

PROHIBITING SEVERANCE OF SERVICE CONNECTION AFTER 10 YEARS

MAY 19, 1960.—Ordered to be printed

Mr. BYRD of Virginia, from the Committee on Finance, submitted the following

R E P O R T

[To accompany H.R. 113]

The Committee on Finance, to whom was referred the bill (H.R. 113) to prohibit the severance of service connection which has been in effect for 10 or more years, except under certain limited conditions, having considered the same, report favorably thereon without amendment, and recommend that the bill do pass.

GENERAL EXPLANATION

H.R. 113 prohibits the severance of any service connection which has been granted under title 38, United States Code, and which has been in effect for 10 or more years, unless it is shown that there was fraud or that the veteran did not have the requisite service or character of discharge. It is effective from January 1, 1962.

It should be pointed out that this bill merely freezes the determination of service connection, that is to say the finding by the Veterans' Administration that the disability was incurred or aggravated by military service. It does not freeze the percentage rating which represents the degree of the disability and governs the amount of compensation payable therefor. Thus a veteran with a disability rating of 10 percent may later be medically determined to be 80-percent disabled and have his rating and compensation increased accordingly. Likewise, a rating and amount of compensation payable could be reduced as the degree of disability declined.

The following excerpt from the report of the House Committee on Veterans' Affairs gives the background data relating to this bill:

Hearings on this subject were held before the Subcommittee on Compensation and Pension and all of the veterans' organizations urged the enactment of this type of legislation.

Beginning in 1954, the Veterans' Administration undertook a comprehensive review of all service-connected cases and has as of this date, reviewed approximately 1,200,000 cases, severed 21,500 cases, increased the ratings in 9,551 cases, and decreased ratings in 71,125 cases—resulting in a net reduction in cost of \$1,800,000. This review is scheduled to be completed by July 1, 1961, and obviously there would be necessity for several months of "cleanup" to be done following the completion. It is for that reason that the effective date of January 1, 1962, was selected.

In testimony before the subcommittee on this legislation, the Chief Benefits Director of the Veterans' Administration indicated that if legislation of this type is made effective January 1, 1962, it would be more acceptable to the Veterans' Administration, from an operating standpoint.

No estimate can be made of any additional cost which would accrue from enactment of this legislation.

DEPARTMENTAL REPORT

VETERANS' ADMINISTRATION,
OFFICE OF THE ADMINISTRATOR OF
VETERANS' AFFAIRS,
Washington, D.C., May 19, 1960.

Hon. HARRY F. BYRD,
*Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.*

DEAR SENATOR BYRD: The following report on H.R. 113, 86th Congress, is submitted as requested.

The bill, if enacted, would prohibit the severance, on or after January 1, 1962, of service connection for any disability or death granted under title 38, United States Code, which has been in force for 10 or more years, unless fraud is shown or the military records reveal that the person concerned did not have the requisite service or character of discharge.

The size of the Veterans' Administration compensation program (over 2,400,000 active cases presently on the rolls) makes it inevitable that in the application of the numerous provisions of law and regulations to the cases considered service connection will be erroneously authorized on occasion. Errors in adjudication may arise from misinterpretation or misapplication of the law or facts. Under existing law the Veterans' Administration has the authority to correct clear and unmistakable errors, unless there is involved a 20-year total rating protected under section 110 of title 38. That section provides that a rating of total disability or permanent total disability which has been made for compensation, pension, or insurance purposes under laws administered by the Veterans' Administration, and which has been continuously in force for 20 or more years, shall not be reduced thereafter, except upon a showing that such rating was based on fraud.

Under existing procedure, service connection once granted is not severed unless it is shown to have resulted from clear and unmistakable error. The bill would require the perpetuation of such error if it were not discovered until the lapse of 10 or more years after service

connection of the disability. The mere fact that a veteran has enjoyed benefits for 10 or more years to which he had no entitlement does not appear to be a valid reason for imposing on the Government the burden of continuing such benefits throughout his lifetime and for granting benefits to his surviving dependents.

For the reasons noted we cannot as a matter of principle recommend favorable consideration of the bill by your committee. However, the amendments adopted by the House of Representatives do remove those features of the original bill which were particularly objectionable from an administrative standpoint.

The Veterans' Administration does not have adequate data on which to accurately estimate the cost of the bill, if enacted.

The Bureau of the Budget advises that there is no objection to the submission of this report to the committee.

Sincerely,

BRADFORD MORSE,
Deputy Administrator
 (For and in the absence of
 Sumner G. Whittier, Administrator).

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italic; existing law in which no change is proposed is shown in roman):

§ 359. *Protection of service connection*

Service connection for any disability or death granted under this title which has been in force for ten or more years shall not be severed on or after January 1, 1962, except upon a showing that the original grant of service connection was based on fraud or it is clearly shown from military records that the person concerned did not have the requisite service or character of discharge.

○