

4-1942

Extension of Military Service

Follow this and additional works at: <http://www.repository.law.indiana.edu/ilj>



Part of the [Military, War, and Peace Commons](#)

Recommended Citation

(1942) "Extension of Military Service," *Indiana Law Journal*: Vol. 17: Iss. 4, Article 12.
Available at: <http://www.repository.law.indiana.edu/ilj/vol17/iss4/12>

This Note is brought to you for free and open access by the Law School Journals at Digital Repository @ Maurer Law. It has been accepted for inclusion in *Indiana Law Journal* by an authorized administrator of Digital Repository @ Maurer Law. For more information, please contact wattn@indiana.edu.



JEROME HALL LAW LIBRARY

INDIANA UNIVERSITY
Maurer School of Law
Bloomington

EXTENSION OF MILITARY SERVICE

The purpose of Selective Service was to secure an orderly, just and democratic method whereby the military manpower of the United States may be made available for training and service in the land and naval forces of the United States, as provided, by the Congress, with the least possible disruption of the social and economic life of the nation.¹

The Selective Training and Service Act of 1940,² provided that "Each man inducted . . . shall serve for a training and service period of twelve consecutive months, unless sooner discharged, except that whenever the Congress has declared that the national interest is imperiled, such twelve month period may be extended by the President to such time as may be necessary in the interest of national defense."³ Acting in accordance with these provisions, Congress permitted the President "to extend the term of the service to a period not exceeding 18 months except whenever Congress declares that because of national emergency that period shall be extended."⁴

Then upon our entrance into the war, Congress passed a joint resolution removing restrictions on the territorial use of the Army and extending the period of service.⁵ The period of service was extended to the length of the existence of the war and during the six months following the termination of the war.⁶ However, there is nothing to prevent the President from terminating the period at an earlier date.⁷ The war has abolished all significance of the Service Extension Act.

Congress delegated to the Secretary of War the authority to "release from active military service those persons who apply therefor through the regular military channels and state their reasons for such release, and whose retention in active military service would, in the judgment of the Secretary of War, subject them or their dependents to undue hardships if retained.⁸ Courts will not substitute their judgment for the judgment of administrative officers if the administrative officers follow the proper procedure.⁹ If a person is denied a release, he will be required to exhaust the administrative remedies within the army,¹⁰ which are the remedies afforded by the Articles of War.¹¹

¹ 1 Sel. Ser. Reg. 101 (1940).

² 54 STAT. 885, 50 U.S.C.A. § 301 et seq. (Supp. 1940).

³ 54 STAT. 885, 50 U.S.C.A. § 303 (b) (Supp. 1940).

⁴ 55 STAT. 800 (1941), 50 U.S.C.A. § 732 (Supp. 1942).

⁵ PUB. L. NO. 338, 77th Cong., 1st Sess. (Dec. 13, 1941) § 7.

⁶ *Ibid.*

⁷ PUB. L. NO. 338, 77th Cong., 1st Sess. (Dec. 13, 1941) § 2.

⁸ 55 STAT. 627, 50 U.S.C.A. § 354 (Supp. 1941).

⁹ *Shimola v. Local Board No. 42*, 40 F. Supp. 808 (E. D. Ohio, 1941), *Nordmann v. Woodring*, 28 F. Supp. 573 (W. D. Okla. 1939); *In re Traina* 248 Fed. 1004 (E. D. N. Y. 1918); see *United States v. Curtiss Wright Export Corporation*, 299 U.S. 304 (1936).

¹⁰ *Ex parte Kusweski*, 251 Fed. 977 (N. D. N. Y. 1918); see Note (1938) 51 HARV. L. REV. 1251.

¹¹ 41 STAT. 811 (1920), 10 U.S.C.A. 1593 (1927); 41 STAT. 807 (1920), 10 U.S.C.A. 1519 (1927).