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72D CONGRESS
1st Session

SENATE

REPORT
No. 842

ESTATE OF FRANKLIN D. CLARK

JUNE 15 (calendar day, JUNE 20), 1932.—Ordered to be printed

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

REPORT

[To accompany H. R. 927]

The Committee on Finance, to which was referred the bill (H. R. 927) for the relief of the estate of Franklin D. Clark, having considered the same, reports thereon with the recommendation that it do pass.

Following is a copy of the report to the House of Representatives by the Committee on Expenditures in Executive Departments:

[House Report No. 12, Seventy-second Congress, first session]

The Committee on Expenditures in the Executive Departments, to which was referred H. R. 927, a bill for the relief of the estate of Franklin D. Clark, having considered the same, reports thereon with the recommendation that it do pass.

Gen. George H. Wood, president of the Board of Managers of the National Home for Disabled Volunteer Soldiers, withheld undrawn pension money belonging to the late Franklin D. Clark, a Civil War veteran and at the time of his death a member of the Northwestern Branch, amounting to \$1,468, under the authority of the act of July 1, 1902, and a ruling by the Comptroller General, there being no court decision on the question. While this action might be justified by the provisions of the act of July 1, 1902, it would not seem to be justified by the subsequent act of June 25, 1910, which is section 136 of title 24 of the United States Code, and which reads as follows:

"The application of any person for membership in the National Home for Disabled Volunteer Soldiers and the admission of the applicant thereunder shall be and constitute a valid and binding contract between such applicant and the Board of Managers of said home that on the death of said applicant while a member of such home, leaving no heirs at law nor next of kin, all personal property owned by such applicant at the time of his death, including money or choses in action held by him and not disposed of by will, whether such property be the proceeds of pensions or otherwise derived, shall vest in and become the property of said Board of Managers for the sole use and benefit of the post funds of said home, the proceeds to be disposed of and distributed among the several branches as may be ordered by said Board of Managers, and that all personal property of said applicant shall, upon his death, while a member, at once pass to and vest in said Board of Managers, subject to be reclaimed by any legatee or person entitled to take the same by inheritance at any time within five years after the death of

such member. The Board of Managers is directed to so change the form of application for membership as to give reasonable notice of this provision to each applicant, and as to contain the consent of the applicant to accept membership upon the conditions provided in this section."

In the present case it is admitted that the late Franklin D. Clark did leave heirs at law and next of kin and also left a will which was duly probated, and in the opinion of the committee the pension money uncollected by Franklin D. Clark during his lifetime should not have been diverted to the post fund upon his death but should be paid to the duly appointed executor of his will as provided by H. R. 927.

