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P U B L I C H E A R I N G

before

ASSEMBLY VETERANS' AFFAIRS AND DEFENSE COMMITTEE

On whether the service provided by certain members of the American Merchant Marine during World War II constitutes the kind of military service that entitles these persons to the veterans' benefits provided by the State of New Jersey to other veterans of that war.

January 17, 1989
Room 403
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Peter J. Genova, Chairman
Assemblywoman Dolores G. Cooper, Vice Chairwoman
Assemblyman George A. Spadaro

ALSO PRESENT:

Frank J. Parisi
Office of Legislative Services
Aide, Assembly Veterans' Affairs
and Defense Committee

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January 10, 1989

NOTICE OF A PUBLIC HEARING

*"American Merchant Mariners as
Veterans of World War II"*

The Assembly Veterans Affairs and Defense Committee will hold a public hearing on the issue of whether the service provided by certain members of the American Merchant Marine during World War II constitutes the kind of military service that entitles these persons to the veterans' benefits provided by the State of New Jersey to other veterans of that war. The hearing will take place on Tuesday, January 17, 1989, beginning at 10:00 A.M. in Room 403 of the State House Annex, Trenton, N.J.

The State Treasurer, the Commissioner of the Department of Personnel, the Adjutant General of the Department of Military and Veterans' Affairs, the Attorney General, several members of the Legislature, and other public officials have been requested to attend this public hearing to give their views on this issue.

Anyone wishing to testify should contact Frank J. Parisi, Aide to the Committee, at (609) 292-9106, and should submit copies of their testimony, including specific recommendations, to the committee on or before the day of the hearing.

TABLE OF CONTENTS

	<u>Page</u>
Assemblyman Robert Menendez District 33	2
Carolyn E. Bronson Legislative Liaison/Project Specialist Division of Pensions New Jersey Department of the Treasury	6
Ralph L. Stone State Commander American Legion Department of New Jersey	7
Charles E. Kinney Past State Commander of the Veterans of Foreign Wars, and Legislative Officer of the Veterans of Foreign Wars	8
Paul Tuliano Department of New Jersey Disabled American Veterans.	12
Dennis P. Crowley Director of Legislative Policy Legislative Liaison Unit New Jersey Department of Law and Public Safety	13
Douglas R. Forrester Director Division of Pensions New Jersey Department of the Treasury	13
Harold Schmidt Merchant Mariner of World War II	22
Major William C. Lowe Director Administrative Division New Jersey Department of Military and Veterans' Affairs	22
Henry Maurer Legislative Liaison New Jersey Department of Personnel	25
James Schroeder New Jersey Education Association	26

TABLE OF CONTENTS (continued)

	<u>Page</u>
Alvin A. Zeidel Marine Engineers Beneficial Association and National Maritime Union	33
Kermit Haber Executive Officer Combat Merchant Mariners of World War II	35
G. Howard Nugent Treasurer Combat Merchant Mariners of World War II and Navy League of the United States	41
Ted Krainski Past Commander American Legion Post 458	42
Robert H. Murray Merchant Mariner of World War II	43
Morris Roth Merchant Mariner of World War II	45
Holberg Aspelund Merchant Mariner of World War II	49
APPENDIX:	
Copy of Assembly Bill No. 3147	1x
Statement submitted by Robert H. Murray	39x
Testimony submitted by Morris Roth	49x

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ASSEMBLYMAN PETER J. GENOVA (Chairman): Good morning, everyone. We are 29 minutes past schedule. I am very sorry; I apologize. I thought we might have one or two more members here to participate; to listen to you, to see what your concerns are about this very important piece of legislation. Many of you out there have written me about it to my district office, and have written to my colleagues, Vice Chair, Dolores Cooper, other members of the Committee, and your own legislators, wherever you might live. I want to say that it has been one of the most positive efforts by veterans that I have ever seen since I have been in this distinguished body. I congratulate you. I commend you, Mr. Schmidt -- if you are here, raise your hand -- for writing. I am not too sure of the pronunciation of this other gentleman's name, the gentleman who brought it up initially -- Mr. Sorock. It starts with an "S," I believe; I'm not too sure. Is he here? (negative response from audience) Okay. They have become household names in my district office, and I want to thank them very much.

You should understand one thing before we proceed. It was not the intent of this Chairman, or anyone else affiliated with the Majority Staff, to hold this bill up. Many of you have written and have charged, unfairly, that the legislation was being held up. I don't do things that way, and I would hope that my colleagues who chair other committees in this Legislature don't do things that way either.

We have a conflict in the positions that have been rendered by various administrative offices. We are here today to clear those up, to make sure that this bill, should it be released, is in the best possible form.

We want to thank Assemblyman Kenny for sponsoring it. I have had many of my colleagues ask to sponsor this bill. I believe he was chosen because his request was received in the Office of Legislative Services before anyone else's. But we have representing him today, from Hudson County, Assemblyman

Menendez, who will give us a brief introduction on this legislation -- representing Assemblyman Kenny -- telling us why it is necessary for it to go in. I want to thank you for taking your time out of your busy schedule to be here with us, Assemblyman.

A S S E M B L Y M A N R O B E R T M E N E N D E Z: Thank you, Mr. Chairman, and good morning, members of the Committee.

Mr. Chairman, Assemblyman Kenny, who is the prime sponsor -- although I do not appear yet, I recently signed on as a prime co-sponsor of this bill -- wants to thank the Committee for having this hearing on this very important bill. Today and tomorrow, he is conducting an all-day seminar at Hoboken High School, as a member of the Assembly Drug Task Force. He was committed to this seminar for two days, although he wanted very much to be here.

But, we want to thank you for having this hearing on Assembly Bill 3147, which would change the definition of veteran in State law to include honorably discharged members of the American Merchant Marine service during World War II, who are declared by the U.S. Department of Defense to be eligible for Federal veteran benefits.

Mr. Chairman, according to the United States Maritime Administration, approximately 250,000 merchant marines saw service during World War II. Their official death toll was 5662 people, and more than 500 of them were captured. Of the survivors, approximately 90,000 are believed to still be alive, although those figures are only the most accurate figures that are available to the Administration. Until recently, these individuals received few of the benefits achieved by most of the other veterans, until a recent case -- Schumacher v. Aldridge -- which I know the Chairman is familiar with, having corresponded with the Attorney General's Office-- That case had the United States Department of Defense agree to extend veteran status to American Merchant Marines who served on

ongoing merchant marine ships between December 7, 1941 and August 15, 1945.

With reference to the relationship of the American Merchant Marine to what we would consider in a traditional sense a veteran-- In fact, to give you some information, in a Selective Service memorandum from the National Headquarters of Selective Service, dated January 9, 1942, the National Director, Lewis Hershey, said: "Merchant Marine service may be properly considered tantamount to military service, since these individuals were deemed by the Selective Service System to be engaged in the active defense of the country." They were not only exempt from the draft, but they were also encouraged by the government to remain in the Merchant Marines. The War Shipping Administration, for example, actively sought to prevent any Merchant Marine officer, whose removal would "interfere with vessel operation or result in ship delays," from being called to active naval duty.

In addition, within a year of the bombing of Pearl Harbor, merchant ships were armed with small caliber machine guns and cannons, and the Coast Guard was ordered to train Merchant Marines in the use of such weapons. Merchant Marines note that despite such training, the constant exposure to deadly enemy submarines resulted in a casualty rate, Mr. Chairman, which was higher than the casualty rate for the Army or the Navy, and second only to the United States Marine Corps. They received wages that were similar to those of the armed forces, but, in fact, were not paid if they were not on a specific sailing opportunity.

We believe, Mr. Chairman, that in consideration of their service, which I think is well-documented by the Department of Defense, and probably by some of the testimony you will hear today, as well as the letters you have received and paid attention to, this is the time for New Jersey to follow the lead of what the Federal government has done, as it

relates to its individual State benefits. This is the appropriate time.

Now there may be a consideration, Mr. Chairman-- As members of the Appropriations Committee, we are all very well-aware of the cost of any legislation as it relates to our present difficulties in terms of any impact. But I believe that the impact for the service that these people rendered, in comparison to what they did in serving their country, is minimal, and that, under any circumstances, we should consider the whole legislative process from now on when these bills come up. There have to be choices, clearly, in terms of the expenditure of moneys as we look forward in the days ahead. There are going to have to be choices made as to what we are going to pass in Appropriations, what the Governor will ultimately sign, and what he will not.

If we determine during the Committee process not to go ahead simply because of a fiscal constraint, then really the whole legislative process would almost stop. Ultimately, I would suggest to the Chairman, and I hope he agrees, that as it relates to any financial consideration here, we ultimately let the person who presents the budget to our State -- the Governor -- make a final determination on it, and allow it to go through the appropriations process.

I want to thank you again. I want to add, Mr. Chairman, that if, in fact, there is any misunderstanding as to this Committee holding up the bill-- I want to say, in the context of Mr. Kenny, that the only issue, clearly, was that only a Committee Chairman can post a bill when he wishes to and depending upon all the facts. You spent, from what I can see in the file, a considerable amount of time trying to clear up whether or not the bill was even necessary, because there were conflicts of opinions by, I believe, the Department of Defense and the Attorney General's Office, as to whether or not the statute needed to be amended. In that effort, I think you came to this hearing today, which I think is commendable.

Thank you for your time. If anyone has a question, I would be willing to answer it.

ASSEMBLYMAN GENOVA: Thank you. We can excuse him, because he is a freshman. Freshmen sometimes don't know any better.

I commend you on your position on the appropriation process. Only the Governor should be-- I forget exactly what you said, and I don't want to misquote you. But what you did was extend a lot of the responsibility for making the ultimate decisions on moneys that are released from the State to the Governor. I would hope that as a Mayor of a prominent Hudson County community, you would remember that when you come to the State House asking for State aid, like \$100 million in solid waste assistance, you realize that in order to provide that kind of money, you have to have an alternate source of revenue. And on that particular bill, there is no money at all.

I think you understand that.

ASSEMBLYMAN MENENDEZ: Mr. Chairman, let me just simply say, what I was suggesting was that, clearly if we are going to stifle any bill in the legislative process because it has a money tag on it, then we might as well all go home and return our salaries to the taxpayers of the State of New Jersey. That does not mean that I would abdicate, in any way, the role of trying to assuage the Governor to go a certain way on any terms of appropriations, just as you would in any of the endeavors you have. But, I understand your point.

ASSEMBLYMAN GENOVA: We know that the Governor, and Chuck Hardwick, the Speaker, and John Russo, the Senate President, are behind veterans 100%. We keep all of these issues in their reliable hands, and hope that both houses of the Legislature do what is best for veterans.

Assemblymen, ladies and gentlemen, as many of you know, State laws authorizing special benefits for wartime military veterans generally define as eligible veterans those

people who are discharged under other than dishonorable circumstances from any branch of the armed forces, after having served at least 90 days. One year ago this month, the Federal government determined that persons who served in the U.S. Merchant Marines, and performed active ocean-going service during World War II, were entitled to a military discharge for that service, and therefore would be eligible for Federal veterans' benefits.

The discharge certificate, most commonly known as the DD-214, is available upon request of a qualified person, or a surviving spouse. Ordinarily, State agencies which administer veterans' benefits accept this form as evidence of one's veteran status. However, the Department of the Treasury, up until this time, as far as what I have been told anyway, does not accept the DD-214 issued to ex-Merchant Marines. The State Attorney General's Office, however, has issued a formal opinion, which finds, in effect, that these forms are valid proof of veteran status.

I would thank the Assemblyman for providing testimony on the bill, and at this time I would like to ask representatives from both the Attorney General's Office and also-- Is Doug here? (referring to Douglas R. Forrester, Director, Division of Pensions)

C A R O L Y N E. B R O N S O N: (speaking from audience)
No.

ASSEMBLYMAN GENOVA: Could you get him, please? It should be just a couple of minutes.

I think it is very important that before we hear public testimony, we have representatives from the Attorney General's Office and from the Division of Pensions speak to us about this very, very important issue. We will take a five-minute recess until Mr. Forrester arrives.

(RECESS)

AFTER RECESS:

(Mr. Forrester detained; Chairman picks up with next witness)

ASSEMBLYMAN GENOVA: When we ask the public to testify, we are not going to ask you to talk about why it is necessary. We know why it is necessary. Let us know your department's position on this. We know you are very familiar with the legislation. Commander Ralph L. Stone?

C O M M A N D E R R A L P H L. S T O N E: Thank you, Mr. Chairman. First off, we of the American Legion Department of New Jersey-- Of course, we are concerned with any and all veterans' legislation. That's paramount. However, with regard to the merchant seamen who served during those dates in World War II, we say this: Due to the fact that they were-- When going aboard the various merchant ships for sea duty, as soon as they left the continental limits of the United States, they were, as you might say, under the gun, because of the menace of the German U-boat fleet, which was ongoing throughout most of the war, plus other actions in and around the European theater of operations; and, of course, with the Japanese Navy in the Pacific. These men laid their lives on the line. This is undoubtedly quite, quite true.

What we say, however, is, to recognize the Merchant Mariners of World War II for possible veterans' benefits here in the State, should ring true the same as nationally with regard to making sure that these Merchant Mariners have the honorable discharge, the DD-214 -- "Report of Separation or Discharge from the Armed Forces" -- which they can apply for, and receive.

Just to show you how far along we are, as far as the Federal benefits are concerned, as a full-time working county veterans' service officer of Burlington County, with over 29 years service-- We, in our office in Mount Holly, have already

processed a few claims for these Merchant Mariners who have applied for, and have, the DD-214 for Federal benefits.

So, we in the American Legion, to sum up, feel they should be recognized, provided they have the honorable discharge to show so they can be eligible. Thank you.

ASSEMBLYMAN GENOVA: Thank you very much, Commander. We appreciate it.

Representing the Veterans of Foreign Wars of the United States, Charles E. Kinney. Good morning.

C H A R L E S E. K I N N E Y: Good morning, Mr. Chairman.

ASSEMBLYMAN GENOVA: We also have with us, former Mayor, and my good friend and colleague from District 21, Vince Brinkerhoff. Good morning.

MR. KINNEY: Chairman Genova, Assemblywoman Cooper, members of the staff--

ASSEMBLYMAN GENOVA: Excuse me, Charlie. We are pleased to say that Assemblyman Spadoro has joined us now, another member of our Committee. Good morning, George.

ASSEMBLYMAN SPADORO: Good morning. Sorry I'm late.

MR. KINNEY: Good morning. It's a pleasure.

My name is Charles E. Kinney. I am a past State Commander of the Veterans of Foreign Wars, and I am the State Legislative Officer of the VFW. I speak for Commander George Lisicki and the over 73,000 members of the Department of New Jersey VFW in opposition to this proposed legislation. I speak, too, out of a sense of duty to both the members of the Veterans of Foreign Wars and the great majority of the veterans of this State.

American Merchant Mariners are not veterans of World War II. When members of the Merchant Marine attempted to be classified as veterans through legislative means by the Congress, the Veterans of Foreign Wars opposed the action. The proponents were rebuffed; their pleas were rejected; and they were never able to gain sufficient strength in the national legislature to obtain their objective.

However, the decision to grant them veteran status was issued by a Federal judge in Washington. To repeat: Members of the Merchant Marine are not veterans. They were given veteran status by a judicial decision, and as a result, certain of their members became eligible for Federal veterans' benefits. Under the Congressional Charter, the Veterans of Foreign Wars is obliged to provide assistance to former members of the World War II Merchant Marine who have been granted veteran status, but they are not eligible to be members of the Veterans of Foreign Wars.

In this day of deficit spending and budget crunching, can someone tell us where the moneys for these proposals are going to come from? While in Washington on a number of occasions recently, I spoke with legislative representatives of various states to see whether they had similar legislative proposals pending in their states. I found, however, that there are comparatively few former Merchant Mariners in Tennessee, in Minnesota, in Colorado, in New Mexico, and the like. In comparison, New Jersey has thousands of these people and their dependents who would be declared eligible for veterans' entitlements under the proposals. So it is not a problem for very many states, but it is a gargantuan problem for New Jersey.

Why did the executive branch of our State government fail to respond to the legislative branch's request for a fiscal note? One reason, perhaps, is that there is no information available to indicate the number of Merchant Mariners who are currently members of a State-administered retirement system who have not already retired under regular retirement processes.

In truth, it is virtually impossible to estimate the costs of this legislation and its effect on local and State taxes. We do know that given the comparatively large number of former members of the Merchant Marine and their dependents in

New Jersey, the costs will be stupendous and will necessarily affect ongoing veterans' entitlements and programs.

Finally, where does this madness stop? Will the next group of Americans seeking veterans' entitlements be those who worked in the shipyards during the wars, in Newark, in Kearny, in Elizabeth, in Camden, in New York, Philadelphia, and Wilmington? A strong argument can be made that the conduct of the various wars depended upon their work and skills. Let's not stop there. How about those who worked in defense plants during the wars? Are they not entitled, under the same logic, to veterans' entitlements? I think not.

The title, "veteran," is a proud one, earned by its holders by service to the United States of America, in her hours of need, with comparatively little monetary compensation, compared to members of the civilian sector at the same time. Merchant Mariners were always civilians during the wars. Veterans' benefits and entitlements were passed by grateful legislatures in an attempt to balance the discrepancies in career opportunities and monetary compensation suffered by the veterans in comparison with civilians.

In the 1940s, after World War II, if the Legislature believed that members of the Merchant Marine were entitled to veterans' benefits, they would have granted them then. Why, in 1989, have some suddenly decided that there are sufficient moneys to include everyone? From my readings of the national and State budgets, this is beyond belief!

Personally, I admire many brave acts committed by our merchant seamen, but those acts do not qualify them to be classified as veterans, any more than the saving of a life by a police officer, fire fighter, or emergency first aider qualifies them.

I and my organization, the Veterans of Foreign Wars of the United States, would be happy to support any legislation benefiting merchant seamen and their dependents that would not affect the State of New Jersey's commitment to its veterans.

Therefore, because Merchant Mariners are not veterans, but rather have only been granted "veteran status" by judicial decision, we oppose this legislation.

Secondly, because no one can truly estimate the costs of this legislation, especially in a time of belt tightening, which the veteran population along with other segments of the State are feeling, we oppose this legislation.

Finally, because passage of these proposals would open a Pandora's box for other groups to demand and obtain similar consideration, we oppose this legislation.

ASSEMBLYMAN GENOVA: Thank you.

MR. KINNEY: No questions?

ASSEMBLYMAN GENOVA: We have no questions, except, Charlie, were you also representing those remarks that may have been brought to us by George Fesco?

MR. KINNEY: Yes.

ASSEMBLYMAN GENOVA: Because we have him--

MR. KINNEY: George Fesco called me last night, and told me that his business necessitated him being in Phoenix. That is my comment. His post, the Wallington Post, passed a resolution. The Wallington Post has approximately 1000 members in Bergen County. They passed a resolution concerning the Merchant Marine and opposing considering them as veterans. This was then taken to District 2 of the Veterans of Foreign Wars, which is the largest district in the VFW -- 13,000 members in Bergen County. At the last meeting of District 2, this resolution was also passed.

On Saturday of this week, that resolution will be brought before our State Council Administration, and I have every belief that it will be passed at the State Council Administration.

ASSEMBLYMAN GENOVA: Fine. Thank you very much.

MR. KINNEY: Thank you.

ASSEMBLYMAN GENOVA: Is there anyone here representing the Disabled American Veterans? Paul Tuliano? (affirmative response)

Since we do have a lot of people who have indicated they would like to testify, Paul, we ask that your remarks be brief.

P A U L T U L I A N O: Yes, and I will not be redundant, Mr. Chairman.

Good morning, Mr. Chairman, Vice Chairman Dolores Cooper, and members of the Assembly Veterans' Committee. Thanks for the opportunity to speak. Also at this time, I would like to say thanks very much for the advance notice of the meetings being scheduled by your Committee for the next couple of weeks, or the next month. Thank you very much.

The Department of New Jersey Disabled American Veterans is in favor of the initiative taken by the Committee and by the legislation, Assembly Bill 3147, to grant recognition as veterans to those who served in the Merchant Marine during World War II. Notwithstanding the fact that they were granted veterans' status by the Federal government, our national organization of Disabled American Veterans has also granted recognition, recognizing those who served in the Merchant Marine during the World War II period under honorable conditions, as veterans.

I will not be redundant, Mr. Chairman. Thanks very much for the opportunity to speak. Thank you.

ASSEMBLYMAN GENOVA: Thank you, Paul. We appreciate your remarks.

Is there anyone here representing the Jewish War Veterans, State Department of New Jersey? (no response) Are there any other people here representing federally chartered veterans' organizations in the State of New Jersey? (no response)

As we mentioned before, now we are going to hear some testimony. I would ask that the representative from the Attorney General's Office, Dennis Crowley, and Doug Forrester, who is the Director of the Division of Pensions, New Jersey Department of the Treasury, come forward together. Good morning.

D E N N I S P. C R O W L E Y: Good morning, Mr. Chairman.

ASSEMBLYMAN GENOVA: Mr. Director, how are you?

D O U G L A S R. F O R R E S T E R: Fine, thank you, Mr. Chairman.

ASSEMBLYMAN GENOVA: I feel this is probably the most appropriate way to address your slight differences on, not only this legislation, but on whether or not certain opinions that have been rendered in the past should be considered, and how enforceable they are. We are just looking, actually, for some direction from you people. We are not going to be voting the bill out of Committee. We need some help. Doug?

MR. FORRESTER: Thank you very much, Mr. Chairman and members of the Committee.

I understand that perhaps--

ASSEMBLYMAN GENOVA: Can you hear him, folks?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Not too clearly.

ASSEMBLYMAN GENOVA: You have to speak up.

MR. FORRESTER: I see. I realize that it may seem that I am the odd man out here with respect to the administrative response to the Federal comments and some earlier comments by the Attorney General's Office. I would like to think that there are very good reasons for that. The best way for me to summarize the issue, is to say that with respect to veterans' pension benefits, because of the magnitude of that benefit, and the extensive period of time over which those benefits are funded and taken into account, I consider it to be a public policy decision which properly belongs within the Legislature. I don't believe that the Legislature would

want me making determinations based upon other administrative actions at levels of government, even including the Federal government.

There are important differences in New Jersey with respect to the treatment of veterans and the definition of veterans, from the Federal level. For example, the most prominent one is that for pension purposes, the Legislature has historically defined veterans differently than the Federal government with respect to the dates which have to be served. That is the most prominent example. But the fact that there is such an example indicates clearly that the Legislature has different ideas in mind from time to time with respect to offering the veterans' pension benefit. The veterans' pension benefit has been rightly considered an enormously valuable benefit. That benefit, in many cases, winds up being 50% better than the benefit offered other public employees for equivalent service.

Because of the magnitude of that issue, because there are statutory differences which are of longstanding import in New Jersey public policy, I don't believe it is appropriate for me to make a decision of this sort, but rather, it is more appropriately a legislative one.

I am not making that comment because I happen to think that a decision of this sort would break the budget. But I have testified before other committees, and I think this one as well, that I try very hard to make sure that my comments about what is appropriate and what is not, are not necessarily linked to whether something is expensive or not. In other words, I don't like to necessarily define a person's rights in terms of an economic value.

So, my comments are not such that I would say that because there is a lot of money involved, I don't think it is my decision to make. Even if there are only a handful of people involved, I believe the value to them is of such a great

magnitude, that it is clearly a public policy decision that should be made by legislative directive, just as the Legislature has made other important distinctions in offering the pension veterans' benefit to some veterans, but not all veterans.

There are examples in New Jersey's administrative activity in which we have taken the Federal government determinations of one moment, and applied them consistently, and have regretted it. I think in the area of pensions, I would wish to have a clear policy statement by the Legislature, so that we don't have to hitch our wagon to the Federal wagon. The Legislature has already declared that we will not do that across-the-board. I don't think it should be done now. And, irrespective of my own sentiments about whether Merchant Marines should be included or not as veterans, I won't do that aside from specific direction from you.

ASSEMBLYMAN GENOVA: So what you're saying then is that it is the Legislature's prerogative--

MR. FORRESTER: Absolutely.

ASSEMBLYMAN GENOVA: --to determine whether or not a particular program or service or whatever benefit, regardless of the costs? You're saying it is the Legislature's prerogative to-- You can, of course, be in conflict with the Attorney General's position on it, but you leave it up to us. That's what you're saying.

MR. FORRESTER: Mr. Chairman, yes, I believe it is the Legislature's prerogative. I do not believe that I am in conflict with the Attorney General's opinion. All of the written material that I have seen from the Attorney General's Office does not address this specific point, with respect to the Division of Pensions. It has addressed the issue with respect to other veterans' benefits, but I have not seen any statutory references to the pension statutes from the Attorney General's Office within the recent discussion.

ASSEMBLYMAN GENOVA: Thank you. Dennis Crowley, Deputy Attorney General.

MR. CROWLEY: No, Special Assistant for Legislative Matters.

Thank you, Mr. Chairman. Let me, if I may, just walk through very briefly some of the background of the last year or so on this issue, and expand upon what Mr. Forrester has just been discussing -- if I may.

The Attorney General's opinion in question says-- Maybe I shouldn't paraphrase it; maybe I should just read it to you, so that the record clearly contains it. I will read the last paragraph, which is usually the way you get through these opinions. You read all the lawyer's work, and then you get to the last paragraph:

"Therefore, you are advised that State veterans' benefits are available solely to members of the armed forces. Under qualifying factual circumstances, certain former Merchant Marine seamen may also be eligible for veterans' benefits, if they served on designated ocean-going vessels during World War II and if they were discharged from one of the branches of the armed forces. All other Merchant Marine seamen would qualify for specific veterans' benefits only if the relevant statutory language explicitly included such seamen within the beneficiary class."

Now, what that paragraph means in layman's terms, is that-- About a year ago, a court ruling held that individual Merchant Marine seamen could be included for Federal benefits if they were in possession of the form DD-214. That form indicated that they did serve on designated vessels in combat areas, and that they were discharged from one of the branches of service. I believe it was the Navy, or was it the Army?

ASSEMBLYMAN GENOVA: Coast Guard.

MR. CROWLEY: Coast Guard, okay. Now, for the purposes of the Attorney General's opinion in this particular

October 7 memo-- That opinion suggested that if those individuals were in possession of that documentation, then they were eligible for certain benefits because of an administrative practice in our State in which we recognize, for those benefits, the definition of a veteran that is included in the Federal statute. Again, you have to read that definition as both statute and case-by-case judicial finding.

The problem is, that doesn't include all Merchant Marine seamen. The second problem is, it does not make reference specifically to those individuals being included in our pension statutes, as Mr. Forrester indicated. An additional problem is that over the years, it has apparently been the administrative custom of this State that individuals who were deemed eligible by Federal standards, would then, as that fact, be eligible for State standards. And there has been a sort of patchwork arrangement, in which the definition of "veteran" became less and less secure in the minds of the agencies and individuals having to administer those programs.

So when Mr. Forrester indicates that a legislative action specifically intended to define and/or include individuals in the category of veterans for the purpose of State benefits, that is not a bad idea. In fact, the Attorney General's opinion which was issued in October, basically says the same thing that Mr. Forrester said; that all other Merchant Marine seamen would qualify for specific benefits, only if the relevant statutory language explicitly included those seamen in the beneficiary class. I think we could probably make that read, not "Merchant Marine seamen," but basically anybody who the Legislature feels should be eligible for veterans' benefits, notwithstanding who is eligible at the Federal level -- anybody the Legislature feels is eligible. The Legislature should make that affirmative action.

I think that is what you're saying, Doug, and I am here to tell you that we don't disagree with that approach,

because that approach would give you, as policy-makers, the right to answer basically two questions: One, who should get these benefits, and the second question being, how should we pay for these benefits?

So, I think in terms of a comprehensive approach to public policy, that is probably the best way to go. The narrower question of eligibility for the individuals who possess sufficient documentation-- That narrower question is fairly clearly answered in the Attorney General's opinion, and those people are, in fact, eligible by our interpretation of existing law. Whether the existing law would then make other individuals eligible-- That is a separate question completely.

I am going to leave you basically with two things: We will stand, obviously, by the Attorney General's opinion, but we also agree with Doug in the need for a much clearer public policy framework in which to determine who is included, and who pays for those benefits.

ASSEMBLYWOMAN COOPER: Has there been any discussion as to must they have been New Jersey residents at the time--

ASSEMBLYMAN GENOVA: No, we haven't addressed that yet.

ASSEMBLYWOMAN COOPER: I am going to bring that up.

ASSEMBLYMAN GENOVA: Sure.

ASSEMBLYWOMAN COOPER: Because a million people could move in.

ASSEMBLYMAN GENOVA: George, do you have any questions for either Doug or Dennis?

ASSEMBLYMAN SPADORO: No, I do not.

ASSEMBLYMAN GENOVA: Dolores?

ASSEMBLYWOMAN COOPER: May I ask--

ASSEMBLYMAN GENOVA: Yes, sure you may.

ASSEMBLYWOMAN COOPER: Since the emergence of this bill, has there been any indication as to the applicability of pensions as to New Jersey residency? Must you have been a resident of New Jersey between '41 and '45 to determine the

eligibility? What about the people who moved in here in the '50s, '60s, and '70s -- the past 40 years, who were not New Jersey residents at the time of World War II?

MR. FORRESTER: Assemblywoman Cooper, the issue of residency is not decisive as far as the administration of pension benefits for veterans. The issue has to do with eligibility of service under the statute, as written by the Legislature. I would have to say that another important consideration of a very practical nature and why it is wise for me to come and ask guidance from you specifically, is because of the way pension benefits are created and administered and funded. These are not discrete benefits given one time, so to speak, as many others are, like a property tax deduction, or whatnot. They are, in essence, retroactive in nature.

A question that immediately comes up with respect to what the Federal government did is: Well, does that mean that I should go back and give existing retirees who are merchant seamen a retroactive adjustment in their retirement allowance, going back to the point of retirement for them? See, that is a question that is just not addressed at all. If we follow through with merely a Federal administrative determination, there is a whole host of questions which have to be asked and answered when we deal with the administration of pensions in New Jersey, and those questions can only be answered by the Legislature, because the Legislature is given that obligation and responsibility to define how the public's resources are supposed to be used to pay pensions for public employees.

Your specific point, New Jersey residency, is not determinative. The issue has to do with credit in the New Jersey pension systems. But I hope you can appreciate that it is really literally impossible for me to take a Federal determination of eligibility and apply it, because there are too many other questions that arise that are of critical value in making decisions about who gets what, and how much, and when it is applicable, etc.

ASSEMBLYMAN GENOVA: You are not presenting a legal argument; you are presenting an argument based on costs. That's the bottom line.

MR. FORRESTER: Mr. Chairman, on that point, actually it is not a cost argument. I am making a legal argument from the standpoint that I am saying: In order to administer a law, the law has to be clear in terms of who is supposed to be covered and when. I mentioned to Assemblywoman Cooper that there is no reference at all to the issue of retroactivity, and that makes sense, because in most cases, the Federal veterans' benefits, at least in New Jersey, don't come up as being retroactive. Pensions are, by definition, retroactive. Should I go back to the date of retirement -- if someone retired in 1975, a Merchant Marine person -- and say, "Okay, I am going to adjust your retirement benefit"? Is that what is meant by including them within the definition of veteran?

The Federal government doesn't pay any attention to that, and I don't blame them. That is something I would come to you and ask. That is part of the legal argument I am making; that it is properly within the jurisdiction of the Legislature to make that specific determination, because it isn't a simple determination. There is a whole host of questions that I would come back to you, and say, "What do you mean by this?"

ASSEMBLYMAN GENOVA: What I suggest you do then, Doug, is-- Frank (referring to Committee Aide) reminded me to turn my mike up, for our people who are recording our proceedings today. What I would ask you to do then, if you would, is review Assembly Bill No. 3147 in its entirety. Also, I am asking Bob Menendez to have Assemblyman Kenny meet with Mr. Forrester, and then also meet with the Attorney General's Office, to find out whether or not what Assemblyman Kenny cares to accomplish is contained in this legislation. Because as you know, the Senate version of this legislation is different than

Mr. Kenny's. We want to make sure that every argument that has been brought forward today is addressed, and that is the only way we can do it.

Doug, we know what he wants to accomplish, and again, we want to do it in a cooperative fashion with your office. So, if it is not too much of an imposition, I would like that to happen.

MR. FORRESTER: Mr. Chairman, your requests have never been an imposition. I would have to say, I think it would be helpful at this point in time, less there be some criticism given later on that I haven't been forthcoming-- I would say that there are two issues here: One has to do with this issue of my administrative authority. I am saying to you that I don't have the administrative authority, and therefore will not include these Merchant Marines in the administration of pensions, without your specific direction. That is one issue, and that is the issue, I understand, that was being specifically addressed today.

The second issue which follows naturally, of course, and which actually I think most of the testimony has been directly toward, is, should they be covered? I will repeat my comments that I have often given before other committees: I do not believe it is a wise thing at this point in time to retroactively change the definition of "veteran" to include whole new categories of individuals. I wanted to say that for the record, so when you ask me to come back and comment on the legislation, and I make that comment, there won't be any surprises.

ASSEMBLYMAN GENOVA: I am not asking you to report back to this Committee. I am asking you to coordinate your efforts with Assemblyman Kenny and Assemblyman Menendez in a cooperative fashion, to make sure that we have the best bill before the Committee once we are ready to release it, or to deny it.

MR. FORRESTER: Yes, yes. I assume at the point when you raise the bill for a hearing you will ask me to comment, and I wanted to alert you to that.

ASSEMBLYMAN GENOVA: Okay. Dennis, anything further? (no response)

MR. FORRESTER: Mr. Chairman, we will make sure that we are cooperative to the full extent, so that all relevant parties are involved, including the Attorney General's Office, so you can get a clean statement of all the relevant issues.

MR. CROWLEY: We can do that through the Deputy Attorney General assigned to the Division of Pensions.

ASSEMBLYMAN GENOVA: Very good. Thank you, gentlemen; thank you very much.

Now I would like to open up the meeting to some of our visiting friends who were Merchant Mariners. I would like to call Mr. Harold Schmidt first. Mr. Schmidt is from Bergen County, and has written my office several times. He is one of the staunch supporters of this bill.

John Kingston (Assembly Majority Staff) just reminded me that maybe we should-- Could we just ask you to wait a few minutes, Mr. Schmidt?

H A R O L D S C H M I D T: Sure.

ASSEMBLYMAN GENOVA: Major Lowe, I'm very sorry. I have you down, but I wanted to kind of keep you until last, to kind of clean up. Would you come forward, please? You always do such a fine job when you come to testify on behalf of the Department, with Pat Layton. This is Major William C. Lowe, from the Department of Military and Veterans' Affairs, and Pat Layton, one of the legislative liaisons between the Department and the Legislature. Good morning.

M A J O R W I L L I A M C. L O W E: Thank you, Mr. Chairman. I think one of the things that would be interesting-- I almost have a feeling of guilt, in that maybe some of the actions I have taken over the last year or so may

have caused this bill to be delayed in a couple of areas. We questioned the need for the bill at all. Quite frankly, my interest is as an infantry officer and a member of the Department, who recognizes that there is a merchant seamen service and there are such things as little gray boats. We weren't too sure about how we could do it, until I got a letter from a man named Charles Dana Gibson, who was instrumental in the decisions that were made by the Federal government, as well as by the Federal courts, and was part of the suit originally.

He said a number of things in reference to merchant service going in harm's way and that type of thing, which is a little bit different than what you would find in a shipyard. It is also a little bit different than what you would find in the merchant service during Korea or Vietnam. One of the things he said-- I am going to quote this, because it definitely came from Mr. Gibson, who is from Camden, Maine, and is a very outspoken individual. He said, "Outside of the period of World War II hostilities, our Merchant Marine has always possessed civilian characteristics. Logically stated, it is only the attachment of military characteristics which can enable such a group to be judged as having earned consideration for military veterans' status. I would remind you that in the case of Korea and Vietnam, gun mountings were never placed aboard merchant ships, nor were attempts to invoke military discipline against merchant seamen upheld by civil courts.

"I am, therefore, more than just a bit disappointed to see any State veterans' programs which can easily be tailored to fit the World War II seamen situation, jeopardized by buccaneer attempts at bringing everyone under the sun under the banner of a militarized seaman of World War II."

I think that is a very good point. The first thing we get into is, what is the definition of a merchant seaman -- a Merchant Marine? I have -- and Pat is going to give them out to you -- copies of an honorable discharge from the armed

forces of the United States of America to Charles Dana Gibson, from the Army Transportation Corps. Also attached to that is a copy of Mr. Gibson's 214. There is no reference on here anywhere that this man belonged to the Merchant Marine, except when you look at the attachment, which is a DD-215, which is an adjustment to 214 -- in typical bureaucratic standards. It gives his awards and decorations for service in World War II. In other words, this man, who is a merchant seaman, is an honorably discharged member of the United States Army, service in World War II.

Now, what we look at in our Department, is the fact that the man served during a certain period of time, as covered by the Legislature, and he has honorable service in the armed forces of the United States. All other things make it moot. As far as we are concerned, the man is a veteran, and he is entitled to all of the services we can provide.

Thank you.

ASSEMBLYMAN GENOVA: Thank you. Major, could you just briefly explain the services that are available for these people through the Department?

MAJOR LOWE: Well, first of all, we are talking about burial in Arnytown Cemetery. We are also talking about admission to the long-term care facilities. In addition, we have VSOs -- veterans' services officers -- in most counties -- I think we are missing one or two counties right now; we are trying to expand to all -- and if this person walked in off the street, anything we could do to help him as a veteran, just like we would any other veteran, we would provide him with that service, from counseling to assistance in applying for any kind of loan or grant or any other type of monetary compensation, like the tax incentive, that could be given to a veteran.

ASSEMBLYMAN GENOVA: Civil Service preference?

MAJOR LOWE: We don't have control over that.

ASSEMBLYMAN GENOVA: I understand that, but that is just--

MAJOR LOWE: Yes, sir, but we would definitely help him to apply for it.

ASSEMBLYMAN GENOVA: Okay. And military veterans' law, education--

MAJOR LOWE: Again, we would help him to apply for any of those benefits.

ASSEMBLYWOMAN COOPER: What about education? I saw something here that they are not eligible for education.

MAJOR LOWE: Ma'am, we don't handle any of the educational benefit program.

ASSEMBLYMAN GENOVA: I think basically what we are looking for is just a summary of benefits that they would be entitled to from different levels of government. That is basically all we were alluding to.

MAJOR LOWE: Yes, sir.

ASSEMBLYMAN GENOVA: Thank you, Major.

MAJOR LOWE: Thank you.

ASSEMBLYMAN GENOVA: We also have Henry Maurer, New Jersey Department of Personnel. Hi, Henry. Good morning. How are you doing?

H E N R Y M A U R E R: Good morning. My name is Henry Maurer. I am Legislative Liaison for the Department of Personnel. Commissioner McCaffrey asked me to represent the Department today at this hearing.

Very briefly, under merit system law, that is, Title 11A of the New Jersey statutes, preference on employment lists is given to veterans who were in active military service during certain defined periods of war or conflict. In order to establish a time limit to this preference, an individual must submit the form DD-214, that has been referred to earlier, showing active military service during one of the covered periods.

Now, until recently, our statutory definition of "veterans" would not have included members of the Merchant

Marine. However, as a result of the decision of the Federal Secretary of Defense, members of the Merchant Marine who served on ocean-going vessels during World War II are issued a form DD-214 showing that they have been discharged from active duty from a branch of the armed services. Individuals who produce copies of that form DD-214 with such information are granted veterans' preference by our Department.

I should add a couple of notes: I don't have exact figures, but it is only a handful, perhaps three or four, who have sought this preference during the past year. I would also note, with regard to the legislation, that Assembly Bill No. 3147 does not appear to affect Title 11A, in contrast to the Senate bill -- S-2474 -- which would amend Title 11A. However, we do not have a position, one way or the other, on either of the bills.

ASSEMBLYMAN GENOVA: I understand. Thank you. George, any questions?

ASSEMBLYMAN SPADORO: No questions.

MR. MAURER: Any questions?

ASSEMBLYMAN GENOVA: We're fine. Thank you.

MR. MAURER: Okay, thank you.

ASSEMBLYMAN GENOVA: Jim, do you want to speak on behalf of your Association, or no?

JAMES SCHROEDER: Yes, I do.

ASSEMBLYMAN GENOVA: Okay. You didn't sign up.

MR. SCHROEDER: I wasn't sure that I would. You're asking me now, though, so I will, very briefly.

ASSEMBLYMAN GENOVA: Jim Schroeder, representing the New Jersey Education Association.

MR. SCHROEDER: Thank you, Assemblyman Genova, for the opportunity to speak. I am pleased that you have decided to hold this hearing, because we have a small number of members who are affected by this. As a matter of fact, I am aware of two individuals who have contacted us. Obviously, they are

quite concerned because of the discrepancy. They are now viewed as veterans by the Federal government, not by the State of New Jersey. I would hope that if we cannot do this administratively, that you would support legislation that would redefine these individuals as veterans. I think there were some compelling points made earlier as to the dangerous duty that some of these folks had. Again, it is a small number of individuals. I am aware of just a couple who would qualify for the pension. There are only a few who are still working. We would ask that you would favorably consider such legislation.

I would add one more thing: One of the individuals just applied for retirement, and was denied. We will be supporting his efforts to appeal to the Pension Board of Trustees -- the Teachers Pension and Annuity Fund -- on his behalf, so we can get this clarified. If it cannot be overturned through the appeal mechanisms within the pension system, we again will be back to support his efforts through legislation.

Thank you.

ASSEMBLYMAN GENOVA: Thank you. Mr. Schmidt?

MR. SCHMIDT: Thank you, sir. My name is Harold Schmidt. First, let me say to you, I am only a layman. I would like to publicly apologize to you people -- the 40 Senators and 80 Assemblypeople, and your aides -- who I have bothered in the last year-and-a-half; one especially who I called at 6:30 in the morning, only because his wife had told me that would be the best time to get him. So, as a layman, I did. I was glad I did, because he was very sympathetic to my call.

I made many friends, hopefully few enemies. I have met today, for the first time to my knowledge, 73,000 dissenters. I don't know them all personally, because many of them I spoke to representing the VFWs where I come from, are very supportive of this thing. So they must have more than 73,000 members.

It's a shame. I would do the same thing all over again. I'd bring them home.

In April of last year, when our Chief Executive, just so happened to come to the borough where I live, I guess the expression on my face, as a little worker, must have amazed him, because his first question to me was, "How are you today?" That was Governor Kean. I said to him, "Up until now, pretty good." And he said, "What does that represent?" So I posed the question to him, that after 43 years, the Federal government, "one nation under God," representing the people of the United States -- all 48, and now 50 states in the Union -- had given recognition to a group of people who served their country. I posed the question to him, as I did to several other Governors: "What do you think of that, as the Chief Executive of the State of New Jersey?"

He asked me if I had any information available, to please send it to one of his aides. His aide gave me his card, and I sent him the information. And lo and behold, in June of 1988, I received a letter back from the Governor, telling me about the introduction of two bills; one on the Assembly side, and one on the Senate side. He said, "However, there are two bills in the Legislature that would change the definition of veterans to include Merchant Marines of World War II. Senate Bill No. 2474, sponsored by Senator Catherine Costa, is now before the Senate State Government, Federal and Interstate Relations and Veterans' Affairs Committee. Assembly Bill No. 3147, introduced by Assemblyman Bernard Kenny, is before the Assembly Veterans' Affairs and Defense Committee." That was in June of 1988.

"If this legislation reaches my desk, I will give your thoughts my consideration. Tom Kean, Governor"

Ladies and gentlemen, as a layman, I went one step further. I picked two states -- the furthest from me, really, one, the State of Washington. I wrote to the Governor of the

State of Washington. I could have written to the Governor of Tennessee, sir, or Utah, or Nevada, which probably only sent about 900 people to the Merchant Marine, of the 290,000 who served. Within three weeks' time, on September 18, 1988, I received a letter back from the Adjutant General of the Commonwealth of Pennsylvania, and another one on July 14 from the Adjutant General of the State of Washington, which said: "In Washington, as in New Jersey, the clarification of veterans for recognition by the state is accomplished by an act of the legislature. We are currently evaluating the subject of extending state benefits to Merchant Marines who served in World War II." That was from John Reynolds, Director. I believe all you people got copies of this.

And from Pennsylvania, it says: "In keeping within the above Pennsylvania state act of 1988-60, and the law governing the U.S. Veterans' Administration, a former member of the Merchant Marine during World War II, who served any time between December 7, 1941 and August 15, 1945, and who obtained an honorable discharge from the military service, would then be eligible for veterans' benefits from the Bureau of Veterans' Affairs, Department of Military Affairs, the Commonwealth of Pennsylvania."

I wrote letters back commending these legislatures for their acts, and I sat here in New Jersey, twiddling my thumbs. I don't know what it would take to move it. That is why I started a one-man band campaign. I have sent each and every one of your people five different letters, telling you -- inquiring of you: "Is New Jersey a different State. Have I lived in the wrong country? Did I serve the wrong people?"

I am proud of what I did, and if that is all I take to my deathbed, then so be it. I am thankful for the opportunity to have served my people, and after 43 years, my nation tells me I served them. The State I was born and raised in plays games with me.

The first time it came to my attention, I immediately -- as a 22-year public employee -- went to the treasurer of the borough where I live, and posed the question: "Do I come under that? I have no other place to go." And I was told, "Well, possibly you would, but it would cost you over \$40,000." I said, "You can take it and shove it." If I have to put \$40,000 up to get my own pension-- I don't need that kind of thing. That was crazy. Now it's down to: "Well, you have the time in, so you wouldn't have to pay anything." Now the tune is changing.

I don't know, ladies and gentlemen. I don't want to take it away from somebody else, but these people served your country -- the United States of America. I have been proud, and I will continue to be proud, of the nation I served. If the nation needed it, at 61-and-a-half years old, I would go do it again.

I support it. I urge you to support it. I have urged you from May 2, 1988 to bring it to a vote. I have in my possession 31 copies of letters from your fellow legislators, who are awaiting your approval to call it to a vote. The Senate bill is awaiting Mr. Russo to agendize it for a vote. Let these people who are legislative electors in this State have a say. I, as a public employee, can tell you, I have 103,500-and-some dollars in my pension system. The pension system told me that I would collect \$718 a month. How much do you think the State of New Jersey would have to contribute? I would have to live 25 or 30 more years to collect any of your money, because I would, in the first 10 or 15 years, collect my own money. At least give me the opportunity to collect another \$1500 a year for the life expectancy of another 10 years. Is that asking too much for one dozen people out of the 6000 or 7000 who lost their lives?

I think all of you are aware that the 250,000 figure is closer to 290,000 throughout the United States, who served

in the Merchant Marines, of which 65,000 to 70,000 came from the borders of the State of New Jersey. Presently, there are only approximately 1500 of us left. Wait a few more years, ladies and gentlemen, and we will all be gone, because some of us are 72 years old, and 76 years old. Thank God they lived so long.

Honor them, honor their children, honor their grandchildren. Give those people the respect they earned. They are not requesting it for nothing. We earned it.

You know, when I went to the Department of Personnel to be changed over from non-veteran to veteran, I had to justify the 90 days for Civil Service. Yes, I served 97 on open waters. I was told that of the 97, I only worked five days a week. What do you do when you are out in the middle of the Atlantic Ocean when Saturday and Sunday come -- take a walk? I worked seven days a week, 13 to 18 hours a day. And, yes, ladies and gentlemen, I'm the guy who had to ask Commander Sylvester in Washington, who was issuing certificates to captains and engineers and radiomen -- not to cooks and mess boys and firemen and oilers-- I told him, "That ship didn't leave without me. What the hell was the captain going to do, feed himself?" I would have liked to have seen some of them do it. And I would like to see some of you guys go out there on a ship -- on a liberty ship -- and fire a 20 millimeter gun. I hope to God no one has to shoot one even today, because it was manufactured in Belgium. The United States government took it and put it on merchant ships, because you couldn't fire it if there was a little pebble of dust in the barrel.

So, we were out there seven days a week maintaining those guns, and hopefully never needing them, because we were told that they would backfire on you. And believe me, I have seen guys lose their lives when they backfired.

ASSEMBLYMAN GENOVA: Thank you.

MR. SCHMIDT: Thank you.

ASSEMBLYMAN GENOVA: Maybe we could have Dolores Cooper go out there and-- (applause) Again, as I said at the beginning, you must not be misled. This Committee did not purposely hold this bill up. How many bills do we have before this Committee? (no response)

MR. SCHMIDT: You can't prove it to a little guy like me. I'm sorry, sir.

ASSEMBLYMAN GENOVA: How many bills do we have before this Committee?

UNIDENTIFIED AIDE: At least 40 or 50.

ASSEMBLYMAN GENOVA: No, that are awaiting consideration?

UNIDENTIFIED AIDE: Forty.

ASSEMBLYMAN GENOVA: We have a lot of bills that have been in for years. We have an agenda. We are only permitted by order of the Speaker to put so many bills up per session, and we wanted to make sure. If you were listening to the testimony exchanged between Pensions and the Attorney General, there is a problem.

MR. SCHMIDT: I understand one thing, sir: In 1936, the Merchant Marine Act, which was signed by the U.S. government, said that in a time of conflict, the Merchant Marine -- ocean-going Merchant Marine vessels are a branch of the military service.

ASSEMBLYMAN GENOVA: That's fine, and I agree with you. All I am trying to ask you to do is to appreciate our situation here as far as listening to bills, posting of bills. I don't want to get into--

MR. SCHMIDT: But appreciate this, sir: The issue is 43 years old.

ASSEMBLYMAN GENOVA: I would appreciate it if you would sit down. I think I have been more than fair in explaining my position, Mr. Schmidt, and in responding to your letters. But I am not going to have anyone, whether it be you

or any active member of any veterans' group in this State, accuse this Committee of purposely holding up legislation, for whatever reason. I think I made my point very clear; very, very clear. That does not get done in this Committee. And you should understand that before you leave today, sir.

MR. SCHMIDT: I'll try.

ASSEMBLYMAN GENOVA: Mr. Zeidel, from Boonton. Mr. Zeidel, you have given us a statement. Would you be able to just about paraphrase?

A L V I N A. Z E I D E L: Yes.

ASSEMBLYMAN GENOVA: Thanks a lot, sir.

MR. ZEIDEL: I will be fast.

Chairman, members of the Committee: I am Alvin Zeidel. I represent the Marine Engineers Beneficial Association and the National Maritime Union. These are both seamen's organizations. I speak in favor of the decision to grant veteran status to merchant seamen in this State.

In 1988, the almost half-century struggle to achieve veteran status for U.S. merchant seamen who served during World War II, finally met with success. The honor came late for the majority of this population, as it was estimated that only one-third were still alive because of their age. Those remaining were far beyond the scope of benefits accorded other veterans.

Resistance to veteran status for merchant seamen has always been hard to comprehend. Over 6000 seamen lost their lives in the war on the 757 U.S. vessels. This book lists every man who was killed, every man who was in a prison camp, and every ship that was sunk.

Except for the Marine Corps, merchant seamen suffered the largest per capita mortality rate of the war. Keep in mind, these men volunteered for this action, knowing it was dangerous and vulnerable, as compared to some service assignments. It is true that some were 4F, and this was the

only war service open to them. However, that only underscores their bravery and dedication. Many of those resisting honoring merchant seamen never got as close as seamen did to the heat of battle, time and again, and if they did, they certainly had not volunteered to be there.

In 1988, the Department of Defense realized the nation could no longer tolerate this injustice. They supported a call already endorsed by President Roosevelt, General Eisenhower, General MacArthur, and President Truman, perhaps the only issue that the last two great Americans ever agreed on. The long struggle and injustice was over, or so we thought.

It appears now that the battle fought on the Federal level for 50 years, may now disintegrate into a State campaign. The U.S. Coast Guard and the U.S. Army have been issuing honorable discharges after vigorous examination and careful documentation, to those seamen who they verify as having sailed during World War II in the actual period of hostility -- December 7, 1941 to August 15, 1945. It is clearly established that these men risked their lives in the war effort, and were, in every sense, a part of our military operations. To our minds, an honorable military discharge is a military discharge. Why would anyone want to cheapen or hold less valuable one gained by a merchant seaman? Just as you cannot be a little bit pregnant, you cannot be a little bit honorably discharged.

Is it cost? Most of these men are no longer with us; even fewer are here in New Jersey; and still fewer work for the State government. I have no idea of the numbers, but most likely we could get them all into a small lifeboat. In any case, nothing warrants chipping away at and de-evaluating our long-sought recognition. It is an important and symbolic victory for us, costing our society virtually nothing.

In summary, merchant seamen have been held to the most zealous standards of qualifications. Only those in the

maritime equivalent of the battlefield need apply. No other branch of service is held to such a standard. For the most part, many of those who oppose us have not come close to the merchant seamen's level of heroism.

On behalf of all merchant seamen, I ask you not to dishonor our honorable discharges or downgrade our veteran status by exclusions, which again make us less than others. We owe that much to the sons of New Jersey who are still with us.

Thank you.

ASSEMBLYMAN GENOVA: Thank you, Mr. Zeidel.

Is Mr. Kermit Haber with us this morning?

(affirmative response)

K E R M I T H A B E R: My name is Kermit Haber. I am Executive Officer of the Combat Merchant Mariners of World War II, an organization registered in the State of New York as a corporation, not for profit. We have members coast to coast. We have been sending out letters to the editor on the advice of the White House, to all the newspapers in this nation. You would have to be half dead in the State of New Jersey not to have seen our letters and responded to them if you were merchant seamen.

I tell you, there are not too many merchant seamen left in the State of New Jersey, or elsewhere. I deny the figures being put out by the government, as to the amount of applications they have received. It is simply not possible.

I would like to say a few words first about my sea time. In 1944, I was on a ship, the Pierre Marquette (phonetic spelling), and we were on our way to Egypt, carrying as dead cargo a tugboat, which was aback the deckhouse and sticking up in the air. So we attracted the attention of the Luftwaffe. We were also the commodore ship. We were besieged by the Luftwaffe from the time we left Gibraltar to the time we passed Crete. We shot down two Luftwaffe planes, and my combat bar shows two stars. The gun I was serving on as a merchant seaman

shot down one of those planes. This is definitely not the duty of a shipyard worker.

During another voyage, I was on my way to England, and then to France-- On the way to England, we were attacked by a wolf pack. We had 100 ships in the convoy, and we wound up with 17 getting through. Since I turned to this work to right a wrong, it has come back to my mind, which had blocked it out, the horror of seeing my fellow shipmates in the water, from sunken ships, reaching out to us -- I was on a tanker at the time -- to throw them a life line, and we couldn't stop, because the Navy orders were, if the ship went down, the men in the water were on their own. Don't stop for them.

So, we had losses, in my opinion, and from my records, higher than any of the military services, on a percentage basis, because they played a numbers game. They announced that we had 250,000 men, and all we have been able to count was 200,000 even -- or 172,000. Many of the men they were counting were single trippers, who jumped ship as soon as they got back to the States, and ran to enlist in the Army and Navy, because they were safer, because ours were suicide missions. The President of the United States knew them to be suicide missions, because he had the representatives of the Maritime Service go into the high schools in 1944 to recruit 16-year-old boys, who always think they are immortal, to go to sea on these ships. You couldn't get an Army man to come on the ships. You couldn't get a Navy man to come on the ships.

So, I'm shocked when I hear a representative of the VFW stand up here, at this late date, and talk about how we are like the guys in the shipyards. I say, for shame. I answered a letter to an editor that appeared in my local paper in Rockland County. I said: "The October 4 letter on the Merchant Mariners of World War II is shameful and deserves a reply. The writer presents myths about the large pay received by the merchant sailors during World War II. The Pentagon,

after researching this issue, said that total remuneration for Merchant Mariners and equivalent military personnel was approximately comparable. (negative response from audience)

I didn't laugh when you spoke.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I wasn't up there speaking.

ASSEMBLYWOMAN COOPER: Please.

MR. HABER: Spokesmen for the American Legion and the VFW forget that the armed forces received full pay while on rest and recreation, as well as 30-day leaves, transfers, attendance at various upgrading schools, and even a college education. Add to this: the G.I. bill; 4% mortgages; free hospitalization; 10% added to grades of Federal, State, and city Civil Service tests; free plots in veterans' cemeteries; pensions for disabled veterans; lifelong pensions for widows and children up to 18; a \$300 cash bonus from New York State; a 25% property tax exemption if in combat, or 15% if not in combat. And let me say something about that:

William Manchester, in The New York Times "Magazine," a short time ago, wrote an article about this very situation. He said: "About 11 million men were drafted, and of those 11 million, only two million ever got overseas." General MacArthur wrote in his book of memoirs that he never had more than 300,000 men under his command. He fought the war with that.

So, of the two million men who were overseas-- Only a percentage of them were in combat, whereas in the Merchant Marines, we were all in combat. We were in combat every day once we passed through the submarine nets.

Let us contrast this with the benefits given to the merchant seamen: 1) a \$5000 life insurance policy; 2) none of the above. His pay stopped when he left the ship. Worse, when the ship was sunk, his pay stopped. If wounded, he could not get into a veterans' hospital. Six-hundred and nine

seafarers were prisoners of war. Many of them, the men who built the bridge over the River Kwai were turned over to the tender mercies of the Japanese Army by German ship captains of sea raiders. Most died of overwork or disease. A handful came home after three years, to a cold reception and no pay. A Merchant Mariner's pay stopped when he was taken prisoner. The Germans and Japanese considered him a combatant the same as any soldier. According to the American Legion magazine, "Unsung Heroes," from April 1986, death was the constant companion of the seaman on the Murmansk run. Crewmen had no illusions about their life expectancy.

This I quote from their magazine: "By VJ Day, more than 1700 U.S. ships had been lost in action, but the Merchant Marine had moved 268 million tons of cargo, a figure neither the German high command nor the Japanese believed remotely possible." Yet despite this, the VFW passes resolutions every year, asking Congress to deny the surviving merchantmen veterans' status. For shame! And when this man from the VFW says that Congress looked upon this situation and did nothing, he is not telling the whole story. He is telling you a partial story.

The whole story is: When I began to look into this whole matter to find out why Congress was against us, when the population was for us, and certainly the newspaper editors, highly literate and educated men, were for us, I found that the Chief of Staff of the Merchant Marine Committee said to me, "What do you want from us? We have nothing to do with your veterans' benefits. Your veterans' benefits are hung up by Congressman Montgomery of the Veterans' Affairs Committee. He is hung up because the VFW and the American Legion have, for years and years, not permitted him to bring it out of committee." That is why hearings of this sort are good.

Now, two of the experts who testified here, testified about California and New York state law. As far as that goes,

the State of California has initiative and referendum, and the people of the State of California changed the law he is talking about. As a matter of fact, in our latest newsletter -- which you all have a copy of -- it says, "Won by 70% to 29.2%. The constitutional amendment allows veterans who are residents of the state, regardless of when their residency began, to receive up to \$1000 property tax reduction. Parents who receive a pension because of the veteran's service, or an unmarried spouse of a deceased veteran, may also claim the exemption," etc., etc. It says on top, "California Merchant Marine vets win \$1000 property tax exemption."

Now, again, going back to California, we have, as an organization, received a letter. We are recognized by the State of California as the only veterans' organization of the Merchant Marine. "The California Department of Veterans' Affairs extends a sincere veterans' welcome to the Merchant Marine officers and men who served during World War II. We would like to take this opportunity to thank you and your organization for its genuine concern and dedication to ensure that the veteran is provided the benefits due the veteran." Then he says: "The following is a brief description of the extensive network of representatives available to members of the organization throughout California."

As far as New York State is concerned, one of the men testifying here from the staff mentioned that they are opposed to us. They are opposed to us for the exact opposite position that you people are for us. They say that because we are considered auxillaries in time of war, therefore we are not entitled -- therefore we are not military men, and are not entitled to the exemption. But New York is a very strange place, so you can't go by that. But the Act-- The Merchant Marine Act -- as Al Zeidel very well put it -- of 1936, specifically says that the Merchant Marine, in time of war, is a naval auxillary, and is part of the military forces. The

mere fact that the government put guns on the ships-- We had cannons fore and aft; we had .20 millimeters port and starboard, which made them military vessels. If captured, we were considered prisoners of war.

On the discharges: The discharges -- honorable discharges -- from the Coast Guard, for most men, from the U.S. Army, for those who served in the Army Transport Service, and from the U.S. Navy, for those who served in the Navy Transport Service-- Once more, the Merchant Marine war ended August 15, 1945. The VFW members' war ended December 31, 1946. Inasmuch as there was no action of any kind, or danger of any kind, between August 15, '45 and December 31, '46, a lot of their members were safe and sound and never were in any danger. But they march around, those outstanding patriots, saying, "Don't you dare give those bad merchant seamen any benefits."

I thank you, because I have said my piece.

ASSEMBLYWOMAN COOPER: Thank you, Mr. Haber.
(applause)

ASSEMBLYMAN GENOVA: Thanks, Dolores. Thank you very much, sir.

MR. HABER: I want to add one thing before I walk away from the table: Our membership is made up of men who have received combat bars or war zone bars from the War Shipping Administration. These are the men we are talking about. These men actually saw combat, and the government attests to it.

ASSEMBLYMAN GENOVA: Thank you very much, Mr. Haber.

MR. HABER: Thank you.

ASSEMBLYMAN GENOVA: You traveled from Spring Valley, New York, sir?

MR. HABER: Yes, sir.

ASSEMBLYMAN GENOVA: Thank you very much.

I would like to ask Mr. Howard Nugent, Combat Merchant Mariners of World War II, to come forward.

MR. HABER: Mr. Nugent is our Treasurer.

ASSEMBLYMAN GENOVA: Okay. Now, are you representing the same organization?

G. H O W A R D N U G E N T: Mr. Chairman, I think Mr. Haber has pretty well said it for this organization.

ASSEMBLYMAN GENOVA: Okay.

MR. NUGENT: I would like to say a few words, maybe, as a member of the Navy League of the United States, of which I am a member also. The Navy League of the United States is a civilian organization which was founded in 1902. Its purpose is to support the maritime services of the United States.

I would like to read just one paragraph from the statement of policy of the Navy League: "We believe that the security of our nation, and of the people of the world, demands a well-balanced, integrated, mobile American defense team, of which a strong Navy, Marine Corps, Coast Guard, and Merchant Marine are indispensable parts."

At the end of World War II, the United States possessed the world's largest merchant marine fleet, comprising more than 3000 active ships, with more than 200,000 experienced Merchant Mariners employed. Today, the U.S. flagged ocean-going Merchant Marine has only about 460 commercial ships, a total which includes 100 that are active. These ships are manned by approximately 13,000 Merchant Mariners. The U.S. flagged fleet ranks only sixteenth in the world numbers of ships, and carries less than 5% of U.S. water-borne trade.

This is not very much germane to what you are trying to determine here today. I just bring it out to maybe -- with respect to the gentleman from the VFW, who seemed to put the Merchant Marine in the same class as shipyard workers, and that sort of thing. But I do think that we have to recognize that the Merchant Marine needs strengthening. This is one of the objectives, not only of the Navy League, but also of the Combat Merchant Marines of World War II.

I recognize the difficult job you gentlemen have in trying to do what is fair in this instance, and I am sure you will do that. I am also concerned that once you determine what is fair, you will have to be guided about funding. It is my hope that if you should decide to fragment the veterans, that you will not start denying what you think is fair because of funding.

Thank you very much.

ASSEMBLYMAN GENOVA: Thank you, Mr. Nugent. Is Mr. Krainski here? (affirmative response)

T E D K R A I N S K I: Hello. My name is Ted Krainski, combat veteran of World War II; past Commander of American Legion Post 458, up in North Trenton, New Jersey. I have been sitting here listening to 11 people for this bill, one against, and one neutral.

Now, this bill has been-- Let's get off the bill subject for a minute. This was not legislated. The Merchant Marine package deal, federally, was not legislated. It was a direct order of a Federal judge, by-passing Congress and our elected representatives. I hope you people do not abdicate your responsibilities as elected representatives here.

I listened to someone say that the Merchant Marine was told not to stop for survivors of sunken ships. I spent 18 months in the North Atlantic on convoy duty on escort vessels. We were the ones who picked them up. Believe me, we did a good job of it. In the 18 months I was stationed up there on a ship in Iceland, I went ashore twice in the 18 months before I came home for a leave of five days, and then I went back out to sea again.

These people in the Merchant Marine were not supposed to go to naval hospitals. They had the United States Public Health Service hospitals and surgeons for them. I have seen several of them in there.

Now, each merchant ship in the North Atlantic had guns on it, I grant you, but they were manned by Navy personnel. I got into several fights in bars when I was younger, during World War II, because they asked me-- Merchant Marines were in the bars, saying, "You people are stupid. You're getting \$30 a month; we're getting \$30 a day." Somebody said they received comparable pay. Is \$30 a month and \$30 a day comparable pay? If I had \$30 a day back in those days, I would be a millionaire today if I had invested it.

Incidentally, during one of my days ashore at Iceland, which was a dry country -- nobody had a drink while they were up there of any hard liquor -- I was offered a bottle of Four Roses, which sold for \$3 in the States, from a merchant sailor who we escorted off the North Atlantic, for \$35.

UNIDENTIFIED SPEAKER FROM AUDIENCE: What's that got to do with anything?

MR. KRAINSKI: I am just showing you the difference -- the pay differential, which is easy to find out.

UNIDENTIFIED SPEAKER FROM AUDIENCE: I was an officer, and didn't make \$30 a day. That's a lie.

MR. KRAINSKI: Then I got punched in the mouth for nothing, is that it?

UNIDENTIFIED SPEAKER FROM AUDIENCE: You apparently ran into a lot of drunken sailors, didn't you?

MR. KRAINSKI: We had a partisan commission close down Fort Dix. Don't let that happen here. Don't let anybody say that some Federal judge can tell you people what to do. Let's be fair about it.

Thank you.

ASSEMBLYMAN GENOVA: Thank you very much, Mr. Krainski.

Next we will have Mr. Robert Murray. Good morning, sir.

R O B E R T H . M U R R A Y: I have been sitting here listening to the horse being beat again. I have been listening

to this for 44 years. A lot of untruths have been said, and there have been some rebuttals. I think my pay was \$97.50 a month.

In the paper I submitted to you, I suggested that legislation was not necessary, because the decision was in. The Attorney General of the State of New Jersey had given an opinion, and I felt as though it was a matter of executive decision, or directive, that veteran benefits be given to merchant seamen.

I don't know what I can add to the horror story of what happened during the Second World War. I know I am probably the last one in line. There cannot be, or it is almost impossible, for someone to be younger than me. The concerns about funding-- How many of us can there be older than me? I am almost 61. So, the concern about money seems to be a smoke screen to scare the legislators, and if I were a legislator today, I would be scared when someone talked about funding. It is a scary thing for you to face constantly.

The money in the pension funds for public employees-- The contributions are made on an equal basis, whether you are a veteran or you are not a veteran. It is based upon age at time of entering public service and how many years you have in. That is what your contribution is. I don't see where a change in the status of -- let's give the figure that I've heard from the Pension people of 20, to the actual names that have appeared as three, and to the actual applications, which are down to two. I don't see where that is going to jiggle a decimal point for the Pension people in their accounting system.

I do feel as though maybe this hearing was worthwhile, in the fact that you may have been enlightened to some degree as to the involvement of merchant seamen during the Second World War. I was enlightened by many things. I was just a 16-year-old kid. I didn't know what was going on when I was there.

I would urge you to move either in one or two directions: Either to have the executive branch of the government give an executive order and direct that the Attorney General's opinion be adhered to, or follow through with the legislation, and grant veteran status to just a handful of people. It seems to me that if we are talking about funding again, that there will be more money spent in the generating of the funding, there will be more money spent in court battles, and everything else entailed in settlement of this argument, than would ever be spent for whatever benefits these individuals might receive.

That's it. Thank you.

ASSEMBLYMAN GENOVA: Thank you, Mr. Murray.

Our final witness this afternoon will be Mr. Morris Roth. Mr. Roth?

M O R R I S R O T H: I know you want to keep this short, but--

ASSEMBLYMAN GENOVA: We appreciate that.

MR. ROTH: I have prepared three-and-a-half pages of testimony. I would like to run through that, if only--

ASSEMBLYMAN GENOVA: You have given it to us, correct?

MR. ROTH: Yes, I have given copies to each of you.

ASSEMBLYMAN GENOVA: What we'll do is, we will give copies of that to the people who are from the Office of Legislative Services and have them review it. The members will review it, too. Why don't you just, in summary, tell us where you stand on this issue, and some of the merits behind the legislation.

MR. ROTH: Okay, I'll try. Several things came up here which disturbed me no end. Let's discuss for a moment whether I am a veteran or not. After filing papers with the Coast Guard Commandant and waiting some 10 months for them, I have gotten all the papers that have been spoken of here: an honorable discharge from the U.S. Coast Guard; the DD-214 form;

also my discharge showing I was in active service as a merchant seaman.

Having received those, I got in, and I have to say very quickly that it had to be one of the great moments of my life-- I got in the Merchant Marine shortly after high school; served for about 20 months; made about eight or nine trips across the Atlantic; went down through South America. Every trip I took, from the moment we left New York Harbor, we were under watch by German subs. I never took a trip, either across the Atlantic or back from the Atlantic, without being followed by submarines. I went out on small convoys; I went out on large convoys, ships of 20, 30, 40, 50. I even went out on the big one, the one that wound up on D Day at France.

The last trip I took was to Antwerp, shortly after the Battle of the Bulge, and we brought tanks and different kinds of food stuffs, armaments and materials. I don't know whether it was so much to relieve the Battle of the Bulge -- I think the battle had already been completed -- but certainly to help the U.S. forces move ahead across the Rhine, and finally to conquer Europe.

On our way out of Antwerp, the ship I was on was sunk. I turned out to be the only casualty on that ship. I spent three months in an Army hospital. For anyone to tell me that I am not a veteran, I guess if I had enough liquor in me, I would probably spit in his eye. I felt I was a veteran every moment I sailed. So, that's a lot of baloney about, you know, who is a veteran and who isn't a veteran.

The wars across Europe, the wars across the Pacific would never have been fought without the merchant seamen. We had to bring the supplies. The tanks-- On my last trip, we were loaded with tanks. Many of the airplanes, fighter planes-- I sailed on ships with fighter planes. The troops-- These were brought by the merchant seamen. There was no distinguishing between a merchant seaman and a sailor or a

military man of any sort once you were out on the high seas. The German submarine commanders certainly didn't distinguish one guy from another.

Let me move on from that to-- Incidentally, I am very, very proud that I was declared a veteran, one of the high moments of my recent life. I mention that in my written testimony.

On the issue of the Federal government taking one stance and New Jersey having to follow through with legislation to support what the Federal judiciary and what the Defense Department has already said in terms of merchant seamen, personally I find that a little inconsistent. We have had testimony here indicating that there is some inconsistency between departments in terms of trying to resolve this issue. I would like to go back, I guess, to the Fourteenth Amendment of our Constitution, where there are equal rights and equal protection under the law. One would assume that if a Federal judge makes a decision, as I understand it-- I am an ex-reporter. I am in public relations for Rutgers University, and have been for 20 years. My understanding of the law and the way our country operates, is that if a Federal judge makes a decision, that is the law of the land. That is the law of the land, until and unless an appellate court -- an appellate Federal court -- and of course, we all know that our chief appellate Federal court is the U.S. Supreme Court-- Until they reverse it, that is the law of the land.

I don't know that there is anything New Jersey can do one way or another that could change that. You can take any action you want about establishing whether we are veterans, and of course we could then proceed to take New Jersey to court, and have it resolved by a Federal judiciary. I don't think any of us want to do that, because there would be a lot of expense involved, both from the taxpayers' viewpoint -- for any of the officials who would represent, or any of the attorneys who

would represent New Jersey, plus for the taxpayers like myself, who don't see a need for any of this.

I personally feel that a piece of legislation like this can be adopted with the full backing of the Federal government, with the Defense Department, and that's that.

As far as benefits are concerned-- Let me discuss that. When I got out of the service, I was all of 20 years old. My first place was in college. Okay, I worked my way through school, because that was the only way as an ex-merchant seaman I was going to go through school. And I did exactly that. I am proud of every day I spent working and going through school, but I had friends who were in the armed forces, and they got a free ticket through college. Did that disturb me? It didn't disturb me that they got a free ticket. I guess it disturbed me that I didn't get the same ticket.

Now I am in my 60s; I am 63. I thought I was the youngest person here, but I just found out someone here is 61. I felt a little good when I heard that. But anyway, as for benefits, I didn't get my G.I. benefits, okay? And like I say, until this moment, and for every day I spent at sea, I considered myself an American veteran, and very proud of it. But in my case, the only kind of benefit that I can look forward to, after 20 years as a PR person for Rutgers University, is the pension. If I retire in the next few years -- which I probably will -- I will get the ordinary pension of 33%. That goes to 50% if legislation is adopted here by the Legislature based on your Committee's preparation of the bill and passage by the Assembly, and the Senate, I guess. That would give me an opportunity for the only real benefit that I will ever receive, monetarily that is. I did receive, as I said, medical service. I was in an Army hospital for three months with a damaged foot from when my ship went up. I had that service, but beyond that I have received nothing monetarily. This will be the only thing I can look forward to.

So, I strongly ask you to consider that. We are, in fact, veterans, and we do deserve to be treated as veterans. I think it would be an honor to this Committee, and an honor to the State Legislature to adopt legislation confirming what the Federal government has already said; namely that we merchant seamen were, in fact -- are, in fact, American veterans. (applause)

ASSEMBLYMAN GENOVA: Thank you. Is there anyone who may not have signed in earlier, who may not have called Frank (referring to Committee Aide) to speak, who would like to be given an opportunity just to say a few words? Sir? Would you come forward, please, sir? How are you?

H. O L B E R G A S P E L U N D: Well, so far--

ASSEMBLYMAN GENOVA: So far? For the record, your full name, sir? (witness did not respond to question)

MR. ASPELUND: I am 77 years old. In 1941, I was a physically fit specimen, past boxer, wrestler, weight lifter, long distance runner. Yet, they put me in 4F. When the war broke out, they made one mistake, the Navy. They took the seamen off the ships and placed them in the Navy. The next thing was President Roosevelt asking for men to man the ships. I spoke to two of my uncles who were captains of the United Fruit Line, and another one who was a chief engineer. They told me to get the hell out there on the ships. "We can't get anyone like you -- with your qualifications." I am a trained cook, baker, butcher, and hotel man.

So, I went out on the ships. I left here January 7, on my first tanker. After being torpedoed three times-- The third time, I watched my chief cook and second cook getting cremated alive in the water, and seeing many who were not alive. Then I went on ammo ships, and brought ammunition over to England. I was all over the world -- the Pacific.

What I can't understand right now is, are you trying to take away the discharge I got from the Coast Guard and from

the Navy, or whatever benefits I am getting now? I am very sure that the few of us who are left are not looking for benefits. I am 77. What am I looking for now? I needed help when the war was over. I had a wife and a little kid, and I had no money. I couldn't reclaim my job, because I was not a veteran.

At that time, if you were trying to get a job, it was impossible. All the soldiers came back, and you couldn't get a job. So, I had to stay on the ships. I stayed there for 25 years. I'm certainly not looking for any benefits now. What good would they do me? At that time, I would have been able to go to college, with G.I. loans and this and that and so on. Every time I got torpedoed, my pay stopped. When I got torpedoed the third time, it was over a month before I got back home. The Coast Guard had stopped sending money to my wife and kids, so my family had to dig in and pay my rent. So, where was all that big money we made? Every time the ship went down, no money. We didn't get this; we didn't get that, oh, no.

So, all I am asking you, Mr. Chairman, legislators, and aides, is, don't take anything away from us, please. Thank you.

ASSEMBLYMAN GENOVA: Thank you. It certainly is not our intent to do that. (applause)

MR. ASPELUND: Due to swimming in the ice cold water, I have a plastic hip in me. Due to arthritis, my thigh and so on-- I can't turn over. That was broken in two places. I had a piece of steel up through here. But the main thing is, keep laughing. I don't cry.

ASSEMBLYMAN GENOVA: Good for you. Thank you very much, sir.

Have we missed anyone? (no response) Dolores, anything in summation? (negative response) No, okay. Bob?

ASSEMBLYMAN MENENDEZ: I just want to thank you.

ASSEMBLYMAN GENOVA: Okay. I want to thank Assemblyman Menendez from Hudson County, co-prime-sponsor of this legislation for taking time out of his schedule, as I said earlier, and all of our staff people from both sides, and Frank Parisi and John Kingston.

The Committee will be anxiously awaiting word from Assemblyman Kenny with respect to his discussions with Pensions and the Attorney General's Office, in an effort to make this bill exactly what you people out there want, to benefit you. The testimony this morning and part of this afternoon was overwhelming. We clearly understand your concerns and how you feel about it. I'm sure that the Committee, when it comes time for us to evaluate it and vote on it, will keep an open mind with respect to it.

Thank you very much, and good day. The hearing is adjourned.

(HEARING CONCLUDED)

APPENDIX

ASSEMBLY, No. 3147
STATE OF NEW JERSEY

INTRODUCED MAY 9, 1988

By Assemblymen KENNY, Baer, and Kronick

1 AN ACT changing the definition of veteran to include certain
members of the American Merchant Marine and amending
3 various parts of the statutory law.

5 BE IT ENACTED *by the Senate and General Assembly of the
State of New Jersey:*

7 1. N.J.S. 17B:28-3 is amended to read as follows:

17B:28-3. a. No agent or solicitor employed by an agent
9 heretofore or hereafter licensed shall be authorized to sell or act
or aid in any manner in the negotiation of a contract on a
11 variable basis until he has received a certificate to sell contracts
on a variable basis from the commissioner, which certificate shall
13 not be issued by the commissioner until such agent or solicitor
has qualified by personal examination, to the satisfaction of the
15 commissioner, as to his trustworthiness and competence to act as
such agent or solicitor.

17 b. Before a first-time applicant for a license to solicit and
negotiate contracts on a variable basis shall be admitted to the
19 examination, the applicant shall be required to concurrently hold
an agent's license granting authority to solicit and negotiate
21 contracts of life insurance in this State or hold a license to act as
a solicitor for such an agent. Application for a license must be
23 made on such forms as the commissioner may prescribe.

c. The examination fee shall be \$25.00 for each examination
25 scheduled and such examination fee shall not be returned for any
reason. The licensee fee shall be \$25.00. A renewal license shall
27 be issued biennially subject to the payment of the renewal license
fee as required by this section and upon request of the insurer.
29 Licenses issued in accordance with this section shall expire on
April 30 of each odd numbered year.

31 d. No written examination shall be required of:

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 (1) An applicant who is the holder of a valid agent's or
2 solicitor's license issued pursuant to this section by the
3 commissioner or an applicant for a renewal of such license,
4 except in a case where the commissioner has good and sufficient
5 cause to believe that the applicant for renewal has demonstrated
6 incompetence in the conduct of his business as such agent or
7 solicitor to the detriment of the public;

8 (2) An applicant whose license to do business as an agent or
9 solicitor issued pursuant to this section has expired less than 3
10 years prior to the date of application. If the applicant has
11 permitted his license to lapse for a period of more than 3 years
12 he must submit to and pass an examination in the same manner as
13 a new applicant, except where the applicant is a veteran who
14 meets the requirements of subsection (4) hereunder, when no
15 re-examination shall be required;

16 (3) An applicant whose previous license issued pursuant to this
17 section has been revoked or suspended; provided this examination
18 exemption is only at the discretion of the commissioner;

19 (4) An applicant who is a citizen of New Jersey and has served
20 in the Armed Forces of the United States, including a citizen of
21 New Jersey who served as a member of the American Merchant
22 Marine during World War II and is declared by the United States
23 Department of Defense to be eligible for federal veterans'
24 benefits, and has been honorably discharged or released under
25 conditions other than dishonorable and was the holder at any time
26 of a license in New Jersey which authorized the applicant to
27 solicit or negotiate contracts on a variable basis;

28 (5) Any individual seeking a variable license who, in the
29 discretion of the commissioner, has satisfied the requirements
30 and successfully passed all the examinations of the National
31 Association of Securities Dealers, required to secure a
32 registration to sell securities by the National Association of
33 Securities Dealers in compliance and conformity with the rules
34 and regulations promulgated by the Federal Securities and
35 Exchange Commission.

36 e. The commissioner may issue a nonresident agent's or
37 solicitor's license upon the application of a nonresident who is
38 duly licensed under the law of the state of his residence or
39 domicile to act as an agent or solicitor for contracts on a

1 variable basis if said state does not prohibit residents of this
State from acting as nonresident agents or solicitors therein,
3 when:

(1) The applicant has shown by a statement from the proper
5 official of the state in which he has his resident license that he is
authorized to do business as an agent or solicitor in such state
7 with authority for which the applicant is to be licensed under the
New Jersey nonresident license.

9 (2) The applicant has paid the annual license fee as provided
for in this section.

11 (3) The applicant has no place of business in this State.

(4) The commissioner may enter into reciprocal agreements
13 with the appropriate supervisory insurance official of any other
state waiving the written examination of any applicant resident
15 in such other state, provided:

(a) A written examination is required of applicants for an
17 agent's or solicitor's license in such other state.

(b) The appropriate supervisory insurance official of such other
19 state certifies that the applicant holds a currently valid license
as an agent or solicitor in such other state, and either,

21 (i) Passed a written examination,

(ii) Was the holder of an agent's or solicitor's license prior to
23 the time a written examination was required, or

(iii) Was not required to take such examination by reason of
25 provisions of the applicable agent's or solicitor's licensing law.

(c) That in such other state, a resident of this State is
27 privileged to procure such an agent's or solicitor's license upon
the foregoing conditions and without discrimination as to fees or
29 otherwise in favor of residents of such other state. If the laws of
another state require the sharing of commissions with resident
31 agents or solicitors of that state on applications for contracts on
a variable basis written by nonresident agent or solicitors, then
33 the same provision shall apply when resident agents or solicitors
of that state, licensed as nonresident agents or solicitors of New
35 Jersey write applications for contracts on a variable basis in this
State.

37 (cf: P.L.1983, c.533, s.21)

2. Section 1 of P.L.1985, c.217 (C.18A:28-11.1) is amended to
39 read as follows:

1 18A:28-11.1. In computing length of service for seniority
2 purposes, every teaching staff member who, after July 1, 1940,
3 has served or hereafter shall serve, in the active military or naval
4 service of the United States or of this State, including active
5 service in the women's army corps, the women's reserve of the
6 naval reserve, or any similar organization authorized by the
7 United States to serve with the army or navy, in time of war or
8 an emergency, or for or during any period of training, or pursuant
9 to or in connection with the operation of any system of selective
10 service, or who was a member of the American Merchant Marine
11 during World War II and is declared by the United States
12 Department of Defense to be eligible for federal veterans'
13 benefits, shall be entitled to receive equivalent years of
14 employment or seniority credit for that service as if the member
15 had been employed for the same period of time in some publicly
16 owned and operated college, school or institution of learning in
17 this or any other state or territory of the United States, except
18 that the period of that service shall not be credited toward more
19 than four years of employment or seniority credit. Any military
20 or naval service shall be credited towards this employment or
21 seniority credit including service that occurred prior to the
22 member's employment as a teaching staff member.
23 (cf: P.L.1985, c.217, s.1)

24 3. N.J.S. 18A:28-12 is amended to read as follows:

25 18A:28-12. If any teaching staff member shall be dismissed as
26 a result of such reduction, such person shall be and remain upon a
27 preferred eligible list in the order of seniority for reemployment
28 whenever a vacancy occurs in a position for which such person
29 shall be qualified and he shall be reemployed by the body causing
30 dismissal, if and when such vacancy occurs and in determining
31 seniority, and in computing length of service for reemployment,
32 full recognition shall be given to previous years of service, and
33 the time of service by any such person in or with the military or
34 naval forces of the United States or of this State, subsequent to
35 September 1, 1940, and the time of service of any member of the
36 American Merchant Marine during World War II who is declared
37 by the United States Department of Defense to be eligible for
38 federal veterans' benefits, shall be credited to him as though he
39 had been regularly employed in such a position within

1 the district during the time of such military or naval service,
except that the period of that service shall not be credited
3 toward more than four years of employment or seniority credit.
(cf: P.L.1985, c.217, s.2)

5 4. N.J.S. 18A:66-2 is amended to read as follows:

18A:66-2. Definitions

7 As used in this article:

a. "Accumulated deductions" means the sum of all the
9 amounts, deducted from the compensation of a member or
contributed by him or in his behalf, including interest credited to
11 January 1, 1956, standing to the credit of his individual account
in the annuity savings fund.

13 b. "Annuity" means payments for life derived from the
accumulated deductions of a member as provided in this article.

15 c. "Beneficiary" means any person receiving a retirement
allowance or other benefit as provided in this article.

17 d. "Compensation" means the contractual salary, for services
as a teacher as defined in this article, which is in accordance
19 with established salary policies of the member's employer for all
employees in the same position but shall not include individual
21 salary adjustments which are granted primarily in anticipation of
the member's retirement or additional remuneration for
23 performing temporary or extracurricular duties beyond the
regular school day or the regular school year.

25 e. "Employer" means the State, the board of education or any
educational institution or agency of or within the State by which
27 a teacher is paid.

f. "Final compensation" means the average annual
29 compensation for which contributions are made for the three
years of creditable service in New Jersey immediately preceding
31 his retirement or death, or it shall mean the average annual
compensation for New Jersey service for which contributions are
33 made during any three fiscal years of his or her membership
providing the largest possible benefit to the member or his
35 beneficiary.

g. "Fiscal year" means any year commencing with July 1, and
37 ending with June 30, next following.

h. "Pension" means payments for life derived from
39 appropriations made by the State or employers to the Teachers'
Pension and Annuity Fund.

1 i. "Annuity reserve" means the present value of all payments
to be made on account of any annuity or benefit in lieu of an
3 annuity, granted under the provisions of this article, computed on
the basis of such mortality tables recommended by the actuary as
5 the board of trustees adopts, with regular interest.

j. "Pension reserve" means the present value of all payments
7 to be made on account of any pension or benefit in lieu of a
pension granted to a member from the Teachers' Pension and
9 Annuity Fund, computed on the basis of such mortality tables
recommended by the actuary as the board of trustees adopts,
11 with regular interest.

k. "Present-entrant" means any member of the Teachers'
13 Pension and Annuity Fund who had established status as a
"present-entrant member" of said fund prior to January 1, 1956.

15 l. "Rate of contribution initially certified" means the rate of
contribution certified by the retirement system in accordance
17 with N.J.S. 18A:66-29.

m. "Regular interest" shall mean interest as determined
19 annually by the State Treasurer after consultation with the
directors of the Divisions of Investment and Pensions and the
21 actuary of the fund. It shall bear a reasonable relationship to the
percentage rate of earnings on investments but shall not exceed
23 105% of such percentage rate.

n. "Retirement allowance" means the pension plus the annuity.

25 o. "School service" means any service as a "teacher" as
defined in this section.

27 p. "Teacher" means any regular teacher, special teacher,
helping teacher, teacher clerk, principal, vice-principal,
29 supervisor, supervising principal, director, superintendent, city
superintendent, assistant city superintendent, county
31 superintendent, State Commissioner or Assistant Commissioner
of Education, members of the State Department of Education
33 who are certificated, unclassified professional staff and other
members of the teaching or professional staff of any class, public
35 school, high school, normal school, model school, training school,
vocational school, truant reformatory school, or parental school,
37 and of any and all classes or schools within the State conducted
under the order and superintendence, and wholly or partly at the
39 expense of the State Board of Education, of a duly elected

1 or appointed board of education, board of school directors, or
3 board of trustees of the State or of any school district or normal
school district thereof, and any persons under contract or
5 engagement to perform one or more of these functions. No
person shall be deemed a teacher within the meaning of this
7 article who is a substitute teacher. In all cases of doubt the
board of trustees shall determine whether any person is a teacher
as defined in this article.

9 q. "Teachers' Pension and Annuity Fund," hereinafter referred
to as the "retirement system," is the corporate name of the
11 arrangement for the payment of retirement allowances and other
benefits under the provisions of this article, including the several
13 funds placed under said system. By that name all its business
shall be transacted, its funds invested, warrants for money drawn,
15 and payments made and all of its cash and securities and other
property held.

17 r. "Veteran" means any honorably discharged officer, soldier,
sailor, airman, marine or nurse who served in any Army, Air
19 Force or Navy of the Allies of the United States in World War I
between July 14, 1914, and November 11, 1918, or who served in
21 any Army, Air Force or Navy of the Allies of the United States in
World War II, between September 1, 1939, and September 2, 1945,
23 and who was inducted into such service through voluntary
enlistment, and was a citizen of the United States at the time of
25 such enlistment, and who did not, during or by reason of such
service, renounce or lose his United States citizenship, and any
27 officer, soldier, sailor, marine, airman, nurse or army field clerk
who has served in the active military or naval service of the
29 United States and has or shall be discharged or released
therefrom under conditions other than dishonorable, in any of the
31 following wars, uprisings, insurrections, expeditions or
emergencies, and who has presented to the retirement system
33 evidence of such record of service in form and content
satisfactory to said retirement system:

35 (1) The Indian wars and uprisings during any of the periods
recognized by the War Department of the United States as
37 periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and
39 April 11, 1899;

(3) The Philippine insurrections and expeditions during the

1 periods recognized by the War Department of the United States
as of active hostility from February 4, 1899, to the end of 1913;

3 (4) The Peking relief expedition between June 20, 1900, and
May 27, 1902;

5 (5) The army of Cuban occupation between July 18, 1898, and
May 20, 1902;

7 (6) The army of Cuban pacification between October 6, 1906,
and April 1, 1909;

9 (7) The Mexican punitive expedition between March 14, 1916,
and February 7, 1917;

11 (8) The Mexican border patrol, having actually participated in
engagements against Mexicans between April 12, 1911, and June
13 16, 1919;

(9) World War I, between April 6, 1917, and November 11, 1918;

15 (10) World War II, between September 16, 1940, and September
2, 1945, who shall have served at least 90 days in such active
17 service, exclusive of any period he was assigned (1) for a course
of education or training under the Army Specialized Training
19 Program or the Navy College Training Program, which course was
a continuation of his civilian course and was pursued to
21 completion, or (2) as a cadet or midshipman at one of the service
academies, any part of which 90 days was served between said
23 dates; provided that any person receiving an actual
service-incurred injury or disability shall be classed as a veteran,
25 whether or not he has completed the 90-day service as herein
provided;

27 (11) Korean conflict after June 23, 1950, and prior to July 27,
1953, who shall have served at least 90 days in such active
29 service, exclusive of any period he was assigned (1) for a course
of education or training under the Army Specialized Training
31 Program or the Navy College Training Program, which course was
a continuation of his civilian course and was pursued to
33 completion, or (2) as a cadet or midshipman at one of the service
academies, any part of which 90 days was served between said
35 dates; provided that any person receiving an actual
service-incurred injury or disability shall be classed as a veteran,
37 whether or not he has completed the 90-day service as herein
provided; and provided further that any member classed as a
39 veteran pursuant to this subsection prior to August 1, 1966, shall

1 continue to be classed as a veteran, whether or not he completed
the 90-day service between said dates as herein provided;

3 (12) Vietnam conflict, after December 31, 1960, and prior to
the date of termination as proclaimed by the Governor, who shall
5 have served at least 90 days in such active service, exclusive of
any period he was assigned (1) for a course of education or
7 training under the Army Specialized Training Program or the
Navy College Training Program, which course was a continuation
9 of his civilian course and was pursued to completion, or (2) as a
cadet or midshipman at one of the service academies, any part of
11 which 90 days was served between said dates; and exclusive of
any service performed pursuant to the provisions of section 511(d)
13 of Title 10, United States Code, pursuant to an enlistment in the
Army National Guard or as a reserve for service in the Army
15 Reserve, Naval Reserve, Air Force Reserve, Marine Corps
Reserve, or Coast Guard Reserve; provided that any person
17 receiving an actual service-incurred injury or disability shall be
classed as a veteran, whether or not he has completed the 90-day
19 service as herein provided.

"Veteran" also means any honorably discharged member of the
21 American Merchant Marine who served during World War II and is
declared by the United States Department of Defense to be
23 eligible for federal veterans' benefits.

s. "Child" means a deceased member's unmarried child either
25 (a) under the age of 18 or (b) of any age who, at the time of the
member's death, is disabled because of mental retardation or
27 physical incapacity, is unable to do any substantial, gainful work
because of the impairment and his impairment has lasted or can
29 be expected to last for a continuous period of not less than 12
months, as affirmed by the medical board.

t. "Widower" means the man to whom a member was married
31 at least five years before the date of her death and to whom she
continued to be married until the date of her death and who was
33 receiving at least one-half of his support from the member in the
12-month period immediately preceding the member's death or
35 the accident which was the direct cause of the member's death.
The dependency of such a widower will be considered terminated
37 by marriage of the widower subsequent to the death of the
member. In the event of the payment of an accidental death
39

1 benefit, the five-year qualification shall be waived.

u. "Widow" means the woman to whom a member was married
3 at least five years before the date of his death and to whom he
continued to be married until the date of his death and who was
5 receiving at least one-half of her support from the member in the
12-month period immediately preceding the member's death or
7 the accident which was the direct cause of the member's death.
The dependency of such a widow will be considered terminated by
9 the marriage of the widow subsequent to the member's death. In
the event of the payment of an accidental death benefit, the
11 five-year qualification shall be waived.

v. "Parent" means the parent of a member who was receiving
13 at least one-half of his support from the member in the 12-month
period immediately preceding the member's death or the
15 accident which was the direct cause of the member's death. The
dependency of such a parent will be considered terminated by
17 marriage of the parent subsequent to the death of the member.

w. "Medical board" means the board of physicians provided for
19 in N.J.S. 18A:66-56.

(cf: P.L.1986, c.24, s.1)

21 5. N.J.S. 18A:66-104 is amended to read as follows:

18A:66-104. "Veteran" means any honorably discharged
23 officer, soldier, sailor, airman, marine or nurse who served in any
army, air force or navy of the allies of the United States in world
25 war I, between July 14, 1914, and November 11, 1918, or who
served in any army, air force or navy of the allies of the United
27 States in world war II, between September 1, 1939, and
September 2, 1945, and who was inducted into such service
29 through voluntary enlistment, and was a citizen of the United
States at the time of such enlistment, and who did not, during or
31 by reason of such service, renounce or lose his United States
citizenship, and any officer, soldier, sailor, marine, airman, nurse
33 or army field clerk, who has served in the active military or naval
service of the United States and has or shall be discharged or
35 released therefrom under conditions other than dishonorable, in
any of the following wars, uprisings, insurrections, expeditions, or
37 emergencies, and who has presented to the board of trustees
evidence of such record of service in form and content
39 satisfactory to said board of trustees:

1 (a) The Indian wars and uprisings during any of the periods
3 recognized by the war department of the United States as periods
of active hostility;

(b) The Spanish-American war between April 20, 1898, and
5 April 11, 1899;

(c) The Philippine insurrections and expeditions during the
7 periods recognized by the war department of the United States as
of active hostility from February 4, 1899, to the end of 1913;

(d) The Peking relief expedition between June 20, 1900, and
9 May 27, 1902;

(e) The army of Cuban occupation between July 18, 1898, and
11 May 20, 1902;

(f) The army of Cuban pacification between October 6, 1906,
13 and April 1, 1909;

(g) The Mexican punitive expedition between March 14, 1916,
15 and February 7, 1917;

(h) The Mexican border patrol, having actually participated in
17 engagements against Mexicans between April 12, 1911, and June
19 16, 1919;

(i) World war I, between April 6, 1917, and November 11, 1918;

(j) World war II, between September 16, 1940, and September
21 2, 1945, who shall have served at least 90 days in such active
23 service, exclusive of any period he was assigned (1) for a course
of education or training under the army specialized training
25 program or the navy college training program which course was a
continuation of his civilian course and was pursued to completion,
27 or (2) as a cadet or midshipman at one of the service academies
any part of which 90 days was served between said dates;
29 provided, that any person receiving an actual service incurred
injury or disability shall be classed as a veteran whether or not he
31 has completed the 90-day service as herein provided.

(k) Emergency, at any time after June 23, 1950, and prior to
33 the date of termination, suspension or revocation of the
proclamation of the existence of a national emergency issued by
35 the president of the United States on December 16, 1950, or date
of termination of the existence of such national emergency by
37 appropriate action of the president or the congress of the United
States, who shall have served at least 90 days in such active
39 service, exclusive of any period he was assigned (1) for a course

1 of education or training under the army specialized training
program or the navy college training program which course was a
3 continuation of his civilian course and was pursued to completion,
or (2) as a cadet or midshipman at one of the service academies,
5 any part of which 90 days was served between said dates;
provided, that any person receiving an actual service incurred
7 injury or disability shall be classed as a veteran whether or not he
has completed the 90-day service as herein provided.

9 "Veteran" also means any honorably discharged member of the
American Merchant Marine who served during World War II and is
11 declared by the United States Department of Defense to be
eligible for federal veterans' benefits.

13 (cf: N.J.S.18A:66-104)

6. Section 1 of P.L.1945, c.202 (C.26:6-4.1) is amended to read
15 as follows:

1. On or before the tenth day of each month, the State
17 Department of Health shall certify to the supervisor of veterans'
interment in each of the respective counties of the State, the
19 name of each deceased veteran and of each deceased member of
the American Merchant Marine who served during World War II
21 and is declared by the United States Department of Defense to be
eligible for federal veterans' benefits for whom a certificate of
23 death, in which the place of burial, cremation or removal is
stated as being within such county, has been filed with the State
25 Department of Health during the preceding month, together with
the date and place of burial, cremation or removal of such
27 deceased veteran, and the war in which said deceased veteran
served.

29 (cf: P.L.1946, c.232, s.1)

7. Section 2 of P.L.1945, c.202 (C.26:6-4.2) is amended to read
31 as follows:

2. Whenever a dead body is transported from outside the State
33 into this State for burial or other final disposition in this State,
the person in charge of any premises in which the interment or
35 cremation of such dead body is made, shall make due and diligent
inquiry in order to determine whether the deceased person to be
37 interred or cremated was a veteran of any war or was a member
of the American Merchant Marine who served during World War II
39 and has been declared by the United States Department of

1 Defense to be eligible for federal veterans' benefits, and if so,
the war in which said deceased veteran served. If such interment
3 is made in a cemetery or burial ground having no person in charge
thereof, then the undertaker making the interment of such dead
5 body shall make such inquiry.

On or before the tenth day of each month the person in charge
7 of any such premises, or if the interment is made in a cemetery
or burial ground having no person in charge, then the undertaker
9 who made any such interment, shall certify to the supervisor of
veterans' interment in the county in which such interment or
11 cremation was made, the name of each deceased veteran who has
been interred or cremated in said premises during the preceding
13 month, together with the date and place of burial or cremation of
such deceased veteran, and the war in which said deceased
15 veteran served.

Any failure so to do on the part of the officers of any cemetery
17 association or the undertaker shall subject the violator to a
penalty of fifty dollars (\$50.00) to be recovered in a civil action
19 in the name of the supervisor of veterans' interment of any
county wherein the violation occurs.

21 (cf: P.L.1953, c.316, s.1)

8. Section 6 of P.L.1950, c.250 (C.27:7-44.8) is amended to
23 read as follows:

6. The State Highway Commissioner shall have power to sell
25 any or all lands acquired pursuant to this act, or any portion or
portions thereof, or any structure or structures relocated
27 thereon, or to rent the same for the use to which they were
devoted prior to such relocation; provided, however, that:

29 (a) All sales shall be at public auction;

(b) All rentals shall be made in the following order of
31 preference: to the original owner or user of a relocated structure
or structures; to an original user of a relocated structure or
33 structures; to an owner user of a structure or structures on the
property acquired for highway purposes, which was impractical to
35 remove; to a tenant of any structure or structures on the
property acquired for highway purposes; to any war veteran,
37 including any member of the American Merchant Marine during
World War II who is declared by the United States Department of
39 Defense to be eligible for federal veterans' benefits, residing in

1 the municipality in which the structure or structures was
2 relocated and who, under the Constitution, qualifies for tax
3 exemption, or the widow of such veteran. As between persons
4 within the same preference category, preference shall be
5 determined upon a competitive basis, if practicable; otherwise as
6 the commissioner shall determine. In the event that no person or
7 persons having preference as hereinabove provided, shall desire to
8 rent property acquired pursuant to this act, the State Highway
9 Commissioner may rent the same in whatever manner will, in his
10 judgment, best serve the interest of the State.

11 (cf: P.L.1950, c.250, s.6)

12 9. Section 1 of P.L.1971, c.344 (C.30:6AA-1) is amended to
13 read as follows:

14 1. As used in this act, unless otherwise indicated by the
15 context:

16 a. "Commissioner" means the Commissioner of the State
17 Department of Institutions and Agencies.

18 b. "Council" means the Veterans' Facilities Council in the
19 State Department of Institutions and Agencies.

20 c. "Member" means a person admitted to and receiving care in
21 a veterans facility.

22 d. "Veteran" means a person who has been honorably
23 discharged from active military service of the United States, or a
24 person who has been honorably discharged from service as a
25 member of the American Merchant Marine during World War II
26 and is declared by the United States Department of Defense to be
27 eligible for federal veterans' benefits.

28 e. "Veterans facility" means any home, institution, hospital,
29 or part thereof, the admission to which is under the jurisdiction
30 of the State Department of Institutions and Agencies.

31 (cf: P.L.1973, c.281, s.1)

32 10. R.S.38:16-1 is amended to read as follows:

33 38:16-1. No person now holding any employment, position or
34 office under the government of this State, or the government of
35 any county or municipality, including any person employed by a
36 school board or board of education, or who may hereafter be
37 appointed to any such employment, office or position, whose term
38 of employment, office or position is not now fixed by law, and
39 receiving a salary from such State, county or municipality,

1 including any person employed by a school board or board of
education, who has served as a soldier, sailor, marine or nurse, in
3 any war of the United States, or in the New Jersey State militia
during the period of the World War, or who served as a member of
5 the American Merchant Marine during World War II and is
declared by the United States Department of Defense to be
7 eligible for federal veterans' benefits, and has been honorably
discharged from the service of the United States or from such
9 militia, or from such merchant marine service, prior to or during
such employment in or occupancy of such position or office, shall
11 be removed from such employment, position or office, except for
good cause shown after a fair and impartial hearing, but such
13 person shall hold his employment, position or office during good
behavior, and shall not be removed for political reasons.

15 For the purposes of this section no term of office, position or
employment of any person shall be deemed to be fixed by law or
17 coterminous with that of the employing or appointing board or
body by reason of the fact that such person was or is appointed or
19 employed by a noncontinuous board or body; provided, however,
that in no event is it intended that this act shall apply to
21 appointments made for a fixed or stated period of time.

(cf: P.L.1942, c.83, s.1)

23 11. Section 1 of P.L.1944, c.249 (C.38:16-4) is amended to read
as follows:

25 1. No person now holding any employment, position or office
under a commission, elected or appointed by the governing bodies
27 of two or more municipalities, which, by legislative authority,
have entered into an agreement for the election or appointment
29 of such commission, whose term of employment, office or
position is not now fixed by law, who has served as a soldier,
31 sailor, marine or nurse, in any war of the United States, or who
served as a member of the American Merchant Marine during
33 World War II and is declared by the United States Department of
Defense to be eligible for federal veterans' benefits, and has
35 been honorably discharged from the service of the United States,
prior to such employment in or occupancy of such position or
37 office, shall be removed from such employment, position or
office, except for good cause shown after a fair and impartial
39 hearing, but such person shall hold his employment, position or

1 office during good behavior, and shall not be removed for
political reasons.

3 For the purposes of this section no term of office, position or
employment of any person shall be deemed to be fixed by law or
5 coterminous with that of the employing or appointing board or
body by reason of the fact that such person was or is appointed or
7 employed by a noncontinuous board or body.

(cf: P.L.1944, c.249, s.1)

9 12. R.S. 38:17-1 is amended to read as follows:

38:17-1. The board of chosen freeholders in each of the
11 counties shall designate a proper authority, other than that
designated by law for the care of paupers and the custody of
13 criminals, who shall cause to be interred the bodies of all
honorably discharged soldiers, sailors, marines or nurses who
15 served, or shall have served, in the Army or Navy of the United
States in time of emergency, or during any war in which the
17 United States has been engaged, is engaged or shall be engaged,
including the bodies of all honorably discharged members of the
19 American Merchant Marine who served during World War II and
have been declared by the United States Department of Defense
21 to be eligible for federal veterans' benefits, who shall die
without leaving means sufficient to defray funeral expenses. The
23 expense of such funeral shall not exceed in any case the sum of
\$250.00.

25 Such authority shall also, upon application by an interested
party, cause to be interred the bodies of members of the Armed
27 Forces of the United States who died in active service during the
second World War, or in time of emergency. The expense of such
29 interment shall not in any case exceed the sum of \$50.00.

As used in this act the term "in time of emergency" shall mean
31 and include any time (a) after June 23, 1950, and prior to [the
termination, suspension or revocation of the proclamation of the
33 existence of a national emergency issued by the President of the
United States on December 16, 1950, or termination of the
35 existence of such national emergency by appropriate action of
the President or Congress of the United States] January 31, 1955,
37 and (b) during the period in which warlike conditions exist in the
southeast Asia area commencing as of January 1, 1961 and
39 terminating on [such date as shall be determined by Proclamation

1 of the President of the United States or concurrent resolution of
the United States Congress] May 7, 1975.

3 For the purposes of this act active service in the "southeast
Asia area" means and includes such service in any area in
5 southeast Asia in which armed conflict or warlike conditions exist
as determined by the President and includes not only land based
7 service in said area but also service in said area with the United
States Navy and Air Force regardless of where the individual's
9 ship or unit is based.

(cf: P.L.1967, c.160, s.1)

11 13. R.S.38:17-2 is amended to read as follows:

38:17-2. The board of chosen freeholders in each of the
13 counties shall appoint a suitable person who shall be a resident of
the county, as supervisor of veterans' interment; provided, that
15 in making such appointment an honorably discharged soldier,
sailor or marine who served in the Army, Navy or Marine Corps
17 of the United States during any war in which the United States
has been engaged, or an honorably discharged member of the
19 American Merchant Marine who served during World War II and is
declared by the United States Department of Defense to be
21 eligible for federal veterans' benefits, shall be appointed. The
supervisor of veterans' interment shall be paid such annual salary
23 as may be fixed by the board of chosen freeholders of each
county. The salary shall be paid in semimonthly installments by
25 the county treasurer. Where any person has served as a
superintendent of soldiers' burials or supervisor of veterans'
27 interment, or as either or both, in any county for a period in the
aggregate of two or more years prior to [the first day of
29 September, one thousand nine hundred and forty-nine] September
1, 1949, such superintendent of soldiers' burials or supervisor of
31 veterans' interment shall be deemed to be a suitable person and
may be appointed by the board of chosen freeholders as a
33 supervisor of veterans' interment without any competitive
examination.

35 (cf: P.L.1950, c.150, s.1)

14. R.S.38:18-1 is amended to read as follows:

37 38:18-1. As used in this chapter the word "soldier" means and
includes any officer, soldier, sailor, marine, airman, nurse or any
39 other person, male or female, regularly enlisted or inducted, who

1 was or shall have been a part of the military or naval forces of
the United States, and who took part in any war in which the
3 United States was engaged, or who took part or shall have taken
part in the present wars with the governments of Japan, Germany
5 and Italy, or any of them, including any member of the American
Merchant Marine who is declared by the United States
7 Department of Defense to be eligible for federal veterans'
benefits, or who served or shall have served in the active military
9 or naval service of the United States in time of emergency as
herein defined, and who was a resident of this State at the time
11 he was or shall be commissioned, enlisted, inducted, appointed or
mustered into the military or naval service of the United States,
13 and who has been or shall have been given an honorable or
ordinary discharge or release therefrom, and continues to be a
15 resident of this State.

As used herein the term "in time of emergency" shall mean and
17 include any time after [June twenty-third, one thousand nine
hundred and fifty] June 23, 1950, and on or prior to [the
19 termination, suspension or revocation of the proclamation of the
existence of a national emergency issued by the President of the
21 United States on December sixteenth, one thousand nine hundred
and fifty, or termination of the existence of such national
23 emergency by appropriate action of the President or Congress of
the United States] July 27, 1953.

25 (cf: P. L.1951, c.17, s.1)

15. Section 1 of P.L.1947, c.263 (C.38:18A-1) is amended to
27 read as follows:

1. As used in this act, the word "veteran" means and includes
29 any officer, soldier, sailor, marine, airman, nurse, or any other
person, male or female, regularly enlisted or inducted, who was
31 or shall have been a part of the active military or naval forces of
the United States, and who took part or shall have taken part in
33 any war in which the United States was engaged, or who took part
or shall taken part in the wars with the governments of Japan,
35 Germany and Italy, or any of them, including any member of the
American Merchant Marine who is declared by the United States
37 Department of Defense to be eligible for federal veterans'
benefits, or who served or shall have served in the active military
39 or naval service of the United States in time of emergency as

1 herein defined, and who was a resident of this State at the time
2 he was or shall be commissioned, enlisted, inducted, appointed or
3 mustered into the active military or naval service of the United
4 States, and who has been or shall have been given a discharge or
5 release therefrom under conditions other than dishonorable and
6 continues to be a resident of this State.

7 As used in this act the term "in time of emergency" shall mean
8 (a) the Korean conflict and include any time after June 23, 1950,
9 and prior to July 27, 1953 and (b) the Vietnam conflict and
10 include any time after December 31, 1960, and prior to [the date
11 of termination as proclaimed by the Governor] August 1, 1974.
(cf: P.L.1981, c.424, s.1)

12 16. Section 1 of P.L.1942, c.252 (C.38:23-5) is amended to read
13 as follows:

14 1. No person holding any office, position or employment under
15 the government of the State of New Jersey or of any county,
16 municipality, school district or other political subdivision of the
17 State, or under any board, body, agency or commission of the
18 State or of any county, municipality or school district, who,
19 heretofore and subsequent to [July first, one thousand nine
20 hundred and forty] July 1, 1940, entered or hereafter, in time of
21 war, shall enter, or heretofore or hereafter in time of emergency
22 entered or shall enter, the active military or naval service of the
23 United States or the active service of the Women's Army
24 Auxiliary Corps, the Women's Reserve of the Naval Reserve or
25 any similar organization authorized by the United States to serve
26 with the Army or Navy, including service as a member of the
27 American Merchant Marine during World War II declared by the
28 United States Department of Defense to be eligible for federal
29 veterans' benefits, and who, at the time of such entry was or is a
30 member in good standing of any pension, retirement, or annuity
31 fund, shall suffer the loss or impairment of any of the rights,
32 benefits or privileges accorded by the laws governing such
33 pension, retirement or annuity funds; and the time spent in such
34 service by any such person shall be considered as time spent in
35 the office, position or employment held by him at the time of his
36 entry into such service, in all calculations of the amount of
37 pension to which he is entitled and of the years of service
38 required to entitle him to retire; provided, however, that in the
39

1 event of the death or disability of such person while in such
service the pension to be paid such person or his dependents shall
3 be the amount, if any, remaining after calculating the amount of
pension that would be paid if such person had continued to hold
5 such office, position or employment until the time of his death or
disability and had continued to receive the same compensation as
7 he received at the time of his entry into such service.

As used in this act the term "in time of emergency" shall mean
9 and include any time after [June twenty-third, one thousand nine
hundred and fifty] June 23, 1950, and prior to the termination,
11 suspension or revocation of the proclamation of the existence of
a national emergency issued by the President of the United States
13 on [December sixteenth, one thousand nine hundred and fifty]
December 16, 1950, or termination of the existence of such
15 national emergency by appropriate action of the President or
Congress of the United States.

17 (cf: P.L.1951, c.21, s.2)

17. Section 1 of P.L.1944, c.98 (C.38:23A-2) is amended to read
19 as follows:

1. When the qualifications for any examination or test for, or
21 appointment or election to any office, position or employment
under the government of this State, or of any county,
23 municipality, school district or other political subdivision of this
State, or under any board, body, agency or commission of this
25 State, or of any county, municipality or school district, includes a
maximum age limit, any person who, heretofore and subsequent
27 to [July first, one thousand nine hundred and forty] July 1, 1940,
entered or hereafter, in time of war, shall enter the active
29 military or naval service of the United States or the active
service of the Women's Army Corps, the Women's Reserve of
31 the Naval Reserve or any similar organization authorized by the
United States to serve with the Army or Navy, including service
33 as a member of the American Merchant Marine during World War
II which is declared by the United States Department of Defense
35 to be eligible for federal veterans' benefits, shall be deemed to
meet such maximum age requirement, if his actual age, less the
37 period of such service, would meet the maximum age requirement
in effect on the date the person entered into such service of the
39 United States. As used in this section the term "war" shall

1 include the conflicts in Viet Nam and Korea.

(cf: P.L.1984, c.44, s.1)

3 18. Section 1 of P.L.1946, c.51 (C.38:23A-4) is amended to read
as follows:

5 1. The word "veteran" as used in this act shall mean any
person who served in the active military or naval service of the
7 United States on or after [September sixteenth, one thousand nine
hundred and forty] September 16, 1940, and prior to the
9 termination of the war by lawful Federal authority, or during the
present emergency, including any member of the American
11 Merchant Marine who is declared by the United States
Department of Defense to be eligible for federal veterans'
13 benefits, who was a resident of this State when he entered such
active service, who shall have been discharged, or released,
15 therefrom under conditions other than dishonorable and who
either shall have served [ninety] 90 days or shall have been
17 discharged or released from active duty by reason of an actual
service-incurred injury or disability.

19 The term "present emergency" as used in this act shall mean
and include any time after [June twenty-third, one thousand nine
21 hundred and fifty] June 23, 1950; and prior to the termination,
suspension or revocation of the proclamation of the existence of
23 a national emergency issued by the President of the United States
on December [sixteenth, one thousand nine hundred and fifty] 16,
25 1950, or termination of the existence of such national emergency
by appropriate action of the President or Congress of the United
27 States.

(cf: P.L.1952, c.116, s.1)

29 19. R.S.38:25-5 is amended to read as follows:

31 38:25-5. Each county clerk, or the register of deeds in
counties having the same, shall record, without costs, when
delivered to him for that purpose, in large and bound books of
33 good paper to be provided for that purpose, and carefully
preserved and indexed, and to be called and backed "honorable
35 discharges of veterans," the honorable discharge or the
certificate in lieu of an honorable discharge, and the record of
37 service or notice of separation showing the record of service, as
issued by the proper governmental agency of the Federal
39 Government, of any soldier, sailor, marine or nurse who has or

1 may hereafter serve in the army, navy, marine or air corps of the
2 United States, or of any member of the American Merchant
3 Marine during World War II who is declared by the United States
4 Department of Defense to be eligible for federal veterans'
5 benefits.

(cf: P.L.1948, c.153, s.1)

7 20. Section 1 of P.L.1938, c.207 (C.38:25A-1) is amended to
8 read as follows:

9 1. After the passage of this act the poppy or its replica in any
10 material form shall be the recognized souvenir of the deceased
11 veterans of the World Wars and military conflicts involving the
12 Armed Forces of the United States and deceased members of the
13 American Merchant Marine who served during World War II and
14 have been declared by the United States Department of Defense
15 to be eligible for federal veterans' benefits.

(cf: P.L.1981, c.231, s.2)

17 21. Section 3 of P.L.1938, c.207 (C.38:25A-3) is amended to
18 read as follows:

19 3. The sale and offering for sale of such poppy or poppies as
20 heretofore mentioned shall be restricted to veterans'
21 organizations chartered by an Act of Congress and to their
22 auxiliaries, where such funds are devoted exclusively for the
23 benefit of veterans of the World Wars and other military conflicts
24 or for the benefit of members of the American Merchant Marine
25 during World War II who are declared by the United States
26 Department of Defense to be eligible for federal veterans'
27 benefits and their families and such veterans' organizations in
28 the State of New Jersey.

29 (cf: P.L.1981, c.231, s.3)

22. N.J.S. 38A:3-10 is amended to read as follows:

31 38A:3-10. The Adjutant General may demand and receive, for
32 the services herein enumerated, except for those in proof of
33 pension, establishment of veteran status, exemption from jury
34 duty, or in lieu of lost discharges, the following fees:

35 (a) For every search made in his office for the military record
36 of any member or former member of the armed forces, including
37 any member of the American Merchant Marine during World War
38 II who is declared by the United States Department of Defense to
39 be eligible for federal veterans' benefits, the sum of \$1.00.

1 (b) For the furnishing of every certified copy of such record,
the sum of \$2.00.

3 The Adjutant General shall keep a true record and account of
fees received under the provisions of this section and shall pay
5 the same into the State Treasury in the manner prescribed by law.
(cf: P.L.1984, c.181, s.13)

7 23. N.J.S.38A:15-3 is amended to read as follows:

38A:15-3. The Adjutant General may procure and issue such
9 service medals, ribbons, clasps, or similar devices as are
authorized by the Legislature to be awarded to residents of the
11 State of New Jersey who served on active duty in time of war or
emergency or who served as members of the American Merchant
13 Marine during World War II and are declared by the United States
Department of Defense to be eligible for federal veterans'
15 benefits.

(cf: P.L.1984, c.181, s.33)

17 24. R.S.40:20-26 is amended to read as follows:

40:20-26. The terms of office of all officers then holding
19 office under appointment by the board of chosen freeholders
existing in any county at the time of reorganization thereof under
21 sections 40:20-20 to 40:20-35 of this title in such county, shall
not be affected thereby but the officers then holding office shall
23 continue in office during the terms for which they were originally
appointed or elected and until their successors shall have been
25 appointed or elected and shall have duly qualified. Thereafter all
offices to be filled by the board of chosen freeholders shall be for
27 the term of three years.

Nothing in this section contained shall apply to or affect any
29 honorably discharged soldier, sailor or marine of the United
States, or any honorably discharged member of the American
31 Merchant Marine who served during World War II and is declared
by the United States Department of Defense to be eligible for
33 federal veterans' benefits, or the widow of such soldier, sailor
[or], marine or member of the American Merchant Marine, in
35 office at the time of the adoption of said sections 40:20-20 to
40:20-35 by any county. All such persons shall continue and
37 remain in their respective offices during good behavior, and shall
be removed only for cause.

39 Nothing in this section contained shall apply to or affect any
officer coming within the provisions of section 51:1-53 of the

1 title Standards, Weights, Measures and Containers.
(cf: R.S.40:20-26)

3 25. R.S.40:83-6 is amended to read as follows:

40:83-6. Any person being an honorably discharged soldier,
5 sailor or marine, who served in the Army, Navy or Marine Corps
of the United States in any war of the United States, or an
6 honorably discharged member of the American Merchant Marine
7 who served during World War II and is declared by the United
8 States Department of Defense to be eligible for federal veterans'
9 benefits, and holding the office, position or employment of city
10 engineer in any city governed under the municipal manager form
of government law, who heretofore has held, hereafter shall hold
11 or heretofore and hereafter shall have held said office, position
12 or employment continuously for a period of [fifteen] 15 years
13 from the date of his original appointment as city engineer of such
14 municipality under an indefinite term or under fixed terms or
15 under both indefinite and fixed terms, while said city was
governed under said law or under any other law or both, shall hold
16 his said office, position or employment during good behavior and
17 efficiency and shall not be removed therefrom except for good
18 cause and then only upon a sworn complaint, specifying the cause,
19 filed with the city manager of said municipality and after a
20 public, fair and impartial hearing before said city manager.

(cf: R.S.40:83-6)

25 26. Section 21 of P.L.1971, c.199 (C.40A:12-21) is amended to
read as follows:

27 21. Private sales to certain organizations upon nominal
consideration. When the governing body of any county or
28 municipality shall determine that all or any part of a tract of
land, with or without improvements, owned by the county or
29 municipality, is not then needed for county or municipal purposes,
as the case may be, said governing body, by resolution or
30 ordinance, may authorize a private sale and conveyance of the
same, or any part thereof without compliance with any other law
31 governing disposal of lands by counties and municipalities, for a
consideration, which may be nominal, and containing a limitation
32 that such lands or buildings shall be used only for the purposes of
such organization or association, and to render such services or to
33 provide such facilities as may be agreed upon, and not for
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1 commercial business, trade or manufacture, and that if said lands
or buildings are not used in accordance with said limitation, title
3 thereto shall revert to the county or municipality without any
entry or reentry made thereon on behalf of such county or
5 municipality, to

(a) A duly incorporated volunteer fire company or board of fire
7 commissioners or first aid and emergency or volunteer ambulance
or rescue squad association of a municipality within the county,
9 in the case of a county, or of the municipality, in the case of a
municipality, for the construction thereon of a firehouse or fire
11 school or a first aid and emergency or volunteer ambulance or
rescue squad building or for the use of any existing building for
13 any or all of said purposes and any such land or building sold to
any duly incorporated volunteer fire company may be leased by
15 such fire company to any volunteer firemen's association for the
use thereof for fire school purposes for the benefit of the
17 members of such association, or

(b) Any nationally chartered organization or association of
19 veterans of any war, in which the United States has or shall have
been engaged, by a conveyance for consideration, a part of which
21 may be an agreement by the organization or association to render
service or to provide facilities for the general public of the
23 county or municipality, of a kind which the county or
municipality may furnish to its citizens and to the general public,
25 or

(c) A duly incorporated nonprofit hospital association for the
27 construction or maintenance thereon of a general hospital, or

(d) Any paraplegic veteran, that is to say, any officer, soldier,
29 sailor, marine, nurse or other person, regularly enlisted or
inducted, who was or shall have been in the active military or
31 naval forces of the United States in any war in which the United
States was engaged, including any member of the American
33 Merchant Marine during World War II who is declared by the
United States Department of Defense to be eligible for federal
35 veterans' benefits, and who, at the time he was commissioned,
enlisted, inducted, appointed or mustered into such military or
37 naval service, was a resident of and who continues to reside in
this State, who is suffering from paraplegia and has permanent
39 paralysis of both legs or the lower parts of the body resulting

1 from injuries sustained through enemy action or accident while in
such active military or naval service, for the construction of a
3 home to domicile him, or to any organization or association of
veterans, for the construction of a home or homes to domicile
5 paraplegic veterans, with powers to convey said lands and
premises to the paraplegic veteran or veterans on whose behalf
7 said organization or association shall acquire title to said land, or

(e) Any duly incorporated nonprofit association or any regional
9 commission or authority composed of one or more municipalities
or one or more counties for the construction or maintenance
11 thereon of an animal shelter, or

(f) Any duly incorporated nonprofit historical society for the
13 acquisition of publicly owned historic sites for their restoration,
preservation, improvement and utilization for the benefit of the
15 general public, or

(g) Any duly incorporated nonprofit cemetery organization or
17 association serving the residents of the municipality or county, or

(h) Any duly incorporated nonprofit organization for the
19 principal purpose of the education or treatment of persons
afflicted with developmental disabilities including cerebral palsy,
21 or

(i) Any county or municipal sewerage authority serving the
23 residents of the county or municipality, for the use thereof for
sewerage authority purposes, or

(j) Any duly incorporated nonprofit organization for the
25 purpose of building or rehabilitating residential property for
27 resale. Any profits from the resale of the property shall be
applied by the nonprofit organization to the costs of acquiring
29 and rehabilitating other residential property in need of
rehabilitation owned by the county or municipality, or

(k) Any duly incorporated nonprofit organization or
31 association, other than a political, partisan, sectarian,
33 denominational or religious organization or association, which
was established exclusively for the purpose of providing the youth
35 of the county or municipality with educational, recreational,
medical or social services.

(l) Any duly incorporated nonprofit housing corporation or any
37 limited-dividend housing corporation or housing association
39 organized pursuant to P.L. 1949, c. 184 (C. 55:16-1 et seq.) for

1 the purpose of constructing housing for low or moderate income
persons or families or handicapped persons.

3 (cf: P.L.1987, c. 212, s.1)

27. R.S.43:4-1 is amended to read as follows:

5 43:4-1. This chapter shall apply to and include persons serving
in and honorably discharged from the military or naval service of
7 the United States, including nurses, in any war in which the
United States is or has been engaged, and members of the
9 American Merchant Marine during World War II who have been
honorably discharged and are declared by the United States
11 Department of Defense to be eligible for federal veterans'
benefits, and in connection with the American punitive expedition
13 or other intervention campaign or trouble with the Republic of
Mexico during the administration of President Woodrow Wilson;
15 provided, such designated persons shall have attained the age of
[sixty-two] 62 years or become incapacitated for the duties of
17 their office or position or employment.

(cf: P.L.1944, c.211, s.1)

19 28. R.S.43:4-2 is amended to read as follows:

43:4-2. When an honorably discharged soldier, sailor or marine
21 or an honorably discharged member of the American Merchant
Marine who served during World War II and is declared by the
23 United States Department of Defense to be eligible for federal
veterans' benefits has or shall have been for [twenty] 20 years
25 continuously or in the aggregate in office, position or
employment of this State or of a county, municipality or school
27 district or board of education, the body, board or officer having
power to appoint his successor in case of vacancy may, with his
29 assent, order his retirement from such service, or he shall be
retired on his own request.

31 When an honorably discharged soldier, sailor or marine having
[forty] 40 years of continuous service in office, position or
33 employment in this State shall, while serving in the [present] war
between the United States and Germany and Japan, lose his life
35 in the performance of his duties, there shall be paid to his widow,
during the term of her natural life, or so long as she remains a
37 widow, a pension to which such veteran would have been entitled
had he retired under the provisions hereof. This act shall be
39 retroactive to include such veterans who lost their lives in the

1 performance of duty within one year prior to the passage hereof.
Such pension shall be calculated and paid in the manner provided
3 by section 43:4-3 of the Revised Statutes. There shall be
deducted from such pension payments any pension payment made
5 or made available to such widow from the United States
Government on account of the services of such veteran or
7 because of the loss of his life in the performance of such duty.
(cf: P.L.1947, c.279, s.1)

9 29. Section 1 of P.L.1941, c.399 (C.43:9-6.1) is amended to
read as follows:

11 1. An employee of any county, who is a veteran of any war, or
who was a member of the American Merchant Marine during
13 World War II and is declared by the United States Department of
Defense to be eligible for federal veterans' benefits, and is a
15 member of any retirement system may, at any time, apply to
withdraw from the system during the continuance of his
17 employment. Upon his making application, of which [ten] 10
days' notice shall be given, he shall receive, upon demand, the
19 amount of his payments with interest thereon at the rate of four
per centum (4%) per annum, without prejudice to his rights as a
21 veteran to any benefit to which he may be entitled under any
other law.

23 (cf: P.L.1941, c.399, s.1)

30. Section 6 of P.L.1954, c.84 (C.43:15A-6) is amended to read
25 as follows:

6. As used in this act:

27 a. "Accumulated deductions" means the sum of all the
amounts, deducted from the compensation of a member or
29 contributed by him or on his behalf, standing to the credit of his
individual account in the annuity savings fund.

31 b. "Annuity" means payments for life derived from the
accumulated deductions of a member as provided in this act.

33 c. "Annuity reserve" means the present value of all payments
to be made on account of any annuity or benefit in lieu of an
35 annuity, granted under the provisions of this act, computed on the
basis of such mortality tables recommended by the actuary as the
37 board of trustees adopts, with regular interest.

d. "Beneficiary" means any person receiving a retirement
39 allowance or other benefit as provided in this act.

1 e. "Child" means a deceased member's unmarried child either
(1) under the age of 18 or (2) of any age who, at the time of the
3 member's death, is disabled because of mental retardation or
physical incapacity, is unable to do any substantial, gainful work
5 because of the impairment and his impairment has lasted or can
be expected to last for a continuous period of not less than 12
7 months, as affirmed by the medical board.

f. "Parent" shall mean the parent of a member who was
9 receiving at least 1/2 of his support from the member in the
12-month period immediately preceding the member's death or
11 the accident which was the direct cause of the member's death.
The dependency of such a parent will be considered terminated by
13 marriage of the parent subsequent to the death of the member.

g. "Widower" means the man to whom a member was married
15 at least 5 years before the date of her death and to whom she
continued to be married until the date of her death and who was
17 receiving at least 1/2 of his support from the member in the
12-month period immediately preceding the member's death or
19 the accident which was the direct cause of the member's death.
The dependency of such a widower will be considered terminated
21 by marriage of the widower subsequent to the death of the
member. In the event of the payment of an accidental death
23 benefit, the 5-year qualification shall be waived.

h. "Final compensation" means the average annual
25 compensation for which contributions are made for the 3 years of
creditable service in New Jersey immediately preceding his
27 retirement or death, or it shall mean the average annual
compensation for New Jersey service for which contributions are
29 made during any 3 fiscal years of his or her membership providing
the largest possible benefit to the member or his beneficiary.

31 i. "Fiscal year" means any year commencing with July 1 and
ending with June 30 next following.

33 j. "Medical board" shall mean the board of physicians provided
for in section 17 (C. 43:15A-17).

35 k. "Pension" means payments for life derived from
appropriations made by the employer as provided in this act.

37 l. "Pension reserve" means the present value of all payments
to be made on account of any pension or benefit in lieu of a
39 pension granted under the provisions of this act, computed on the

1 basis of such mortality tables recommended by the actuary as the
board of trustees adopts, with regular interest.

3 m. "Public Employees' Retirement System of New Jersey,"
hereinafter referred to as the "retirement system," is the
5 corporate name of the arrangement for the payment of
retirement allowances and other benefits under the provisions of
7 this act including the several funds placed under said system. By
that name all of its business shall be transacted, its funds
9 invested, warrants for money drawn, and payments made and all
of its cash and securities and other property held.

11 n. "Regular interest" shall mean interest as determined
annually by the State Treasurer after consultation with the
13 Directors of the Divisions of Investment and Pensions and the
actuary of the system. It shall bear a reasonable relationship to
15 the percentage rate of earnings on investments but shall not
exceed 105% of such percentage rate.

17 o. "Retirement allowance" means the pension plus the annuity.

p. "Veteran" means any honorably discharged officer, soldier,
19 sailor, airman, marine or nurse who served in any Army, Air
Force or Navy of the Allies of the United States in World War I,
21 between July 14, 1914, and November 11, 1918, or who served in
any Army, Air Force or Navy of the Allies of the United States in
23 World War II, between September 1, 1939, and September 2, 1945,
and who was inducted into such service through voluntary
25 enlistment, and was a citizen of the United States at the time of
such enlistment, and who did not, during or by reason of such
27 service, renounce or lose his United States citizenship, and any
officer, soldier, sailor, marine, airman, nurse or army field clerk,
29 who has served in the active military or naval service of the
United States and has or shall be discharged or released
31 therefrom under conditions other than dishonorable, in any of the
following wars, uprisings, insurrections, expeditions, or
33 emergencies, and who has presented to the retirement system
evidence of such record of service in form and content
35 satisfactory to said retirement system:

(1) The Indian wars and uprisings during any of the periods
37 recognized by the War Department of the United States as
periods of active hostility;

39 (2) The Spanish-American War between April 20, 1898, and
April 11, 1899;

1 (3) The Philippine insurrections and expeditions during the
2 periods recognized by the War Department of the United States
3 as of active hostility from February 4, 1899, to the end of 1913;

4 (4) The Peking relief expedition between June 20, 1900, and
5 May 27, 1902;

6 (5) The army of Cuban occupation between July 18, 1898, and
7 May 20, 1902;

8 (6) The army of Cuban pacification between October 6, 1906,
9 and April 1, 1909;

10 (7) The Mexican punitive expedition between March 14, 1916,
11 and February 7, 1917;

12 (8) The Mexican border patrol, having actually participated in
13 engagements against Mexicans between April 12, 1911, and June
14 16, 1919;

15 (9) World War I, between April 6, 1917, and November 11, 1918;

16 (10) World War II, between September 16, 1940, and September
17 2, 1945, who shall have served at least 90 days in such active
18 service, exclusive of any period he was assigned (1) for a course
19 of education or training under the Army Specialized Training
20 Program or the Navy College Training Program which course was
21 a continuation of his civilian course and was pursued to
22 completion, or (2) as a cadet or midshipman at one of the service
23 academies any part of which 90 days was served between said
24 dates; provided, that any person receiving an actual
25 service-incurred injury or disability shall be classed as a veteran
26 whether or not he has completed the 90-day service as herein
27 provided.

28 (11) Korean conflict after June 23, 1950, and prior to July 27,
29 1953, who shall have served at least 90 days in such active
30 service, exclusive of any period he was assigned (1) for a course
31 of education or training under the Army Specialized Training
32 Program or the Navy College Training Program which course was
33 a continuation of his civilian course and was pursued to
34 completion, or (2) as a cadet or midshipman at one of the service
35 academies, any part of which 90 days was served between said
36 dates; provided, that any person receiving an actual
37 service-incurred injury or disability shall be classed as a veteran
whether or not he has completed the 90-day service as herein

1 provided; and provided further, that any member classed as a
2 veteran pursuant to this subparagraph prior to August 1, 1966,
3 shall continue to be classed as a veteran whether or not he
4 completed the 90-day service between said dates as herein
5 provided.

(12) Vietnam conflict after December 31, 1960, and prior to
6 the date of termination as proclaimed by the Governor, who shall
7 have served at least 90 days in such active service, exclusive of
8 any period he was assigned (1) for a course of education or
9 training under the Army Specialized Training Program or the
10 Navy College Training Program which course was a continuation
11 of his civilian course and was pursued to completion, or (2) as a
12 cadet or midshipman at one of the service academies, any part of
13 which 90 days was served between said dates; and exclusive of
14 any service performed pursuant to the provisions of section 511(d)
15 of Title 10, United States Code, pursuant to an enlistment in the
16 Army National Guard or as a reserve for service in the Army
17 Reserve, Naval Reserve, Air Force Reserve, Marine Corps
18 Reserve, or Coast Guard Reserve; provided, that any person
19 receiving an actual service-incurred injury or disability shall be
20 classed as a veteran whether or not he has completed the 90 days
21 service as herein provided.

22 "Veteran" also means any honorably discharged member of the
23 American Merchant Marine who served during World War II and is
24 declared by the United States Department of Defense to be
25 eligible for federal veterans' benefits.

26 q. "Widow" means the woman to whom a member was married
27 at least 5 years before the date of his death and to whom he
28 continued to be married until the date of his death and who was
29 receiving at least 1/2 of her support from the member in the
30 12-month period immediately preceding the member's death or
31 the accident which was the direct cause of the member's death.
32 The dependency of such a widow will be considered terminated by
33 the marriage of the widow subsequent to the member's death. In
34 the event of the payment of an accidental death benefit, the
35 5-year qualification shall be waived.

36 r. "Compensation" means the base or contractual salary, for
37 services as an employee, which is in accordance with established
38 salary policies of the member's employer for all employees in the
39

1 same position but shall not include individual salary adjustments
which are granted primarily in anticipation of the member's
3 retirement or additional remuneration for performing temporary
or extracurricular duties beyond the regular work day or the
5 regular work year. In cases where salary includes maintenance,
the retirement system shall fix the value of that part of the
7 salary not paid in money which shall be considered under this act.
(cf: P.L.1972, c.166, s.3)

9 31. Section 1 of P.L.1983, c.391 (C.43:16A-11.7) is amended to
read as follows:

11 1. For purposes of this act "veteran" means any honorably
discharged officer, soldier, sailor, airman, marine or nurse who
13 served in any Army, Air Force or Navy of the Allies of the United
States in World War I, between July 14, 1914, and November 11,
15 1918, or who served in any Army, Air Force or Navy of the Allies
of the United States in World War II, between September 1, 1939,
17 and September 2, 1945, and who was inducted into such service
through voluntary enlistment, and was a citizen of the United
19 States at the time of such enlistment, and who did not, during or
by reason of such service, renounce or lose his United States
21 citizenship, and any officer, soldier, sailor, marine, airman, nurse
or army field clerk, who has served in the active military or naval
23 service of the United States and has or shall be discharged or
released therefrom under conditions other than dishonorable, in
25 any of the following wars, uprisings, insurrections, expeditions, or
emergencies, and who has presented to the retirement system
27 evidence of such record of service in form and content
satisfactory to said retirement system:

29 (1) The Indian wars and uprisings during any of the periods
recognized by the War Department of the United States as
31 periods of active hostility;

(2) The Spanish-American War between April 20, 1898, and
33 April 11, 1899;

(3) The Philippine insurrections and expeditions during the
35 periods recognized by the War Department of the United States
as of active hostility from February 4, 1899, to the end of 1913;

37 (4) The Peking relief expedition between June 20, 1900, and
May 27, 1902;

39 (5) The army of Cuban occupation between July 18, 1898, and
May 20, 1902;

1 (6) The army of Cuban pacification between October 6, 1906,
and April 1, 1909;

3 (7) The Mexican punitive expedition between March 14, 1916,
and February 7, 1917;

5 (8) The Mexican border patrol, having actually participated in
engagements against Mexicans between April 12, 1911, and June
7 16, 1919;

 (9) World War I, between April 6, 1917, and November 11, 1918;

9 (10) World War II, between September 16, 1940, and September
2, 1945, who shall have served at least 90 days in such active
11 service, exclusive of any period he was assigned (1) for a course
of education or training under the Army Specialized Training
13 Program or the Navy College Training Program which course was
a continuation of his civilian course and was pursued to
15 completion, or (2) as a cadet or midshipman at one of the service
academies any part of which 90 days was served between said
17 dates; provided, that any person receiving an actual
service-incurred injury or disability shall be classed as a veteran
19 whether or not he has completed the 90-day service as herein
provided.

21 (11) Korean conflict after June 23, 1950, and prior to July 27,
1953, who shall have served at least 90 days in such active
23 service, exclusive of any period he was assigned (1) for a course
of education or training under the Army Specialized Training
25 Program or the Navy College Training Program which course was
a continuation of his civilian course and was pursued to
27 completion, or (2) as a cadet or midshipman at one of the service
academies, any part of which 90 days was served between said
29 dates; provided, that any person receiving an actual
service-incurred injury or disability shall be classed as a veteran
31 whether or not he has completed the 90-day service as herein
provided; and provided further, that any member classed as a
33 veteran pursuant to this subparagraph prior to August 1, 1966,
shall continue to be classed as a veteran whether or not he
35 completed the 90-day service between said dates as herein
provided.

37 (12) Vietnam conflict after December 31, 1960, and prior to
the date of termination as proclaimed by the Governor, who shall
39 have served at least 90 days in such active service, exclusive of

1 any period he was assigned (1) for a course of education or
training under the Army Specialized Training Program or the
3 Navy College Training Program which course was a continuation
of his civilian course and was pursued to completion, or (2) as a
5 cadet or midshipman at one of the service academies, any part of
which 90 days was served between said dates; and exclusive of
7 any service performed pursuant to the provisions of section 511(d)
of Title 10, United States Code, pursuant to an enlistment in the
9 Army National Guard or as a reserve for service in the Army
Reserve, Naval Reserve, Air Force Reserve, Marine Corps
11 Reserve, or Coast Guard Reserve; provided, that any person
receiving an actual service-incurred injury or disability shall be
13 classed as a veteran whether or not he has completed the 90 days
service as herein provided.

15 "Veteran" also means any honorably discharged member of the
American Merchant Marine who served during World War II and is
17 declared by the United States Department of Defense to be
eligible for federal veterans' benefits.

19 (cf: P.L.1983, c. 391, s. 1)

21 32. Section 1 of P.L.1947, c.132 (C.45:8A-1) is amended to read
as follows:

1. The State Board of Examiners shall, upon application, issue
23 to any person a professional librarian's certificate to act as a
professional librarian if he shall be a graduate from a library
25 school accredited by the State Board of Education and shall meet
such other requirements as shall be fixed by the State Board of
27 Education for the issuance of such certificates except that the
State Board of Examiners shall, upon application, issue such
29 certificate to any person holding, at the time this act becomes
effective, a professional office, or position, that requires for
31 adequate performance the knowledge and techniques of library
science as taught in accredited library schools, in any library
33 within this State supported in whole or in part by public funds,
except in a library under the charge and control of a board of
35 education, provided such application is made within [3] three
years from the effective date of this act or in the case of a
37 veteran of World War II or a member of the American Merchant
Marine during World War II who is declared by the United States
39 Department of Defense to be eligible for federal veterans'

1 benefits, such a certificate shall be issued to any person holding
such a professional office or position, who has held the same
3 since November 1, 1957, provided application is made within 30
days of the enactment of this 1988 amendatory act.

5 (cf: P.L.1969, c.83, s.1)

33. Section 1 of P.L.1946, c.177 (C.45:14-7.2) is amended to
7 read as follows:

1. Any applicant for the registered pharmacist examinations in
9 this State who subsequent to [September sixteenth, one thousand
nine hundred and forty] September 16, 1940, entered the active
11 military or naval service of the United States, including any
member of the American Merchant Marine during World War II
13 who is declared by the United States Department of Defense to
be eligible for federal veterans' benefits, and who, at the time of
15 such entry, was a graduate of a pharmacy course given in an
approved school or college of pharmacy, shall be given credit
17 against the requirement of one year of practical experience,
subsequent to graduation, for such time served in the active
19 military or naval service of the United States or as a member of
the American Merchant Marine upon presentation of proof of his
21 discharge or release from such service under conditions other
than dishonorable; provided, however, that such applicant
23 completes all of the other requirements for registration as
provided for under section 45:14-7 of the Revised Statutes,
25 including the passing of the written examinations in the
theoretical subjects, and presents himself or herself for the
27 examination in practical pharmacy and laboratory work within a
period of two years subsequent to the date of such discharge or
29 release from such military or naval service or such declaration of
eligibility for federal veterans' benefits by the Department of
31 Defense. The board may make such rules and regulations as may
be necessary therefor.

33 (cf: P.L.1946, c.177, s.1)

34. R.S.45:15-11 is amended to read as follows:

35 45:15-11. Any citizen of New Jersey who has served in the
military or naval forces of the United States in any war or who
37 served as a member of the American Merchant Marine during
World War II and is declared by the United States Department of
39 Defense to be eligible for federal veterans' benefits, who

1 has been honorably discharged, and who, having been wounded or
disabled in line of duty, has completed a program of courses in
3 real estate in any college or school approved by the Department
of Education of the State of New Jersey, and who has
5 successfully passed an examination conducted by said commission
qualifying him to operate as a real estate broker or a real estate
7 salesman, may, upon presentation of a certificate certifying that
he has completed such program of courses as aforesaid, obtain
9 without cost from the commission and without qualification
through apprenticeship, a license to operate as a real estate
11 broker or a real estate salesman, as the case may be, which
licenses shall be the same as other licenses issued under this
13 article. Renewal of licenses may be granted under this section
for each ensuing year, upon request, without annual fees therefor.
15 (cf: P.L.1977, c.331, s.6)

35. This act shall take effect immediately.

17

19 STATEMENT

21 The purpose of this bill is to change the definition of a veteran
as used currently in State law to include any honorably discharged
23 member of the American Merchant Marine during World War II
who is declared by the United States Department of Defense to
25 be eligible for federal veterans' benefits.

This change in current State law would enable a qualifying
27 member of the American Merchant Marine or his spouse, as the
case may be, to be eligible for the benefits available currently to
29 resident veterans other than the veterans' civil service
preference and the annual property tax rebate.

31 The change reflects the decision by the United States
Department of Defense on January 19, 1988, to declare the men
33 who served as members of the American Merchant Marine on
ocean-going merchant ships during World War II to be eligible for
35 federal veterans' benefits.

The bill also eliminates the phrases "as shall be determined by
37 Proclamation of the President of the United States or concurrent
resolution of the United States Congress," and "as proclaimed by

1 the Governor" in several statues that contain the termination
2 dates for the Korean and Vietnam conflicts and inserts the
3 intended termination dates.

5

VETERANS

7

State Government

9 Changes definition of veteran to include members of the
10 American Merchant Marine during World War II who are declared
11 by the U.S. Dept. of Defense to be eligible for federal veterans'
benefits.

Presentation
to
New Jersey State
Assembly Committee
for
Veterans' Affairs
by
Robert H Murray
Jan. 17, 1989

In early 1988 the forty-four year debate over veterans' status, for merchant seamen who served during world war two, was brought to a conclusion. PL 95-202 was upheld. The Federal Government began the process of issuing the proper documents to those seamen who were entitled to them. An opinion from the Attorney General of the State of New Jersey recognizes these documents as acceptable. The Division of Personnel of the State of New Jersey accepts the Attorney General's opinion. The Division of Pensions of the State of New Jersey does not accept the opinion of the Attorney General.

The Division of Pensions has notified me that they do not want to make an administrative decision in this matter and has denied my pension with veterans' status. I was also informed that in the past the Division looked to Federal Law to determine veterans' status. Surely it must have been an administrative decision to abandon past practice. Reference is made to actual service with armed forces of the United States. I do believe it is an historical fact that the United States Merchant Marine did render service to the armed forces of the United States.

I did present to the Division of Pensions an Honorable Discharge from the United States Coast Guard dated August 9, 1945. I did present a DD 214 form accounting for at least 90 days actual sea duty on armed vessels. This sea duty was within the required time period from Dec. 1941 to August 1945. These documents meet the requirements set forth in the Attorney General's opinion. I find it difficult to understand the Division of Pensions reason for not following past practice. There is no great threat to the pension fund.

Using the high estimate of the Division, which is more of a guess, twenty people would be eligible for benefits. On the low side only three

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possible names have been mentioned. Only one former merchant seaman has applied. Ten years ago we might have been hard pressed to find ten seamen who would fit this unique situation.

I am almost sixty-one years old. I was sixteen years old when I served. My seventeenth birthday was spent in Antwerp, Belgium. The date July 16, 1945. I am most likely the last person who is eligible to benefit under these conditions. To force the legislature and / or the judicial system to make a decision in this matter is an insult to every veteran who served this state and country.

If the legislative branch of our government decides to correct this then I welcome it and thank you. If that is not to be I will per-
the matter through the judicial system. My feeling is that reason should prevail and the Division of Pensions should be directed to follow past practice and look to Federal Law when they determine Veterans' status.

U.S. Department
of Transportation
**United States
Coast Guard**



Commandant
United States Coast Guard

Washington, D.C. 20593-0001
Staff Symbol: G-MVP-1/MMS
Phone: (202) 267-0231

16720/MMVS

007 2 1 1985

Dear Veteran:

The valuable and often valiant service of the American Merchant Marine has long been recognized. That service has now been recognized as having veterans status. Please accept the enclosed Certificate of Release or Discharge From Active Duty (DD Form 214) and Honorable Discharge Certificate (DD Form 256CG), presented on behalf of a grateful nation.

General Douglas MacArthur said, "I hold no branch in higher esteem than the Merchant Marine Services."

The Certificate of Release or Discharge From Active Duty indicates all applicable service and awards contained in your record maintained by the Coast Guard. If you believe the information concerning service is in error, please forward any documentation you may have concerning the service in question to the above address. If the medals or awards indicated on the form are not correct, your questions and/or documentation should be forwarded to the Maritime Administration, Office of Maritime Labor and Training, 400 7th Street S.W., Washington, DC 20590. This will be reviewed, and, if the original Certificate was issued incorrectly, an amendment will be issued.

The enclosed documents establish your status as a veteran. You must present these documents to your local Veterans Administration office for a determination of the benefits to which you may be entitled.

Sincerely,

F. J. GRADY
Captain, U. S. Coast Guard
Chief, Merchant Vessel Personnel
Division
By direction of the Commandant

Encl: (1) Certificate of Release or Discharge From Active Duty (DD Form 214)
(2) Honorable Discharge Certificate (DD Form 256CG)

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INFORMATION INCLUDED ON WORLD WAR II
MERCHANT MARINE DISCHARGE DOCUMENTS

The enclosed Certificate of Discharge or Release From Active Duty (DD214) documents the following service:

- a. Service aboard American merchant vessels between December 7, 1941 and August 15, 1945. Service outside of this time period will not be included, even if you were on a voyage on those dates.
- b. Only time actually served aboard vessels will be included. Training time, periods between voyages, etc. will not be shown.
- c. Only voyages in "oceangoing service" will be included. Voyages on inland waters, including the Great Lakes, is not creditable. Likewise, "in port" periods will not appear on the form.
- d. No reference is made to other military service. This form is intended only to document service in the Merchant Marine during the applicable time period.
- e. No reference is made to rate/rank or pay grade. Although you may have held a specific rank or rating in the Maritime Service or Naval Reserve (as indicated by a USMS Designation of Grade or USMS Release From Active Duty) this information will not appear on the DD-214.

The form you have received includes all qualifying voyages for which we have records. If you have documentation indicating qualifying voyages which do not appear, please forward copies of the documentation to us and we will consider amending your discharge.

Honorable Discharge



from the Armed Forces of the United States of America

This is to certify that

ROBERT HAROLD MURRAY

was Honorably Discharged from the

United States Coast Guard

on the 09 *day of* AUGUST 1945

This certificate is awarded

as a testimonial of Honest and Faithful Service

Issued pursuant to P.L. 95-202 for service in the 'American Merchant Marine in Oceangoing Service during the Period of Armed Conflict, December 7, 1941, to August 15, 1945.'

Frederic J. Grady

Captain, U.S. Coast Guard



State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS
20 WEST FRONT STREET
CN 295
TRENTON, NEW JERSEY 08625

FEATHER O'CONNOR
STATE TREASURER

DOUGLAS R. FORRESTER
DIRECTOR
(609) 292-3483

December 28, 1988

Robert H. Murray
575 Garfield Avenue
Belford, New Jersey 07718

Dear Mr. Murray:

This is to acknowledge receipt of your application for veterans' retirement from the Teachers Pension and Annuity Fund (TPAF) effective January 1, 1989. Also received were the DD 214 form indicating service as a merchant seaman during World War II which has now been declared active duty with the U.S. Coast Guard entitling you to veterans' benefits provided by the Veterans' Administration, and copies of birth certificates for you and your wife.

Please be advised that it is the position of the Division of Pensions that we should not administratively grant veterans' status for merchant seaman and others whose service was considered civilian or contract service when it was rendered but was administratively established as active military service under P.L. 95-202. The Division feels that this determination should be made by the Legislature. In the past, the Division has looked to federal law to determine if a person rendered active military service during time of war or national emergency which would entitle the person to veterans' pension benefit. However, the federal law involved was that concerning actual service with the armed forces of the United States. P.L. 95-202 was enacted in 1977 and by its terms clearly indicates that it was intended to establish an administrative mechanism to determine if civilian or contract service with armed forces should be considered active duty for the purpose of benefits provided by the Veterans' Administration. The intent of the federal law is laudable and the service rendered by many of the groups which has been established as active military service clearly seems to have been comparable to military service, and, in some cases, involved actual combat or service in combat areas.



State of New Jersey
DEPARTMENT OF THE TREASURY

DIVISION OF PENSIONS
20 WEST FRONT STREET
TRENTON, NEW JERSEY 08622
CH 286

LEATHER O'CONNOR
STATE TREASURER

DOUGLAS A. HORRSTER
DIRECTOR
(609) 292-4483

December 28, 1988

Robert H. Murray
875 Garfield Avenue
Belford, New Jersey 07718

Dear Mr. Murray:

This is to acknowledge receipt of your application for
veteran's retirement from the Teacher Pension and Annuity Fund
(TPAF) effective January 1, 1989. Also received were the DD 214
form indicating service as a merchant seaman during World War II
which has been declared active duty with the U.S. Coast Guard
entitling you to veterans' benefits provided by the Veterans
Administration, and copies of birth certificates for you and your
wife.

Please be advised that it is the position of the Division of
Pensions that we should not administratively grant veteran's
status for merchant seamen and others whose service was
considered civilian or contract service when it was rendered but
was administratively established as active military service under
P.L. 95-202. The Division feels that this determination should
be made by the legislature. In the past, the Division has looked
to federal law to determine if a person rendered active military
service during time of war or national emergency which would
entitle the person to veteran's pension benefits. However, the
federal law involved was that concerning actual service with the
armed forces of the United States. P.L. 95-202 was enacted in
1977 and by its terms clearly indicates that it was intended to
establish an administrative mechanism to determine if civilian or
contract service with armed forces should be considered active
military service for the purpose of benefits provided by the Veterans
Administration. The intent of the federal law is to include and
the service rendered by many of the groups which have been
established as active military service clearly seems to have been
comparable to military service and in some cases involved
actual combat or service in combat areas.

However, the initial issue on the state level is not whether any particular service should be considered active military service for the purpose of state veterans' benefits, but whether the state should accept the federal determinations administratively, or should make its own determinations on eligibility for state veterans' benefits. In many, if not most cases, the benefits will probably be substantially greater at the state level. The Legislature has not considered the issue since the 1977 federal law was enacted. We feel that the Legislature should consider it, and that the Division of Pensions should not decide this important issue in a summary manner at the administrative level.

There is legislation pending to provide veterans' status to members of the American Merchant Marine during World War II who have been declared eligible for federal veterans' benefits by the U.S. Department of Defense. There are two bills, S-2474 sponsored by Senators Costa and Paterniti, and A-3147 sponsored by Assemblymen Kenny, Baer, Kronick and Felice. The Senate bill has been reported out of committee and is awaiting action by the Senate. The Assembly bill is in the Veterans' Affairs and Defense Committee.

Our determination not to grant veterans' status to members of the Merchant Marine during World War II is an administrative determination which may be appealed to the TPAF Board of Trustees. All that is required for such an appeal is a letter to the secretary to the board at the following address:

Anthony P. Ferrazza, Secretary
Teachers' Pension and Annuity Fund
20 West Front Street
CN-295
Trenton, New Jersey 08625

If the board's initial determination is to deny the appeal, the matter can be pursued as a contested case through the Office of Administrative Law. This would provide the opportunity for a hearing and to present evidence in support of your position, and to have a recommended decision from an administrative law judge. The final administrative decision would still be the responsibility of the board. The board's final decision could be appealed to the Appellate Division of the Superior Court.

With respect to your retirement application, we can not process it as a veterans' retirement because of our determination on veterans' status for merchant seaman. You are eligible for regular service retirement and it could be processed as such with an effective date of January 1, 1989. The benefit under a service retirement would be lower than under the veterans' retirement, 24/60 or 40 % of your final average salary (average over the last three or highest three years of service), as

opposed to 50% of your final year salary. You could take a service retirement and appeal the issue of veterans' status. If you were successful on your appeal, your retirement would be changed to a veterans' retirement. However, if you were not successful on the appeal, the only way you could obtain veterans' status would be through legislation. If you retired before the legislation took effect, it would not be applicable to you unless there is a provision for retroactive effect in the legislation. There is no provision for retroactive effect in the pending legislation.

Please let us know how you would like us to proceed on your retirement application. We will withhold further processing until we hear from you.

Sincerely yours,

Thomas P. Bryan

Thomas P. Bryan
Executive Assistant

cc Anthony P. Ferrazza
Sara Septak

TESTIMONY BY MORRIS ROTH OF CLARK, N. J.
AT A HEARING BEFORE THE N. J. ASSEMBLY'S
VETERANS AFFAIRS AND DEFENSE COMMITTEE,
IN TRENTON, ON JAN. 17, 1989

Assemblyman Peter J. Genova, chairman, and committee members:

The men of the American merchant marine were the spear carriers of America's armed forces during World War II.

The spears they carried were the tanks, armored vehicles, ammunition, fighter planes, fuel, food, clothing -- and most important of all -- our American troops, whose personal valor contributed so significantly to defeating the German and Japanese military forces and winning the war.

As partners in that struggle from Dec. 7, 1941 to Aug. 15, 1945, an estimated 250,000 men saw service in the merchant marines, some 730 American merchant vessels were sunk, and many lives of merchant seamen were lost.

I begin my testimony on these somber notes so that this committee can reflect on the role played by merchant seamen during this trying period in the nation's history.

As one of those seamen -- one whose freight ship was sunk in the North Sea off the Belgian coast by the torpedo of a German sub or floating mine on March 1, 1945 -- I am here to testify in support of Assembly Bill A-3147.

- more -

add-1

roth testimony

The measure, as a I understand it, would change the definition of a veteran under New Jersey statutes to include members of the American merchant marine who sailed during World War II.

Equity in law and simple fairness requires nothing less.

The federal judiciary and a vital arm of the United States government have already spoken on this matter.

As reported in an Associated Press story on Jan. 21, 1988 (a copy of which is enclosed with a transcript of my testimony), the article said:

"The Defense Department, under orders from a federal judge to reconsider the issue, has agreed to extend veteran's status to the men who, sailed merchant ships during World War II, the Pentagon said yesterday."

Fulfilling the requirements of the defense department, I applied to the Commandant's Office of the United States Coast Guard in Washington for the necessary papers that would qualify me for veteran's status and have received them.

Obtaining those papers some 43 years after the war -- including a certificate of honorable discharge from the United States Coast Guard and a certificate of discharge listing the ships I sailed on during my 20-month service in the maritime service -- was and still is the one of the most exciting things that have ever happened to me in my life.

After eating crow for more than four decades, respect for my service to the country has finally been recognized. A bit overdue, perhaps, and strikingly similar to what had happened to the Vietnam War veteran, but I was still overwhelmed by what I had believed would never come to pass.

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add-2

roth testimony

As a veteran, of course, I will be entitled to some medical and burial benefits, if I chose, through the Veterans Administration.

Having lost out 40 years ago to any free college under the G.I. Bill of the post-war era, I still can claim veteran's benefits for retirement purposes and property tax exemptions, providing -- and only providing -- that the newly won veteran's status for merchant seamen who served during the war becomes acceptable under New Jersey statutes.

That's why I'm here today to recommend as strongly as I possibly can that you to move Bill A-3147 forward.

Passage of this and, I believe, a companion piece of legislation in the New Jersey Senate would enable me to retire -- when I choose -- at 50 percent of my pension benefits rather than the regular 33 percent.

That would truly be the one real monetary benefit I would be able to claim as a war veteran, when I decide to leave Rutgers University, where I am employed as a senior writer and university spokesperson.

Therefore, I urge your support for the legislation in committee and when it comes to a vote before the entire Assembly.

One final note:

I'm aware that there is concern both by Gov. Thomas Kean and the Legislature over what is anticipated as a shortfall in expected state revenues for this year.

- more -

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add-3

roth testimony

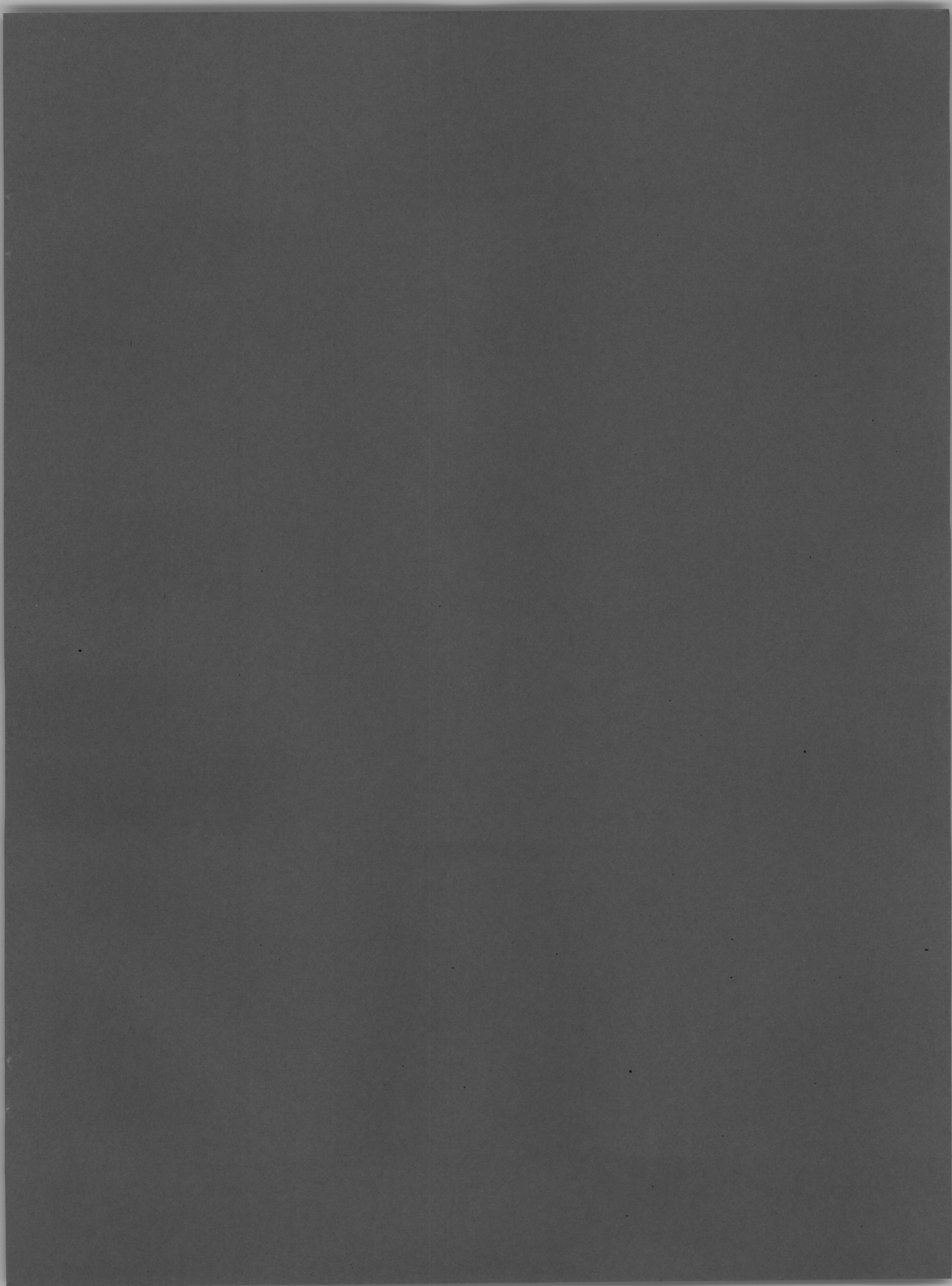
Fairness, however, dictates that merchant seamen from New Jersey --like myself -- who risked their lives dodging German subs on the high seas on behalf of the nation during the war be granted the benefits to which they are entitled.

I have submitted to a committee aide, along with a copy of my testimony, a copy of the Associated Press article I had referred to, a letter on the subject sent to State Sen. Laurence Weiss, chairman of the Senate's revenue and finance committee, and a column written about me that appeared last week in The Daily Journal in Elizabeth.

Thank you for your interest and attention.

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