

Calendar No. 326

72D CONGRESS }
1st Session }

SENATE

} REPORT
No. 311

GRANTING COMPENSATION TO CHARLES A. BUSSARD

FEBRUARY 24, 1932.—Ordered to be printed

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

REPORT

[To accompany S. 1488]

The Committee on Finance, to whom was referred the bill (S. 1488) granting compensation to Charles A. Bussard, 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, January 12, 1932.

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

MY DEAR SENATOR SMOOT: Reference is made to your letter of December 29, 1931, with which you forwarded for report a copy of S. 1488, Seventy-second Congress, "A bill granting compensation to Charles A. Bussard."

This bill proposes to authorize the Director of the United States Veterans' Bureau to place on the compensation roll, subject to the provisions and limitations of the compensation laws, the name of Charles A. Bussard, late captain, Twenty-first Regiment, United States Infantry, and pay him compensation at the rate of \$100 per month.

The records of the Veterans' Administration show that Charles A. Bussard entered the military service on May 6, 1917, and was discharged on December 19, 1918. A report furnished by the Adjutant General of the Army shows that the following defects were noted at the time of his enlistment:

"Physical examination dated May 6, 1917, shows: Weight, 143 pounds; height, 72 inches; chest exhalation, 31 inches; inhalation, 34 inches. Heart and lungs O. K. Slight overriding toes. Slight varicose veins both legs. Slight lateral curvature of spine. Deviated septum. Hyperturbinate, both lower. Flat foot, first degree. Ears retracted. Lower left No. 7 tooth missing. Physical examination dated July 30, 1917, shows weight, 142 pounds; height, 71½ inches; chest exhalation, 30½ inches; inhalation, 34 inches. Nose and throat congested. Slight varicose both. Flat feet, first degree. Missing teeth, lower left 5 and 7. Physical examination dated September, 1917. Flat feet, moderate. No additional medical record found."

The report further shows that the claimant received no treatment while in the service and that no defects were noted at the date of discharge.

On December 11, 1928, he executed an application for compensation, alleging a disability due to pulmonary tuberculosis stated to have begun July 25, 1927. Upon examination he was found to be suffering with the disease which he alleged, but there was no evidence which would connect this disability with the service either directly or through the presumption of service origin. The records indicate that he pursued a gainful occupation until July, 1927. The first medical evidence of the existence of active tuberculosis is a statement from Dr. John Fred Steele to the effect that he found the claimant suffering from a far advanced case of tuberculosis on July 22, 1927. There is also a statement by Dr. H. G. Willard that he treated the claimant in April, 1925, and that he operated on him for appendicitis. This doctor is of the opinion that he was suffering from pulmonary tuberculosis at such time, based on subsequent history. There are also affidavits executed by Helen H. Bussard, the claimant's wife, F. D. Hill, and Ella May Hill, the parents of Helen H. Bussard, to the effect that claimant suffered from lack of sleep, loss of weight, and strength from a time shortly after his discharge to the time he was finally confined to the hospital with tuberculosis. This evidence is not, however, sufficient to bring the disease within the service connection clause of the statu.

While in the service claimant applied for and was granted war-risk insurance in the amount of \$10,000, which lapsed for nonpayment of premium due April 1, 1926. A suit against the United States alleging permanent and total disability because of active pulmonary tuberculosis as of April 1, 1926, was filed by Mr. Bussard in the United States District Court, Western District of Washington, Southern Division, in 1929, but was dismissed on motion of the plaintiff on June 14, 1930.

On December 17, 1930, an award in his favor was approved by the Veterans' Administration for payments of disability allowance in the amount of \$40 per month for permanent total disability on account of tuberculosis, chronic pulmonary, far advanced, active. The award was made effective from August 15, 1930, the date of application therefor. It was also held at the same time that he was not permanently and totally disabled for insurance purposes.

Should the committee give further consideration to this bill, it is suggested that the words "Director of the United States Veterans' Bureau" be changed to "Administrator of Veterans' Affairs."

It is believed that the committee will be able to judge for itself from the above report the merits of the bill and the propriety of its passage.

I wish to suggest that it does not appear from the facts of record that this claim has greater merit than many others that have been disallowed for the reason that the claimant could not establish service connection of his tubercular disability, either by showing direct connection or by presumptive service connection under the liberal provisions of section 200, World War veterans' act, as amended. As you know, that section permits a presumption of service connection if the tubercular disability can be shown to have existed to a degree of 10 per cent prior to January 1, 1925. The award of \$40 per month now being paid to this claimant is the maximum that can be paid as disability allowance for a disability that is not service connected under section 200, World War veterans' act, as amended July 3, 1930.

A copy of this letter is inclosed for your use.

Very truly yours,

FRANK T. HINES, *Administrator.*

