

## No. 404

**NATIONAL DEFENSE—PUBLIC EMPLOYEES,  
Reemployment of—"INDUCTED," defined**

**Held:** All employees of the state and its political subdivisions, except those employed in temporary positions, who leave such positions in order to perform training, service or active duty with the military forces of the United States and who are inducted and actually serve, are entitled to the benefits of Chapter 47, Laws of 1941, regardless of the manner in which they entered such forces.

April 18, 1942.

Dr. F. I. Terrill  
Superintendent  
Tuberculosis Sanitarium  
R. F. D. No. 1  
Deer Lodge, Montana

Dear Doctor Terrill:

You have requested my opinion whether both drafted and enlisted state employees come within the provisions of Chapter 47, Laws of 1941.

The purpose of Chapter 47, Laws of 1941, is best expressed in the title to the act, which reads as follows:

"An Act to Provide for Reemployment of Elected Officers and Employees of the State of Montana and any Political Subdivision Thereof, **Who Shall Hereafter Serve** in the Military Forces of the United States, Upon the Completion of their Period of Training and Service; to Provide for 'Acting' Officers to Serve During Such Absence of Elected Officers; and Relating to Procedure to be Followed to Secure Such Reemployment." (Emphasis mine.)

Section 1 of the act provides in part:

"Any person **inducted** into the land or naval forces of the United States (including the aviation unit of either force) or any member of any reserve component of the land or naval forces, national guard, or retired personnel ordered into the active military service of the United States, **who, in order to perform such training, service or active duty,**

leaves a position, other than a temporary position, in the employ of the State of Montana or any political subdivision thereof . . . shall be restored to such position, status and pay . . .” (Emphasis mine.)

The question here presented undoubtedly has arisen because of the use of the word “inducted.” However, in construing a statute, the intention of the legislature must be gathered from a consideration of every part with reference to the whole so as to make it harmonious and sensible. (State v. Callow, 254 Pac. 187, 78 Mont. 308; Angell v. Lewistown State Bank, 232 Pac. 90, 72 Mont. 345; Stadler v. City of Helena, 127 Pac. 454, 46 Mont. 128.) The title of an act may be considered to aid construction. (State v. Duncan, 177 Pac. 248, 55 Mont. 376; Morrison v. Farmers’ & Traders’ State Bank, 225 Pac. 123, 70 Mont. 146.) It is a rule of construction legislators must be presumed to have known the meaning of words used and to have used them in their ordinary meaning. (State v. Cronin, 109 Pac. 144, 41 Mont. 293; Northern Pacific Ry. Co. v. Sanders County, 214 Pac. 596, 66 Mont. 608.)

It is worthy of note the legislature used the word “induct” rather than the word “draft.” These words have separate and distinct meanings.

Webster’s New International Dictionary defines the word “induct” as follows:

- (1) To introduce, as to a benefit or office; to put in actual possession of the temporal rights of an ecclesiastical living, or any other office, with the customary form and ceremonies; to install; usher.
- (2) to lead or conduct. (Rare)
- (3) To bring in; to introduce; hence, to initiate.

And the same authority defines the word “draft,” as pertinent here, as follows:

To draw by selection for a particular purpose, as men from the general body of the people to serve as soldiers or sailors; to detach for service, to select.

It will be noted that, in the title of the act, the legislature used the phrase “Who shall hereafter serve in the Military Forces of the United States.”

There could be no reason why the legislature should confine the benefits of this act to those persons only who were drafted, and exclude those who voluntarily enlisted.

From the definitions of the two words, “inducted” and “drafted,” and considering the language of the title, it is clear the legislature intended to extend the provisions of this act to all regularly employed state employees and employees of its political subdivisions, such as cities, counties and school districts, who “serve in the military forces of the United States either in training, service or active duty,” regardless of the manner in which such employees became a part of the military forces. Whether a person volunteers or is drafted, he must be inducted into the military force before he serves therein. It is equally clear that, by the use of the word “inducted” rather than the word “drafted,” the legislature did not intend employees whose names were drawn as selectees but who were not actually inducted into the service should be included within the benefits of the act.

It is therefore my opinion all employees of the state and its political subdivisions, except those employed in temporary positions, who leave such positions in order to perform training, service or active duty with the military forces of the United States, and who are inducted and actually serve, are entitled to the benefits of Chapter 47, Laws of 1941, regardless of the manner in which they entered such forces.

Sincerely yours,

JOHN W. BONNER  
Attorney General