

Calendar No. 301

72D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 283 }

LYDA F. FOSTER

FEBRUARY 24, 1932.—Ordered to be printed

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

REPORT

[To accompany S. 1156]

The Committee on Finance, to whom was referred the bill (S. 1156) for the relief of Lyda F. Foster, having considered the same, report it back to the Senate and recommend that the bill do not pass.

This bill calls for the payment of a war-risk insurance policy which had lapsed for nonpayment of premiums.

The report of the Veterans' Administration is as follows:

VETERANS' ADMINISTRATION,
Washington, January 15, 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, forwarding for report a copy of S. 1156, Seventy-second Congress, "A bill for the relief of Lyda F. Foster."

The bill proposes that Lyda F. Foster, the beneficiary designated in the war-risk insurance policy of Noble T. Foster (C-542923), be paid the sum of \$4,000 in the same manner and with the same effect as if said insurance had been in full force and effect on the date of the death of the said Noble T. Foster.

The records of this administration disclose that Noble T. Foster enlisted in the military service on June 20, 1917, and that he was discharged on February 13, 1919. The physical defects noted at the time of enlistment are eyes 20/20 with glasses, and one missing tooth. The physical defects shown at discharge are "bronchial asthma, incurred November 23, 1918, complete recovery, no per cent disabled."

On November 17, 1920, he executed application for compensation benefits, alleging as his disability broken foot and defective hearing. An examination made on November 18, 1920, resulted in a diagnosis of astigmatism; deformity of the nose and amygdalitis chronic. The findings on this examination show the extremities normal, except tenderness in instep of left foot. The X ray shows no evidence of any injury or disease of the bones of the left foot; ears normal. On February 12, 1921, it was held that the claimant was not shown to be suffering from a compensable degree of disability connected with the service. Accordingly claim for disability compensation was disallowed.

On October 15, 1917, Mr. Foster made application for war-risk insurance in the amount of \$10,000, designating as beneficiary thereof his wife, Emily Foster, and as alternate beneficiary his mother, Mrs. Lyda F. Foster. On August 28,

1918, while still in the service, he executed a change of beneficiary on \$5,000 from his wife to his mother, thereby making the wife beneficiary for \$5,000 and the mother beneficiary for \$5,000. This insurance lapsed for nonpayment of premiums due November 1, 1919. On July 16, 1920, the veteran executed application for the reinstatement of \$5,000 term insurance and this insurance was reinstated, effective August 1, 1920. Premiums on the \$5,000 term insurance were paid to include April, 1924. Effective May 1, 1924, he converted \$1,000 of the term insurance to a 20-year endowment policy, designating as beneficiary thereof his wife, Emily Foster. The remaining \$4,000 term insurance was continued in force. In July, 1925, the beneficiary of both the converted insurance policy and the term insurance policy was changed from wife to mother. The term insurance lapsed on account of nonpayment of premiums due February 1, 1927. Premiums on the converted insurance were paid to include April, 1927. The insured died on April 3, 1927, cause of death on the death certificate being shown as "broncho pneumonia." The converted insurance was paid in a lump sum to the designated beneficiary.

The complete file was reviewed with a view to determining whether or not the insured was permanently and totally disabled prior to the date of death, and whether or not he was suffering from a compensable degree of disability connected with service, during his lifetime. On June 27, 1927, a decision was rendered holding that the veteran was not shown to be suffering from a service connected disability of a compensable degree, and that he was not shown to have been permanently and totally disabled prior to the date of his death. Inasmuch as the term insurance had lapsed prior to the maturity of the policy, such insurance benefits are not payable under existing legislation.

Whether or not a special bill should be enacted to pay the insurance in this case even though it had lapsed for nonpayment of premiums is a matter for the Congress in its discretion 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 special legislation is sought. This claimant does not come within either of these exceptions.

It seems that this bill is identical in purpose with S. 2223, Seventieth Congress and S. 2236, Seventy-first Congress, on which reports were made to your committee on January 27, 1928, and May 16, 1929.

A copy of this letter is inclosed for your use.

Very truly yours,

FRANK T. HINES, *Administrator.*

○