

# Calendar No. 321

72D CONGRESS }  
1st Session }

SENATE

{ REPORT  
No. 302

## ATTORNEYS' FEES GROWING OUT OF GOVERNMENTAL INSURANCE POLICIES

FEBRUARY 24, 1932.—Ordered to be printed

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

### REPORT

[To accompany S. 623]

The Committee on Finance, to whom was referred the bill (S. 623) providing for the payment by the Government of attorneys' fees in certain suits growing out of governmental insurance policies issued to service men or ex-service men, having considered the same, report it back to the Senate and recommend that the bill do not pass.

The report of the Veterans' Administration is as follows:

VETERANS' ADMINISTRATION,  
Washington, February 8, 1932.

HON. REED SMOOT,  
Chairman Committee on Finance,  
United States Senate, Washington, D. C.

DEAR SIR: Receipt is acknowledged of your letter of December 17, 1931, with which you forwarded for report a copy of S. 623, Seventy-second Congress, "A bill providing for the payment by the Government of attorneys' fees in certain suits growing out of governmental insurance policies issued to service men or ex-service men."

This bill provides for attorneys' fees in insurance suits under section 19 of the World War veterans' act, as amended, to be fixed by the court, such fee not to be less than 10 per cent nor more than 25 per cent, and said fee to be charged against the United States Government in the event that the decision is adverse to the claim of the Government.

This bill is identical in substance with S. 1826, Seventy-first Congress, on which report was made by this office to your committee on October 24, 1929.

As a result of the amendment of July 3, 1930, to section 19 of the World War veterans' act, 1924, providing that "No suit on yearly renewable term insurance shall be allowed under this section unless the same shall have been brought within six years after the right accrued for which the claim is made or within one year after the date of approval of this amendatory act, whichever is the later date, and no suit on United States Government life (converted) insurance shall be allowed under this section unless the same shall have been brought within six years after the right accrued for which the claim is made, \* \* \*" the number of pending suits filed against the Government has increased to approximately 7,300 and are increasing at the rate of 100 suits per week. Furthermore, approximately 56,000 claims for insurance benefits are pending before the insurance

claims council. It may be conservatively estimated that at least 50 per cent of these claims will eventually develop into suits against the Government.

The assumption by the Government in the event plaintiff is successful in court, of the cost of prosecuting these suits against the Government with a maximum attorney's fee of 25 per cent of the amount recovered, whereas plaintiff's attorneys are allowed under the present law a maximum of only 10 per cent of the amount recovered (deducted from the insurance), would give an additional incentive to the plaintiff's attorneys and particularly those attorneys who have been specializing in this class of litigation and have already become overzealous in soliciting these cases.

In this connection, the estimated possible cost of this legislation can not be accurately determined, but an approximation indicates that the sum of \$1,296,000 would be required for the calendar year 1932. This amount is based upon my opinion that approximately 2,000 suits will be tried during the year 1932 and that in 36 per cent of these suits, or 720 suits, the plaintiffs will be successful, it being assumed that \$10,000 insurance is involved in each suit or a total of \$7,200,000, and that the court will allow an average attorney's fee of 18 per cent of the amount recovered.

It should also be noted that attorneys' fees are likewise payable as to those claims for insurance benefits which have been denied upon which suit is brought and subsequently submitted for administrative review and paid. I believe that at least 200 such claims will be paid during the calendar year 1932, and again assuming that \$10,000 insurance is involved in each suit or a total of \$2,000,000, and an average attorney's fee of 18 per cent is paid, there would be an additional liability of \$360,000 for attorneys' fees under the proposed bill. Furthermore, the courts are inclined to be more liberal in granting attorneys' fees when payable by the Government and experience indicates that only in unusual cases have the courts failed to allow the attorneys the maximum fee when judgment is rendered in favor of the plaintiff.

For the reasons indicated above, I can not recommend this proposed measure to your favorable consideration.

A copy of this letter is inclosed for your use.

Very truly yours,

FRANK T. HINES, *Administrator.*

