re Wellman, supra, in which "a person alleged to be insane was committed to and confined in an institution without notice of the nature and pendency of the proceedings and without opportunity to be heard," and in which case the Court of Appeals of Kansas, in a habeas corpus proceeding, ordered the appellant's discharge from confinement, the court stated:

"Independently of statutes, every person is entitled to his day in court, and to the right to be heard before he is condemned. No mere ex parte proceeding can affect either personal or property rights. Were the legislature to attempt to enact a law authorizing judicial proceedings, the object of which was to affect the person or property of a citizen, without notice or opportunity to be heard, such legislation would be rejected and repudiated in advance as an intolerable outrage upon the rights of the citizen. It would not only be a serious infringement of natural rights, but would be a flagrant violation of the constitutional guaranty that no person shall be deprived of his liberty or property without due process of law."

Consistent with the principle announced in the above cited decisions, it appears that the readmission to Saint Elizabeths Hospital of an insane person who has been discharged from the naval service within three years after his release from the hospital can properly be effected only after notice and hearing to such person and after an adjudication of his insanity by a tribunal of competent jurisdiction. In this connection the superintendent of Saint Elizabeths Hospital has taken the position that an individual who has been discharged from the Naval service can be confined in that institution only in accordance with the laws and procedure applicable to other civilians, that is, after a hearing in court, an adjudication of unsoundness of mind, and a commitment upon that basis. ~~The Navy Department will not issue orders for the commitment of former naval personnel to Saint Elizabeths Hospital so long as the Superintendent of the hospital declines to accept such orders as lawful authority for him to keep such persons in custody.~~ I might add for your further information that the Navy Department has no authority to pay the cost of any transportation or other expense involved in the readmission of ex-service personnel to Saint Elizabeths Hospital.

Confinement in a mental hospital is as full and effective a deprivation of personal liberty as confinement in jail. The Fourteenth Amendment to the Federal Constitution guarantees that no person shall be deprived of liberty without due process of law. Due process of law includes notice and opportunity to be heard when fundamental rights are at stake (Ballard v. Hunter, 204 U.S. 241). It has been held that the requirement of reasonable notice of a hearing cannot be waived by a person alleged to be incompetent or by his attorney (State ex rel Terry v. Holtkamp (51 S.W. (2d) 13); State ex rel Townsend v. Mueller (51 S.W. 2d 8)). The rationale of these cases is obviously based upon the fact that a person who is insane is not competent to waive anything and his attempt to waive a fundamental right is just as void as his conveyance of property or any other act he may attempt. It would therefore seem to follow that a person who alleges himself to be insane cannot waive his right to a hearing in which the question of his insanity may be determined. The stigma of irrationalism is such a serious matter that I know you will agree there should be, for the person whose insanity is inquired into, every proper safeguard.

Accordingly, it is the considered view of the Navy Department that the readmission to the U. S. Public Health Service Hospital at Fort Worth, Texas, or Lexington, Kentucky, of a discharged member of the naval service upon his application, or upon the order of the Secretary of the Navy, can legally be effected only after notice and hearing and an adjudication of his insanity by a tribunal of competent jurisdiction.

The view expressed in the preceding paragraph is, of course, subject to the rule referred to in the case of Barry v. Hall, supra, at page 230, to the effect that the "detention for a brief period of one who is as a matter of fact insane while proper proceedings are being instituted to determine his insanity as a matter of law, is not unlawful."

In this connection particular attention is invited to the case of In re Moynihan (62 S.W. (2d) 410), wherein the court quoted from Buswell on Insanity, page 33, as follows:

"As the inherent jurisdiction of the state over persons of unsound mind rests in part upon its duty to protect the community from the acts of those who are not under the guidance of reason, it follows, * * * that if any person is so insane that his remaining at liberty would be dangerous to himself or the community, any other person may, without warrant, or other authority than the inherent necessity of the case, confine such dangerous insane person, but only during so long a time as may be necessary to institute and carry to a determination proper proceedings to inquire into the party's condition and provide for his legal custody."

Thus, if a discharged member of the naval service becomes so deranged in his mind that he is a menace to himself or society, he may be readmitted to a U. S. Public Health Service Hospital within a period of three years after his release therefrom and prior to an adjudication of his insanity. However, in order to assure that an individual so detained may not be unduly deprived of his liberty without due process of law, legal proceedings should be instituted as soon as practicable to determine the question of his insanity. This would permit a commitment to be made in accordance with legal prin-

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principles (Ex parte Dagley, 35 Okl. 180; 128 Pac. 699).

The foregoing is deemed responsive to your first inquiry concerning the readmission of ex-service naval personnel to the Public Health Service Hospitals at Fort Worth, Texas, and Lexington, Kentucky.

Your further inquiry relates to the disposition of the remains of discharged naval personnel who die while inmates of the Public Health Service Hospitals in question, with particular regard to the procedure to be followed in notifying the Navy Department of such deaths and the responsibility, if any, which the hospitals will be expected to assume in effecting burials.

The appropriation "Care of the Dead," as contained in the Naval Appropriation Act, 1943 (Public Law 441 - 77th Congress), provides:

"For the care of the dead, as authorized in the Acts of April 20, 1940 (54 Stat. 144), and July 8, 1940 (54 Stat. 743), \$315,000."

Section 3 of the Act approved April 20, 1940 (54 Stat. 145; 34 U.S.C. 926), provides, in part:

"Funeral expenses shall be allowed for--

- * * *
- "(f) Former enlisted men of the Navy and Marine Corps who were discharged while patients in hospitals and who remain as patients in such hospitals to the day of their death; and
- "(g) Pensioners and destitute patients who die in naval hospitals: Provided, That only the expenses of preparation for burial and interment shall be allowed in disposing of the remains of such pensioners and destitute patients."

Under the terms of section 3(f), supra, payment of burial expenses of former enlisted men of the naval service is authorized provided they were discharged from the service while patients in U. S. Public Health Service Hospitals and remained as patients in such hospitals until death. Con-

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versely, where discharged members of the naval service were released from such hospitals, were readmitted within a period of three years after date of such release, and died during the period after such readmission, there is an authority of law under which current naval appropriations may be considered available for the payment of burial expenses of such personnel.

In a decision of the Comptroller General dated May 24, 1934, A-54648, it was held that language contained in the Naval Appropriation Act, 1934 (47 Stat. 1534), which was similar to section 3(g), supra, was applicable to a former enlisted man of the Navy who died in Saint Elizabeths Hospital. ~~In that case it appeared that the decedent had been transferred from a naval hospital to Saint Elizabeths Hospital for care and treatment and had remained at Saint Elizabeths Hospital from the date of his admission to the date of his death.~~ That decision would, therefore, not apply in the case of a former enlisted man who had been released from Saint Elizabeths Hospital, subsequently readmitted, and died during the period of readmission.

In view of the above, it would appear that the payment of burial expenses of discharged enlisted men, whose deaths occur after they have been readmitted to the U. S. Public Health Service Hospitals at Fort Worth, Texas, or Lexington, Kentucky, within a period of three years from the date of their release therefrom, is not authorized under the current Naval Appropriation Act. Accordingly, it would seem that the remains of former enlisted personnel who have died after their readmission to the hospitals at Fort Worth, Texas, and Lexington, Kentucky, should be disposed of in accordance with such rules and regulations as may be established by such hospitals for the disposal of the remains of civilians. Your second question is answered accordingly.

Respectfully,

Jamed Forrestal
Acting Secretary of the Navy.

The Surgeon General,
U. S. Public Health Service,
Washington, D. C.

CC: BuM&S

November 2, 1926

Sir:

Your letter, A 15134, of the 19th instant, with regard to an investigation your office is making of certain matters connected with the administration of St. Elizabeths Hospital, has been received.

The Surgeon General of the Navy is also at this time the President of the Board of Visitors of the Government Hospital for the Insane (Secs. 4840, 4841, R.S.), and is therefore in a position to afford me the information necessary for a reply to your communication.

Section 4843 R.S., and section 4 of the Act of March 3, 1855, (10 Stat., 682), provide that insane patients of the Army and of the Navy shall be received into the Government Hospital for the Insane upon the orders of the Secretary of War and of the Secretary of the Navy, respectively. The Surgeon General informs me that acting in his capacity as the Chief of the Bureau of Medicine and Surgery of this Department he considers the Government Hospital for the Insane was established primarily for the benefit of the insane of the Army and the Navy and when used for Naval purposes, it is an adjunct or accessory hospital to the U. S. Naval hospitals, and further, that the Superintendent and the Staff of the institution are the available legally authorized consultants and advisors, in cases of insanity occurring among the personnel of the Navy and Marine Corps, and that because these beliefs were also held by the preceding incumbents of his office, no effort has ever been made by the Department for the establishment of a Naval hospital for the care of the insane.

A medical officer of the Navy is assigned to duty at St. Elizabeths in addition to his duty at the Naval Hospital, Washington, and as an instructor at the Naval Medical School, and he is by courtesy a member of the St. Elizabeths staff. His duties are that he shall constantly visit all Naval and Marine Corps patients, both active and retired of the regular Navy, and also, reservists, and that he shall prepare and handle all records, surveys, correspondence, etc., in connection therewith.

No patient is ever committed to St. Elizabeths in haste; consideration and re-consideration and deliberation mark every phase of every case. Following exhibition of abnormal behavior, the individual is transferred

to the nearest Naval Hospital for observation and treatment, and that study may be made of his case. After a sufficient period of observation, perhaps in the psychopathic ward, the patient is brought before a Board of Medical Survey, and after a mental and physical examination, the Board makes a report of its findings, and a recommendation as to the disposition of the patient. This report of survey is forwarded to the Bureau of Medicine and Surgery through the Commanding Officer of the Hospital and the Commandant of the Naval District. The Bureau of Medicine and Surgery approves or disapproves the findings of the Board, and forwards the report to the Bureau of Navigation or to Marine Headquarters, according as the patient may be a Navy or Marine Corps case. When the Board finds an individual insane and the finding is approved by the Bureau of Medicine and Surgery, the patient is transferred to the psychopathic ward of the Naval Hospital, Washington, where he is further observed, and is again subject to the same procedure as just outlined. If it is finally recommended and approved that the patient be transferred to St. Elizabeths, commitment papers are executed in the Bureau of Medicine and Surgery.

After a short period in St. Elizabeths, patients of the Navy and Marine Corps are brought before a Board of Medical Survey. Officers are recommended either for return to duty or for retirement; enlisted men are recommended either for return to duty or from discharge from the service. Very few enlisted men are discharged by reason of expiration of enlistment.

As before stated a Naval medical officer is assigned to duty at St. Elizabeths, and cares for, and keeps record of, all cases of Naval personnel, both active and retired; but his care and keeping of records automatically cease when the patients, by reason of discharge from service, are no longer members of the Naval establishment.

Respectfully,

Curtis D. Wilbur,

Secretary of the Navy.

The Comptroller General of the United States.

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AMERICAN RED CROSS
St. Elizabeth's Hospital
Office of the Field Director
Washington, D. C.

NARRATIVE REPORT

SEPTEMBER, OCTOBER AND NOVEMBER

1939

A. A Brief Statement of Procedures and some Observations of the Psychological Problems Involved in Guardianship Cases:

Contrary to the general impression among professional and lay people connected with guardianship cases not all of the Service and ex-service patients and retired officers admitted to St. Elizabeths Hospital in Washington, D. C. have been legally committed. The majority of such patients are held here without loss of their civil status on the original service order by which they were sent to the Hospital for observation and treatment. Such patients have not had their civil rights impaired and are able to receive and disburse funds under the supervision of the Hospital. It seems pertinent to us, because of the many requests for information we have had with reference to guardianship and to the general lack of knowledge of the procedures necessary for the appointment of guardians here at St. Elizabeths, to make an explicit statement on this subject at this time.

A number of agencies responsible for certain groups of our patients have already developed a satisfactory mechanism for the appointment of guardians where it is indicated. For example, if one of our patients is a pensioner of the Veterans Administration all guardianship matters are handled by their legal department. Not all pensioners hospitalized at St. Elizabeths have guardians, for many of these patients are given institutional awards by the Veterans Administration, which means that the patient is considered competent to receive and spend his money under Hospital supervision. If, however, the patient is not

competent, or if there are involved dependency situations the Veterans Administration invariably appoints a guardian. The Army has set up a satisfactory mechanism for handling the cases of retired, incompetent officers through Colonel Munson of the A.G.O. office. In contrast to this procedure of the Army, the retired Naval and Marine officers who are incompetent must rely on the Navy's notification to the family that the patient is incompetent and in need of a guardian. The Navy takes no further steps in the initiation of guardianship. The Coast Guard likewise has no mechanism in initiating the appointment of a guardian. Therefore, it will be seen that there is an area here in which the Red Cross is obligated to assist in some way with the initiation of guardianship proceedings for retired Naval and Marine officers and discharged and retired Coast Guardsmen, as well as Fleet Naval Reservists who are declared incompetent. This area of work is delimited for us if the families of such patients respond to the notice that guardianship is in order. Many families, however, do not respond for a variety of reasons. Sometimes they are too far distant and prefer that a guardian be appointed in the District, which is near the patient. Other families wish to have no part in declaring the patient insane, preferring that the action be taken impersonally and by someone else. Finally, in many jurisdictions it is impossible to appoint a guardian unless the patient himself appears in court.

For the past two years the American Red Cross Office at St. Elizabeths has been working with the cooperation of the District Chapter in such cases as has been described. The request to so act came to us from our Superintendent, Doctor Overholser. The District Chapter was responsive, discussed the problem with the local Bar Association, and this Organization appointed one of its former presidents to act without compensation in filing the necessary papers. The procedure is as follows:

1. The patient is declared incompetent by the Hospital authorities for the receipt of his retired pay.
2. Our office is notified of this in writing.
3. Our office directs a letter of referral to the District Chapter setting forth the pertinent material, such as the character and amount of the estate, claims, obligations, debts, etc., the names and addresses of relatives and interested friends, and a detailed description of the dependency situation.
4. The District Chapter refers this letter to the Attorney appointed by the Bar Association to serve the Red Cross in this capacity.
5. The Attorney writes to the relatives advising them that the action for the appointment of a guardian is about to be initiated by him. He asks them what their wishes are with regard to it and whether they would or would not like to be the guardian themselves. Usually the attorney must wait some time for these replies. The attorney then prepares and files the necessary papers and requests the District Chapter to furnish \$13.00 for the cost of filing. The \$13.00 is recoverable from the patient's estate.
6. The hearing is scheduled.
7. If a member of the family does not appear at the hearing or fails to sign the petition a guardian ad litem is appointed.
8. If the guardian ad litem is appointed his fee is \$25.00. This is recoverable from the estate. (The Chapter does not advance this money.)
9. The appointment of the guardian is made.
10. The guardian files a bond.
11. The guardian collects the estate.
12. The guardian visits the Hospital, confers with the Hospital authorities, visits the patient and the Red Cross Office.
13. If indicated, the guardian presents the dependency claim to the Judge, who approves or disapproves it, and the dependency is thus initiated.
14. The guardian reimburses the Chapter and pays the debts.

We cannot conclude this statement of procedure without the information that a guardian in the District of Columbia must file an accounting. A guardian in the District receives an amount fixed by law for his services, which is five

percent of the disbursements. The guardians usually appointed are attorneys of recognized standing in the community. It will be seen from the above statement that the appointment of a guardian is an orderly, legal procedure, nevertheless at every step the persons involved in the procedure are dealing with human beings and hence are inevitably entangled with problems of human conduct. First of all, there is the patient suffering from a severe mental disorder. He has many unique vagaries. Second, there is the family under the stress and sorrow at the necessity for the appointment of a guardian or under dire need because of dependency for the appointment to proceed quickly. It can, therefore, be seen that this procedure, which is at times rather involved, provides the Red Cross Office at St. Elizabeths with an opportunity for the interpretation of mental disease, of case work procedures, and of the program of the Red Cross. Our Unit has come to fear that the mere statement that mental hygiene principles should be used in all procedures involving human beings is not enough to insure their use. We, therefore, have made a considered attempt to create a situation in these guardianship cases in which we learned from the attorneys the necessary legal procedures, and in which they learn from us the dynamics of psychiatric case work with the client and with the families of our clients. This has been possible because the young attorney assigned to this work has a keen interest in human nature and in psychiatry. She frequently visits the Hospital and at every step in the procedure the mutual interpretation of our specialties has been possible.

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DEPARTMENT OF THE NAVY
Office of the Judge Advocate General
Washington, D. C.

MM(1)/P7(390124)
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February 8, 1939.

From: The Judge Advocate General.
To: Medical Officer in Charge, Naval Detail, Saint Elizabeths Hospital, Washington, D. C.
Via: The Chief of the Bureau of Medicine and Surgery.
Subject: Guardianship in the case of naval patients in Saint Elizabeths Hospital in an active duty status.
Reference: (a) Your letter to Bu. M&S, Jan. 21, 1939.
(b) 1st ind. Bu. M&S to J.A.G., Jan. 24, 1939, file P3-1/EL20(013).

1. In reference (a) information is requested as to the policy of the Bureau of Medicine and Surgery regarding the appointment of a guardian for a mentally incompetent person who is a patient in Saint Elizabeths Hospital and who is still on the active list of the Navy. Reference (a) was forwarded to this office by reference (b) for necessary disposition for the stated reason that the appointment of a guardian is a legal matter.

2. There is no provision of law authorizing or requiring the appointment of a guardian at public expense for an enlisted member in the active naval service while a patient in Saint Elizabeths Hospital. Whether or not a guardian should be appointed in the case of an enlisted man who is a patient in Saint Elizabeths Hospital and a known mental incompetent is primarily a matter of immediate concern to the man's relatives. In any such case it would appear that the relatives should be advised of the man's mental condition and of the desirability of having a guardian appointed in his case. Should none of his relatives apply for appointment as guardian, it would then appear that any other person who is interested in the future welfare and comfort of the man may then properly apply for guardianship.

3. Whether or not a member of the naval service or other Government official or employee should petition the court for appointment as guardian in any such case is, of course, a matter of private concern. It should be stated in this connection that if any such person should apply for and obtain appointment as guardian, there is no existing authority of law or available naval appropriation under which he might be reimbursed for expenses incurred in securing such appointment.

/s/ W. B. WOODSON.

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April 7, 1925

The Honorable,
The Secretary of the Interior,
Washington, D. C.

SIR:

In further reference to our letter of April 1, 1925, wherein we called attention to the provisions of the World War Veterans Act of June 7, 1924, which permit the hospitalization under the supervision of the U. S. Veterans Bureau of former service men of any war, and certain practices under said Act by the U. S. Veterans Bureau pertaining to the hospitalization of officers of the Army, Navy, Marine Corps, etc., I am enclosing a letter received this date from Lieutenant Francis M. Munson, a patient at this Hospital who is a retired medical officer under the Navy Department and who has been paying one dollar per day for his board and maintenance while receiving treatment in this institution. In his letter dated April 6, 1925 (enclosed) he states that he was discharged from the Navy Rolls of this Hospital and transferred to the care of the U. S. Veterans Bureau on March 31, 1925, and that he has been further informed that the U. S. Veterans Bureau issued authority for his admission to this Hospital as a beneficiary of that Bureau for hospitalization only from December 8, 1924, and he makes application for refund of money he has paid to Saint Elizabeth's Hospital for subsistence as a retired naval officer.

In our letter of April 1, 1925, we requested to be advised if officers on the retired list who may be considered beneficiaries of the U.S. Veterans Bureau for hospitalization should still continue to pay their one dollar a day for their support. In Lieut. Munson's case, not only does he ask to be relieved of paying this dollar a day, but he asks for a refund of such money as he has already paid beginning with the date the Veterans Bureau made him their beneficiary for hospitalization purposes. This is probably one of a number of cases that will arise under the Act of June 7, 1924, and we respectfully request that the enclosed receive consideration with our letter of April 1, previously transmitted. Please return Lieut. Munson's letter and receipt with your reply.

Very respectfully,

M. Sanger,
Assistant to the Superintendent

Encls. (2).

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UNITED STATES
DEPARTMENT OF THE INTERIOR
WASHINGTON

May 18, 1925.

Respectfully referred to the
for his information.

Chief Clerk.

(Copy)

Comptroller General of the United States
Washington

May 12, 1925.

A-9011

The Honorable,
The Secretary of the Interior.

Sir:

I have your letters of April 1 and April 7, 1925, requesting decision of several questions relative to the availability of funds appropriated for Saint Elizabeth's Hospital for treatment of (1) retired officers of the Army, Navy, and Marine Corps, (2) active personnel of the Coast Guard admitted on the order of the Secretary of the Treasury, (3) retired enlisted men of the Coast Guard and members of the Naval Reserve Force; and (4) merchant seamen as patients of the Public Health Service.

(1) You state as follows:

"Thomas A. Dwyer was admitted to the hospital under an order of the Secretary of the Navy, as an officer on the retired list of the Navy. On such admission certificate, he was rated an officer on admission to this hospital, and under the practices and regulations of the Army, Navy, and Marine Corps, and Decisions of the Comptroller General of April 29, 1911, and January 24, 1912, he was directed to pay one dollar per day for his support while in a Government hospital. This dollar per day being paid by an officer, augments the appropriation made by Congress. Thus we receive an appropriation amounting to \$547.50 or \$1.50 per day from Congress, and \$365 per year, or a dollar a day from the officer while he is receiving support from the Government in a federal hospital. This dollar per day

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permits the classification of officers in separate wards, and the serving of a little more choice foods cooked in smaller quantities. A bill was sent to the wife, who is committee for this patient, who, instead of making payment has requested the Director of the Veterans Bureau to assume jurisdiction and to transfer his patient to the Veterans Bureau roll, making payment of \$547.50 per year direct to the hospital. The hospital would then deduct this patient from those for whom we receive appropriation from Congress, and might lose the charge of one dollar a day from the patient as an officer receiving support in a government hospital.

"In view of the foregoing, I have the honor to request that this whole matter be reviewed and the hospital advised if retired officers of the Army, Navy and Marine Corps who are sent to the institution by the Secretaries of War or Navy but transferred to the jurisdiction of the Veterans Bureau, are relieved of paying their dollar a day for support as decided by the Comptroller of the Treasury Department in his decisions of April 29, 1911, and January 24, 1912, or if such transfer of jurisdiction is permitted, will such patients still have to pay for their support."

Section 4843, Revised Statutes, under the heading "The Government Hospital for the Insane", expressly provides in part as follows:

"The Superintendent, upon the order of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Treasury, shall receive, and keep in custody until they are cured, or removed by the same authority which ordered their reception, insane persons of the following descriptions:

"First: Insane persons belonging to the Army, Navy, Marine Corps, and revenue cutter service.

* * * * *

"Third: Men who, while in the service of the United States, in the Army, Navy, or Marine Corps have been admitted to the hospital, and have been thereafter discharged from it, on the supposition that they have recovered their reason, and have, within three years after such discharge, become again insane from causes existing at the time of such discharge, and have no adequate means of support."

It has long been the settled practice to admit retired officers of the Army, Navy and Marine Corps to Saint Elizabeth's Hospital on the basis that they are "persons belonging to" the respective services within the meaning of the quoted revised statute. Decisions of the Comptroller

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General of the Treasury of April 29, 1911, 57 Ms. Comp. Dec. 530; September 20, 1911, 58 id. 1265; and January 24, 1912, 60, ld. 357. It was held by the Comptroller of the Treasury and the Judge Advocate General of the Army that commissioned officers of the Army, Navy, and Marine Corps, both on the active and retired lists who are admitted to Saint Elizabeth's Hospital under orders of the Secretary of the War or Navy, respectively, are not entitled, while undergoing treatment in said institution to subsistence at the expense of the Government, based on the laws that such officers were not entitled to rations or subsistence at the expense of the Government otherwise, and that to establish such right while undergoing treatment in St. Elizabeth's Hospital, it would appear from specific provisions of law, and not rest merely on the terms of the appropriation act for the hospital which includes provision for "support, clothing, and treatment in Saint Elizabeth's Hospital for the Insane from the Army, Navy, Marine Corps, Coast Guard." See act of June 5, 1924, 43 Stat. 429. In other words, the rulings concluded that the annual appropriation acts should be read in connection with the laws providing for the pay and allowance of the officers, and when so read the appropriation is available to pay for the support or subsistence for those otherwise entitled thereto but not for the support or subsistence for those not otherwise entitled. Based on these decisions a charge for subsistence of such officers in Saint Elizabeth's Hospital has been fixed by regulations as indicated in your letter.

Section 202(10) of the World War Veterans' Act of June 7, 1924, 43 Stat. 620, provides in part as follows:

"*****The director is further authorized, so far as he shall find that existing Government facilities permit, to furnish hospitalization and necessary traveling expenses to veterans of any war, military occupation, or military expedition since 1897, not dishonorably discharged, without regard to the nature or origin of their disabilities: Provided, that preference to admission to any Government hospital for hospitalization under the provisions of this subdivision shall be given to those veterans who are financially unable to pay for hospitalization and their necessary traveling expenses."

This statute has twice been construed not to have repealed, superseded, or rendered inoperative prior laws and regulations governing the treatment and hospitalization of persons entitled by reason of military or naval service. 4 Comp. Gen. 445, lb. 514. The first was the case of a pensioner hospitalized in Saint Elizabeth's Hospital and it was held that

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the pension was obligated for the care of the veteran under prior laws and the regulations issued pursuant thereto. The second was the case of a pensioner hospitalized in a naval hospital and the same ruling was made. In the present case, as retired officers of the Army, Navy and Marine Corps have heretofore been admitted into Saint Elizabeth's Hospital on the basis of their being a part of the respective services within the meaning of the Revised Statutes, and in view of the fact that the World War Veterans' law was enacted in the light thereof, such retired officers may not be considered as "veterans" within the meaning of the quoted portion of section 202(10) of the World War Veterans' Act and entitled to hospitalization in Saint Elizabeth's Hospital at the expense of the Government as such. In the case of Thomas A. Dwyer submitted by you there would be no authority to transfer him to the jurisdiction of the U. S. Veterans Bureau, and his committee may not be relieved from paying the regulation charge of \$1.00 per day for the period the officer is in Saint Elizabeth's Hospital. Likewise in the case of Lt. Francis M. Munson submitted in your letter of April 7, the officer is not relieved from the charge of \$1. per day for subsistence while in the hospital.

(2) You state:

"Under date of June 15, 1860 (12. Stat.23) an act authorizing the admission of certain classes of patients to this institution was amended and extended to include the Marine Corps and Revenue Cutter Service. In the Act of January 28, 1915, an act to create the Coast Guard by combining therein the existing Life Service and Revenue Cutter Service, the Revenue Cutter Service was merged into the Coast Guard. In the same act it was stipulated that the Coast Guard would operate as a part of the Navy, subject to the orders of the Secretary of the Navy in time of War or when the President shall so direct. Under this provision, the employees of the Revenue Cutter Service became part of the Coast Guard and the Coast Guard being a part of the Navy Department during the late War, all such employees became eligible for admission for treatment in this hospital under the order of the Secretary of the Navy. Thus the act of January 28, 1915, automatically broadened the class of patients eligible to receive treatment at this hospital to all classes in the Coast Guard, the Life Service previous to this act not being entitled to such admission.

"The act authorizing appropriations for this hospital was changed in 1916 and the words Coast Guard inserted in the place of Revenue Cutter Service in naming the persons for whom Congress made the appropriation for Saint Elizabeth's Hospital. During the war period these employees were admitted to the hospital under order of the Secretary of the Navy. Now that the coast guard is a part of the Treasury Department, all of these classes are admitted under the order of the Secretary of the Treasury. Is

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this practice authorized under the act of January 26, 1915?"

Considering together the provisions of the revised Statutes authorizing the admission of members of the revenue cutter service into Saint Elizabeth's Hospital, on the order of the Secretary of the Treasury, and the provisions of the Act of January 28, 1915, 38 Stat., 800, under which the revenue cutter service was combined with the life-saving service, a similar activity, to comprise the Coast Guard, and the provisions of the annual appropriation acts for Saint Elizabeth's Hospital, expressly including the insane of the "Coast Guard", it reasonably may be concluded that all insane members of the Coast Guard, whether of the former revenue-cutter service, or the life-saving service, may be admitted to Saint Elizabeth's Hospital on the order of the Secretary of the Treasury.

(3) You state:

"Under the recent laws, enlisted men of the Coast Guard and of the Navy, or those who may be noncommissioned officers, are transferred to the retired list or reserve. Are retired and enlisted men of the Coast Guard eligible for admission to the hospital? Are members of the Naval Reserve eligible for admission to this hospital?"

An enlisted man of the Coast Guard is entitled to retirement under the provisions of the act of January 28, 1915, 38 Stat., 801, and is subject to assignment "to such duties as he may be able to perform." Retired pay is governed by section 10 of the act of June 10, 1922, 42 Stat., 630. From these provisions, it may be held that retired enlisted men constitute a part of and are "persons belonging to" the Coast Guard, within the meaning of the statutes governing admission of insane persons into Saint Elizabeth's Hospital, in the same manner, and subject to the same conditions as, retired enlisted men of the Army, Navy and Marine Corps.

The act of July 1, 1918, 40 Stat., 712, provides that "members of the Naval Reserve Force when employed in active service, ashore or afloat, under the Navy Department shall receive the same pay and allowances as received by the officers and enlisted men of the Regular Navy." While on active duty with the Navy the members of the Naval Reserve Force are entitled to be furnished with medical and hospital care in the same manner as members of the regular Navy, including the right of admission into Saint Elizabeth's Hospital as a part of the Navy, but there is no revision of law providing for the medical or hospital treatment of members of the reserve on inactive duty. The act of February 28, 1925, Public 512, effective on and after July 1, 1925, abolishes the Naval Reserve Force and creates a Naval Reserve. No rights to medical or hospital treatment of members of the Naval Reserve on inactive duty are granted by this act.

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While in an inactive status members of the Naval Reserve Force, or of the Naval Reserve, on and after July 1, 1925 would not be entitled to admission to Saint Elizabeth's Hospital under section 4843, Revised Statutes, as "persons belonging to" the Navy. Whether they might under any circumstances be entitled to admission as "veterans" under the World War Veterans' Act is not for consideration on the present submission.

(4).

"A merchant seaman is sent to the hospital as a beneficiary of the Public Health Service. He receives treatment and in the course of two or three years is discharged as recovered. Within three years he requests to be permitted to reenter the hospital for treatment. He is no longer a Merchant Seaman, or beneficiary of the Public Health Service. Is such patient entitled to admission to the Hospital for further treatment?"

Section 5 of the act of March 3, 1875, 18 Stat., 486, provides as follows:

" * * * INSANE PATIENTS OF THE SAID SERVICE (Public Health Service) shall be admitted into the Government Hospital for the Insane upon the order of the Secretary of the Treasury, and shall be cared for therein until cured or until removed by the same authority; and the charge for each such patient shall not exceed four dollars and fifty cents a week, which charge shall be paid out of the marine-hospital fund."

- Merchant seaman are entitled to treatment in marine hospitals under control of the Public Health Service, the cost of which is payable from the marine-hospital fund. Sections 4801, 4802, and 4803 Revised Statutes. They are, therefore, patients of the Public Health Service within the meaning of the Act of March 3, 1875, supra. The right of the seamen, as patients of the Public Health Service to remain in Saint Elizabeths Hospital is limited to such time as they are "cured", or until removed by the same authority." If they are discharged from the hospital as cured, there is no right of reentry, except as a patient of, and under the order of the Public Health Service. If, in the meantime, the patient has changed his occupation and is no longer a merchant seaman or otherwise a beneficiary of the Public Health Service, it would follow that there would be no right of admission into the hospital on that basis. The right of reentry within three years under section 4843, Revised Statutes, has reference only to the personnel of the Army, Navy and Marine Corps, and is not extended to merchant seaman as patients of the Public Health Service.

Respectfully,
(signed) J. R. McCarl,
Comptroller General.

COPY

Office of the Secretary
OO/P13-11(381026)
K Du

DEPARTMENT OF THE NAVY
WASHINGTON

December 20, 1938.

Sir:

I have received your letter of October 26, 1938, regarding arrears for subsistence of certain commissioned officer patients in Saint Elizabeths Hospital, and requesting the cooperation of the Navy Department in the collection of such unpaid subsistence bills.

It appears to the Navy Department that in those cases where a legal guardian has been appointed by the courts, collection of the charge for subsistence is a matter between Saint Elizabeths Hospital and the guardian, and that, should the guardian refuse payment, legal redress may then be obtained through the courts. This procedure would be applicable in the following cases:

Howard Keane, Lieutenant (j.g.) USN, Retired.
Edward G. Muth, Ensign, USN, Retired.
Hollis T. Winston, Lieutenant Commander, USN, Ret. (Deceased).

In those cases where no guardian or committee has been appointed, the disbursing officer is without authority in law to check their current pay to offset unpaid charges for subsistence furnished them while patients in Saint Elizabeths Hospital. Accordingly, unless a guardian or committee is appointed in such cases and agrees to liquidate outstanding bills for subsistence furnished their wards while patients in Saint Elizabeths Hospital, it would appear that redress similar to that above mentioned should be had in such cases. The officers coming within their category are the following:

Thomas B. Casey, Lieutenant, USN, Retired.
Joseph Fitton, Chief Machinist, USN, Retired.
Albert S. Marley, Lieutenant Commander, USN, Retired.
Joseph E. Stulgis, Ensign, USN, Retired.
William C. Darwin, Lieutenant Commander, USN, Retired.

In the case of Lieutenant (j.g.) Everet R. Johnson, U. S. Naval Reserve, you are advised that this Reserve officer was discharged from the Naval Reserve on October 28, 1937, in view of which there is no pay due this former officer which may be applied in settlement of his indebtedness. It therefore appears that the authorities of Saint Elizabeths Hospital should seek collection of the amount involved on this former Reserve officer's account from his relatives or from any other source which may appear appropriate.

APPENDIX M

COPY

OO/P13-11(381026)

K Du

In connection with the foregoing, the principle is well established by decisions of the courts that, in the absence of specific statutory authority providing therefor or of the consent of the debtor thereto, the current pay of officers regularly appropriated for by Congress may not be withheld to offset their indebtedness to the United States. (McCarl, et al. v. Cox, 8 Fed. Rep. (2d) 669, certiorari denied March 15, 1926, 270 U. S. 652; Pence v. United States, 18 Fed. Rep. (2d) 809.)

With respect to the decisions in the Cox and Pence cases, supra, the Comptroller General of the United States, in decision rendered to the Secretary of the Navy on January 18, 1928, A-20456, recognized the fact that, on the basis of the cited court decisions, the Government no longer had the right, independent of express statutory authority, "to recoup an indebtedness by withholding the pay and allowances of debtors in the executive service of the United States".

It was further stated by the Comptroller General that pending the enactment of legislation authorizing the deduction from the statutory pay and allowances of those in the naval service of amounts they have been previously overpaid "or are otherwise indebted to the United States on any account", there must be filed in the General Accounting Office in support of deductions thereafter made by disbursing officers the written consent to such deductions of those from whose pay and allowances the deductions are made, such consent to be without prejudice only to the right to proceed in the Court of Claims, if the indebtedness is controverted or is questioned.

While the decisions in the Cox and Pence cases were concerned primarily with checkages to offset disallowances in the fiscal accounts of disbursing officers, such decisions, nevertheless, are clear on the point that the current statutory pay and allowances of no person in the executive service of the United States shall be subject to checkage for indebtedness to the Government on any account, unless express statutory authority for such checkage exists or the individual debtor consents thereto.

There is no express statutory provision under which the Navy Department is authorized to check the accounts of the officers named in your letter for the amount of their unpaid subsistence bills. Furthermore, as you already know, none of such officers is mentally competent to give his consent to checkage of his pay account for such purpose. In this connection, and with a view to fully cooperating with the Interior Department in arriving at a satisfactory solution of this matter, I desire to state that the Navy Department will give careful

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00/P13-11(381026)
K Du

consideration to any proposed amendatory legislation that will provide for checkage of the current statutory pay of retired naval officers in amounts necessary to liquidate unpaid charges for subsistence furnished them while patients in Saint Elizabeths Hospital.

Respectfully,

WILLIAM D. LEAHY
Acting

The Honorable,
The Secretary of the Interior.

Copy to: Bu.SandA
Bu.M&S.
Med.Off.in Charge,
Navy and Marine Corps patients,
Saint Elizabeths Hospital.

COPY

OO-Jones, Gilbert A/L16-4(21)(370116)
K Du

February 1, 1937

From: The Judge Advocate General.
To: Naval Medical Officer in Charge of Navy and Marine
Corps patients, Saint Elizabeths Hospital, Washing-
ton, D. C.

Subject: Request of Lieutenant (j.g.) Gilbert A. Jones,
Supply Corps, U. S. Navy, Retired, for increase
in allowance from estate to meet personal expenses.

Reference: (a) Letter of Lieutenant (j.g.) Jones, Supply Corps,
Retired, to Sec. Navy, Dec. 16, 1936.
(b) Your 1st ind. on ref. (a), Jan. 12, 1937.

1. It is requested that you inform the subject named officer, in response to his request in reference (a), that neither the Secretary of the Navy nor the Judge Advocate General can be of any assistance to him in the matter of securing an increase in the allowance of \$11 per month now made to him by the duly appointed conservator of his estate. Any increase in such allowance can be made only by the duly appointed conservator of his estate or by such conservator pursuant to further order of the civil court under which she holds her appointment as such. Whether or not such an increase should be authorized is a matter over which the Navy Department has no jurisdiction and for which reason it would not be warranted in recommending an increase in the monthly allowance of the subject named officer, as requested in reference (a).

G. J. ROWCLIFF.

NAVY AND MARINE CORPS PATIENTS
IN SAINT ELIZABETHS HOSPITAL

The following information relative to the care and treatment of the insane Navy personnel at Saint Elizabeths Hospital has been furnished by the Chief Pharmacist's Mate on duty with the Medical Officer in Charge of Navy and Marine Corps patients at that institution.

ADMISSION OF PATIENTS.--All Navy and Marine Corps patients are admitted to Saint Elizabeths Hospital through the Naval Hospital, Washington, D. C. upon the approved recommendation of a Board of Medical Survey. Orders for admission are signed by the Chief of the Bureau of Medicine and Surgery for the Secretary of the Navy.

Upon his arrival here, the patient is first admitted to the Admission Ward, where he is given both a mental and physical examination, and his ward assignment depends on the findings at that examination. In the case of a retired or active duty officer, if he is not actively psychotic, he is admitted to the Officers' ward. Otherwise, he is placed in a ward with the enlisted men. The assignment of a patient to a ward depends on his physical and mental condition. If the patient is in need of medical or surgical treatment, he is transferred to the Medical and Surgical building.

GUARDIANS AND COMMITTEES.--If a patient is considered mentally incompetent, the Navy Department takes no action so far as adjudication and the appointment of a guardian or committee are concerned. That is left entirely to the patient's relatives or to others concerned.

RECORDS.--Service records of Navy patients on active duty are retained at the Naval Hospital, Washington, but the health records are forwarded to this office. Pay accounts of Navy patients are also carried at the Naval Hospital. Service records and pay accounts of Marines are retained at the Marine Barracks, Navy Yard, Washington, D. C.

APPENDIX O

NAVY AND MARINE CORPS PATIENTS
IN SAINT ELIZABETHS HOSPITAL

PAY ACCOUNTS.--After admission here, the patient is interviewed by the Chief Pharmacist's Mate and Medical Officer in Charge of Naval Detail as soon as practicable and questioned concerning any dependent relatives and also concerning money for his own use while he is here. If the patient has dependents he is consulted as to what part of his pay he desires to forward to them. If the patient so desires, arrangements can be made to have a check made out each month which he endorses and this office forwards it to the dependent. The Medical Officer in Charge of the Naval Detail makes periodical rounds through the wards to see such patients as may desire to see him and gives them advice and information.

ALLOWANCES.--Whenever a check is received in this office for a patient, unless it is to be forwarded to a dependent, it is brought to the patient to be endorsed and then turned in to the Finance Officer of the hospital. Patients are allowed to draw from whatever sum they have on deposit in the hospital twice a month. The amounts drawn each time range from \$2.00 to \$10.00 depending on the condition of the patient and the amount of money he has on deposit. If a patient has been declared incompetent and a guardian has been appointed, the amount of money the patient draws each pay day depends on the allowance made by the guardian. The amounts in these cases are usually set by the court appointing the guardian.

DISPOSITION.--After a Navy or Marine Corps patient has been in this hospital for three months he is surveyed. In most cases the recommendation is made that he be discharged from the service and retained in this hospital for further treatment. If a man has more than 14 and less than 16 years, or more than 19 and less than 20 years of active service prior to his admission to the Hospital, the Board recommends that he be retained for further treatment until such time as his transfer to the Fleet Reserve can be effected. This applies only to those men who were in the service on July 1, 1925. Men who were not in the service on that date are surveyed for discharge. In the case of officers, the recommendation is made that they be ordered to appear before a Naval Retiring Board. At this hospital the survey board consists of only one Medical Officer.

NAVY AND MARINE CORPS PATIENTS
IN SAINT ELIZABETHS HOSPITAL

FLEET RESERVES.--When a Fleet Reservist is admitted here or a man is transferred to the Fleet Reserve while a patient here, a Form "Y" is prepared and forwarded, recommending that he be placed on the retired list by reason of physical disability.

After a Medical Survey has been approved by the Department and returned to the Naval Hospital, this office is notified as to the date of discharge and the place of enlistment. This office prepares a form for the signature of the patient in which he agrees to accept transportation from Washington, D. C. to the place of enlistment and also a statement as to the competency of the patient, both of which are forwarded to the Naval Hospital prior to the date of discharge. If the patient is competent, his final pay check (including transportation) and his discharge, C.S.C., etc., are forwarded to this office and delivered to the patient; the check is endorsed and turned in to the Finance office, the discharge is signed by the patient and the Medical Officer in Charge, the patient is fingerprinted, after which the discharge, C.S.C., etc., are turned in to the Chief Clerk of the hospital for safekeeping. When a man is transferred to the Reserve he is examined, fingerprinted, new service record is made out and returned to the Naval Hospital for further disposition. Patient's next of kin is also informed.

HEALTH RECORDS.--Health records are kept in this office on all active service patients and Fleet Reservists. Whenever a patient is discharged from the service, his health record is closed out and in the case of Navy patients is forwarded to the Bureau of Medicine and Surgery. In the case of Marines, it is forwarded to the Navy Yard Dispensary, Washington, D. C. When a man is transferred to the Fleet Reserve, his regular Navy health record is closed and forwarded to the Bureau of Medicine and Surgery and a new health record is opened. When an enlisted man or an officer is placed on the retired list of the Navy, his health record is closed out and a skeleton record is made in each case. When a Fleet Reservist is discharged from the hospital before he has been placed on the retired list of the Navy, his health record is forwarded to the Commandant of the Washington Navy Yard. When a retired officer or enlisted man is discharged from treatment here, a medical history covering his period of hospitalization is forwarded to the Bureau of Medicine and Surgery.

NAVY AND MARINE CORPS PATIENTS
IN SAINT ELIZABETHS HOSPITAL

DEATHS.--When a patient dies in this hospital, the Bureau of Navigation and the Bureau of Supplies and Accounts are notified by phone as soon as possible. This phone call is followed by letters confirming the telephone call. Form "N" is prepared and forwarded as soon as all the information necessary is available. A medical history of the case is also forwarded in the event of death.

REPORTS.--On the last day of each month, in the case of all retired officers and retired marines and Fleet Marine Corps Reserves, a certificate is prepared stating that they are still patients here, alive and either competent or incompetent. In the case of marines, both officers and men, this report is forwarded to Marine Corps Headquarters. In the case of retired Naval Officers, the report goes either to the Bureau of Supplies and Accounts or to the Naval Districts to which they were attached before admission.

RELATIVES.--Every day several letters are received from relatives of patients, inquiring about their condition, requesting money and numerous other things. Frequently the next of kin visits the hospital and the information desired is furnished to them personally.

When a patient is discharged from the service and is retained for further treatment, his name is dropped from our active list but is still retained on our files because of numerous requests for information by next of kin, from insurance companies, Veterans Administration, etc.

It is very seldom that an active service man is adjudicated insane by a civil court and a guardian is appointed. In the past two years there have been two cases of this kind and both of these had next of kin who were destitute and something had to be done for them.

C-LET

P3-1/ET12(024)

June 18, 1942.

From: The Chief of the Bureau of Medicine and Surgery.
To : C. O., Naval Hospital, Mare Island, California.
~~xxx~~ C. O., Naval Hospital, San Diego, California.
C. O., Naval Hospital, Corona, California.
C. O., Naval Hospital, Long Beach, California.
C. O., Naval Hospital, Treasure Island, California.
C. O., Naval Hospital, Oakland, California.
Officer in Charge, Naval Unit, U. S. Public Health
Service Hospital, Fort Worth, Texas.

Subject: Transportation of insane patients to Public Health
Service Hospital, Fort Worth, Texas.

References: (a) Par. 2151(b) Manual of the Medical Department.
(b) M&S ltr. P3-1/L20(022), May 15, 1942.

Enclosures: (A) Copy of M&S ltr. P3-1/ET12(024), Apr. 14, 1942.
(B) Copy of letter of Cmdr. A. A. Marsteller (MC),
USN, May 25, 1942.
(C) (NavHosps Long Beach, Treasure Island, Oakland,
Fort Worth only) Copy of M&S ltr. P3-1/L20(022),
May 15, 1942, with enclosures.

1. For the time being and until further notice, the directive of reference (a), that patients under treatment for mental diseases in Naval Hospitals on the Pacific Coast who require commitment to the institution for the insane shall be transferred to the Naval Hospital, Mare Island, California, is suspended.

2. Instead, in accordance with references and enclosures, the hospitals addressed will arrange directly with the officer in Charge of the Naval Unit at Fort Worth for transfer of enlisted patients to that institution. As stated in this Bureau's letter of April 14, 1942, to the Bureau of Naval Personnel, officer patients are to be transferred to Washington, D. C., individually or in small groups from time to time as necessary.

ROSS T. McINTIRE.

C O P Y

R: TRH
P3-5/P3-1(054)
May 22, 1942

Form Letter

From: The Chief of the Bureau of Medicine and Surgery.
To: Fleet, Force, Squadron, Division and Detachment Commanders.
Commanding Officers of Ships in Commission.
Prospective Commanding Officers of Vessels Building or
Fitting Out.
Commandants of Naval Districts.
Commandants and Commanding Officers of Shore Stations.
Commanding Officers, Marine Corps.

Subject: Mental Patients (enlisted), disposition in the case of

References: (a) Par. 3423(m) (7) 4, Manual of the Medical Department
(Specifying reports to be made by Boards of Medical
Survey invaliding a person from service for mental
infirmity.)

(b) Par. 2151(b), Manual of the Medical Department
(Authorizing transfer of mental patients to U. S. Naval
Hospitals.)

(c) Pars. 2160(b), 3423(r), Manual of the Medical Department.
(Action required in cases of insane patients entitled to
treatment under Veterans Administration.)

(d) Par. 2160(a), Manual of the Medical Department
(Specifying statement to be entered on report recommending
discharge of harmless insane.)

(e) BuNav ltr.#P3-5(80) over Nav-312-sp, dated March 18,
1942.
(Authorizing commandants of various naval districts to
approve transfer of neuro-psychiatric patients from naval
hospitals within respective districts to U. S. Naval Hospital,
Bethesda, Md., without prior approval of BuMed and BuPers.)

(f) Par. 2156, Manual of the Medical Department
(Listing records to accompany patients admitted to St.
Elizabeths Hospital.)

1. In recommending disposition of patients with mental illness, Boards of Medical Survey should, in general, be guided by consideration of patient's welfare, the interest of the next of kin, the interest of the public and the responsibility of the Navy to a member of the Service in whose case a question of mental illness has arisen. The interests of all concerned must be properly protected and the Bureau must be in a position to justify the action taken. It should be borne

in mind that in most instances the Bureau must act on the Board's recommendation with no knowledge of the case except as presented in the report. It is therefore essential that the report of survey contain not only a summary of the facts of the case, but also an expression of opinion by the Board, based on its personal observation of the individual, as to whether or not he is sane, and if not, whether he is mentally competent to be discharged into his own custody. If he is recommended for discharge and is considered not capable of caring for his own interests (that is, not mentally competent or sufficiently sane), or is considered a possible menace to others, the report should state what provisions have been effected to protect the interest of all concerned. Should disciplinary action be pending, the report should set forth the Board's opinion as to whether the patient was mentally responsible for his actions when the offenses with which he is charged were committed and whether he is mentally competent to stand trial.

2. In considering the disposition of cases carried under a diagnosis listed in Class XV, Nomenclature of Diagnostic Titles, who are unfit for service, Boards of Medical Survey shall be guided by the following principles:

- (a) Those who are considered sane and have no history of insanity may be recommended for discharge in accordance with the provisions of reference (a). In such cases the Board shall state that such a disposition will not constitute a menace to the individual surveyed or to the public safety and that the individual is not likely to become a public charge.
- (b) Those with mental illness who require commitment to an institution for the care of the insane or who require prolonged observation to establish diagnosis shall be recommended for transfer as provided in reference (b), except in the case of those hospitals which have been authorized to effect transfer direct to the U. S. Public Health Service Hospital, Fort Worth, Texas. The Naval Hospitals referred to in reference (b) will further dispose of these cases in accordance with established policy.
- (c) Those who are eligible for admission to Veterans Administration Facilities and require domiciliary care may be recommended for disposition as provided in reference (c). In such cases the Board shall state whether the patient is to be retained as supernumerary pending completion of arrangements for transfer to a Veterans Administration Facility.
- (d) Those who are considered to be harmless insane, able to care for themselves, or to be cared for by friends or their family, may be recommended for discharge in accordance with the provisions of reference (d).

#3 Form Letter (cont'd.)

(e) Those who are considered insane and a potential menace to themselves or others may be recommended for discharge as follows:

- (1) Those cases in which the Board is of the opinion that discharge will prove beneficial to the patient's condition, and where such action is agreed to by the next of kin.
- (2) Those cases in which discharge is requested by the next of kin.

Such recommendation will only be made after arrangements have been effected to release the patient into the custody of the next of kin or some other responsible individual designated by the next of kin. A written agreement to accept custody of the patient on discharge should be obtained prior to the submission of the survey report and noted thereon. The survey report should also show what arrangements have been effected to assure protection of the patient's and the public's interests while he is enroute to his home.

3. When any mental case is recommended for discharge the report must clearly show the Board's opinion regarding:

- (a) Whether the patient is or has recently been insane.
- (b) Whether the patient is likely to be a menace to himself or others.
- (c) If recently insane, whether recovered to a sufficient degree to warrant discharge into own custody.

4. In the event a patient whose diagnosis has been changed from one indicative of insanity, to one not indicative of insanity, appears before a Board of Medical Survey, the report shall state whether the change was made because of error in the original diagnosis. The fact that an insane patient has made a partial or complete social recovery does not justify a change of diagnosis, instead, it should be stated that the patient is in a remission or is considered to have made a social recovery.

5. Where the question of mental competency arises because of pending disciplinary action, the Board shall state the nature of the alleged offenses and shall express its opinion not only as to whether the individual was mentally responsible when the alleged offenses were committed and whether he is mentally competent to stand trial, but also as to whether disciplinary action would be likely to have any specially undesirable effect on the patient's mental health and whether he is fit

material for retention in the Service. Individuals who are considered to have been not mentally responsible at the time the alleged offenses were committed or not mentally competent at the time of appearance before the Board of Medical Survey shall be recommended for disposition as medical cases in accordance with the preceding paragraphs. Individuals who are considered to have been mentally responsible when the offenses with which they are charged were committed, are mentally competent to stand trial, and are not physically or mentally incapacitated for the Service, but are undesirable for some other reason such as personality defect or criminal tendencies, should be recommended for return to duty for further disposition and should not be recommended for discharge for medical reasons.

6. (a) In accordance with the provisions of reference (e), insane patients may be transferred to the U. S. Naval Hospital, Bethesda, Maryland without the prior approval of this Bureau or of the Bureau of Naval Personnel. As a result an excessive number of patients are arriving at the Naval Hospital, Bethesda, Maryland, on week ends. In order to comply with the provisions of reference (f) these patients must be retained for several days with resulting overloading of facilities. It is therefore directed that hereafter the transfer of such patients be so arranged that they will not arrive at their destination on a Saturday or Sunday.
- (b) It has come to the attention of the Bureau that a number of these patients are being transferred without proper records. Such a procedure is not in accord with existing regulations and results in unnecessary delay and difficulty in further disposition.

ROSS T McINTIRE.

R:JLA

P3-1/ET12(024)

April 14, 1942.

Dear Dr. Kolb:

The Bureau of Medicine and Surgery is proceeding with plans for hospitalizing Naval psychotic patients at the U.S. Public Health Service Hospital, Fort Worth, Texas, under the provisions of Executive Order No. 9079.

In order that necessary Naval Administrative procedures affecting these patients may be carried on, it will be necessary for this Bureau to station a Naval Unit at the hospital in Fort Worth for this purpose. This Unit will consist of one (1) medical officer and about five (5) enlisted clerical assistants. It is proposed that the medical officer's duties in relation to the patients will be entirely administrative and that professional care will be the responsibility of the staff of the hospital at Fort Worth. The amount of administrative work necessary in connection with Naval insane will necessitate that the enlisted personnel of the Naval Unit give their fulltime to these duties and they will not be available for ward duties.

It is understood that no financial obligation will arise between the U.S. Public Health Service and the Bureau of Medicine and Surgery in connection with the maintenance and treatment of these patients at Fort Worth but on the contrary that this will be provided out of funds appropriated for the maintenance of Naval insane at Saint Elizabeths Hospital.

It is understood that housing and messing facilities will not be available for the members of the Navy Unit and that it will be necessary for them to arrange for this individually.

Should the above meet with your approval, it is proposed to transfer about 50 patients at present at the U.S. Naval Hospital, Mare Island, California, to Fort Worth, Texas, about the 14th of May and in order to make arrangements for their reception to order the members of the Naval Unit to report to Fort Worth about the 1st of May.

I will appreciate receiving your approval or any criticism or suggestions on the above at your early convenience in order that the necessary orders to the personnel involved may be issued.

Very sincerely yours,

Dr. Lawrence Kolb,
Assistant Surgeon General,
U.S. Public Health Service,
Washington, D.C.

ROSS T. McINTIRE
Rear Admiral, (MC)
Surgeon General, U.S. Navy.

April 14, 1942.

From: The Chief of the Bureau of Medicine and Surgery.
To: The Chief of the Bureau of Navigation.
Subject: Naval Insane Patients, hospitalization of at U.S. Public Health Service, Fort Worth, Texas.
Reference: (a) Executive Order No. 9079.

1. This Bureau proposes to change the present method of caring for Naval insane patients admitted to hospitals on the west coast to the extent that instead of transferring them to the U. S. Naval Hospital, Washington, D.C., or to Saint Elizabeths, as the case may be, to transfer them to the U. S. Public Health Service, Fort Worth, Texas, under the provisions of reference (a).
2. It is proposed to establish at the U. S. Public Health Service, Fort Worth, Texas, a Naval Unit consisting of one (1) medical officer and five (5) hospital corpsmen to carry on the necessary medical department administrative procedures in connection with these patients.
3. It is recommended that the preparation and forwarding of the Bureau of Navigation forms and returns in connection with these patients and the Bureau of Supplies and Accounts forms and returns (including pay accounts) be made the responsibility of the Commandant of the Eighth Naval District within whose jurisdiction this hospital is located.
4. It is intended, if necessary arrangements can be made, to divert the draft of patients now being assembled at the U. S. Naval Hospital, Mare Island, for transfer to Washington, D. C., about May 14, to Fort Worth, Texas.
5. For the present it is not intended to transfer officer patients to the U. S. Public Health Service, Fort Worth, Texas, because of the lack suitable officers' quarters and administrative difficulties which would follow when they might later be ordered to appear before Naval Retiring Boards. Officer patients will be transferred to Washington, D. C., individually or in small groups from time to time as necessary.

ROSS T. MC INTIRE.

EXECUTIVE ORDER

MAKING CERTAIN PUBLIC HEALTH SERVICE HOSPITALS AVAILABLE FOR THE CARE AND TREATMENT OF INSANE PERSONS

WHEREAS, on account of the increase in the armed forces of the United States, the number of insane persons now admitted and entitled to admission to St. Elizabeth's Hospital, at Washington, D. C., is greater than that Hospital can accommodate properly; and

WHEREAS, the United States Public Health Service Hospitals at Lexington, Kentucky, and Fort Worth, Texas, have adequate facilities and personnel for the care and treatment of insane persons without impairing the efficiency of the service for the purposes for which such hospitals were created and are maintained; and

WHEREAS, the use of such hospitals for the care and treatment of insane persons will promote the public interest and aid in the successful prosecution of the war:

NOW, THEREFORE, by virtue of the authority vested in me by section 4 of the act of July 1, 1902, 32 Stat. 713, as modified by section 1 of the act of August 14, 1912, 37 Stat. 309 (USC, title 42, sec. 8), and by Title I of the First War Powers act, 1941, approved December 18, 1941 (Public Law 354, 77th Congress), it is hereby ordered as follows:

1. The Federal Security Administrator is authorized to admit, to the extent that he may deem desirable, insane persons (except those from the District of Columbia) to the Public Health Service Hospitals at Lexington, Kentucky, and Fort Worth, Texas, for care and treatment upon the same terms and conditions as such persons may be entitled to admission to St. Elizabeth's Hospital, at Washington, D. C.

2. The Federal Security Administrator is authorized to transfer, to the extent that he may deem desirable, insane persons (except those from the District of Columbia) from St. Elizabeth's Hospital to the said Public Health Service Hospitals for the care and treatment.

3. The agency of the Government responsible for the care and treatment of any insane person admitted or transferred to either of the said Public Health Service Hospitals under authority of this order shall pay the Superintendent of St. Elizabeth's Hospital for the care and treatment of such person in the same manner and amount as it would be required to pay if the patient were in St. Elizabeth's Hospital. All sums so paid shall be deposited in the United States Treasury to the credit of the appropriation made for the care and maintenance of patients at St. Elizabeth's Hospital.

4. To the extent deemed necessary and proper by the Federal Security Administrator, and under his direction, the appropriation for the operation and maintenance of said Public Health Service Hospitals shall be reimbursed from time to time from the appropriation for the care and maintenance of patients at St. Elizabeth's Hospital.

5. This order shall remain in force during the continuance of the present war and for six months after the termination thereof.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
2/26/42

(No. 9079)

(F.R. Doc. 42-1738; Filed 2/28/42; 10:07 AM)

Federal Security Agency

U. S. PUBLIC HEALTH SERVICE
U. S. Marine Hospital,
Savannah, Georgia,
December 4, 1941.

Re: Paul F. Kerrigan, 205-992, RM3c
Lightship 109,
Charleston Base, U.S.C.G.,
Charleston, S. C.

Medical Officer in Charge,
U. S. Marine Hospital,
Savannah, Georgia.

Sir:

In compliance with your request, a Board of Medical Officers, consisting of A. A. Surgeon S. P. Sanford and Assistant Surgeon Charles W. Fey, has this date been convened to examine the above described 3rd class radio man, U. S. Coast Guard.

This beneficiary was admitted to the U. S. Marine Hospital on November 28, 1941, at 8 P.M. He is 23 years old, white, male, a native of Vermont, Catholic, date of birth November 23, 1918. Family history does not appear significant. Past medical history, typhoid at age of five. No other significant findings. Physical examination is essentially negative. The psychiatric examination indicates a split personality. He states that old "Paul Kerrigan has ceased to be, and that he, the patient, is now the God of truth." He was very uncooperative during the interview and physical examination. He continually demands to see a Priest, a man of God. He is very much excited, and while he has not yet exhibited definite suicidal tendencies, it is feared that he will deteriorate further.

Opinion and recommendation of the Board: As it is apparent this man is suffering from Schizophrenia, it is recommended that he be transferred to St. Elizabeth's hospital for further observation and treatment, as the facilities of this hospital are inadequate for the proper care and treatment of this type of patient.

Very truly,

Charles W. Fey,
Assistant Surgeon.

SPS/R

U. S. Marine Hospital,
Savannah, Georgia,
December 4, 1941.

1st Indorsement.

Respectfully forwarded to the Bureau of the Public Health Service with the request that this patient be transferred to St. Elizabeth's Hospital as soon as possible.

Ralph E. Porter, Senior Surgeon,
Medical Officer in Charge.

REP/R

Federal Security Agency
U. S. PUBLIC HEALTH SERVICE
Washington

December 8, 1941

Commandant,
U. S. Coast Guard Headquarters,
Liberty Loan Annex Building,
14th and Maine Avenue, S. W.,
Washington, D. C.

Attention: Medical Director

Sir:

There is forwarded herewith medical report in the case of Coast Guard patient Paul F. Kerrigan, a mental case at the United States Marine Hospital, Savannah, Georgia.

In view of the patient's stated condition, it is desired that his transfer from the above-mentioned hospital be effected as soon as possible.

An early advice as to the disposition of this case will be appreciated.

By direction of the Surgeon General.

Respectfully,

Frank F. Thweatt, Jr., Surgeon
Assistant Chief, Hospital Division

Incl.
Rep. to Savannah
12/4/41

RTH:MGM

UNITED STATES COAST GUARD

Washington 9 December, 1941

MEMORANDUM TO: The Secretary of the Navy.

Subject: KERRIGAN, Paul F. (205-992), R.M.3c; physical condition.

Inclosure: (A) Letter Bureau of Public Health Service 8 December, 1941, with inclosures.

1. The Public Health Service desires to transfer subject-named man from the Marine Hospital, Savannah, Georgia, to St. Elizabeth's Hospital, Washington, D. C., for further treatment. Prior to consolidation with the Navy, Coast Guard Headquarters prepared a letter for the signature of the Administrative Assistant to the Secretary of the Treasury requesting the Superintendent of St. Elizabeth's Hospital to receive into the hospital the individual concerned to be cared for pursuant to Section 191, Title 24, U. S. Code. Telephonic communication with the Bureau of Medicine and Surgery today indicates that a similar procedure is followed in the Navy and this memorandum is being prepared in accordance with the instructions received in the telephonic communication. It is requested that authority be issued to commit subject-named man to St. Elizabeth's Hospital, Washington, D. C., and that such authority be returned to Coast Guard Headquarters for further administrative action.

R. R. WAESCHE,
Rear Admiral, U. S. Coast Guard,
Commandant.

DEPARTMENT OF THE NAVY
Office of the Judge Advocate General
Washington, D. C.

December 19, 1941

1st Endorsement

From: The Secretary of the Navy
To: The Chief of the Bureau of Medicine and Surgery
Subject: Admission of Paul F. KERRIGAN (205-992) R.M.
3c; United States Coast Guard to St.
Elizabeth's Hospital

1. Forwarded.

2. Since Kerrigan is now under the jurisdiction of the Secretary of the Navy, it is directed that the Chief of the Bureau of Medicine and Surgery issue the necessary order for Kerrigan's admission to St. Elizabeth's Hospital as in the case of other persons in the Navy.

Forrestal
Acting.

DEPARTMENT OF THE NAVY

Bureau of Medicine and Surgery

R-AG

P3-1/ET14(122)

Washington, D. C.
December 22, 1941

From: The Chief of the Bureau of Medicine and Surgery.
To: The Superintendent, Saint Elizabeths Hospital,
Washington, D. C.
Subject: Insane patient.

By direction of the Secretary of the Navy, and
in accordance with Sec. 4843 of the Revised Statutes, please
receive into the Saint Elizabeths Hospital, under your charge,
KERRIGAN, Paul F. (205-992), R.M.3c, U. S. Coast Guard,
inmate of the U. S. Marine Hospital, Savannah, Georgia.

The Medical Officer in charge of that Hospital
will have him delivered to you with this order.

s/ Capt. Sheldon.

00-MAYNARD, Luther/P3-2
(411218)K REK

IRm in

DEPARTMENT OF THE NAVY
Office of the Judge Advocate General
Washington, D. C.

February 16, 1942.

From: The Judge Advocate General.
To: The Chief of the Bureau of Navigation.
Via: The Chief of the Bureau of Medicine and Surgery.
Subject: Request of Saint Elizabeths Hospital, Washington, D. C., for payment of board bill of \$109.00 in case of Chief Boatswain Luther Maynard, U. S. Navy, Retired, covering the period August 22, 1941, to December 8, 1941.
Reference: 2nd end. J.A.G. to BuNav via BuMandS, January 8, 1942, file 00-MAYNARD, Luther/P3-2(411218), re subject matter.
Enclosure: Copy of Comptroller General's decision to Federal Security Administrator, Federal Security Agency, B-4802, December 12, 1941.

1. The enclosure is forwarded for information in connection with the correspondence transmitted with the reference.

T. L. GATCH
Acting

COPY

ASSISTANT COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON

December 12, 1941.

B-4802

Federal Security Administrator,
Federal Security Agency.

My dear Mr. McNutt:

Consideration has been given to your letter of May 13, 1941, from the Executive Assistant, Federal Security Agency, as follows:

"The following is taken from a report dated May 6, 1941, from the Assistant to the Superintendent of Saint Elizabeths Hospital:

"Lieutenant Gilbert A. Jones, USN, retired, is a patient of this hospital, and at the present time has an accumulated unpaid board bill of \$440. Our efforts to secure payment of this amount from the committee have been unsuccessful, as Lieutenant Jones continues to incur other obligations, which the committee contends take precedence over our board bill.

"This matter was taken up recently with the Bureau of Supplies and Accounts of the Navy Department, and their cooperation in the matter of collecting this bill by deduction from his retired pay was sought. They have informed us, however, that in a decision of the Judge Advocate General of the Navy (dated May 25, 1936) it was held that in the absence of any specific provision of law authorizing the checkage of the retired pay accounts of officers who are inmates of Saint Elizabeths, or of their consent to such checkage, obtained through the duly appointed trustee or committee, as the case might be, requests for checkage could not legally be accomplished against the retired pay accounts of the officers concerned."

"Inasmuch as cases of this type have come up in the past and will probably continue to arise in the future, it is requested that you advise the proper course for this Agency to take to effect collection."

It appears from information elicited from the Navy Department in connection with the above-quoted letter that Gilbert A. Jones, Lieutenant (jg), Supply Corps, U. S. Navy, first enlisted November 13, 1913, attained the grade of lieutenant (jg) (T), from July 1, 1919, and was transferred to the retired list from June 24, 1921, by reason of physical disability incurred in line of duty as result of an incident of service, apparently having been in the Naval Hospital, Washington, D. C., at the time. He was committed to St. Elizabeths Hospital in June, 1923, and continued there until 1939. On June 19, 1939, the District Court of the United States for the District of Columbia entered an "Order of Restoration to Legal Status", restoring Jones "to his former legal status as a person of sound mind", the order being based upon a certificate of the superintendent of St. Elizabeths Hospital that Jones had recovered his reason and had been discharged from treatment in that institution.

COPY

Later, Lieutenant Jones was recommitted to St. Elizabeths Hospital on August 25, 1939, upon order of the Secretary of the Navy. On December 21, 1939, the District Court of the United States for the District of Columbia entered an order appointing Jesse Lee Hall, an attorney of Washington, D. C., as committee of the person and property of Gilbert A. Jones, lunatic, the order providing that Hall as committee for Lieutenant Jones should pay to Pearl B. Jones, his wife, the sum of \$125 per month for the period from June 1, 1939, to December 31, 1939, inclusive, and thereafter the sum of \$101 per month, for the support of herself, and the minor child of the parties until further order of the court, and authorizing and directing the committee to continue monthly payments for the premium on the ward's life insurance in the Naval Mutual Aid Association from the funds of the ward. The order included no provision requiring the committee to pay to St. Elizabeths Hospital or otherwise, the charges for the officer's subsistence while an inmate of that institution and, so far as the record shows, neither the Navy Department nor St. Elizabeths Hospital was represented in the proceedings for the appointment of a committee, nor was the propriety for making provisions for payment of such charges brought to the attention of the court.

Lieutenant Jones' retired pay is reported by the Navy Department to be \$1,650 per annum. In a report to this office of November 24, 1939, the Judge Advocate General of the Navy stated that there was due and unpaid to the officer from July 1, 1939, to November 15, 1939, inclusive, the amount of \$403.50.

It appears from the report of St. Elizabeths Hospital of May 6, 1941, quoted in your submission, that, at that date, Lieutenant Jones had "an accumulated unpaid board bill of \$440" and, presumably, that amount has increased materially in the interim. It was stated that "our efforts to secure payment of this amount from the committee have been unsuccessful, as Lieutenant Jones continues to incur other obligations, which the committee contends take precedence over our board bill." (Underscoring supplied); also, that an effort by the hospital authorities to obtain the cooperation of the Bureau of Supplies and Accounts of the Navy Department in the matter of collecting the bill by deduction from Lieutenant Jones' retired pay was met with refusal on the ground set out in your submission. Your submission states that "Inasmuch as cases of this type have come up in the past and will probably continue to arise in the future, it is requested that you advise the proper course for this Agency to take to effect collection."

Your immediate question is the proper course to effect collection of the particular account involved, but the broader aspect of your submission merits a more general consideration of the matter presented. With reference to the proper course to take in this particular instance, it appears that when the patient was admitted to the hospital upon order of the Secretary of the Navy under date of August 25, 1939, there were pending, or were soon thereafter filed, several petitions in the United States District Court for the District of Columbia relative to the status of Lieutenant Jones and the care and control of his person and property which eventuated, as stated above, in the appointment of a committee for Jones. The retired pay of Lieutenant Jones is \$137.50 per month, less 20 cents per month Naval Hospital fund, or \$137.30. If there be added to the amount required to be paid to Mrs. Jones, the amount payable as insurance premiums to the Naval Mutual Aid Association, and the usual fee or

commission allowed to a committee, it is immediately apparent that there would not be left a sufficient amount of Lieutenant Jones' retired pay to cover the subsistence charge to St. Elizabeths. As stated above, the propriety of making provision for this charge apparently was not brought to the attention of the court, and in the absence of any suggestion to that effect, it is but natural that the presiding judge did not make suitable provision therefore, mero motu, the court not being charged with knowledge of the established, long continued and well recognized practice of charging officers of the Army, Navy and Marine Corps, active or retired, for subsistence while inmate in the institution. However, it would appear that the proper maintenance of the officer and necessary expenditures for that purpose are matters of primary consideration and ordinarily would be a first charge to be defrayed from the estate of the ward. The statement that Lieutenant Jones continues to incur other obligations "which the committee contends takes precedence over our board bill" is not understood. Lieutenant Jones is non compos mentis, an inmate of the hospital by reason of that fact, and his property is under the control of his committee, subject to the supervision of the court. The general rule is that an incompetent's obligations other than for necessities are unenforceable unless in the interest of the incompetent. It is presumed that necessities for Lieutenant Jones' support are supplied, and his subsistence in the hospital being a proper charge, would appear to take precedence over any "other obligation" which Lieutenant Jones personally could "incur", it being hardly presumable that any other obligation which a lunatic, or even his committee on his behalf, legally could incur on his account would be of more benefit to the patient than his daily bread. Hence, there would appear to be little room for doubt that if the situation in this case were properly presented to the notice of the court which appointed the committee for Lieutenant Jones, said court would enter an order directing proper action to defray Lieutenant Jones' accumulated obligation for subsistence in St. Elizabeths and--in the absence of proper action by the Navy Department, to check the retired pay of Lieutenant Jones "at its source"--for his subsistence in the future while an inmate of the hospital. While this office is not required to suggest the proper procedure in this respect, it would appear that the matter could be presented to the court either by the United States District Attorney upon request of your Agency, through the office of your General Counsel, or in such other manner as you may deem proper, and your immediate question is answered accordingly.

The broader aspects of your question will therefore be considered. The Government Hospital for the Insane was established by the act of March 3, 1855, 10 Stat. 682, its declared objects being "the most humane care and enlightened curative treatment of the insane of the Army and Navy of the United States, and of the District of Columbia." Section 4 of the act provided:

"* * * That the order of the Secretary of War, and that of the Secretary of the Navy, shall authorize the superintendent to receive insane persons belonging to the Army and Navy, respectively, and keep them in custody till they are cured, or removed by the same authority which ordered their reception."

The original act made no provision for the accommodation of any but the insane of the Army and Navy, and the District of Columbia, but subsequent legislation from time to time has added the insane of the other branches of service and employ of the Government to the roster of beneficiaries of the care and treatment of the hospital. By the act of July 1, 1916, 39 Stat. 309, the Government Hospital

for the Insane was designated as St. Elizabeths, and will be so called hereinafter. The hospital and its functions were transferred from the Department of the Interior to the Federal Security Agency under Reorganization Plan No. IV, Section 11 (a), effective June 30, 1940 (see 54 Stat. 1234, 1236; id. 231.)

So far as has been found, the establishment of St. Elizabeths Hospital was the first undertaking of the Government to afford an asylum for the specific treatment of the insane of the Army and Navy, as such, in a hospital of its own, expressly designed, designated, devoted, and equipped for that particular purpose, although earlier statutes had made some more or less makeshift provision for their care. See the act of August 29, 1842, 5 Stat. 537, which, it is of interest to note, provided for such alteration of the "old jail" in the District of Columbia "as will adapt it for the reception and accommodation of the insane of the District of Columbia, and of such sick, disabled and infirm seamen, soldiers and others, as may * * * be deemed proper to be received therein * * *."

It is an elementary canon of statutory interpretation that statutes in pari materia are to be read together, and that in the construction of a particular statute or the interpretation of its provisions, all statutes relating to the same subject, or having the same general purpose, should be read in connection with it, as together constituting one law, although they were enacted at different times, and even contain no reference to one another; that endeavor should be made by tracing the history of legislation on the subject to ascertain the uniform and consistent purpose of the legislature, or to discover how the policy of the legislature with reference to the subject matter has been changed from time to time. See generally 59 C. J. 1042 and copious citations. A particular statute should be construed in the light of other statutes dealing with the same or similar subject matter and, if possible, woven into the general legislative pattern as disclosed by such enactments without derogation of earlier or more general laws.

The act of March 3, 1855, 10 Stat. 682, establishing the Government Hospital for the Insane, and subsequent statutes dealing with the institution itself, have to do with the treatment of those entitled to its benefits who suffer from diseases of the mind as distinguished from diseases of the body, and to that extent, of course, may be looked upon as standing alone. But the establishment and conduct of St. Elizabeths Hospital were and necessarily are integrally allied with the general purpose of hospitalization of Government servants and employees, and the act is properly for consideration in that light.

Approaching the matter with that principle in view, and examination of related statutes discloses nothing repugnant to, but much to support, the conclusion that officers of the Army, Navy and Marine Corps are not entitled to subsistence at Government expense while inmates in St. Elizabeths Hospital. So far as the Navy and Marine Corps are concerned, the legislative embryo of the present system of hospitalization would appear to have been embodied in the act of July 16, 1789, 1 Stat. 605, adopted in the very infancy of the Republic. That act, denominated "An Act for the relief of sick and disabled Seamen", provided for the collection as therein prescribed of 20 cents per month for each seaman specified, which was to be paid by the captain of the vessel involved to

the collector of the port of entry, and which the captain was "authorized to retain out of the wages of such seamen." The sums thus collected were to be used "to provide for the temporary relief and maintenance of sick or disabled seamen, in the hospitals or other proper institutions now established in the several ports of the United States, or, in ports where no such institutions exist, then in such other manner as he (the President) shall direct." Any surplus was to be invested and, when sufficiently accumulated, expended for the purchase of land and erection of hospitals for the accommodation of sick and disabled seamen. That act was amended by the act of March 2, 1799, 1 Stat. 729, in pertinent part to the effect that thereafter the Secretary of the Navy should deduct from the pay of officers, seamen and marines at the rate of 20 cents per month, "to be applied to the same purpose" as the money collected under the earlier act. This act provided "That the officers, seamen and marines of the Navy of the United States, shall be entitled to receive the same benefits and advantages, as by the act above mentioned are provided for the relief of the sick and disabled seamen of the merchant vessels of the United States." An act of February 26, 1811, 2 Stat. 650, apparently the first act providing for the erection, management and operation of Navy hospitals, eo nomine, provided that all moneys thereafter collected under the act of March 2, 1799, should be turned over to the Secretaries of War, Navy, and Treasury, who were appointed "Commissioners of Navy Hospitals", which funds, together with \$50,000 of the unexpended balance of the marine hospital fund, should constitute a fund for Navy hospitals. The commissioners were in proper case to erect hospitals and were required "at one of the establishments, to provide a permanent asylum for disabled and decrepit Navy Officers, seamen and marines." Also, it was provided:

"That when any officer, seaman, or marine, shall be admitted to a Navy Hospital, that the institution shall be allowed one ration per day during his continuance therein, to be deducted from the account of the United States with such officer, seaman or marine; and in like manner, when any officer, seaman or marine, entitled to a pension, shall be admitted into a navy hospital, such pension during his continuance therein shall be paid to the Commissioners of the Navy hospitals, and deducted from the account of such pensioner."

The act of July 10, 1832, 4 Stat. 572, transferred the functions and authority of the Commissioners of the Navy Hospitals to the Secretary of the Navy as "trustee" of the funds, etc., which he was authorized and directed to administer according to existing law.

The act of August 3, 1848, 9 Stat. 266, section 13, page 272, provided:

"That the Secretary of the Navy be, and he is hereby, authorized to cause persons in the naval service or marine corps, who shall become insane while in the service, to be placed in such lunatic hospital as in his opinion will be most convenient and best calculated to promise a restoration of reason; and that in addition to the pay which may from time to time be due to such person, he may, from the annual appropriation for the naval service, under the head of contingent enumerated, pay any deficiency of a reasonable expense; provided, that in each case it does not exceed one hundred dollars per annum."

That statute made no distinction between officers and enlisted personnel of the Navy and Marine Corps, and clearly evinced the purpose of the Congress that the accruing pay of the patient should first be expended for his care, maintenance, support, and treatment in the "lunatic hospital" selected by the Secretary of the Navy, and that only when such pay was insufficient for the purpose, should any expense devolve upon the Government, subject only to the proviso that the cost of the patient's care and treatment should be reasonable, and the limitation that the excess over and above said patient's naval or marine pay should not exceed \$100 per annum. That statute was enacted prior to the establishment of St. Elizabeths Hospital, at a time when, apparently, only public hospitals for the insane--that is, hospitals maintained in and by the several States--and private institutions of a like character were available for the special treatment of mental derangements.

As seen above, the Government Hospital for the Insane, St. Elizabeths Hospital, was established in 1855. An act of July 2, 1864, 13 Stat. 344, section 2, page 348, after making appropriation for the "support, clothing and medical treatment of insane of the army and navy and the revenue-cutter service", etc., at St. Elizabeths Hospital, provided as follows:

"The Secretary of the Navy is hereby authorized and required to set apart from the pay of any officer of the navy, or of the marine corps, who may be under treatment by his order in the government hospital for the insane, such a portion of the monthly pay of said officer as may be needed for his personal use and comfort in addition to the ordinary resources of that establishment. The superintendent of the government hospital for the insane shall recommend the portion of the pay of such officer of the navy, or of the marine corps, that shall be set apart in the manner and for the purpose hereinbefore described, but the Secretary of the Navy may, in his discretion, increase or reduce the sum so recommended to be set apart. The said sum set apart for the personal benefit of any officer of the navy, or of the marine corps, under treatment in the government hospital for the insane, by order of the Secretary of the Navy, shall be paid to the said superintendent of the institution, by the paymaster having charge of the said officer's accounts; and the receipt of said superintendent for the sum which he is authorized by the Secretary of the Navy to draw from the said paymaster shall be equivalent to the receipt of the legal guardian of said officer, or to that of the officer himself. The said superintendent shall disburse the money thus set apart and drawn by him, and he shall account for it in quarterly statements to the fourth auditor of the treasury." (Underscoring supplied.)

That act had application to officers only of the Navy and Marine Corps and not to enlisted personnel, and showed clearly the intent of Congress that any consideration or treatment afforded an officer of the Navy or Marine Corps "in addition to the ordinary resources" of St. Elizabeths Hospital should be a charge against the officer involved and not an additional expense to the Government, and that the Secretary of the Navy was not only authorized but required to set apart from--that is, check--the pay of such officer an amount sufficient to cover the cost thereof and to pay the same to the hospital as provided in that statute.

Section 1551 of the Revised Statutes is as follows:

"The Secretary of the Navy may cause persons in the naval service or Marine Corps, who become insane while in the service, to be placed in such hospital for the insane as, in his opinion, will be most convenient and best calculated to promise a restoration of reason. And he may pay to any such hospital, other than the Government Hospital for the Insane in the District of Columbia, the pay which may from time to time be due to such insane person, and he may, in addition thereto, pay to such institution, from the annual appropriation for the naval service, under the head of contingent enumerated, any deficiency of a reasonable expense, not exceeding one hundred dollars per annum." (U. S. Code, title 34, section 595).

As will be seen, this section embodied the act of August 3, 1848, quoted above, almost verbatim, subject to the exception that the Secretary of the Navy was not authorized to pay the entire pay accruing to the insane patient to St. Elizabeths Hospital--an authority, by the way, which the Secretary had not had before the enactment of the Revised Statute. In the interim between July 1864, and the adoption of the Revised Statutes in 1874, there was, so far as has been found, no statutory enactment which either expressly or by implication indicated a purpose of Congress to repeal, amend or in any way to depart from the provisions of the act of July 2, 1864, or in any way to abrogate the requirement that, so far as officers of the Navy and Marine Corps were concerned, when confined in St. Elizabeths Hospital, the Secretary of the Navy, upon recommendation of the superintendent, was to set apart from their pay and pay to the institution such amount as might "be needed for their personal use and comfort in addition to the ordinary resources of that institution."

Read in the light of the earlier legislation, the reasonable--and, it seems to me, the only reasonable--construction of section 1551, Revised Statutes, is that when personnel of the Navy--officer or enlisted--are confined in some insane hospital of the Secretary of the Navy's choosing other than St. Elizabeths, the Secretary is authorized to pay to such hospital any reasonable expense for their maintenance, care and treatment, up to the limit of their pay and, if necessary, \$100 per annum in addition thereto, while payments to St. Elizabeths Hospital on account of any officer who may be under treatment therein by the Secretary's order are to be governed by the act of July 2, 1864, and that the exception of St. Elizabeths Hospital in section 1551 is not properly to be interpreted as denying any payment whatsoever to that hospital for additional care and attention to officers of the Navy and Marine Corps, but merely as denying authority for payment of the officer's entire pay to that institution. The courts have held that all laws should receive a sensible construction, and that general terms should be so limited as not to lead to unjust or absurd consequence, *Fleischmann Company v. United States*, 270 U. S. 349, 360. To interpret section 1551, Revised Statutes, other than as suggested above, would lead immediately to the absurd and unjust consequence that the Secretary of the Navy, at his election, could have an insane officer of the Navy or Marine Corps placed in a public or private institution other than St. Elizabeths Hospital for treatment and pay to such institution the officer's entire pay as it accrued, and at the same time order another officer, under the same conditions, confined in St. Elizabeths Hospital and throw upon the Government the entire burden of his subsistence, support, maintenance and treatment. It is not to be considered that Congress ever intended such an absurd consequence or inequality. Nor is it to be lightly presumed that the Congress, in adopting the Revised Statutes, purposed to discontinue or reverse a practice which had been the settled policy for ten years prior

to the codification of the general laws of the Republic. In this connection see section 1595, Revised Statutes. It has been the understanding of this office that the \$1 per diem subsistence charged to officers of the Army, Navy or Marine Corps while patients in St. Elizabeths Hospital is "in addition to the ordinary resources of that establishment" and that it "permits the classification of officers in separate wards and the serving of a little more choice foods cooked in smaller quantities," 4 Comp. Gen. 934, and it hardly could be reasonably contended that under such circumstances the amount involved does not rebound to "the personal use and comfort" of the officer involved, being above and beyond the ordinary accommodations furnished by the institution and provided by Congress for the rank and file of its inmates. Hence, it would follow that, in conformity with the act of July 2, 1864, the Secretary of the Navy not only is authorized but required to check the salary or pay of the officer in such amount as may be recommended by the superintendent of St. Elizabeths Hospital, subject to the proviso that if the amount so recommended be unreasonable the Secretary of the Navy may, in his discretion, reduce the same. As to this point, it would appear that it has long been recognized that commissioned officers of the Army, Navy and Marine Corps admitted to St. Elizabeths Hospital for care and treatment are not entitled to subsistence at Government expense and that the amount of \$1 per day charged by St. Elizabeths Hospital for such subsistence is reasonable as representing the additional cost to such institution for the additional consideration afforded to such officers. In a well considered, unpublished, decision to the Secretary of the Interior of April 29, 1911, 57 Ms. Comptroller's Decisions 530, Assistant Comptroller Mitchell reached the conclusion that "officers of the Army, Navy and Marine Corps are not entitled to support under the appropriation for the Government Hospital for the Insane when in said hospital for treatment as authorized by the first paragraph of section 4843 of the Revised Statutes." That decision was affirmed upon further consideration under date of September 20, 1911, 58 Ms. Comptroller's Decisions 1265. There was quoted with approval an excerpt from an opinion of the Judge Advocate General of the Army of December 24, 1908, to the effect, in brief, that while a commissioned officer of the Army was entitled to medical attendance, he was not entitled to board or living expenses while receiving such attendance either at his own house, or in a post, general or Government hospital, and that no specific provision of law was necessary to charge an officer with the expense of his own support in a Government hospital or elsewhere, but that, on the contrary, some express requirement of statute would be necessary to relieve a commissioned officer from such a charge while undergoing medical treatment in a hospital supported by the United States. The Judge Advocate General of the Army added that the views expressed in that opinion had long been accepted and acted upon by the War Department and the Interior Department in respect to the support of commissioned officers who were undergoing treatment at St. Elizabeths Hospital. See, also, 4 Comp. Gen. 934; 6 id. 550.

An examination and comparative reading of the numerous statutory provisions relative to the general subject of Government hospitalization would appear to establish conclusively the intent and policy of Congress that such hospitalization should not be wholly eleemosynary insofar as the Government is concerned, but that those able to pay should bear at least some measure of the expense of their care, and the statutes relative to the care of the insane in St. Elizabeths Hospital bespeak no purpose to depart from that rule. Many of the earlier

statutes relative to the general subject of Government hospitalization have, of course, become obsolete and have been superseded by later legislation, and it would not appear necessary to trace the history of such legislation from its beginning to its present broad scope, but suffice it to say that a review of such legislation would appear to indicate conclusively the purpose of Congress that hospitalization by the Government should be in the nature of an aid to its beneficiaries rather than a complete gratuity; that they shall be recipient of its benefits, but not wholly of its bounty.

It is readily manifest, moreover, that the checking or setting apart from an officer's pay of such amount as may be recommended by the superintendent of St. Elizabeths Hospital as provided by the act of July 2, 1864, is not dependent upon the checking of the officer's salary at the rate of 20 cents per month for the Naval Hospital Fund, nor upon the checking of his account for one ration per day while confined to a naval hospital, but that it is expressly provided for and required by the above-quoted statute to that effect.

In view of the foregoing, I am of the opinion that when an officer of the Navy or Marine Corps is committed to St. Elizabeths Hospital upon the order of the Secretary of the Navy, upon the recommendation of the superintendent of said hospital as to the amount, the officer's salary should be checked, or there should be set apart therefrom, such amount, to be paid to St. Elizabeths Hospital and accounted for as provided in said act, mutatis mutandis. And there would appear to follow as the necessary corollary that in the absence of suitable arrangement or provision of funds for the "personal use and comfort" of such officer, the hospital authorities are neither required nor authorized to furnish him for such purpose anything above, beyond, or "in addition to the ordinary resources of that establishment." In this connection it may be pointed out that the act of June 5, 1924, 43 Stat. 390, 429, in making appropriation for the support of St. Elizabeths Hospital for the fiscal year ending June 30, 1925, contains the provision that during the fiscal year 1925 the District of Columbia, or any branch of the Government requiring St. Elizabeths Hospital to care for patients for which they are responsible, shall pay by check to the superintendent, upon his written request, either in advance or at the end of each month, all or part of the estimated or actual cost for such maintenance as the case may be, and bills rendered by the superintendent of St. Elizabeths Hospital shall not be subject to audit or certification in advance of payment, etc., and subsequent appropriation acts have included the same provision.

Respectfully,

(Sgd.) R. N. Elliott

Assistant Comptroller General
of the United States

COPY

January 8, 1942

2nd Endorsement.

From: The Judge Advocate General.
To: The Chief of the Bureau of Navigation.
Via: The Chief of the Bureau of Medicine and Surgery.
Subject: St. Elizabeths Hospital, Washington, D. C., requests payment of board bill of \$109.00 in case of Chief Boatswain Luther Maynard, U. S. Navy, Retired, covering period August 22, 1941, to December 8, 1941.

1. Forwarded.

2. It is the understanding of this office that no legal guardian has been appointed in the case of Chief Boatswain Maynard. In this connection the Acting Secretary of the Navy addressed a letter to the Secretary of the Interior, December 20, 1938, in answer to a request for the cooperation of the Navy Department in the collection of unpaid subsistence bills of retired officers while patients in St. Elizabeths Hospital. It was concluded in such letter that, in the absence of further legislation, there was no action which could be taken by the Navy Department in the matter, for the reason that in those cases where a legal guardian had been appointed by the courts, collection of the charge for subsistence was a matter between the hospital and the guardian, and further, that in those cases where no guardian or committee had been appointed, the naval disbursing officer was without authority in law to check the current pay of the officer patients to offset unpaid charges for subsistence. (C.M.O. 7, 1938, p. 20.)

3. It will be seen from the foregoing that the disbursing officer carrying Chief Boatswain Maynard's account may not, in the absence of authority of law or of his consent thereto, check the pay of this retired officer to offset the stated hospital subsistence charge of \$109.00. However, in the absence of any information as to guardianship appointment or of known mental incompetency rendering this officer unable to manage his financial affairs, it would appear that the Bureau of Navigation may desire to call upon Chief Boatswain Maynard to liquidate this undisputed board bill,

COPY

OO-MAYNARD, Luther/P3-2(411218)K Mo

perhaps through monthly checkage of his retired pay account in the event that outright checkage of the full amount of \$109.00 would result in financial hardship to this officer.

4. This matter accordingly is referred to the Bureau of Navigation for such action as it may care to take in line with the foregoing remarks.

5. Return of correspondence is requested with statement of action taken, in order that appropriate reply may be made to the basic letter.

W. B. WOODSON.

COPY

C O P Y

NH15/50N3
ALC/eba

Mare Island, California
May 9, 1942

Captain Luther Sheldon, Jr., (MC), USN
Bureau of Medicine and Surgery,
Washington, D. C.

Dear Luther:

I have never given up the idea of having a reservoir at some hospital near by for Neuropsychiatric cases, and to this end have had several people talk to the Director of Institutions of this State from time to time. As a result, last night I had dinner with the Director of Institutions of the State of California, Dr. A. J. Rosanoff, when I discussed with him again about taking over a section of Napa Hospital. I found him most cooperative and he was willing to do anything that we wanted.

Today I went out to see the Superintendent of Napa Hospital, who has also changed his mind about things, and was willing to give us the building that we had wanted in the first place. This of course put a different light on the subject. They are willing to give me the original building that I wanted, which will hold 110 patients. This building is in good condition and has a well protected exercise yard and also hydrotherapy. I asked him if he would be willing to turn over the 110 beds to us and let us send the doctors, corpsmen and nurses from here; he to furnish the food, power and light in addition to the building. He stated he would do this and that the charge would be a dollar a day per person. This charge I had O.K.'d by the Director of Institutions. Hospital corpsmen on duty there would have to occupy a part of this building and they would be charged a dollar per day subsistence. The two or three nurses that would be necessary out there could subsist in their nurses' quarters at the same charge.

At the present time we have 300 Neuropsychiatric cases, 110 of whom are psychotic. We will send 50 of these to Fort Worth, Texas on May 15, 1942, and I have asked for another train on June 1, 1942, or soon thereafter as may be practicable.

Our Neuropsychiatric building is now greatly over crowded and we have cases distributed around the hospital and locked wards wherever we can put them. If this proposition were approved by the Bureau, we would admit our Neuropsychiatric cases in our building here.

Captain Luther Sheldon, Jr., (MC), USN.

Page 2
May 9, 1942

After they were determined to be psychotic, we would move them up to Napa awaiting transfer to Fort Worth. This would give us a chance to get all our psychotics off the reservation. After a considerable discussion with the doctors on the Neuropsychiatric Service here, we believe that this will solve our problem.

I believe that we should get underway with this proposition as soon as possible, because right now the Department of Institutions of the State of California is in a frame of mind to give us anything we want. They further stated that they would transfer a number of cases from Napa to other state institutions to make room for our people.

I have given the matter of these cases a great deal of study and I feel sure that we cannot handle the situation with Fort Worth alone. It takes so long for the surveys to be approved and the trains and personnel ordered, that by the time the train gets off we have twice as many psychotics as we had before the train left. It can therefore be seen that we are not getting any place with the present system.

I can send the personnel out there to run this outfit because it is only 14 miles from here and by Napa handling the food and laundry, I think it would work out all right. A dollar a day per patient is certainly a reasonable rate. We would run the Napa part as a ward of this hospital, so that it would not make any additional clerical work.

Please let me know your reaction to this as soon as possible. We have 650 corpsmen here now and another 100 will arrive next week, which will make 750 before the insane draft goes. As our hospital corpsmen barracks only hold 212 men, I have had to look around for additional beds for them, but have managed to make out all right.

Everything seems to be going along fine and we are carrying the load without too much difficulty. If you have a Ford or Mercury car available, I could use it as I have a lot of running around to do and my tires are getting thin. I have talked the situation regarding mental cases over with Admiral Woods, who heartily agrees with all I have said.

With best wishes -

Sincerely,

A. L. CLIFTON.

C O P Y

From: Naval Hospital, Mare Island, California.
Action: Bureau of Medicine and Surgery.

REQUEST OFFICIAL AUTHORIZATION MAKE CONTRACT WITH NAPA STATE HOSPITAL
UNDERSTAND DUE APPROPRIATIONS INVOLVED BUSANDA APPROVAL REQUIRED

2259ADL4MAY13545

ACTION - BUMED

From: MEDICINE AND SURGERY.
To: NAVHOSP MAREISLAND

YOUR 151852 CONTRACT SHOULD BE ITEM ONE FOR SEGREGATED HOSPITAL CARE
AVERAGE ONE HUNDRED NAVAL PATIENTS MORE OR LESS CONSISTING OF BEDS
AND ALL NECESSARY HOSPITAL SERVICES INCLUDING SUBSISTENCE LAUNDRY
AND USE OF OPERATING ROOMS LABORATORIES AND OTHER DIAGNOSTIC OR THERAPEUTIC
FACILITIES INSTALLATIONS AND APPARATUS BUT EXCLUDING PROFESSIONAL CARE
AND TREATMENT ITEM TWO FOR SUBSISTENCE AND LODGING OF SO MANY HOSPITAL
CORPSMEN IN BUILDING ASSIGNED TO NAVY AND OF SO MANY NAVY NURSES IN
NURSES QUARTERS X THE NAVY AGREES TO FURNISH ALL NECESSARY PROFESSIONAL
CARE AND TREATMENT BY NAVAL MEDICAL OFFICERS NURSES AND HOSPITAL
CORPSMEN PLUS THE DRUGS AND CONSUMABLE MEDICAL SUPPLIES REQUIRED
FOR NAVAL PATIENTS X APPROPRIATION CHARGEABLE IS MEDDEPT X LEASE
OF BUILDING NOT INVOLVED.

Washington 25, D. C.

October 30, 1943.

Rear Admiral Ross T. McIntire,
Surgeon General
United States Navy
Washington, D. C.

My dear Admiral McIntire:

Reference is made to joint letter of July 27, 1943 (R-3:JNR P3-2/NE(021), from The Chief of the Bureau of Naval Personnel and The Chief of the Bureau of Medicine and Surgery, to The Commandants of Naval Districts and the Commanding Officers of Naval Hospitals within the Continental limits of the United States, subject - Transfer of Navy patients to Veterans Administration Facilities, and letter of instruction Number 516 of August 19, 1943 (R3:JNR, P3-2/NE(021), from The Commandant, U.S. Marine Corps and The Chief of the Bureau of Medicine and Surgery, to the Commanding Officers of Marine Corps Posts and Stations and Naval Hospitals within the Continental limits of the United States, subject - Transfer of Marine Corps patients to Veterans Administration Facilities.

In a review of the requests for the designation of Veterans Administration Facilities for the continued treatment of those patients who will be discharged for disability, I have noted that during the months of August, September and October, designations were made for 107 tuberculous patients, 77 general medical and surgical patients, and 3 psychotic patients.

In view of the foregoing, it occurs to me that the policy and procedure in reference to the submission of requests for the designation of Veterans Administration Facilities for the continued treatment of psychotic patients may not be similar to that followed in requesting the designation of facilities for general medical, surgical and tuberculous patients.

I will appreciate if you will advise regarding your policy with reference to the disposition of psychotic patients who are separated from active service and determined as in need of continued hospital treatment subsequent to their separation.

Sincerely yours,

FRANK T. HINES,
Administrator.

20 August 1943

Frank T. Hines
Administrator of Veterans Affairs
Veterans Administration
Washington, D. C.

My dear General Hines:

This is in reply to your letter of October 30, 1943 in which you requested to be advised regarding this Bureau's policy of handling psychotic patients who are found to be in need of further hospitalization or institutional care when they are discharged from the service.

As a general rule, Navy and Marine Corps psychotic patients who are found to be in need of institutional care are transferred either to St. Elizabeths Hospital, Washington, D. C., or to the U.S. Public Health Service Hospital at Fort Worth, Texas for further observation and treatment in accordance with the provisions of Section 4843, Revised Statutes and Executive Order No. 9079 of February 26, 1942. This procedure affords the Naval medical officers assigned to duty at these institutions an opportunity to study the patients so that the exact nature and probably duration of their disabilities may be determined before they are discharged from the service. Approximately 60 percent of these patients recover sufficiently to permit their release during the first four months of hospitalization.

Exceptions to this policy may be made in those cases where the family or next of kin desire to assume custody of the patient or have him transferred to a Veterans Administration Hospital or another institution instead of to one of the Federal hospitals mentioned above. Arrangements may also be made, to have patients transferred to Veterans Administration Facilities near their home, after they have been admitted to St. Elizabeths Hospital or to the Public Health Service Hospital, at Fort Worth, if requests for such disposition are received prior to their discharge from the service.

20 November 1943

-2-

P3-2/P3-1(113)

So far, the facilities at these two hospitals have been sufficient to meet the Navy's requirements, but due to the gradually increasing load of chronic cases, it may eventually become necessary to transfer more of the Navy and Marine Corps psychotic patients to Veterans Administration Facilities.

Sincerely yours,

D. G. SUTTON
Rear Admiral (MC), USN.
Acting Chief of Bureau

C
O
P
Y

VETERANS ADMINISTRATION
WASHINGTON 25, DC

March 28, 1944

Rear Admiral Ross T. McIntire,
Surgeon General of the Navy,
Washington, D. C.

THORPE, Forrest F.
801 File

My dear Admiral McIntire:

I desire to call to your attention the case of Mr. Forrest F. Thorpe, a patient at the U. S. Public Health Service Hospital, Fort Worth, Texas.

The data available disclose that this patient was born in Massachusetts, May 30, 1923, enlisted in the U. S. Navy February 21, 1941, was honorably discharged at the hospital afore-mentioned January 30, 1944 upon a report of medical survey because of psychosis, manic depressive, held as incurred in line of duty, and has been retained at that hospital since the date of discharge for continued treatment.

The patient's father, Mr. Frank P. Thorpe, 257 Heath Street, Jamaica Plain, Massachusetts, has communicated with the Medical Officer in Charge at Fort Worth, Texas and has been advised that his son's transfer may be effected to a Veterans Administration Facility in the vicinity of his home provided the transfer can be accomplished at no expense to the Government. It is indicated that the cost of transfer would be approximately \$500.00 since the patient would have to be accompanied by two attendants.

Upon careful consideration of all data available in this case, I have authorized the transfer of the patient to the Veterans Administration Facility, Bedford, Massachusetts at the expense of the Veterans Administration in order that he may receive the benefit of visits by his father, relatives and close friends.

May I call attention to the fact that the Navy Department is not following the policy outlined in the joint letter of July 27, 1943 from the Chief of the Bureau of Naval Personnel and the Chief of the Bureau of Medicine and Surgery to the Commandants of Naval Districts and the Commanding Officers of Naval Hospitals within the continental limits of the United States, Subject: Transfer of Navy patients to

COPY

Admiral McIntire.

THORPE, Forrest F.
801 File

- 2 -

Veterans Administration Facilities (Reference R-3:JNR P3-2/HE-021). Had this policy been followed, the patient would have been transferred to a Veterans Administration Facility in the vicinity of his home prior to his separation from active service.

Your comment will be appreciated.

Sincerely yours,

/s/ FRANK T. HINES
Administrator.

HEADQUARTERS EIGHTH NAVAL DISTRICT
FEDERAL BUILDING
NEW ORLEANS, LA.

17 Mar 1944

To: MOinC, U.S. Navy Unit, U.S. Public Health Service Hospital,
Fort Worth, Texas.

Subj: Confinement of mental patients at U.S. Public Health Service
Hospital, Forth Worth, Texas.

Ref: (a) MOinC, U.S. Navy Unit, U.S. Public Health Service Hospital,
Fort Worth, Texas ltr to ComEight, P13-8/MM/jed, dtd. 8
March 1944.

1. By Ref. (a), this Headquarters is requested to give an opinion as to the authority of the Commanding Officer or Officer in Charge at the U.S. Navy Unit, U.S. Public Health Service Hospital, Forth Worth, Texas, to confine mental patients who are considered to be in a state of remission.

2. It is the opinion of the Legal Department of this Headquarters that the Commanding Officer or Officer in Charge has the authority to exercise whatever restraint is necessary in the cases of mental patients confined at his activity. This authority flows from two sources:

- (a) From the authority of the Commanding Officer or Officer in Charge to place a man under arrest and prescribe the limits of his restriction at any naval activity.
- (b) As the Commanding Officer or Officer in Charge of a hospital unit for mental patients, he has the authority to prescribe the limits and restrictions which are considered best for the welfare of the patient.

3. The Commandant concurs in the opinion of the Medical Officer in Charge that locked ward care for patients who repeatedly absent themselves from the hospital should act as a deterrent and greatly reduce the problem in this regard.

By direction of the Commandant.

A. A. de la Houssays,
District Legal Officer.

COPY:JW

BUMED:R3:MEG
R-1186997

4 January 1944

To: The Medical Officer in Command.
U. S. Naval Hospital, Philadelphia, Pa.

Subj: DARDEN, Pierce William, Ex-CCM, U.S. Navy.
Beneficiary of the Naval Home.

Ref: (a) Report of Medical Survey dated December 17, 1943.
(b) Paragraph 2155, Manual of the Medical Department.

1. Although a beneficiary of the Naval Home, Darden is an ex-Navy man and a civilian. He has been out of the service since 1905; was not discharged by reason of physical disability; and so far as the records of this Bureau show, has never been an inmate of St. Elizabeths Hospital. The Secretary of the Navy therefore has no authority to direct that he be admitted to that hospital.

2. The Superintendent of St. Elizabeths Hospital has held that an individual who has been discharged from the Naval service can be confined in that institution only in accordance with the laws and procedure applicable to other civilians; that is, after a hearing in court, an adjudication of unsoundness of mind, and a commitment on that basis.

3. If an inmate of a Naval Home, who is an ex-service man, is found to be in need of institutional care, arrangements should be made, if possible, to have him transferred to a Veterans Administration Facility. Those cases who are not eligible for admission to a Veterans Administration Facility should be referred to the local civil authorities.

By direction of the Chief, BuMed:

HOWARD H. MONTGOMERY
Captain (MC) USN

BUMED:R3:JNR
R-YOUNG, Allen P.
10-3-07

25 November 1943

From: The Chief of the Bureau of Medicine and Surgery.
To: The Medical Officer in Charge, Navy Unit, U. S.
Public Health Service Hospital, Fort Worth, Texas.

Subj: YOUNG, Allen P., Ex-EMI/c, U. S. Navy.
Re: Re-hospitalization of.

Ref: (a) Your telegram dated November 23, 1943.
(b) Secnav's letter (File: MM/P3-2(330324) of
September 13, 1933.
(c) Ltr. JAG: K: WJG:gb/MMCD/NH22 from Acting
Secretary of the Navy to the Surgeon General,
U. S. Public Health Service, dated January
26, 1943.

Encl. 1. (HW) Copy of reference (c).

1. By reference to Young's medical record on file in the Bureau of Medicine and Surgery, it is noted that he was discharged from the Naval service at the U. S. Public Health Service Hospital at Fort Worth on September 20, 1942 upon the recommendation of a Board of Medical Survey. The diagnosis was Psychosis, Unclassified, which was incurred in the line of duty. He, therefore, is eligible for hospitalization by the Veterans Administration and his case should be referred to the Administrator of Veterans Affairs, Washington, D. C.

2. In reference (b), the Secretary of the Navy directed that cases hereafter arising of which the Administrator of Veterans Affairs has cognizance under the law, shall be referred to that official for action. It will be noted that the instructions in reference (c) apply to former enlisted personnel in the Navy whose insanity did not originate in the line of duty and who are not entitled to hospitalization or domiciliary care by the Veterans Administration.

ROSS T. McINTIRE
Chief of Bureau

HOWARD H. MONTGOMERY
By direction

BUMED-R3-MEG
P3-2/P3-1(113)

20 November 1943

Frank T. Hines
Administrator of Veterans Affairs
Veterans Administration
Washington, D. C.

My dear General Hines:

This is in reply to your letter of October 30, 1943 in which you requested to be advised regarding this Bureau's policy of handling psychotic patients who are found to be in need of further hospitalization or institutional care when they are discharged from the service.

As a general rule, Navy and Marine Corps psychotic patients who are found to be in need of institutional care are transferred either to St. Elizabeths Hospital, Washington, D. C., or to the U. S. Public Health Service Hospital at Fort Worth, Texas for further observation and treatment in accordance with the provisions of Section 4843, Revised Statutes and Executive Order No. 9079 of February 26, 1942. This procedure affords the Naval medical officers assigned to duty at these institutions an opportunity to study the patients so that the exact nature and probable duration of their disabilities may be determined before they are discharged from the service. Approximately 60 per cent of these patients recover sufficiently to permit their release during the first four months of hospitalization.

Exceptions to this policy may be made in those cases where the family or next of kin desire to assume custody of the patient or have him transferred to a Veterans Administration Hospital or another institution instead of to one of the Federal hospitals mentioned above. Arrangements may also be made to have patients transferred to Veterans Administration Facilities near their home, after they have been admitted to St. Elizabeths Hospital or to the Public Health Service Hospital at Fort Worth, if requests for such disposition are received prior to their discharge from the service.

So far, the facilities at these two hospitals have been sufficient to meet the Navy's requirements, but due to the gradually increasing

20 November 1943

- 2 -

P3-2/P3-1(113)

load of chronic cases, it may eventually become necessary to transfer more of the Navy and Marine Corps psychotic patients to Veterans Administration Facilities.

Sincerely yours,

D. G. SUTTON
Rear Admiral (MC), USN
Acting Chief of Bureau

October 30, 1943.

Rear Admiral Ross T. McIntire,
Surgeon General,
United States Navy,
Washington, D. C.

My dear Admiral McIntire:

Reference is made to joint letter of July 27, 1943 (R-3: JNR, P3-2/HE(021)), from The Chief of the Bureau of Naval Personnel and The Chief of the Bureau of Medicine and Surgery, to The Commandants of Naval Districts and the Commanding Officers of Naval Hospitals within the Continental limits of the United States, subject - Transfer of Navy patients to Veterans Administration Facilities, and letter of instruction Number 516 of August 19, 1943 (R3:JNR, P3-2/HE(021)), from The Commandant, U. S. Marine Corps and The Chief of the Bureau of Medicine and Surgery, to The Commanding Officers of Marine Corps Posts and Stations and Naval Hospitals within the Continental limits of the United States, subject - Transfer of Marine Corps patients to Veterans Administration Facilities.

In a review of the requests for the designation of Veterans Administration Facilities for the continued treatment of those patients who will be discharged for disability, I have noted that during the months of August, September and October, designations were made for 107 tuberculous patients, 77 general medical and surgical patients, and 3 psychotic patients.

In view of the foregoing, it occurs to me that the policy and procedure in reference to the submission of requests for the designation of Veterans Administration Facilities for the continued treatment of psychotic patients may not be similar to that followed in requesting the designation of facilities for general medical, surgical and tuberculous patients.

I will appreciate if you will advise regarding your policy with reference to the disposition of psychotic patients who are separated from active service and determined as in need of continued hospital treatment subsequent to their separation.

Sincerely yours,

FRANK T. HINES,
Administrator

HCW:h (GAC)

BUREAU OF MEDICINE AND SURGERY

R: TRH
P3-5/P3-1(054)
May 22, 1942

Form Letter

From: The Chief of the Bureau of Medicine and Surgery.
To: Fleet, Force, Squadron, Division and Detachment Commanders.
Commanding Officers of Ships in Commission.
Prospective Commanding Officers of Vessels Building or Fitting Out.
Commandants of Naval Districts.
Commandants and Commanding Officers of Shore Stations.
Commanding Officers, Marine Corps.

Subject: MENTAL PATIENTS (enlisted), disposition in the cases of

References: (a) Par. 3423(m) (7) 4, Manual of the Medical Department (Specifying reports to be made by Boards of Medical Survey invalidating a person from service for mental infirmity.)

(b) Par. 2151(b), Manual of the Medical Department (Authorizing transfer of mental patients to U. S. Naval Hospitals.)

(c) Pars. 2160(b), 3423(r), Manual of the Medical Department (Action required in cases of insane patients entitled to treatment under Veterans Administration.)

(d) Par. 2160(a), Manual of the Medical Department (Specifying statement to be entered on report recommending discharge of harmless insane.)

(e) BuNav ltr.#P3-5(80) over Nav-312-sp, dated March 18, 1942 (Authorizing commandants of various naval districts to approve transfer of neuro-psychiatric patients from naval hospitals within respective districts to U. S. Naval Hospital, Bethesda, Md., without prior approval of BuMed and BuPers.)

(f) Par. 2156, Manual of the Medical Department (Listing records to accompany patients admitted to St. Elizabeths Hospital.)

1. In recommending disposition of patients with mental illness, Boards of Medical Survey should, in general, be guided by consideration of the patient's welfare, the interest of the next of kin, the interest of the public and the responsibility of the Navy to a member of the Service in whose case a question of mental illness has arisen. The interests of all concerned must be properly protected and the Bureau must be in a position to justify the action taken. It should be borne in mind that

in most instances the Bureau must act on the Board's recommendation with no knowledge of the case except as presented in the report. It is therefore essential that the report of survey contain not only a summary of the facts of the case, but also an expression of opinion by the Board, based on its personal observation of the individual, as to whether or not he is sane, and if not, whether he is mentally competent to be discharged into his own custody. If he is recommended for discharge and is considered not capable of caring for his own interests (that is, not mentally competent or sufficiently sane), or is considered a possible menace to others, the report should state what provisions have been effected to protect the interest of all concerned. Should disciplinary action be pending, the report should set forth the Board's opinion as to whether the patient was mentally responsible for his actions when the offenses with which he is charged were committed and whether he is mentally competent to stand trial.

2. In considering the disposition of cases carried under a diagnosis listed in Class XV, Nomenclature of Diagnostic Titles, who are unfit for service, Boards of Medical Survey shall be guided by the following principles:

- (a) Those who are considered sane and have no history of insanity may be recommended for discharge in accordance with the provisions of reference (a). In such cases the Board shall state that such a disposition will not constitute a menace to the individual surveyed or to the public safety and that the individual is not likely to become a public charge.
- (b) Those with mental illness who require commitment to an institution for the care of the insane or who require prolonged observation to establish diagnosis shall be recommended for transfer as provided in reference (b), except in the case of those hospitals which have been authorized to effect transfer direct to the U. S. Public Health Service Hospital, Fort Worth, Texas. The Naval Hospitals referred to in reference (b) will further dispose of these cases in accordance with established policy.
- (c) Those who are eligible for admission to Veterans Administration Facilities and require domiciliary care may be recommended for disposition as provided in reference (c). In such cases the Board shall state whether the patient is to be retained as a supernumerary pending completion of arrangements for transfer to a Veterans Administration Facility.
- (d) Those who are considered to be harmless insane, able to care for themselves, or to be cared for by friends or their family, may be recommended for discharge in accordance with the provisions of reference (d).

(e) Those who are considered insane and a potential menace to themselves or others may be recommended for discharge as follows:

(1) Those cases in which the Board is of the opinion that discharge will prove beneficial to the patient's condition, and where such action is agreed to by the next of kin.

(2) Those cases in which discharge is requested by the next of kin.

Such recommendation will only be made after arrangements have been effected to release the patient into the custody of the next of kin or some other responsible individual designated by the next of kin. A written agreement to accept custody of the patient on discharge should be obtained prior to the submission of the survey report and noted thereon. The survey report should also show what arrangements have been effected to assure protection of the patient's and the public's interests while he is enroute to his home.

3. When any mental case is recommended for discharge the report must clearly show the Board's opinion regarding:

(a) Whether the patient is or has recently been insane.

(b) Whether the patient is likely to be a menace to himself or others.

(c) If recently insane, whether recovered to a sufficient degree to warrant discharge into own custody.

4. In the event a patient whose diagnosis has been changed from one indicative of insanity, to one not indicative of insanity, appears before a Board of Medical Survey, the report shall state whether the change was made because of error in the original diagnosis. The fact that an insane patient has made a partial or complete social recovery does not justify a change of diagnosis, instead, it should be stated that the patient is in a remission or is considered to have made a social recovery.

5. Where the question of mental competency arises because of pending disciplinary action, the Board shall state the nature of the alleged offenses and shall express its opinion not only as to whether the individual was mentally responsible when the alleged offenses were committed and whether he is mentally competent to stand trial, but also as to whether disciplinary action would be likely to have any specially undesirable effect on the patient's mental health and whether he is fit

material for retention in the Service. Individuals who are considered to have been not mentally responsible at the time the alleged offenses were committed or not mentally competent at the time of appearance before the Board of Medical Survey shall be recommended for disposition as medical cases in accordance with the preceding paragraphs. Individuals who are considered to have been mentally responsible when the offenses with which they are charged were committed, are mentally competent to stand trial, and are not physically or mentally incapacitated for the Service, but are undesirable for some other reason such as personality defect or criminal tendencies, should be recommended for return to duty for further disposition and should not be recommended for discharge for medical reasons.

6. (a) In accordance with the provisions of reference (e), insane patients may be transferred to the U. S. Naval Hospital, Bethesda, Maryland without the prior approval of this Bureau or of the Bureau of Naval Personnel. As a result an excessive number of patients are arriving at the Naval Hospital, Bethesda, Maryland, on week ends. In order to comply with the provisions of reference (f) these patients must be retained for several days with resulting overloading of facilities. It is therefore directed that hereafter the transfer of such patients be so arranged that they will not arrive at their destination on a Saturday or a Sunday.
- (b) It has come to the attention of the Bureau that a number of these patients are being transferred without proper records. Such a procedure is not in accord with existing regulations and results in unnecessary delay and difficulty in further disposition.

ROSS T McINTIRE.

January 10, 1942

Hon. Harry Sauthoff
House of Representatives
Washington, D. C.

My dear Harry:

I studied the objections by navy officials to Bill H.R. 5828 and I agree that during a state of war it will be difficult and perhaps even impossible to supply a qualified medical commission at the time of trial. I also believe that during a state of war we must give up some of the desirable practices that can be and should be pursued during times of peace. However, another plan may be suggested which serves the same purpose but which does not in any manner impede prompt action by military authorities. On the basis of personal experience in the army, I fully agree with the need of prompt disciplinary action. In spite of some views to the contrary held by others, I personally believe that prompt apprehension and prompt trial and conviction with a goodly measure of severity is an effective deterrent for crime of all kinds, civil as well as military.

The substituted plan that I now have in mind is to have any military court act promptly on the offense that is charged. Such a court should consider only the guilt or innocence of the offender insofar as the charges are concerned. The matter of irresponsibility because of any possible mental condition can be completely ignored. After all, it is the act of the offender which is serious. Appropriate as well as prompt punishment is necessary. It serves as an example. Most of such acts are carried out in the presence of others. The question of irresponsibility because of some obscure mental condition would not be appreciated by the average sailor or soldier. In short, the superiors must be entirely free to maintain discipline by free action carried out in such a manner as to indicate that the offense committed is serious and results in appropriate and very prompt punishment.

The original purpose of the Bill, I take it, was intended to prevent injustice to some individuals who may be suffering from a mental condition and are irresponsible. The original Bill proposes an inquiry into this possibility at the time of the trial. When such an examination is held close to the time of the offense the examining physicians are in possession of more information and perhaps better qualified to express an

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opinion. Obviously no one wishes to penalize or punish an offender who is helplessly in the grip of some abnormal mental condition. Perhaps I was more influenced by my actual experience after the first World War when many ex-service men were found in penal institutions suffering from mental conditions that undoubtedly existed at the time the military offense was committed. Such ex-service men were denied the veterans' benefits that Congress legislated. The record of trial and sentence stood and it was frequently impossible to reopen the case. Many such instances will occur again therefore I still believe that some plan designed to meet the past experience should be seriously considered.

The plan I now suggest is to have any court act, pass sentence and place the offender in some army or navy prison or place of detention. The sentence might be automatically subject to review by the Secretary of War or the Secretary of the Navy. In short, the sentence by the court martial need not be final so far as the record is concerned. After the offender is received at some central federal disciplinary barracks or whatever form of detention is provided, he is then thoroughly examined. At such a centralized place it is perfectly practical to have qualified medical personnel available for that purpose. From a strictly medical standpoint there would be an advantage in this procedure because the examiners would have a better opportunity for observation and a much more thorough physical and mental examination could be carried out. Such a commission would not concern itself with the military nature of the offense nor with guilt or innocence. The commission's only concern would be the mental and physical condition of the offender at the time of the examination and also at the time of the trial and at the time of the commission of the offense. While it is true that if such examination and observation could be had close to the time of the offense an opinion perhaps would be more easily reached but in the vast majority of cases a really qualified psychiatrist is perfectly able to judge from immediate observation and history the probable existence or non-existence of a past mental disorder.

The conclusion and recommendation of such a special medical examining board should then be reported to the office of the Secretary of the War or the Secretary of the Navy. Quite like any court in civil practice the secretaries should be free to accept or reject such a recorded opinion.

I dare say that in most instances the department heads would accept the opinion of a qualified commission dealing with

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such a special field as mental disease or disorder. The interest of the offender is properly safeguarded and justice is preserved so far as it is possible under the conditions of war.

Perhaps I can illustrate the procedure by citing a hypothetical case.

Let us assume that some soldier or sailor is guilty of "misconduct in the face of the enemy", or "striking a superior officer", or "deliberately disobeys a lawful command". These are all serious military offenses and cannot be condoned under any circumstances, least of all when committed in the presence of others. Such an offender is promptly tried by summary or general court. We will assume that the guilt is clearly established and the court passes sentence. The sentence can be as severe as the court deems necessary to maintain discipline. The sentence can be measured or determined entirely by the physical and factual circumstances in the case. Any doubts as to mental responsibility can be entirely ignored by the court. That is a question for others to determine at a subsequent period. The court need not be influenced by any such considerations. The court would know that the question of mental responsibility for the crime will be investigated. The court is entirely free to fit the punishment to the crime. The question as to whether it fits the person is left as a problem for others. The trial then becomes entirely an inquiry or weighing of facts. The sentence finds the person either guilty or not guilty of an act. Such a conviction can stand unaltered in the record but the sentence or punishment can be left to a review which is automatic and compulsory. Such sentence becomes final only by the act of the Secretary of War or the Secretary of the Navy. Before such a sentence becomes final the report of a qualified medical commission is filed with the Secretary of War or the Secretary of the Navy.

May I state again that this consideration of the offender which I am emphasizing is fundamentally just and is not a mere theoretical consideration. I had a long experience as a member of a general court in the Army of Occupation. There were many serious military offenses tried by that court. At the time, because of my special medical interest, I was able to demonstrate to the satisfaction of the other lay members of the general court that the offender was suffering from a mental disorder. In many instances this mental abnormality was not very evident. It required technique and special examination to make the condition evident to the less experienced laymen. Some sort of an effort along these lines should be made at some point in the course of events prior to the final sentence that remains a permanent and determining record.

Hon. Harry Sauthoff - 4

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This suggested plan would tend to expedite court martial procedures. It is conceded that speed is necessary but at least this degree of safeguarding is desirable. In this plan there is a clear division of function and responsibility. The court martials determine guilt or innocence and fix the sentence to fit the military crime; subsequently, a medical commission fixes the punishment to fit the person. The first step is a military problem; the second is a medical problem and each is handled by those best qualified to solve these problems.

Sincerely yours,

W. F. Lorenz, M.D.
Professor, Neuropsychiatry

WFL/k

BUREAU OF MEDICINE AND SURGERY
WASHINGTON, D. C.

BUMED:R3:JNR
P3-2/HE(021)

4 April 1944

To: The Medical Officers in Charge, U. S. Navy Units, St. Elizabeths Hospital, Washington, D. C., and U. S. Public Health Service Hospital, Fort Worth, Texas.

Subj: Transfer of psychotic patients to Veterans Administration Facilities.

Ref: (a) BuPers and BuMed Joint Letter P3-2/HE(021) dated July 27, 1943, re transfer of Navy patients to Veterans Administration Facilities.
(b) CdtMarCorps and BuMed Letter of Instructions Pe-2/HE(021) dated August 19, 1943, re transfer of Marine Corps patients to Veterans Administration Facilities.
(c) BuMed ltr P3-2/HE(021) dated August 23, 1943, re preparation of V.A. Form P-10, Request for Hospitalization and Institutional Care.
(d) BuMed ltr P3-2/HE(021) dated January 11, 1944, re cancellation of reservations in Veterans Administration Facilities.

Encl: 1. (HW) Copy of reference (a).
2. (HW) Copy of reference (b).
3. (HW) Copy of reference (c).
4. (HW) Copy of reference (d).

1. The instructions in references (a), (b), and (c), relative to the transfer of Navy and Marine Corps patients to Veterans Administration Facilities prior to discharge from the service shall, upon receipt of this letter, be considered as applicable to Navy and Marine Corps patients at St. Elizabeths Hospital, Washington, D. C., and at the U. S. Public Health Service Hospital, Fort Worth, Texas.

2. The transfers will be subject to the conditions specified in paragraph 2 of references (a) and (b). Instructions for the preparation of V.A. Form P-10, Application for Hospital Treatment and Domiciliary Care for Neuropsychiatric Patients, are contained in paragraph 6 of references (a) and (b). Request for designation of a Veterans Administration Facility should not be submitted until the approved Report of Medical Survey has been received.

BUMED:R3:JNR
P3-2/HE(021)
4 April 1944

3. In the event that a patient, whose transfer to a Veterans Administration Facility has been recommended by a Board of Medical Survey, recovers sufficiently to permit his being discharged as not in need of further institutional care before his transfer has been effected, the instructions in reference (d) should be complied with.

4. Hereafter, no Navy or Marine Corps patient, who is in need of further institutional care, shall be discharged from the service until his family or next of kin have been notified and afforded an opportunity to express their desire as to his future care and disposition. Such patients shall be disposed of, so far as may be practicable, in accordance with the expressed desire of the family or next of kin.

ROSS T. McINTIRE
Vice Admiral (MC), USN
Chief of Bureau

BUMED:R3:JNR
P3-5/P19-1(034-42)

13 May 1944

The Administrator of Veterans Affairs
Veterans Administration
Washington, D.C.

Dear Sir:

Please refer to your letter of April 22, 1944 in which is raised the question as to whether the procedures outlined in BuMed letters R3:JNR, P3-5/P19-1 (034-42) of February 26, 1944 and March 14, 1944, may be applicable to enlisted men discharged from the Naval service at the U. S. Public Health Service Hospital, Fort Worth, Texas.

There is enclosed for your information a copy of a letter recently addressed to the Medical Officer in Charge, Navy Unit, U. S. Public Health Service Hospital, Fort Worth, relative to the preparation and submission of pension claims with related medical records for patients not transferred to Veterans Administration Facilities for further treatment. As will be noted, the Medical Officer in Charge, has been directed to submit the pension claims and medical records directly to the Veterans Administration Area office #8 at Dallas, Texas. There is also enclosed for your information a copy of a letter addressed to the Medical Officers in Charge, U. S. Navy Units at St. Elizabeths Hospital and at Fort Worth relative to the transfer of psychotic patients to Veterans Administration Facilities.

It is recommended that if practicable, a Veterans Administration representative be assigned to the Navy Unit at the Fort Worth hospital to assist the hospital staff with the preparation and submission of pension claims and related records, and to cooperate with the Medical Officer in Charge of the Unit in the transfer of psychotic patients to Veterans Administration Facilities.

Very sincerely yours,

ROSS T. McINTIRE
Vice Admiral (MC)
Surgeon General, U. S. Navy

BUMED:R3:JNR
P3-2/HE(021)

10 May 1944

To: The Medical Officer in Charge, Navy Unit, U. S. Public Health Service Hospital, Fort Worth, Texas.

Subj: Preparation and submission of pension claims with related medical records for patients not transferred to Veterans Administration Facilities for further treatment.

Ref: (a) BuMed Letter P3-2/HE(021) dated April 4, 1944.
(b) BuPers and BuMed Joint Letter P3-2/HE(021) dated July 27, 1943, re transfer of Navy patients to Veterans Administration Facilities.
(c) CdtMarCorps and BuMed Letter of Instructions P3-2/HE(021) dated August 19, 1943, re transfer of Marine Corps patients to Veterans Administration Facilities.
(d) BuMed Letter P3-5/P19-1(034-42) dated February 26, 1944.

Encl. 1. (HW) Copy of reference (d).

1. Reference (a) authorized the Medical Officer in Charge of the Navy Unit, U. S. Public Health Service Hospital, Fort Worth, to transfer patients who are in need of further hospitalization or institutional care, to Veterans Administration Facilities prior to discharge from the service, subject to the conditions specified in references (b) and (c), copies of which were furnished with reference (a).

2. Attention is invited to the instructions in paragraph 8 of references (b) and (c), and to the instructions in reference (d) relating to the preparation and submission of pension claims and medical records of patients who are discharged from the service and who are not transferred to Veterans Administration Facilities. If these patients wish to submit applications for pensions, the records listed in paragraph 5 of references (b) and (c) should be prepared and submitted direct to the Veterans Administration Area Office #8, 1000 Main Street, Dallas, Texas.

ROSS T. McINTIRE
Vice Admiral (MC), USN
Chief of Bureau

C O P Y

End-1 8 July 1944 BUMED:R3:VC P3-1/L20(011)

To: Medical Officer in Command, Navy Office,
U. S. Public Health Service Hospital, Fort Worth, Texas.

Via: Bureau of Naval Personnel.

Subj: Transfer of psychotic patients to Veterans Administration
Facilities.

Ref: (a) BUMED letter P3-2/HE(021), dated 4 April 1944, addressed
to the Medical Officers in Charge, U. S. Navy Units,
Saint Elizabeths Hospital, Washington, D. C., and U. S.
Public Health Service Hospital, Fort Worth, Texas.

Encl: 1. (HW) Copy of reference (a).

1. It is not the desire of the Bureau that all Navy and Marine Corps patients at the U. S. Public Health Service Hospital, Fort Worth, Texas, be transferred to Veterans Administration Facilities prior to their discharge from the service, and Board of Medical Survey should recommend such transfers only under the following conditions:

- (a) The patient will require further hospitalization or institutional care following his discharge from the Service. In this connection, attention is invited to paragraph 3 of reference (a).
- (b) The patient desires to be so transferred. (See paragraph 2 of reference (a)).
- (c) The transfer, in cases where the patient is mentally incompetent, is requested by the next of kin or the legal representative. (See paragraph 4 of reference (a)).

2. This correspondence is returned via BuPers with the recommendation that the Medical Officer in Command of the Navy Office, U. S. Public Health Service Hospital, Fort Worth, be authorized to discharge the patients listed in paragraph 2 of the basic letter and to retain them at the Fort Worth Hospital for further treatment, if required, unless, in the meantime, requests for their transfer to Veterans Administration Facilities have been received from the next of kin.

By direction of the Chief, BuMed:

B. H. ADAMS
Captain (MC), USN.

COPY :mem

BUMED-C-LET

23 May 1946

MEMORANDUM FOR THE SURGEON GENERAL

Subj: Reorganization of facilities for care of the insane.

Encl: 1. (HW) Extracts from message of the President to Congress.
2. (HW) Title 24, U. S. Code, Sec. 191.

1. The enclosed extracts deal with that part of Reorganization Plan No. 3 of 1946 which requires, among other things, that military and naval mental patients shall be cared for by the War and Navy Departments. Specifically:

The functions of St. Elizabeths Hospital in care of the insane of the Navy are transferred to the Navy, i.e.:

St. Elizabeths Hospital no longer is responsible for performance of the duties set forth under Title 24, Section 191, U. S. Code, and these functions become the responsibility of the Navy as follows:

To receive and keep in custody until cured or otherwise removed - first, insane persons belonging to the Navy and Marine Corps; second, does not apply; third, men who while in the Navy or Marine Corps have been hospitalized by the Navy for insanity, have been discharged from hospital as cured and have within three years become again insane and who are indigent; fourth, indigent insane persons who have been in the Navy or Marine Corps and have been discharged therefrom because of such insanity; fifth, indigent insane persons who have become insane within three years following discharge from the Navy or Marine Corps if such insanity is service-connected.

2. Patients of the Navy and Marine Corps admitted to St. Elizabeths Hospital prior to the effective date of this Reorganization Plan are entitled to remain in St. Elizabeths Hospital under the provisions of Section 4843, Revised Statutes (24 U.S.C. 191).

3. Under the "Reorganization Act of 1945" approved 20 December 1945 (Public Law 263, 79th Cong.) this reorganization plan shall take effect on the expiration of the first period of 60 calendar days of continuous session of the Congress following the date on which the plan is transmitted to it, provided that during such 60 days the Congress does not or shall not pass a concurrent resolution objecting to the reorganization plan.

COPY :mem

23 May 1946

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BUMED-C-LET

4. This plan was submitted to Congress 16 May 1946.
5. Under Reorganization Plan No. 2 the Board of Visitors of St. Elizabeths Hospital and its functions are abolished.

/s/ W. S. DOUGLASS
Civilian Assistant

cc: F, W, R (Bulld)

Extract from message of the President of the United States to the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1946, prepared in accordance with the provisions of the Reorganization Act of 1945 x x x.

Department of War and Department of the Navy

Functions With Respect to Certain Insane Persons

Prior to World War I practically all mental patients for whom the Federal Government was legally obligated to provide hospital care and treatment, including personnel of the armed forces, were hospitalized in St. Elizabeths Hospital, Washington, D. C. In addition, this hospital served as the mental hospital for the District of Columbia government. Following World War I, the responsibility for hospital care of mental ill war veterans was assigned to the Veterans' Administration. Somewhat later, specialized hospital facilities were provided by the Bureau of Prisons of the Department of Justice to enable that agency to care for prisoners suffering from mental disorders.

With the growth in the population of the District of Columbia and the wartime expansion of the armed forces, the facilities of St. Elizabeths Hospital became inadequate. The War Department therefore established its own mental hospitals at the outset of World War II. Furthermore it became necessary a year ago for the Navy Department to discontinue the use of St. Elizabeths and to assume the responsibility for the care of its mental patients.

Since the return of the Coast Guard to the Treasury Department, the Public Health Service now provides care in its mental hospitals for personnel of the Coast Guard in accordance with the basic responsibility delegated to it in the Public Health Service Code enacted in 1944. The plan abolishes the functions of St. Elizabeths Hospital with respect to insane persons belonging to the Coast Guard which are provided for by section 4843 of the Revised Statutes (24 U.S.C. 191).

Responsibility for the care of mental patients has been allocated on the basis of the four broad categories of beneficiaries, namely, (1) veterans, to be cared for by the Veterans' Administration; (2) military and naval personnel, to be cared for by the War and Navy Departments; (3) prisoners, for whom the Department of Justice will be responsible; and (4) other civilians, to be cared for by the Federal Security Agency. The reorganization plan, in order to carry out this policy, provides for the transfer or abolition of certain functions and legal responsibilities now resting with the Federal Security Administrator and Superintendent of St. Elizabeths Hospital.

REORGANIZATION PLAN NO. 3 OF 1946

(Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 16, 1946, pursuant to the provisions of the Reorganization Act of 1945, approved December 20, 1945)

PART II. DEPARTMENT OF WAR AND DEPARTMENT OF THE NAVY

Sec. 201. Functions with respect to certain insane persons: (a) The functions of St. Elizabeths Hospital and the superintendent thereof, and of the Federal Security Agency and the Federal Security Administrator, with respect to the care, treatment, and custody of insane persons as provided in section 4843 of the Revised Statutes (24 U.S.C. 191) are hereby transferred or abolished as follows:

(1) Functions with respect to insane persons belong to the Army or falling, by reason of employment or service in the Army, within any of the categories enumerated in said section, are transferred to the Secretary of War and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of War as he may designate.

(2) Functions with respect to insane persons belonging to the Navy or falling, by reason of prior service in the Navy, within any of the categories enumerated in said section, are transferred to the Secretary of the Navy and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of the Navy as he may designate. (For the purposes of this subparagraph (2), the Marine Corps but not the Coast Guard is included in the Navy).

(3) Functions with respect to insane persons belonging to the Coast Guard are abolished.

(b) Nothing in subsection (a) of this section shall affect the functions and authority of St. Elizabeths Hospital, the superintendent thereof, the Federal Security Agency, or the Federal Security Administrator with respect to any person heretofore admitted to St. Elizabeths Hospital and a patient therein on the effective date of this plan under the provisions of section 4843 of the Revised Statutes, or the functions and authority of said officers and agencies or of the Public Health Service with respect to Coast Guard members as beneficiaries of the Public Health Service, as provided by section 504 of the Public Health Service Act (58 Stat. 710, 42 U.S.C. 222).

TITLE 24, U. S. CODE

§ 191. Admission; insane persons of Army, Navy, Marine Corps and Coast Guard.

The superintendent, upon the order of the Secretary of War, of the Secretary of the Navy, and of the Secretary of the Treasury, respectively, shall receive, and keep in custody until they are cured, or removed by the same authority which ordered their reception, insane persons of the following descriptions:

First. Insane persons belonging to the Army, Navy, Marine Corps, and Coast Guard.

Second. Civilians employed in the Quartermaster Corps of the Army who may become insane while in such employment.

Third. Men who, while in the service of the United States, in the Army, Navy or Marine Corps, have been admitted to the hospital, and have been thereafter discharged from it on the supposition that they have recovered their reason, and have, within three years after such discharge, become again insane from causes existing at the time of such discharge, and have no adequate means of support.

Fourth. Indigent insane persons who have been in either of the said services and have been discharged therefrom on account of disability arising from such insanity.

Fifth. Indigent insane persons who have become insane within three years after their discharge from such service, from causes which arose during and were produced by said service. (R.S. § 4843; Feb. 9, 1900, ch. 13, 31 Stat. 7; Aug. 24, 1912, ch. 391, § 3, 37 Stat. 591; Jan. 28, 1915, ch. 20, § 2, 38 Stat. 801.)

