

MARY THAILA WOMMACK WEBB

JUNE 19, 1953.— Ordered to be printed

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

REPORT

[To accompany S. 953]

The Committee on Finance, to whom was referred the bill (S. 953) for the relief of Mary Thaila Wommack Webb, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follow:

Amend the title of the bill to read:

A bill for the relief of Mary Thaila Wommack Webb.

On page 1, line 3, after the word "laws" insert the following wording: "administered by the Veterans' Administration".

On page 1, line 5, strike out the word "Thalia" and insert the word "Thaila".

On page 1, line 6, strike out the word "unremarried".

On page 1, line 8, after the period, insert the following:

SEC. 2. If, by reason of enactment of this Act, Mary Thaila Wommack Webb is determined, upon application being filed with the Veterans' Administration within one year from date of enactment, to be otherwise entitled to payment of death pension benefits, the award in such case shall be made effective December 6, 1951.

PURPOSE

To provide that, for the purpose of any laws administered by the Veterans' Administration conferring rights or benefits upon widows of former members of the Armed Forces, Mary Thaila Wommack Webb shall be deemed to be the legal widow of Jim Henry Webb.

GENERAL STATEMENT

Jim Henry Webb, an honorably discharged veteran of World War I, died on July 26, 1950, of coronary arteriosclerosis. On December 6, 1951, an application was filed with the Veterans' Administration

by Mrs. Mary Thaila Wommack Webb for pension or compensation as the unremarried widow of the veteran. In her application the claimant stated she was married to the veteran on August 8, 1932, and lived with him continuously until his death almost 18 years later. She further stated that the prior marriage of Mr. Webb to Hazel Thomas had been terminated by divorce, although she was unable to furnish the exact date or place of divorce.

Investigation has disclosed that the veteran signed a waiver of divorce and was under the impression that a divorce had been granted in the State of Florida in 1923. Therefore, when he entered into the marriage ceremony with the claimant, he did so in good faith that his former marriage had been legally terminated. Likewise, Hazel Thomas Webb believed she had been legally divorced from her marriage to the veteran and married John Dennard in 1926, with whom she is still living as his wife.

Under existing law, the Veterans' Administration is unable to recognize the claimant as the legal wife of the veteran until proof can be established that his prior marriage had been dissolved.

It is the opinion of your committee that Mary Thaila Wommack Webb entered into the marriage with Jim Henry Webb in good faith that his former marriage had been legally terminated and believed herself to be his legal wife during her 18 years of cohabitation with the veteran. These facts warrant special consideration, and your committee believes that the claimant should be recognized as the legal widow under existing laws administered by the Veterans' Administration for widow's benefit purposes.

The bill is amended to provide that any benefit payments to which Mrs. Webb may be entitled by reason of enactment of this act shall be retroactive to December 6, 1951, which is the date of the original application for claim filed by Mrs. Webb.

The report of the Veterans' Administration is as follows:

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF VETERANS' AFFAIRS,
Washington, D. C., April 30, 1953.

Hon. EUGENE D. MILLIKIN,
Chairman, Committee on Finance, United States Senate,
Washington, D. C.

DEAR SENATOR MILLIKIN: Further reference is made to your request for a report by the Veterans' Administration on S. 953, 83d Congress, a bill for the relief of Mary Thalia Wommack Webb, which provides as follows:

"That, for the purpose of any laws conferring rights, privileges, or benefits upon widows of former members of the Armed Forces, Mary Thalia Wommack Webb shall be deemed to be the unremarried widow of Jim Henry Webb (Army serial number 4267346), who served in the United States Army from August 1918 until April 1919."

Jim Henry Webb (XC-16508176), an honorably discharged veteran of World War I, died on July 26, 1950. On December 6, 1951, an application by Mrs. Mary Thaila Webb for pension or compensation, as the unremarried widow of the veteran, was filed with the Veterans' Administration. Her application was first considered as a claim for service-connected death compensation, and was denied on the ground that the cause of the veteran's death, coronary arteriosclerosis, was not related to his military service.

The Veterans' Administration then proceeded to consider whether the claimant was entitled to receive non-service-connected death pension. In her application the claimant had stated, among other things, that she and the veteran lived together continuously from the date of their marriage, August 8, 1932, to the date of his death. She stated further that a prior marriage of the veteran to one Hazel Thomas had been terminated by divorce, but that the date of such marriage and the date and place of its termination were unknown to her. Infor-

mation of record discloses that Hazel Thomas Webb (now Hazel Thomas Dennard) had never instituted a suit for divorce from the veteran, and that she has represented to the Veterans' Administration that when she married Mr. Dennard in 1926 she believed her first husband, Jim H. Webb, had divorced her in the State of Florida sometime in 1923 or 1924, the exact place or date of which was unknown to her.

There is of record in the case a copy of an affidavit by one David Tant, dated March 20, 1951, wherein he stated that he knew both the veteran and Hazel Thomas Webb; that for many years he was engaged with another attorney, since deceased, in a partnership in the practice of law in Oklahoma; that, according to his best recollection and memory, in 1923 or 1924 the veteran forwarded from Florida to his then law partner a waiver of summons and general appearance (apparently for use in a proposed or pending divorce action by the veteran) for execution by the wife, Hazel Thomas Webb; that such waiver was executed and returned to the veteran in Florida, where it was generally assumed he had completed his action for divorce. The affiant stated further that he never received a copy of any divorce decree and does not know from his own personal knowledge that a divorce was granted.

A representative of the claimant informed the Veterans' Administration by letter dated January 29, 1953 that proof of the mentioned divorce could not be furnished because a search of public records revealed that "the divorce never occurred." The representative subsequently informed the Veterans' Administration by letter dated February 4, 1953, that the claimant had informed him that, notwithstanding prior information furnished the Veterans' Administration, her late husband was not divorced while living in Florida, but at that time she was under the impression he was already divorced. He stated further that he had gone into the matter closely and arrived at the conclusion that a divorce never occurred between the veteran and Hazel Thomas Webb, but that he was sure the marriage of the veteran and the claimant was entered into in good faith.

On February 6, 1953, the case was referred to the Chief Attorney, Veterans' Administration Regional Office, Dallas, Tex., for determination as to whether the claimant may be recognized as the veteran's legal widow. On the basis of the evidence that the impediment of the veteran's prior marriage to Hazel Thomas was not shown to have been removed prior to his death, the Chief Attorney on February 12, 1953, determined that for Veterans' Administration purposes the claimant may not be accepted as the veteran's lawful widow. This determination was approved by the Solicitor of the Veterans' Administration.

By letter dated February 19, 1953, the claimant was informed of the disallowance of her claim for non-service-connected death pension on the ground above stated, and she was further advised of her right to appeal to the Administrator of Veterans' Affairs at any time within 1 year from the date of that letter. Since she has not filed an appeal she has not exhausted the administrative remedy available to her.

In order that the claimant may be recognized as the legal widow of the veteran for death pension or compensation purposes, the existence of a valid marriage to him must be established. A marriage may not be recognized as valid until it is shown that prior marriages have been dissolved. Good faith on her part and the length of her cohabitation with the veteran do not alter the legal status of their relationship and do not permit the Veterans' Administration to ignore the provisions of law which require that a claimant establish her status as a legal widow as a prerequisite to entitlement to benefits granted under laws administered by the Veterans Administration.

It may be noted that the denial of benefits in this case is not determinative of the marital status of the claimant, except as it may affect her claim for benefits under laws administered by the Veterans' Administration based on the military service of the veteran.

Under existing law payment of pension to an otherwise eligible widow of a World War I veteran is barred upon remarriage. The adjective "unremarried" as used in the bill probably is intended as descriptive of Mrs. Webb's marital status and not to authorize continuance of pension under the bill if enacted, in the event of her remarriage. Had the word "unremarried" not been used, there would be no doubt but that the applicable provisions of law would be for application except as to the question of her being the legal widow.

S. 953, if enacted, would be a conclusive determination by legislative action that, for the purpose of any laws conferring rights, privileges, or benefits upon widows of former members of the Armed Forces, Mary Thalia Wommack Webb shall be deemed to be the widow of Jim Henry Webb. It is not known what

effect, if any, enactment of this bill would have with respect to the claimant's eligibility for benefits under laws administered by departments and agencies of the Federal Government other than the Veterans' Administration. Insofar as laws administered by the Veterans' Administration are concerned, it appears that enactment of the bill would render her potentially eligible, upon application, to prospective payments of non-service-connected death pension in the amount of \$18 per month. Before payment could be authorized, of course, it would be necessary for the Veterans' Administration to determine whether the claimant meets all requirements of governing laws other than the requirement which would be satisfied by S. 953, if enacted. It is assumed that, if such requirements are met, the bill is not designed to require payment for any period prior to the date of filing of the mentioned application.

Attention is invited to section 131 of the Legislative Reorganization Act of 1946 (60 Stat. 831), which provides in pertinent part as follows:

"No private bill or resolution (including so-called omnibus claims or pension bills), and no amendment to any bill or resolution, authorizing or directing (1) the payment of money * * * for a pension * * * shall be received or considered in either the Senate or House of Representatives."

There appears to be for consideration the question as to whether S. 953 is consistent with the congressional policy expressed in the quoted section.

The circumstances of the case have been carefully considered. No reason is apparent why it should be singled out for special legislative treatment. To grant legislative relief in this case would be discriminatory against those claimants whose claims must be denied on the ground that they are not the legal widows of the veterans. Further, enactment might form a precedent for similar legislation in other cases.

The Veterans' Administration does not believe that private bills of this nature should receive favorable consideration.

Advice has been received from the Bureau of the Budget that there would be no objection to the submission of this report to the committee.

Sincerely yours,

CARL R. GRAY, Jr.,
Administrator.

