

# Calendar No. 330

72D CONGRESS }  
1st Session }

SENATE

{ REPORT  
No. 315

BENJAMIN F. JOHNSON

FEBRUARY 24, 1932.—Ordered to be printed

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

## REPORT

[To accompany S. 2826]

The Committee on Finance, to whom was referred the bill (S. 2826) for the relief of Benjamin F. Johnson, having considered the same, report it back to the Senate and recommend that the bill do not pass. The report of the Administrator of Veterans' Affairs is as follows:

VETERANS' ADMINISTRATION,  
Washington, February 8, 1932.

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

MY DEAR SENATOR SMOOT: This is with further reference to your letter of January 11, 1932, with which you forwarded for report a copy of S. 2826, Seventy-second Congress, a bill for the relief of Benjamin F. Johnson. It seems that this bill is identical in substance with S. 2001, Seventieth Congress, on which a report was made to your committee on February 7, 1928. A tentative reply to your letter of January 11, 1932, was made to you on January 28, 1932.

The bill proposes to authorize the payment of compensation at the rate of \$100 per month to Benjamin F. Johnson (C-1231661) during his lifetime in lieu of the amount he is now receiving.

A recent review of the records of the Veterans' Administration discloses that Benjamin F. Johnson was accepted for general military service on April 25, 1918, with three missing teeth. He was honorably discharged on April 27, 1919, with the following defects recorded: "Psoriasis; existed prior to enlistment; not in line of duty; no per cent disabled." There is no record of any treatment of this claimant during military service.

On October 11, 1921, Mr. Johnson executed application for disability compensation benefits, alleging as his disability "Lungs and back; lungs due to gas."

Examination conducted on October 11, 1921, resulted in a diagnosis of total blindness and psoriasis. X-ray examination does not show any evidence of disease or displacement of the spinal vertebra. The evidence shows that his blindness was due to a blast in a mine where claimant was working subsequent to discharge. On December 10, 1921, the disability of psoriasis was rated as less than 10 per cent from date of discharge and blindness was held as not due to service. Claim for compensation was therefore disallowed.

On August 11, 1924, the claimant was admitted to the United States veterans' hospital, Helena, Mont., for observation and definite diagnosis of lung condition.

He was in this hospital from August 11, 1924, to May 4, 1925, when he was discharged because of absence without leave. As a result of examination conducted while he was in the hospital the respiratory condition was diagnosed as chronic bronchitis, moderately severe, diffuse. No tuberculosis was found. Disability of bronchitis was held as not service connected.

In June, 1925, additional evidence in the form of affidavits was submitted to show service connection for the respiratory disability, and on June 15, 1925, the disability was rated as less than 10 per cent from date of discharge to August 11, 1924; temporary partial, 10 per cent August 11, 1924, to May 4, 1925; temporary partial, 20 per cent from May 4, 1925, connected with service by affidavits in the file. Compensation was awarded to the claimant under this rating in the amount of \$8 a month from August 11, 1924, to May 3, 1925, and \$16 a month from May 4, 1925.

The file was again reviewed on July 10, 1925, and the disability was rated as less than 10 per cent from discharge to August 11, 1924; 10 per cent from August 11, 1924, to November 19, 1924; temporary total from November 19, 1924, to May 4, 1925; and temporary partial 20 per cent from May 4, 1925. Compensation was increased from \$8 to \$80 a month covering the period from November 19, 1924, to May 4, 1925. The disability compensation was subsequently increased to include compensation for dependent mother.

On January 8, 1926, the claimant was hospitalized at United States veterans' hospital, Fort Harrison, Mont., for treatment for respiratory disability, and the rating was increased to temporary total from date of admission to the hospital. Compensation was accordingly increased from \$18 to \$90 a month effective as of that date. On March 26, 1926, he was discharged from the hospital as not in need of further hospital care at that time.

On April 13, 1926, the case file was reviewed by the regional rating board at Helena, Mont., and the disability rated as permanent partial 25 per cent from March 26, 1926. Compensation was reduced to \$25 a month because of this rating. An appeal was taken from the action of the regional rating board and the complete file was considered by section E, central board of appeals, which board rendered a decision on April 22, 1926, to the effect that the disability was properly ratable as temporary partial, less than 10 per cent from March 26, 1926.

On July 27, 1926, the veteran was again hospitalized at the United States Veterans' Hospital, Fort Harrison, Mont., for treatment of the respiratory disability. The disability was rated as temporary total from date of admission to the hospital. On February 25, 1927, he was discharged from the hospital as not in need of further hospitalization at that time. The disability was rated as temporary partial 20 per cent, from February 25, 1927.

The veteran was also hospitalized for the respiratory disability for the periods from December 12, 1927, to February 21, 1928, and from September 11, 1929, to April 19, 1930. On September 12, 1930, he was hospitalized for treatment of hemorrhoids, external, not service connected, and was discharged October 31, 1930, after he had been absent without leave for over seven days.

The rating of the respiratory disability from date of discharge to the present time is shown by the record as follows:

Less than 10 per cent from date of discharge to August 10, 1924.  
Temporary partial, 10 per cent from August 11, 1924, to November 18, 1924.

Temporary total from November 19, 1924, to May 4, 1925.

Temporary partial, 20 per cent from May 5, 1925, to January 7, 1926.

Temporary total from January 8, 1926, to March 26, 1926.

Less than 10 per cent, from March 27, 1926, to July 26, 1926.

Temporary total from July 27, 1926, to February 25, 1927.

Temporary partial, 20 per cent from February 26, 1927, to January 5, 1928.

Temporary total from January 6, 1928, to February 21, 1928.

Temporary partial, 30 per cent from February 22, 1928, to February 20, 1929.

Temporary partial, 53 per cent from February 21, 1929, to October 13, 1929.

Temporary total from October 14, 1929, to April 19, 1930 (hospital).

Temporary partial, 53 per cent from April 20, 1930.

The veteran is now receiving compensation for himself and wife in the amount of \$47.70 per month for the respiratory disability, which is the only service-incurred disability from which he is suffering and which is diagnosed as bron-

chitis, chronic, moderate, and pleurisy, chronic, fibrous, both bases, moderately severe.

As stated above, the veteran is totally blind as the result of an accident in a mine in which he was working after discharge from the military service. According to a report of record from the Montana State vocational agent, the veteran was awarded \$12.50 per week for 400 weeks, then \$5 per week for the rest of his life under the Montana Accident Board. He declined to accept vocational training offered by the State.

Whether or not a special bill should be enacted excepting this claimant from the general provisions of the act is a matter for the Congress to decide. It is the policy of the Veterans' Administration to recommend special legislation only when a legal technicality or administrative error has worked detriment to the person in whose favor legislation is sought. This claimant does not come within either of these exceptions.

The fact that this veteran lost the sight of both eyes in an accident since service gives a pathetic aspect to this case. However, I feel constrained to suggest that it does not seem more meritorious than other cases which have been disallowed and in which it was shown that the veteran claiming additional compensation had lost the sight of both eyes after discharge from service. Sympathetic consideration has been given to this case by the rating officers, and every doubt has been resolved in favor of the veteran, so that it would be possible to give the highest rating consonant with his physical condition.

A copy of this letter is inclosed for your use.

Very truly yours,

FRANK T. HINES, *Administrator.*