

MRS. ELIZABETH G. MASON

SEPTEMBER 12, 1963.—Ordered to be printed

Mr. BYRD of Virginia, from the Committee on Finance,
submitted the following

REPORT

[To accompany H.R. 3369]

The Committee on Finance, to whom was referred the bill (H.R. 3369) for the relief of Mrs. Elizabeth G. Mason, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of this legislation is to authorize the payment of death compensation to Mrs. Elizabeth G. Mason, due by reason of the death of her husband in combat in World War II, from the day following the date her husband was killed on September 9, 1944, through September 26, 1945, which was the date of receipt of her delayed application by the Veterans' Administration. The amount of the compensation for that period is \$816.83.

GENERAL STATEMENT

In approving this bill the Committee on Finance accepted the following statement of facts relating to the case appearing in Report No. 151 by the House Committee on Judiciary:

Mrs. Elizabeth G. Mason's right to death compensation is based on the fact that her husband, Maj. Theodore P. Mason, was killed in combat in Belgium on September 9, 1944. However, the widow was not paid death compensation from the date of his death, because the Veterans' Administration awarded the death compensation effective as of the date of receipt of her application for such payments. Subsequently, Mrs. Mason elected to receive dependency and indemnity compensation in lieu of death compensation.

As is apparent in the report of the Veterans' Administration, there is no means under applicable law and regulation

for the retroactive payment of death compensation if the application is not received by the Veterans' Administration within 1 year of the serviceman's death. Admittedly, if Mrs. Mason's application had been received within that period, she would have been entitled to death compensation from September 10, 1944, the day following her husband's death. This means that she would have received the amount of \$816.83 for the period September 10, 1944, through September 26, 1945.

This committee has carefully considered the circumstances which contributed to the delay in the receipt of the application by the Veterans' Administration. Mrs. Mason advised the sponsor of this bill that she did in fact prepare an application for the payment due her as the widow in the winter of 1944. The attorney who helped her prepare these and other papers was found to have mailed the application papers to Mrs. Elizabeth G. Mason at her home in Houlton, Maine. However, they were never received by Mrs. Mason and she had assumed that they were correctly filed with the Veterans' Administration. When it was ascertained that the application had not been filed, she made a new application, which is the one referred to in the Veterans' Administration report which had been received on September 27, 1945. It is immediately apparent that even in this instance the year's period for the filing of the application had expired only a few weeks previous to the actual receipt of the application.

This committee has concluded that this is a proper subject for legislative relief, because of the particular circumstances of this case. It can be further stated that it is difficult to see how the Government can be prejudiced by the extension of legislative relief in this instance, for the facts are all available to the Government. The widow has been determined to be entitled to death compensation and there is no question about the time and place of the husband's death. It is, therefore, only just that this widow be paid the compensation which otherwise would be due her under the law. The committee recommends that the bill be amended to change the word "effect" to "effective" in line 9 and to provide for the retroactive payment to be based upon a period beginning the day following the serviceman's death. As is noted in the Veterans' Administration report, Mrs. Mason's entitlement, based upon a timely application, would have been effective on September 10, 1944, which was the day following her husband's death. It is recommended that the bill with these minor amendments be considered favorably.

DEPARTMENTAL REPORT

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR
OF VETERANS' AFFAIRS,
Washington, D.C., July 10, 1963.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Further reference is made to your request for a report on H.R. 3369, 88th Congress.

The bill would authorize the retroactive payment of death compensation to Mrs. Elizabeth G. Mason for the period from September 10, 1944, through September 26, 1945.

The bill has the same general purpose as proposals which have been introduced in prior Congresses. The most recent example is H.R. 3922, 87th Congress, which passed the House of Representatives June 19, 1962, and was pending before the Senate Committee on the Judiciary at the close of that Congress.

Theodore P. Mason (XC3709121) was killed in action in military service on September 9, 1944. On October 13, 1944, we mailed a letter to his widow, Mrs. Elizabeth G. Mason, 56 Pleasant Street, Houlton, Maine, expressing regret and giving instructions for the completion and return of an enclosed application for death compensation. The letter also advised her that such benefits would be payable in addition to any Government life insurance benefits to which she might be entitled and for that reason a separate claim for death compensation would have to be filed.

On October 16, 1944, another letter was mailed to Mrs. Mason at the same address advising that she had been named beneficiary of her husband's national service life insurance and enclosing a claim form for settlement of that insurance.

The completed form for payment of the insurance was returned November 29, 1944, which resulted in settlement of the insurance in her favor. However, there was no response to the letter pertaining to death compensation until receipt of Mrs. Mason's application of September 27, 1945. She was then awarded death compensation in the amount of \$65 monthly, effective the date of receipt of her claim. Subsequently, Mrs. Mason elected to receive dependency and indemnity compensation in lieu of death compensation and is currently receiving \$171 monthly. Incidentally there is no record of her filing claim in March 1945 as stated in lines 10 and 11, page 1, of the bill.

In a letter dated November 24, 1945, Mrs. Mason inquired why the award was not made effective from the date of the veteran's death. She stated that "Last winter while in New Orleans my pension application was mailed by the lawyer who drew it up * * *" She was advised that her application for compensation was not received until September 27, 1945, more than a year after the veteran's death. Therefore, payment of compensation was commenced on that date. She was further advised of her right to appeal to the Administrator of Veterans' Affairs. No evidence in support of an earlier filing date of her claim for death compensation was furnished nor did she appeal from our determination.

Under applicable law and regulations there is no limitation on the time within which application may be made for death compensation. However, under laws governing the period in question, benefits were payable from the day following the date of the veteran's death only if application was filed with the Veterans' Administration within 1 year after the date of death. If the claim was not filed within such period, death benefits were payable from the date of application. In view of these provisions and the fact that Mrs. Mason's application was not filed with the Veterans' Administration until September 27, 1945, the award of death compensation was properly commenced on that date.

H.R. 3369 if enacted would require the payment of retroactive compensation to Mrs. Mason in the amount of \$816.83. This sum represents the additional compensation which would have been paid to her had she made timely application for such benefit.

The circumstances of this case have been carefully considered. No reason is apparent why it should be singled out for special legislative treatment. To do so would be discriminatory and precedential.

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

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely,

J. S. GLEASON, Jr., *Administrator.*

