

## ADMINISTRATIVE PROVISIONS IN VETERANS' LAWS

OCTOBER 3 (legislative day, SEPTEMBER 18), 1940.—Ordered to be printed

Mr. GEORGE, from the Committee on Finance, submitted the following

### REPORT

[To accompany H. R. 8930]

The Committee on Finance, to whom was referred the bill (H. R. 8930) to amend section 202 (3), World War Veterans' Act, 1924, as amended, to provide more adequate and uniform administrative provisions in veterans' laws, and for other purposes, having considered the same, report favorably thereon, with amendments, and recommend that the bill, as amended, do pass.

The bill makes a number of changes in the laws relating to veterans' benefits. The provisions of the bill are explained in a letter dated May 24, 1940, from the Administrator of Veterans' Affairs to the chairman of the committee, submitting a report on S. 3833, which is an identical Senate bill. The Administrator in this letter suggested several amendments of a clarifying nature. These amendments appear in the reported bill as committee amendments, and the committee recommend their adoption.

The letter referred to, and the supplemental report dated June 11, 1940, are as follows:

VETERANS' ADMINISTRATION,  
Washington, May 24, 1940.

Hon. PAT HARRISON,  
Chairman, Committee on Finance,  
United States Senate, Washington, D. C.

MY DEAR SENATOR HARRISON: Further reference is made to your request of April 25, 1940, for a report on S. 3833, "A bill to amend section 202 (3), World War Veterans' Act, 1924, as amended, to provide more adequate and uniform administrative provisions in veterans' laws, and for other purposes."

The purpose of the bill, which is identical with H. R. 8930 (76th Cong.), which was reported on favorably by the House of Representatives under date of March 19, 1940 (copy of H. Rept. No. 1814 enclosed), and passed the House of Representatives May 6, 1940, is to effect administrative and substantive changes with respect to the granting of veterans' benefits. Since the sections of the bill are relatively unrelated they will be considered separately.

**SECTION 1. WAIVER OF RECOVERY OF OVERPAYMENTS OF COMPENSATION UNDER PUBLIC, NO. 484 (73D CONG.), AS AMENDED**

Section 1 of the bill would amend Public, No. 484 (73d Cong.), as amended, by adding a new section thereto so as to authorize the Administrator of Veterans' Affairs to waive recovery of overpayments made under that act in those cases where in the judgment of the Administrator the person to whom the payments were made was without fault and where such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience. Disbursing and certifying officers would be relieved of liability for any amount paid to any person where recovery from the payee is waived under the provisions of this section. The provisions of section 1 are similar to provisions of section 28 of the World War Veterans' Act, 1924, as amended (38 U. S. C. 453), and section 4 of the act of June 9, 1930 (38 U. S. C. 341c), pertaining to pension payments to beneficiaries of the former Pension Bureau. The act of August 7, 1939 (Public, No. 324, 76th Cong.), provides that "no disbursing officer and no certifying officer of the Veterans' Administration shall be held liable for any amount paid to any person where the recovery of such amount from the payee is waived under existing laws administered by the Veterans' Administration."

The Administrator of Veterans' Affairs has authority to waive recovery of overpayments of death compensation or pension paid under Public, No. 2 (73d Cong.), March 20, 1933, and the Veterans Regulations promulgated pursuant thereto, under laws restored by Public, No. 141 (73d Cong.), March 28, 1934, under laws restored by Public, No. 269 (74th Cong.), August 13, 1935, and under laws providing death pension on account of service prior to April 21, 1898. Some of the death pensions included under the laws above referred to are service pensions payable without reference to service-connected disability or death.

Public, No. 484 (73d Cong.), approved June 28, 1934, as amended, provides payment of death compensation at specified rates to the widows and children of any deceased World War veteran (1) who, while receiving or entitled to receive compensation, pension, or retirement pay for 10 percent disability or more presumptively or directly incurred in or aggravated by service in the World War, dies or has died from a disease or disability not service connected, or (2) who was honorably discharged after having served 90 days or more (or who, having served less than 90 days, was discharged for disability incurred in the service in line of duty), who dies or has died from a disease or disability not service connected and at the time of death had a disability directly or presumptively incurred in or aggravated by service in the World War for which compensation would be payable if 10 percent or more in degree.

Public, No. 484, as amended, does not specifically authorize the Administrator of Veterans' Affairs to waive recovery of overpayments made under that act, and the statutes heretofore quoted cannot be construed to permit waiver of recovery of such overpayments.

Payment of compensation under Public, No. 484, as amended, is prohibited to any widow without child, or a child whose annual income exceeds \$1,000, or to a widow with child or children whose annual income exceeds \$2,500. A considerable number of cases of this character were found wherein claimants who, without fault on their part, had received improper or excessive benefits under Public, No. 484, as amended, were unable to make refund, and would suffer undue hardship if compelled to make restitution. However, under existing law the committee on waivers and forfeitures of the Veterans' Administration was, and is, unable to grant any relief. Under similar circumstances, improper or excessive payments of death compensation made under the World War Veterans' Act, 1924, as amended, as restored by Public, No. 141 (73d Cong.), March 28, 1934, or of pension paid under Public, No. 2 (73d Cong.), March 20, 1933, or laws restored by Public, No. 269, or death pensions payable on account of service prior to April 21, 1898, could be waived. The inequality and inequity of denying relief in cases of overpayments of compensation under Public, No. 484, as amended, which is granted in cases of overpayments of compensation and pension under the other laws above referred to, is manifest.

Enactment of section 1 would remove the now existing inequalities above pointed out, and would also be consistent with the obvious intention of Congress of affording a uniform system of relief for veterans and their dependents from recovery of overpayments of compensation or pension in all cases where absence of fraud on the part of the payee is shown, and recovery would be against equity and good conscience, or would defeat the purpose of benefits otherwise authorized.

Section 1 is identical with H. R. 7895 (76th Cong.), "A bill to authorize waiver of recovery of payments under Public Law No. 484, Seventy-third Congress, as

amended, and for other purposes," upon which the Veterans' Administration rendered a report to the Committee on World War Veterans' Legislation, House of Representatives, under date of February 29, 1940, recommending favorable consideration by that committee. The report cleared the Bureau of the Budget under date of February 28, 1940.

#### SECTION 2. BURIAL BENEFITS

Section 2, which is divided into three subsections, would amend provisions of existing veterans' regulations, promulgated under Public, No. 2 (73d Cong.), March 20, 1933, with respect to the granting of burial allowance. The purposes of subsection (a) are as follows:

Paragraph II, Veterans Regulation No. 9 (a), as amended, provides for the granting of a burial allowance in an amount not to exceed \$100 where an honorably discharged veteran of any war or a veteran of any war in receipt of pension or compensation dies after discharge; and no deduction may be made from the sum allowed because of any contribution toward the burial and funeral (including transportation) which may be made by a State, county, or other political subdivision, lodge, union, fraternal organization, society or beneficial organization, insurance company, Workmen's Compensation Commission, State industrial accident board, or employer, *but the aggregate of the sums allowed from all sources may not exceed the actual cost of the burial and funeral (including transportation)*. The experience of the Veterans' Administration in administering this provision has demonstrated that the denial of burial benefits, by reason of the above italicized limitation, in those cases where there has been a contribution by a lodge, union, or insurance company, has produced unfair results in that it is usually a veteran of moderate means who buys burial insurance of this type, whereas the veteran of larger means may leave a substantial estate, yet the burial allowance would be paid for the veteran in better financial circumstances. Subsection (a) would amend the last sentence of paragraph II, Veterans Regulation No. 9 (a), as amended, so that no deduction would be made from the burial allowance because of any contribution from any source toward the burial and funeral (including transportation) unless the amount of expenses incurred is covered by the amount *actually paid* for burial and funeral (including transportation) purposes by a State, county, or other political subdivision, Workmen's Compensation Commission, State industrial accident board, employer, burial association, or Federal Agency; except that no claim would be allowed for more than the difference between the entire amount of the expenses incurred and the amount paid by any or all of the foregoing agencies or organizations; and nothing contained in the regulation, as amended, would be construed to cause the denial of or a reduction in the amount of the burial allowance otherwise payable because of a cash contribution made by a burial association to any person other than the person rendering burial and funeral services; nor would anything contained in the regulation, as amended, be construed so as to cause payment of the burial allowance or any part thereof in any case where specific provision is otherwise made for payment of expenses of funeral, transportation, and interment under any other act. Such an amendment was recommended to the Senate Committee on Military Affairs under date of July 25, 1939, in connection with a report on S. 1647 (76th Cong.). The report cleared the Bureau of the Budget under date of July 24, 1939.

Subsection (a) would also amend paragraph III, Veterans Regulation No. 9 (a), as amended, so as to authorize transportation of the body of a veteran who died in a Veterans' Administration facility to the place of burial rather than the place of residence or nearest national cemetery, or such other place as the next of kin might direct where the expense would not be greater than to the place of residence. The amendment would apply only to cases where the veteran died in a facility within the continental limits of the United States and transportation would not be authorized beyond the continental limits unless the veteran was a resident of Alaska and had been brought to the United States by the Veterans' Administration for hospital or domiciliary care. The paragraph would be further amended so as to authorize transportation of the body of a veteran who died while hospitalized by the Veterans' Administration in a Territory or possession of the United States to the place of burial within the Territory or possession.

Prior to March 20, 1933, section 201 of the World War Veterans' Act, 1924, as amended, permitted transportation of the remains to the place of burial within the continental limits of the United States, its Territories or possessions. The restrictive provisions of the existing regulation require an interchange of considerable correspondence to determine whether the expense of transportation to the place of burial will exceed that to the place of residence or to the nearest

available national cemetery, and to obtain a deposit of the difference in cost in those cases where the expense is greater. Moreover, it is believed that under the prior law there was no abuse of the authority to transport the remains to the place of burial. The foregoing facts were included in a report which the Veterans' Administration submitted to the chairman of the Senate Committee on Military Affairs under date of June 21, 1939, with respect to S. 211 (76th Cong.), following which the committee introduced S. 2756. This latter bill which passed the Senate August 9, 1939, and was referred to the Committee on World War Veterans' Legislation, House of Representatives, is substantially the same as the proposed amendment to paragraph III, Veterans Regulation No. 9 (a), as amended, as contained in subsection (a) of section 2 of the bill now under consideration, the only difference being that S. 2756, by confining its terms to the continental United States made no provision for the return of a resident of Alaska to that Territory from the United States nor for burial within a Territory or possession of a veteran who died in such Territory or possession. Such an amendment to S. 2756 was recommended to the Committee on World War Veterans' Legislation, House of Representatives, under date of February 15, 1940. The report cleared the Bureau of the Budget under date of February 14, 1940.

Subsection (a) of section 2 would also amend paragraph IV of Veterans Regulation No. 9 (a), as amended, so as to extend from 1 year to 2 years the time, subsequent to the date of burial of a veteran, within which claim for reimbursement of burial expenses might be filed; and to permit the adjudication and payment of any unpaid claim filed within 2 years after the enactment of the proposed act where death occurred on or after March 20, 1933, and claim was not filed within the regulatory period. This amendment is similar to H. R. 7449 (76th Cong.), upon which a favorable report was submitted to the Committee on World War Veterans' Legislation, House of Representatives, under date of February 15, 1940. The report cleared the Bureau of the Budget under date of February 14, 1940.

Subsection (b) of section 2 would amend the last sentence of paragraph III of Veterans Regulation No. 6 series, which authorizes burial expenses of persons who die while undergoing hospital or domiciliary care as beneficiaries of the Veterans' Administration who are ineligible for burial benefits under Veterans Regulation No. 9 (a), as amended, but whose bodies must be disposed of as an administrative necessity, to effect uniformity with the proposed amendment to paragraph III of Veterans Regulation No. 9 (a), as amended, heretofore discussed. This is merely a formal change. A similar provision was contained in section 2 of S. 2756 (76th Cong.), supra, and the Veterans' Administration under date of February 15, 1940, recommended to the Committee on World War Veterans' Legislation, House of Representatives, that it be amended to conform to the language as it appears in the bill. This report cleared the Budget under date of February 14, 1940.

Subsection (c) of section 2 provides that the section shall be applied to all claims for burial benefits pending in the Veterans' Administration on the date of its enactment. Such a provision would effect uniformity in the adjudication of all claims for burial benefits whether filed prior or subsequent to the enactment of the proposed act.

#### SECTION 3. UNIFORM APPORTIONMENT OF VETERANS' BENEFITS

Section 3 would provide a uniform procedure with reference to the awarding of part of a veteran's pension or compensation to his wife or children where they are not living together, regardless of the law under which entitlement is established. The procedure would also apply in death cases where the child or children are not in the custody of the widow.

Where a former member of the armed forces of the United States, who is in receipt of monetary benefits from the Veterans' Administration on account of such service, is living apart from his wife or children, the monetary benefit is subject to "division" under the act of March 3, 1899 (ch. 460, 30 Stat. 1379; 38 U. S. C. 45, 46, 47, 49), or to "apportionment" under paragraphs VI or VII, Veterans Regulation No. 6—Series (38 U. S. C., ch. 12, appendix), depending upon the particular law or regulation under which the monetary benefit is granted.

Whereas Veterans Regulation No. 6—Series vests discretionary power of apportionment in the Administrator of Veterans' Affairs, the act of March 3, 1899, directs the Administrator (formerly the Commissioner of Pensions) to cause one-half of the pension to be paid to the pensioner's wife or the guardian of his children.

When Veterans Regulation No. 6—Series was promulgated, it applied to awards of disability pension, compensation, or emergency officers' retirement pay based

upon service in the armed forces from and after April 21, 1898, i. e., the Spanish-American War, including the Boxer Rebellion and Philippine Insurrection, the World War, and the Regular Establishment. By virtue of the act of August 13, 1935 (ch. 521, 49 Stat. 614; 38 U. S. C. 368, 369), which reenacted all laws in effect on March 19, 1933, granting pension to veterans of the Spanish-American War, including the Boxer Rebellion and Philippine Insurrection, their widows and dependents, pensions payable under such reenacted laws are now subject to "division" under the act of March 3, 1899.

The service pension laws prescribe minimum and maximum rates of pension proportioned to the degree of inability to earn a support as determined by the Administrator of Veterans' Affairs, who is directed to consider each and every infirmity and to rate the aggregate of the disabilities shown. Specific rates are provided based upon the age of the veteran, the maximum rate being the same as the maximum rate for disability. A specific rate, in excess of the maximum for disability or age, is provided if the pensioner is, on account of age or physical disabilities, helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

If a veteran who is entitled to pension at the most advanced rate on account of the need for aid and attendance is living apart from his wife under the conditions outlined in the act of March 3, 1899, it is required that one-half of his *entire* pension be paid to the wife.

Section 202 (5) of the World War Veterans' Act, as amended (38 U. S. C. 478), provides as follows:

"If disability results from the injury—

"If the disabled person is so helpless as to be in need of a nurse or attendant such additional sum shall be paid, but not exceeding \$50 per month, as the Administrator of Veterans' Affairs may deem reasonable."

An allowance granted to a World War veteran under the foregoing authority is not subject to apportionment in the event he is living apart from his wife since it is not considered to be a part of his basic rate of disability compensation. A similar rule applies with reference to benefits payable under Veterans Regulation No. 1 (a), as amended, where the veteran is so helpless as to be in need of regular aid and attendance.

It is believed that the practice as authorized by paragraph VII of Veterans Regulation No. 6-Series, heretofore referred to, produced more equitable results than that required by the act of March 3, 1899, *supra*. The first paragraph of section 3 conforms to the language of paragraph VII, Veterans Regulation No. 6-Series, with necessary changes to extend its terms to all laws administered by the Veterans' Administration. The second paragraph of the section provides for the repeal of existing laws governing the apportionment or division of veterans' benefits. The section is identical with a draft which the Veterans' Administration submitted to the President of the Senate and the Speaker of the House of Representatives under date of March 9, 1940, with a recommendation that it be enacted into law. The proposal cleared the Bureau of the Budget under date of February 27, 1940. The section is also identical with H. R. 9088 (76th Cong.); and is substantially the same as S. 3777, upon which a favorable report was rendered your committee under date of May 1, 1940.

#### SECTION 4. FURNISHING OF HOSPITAL CARE TO VETERANS RESIDING ABROAD WHO ARE AMERICAN CITIZENS SUFFERING FROM SERVICE-CONNECTED DISABILITIES

Section 4 would amend paragraph IV of Veterans Regulation No. 6-Series to read as follows, the proposed new language being in *italic*.

"IV. No person shall be entitled to receive domiciliary, medical, or hospital care, including treatment, who resides outside of the continental limits of the United States or its territories or possessions: *Provided, That in the discretion of the Administrator of Veterans' Affairs necessary hospital care, including medical treatment, may be furnished to veterans who are citizens of the United States and who are temporarily sojourning or residing abroad, for disabilities due to war service in the armed forces of the United States.*"

In denying domiciliary, medical, or hospital care to veterans who reside outside the continental limits of the United States or its Territories or possessions, the regulation as it now stands is in consonance with another provision of the Veterans Regulations issued pursuant to Public, No. 2 (73d Cong.), which limits the right to treatment primarily to that which can be afforded in Government facilities.

As a result of study of the effects of Veterans' Regulations issued under Public, No. 2 (73d Cong.), it is the opinion of the Veterans' Administration that the regulation works a hardship on certain veterans suffering with service-connected disabilities who are temporarily sojourning abroad and others who, from necessity

rather than choice, are temporarily residing abroad in the promotion of American interests. The proposed amendment would permit the hospitalization of such veterans who have had war service and who are American citizens, when necessary for the relief of service-connected disabilities.

This section is identical with H. R. 6586 (76th Cong.), upon which a favorable report was submitted by the Veterans' Administration to the Committee on World War Veterans' Legislation, House of Representatives, under date of June 23, 1939. Similar proposed legislation cleared the Bureau of the Budget under date of May 15, 1939, in connection with a report to the same committee on H. R. 2988 (76th Cong.).

**SECTION 5. EXEMPTION OF VETERANS' BENEFITS FROM SET-OFF UNDER CERTAIN CLAIMS OF THE UNITED STATES**

Section 5, which is identical with H. R. 8426 (76th Cong.), would amend section 3 of Public, No. 262 (74th Cong.), August 12, 1935, so as to prohibit collection by set-off or otherwise out of any benefits payable pursuant to any law administered by the Veterans' Administration and relating to veterans, their estate, or their dependents of any claim of the United States or any agency thereof against (a) any person other than the indebted beneficiary or his estate, or (b) any beneficiary or his estate, except amounts due the United States by such beneficiary or his estate by reason of overpayments or illegal payments made under such laws relating to veterans to such beneficiary or his estate or his dependents as such. If the benefits be yearly renewable term or United States Government life (converted) insurance, the exemption would be inapplicable to liens thereon to secure unpaid premiums or loans on such contracts or interest on such premiums or loans.

The present section 3 has been construed by the Comptroller General to authorize and require offset against amounts due a dependent widow, parent, or child, amounts owed the Government by the deceased veteran or from the designated beneficiary of his insurance policy any amount so owed by the deceased veteran. It also required in many other instances collection from compensation, pension, or insurance, a debt of a beneficiary, due the United States as the result of some transaction wholly unconnected with the benefit otherwise payable to such beneficiary.

It is the feeling of the Veterans' Administration that the United States should not collect its indebtedness from veterans and their dependents except when the overpayment arose in connection with the specific type of benefit from which collection is to be made; and ought not to collect such overpayment from any person other than the individual or his estate to whom such overpayment was made except when such overpayment was made to his dependent as such.

The Veterans' Administration favors enactment of this section into law, except that in order fully to protect the Government life-insurance fund, it is suggested that beginning on line 5, page 8, after the word "to" and continuing through line 8, the language be stricken and the following substituted therefor: "indebtedness existing against the particular insurance contract upon the maturity of which the claim is based, whether such indebtedness be in the form of liens to secure unpaid premiums, or loans, or interest on such premiums or loans, or indebtedness arising from overpayments of dividends, refunds, loans, or other insurance benefits".

**SECTION 6. INCREASED COMPENSATION ON ACCOUNT OF LOSS OF THE USE OF ONE OR MORE FEET OR HANDS**

Section 6 would amend section 202 (3), World War Veterans' Act, 1924, as amended, to increase from \$25 to \$35 per month the additional compensation for the loss of the use of one or more feet or hands. Under section 202 (3), World War Veterans' Act, 1924, as amended, as reenacted with limitations by Public Law No. 141 (73d Cong.), March 28, 1934, additional compensation in the amount of \$25 is payable for the loss of the use of a creative organ or one or more feet or hands. Before the enactment of section 6, Public Law No. 198 (76th Cong.), July 19, 1939, Veterans Regulation No. 1 (a), part I, paragraph II, subparagraph (k), provided increased compensation of \$25 per month for the anatomical loss or loss of use of only one foot, or one hand, or one eye. Under section 6, Public Law No. 198 (76th Cong.), the foregoing rate was increased to \$35 per month for the disabilities enumerated in the said subparagraph. H. R. 5452 (76th Cong.) (which later, with amendments, became Public Law No. 198

(76th Cong.), July 19, 1939), when it passed the House of Representatives, contained in section 6 an amendment to subparagraph (k), paragraph II, part I, Veterans Regulation No. 1 (a), as amended, which would have added a new proviso to the subparagraph to read as follows:

*"Provided, That in no event shall the rate of pension (including the \$25 increase) for anatomical loss of one foot, or one hand, or one eye, be less than \$100 per month.*

The action of the Committee on World War Veterans' Legislation in reporting the particular proposed measure appears to have been predicated on the consideration which the committee gave to H. R. 4186 (76th Cong.), at the time of the hearings March 3, 1939 (pp. 421-430), and also on H. R. 5291 (76th Cong.), on which hearings were conducted April 6, 1939 (pp. 431-446, inclusive).

When the bill reached the Committee on Finance, United States Senate, hearings were conducted before a subcommittee thereof, May 18, 1939. In appearing on the proposed measure, I indicated that it would be undesirable to depart from the rating policy, and that if it were found necessary to take action it would probably be better to raise the standards of ratings uniformly, although it would be more costly, as such action would be more in accord with sound principle. Attention was also invited to the rating practice of the Veterans' Administration and it was indicated that the Presidential regulations dealing with the particular group were liberal in providing increased pension over and above that authorized on the basis of evaluations of disability based upon scientific considerations. The opinion was expressed by me that action should not be taken which would bring about greater inequalities.

It was my further suggestion that proposals of this nature, in setting up special rates for special groups would produce further departure from the rating policy and, if adopted, would bring about requests for equalization from other groups not benefited by special legislation. I also expressed the desire to review any cases which might be brought to attention where it was thought that the existing rating practice was inadequate. The committee was advised that if they determined to take action to amend the existing law, it would be preferable to amend the \$25 monthly increased compensation under subparagraph (k), paragraph II, part I, Veterans' Regulation No. 1 (a), as amended. The bill was reported out by the committee with an increase from \$25 to \$35 per month under the foregoing regulation, in lieu of the House proposal.

Under section 202 (3), World War Veterans' Act, 1924, as amended, as reenacted with limitations by Public, No. 141 (73d Cong.), the loss of use must have resulted from an injury received in active service in line of duty between April 6, 1917, and November 11, 1918, or if the injury was incurred while the veteran was serving with the United States military forces in Russia, the dates extend from April 6, 1917, to April 1, 1920. Under Veterans' Regulation No. 1 (a), as amended, part I, it is not necessary that the injury or disease shall have been incurred between April 6, 1917, and November 11, 1918, or between April 6, 1917, and April 1, 1920. As to service entered into prior to November 11, 1918, or if in Russia, before April 2, 1920, if the injury or disease was incurred in or aggravated by such service and before July 2, 1921, the increased compensation is payable. Under section 5 of Public Law No. 304 (75th Cong.), August 16, 1937, if the veteran had prior service between April 6, 1917, and November 11, 1918, and the injury or disease was incurred or aggravated in a reenlistment on or after November 12, 1918, and before July 2, 1921, the increased compensation may be payable.

Public Law No. 2 (73d Cong.), and the veterans' regulations promulgated thereunder, eliminated occupational variants formerly provided in the 1925 schedule and extensions. The 10-step rating schedule devised under Public Law No. 2 (73d Cong.), and Veterans' Regulation No. 3 (a), as amended, adopted generally the rating which appeared under variant 5 of the 1925 schedule. As a result, when the 1925 schedule and extensions in effect on March 19, 1933, was restored by Public Law No. 141 (73d Cong.), many World War cases remained on the rolls under Public Law No. 2, because under the 1925 schedule their occupational variant was from 1 to 4, inclusive. The cases generally which would be benefited by section 6 are those wherein the occupational variants under the 1925 schedule are from variants 6 to 9, inclusive.

The eligibility criteria under Public Law No. 2 and the Veterans' Regulations include the requirement of an honorable discharge. This requirement does not exist with reference to rates restored with limitations under Public Law No. 141 (73d Cong.). For this reason certain veterans, whose discharge was not honorable, are entitled to benefits under the World War Veterans' Act, 1924, as amended, who are not eligible, for the rates under Public Law No. 2 (73d Cong.), and the veterans' regulations. This group if otherwise entitled to the additional

compensation under section 202 (3), World War Veterans' Act, 1924, as amended, would receive benefits under section 6.

It is therefore apparent that while the amendment to part I, Veterans' Regulation No. 1 (a), as amended, as contained in Public Law No. 198 (76th Cong.), singled out the particular group for special rates to the exclusion of other disabilities having similar effect on earning capacity, the proposed legislation would have the effect of further enlarging the inequality and superimposing an increase in the rates of compensation in cases where because of the higher occupational variants the basic rates of compensation for the disabilities are already higher than the basic rates provided under the 1933 schedule. There is a further consideration in connection with the proposed legislation, viz, that the loss of the use of a creative organ is not made the basis for the proposed increase, although included among the three conditions in section 202 (3) of the World War Veterans' Act, 1924, as amended. Moreover, the granting of the increase under section 202 (3), World War Veterans' Act, 1924, as amended, would automatically introduce the question as to the inequality which might result by not including the anatomical loss or loss of use of one eye, which is made the basis for increased compensation under Veterans' Regulation No. 1 (a), as amended.

While the proposed legislation might be considered as containing certain elements of uniformity, the foregoing analysis of the effects thereof in the opinion of the Veterans' Administration does not furnish adequate basis upon which proposed changes could be adequately supported.

For the foregoing reasons, the Veterans' Administration is unable to recommend section 6 to the favorable consideration of your committee. The section is identical with H. R. 7558 (76th Cong.), upon which an unfavorable report was rendered the Committee on World War Veterans' Legislation, House of Representatives, under date of February 13, 1940, the Bureau of the Budget having advised under date of February 12, 1940, that there would be no objection to its submission.

SECTION 7. GRANTING COMPENSATION TO CERTAIN WORLD WAR VETERANS ON ACCOUNT OF PARALYSIS, PARESIS, OR BLINDNESS, AND TO THE DEPENDENTS OF SUCH DISEASED VETERANS

Section 7 would amend section 1 of the act of July 19, 1939 (Public, No. 196, 76th Cong.), as indicated by the following comparative text of which the parts to be stricken out are in black brackets and the new matter is in italics.

"That on and after the date of enactment of this Act any World War veteran suffering from paralysis, paresis, or blindness, or who is helpless or bedridden, as the result of any disability, [and who was in receipt of compensation therefor on March 19, 1933,] may be awarded compensation under the laws and interpretations governing this class of cases prior to the enactment of Public Law Numbered 2, Seventy-third Congress, March 20, 1933, subject, however, to the limitations, except as to misconduct or willful misconduct, contained in sections 27 and 28 of Public Law Numbered 141, Seventy-third Congress, March 28, 1934, as amended by section 5 of Public Law Numbered 304, Seventy-fifth Congress, August 16, 1937: *Provided*, That the language herein contained shall not be construed to reduce or discontinue compensation authorized under the provisions of section 26 of Public Law Numbered 141, Seventy-third Congress: *Provided further*, That where a World War veteran dies or has died [from disease or injury, service connection of which is or would have been reestablished under the provisions of this Act,] and service connection for any of the foregoing conditions is or would have been established under the provisions of this amendment, [his] the surviving widow, child, or children, if otherwise eligible thereto, shall be awarded death compensation under Public Law Numbered 484, Seventy-third Congress, as amended."

The act of July 19, 1939, *supra*, restores, with certain limitations, compensation to those World War veterans who were on the rolls March 19, 1933, under that part of section 200 of the World War Veterans' Act, 1924, as amended, which provides as follows:

"\* \* \* no person suffering from paralysis, paresis, or blindness shall be denied compensation by reason of willful misconduct, nor shall any person who is helpless or bedridden as a result of any disability be denied compensation by reason of willful misconduct."

The limitations referred to are (1) the veteran must have entered the service prior to November 12, 1918, or prior to April 2, 1920, if there was service in Russia; (2) if service connection had been established by presumption, the amount of compensation is reduced by 25 percent under the provisions of sections 27 and 28,



Public, No. 141 (73d Cong.); (3) compensation was not restored if the original entitlement was based upon fraud, misrepresentation of a material fact or unmistakable error as to conclusions of fact or law, or if clear and unmistakable evidence disclosed that the disease, injury, or disability had inception before or after the period of active military or naval service, unless such injury, disease, or disability was shown to have been aggravated during such service. In reviewing the case of any veteran as to whom compensation was being paid on March 19, 1933, for such service-connected disability, reasonable doubts are resolved in favor of the veteran, the burden of proof being on the Government.

The second proviso of section 1 of the act grants death compensation to widows and children of such veterans who died from disease or injury service connection of which had or would have been reestablished under the provisions of the act. These benefits are payable under Public, No. 484 (73d Cong.), June 28, 1934, as amended, which act provides compensation, at somewhat lower than war service-connected death rates, where the veteran at time of death was suffering from World War service-connected disability.

Section 7 has two purposes, the first of which is to amend section 1 of the act of July 19, 1939, so as to eliminate the requirement that the veteran shall have been in receipt of compensation on March 19, 1933, on account of one of the conditions enumerated in the act. The effect of such an amendment would be to extend the benefits of the act in any case where the conditions are met either before or after March 19, 1933.

The second purpose of the section is to amend the second proviso of section 1 of the act of July 19, 1939, so as to eliminate an inequality under which widows and children of World War veterans who died prior to July 1, 1933, are not required to prove that the death was the result of service in order to be entitled to compensation under Public, No. 484 (73d Cong.), as amended, whereas, service connection must be proved if the death occurred on or after July 1, 1933, except as to service-connected blind cases under section 26, of Public Law No. 141, March 28, 1934.

There would be no objection on the part of the Veterans' Administration to the enactment of this section, which, with the exception of the proviso, is similar in purpose to H. R. 8478 (76th Cong.).

#### SECTION 8. EFFECTIVE DATES OF AWARDS UNDER SECTION 7

Section 8 would add a new section to the act of July 19, 1939, supra, to be known as section 3 and to read as follows:

"SEC. 3. Payments to veterans and their dependents under the provisions of this amendment shall be effective the date of application for benefits thereunder."

In the interest of uniformity of administrative provisions, it is suggested that this section be amended to read as follows:

"Except as provided in section 6 of Public Law Numbered 304, Seventy-fifth Congress, approved August 16, 1937 (U. S. C., title 38, sec. 472d), compensation authorized by section 7 of this Act shall not be payable effective prior to the receipt of application therefor in the Veterans' Administration, and in no event shall compensation therein authorized be effective prior to the date of enactment of this Act."

There would be no objection to its enactment in this form.

#### SECTION 9. PAYMENT OF SERVICE-CONNECTED BENEFIT TO DEPENDENTS OF VETERAN WHO HAS FORFEITED HIS RIGHT THERETO

Section 9 would modify the provisions of section 504 of the World War Veterans' Act, 1924, as amended (43 Stat. 1312, U. S. C., title 38, sec. 555), and section 15, Public, No. 2 (73d Cong.), March 20, 1933 (48 Stat. 11; U. S. C., title 38, sec. 715), which provide for forfeiture of veterans' benefits in case of fraud, so as to permit payment of compensation or pension based upon service connected disability to the wife, children, and dependent parents of a veteran who has forfeited the right to such benefits by virtue of the above-cited provisions of law. Payments to the dependents, would be payable from and after the date of suspension of payments to the veteran but not prior to the date of enactment of the proposed act, would be limited to the amount payable to the veteran except for the forfeiture, but would not exceed the amount payable in case the veteran had died from service-connected disability. Compensation or pension would not be payable to any dependent who had participated in the fraud for which the forfeiture was imposed.

The above-cited provisions of law would be further modified so as to permit reimbursement on account of expenses incurred in the burial of such veterans otherwise entitled by law, and to permit payments of death compensation for service-connected death or death compensation under Public, No. 484 (73d Cong.), as amended. Under existing law, in service-connected death cases, death compensation is payable to the veteran's widow, child, or dependent parent, so that the section, if enacted into law, would not establish new eligibility for that group. The intention apparently is to provide death benefits notwithstanding forfeiture of benefits by the veteran, as distinguished from forfeiture by claimants for benefits based upon the death of the veteran. To insure this result, it is suggested that on page 10, line 3, there be inserted immediately preceding the word "The," the following: "Forfeiture of benefits by a veteran under." The word "The" should then be changed to "the."

The Veterans' Administration would interpose no objection to the enactment of this section with the amendment above suggested.

With reference to the matter of cost, the following statement indicates, by sections, the estimated cost insofar as it has been possible to evaluate the expenditures which the bill would entail.

#### ESTIMATED COST OF S. 3833

Section 1 would permit waiver of recovery of overpayments under Public, No. 484 (73d Cong.), June 28, 1934, as amended, and it is not possible to estimate the cost involved; but it would be nominal.

Section 2 would liberalize the provisions of Veterans Regulation No. 9 (a), as amended, pertaining to the granting of burial benefits. It is estimated that the proposed extension of the period for filing claim from 1 year to 2 years would entail additional annual cost in the approximate amount of \$65,000. It is not possible to estimate the cost of the proviso.

Section 3 would extend the authority of the Administrator of Veterans' Affairs governing apportionment of pension, and it is not possible to estimate the cost involved; but it would be nominal.

Section 4 would permit necessary hospital care, including medical treatment, for veterans who are citizens of the United States and temporarily sojourning or residing abroad, for disabilities due to war service in the armed forces of the United States. It is estimated that the annual cost would be approximately \$50,000, affecting approximately 65 veterans.

Section 5 would amend section 3 of Public, No. 262 (74th Cong.), August 12, 1935, to prohibit collection of indebtedness due the United States by set-off as hereinbefore explained. It is not possible to estimate the cost involved.

Section 6 would amend section 202 (3), World War Veterans' Act, 1924, as amended, providing in lieu of the statutory award of \$25 per month for the loss of the use of one or more feet or hands a statutory award of \$35 per month. It is estimated that this section would provide increased payments for approximately 1,400 veterans at an additional annual cost of approximately \$84,000.

Section 7 would amend Public, No. 196 (76th Cong.), to remove the present requirement that the veteran must have been on the rolls on March 19, 1933, and provide compensation benefits under Public, No. 484 (73d Cong.), as amended, for the widows and children of veterans covered by Public, No. 196, as amended by the bill. It is estimated that approximately 100 veterans would be entitled to compensation under this section at a first-year cost of \$107,100. There are no records available on which to base an estimate of cost of paying the dependents who would be entitled under this section.

Section 8 provides in effect that the payments authorized by the provisions of section 7 are to be effective the date of application for benefits thereunder.

Section 9 would permit the payment (with limitations) of compensation or pension based upon service-connected disability, to the wife, children, and dependent parents of a veteran who has forfeited the right to such benefits, under the provisions of section 504, of the World War Veterans' Act, 1924, as amended, or section 15 of Public, No. 2 (73d Cong.). It is not possible to estimate the cost. Certain death benefits are also authorized. No estimate of cost.

The total estimated cost of S. 3833 is \$306,000.

The Veterans' Administration recommends S. 3833 for favorable consideration by your committee subject to the comment and conclusion pertaining to section 6 and the formal changes suggested in sections 5, 8, and 9.

The Bureau of the Budget has advised the Veterans' Administration that the enactment of the proposed legislation, with the exception of sections 5 and 6, would not be in conflict with the program of the President. I am informed by

that office that the enactment of section 6 of the bill would not be in accord with the program of the President and that I will be advised at a later date with respect to the relationship of section 5 of the bill to the program of the President. Upon receipt of further advice concerning section 5 of the bill, a supplemental report in regard thereto will be furnished your committee.

Very truly yours,

FRANK T. HINES, *Administrator.*

JUNE 11, 1940.

Hon. PAT HARRISON,  
*Chairman, Committee on Finance,  
United States Senate, Washington, D. C.*

MY DEAR SENATOR HARRISON: Reference is made to my letter of May 24, 1940, relative to S. 3833, Seventy-sixth Congress, a bill to amend section 202 (3), World War Veterans' Act, 1924, as amended, to provide more adequate and uniform administrative provisions in veterans' laws, and for other purposes, the last paragraph of which reads as follows:

"The Bureau of the Budget has advised the Veterans' Administration that the enactment of the proposed legislation, with the exception of sections 5 and 6, would not be in conflict with the program of the President. I am informed by that office that the enactment of section 6 of the bill would not be in accord with the program of the President and that I will be advised at a later date with respect to the relationship of section 5 of the bill to the program of the President. Upon receipt of further advice concerning section 5 of the bill, a supplemental report in regard thereto will be furnished your committee."

I am in receipt of a letter dated June 6, 1940, from the Bureau of the Budget enclosing, for my information, copy of a letter dated May 31, 1940, from the Comptroller General, setting forth his views with respect to section 5 of the bill; and advising me that the enactment of said section 5 would not be in accord with the program of the President. A copy of the Comptroller General's letter is enclosed.

Supplementing my report of May 24, 1940, enactment of S. 3833, with the exception of sections 5 and 6, would not be in conflict with the program of the President. Sections 5 and 6 would not be in accord with such program. This information is based upon advice from the Bureau of the Budget.

Very truly yours,

FRANK T. HINES, *Administrator.*

In addition to the amendments suggested in the foregoing letter, the committee recommend other amendments, which are also recommended by the Veterans' Administration. The first amendment to section 2 is made in order to conform with the provisions of H. R. 7731, which has recently passed both Houses of the Congress and which extends the burial benefits to certain peacetime veterans. Unless this amendment is made, this bill would have the effect of repealing the provisions in H. R. 7731. The other amendment to section 2 is of a clarifying nature and extends the benefits of the section to cases where claims were filed within the regulation period and disallowed, as well as to cases where claims were not filed within the regulation period.

Section 10 provides that the provisions of Veterans Regulation No. 11, which relates to the disclosure of information concerning claims, shall apply to claims under any of the laws administered by the Veterans' Administration. This regulation is now applicable with respect to claims under most of such laws, and it is thought that it should be applicable to claims under all such laws in the interest of uniformity. The section also provides that the Administrator may release information with respect to such claims when in his judgment such release will serve a useful purpose.

Section 11 provides for the finality of decisions made by the Administrator of Veterans' Affairs on questions relating to claims under any of the laws administered by the Veterans' Administration. The

purpose of this section is to provide for the uniform application of the rule which is now applicable in the case of most of such claims.

Section 12 provides for uniformity in the payment of benefits on account of injuries sustained by veterans who submit to examination under the laws granting benefits to World War veterans. At the present time compensation is payable on account of injuries sustained as the result of examinations conducted under some of the veterans' laws, which compensation is not payable on account of injuries sustained under similar circumstances as the result of examinations conducted under other provisions of law. This section will provide for the payment of benefits on the same basis with respect to injuries sustained as the result of examinations under any of such laws.

