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SENATE

} REPORT
No 885

AN ACT TO AMEND THE WORLD WAR VETERANS' ACT, 1924, AS AMENDED

JUNE 9 (calendar day, JUNE 11), 1930.—Ordered to be printed

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

REPORT

[To accompany H. R. 10381]

The Committee on Finance, to whom was referred the bill (H. R. 10381) to amend the World War veterans' act, 1924, as amended, having had the same under consideration, report it back to the Senate with certain amendments and recommend that the bill do pass.

Your committee in this report will discuss each provision of the bill as it passed the House of Representatives; and where any change therein has been made the discussion will embrace, first, the provision as it passed the House; second, the provision of the present law, and, third, suggested amendments of your committee, or the reasons for the omission of the House amendment. Such changes will be indicated by reference to the pages and lines in the bill appearing immediately before the explanation of the section in which the change is made.

Page 1, line 11, and page 2, lines 1 to 6:

Section 1 of H. R. 10381 as it passed the House of Representatives amends section 5 of the act by providing that, in making regulations with reference to home treatment for service-connected disabilities, the director shall not discriminate against any veteran solely on the ground that such veteran left a Government hospital against medical advice or without official leave. There is no specific provision in the present law regarding this matter. However, it has been the policy of the Government to afford treatment in Government institutions. To this end millions of dollars have been spent in erecting hospitals. Your committee is not aware that there is any sentiment for a change in this policy. If the Government offers a man hospitalization and he refuses, it would not seem that home treatment should be afforded him. Otherwise, men could leave hospitals at

their pleasure and demand home treatment. Your committee therefore has eliminated from section 1 of the bill this amendment, as it is of the opinion that any differences which may have arisen other than as to the existing Government policy can be corrected under the present law by appropriate regulations, and that the enactment of a specific provision regarding the matter would be a dictation of the methods of procedure, which is a matter of medical administration.

Section 1 of the bill also amends section 5 of the act by directing that regulations relative to evidence shall provide that due regard be given to lay and other evidence not of a medical nature in connection with the adjudication of claims. It is the feeling of the committee that in certain border-line cases a more liberal evaluation of lay testimony would enable the bureau to grant relief under the law. Although under existing law the bureau has the authority to consider such evidence in its proper light, it is felt that this amendment will constitute the express will of Congress regarding such evidence, and will enable the director of the bureau to issue more elastic regulations with regard thereto.

Section 1 of the bill further amends section 5 of the act by providing that where service incurrence or aggravation of a disability has been found by the bureau to exist, and such finding has continued in effect for a period of five years, the finding shall be final, except in cases of fraud participated in by the claimant. The period of limitation is to run from the date that the finding was made, irrespective of whether that period began prior to the passage of the amendatory act. It was felt by your committee that, if a veteran or other claimant has been lulled into a sense of security by reason of having a finding made in his favor stand for a period of five years, that finding in the absence of fraud should remain undisturbed even though subsequent differences of opinion might indicate that administratively a change therein should be effected.

Section 2 of the bill amends section 10 of the act by adding thereto a paragraph authorizing the director to secure such recreational facilities, supplies, and equipment for the use of patients, in hospitals, and for employees at isolated stations, as he may deem necessary, and the appropriations made available for the carrying out of the present provisions of section 10, which relate to the furnishing of medical and hospital treatment, are authorized to be expended for this purpose. The bureau is authorized under existing legislation to provide recreational facilities for patients in hospitals, but has no authority to provide such facilities for employees. Many of the employees are stationed at isolated places, so far removed from facilities provided by municipalities or clubs that it is practically impossible for them to avail themselves thereof. The committee, therefore, believes that the director should be authorized to provide facilities as part of the hospital reservation where they are needed.

Page 4, lines 3 to 14:

Section 2 of H. R. 10381, as it passed the House of Representatives, amends section 10 of the act by authorizing and directing the transfer of the Battle Mountain Sanitarium and the Battle Mountain

Sanitarium Reserve from the jurisdiction of the Board of Managers of the National Home for Disabled Volunteer Soldiers to the bureau. It is the opinion of your committee that this amendment is not properly a part of this legislation, as no good reason is seen for singling out this particular institution. There is now pending before your committee another bill which has been passed by the House of Representatives (H. R. 10630), which is a general bill providing for the transfer of all such institutions to the jurisdiction and control of a new bureau to have charge of all matters affecting veterans. It is believed that if the transfer is to be effected it should be by means of a bill such as H. R. 10630, equally applicable to all such institutions.

Page 4, lines 20 and 25, and page 5, line 5:

Section 3 of the bill as it passed the House of Representatives contained three typographical errors in the use of the word "renewal." This has been changed to "renewable."

Section 3 of the bill amends section 16 of the act and authorizes the refund of premiums paid beyond the date of maturity on war risk term insurance. The bureau has always refunded such premiums, but the Comptroller General recently held that the bureau appropriations were not available for such purpose. In view of the fact that no risk attached to the Government for the period covered by these premiums, and that it is the practice of commercial insurance companies under similar circumstances to refund premiums, it is believed that this amendment is proper.

Section 4 of the bill amends section 19 of the act by authorizing the courts, as part of the judgment, to direct the refund of premiums. This amendment, which is in line with the preceding one merely constitutes legislative approval of a practice carried on by the bureau prior to a recent decision of the Comptroller General.

Section 4 of the bill also amends section 19 of the act by extending the time during which suits on insurance contracts may be instituted one year from the date of the approval of the amendatory act. Under existing law, suits may be instituted within six years after the date the right accrued for which the claim is made or prior to May 29, 1929, whichever is the later date. Certain exceptions are made in the statute to protect the interests of minor and incompetent beneficiaries, and the running of the limitation period is suspended for the period elapsing between the filing in the bureau of the claim sued upon, and the denial of said claim by the director. The committee is of the opinion that the further extension of time for filing suit—one year after the passage of this amendatory act—is warranted, in order that no veteran may be deprived of his right to enforce his contract of Government insurance merely because of lapse of time. It was pointed out to the committee by representatives of the ex-service organizations that many men were not familiar with their right to bring suit until after the time limit in the existing law had expired.

Section 4 of the bill also amends section 19 of the act in the following respects:

(1) Authorizes the issuance of subpoenas for witnesses who are required to attend trials and who live at a greater distance than 100

miles from the place where the case is to be tried. This provision is extremely important from the point of view of both the veteran and the Government, as under existing law it is necessary that the testimony of such witnesses be taken by depositions, which is highly unsatisfactory.

(2) Authorizes the payment of regular travel and subsistence allowances to attorneys of the bureau when assigned to assist at the trials of cases, and to employees of the bureau when ordered in writing by the director to appear as witnesses.

(3) Authorizes the director to order part-time and fee-basis employees of the bureau to appear as witnesses in suits against the Government under this section and to pay them in his discretion a fee in an amount not to exceed \$20 a day.

(4) Authorizes official leave for bureau employees subpoenaed to attend trials as witnesses for veteran plaintiffs in suits under this section. At the present time these employees are required in answering subpoenas to take their time on annual leave. This is a hardship of which the committee believes they should be relieved.

(5) A paragraph is added to define the meaning of the term "claim" and the term "disagreement" as used therein. It has for its purpose the establishment of a definite rule that before suit is brought a claimant must make a claim for insurance and prosecute his case on appeal through the appellate agencies of the bureau before he shall have the right to enter suit. Your committee felt that in view of the fact that the Government has set up in the bureau expensive machinery for hearing claims it was unfair for a veteran to disregard this machinery on the basis of the disallowance of his claim by some subordinate board and enter suit.

(6) A savings clause was added at the end to protect the suits already brought, from adverse effect by any amendment included in this section.

Page 9, lines 14 to 18:

Your committee has eliminated from the provisions of section 4 of H. R. 10381, as it passed the House of Representatives, that part which refers to the individual claim of Hal R. Johnson, XC-423904, since that amendment deals specifically with the adjusted-service certificate of the deceased veteran and is not believed to be properly a part of this general legislation. However, for the information of the Senate, under a recent ruling of the Comptroller General the claim can now be paid without amendatory legislation.

Section 5 of the bill adds a subdivision to section 21 to place authority in the director to pay compensation to the person having custody and control of an incompetent or minor beneficiary during the time compensation payments to a guardian may be suspended or withheld under section 21 of the statute as it now stands. At the present time, when the director suspends payments to a guardian, there is no authority to pay any compensation unless the veteran is in a hospital, in which case all or any part of the compensation may be apportioned to his dependents, if any, and also to the medical officer in charge of the hospital for the benefit of the veteran himself under authority of section 202, subdivision (7). Section 23 of the

war-risk insurance act contained a provision similar to the one proposed by this bill, but it was eliminated by the act of June 7, 1924, apparently upon the assumption that these cases would be taken care of by section 202 (7). It has developed, however, that the provision of section 202 (7) is not adequate.

This section also authorizes the reestablishment of the fund known as "fund due incompetent beneficiaries," which was established under section 23 of the war-risk insurance act and into which the bureau has always paid to the credit of an incompetent beneficiary any part of the fund not paid to the chief officer of the institution in which he is an inmate, or apportioned to his dependents under the provisions of section 202 (7). The Comptroller General has ruled, however, that subsequent to June 7, 1924, no legal authority existed for this fund and although he has permitted it to be continued until June 30, 1930, it will be necessary to amend the law to provide therefor subsequent to that date.

This section also provides that in case the incompetent veteran recovers and is found competent, the balance remaining in the fund may be paid to him, or, if he does not recover, to his guardian, or in the event of his death to his personal representative. In case, however, escheat would result upon death of the veteran, it is provided that the escheat shall be to the United States, as will also be the case with any funds derived from compensation or insurance that are in the hands of a guardian, curator, conservator, or other fiduciary at the time of the veteran's death.

Section 6 of the bill proposes to amend section 28 of the World War veterans' act, as amended, to provide that said section, as amended, shall be deemed to be in effect as of June 7, 1924. Section 28 of the World War veterans' act, as amended, authorizes the waiver of recovery of payments from any person, who, in the judgment of the director is without fault on his part, and where, in the judgment of the director such recovery would defeat the purpose of benefits otherwise authorized or would be against equity and good conscience, and further provides that no disbursing officer shall be held liable for any amount paid by him to any person where the recovery of such amount is waived under this section. The last-mentioned provision, relieving the disbursing officers from liability, was inserted in the statute at the second session of the Seventieth Congress on recommendation of the Director of the United States Veterans' Bureau, it having been shown that the Comptroller General of the United States had held that, although recovery might be waived so far as the payee was concerned, the disbursing officer was nevertheless liable under his bond for any erroneous disbursement. Although the committee believed that the language was sufficiently clear and unambiguous to express the intention of Congress that these disbursing officers should no longer be liable for amounts, the recovery of which had been waived prior to the amendments, as well as those which might be waived subsequent thereto, the Comptroller General has ruled that there is no authority to apply this amendment retroactively so as to relieve disbursing officers for disallowances set up against their accounts prior to May 29, 1928. This amendment specifically declaring that section 28, as amended,

shall be deemed to be in effect as of June 7, 1924, is therefore now included at the request of the director of the bureau.

Page 12, lines 3 to 11:

Section 7 of H. R. 10381 as it passed the House of Representatives has been reallocated as section 8 of this bill, and will be explained under that caption. Section 7 of the bill contains new matter proposed by your committee and provides an amendment to section 30 to enable the director of the bureau, under such rules and regulations as he may prescribe, to permit the representatives of ex-service organizations mentioned in section 500 to inspect bureau records. As the members are aware, the provisions in the existing law makes confidential the records of bureau claimants, except in certain instances which are specified in the law. Section 500 of the act, however, authorizes the recognized representatives of the American Red Cross, the American Legion, the Disabled American Veterans of the World War, the Veterans of Foreign Wars, and such other organizations as shall be approved by the director to represent claimants before the bureau, and to be recognized by the bureau in connection with this work. To effectively carry out this responsibility it is believed to be essential that representatives of these organizations be permitted to inspect the bureau records under appropriate regulations, with the understanding, of course, that the information thereby obtained will be kept absolutely confidential and be used only in presenting claims before the bureau.

Section 8 of the bill (page 12, lines 12 to 20) is the same as section 7 of H. R. 10381 as it passed the House of Representatives. This section provides that checks properly issued to beneficiaries which are undelivered for any reason shall be retained in the files of the bureau until such time as delivery may be accomplished or until three full fiscal years have elapsed after the end of the fiscal year in which issued. At the present time these checks are forwarded to the General Accounting Office when they are undelivered and more than three months old. This is in accordance with the established regulations of the Comptroller General. It is believed that this amendment will facilitate the delivery of these checks, as the work of the bureau is now unduly complicated under existing procedure, especially in the supervision of awards to fiduciaries for minors and incompetent beneficiaries. In such cases when the checks are re-mailed by the General Accounting Office, the Bureau receives no notice thereof, unless certification is made to the payee other than the one in whose favor the checks were originally drawn. It will readily be seen therefore, that fiduciaries may receive payments of which the Bureau will have no knowledge and will therefore be unable to require a proper accounting as contemplated by section 21 of the World War veterans' act, as amended.

Page 12, line 21 to line 4 on page 13:

Section 8 of H. R. 10381 as it passed the House has been eliminated. This section provided that the director of the bureau would be authorized to purchase uniforms for all personnel employed as watchmen, elevator operators, and elevator starters in the Arlington

Building, Washington, D. C. It is the opinion of your committee that such legislation is inadvisable unless and until provision is also made for the uniforming of all personnel serving in like capacities in the various Government departments. Accordingly, your committee has not included this provision in the bill herewith submitted

Section 9 adds a section, to be known as section 38, to enable the Secretary of War to accumulate in the city of Washington all medical and service records now scattered throughout the United States in many Army stations. The records are with particular regard to veterans of the World War and are of inestimable value in enabling both the veterans and the Veterans' Bureau to determine if certain allegations made in connection with claims for compensation can be supported by the records, thus eliminating delay and the necessity for much affidavit evidence which must now be furnished in lieu of such records. This section was shown as section 9 in H. R. 10381 as it passed the House of Representatives.

Page 13, line 16, through line 23, page 17 (page 14, line 13, to line 3, page 15; page 15, line 17, to line 10, page 16; page 16, line 14; page 16, line 25; page 17, lines 5 to 7, inclusive).

Section 10 of the bill as it passed the House of Representatives amended section 200 of the act in the following particulars:

1. By providing that compensation should not be denied any applicant therefor by reason of injury, disease, aggravation, or recurrence having been caused by the soldier's own willful misconduct.

2. By providing a presumption of service incurrence or aggravation for disabilities becoming manifest to a 10 per cent degree in accordance with the schedule of disability ratings before January 1, 1930.

3. By providing that the presumptions created shall be conclusive in cases of tuberculosis, paralysis, paresis, blindness, those permanently helpless or permanently bedridden, spinal meningitis, neuropsychiatric disease, paralysis agitans, encephalitis lethargica, a chronic constitutional disease or analogous disease, particularly all diseases enumerated on page 75 of the schedule of disability ratings, or amoebic dysentery.

4. By providing that where service connection is granted solely on the basis of a new presumption of the amendatory act that no compensation should be paid for any period prior to the approval of the act, nor for more than three years after such approval, pending a further study of veterans' relief by the Congress.

5. By providing that nothing contained in the section should be construed to apply to an ex-service man who enlisted or entered the military service subsequent to November 11, 1918.

Under existing law the provision with reference to misconduct is that no compensation shall be paid if the injury, disease, aggravation, or recurrence has been caused by the veteran's own willful misconduct. It is provided, however, that no person suffering from paralysis, paresis, or blindness, nor any person helpless or bedridden as a result of any disability shall be denied compensation by reason

of willful misconduct. The present law also provides a presumption of service origin or aggravation for an ex-service man who is shown to have, or if deceased, to have had, prior to January 1, 1925, neuropsychiatric disease, spinal meningitis, an active tuberculosis disease, paralysis agitans, encephalitis lethargica, or amœbic dysentery developing a 10 per cent degree of disability or more in accordance with the rating schedule of the bureau. This presumption is rebuttable, except in the cases of active tuberculosis disease and spinal meningitis.

Your committee is of the opinion that the language used in H. R. 10381 with reference to misconduct diseases was too broad and would authorize the payment of compensation for self-inflicted wounds. In addition to those cases now covered by the act, this amendment provides that compensation shall not be denied those who incurred a venereal infection prior to discharge from the service during the World War.

Your committee has also changed the phraseology of the first sentence following the misconduct provision as it exists in the present law to clarify the remainder of the section. The word "act" was substituted for the word "section" in the amendment to the World War veterans' act dated July 2, 1926, in order to enable veterans to reinstate insurance under section 304 of the act, and show for that purpose that the disease from which they were suffering at the time of attempted reinstatement was of service origin. It was not intended by the change to enable a veteran in a suit on Government insurance to establish for the purposes of the suit that the disability on account of which the same was based was of service origin. Your committee has been informed that certain courts have so construed this section as it reads in the present law. In order to clarify the matter and show clearly the original intent of the Congress, your committee has therefore changed the word "act" to "section and section 304 of this act," on page 15, lines 2 and 3.

Your committee felt that the amendment adopted by the House with reference to presumption of service origin or aggravation was too broad and that it should be modified so as to presume service origin only in those cases where the ex-service man is shown to have, or, if deceased, to have had prior to January 1, 1930, neuropsychiatric disease, leprosy, spinal meningitis, an active tuberculosis disease, paralysis agitans, encephalitis lethargica, a chronic constitutional disease or analogous disease, particularly all diseases enumerated on page 75 of the schedule of disability ratings of the United States Veterans' Bureau, 1925, or amœbic dysentery, developing a 10 per cent degree of disability or more in accordance with the bureau rating schedule.

The restrictions with reference to retroactive payments, the continuance of payments for only three years, and the requirement that the ex-service man must have enlisted or entered the military or naval service prior to November 12, 1918, have been retained.

Page 18, lines 7 to 9:

Section 11 of the bill as it passed the House of Representatives did not contain any provision changing existing law regarding dependency allowance for fathers and mothers of deceased veterans. Your committee felt that an amendment to subdivision (f) should

be adopted which would provide that where death compensation is payable to a widow and children and there is a dependent mother and father, the total amount payable to the dependent mother and father should not be less than \$20 per month. This amendment is made necessary because the present law provides that while the rate payable for a dependent mother or father is \$20, or both, \$30, the amount payable in such cases shall not exceed the difference between the total amount payable to the widow and children and the sum of \$75. It is possible under the present law that the dependent mother and father may receive nothing because of the fact that the veteran left a widow and several children.

Section 11 of the bill amends section 201, subdivision (f) by providing that the status of dependency shall be determined annually as of the anniversary date of the approval of the award. Subdivision (f) now provides that the status of dependency of a father or mother of a deceased veteran who is receiving dependency compensation, shall be determined as of the first day of each year. The administrative burden placed upon the bureau through the necessity of reviewing all of these cases as of the 1st day of January in each year is so great that the director has recommended that the language be changed to permit the annual review as of the anniversary date of the award. This will spread the reviews throughout the entire year, and not only relieve the burden upon the bureau, but also that upon the dependent parents, especially in those cases where the first award is made toward the end of one calendar year, only to be reviewed, with the submission of such proof as may be required, as of the first of the next calendar year.

Section 11 of the bill also amends section 201, subdivision (1) of the act by authorizing the payment of burial and funeral expenses, and in addition thereto the actual and necessary cost of transportation of the body of the person, including preparation of the body, to the place of burial within the continental limits of the United States, its Territories, or possessions, and including also, in the discretion of the director, the actual necessary cost of transportation of an attendant, where a person dies in a national military home, and authorizes the furnishing of a flag to drape the casket of every deceased veteran of any war.

Section 12 amends subdivisions (3) and (5) of section 202 of the act by providing compensation of \$25 per month, independent of any other compensation that may be payable under the World War veterans' act, 1924, as amended, to any person who suffered the loss of the use of a creative organ or one foot or one hand or both feet or both hands in the active service in line of duty between April 6, 1917, and November 11, 1918, except if the veteran served with the United States military forces in Russia, in which event the time is extended to April 1, 1920. This section also removes the necessity for showing the constant need of a nurse or attendant where claim for a nurse or attendant allowance is made. Your committee felt that these men who suffered a disability in line of duty during the period of actual warfare are entitled to this additional amount. The purpose of the amendment with reference to nurse or attendant allowance is to overcome the bureau interpretation as applied to the pro-

vision in existing law. Under the regulations it is necessary that the claimant be "continuously" as well as "constantly" in need of such service; whereas, as a matter of fact, there are many cases in which the ill claimant for all practical purposes needs the services of either a nurse or attendant to enable him to carry out the medical regimen prescribed for the malady from which he is suffering, and yet it can not be legally held that he needs such assistance "constantly."

Section 13 of the bill amends subdivision (7) of section 202 of the act to provide that in any case where the estate of an insane veteran who has no dependents equals or exceeds \$3,000, further payment of compensation shall be suspended until the estate is reduced below that amount, in which event payment will again be resumed up to \$3,000. The purpose of this amendment is to avoid the building up of large estates for these insane veterans who have no dependent relatives and whose estates will otherwise escheat. The interest of the veteran is fully protected for the reason that in the event he recovers his competency the amount suspended will be paid to him.

Page 25, lines 6 to 18:

Section 13 of H. R. 10381, as it passed the House of Representatives, also provided that the statutory award of \$50 per month should be granted for arrested or cured tuberculosis of service origin whether or not a condition of active tuberculosis was shown to exist either during service or prior to the time limit specified for connecting tuberculosis disabilities with service by presumption. The existing law as interpreted by the Comptroller General requires that the statutory award can be paid only when the veteran is able to show that either during service or within the time limit required for presumptive service connection active tuberculosis existed.

Your committee eliminated this amendment as it was informed by the experts of the bureau that in their opinion this amendment could not be justified. It was pointed out that medical statistics show that at least 75 per cent of the entire population has been infected with tuberculosis, but, due to immunity and physical resistance, the condition does not become disabling in the majority of cases. It is also agreed that unless preceded by a more or less extensive period of activity the condition diagnosed as arrested or cured tuberculosis is not in itself seriously disabling either from a medical or industrial standpoint. When it is considered that thousands of men entered the military service without any notation of these arrested conditions and completed their military service without any adverse effect, it did not seem to your committee that the Government should pay compensation at the rate of \$50 per month to these men for the remainder of their lives. It was felt that such a provision is essentially a pension measure, based upon other than actual disability, and, in view of the fact that the Government to date has not recognized any obligation to pay compensation for disabilities not acquired in the service, it did not seem just to prefer these men over all others, particularly when many of the others are disabled to a far greater extent. The adoption of the amendment would, in reality, be the paying of a bounty of \$50 per month for a diagnosed condition of which the veteran in all probability would never have been aware had it not been for the medical examination in the military service.

Section 13 of the bill also amends subdivision (7) of section 202 of the act by providing that the director shall insert in the schedule of disability ratings a minimum rating of permanent partial 25 per cent for arrested or apparently cured tuberculosis. This provision will not be of particular effect where the only service connected disability is that of active tuberculosis and the veteran is entitled to the statutory award of \$50 per month, since that award is in excess of the 25 per cent rating established by this amendment. If, however, the veteran has in addition to a service-connected tubercular disability another disability of service origin he will be enabled to obtain a combined rating, and in such rating the disability resulting from the service-connected tubercular condition will be evaluated in the degree specified. The combined total disability rating may thus entitle the veteran to an amount in excess of \$50 per month. It is further noted that the medical council of the bureau has advised the director that persons with arrested tuberculosis have a minimum industrial handicap of 25 per cent if such arrested tuberculosis follows a period of activity.

Page 26, lines 3 to 17:

Section 14 of the bill as it passed the House of Representatives did not contain any provision authorizing the hospitalization of contract surgeons who served overseas in the Spanish-American War under the provisions of subdivision (10), section 202, when facilities are available. Under the present law, these persons are not able to obtain such hospitalization as they are not veterans. It came to the attention of your committee that there are a small number of these contract surgeons who are in need of this hospitalization and who served with troops in Cuba, in the Philippines, or in foreign waters during the Spanish-American War, in similar capacities to that of the Regular Army commissioned medical personnel. Accordingly an amendment to the section as contained in H. R. 10381 has been inserted to enable these surgeons to obtain hospital treatment from the bureau if service was rendered overseas during the Spanish-American War and if facilities are available.

Page 26, line 22:

Section 14 of the bill as it passed the House of Representatives amends section 202 of the act by authorizing the payment of compensation at specific rates to the dependents of a World War veteran hospitalized under that section who files an affidavit with the commanding officer of the hospital to the effect that his annual income is less than \$1,000, where the veteran remains in the hospital for a period of 30 days or more. The payments are to commence after the expiration of the 30-day period and to continue during the further period of hospitalization and for two calendar months thereafter. There is no such provision in existing law. Your committee has inserted the words "hereafter where" on line 22, page 26, instead of the word "where" merely for clarification purposes, and to show clearly that payments under this section will not be retroactive.

Section 14 of the bill also amends section 202 of the act by defining the term "Spanish-American War" for the purposes of the section to mean the period between April 21, 1898, and July 4, 1902, and the term "veteran" is deemed to include those persons retired or not dishonorably separated from the active list of the Army or Navy. The purpose of defining the Spanish-American War is to fix the same period for the term Spanish-American War as used in connection with the hospital provisions as is accepted for pensions. The defining of the term "veteran" is for the purpose of overcoming a decision of the Comptroller General to the effect that men on the retired list of the Army and Navy are not veterans of the World War, although they served in the World War, because they have not been separated from the military or naval service.

Page 27, line 21, to line 12 on page 28:

Section 14 of the bill as it passed the House of Representatives authorizes the payment to a veteran hospitalized under the section at the rate of \$8 per month in the event he certifies he is financially in need, unless he is entitled to compensation or pension equal to or in excess of that amount. There is no such provision in existing law. Your committee felt that this amendment is desirable, but believed that, as in the case of payments to dependents of veterans hospitalized under the same section, payments should not begin until after the expiration of 30 days of hospitalization. Unless such limitation is placed in the bill, small amounts would be payable for short periods of hospitalization which would be administratively difficult to handle and would in reality confer no real benefit on the veteran. Therefore your committee has redrafted the entire provision and it now appears on page 28, lines 4 to 12.

Section 15 amends subdivision (15) of section 202, which provides that any person who is now receiving a gratuity or pension from the United States shall not receive compensation under this section unless he shall first surrender all claim to further payments of such gratuity or pension, by providing that where such surrender of pension is made, any disability incurred in the military service of the United States, by reason of which said pension would be payable, shall be evaluated in accordance with the provisions of subdivision (4), section 202, and shall be payable as compensation under this act. Provision is also made for the combining of such rate with other ratings. The purpose of this amendment is to permit a person to receive adequate compensation for all disabilities incurred in the service.

Section 16 of the bill repeals section 206 of the act, which requires the filing of proof in certain cases prior to April 6, 1930.

Section 17 of the bill repeals section 209 of the act, which requires the filing of claims prior to April 6, 1930, in certain cases.

Section 18 amends section 210 of the World War veterans' act, as amended, by the addition of a proviso to the effect that nothing therein shall be construed to permit the payment of compensation

under the World War veterans' act, as amended, for any period prior to June 7, 1924. This amendment is designed to place the stamp of approval on the interpretation of the World War veterans' act, 1924, by the bureau to the effect that in cases first brought within the purview of the statute by the act of June 7, 1924, no compensation could be paid for any period prior to that date.

Section 19 adds two provisos to section 212 of the World War veterans' act, 1924, as amended by adding (1) that where a veteran dies after June 7, 1924, as a result of disease or injury for which he was entitled to compensation by virtue of an accrued right under the war risk insurance act, as amended, his dependents shall be entitled to the compensation provided by section 201 of the act; and (2) that an application for compensation under the provisions of the war risk insurance act, as amended, or the World War veterans' act, 1924, as amended, shall be deemed to be a claim for compensation under all subsequent amendments. In connection with the first of these matters there were a small number of veterans who incurred disabilities between July 2, 1921, and June 7, 1924, and who, under the war risk insurance act as amended August 9, 1921, were entitled to disability compensation. The World War veterans' act, 1924, as amended, however, provides for payment of compensation only where death or disability was incurred between April 6, 1917, and July 2, 1921. Where a veteran of this class died before June 7, 1924, his dependents acquired an accrued right to compensation under the war risk insurance act, as amended, which is payable under the World War veterans' act, 1924, as amended, but in the event the veteran died subsequent to June 7, 1924, although he received disability compensation up to the time of his death by virtue of an accrued right under the war risk insurance act, as amended, his dependents (who acquired no such accrued right) are not entitled to death compensation. It is the opinion of the committee that the widows, children, and dependent parents of these veterans should be entitled to compensation.

The second proviso is designed to overcome the ruling of the Comptroller General to the effect that a claim which has been disallowed under an earlier statute can not be reviewed and paid, under a subsequent amendment bringing the case within the purview of the law, without the filing of a new claim. The bureau has always followed the practice of reviewing these cases without requiring another application, on the theory that section 305 of the war risk insurance act, as amended, and section 205 of the World War veterans' act, 1924, as amended, which authorize the bureau at any time, upon its own motion or upon application, to review disallowed cases, permitted such action. The committee believes the practice of the bureau to be legally sound, administratively advisable, and reasonable from the point of view of both the veteran and the Government.

Section 20 adds a new section to the World War veterans' act, 1924, as amended, to be known as section 214 and to authorize the director, in his discretion, to pay to the dependents of a compensable incompetent veteran who disappears the same amount of compensation as is provided in section 201 of the World War veterans' act,

1924, as amended, for dependents of veterans. When a veteran disappears it is necessary for the bureau to suspend all payments of compensation pending his reappearance or proof of his death. This works great hardship upon the dependents and it is the opinion of the committee that there should be legal authority for paying an allowance to the dependents under such circumstances.

Section 21 proposes a slight amendment to paragraph 3 of section 301 of the statute. This section now provides that where an insured whose yearly renewable term insurance has matured by reason of permanent and total disability is found and declared to be no longer permanently and totally disabled and is required to renew payment of premiums on said term insurance, and this contingency is extended beyond the period during which said yearly renewable term insurance otherwise must be converted, there shall be given an additional period of two years in which to renew payment of premiums and to convert said term insurance. The amendment provides that during the same two years he shall also have the right to reinstate his term insurance should it lapse. There are a number of cases in which the insured has permitted his insurance to lapse either by failure to pay the first premium at the required time or, having once renewed the payment of premiums and before conversion, has permitted the insurance to lapse. In such cases the insured, unless in a state of health which would meet the requirements for direct application for converted insurance under section 310 of the World War veterans' act, as amended, is precluded from carrying Government insurance. This amendment would, within the 2-year period prescribed, permit him to reinstate his old term insurance and convert it under less rigid requirements as to good health. The records of the bureau show that there are at present 100 cases in which insurance has been allowed to lapse after recovery from a disability rated permanent and total, 48 of which lapsed for the nonpayment of the first premium due after the rating, and 52 for the nonpayment of premiums subsequent to the first. In a number of cases the remittance to cover the monthly premium was only a few days late. The fourth paragraph of this section is also amended, the purpose being merely to carry through the entire act the amendment included in section 3 of this bill, which, as explained heretofore, amends section 16 of the World War veterans' act, as amended, to authorize specifically refund of unearned premiums on yearly renewable term insurance.

Section 22 amends section 304 of the World War veterans' act, as amended, by changing the language of the last proviso thereof, which now states that no yearly renewable term insurance shall be reinstated after July 2, 1927, to provide an exception in favor of those who will reinstate term insurance during the 2-year period allowed in section 301 for those who have recovered from permanent and total disability.

Section 23 amends section 307, which relates to the incontestability of insurance contracts. The purpose is to make all contracts or policies of insurance incontestable from date of issuance, reinstatement, or conversion, for all reasons except fraud, nonpayment of premiums, or that the applicant was not a member of the military

or naval forces of the United States. This incontestability would protect contracts where they were not applied for within the time limit required, where the applicant was not in the required state of health, or was permanently and totally disabled prior to the date of application, or for any other reasons except those specifically mentioned in the statute. It is appreciated that this is a broad provision, but it was felt that it was necessary in order to do justice to the veterans, to place this insurance on a parity with commercial insurance companies from a stability standpoint, and to overcome decisions of the Comptroller General which practically nullify the section as it now exists. Further provision is made permitting the insured to elect after a reinstatement or conversion to go back to some prior contract and claim rights thereunder; and if he proves himself entitled to such rights, upon surrender of the latter contract or contracts, to be paid under the prior contract. The purpose is to prohibit the raising of estoppel against the claimant either in or out of the courts because of his reinstatement or conversion of his insurance. Provision is also contained whereby suit may be brought either in the original action, or by alternative plea in the same suit with a subsequent contract or policy. Recovery, however, can only be effected upon one of the contracts or policies. The effect of the present practice of the bureau in raising estoppel is to penalize the man who pays his premiums or tries to continue all or a part of his insurance in force. This amendment is specifically made retroactive in order that in any case where the claim has been heretofore disallowed on the ground of estoppel, or because of the policy not being incontestable, the insured, or the beneficiary under such contract or policy may, if he/she so elects, have the benefit thereof. It is contemplated that payments in cases of contracts or policies incontestable under this section will begin from date of maturity of such contracts or policies.

Section 24 proposes to amend section 311 of the statute, which was added to the law at the last Congress (Public, No. 585, 70th Cong.), and was designed to authorize the director to include in the present United States Government life (converted) insurance policy a clause providing a new maturing factor. This amendment provided that where an insured was totally disabled for a period of 12 consecutive months he should receive disability benefits as if he were permanently and totally disabled, thus authorizing the payment of disability benefits of \$5.75 for each \$1,000 of insurance, the face of the policy being depleted by such payments. Prior to this amendment the man must have been permanently and totally disabled before any disability benefit was payable under his policy. The amendment in the present bill, however, provides for a disability benefit of \$5.75 per \$1,000 upon application of the insured, which, upon the happening of the contingency on which it is based, i. e., total disability for a period of four months or more, shall be paid independent of the present permanent and total disability clause in the policy and shall not deplete the face value of the policy. Payments begin on the first day of the fifth consecutive month. In the event the insured becomes actually permanently and totally disabled within the meaning of the present provision in the converted insurance policy, he

is, under the amendment, to receive payments under the new total disability clause concurrently with the payments under the permanent and total disability clause now in the converted policy, payments under the latter only depleting the face value. This new disability feature is limited to a rate of \$5.75 on each \$1,000 of insurance carried and may be less than the total amount carried, but not more. It is to be handled as a separate liability from the present provision for a permanent and total disability and will be so shown on the records, so that the present United States Government life insurance fund shall not be assessed for any losses to be paid under this provision. This insurance will be paid for by the insured and will not result in any increased cost to the Government except so far as the cost of administration is concerned.

Section 25 has for its purpose the protecting of rights existing under the World War veterans' act, 1924, and amendments thereto in effect prior to the passage of this amendatory act. Your committee was of the opinion that the rights granted by this amendatory bill should be in addition to those previously conferred, and in order that there might be no misunderstanding concerning the intention of Congress this section is included in the bill.

Your committee has also made some slight typographical changes in H. R. 10381, to correct manifest clerical errors. Such changes will be readily apparent.

