

VETERANS' LEGISLATION

HEARING
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
SEVENTY-FIFTH CONGRESS
FIRST SESSION
ON
BILLS AND RESOLUTIONS RELATIVE TO
VETERANS' LEGISLATION

MARCH 16, 1937

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VETERANS' LEGISLATION

TUESDAY, MARCH 16, 1937

UNITED STATES SENATE,
SUBCOMMITTEE ON VETERANS' LEGISLATION OF THE
COMMITTEE ON FINANCE,
Washington, D. C.

The subcommittee met, pursuant to call, at 10 a. m., in the Finance Committee room, Senate Office Building, Senator Walter F. George presiding.

Present: Senators George (chairman), LaFollette, and Capper.

Also present: James T. Brady, Solicitor, Veterans' Administration.

(The subcommittee met for the purpose of considering bills on the calendar.)

Senator GEORGE. The committee will come to order. The first bill on the calendar is S. 37, a bill for the relief of Lindsley M. Brown. A report has been received from the Veterans' Administration. If there is anything additional that the Administration wishes to say, or anyone else wishes to say on these special bills as they are called, if you will indicate it we will be glad to have it entered into the record. This bill will be referred to the member of the subcommittee who will give special consideration to it.

Mr. BRADY. Mr. Chairman, I just wanted to inform you and the committee, that General Hines indicated he will be glad to come before the committee any time you desire to call him in connection with any of these bills. On most of those that you have on your calendar I believe we have submitted a report and that furnishes to the committee full information concerning the merits and facts of the bill, but we will be prepared to attempt to answer any questions that the committee may ask.

Senator GEORGE. The report made by the Bureau on S. 37 will be entered in the record. If there are any additional facts that might be placed in the record, the committee will be glad to receive them.

(The report on S. 37 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 17, 1937.

Hon. PAT HARRISON,
Chairman, Committee on Finance, United States Senate,
Washington, D. C.

MY DEAR SENATOR HARRISON: This is in further response to your request of January 11, 1937, for a report on S. 37, Seventy-fifth Congress, "A bill for the relief of Lindsley M. Brown", which provides:

"That the Administrator of Veterans' Affairs be, and he is hereby, authorized and directed to place on the retired roll, under the provisions of the Emergency Officers' Retirement Act, Lindsley M. Brown, late of the United States Army, and to pay him retirement pay at the rate provided for in the Emergency Officers' Retirement Act for officers of similar condition and grade."

The records of the Veterans' Administration disclose that Lindsley M. Brown was commissioned in the United States Army on November 27, 1917, and discharged with the rank of major on December 31, 1920.

The veteran's disabilities, neurasthenia, chronic bronchitis, mild and multiple lipomatosis, have been rated for compensation purposes as follows: Temporary partial 19 percent from date of discharge to December 22, 1925; temporary partial 36 percent from December 22, 1925, to June 8, 1928; permanent partial 36 percent from July 1, 1933, to April 11, 1935, and permanent partial 56 percent from April 12, 1935. Disability compensation payments in the amount of \$56 per month are being paid under the last rating.

The veteran applied for emergency officers' retirement benefits under the provisions of the Retirement Act of May 24, 1928, and received retirement pay from June 9, 1928, to June 30, 1933.

The case was reviewed under section 10, Public, No. 2, Seventy-third Congress, and Veterans' Regulation No. 5 approved March 31, 1933, on April 11, 1933, when it was held that the former officer is not entitled to continue to receive retirement pay as the disabilities for which he was retired with pay are not shown to have directly resulted from the performance of actual military or naval duty during the World War. The veteran entered an appeal from this decision and on June 29, 1935, the Board of Veterans' Appeals rendered a decision holding that the evidence in this case does not establish entitlement to retirement pay.

Undoubtedly there are other veterans who sustained injury or disease under similar circumstances but to whom similar benefits must be denied under present legislation. Consequently, there appear to be no reasons why retirement benefits should be conferred upon Mr. Brown while other veterans whose cases present equal or greater merit are denied such benefits.

In view of the foregoing the Veterans' Administration cannot recommend the proposed measure to the favorable consideration of your committee.

A similar report was furnished your committee March 31, 1936, on S. 4290, Seventy-fourth Congress, which bill was identical with S. 37, Seventy-fifth Congress.

Very truly yours,

(Signed) FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 124 by Mr. Robinson, to restore the right to compensation to Roberta K. Dillon. The Administration has reported upon that bill and that report will be entered in the record and special reference made to a subcommittee of the subcommittee.

(The report on S. 124 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 1, 1937.

HON. PAT HARRISON,

Chairman, Committee on Finance,

United States Senate, Washington, D. C.

MY DEAR SENATOR HARRISON: This is in further response to your request of January 11, 1937, for a report on S. 124, Seventy-fifth Congress, "A bill to restore the right to compensation to Roberta K. Dillon."

This bill would provide that "notwithstanding the provisions of section 210 of the World War Veterans' Act of 1924, as amended, the Administrator of Veterans' Affairs is hereby authorized and directed to pay to Roberta K. Dillon from the 4th day of January 1927, the date of her divorce from her second husband, the sum of \$40, the amount she received prior to her second marriage as compensation on account of the death of Stephen E. Dillon, a World War veteran."

The language of the bill does not seem sufficient to accomplish the purpose intended. It is identical with S. 4184, Seventy-second Congress, and S. 2276, Seventy-third Congress, the former having been introduced in 1932 at a time when section 210 of the World War Veterans' Act, 1924, as amended, placed a limitation upon the retroactive payment of compensation. The enactment of Public, No. 2, and the limitations of the regulations promulgated have interposed other limitations upon the payment of compensation to remarried widows and upon retroactive payments. Therefore, if your committee should wish to give further consideration to this proposed measure, it is suggested that it be revised in the light of existing laws and regulations.

The records of the Veterans' Administration show that Stephen E. Dillon, lieutenant, United States Navy, enlisted June 10, 1913, and died in the service on November 1, 1920, as the result of an injury received in line of duty.

Effective November 2, 1920, an award of death compensation was approved in favor of his widow, Roberta Kennedy Dillon, at the rate of \$35 per month for herself and one child, Virginia Vaughan Dillon. The award was increased from \$35 to \$40 per month, effective June 7, 1924, under the World War Veterans' Act.

She was also awarded \$57.50 per month, effective November 2, 1920, as beneficiary of the War Risk Term Insurance.

The death compensation award to the widow was discontinued, effective September 19, 1924, by reason of her remarriage on September 20, 1924. Effective September 20, 1924, payments in behalf of the child were continued to the mother as guardian at the rate of \$20 per month and such payment will continue until November 4, 1937, when the child will attain the age of 18 years. If she attends an approved school, payments may be continued until the age of 21 years.

On January 4, 1927, a decree of divorce was granted, dissolving the bonds of matrimony existing between Roberta Kennedy Sweeney and John Martin Sweeney, Jr., restoring to the plaintiff her former name of Roberta Kennedy Dillon.

On October 4, 1932, Mrs. Roberta Kennedy Dillon married W. B. Latta, at Wichita, Kans., her present name being Roberta Kennedy Latta instead of Roberta Kennedy Dillon, as shown in the attached bill.

Payment of pension is barred to her under existing laws by Veterans Regulation No. 2 (a), part I, paragraph IV (a), which provides that pension payable to a widow shall continue until death or remarriage, and that where pension is properly discontinued by reason of remarriage, it shall not thereafter be recommenced.

In view of the fact that the widow has remarried since her divorce from Mr. Sweeney, it is probable that your committee will give no further consideration to this proposed measure. Even though she were not married at this time, it does not appear that the facts in her case present any singular reason for extending to her rights that are denied to all other widows under similar circumstances.

This bill is identical with S. 649, Seventy-fourth Congress, first session, on which a report was made to your committee by letter dated February 6, 1935.

For the reasons stated above, it is the opinion of the Veterans' Administration that favorable consideration of the proposed measure should not be given.

Very truly yours,

(Signed) FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 322, by Senator Hatch, to amend section 3 of the Adjusted Compensation Payment Act of 1936. That is a general bill, and a report has been received from the Administration. S. 322 will be referred to Senator Walsh, Senator Barkley, and Senator La Follette for consideration. It is a general bill. The report on this bill will be entered in the record.

(The report on S. 322 is as follows:)

VETERANS' ADMINISTRATION,
Washington, March 5, 1937.

Hon. PAT HARRISON,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further reference to your letter of January 8, 1937, requesting a report on S. 322, a bill to amend section 3 of the Adjusted Compensation Payment Act, 1936.

This bill, if enacted into law, would provide that section 3 of the Adjusted Compensation Payment Act, 1936, be amended by adding the following paragraph:

(e) That notwithstanding any provisions of Public Law Numbered 120, Sixty-eighth Congress, and the rules and regulations issued pursuant thereto, if at the time this Act takes effect a veteran has died before making application for an adjusted-service certificate under section 302 of such law, as amended, the dependents of such deceased veteran, in the order of preference named in section 601, of such law, as amended, shall be entitled to receive, upon application made under section 604 of such law, as amended, at their option, under such rules and

regulations as the Administrator may prescribe, either the certificate to which such veteran would have been entitled had he made application therefor on or before January 1, 1925, or payment of such amount under this act: *Provided*, That the face of such certificate or the amount of the payment under the provisions of this Act, as the case may be, shall be reduced by any amount heretofore received under the provisions of section 601 of such law."

The date of issue of the certificates or the date upon which the amount of payment to be made is calculated is not definitely stated. However, it is apparently the intent of the bill to provide that January 1, 1925, shall be the date upon which the computations shall be based to fix the date of issue of the certificate. It is recommended that this portion of the bill be amended to contain a definite provision fixing this date in the law. This is essential in view of the fact that the face value of an adjusted-service certificate represents the amount in dollars of 20-year endowment insurance that the amount of his adjusted-service credit increased by 25 percent would purchase, at his age on his birthday nearest the date of the certificate, if applied as a net single premium, calculated in accordance with accepted actuarial principles and based upon the American Experience Table of Mortality and interest at 4 percent per annum, compounded annually.

Under the World War Adjusted Compensation Act, as amended, the dependents of veterans who died in the service during the World War or subsequent thereto and prior to May 19, 1924, the date of enactment of the World War Adjusted Compensation Act, are entitled only to the amount of the adjusted-service credit of the veteran, whereas the designated beneficiaries of veterans who died subsequent to May 19, 1924, after having made application for the benefits of the act, are paid the face value of the certificate issued to the veteran. As you know, the adjusted-service credit of a veteran is computed by allowing \$1.25 for each day of overseas service and \$1 for each day of home service, total credit for overseas service not to exceed \$625 and the total credit for home service not to exceed \$500. The face value of the adjusted-service certificate is a sum which equals the amount in dollars of 20-year endowment insurance which the amount of adjusted-service credit increased by 25 percent would purchase if applied as a net single premium, at the age of the veteran, calculated in accordance with actuarial principles based upon the American Experience Table of Mortality and interest at 4 percent per annum compounded annually. There is, of course, a great difference in the amount of benefits payable in the two classes of cases. The widow of a veteran who died between May 19, 1924, and July 1, 1924, without having made application is allowed the amount that she would have been entitled to had the veteran made application and designated her as beneficiary. This provision which was made by an amendment of July 3, 1926, is founded on the fact that it was July 1, 1924, before the Government departments concerned in the administration of the act had issued the necessary application blanks and were prepared to receive the applications.

It is estimated the enactment of this measure would cause additional expenditures totalling \$70,870,926.58.

The enactment of this bill would inject at this late date an entirely new theory into the law covering the payment of adjusted-service credit to dependents. As of December 31, 1936, awards under the World War Adjusted Compensation Act, as amended, have been made in 128,979 cases to dependents of veterans who were entitled to \$50 or more representing a total of \$44,182,700. The proposed measure would require the reopening of such claims upon receipt of application and the payment of the difference between the amount already paid and the face value of the certificate in each case. In addition to the number of cases upon which awards have been made it is estimated that awards will be made in the future on 2,189 additional cases, representing a total amount of service credit of \$737,789 under the provisions of existing law.

Favorable consideration of the measure is not recommended.

This bill is identical with S. 4683, Seventy-fourth Congress, on which a similar report was furnished your committee on June 18, 1936.

Very truly yours,

(Signed) FRANK T. HINES, Administrator.

Senator GEORGE. The next bill is S. 362 by Senator Nye, a bill for the relief of Erick Keck. Without objection, the report from the Administration will be entered in the record and reference made to a subcommittee of one for consideration and report.

(The report on S. 362 is as follows:)

VETERANS' ADMINISTRATION,
Washington, January 28, 1937.

HON. PAT HARRISON,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.

MY DEAR SENATOR HARRISON: This is in further reference to your letter of January 11, 1937, requesting a report on S. 362, Seventy-fifth Congress, "A bill for the relief of Erick Keck."

This bill would authorize the Administrator of Veterans' Affairs to extend the benefits of title 1 of Public, No. 2, Seventy-third Congress, March 20, 1933, as amended and supplemented, to Mr. Erick Keck in the same manner and to the same extent as if his disability were connected with the service during the World War.

The records of the Veterans' Administration disclose that this veteran entered military service August 26, 1918, and was discharged February 27, 1919. An examination at enlistment disclosed one missing tooth and the vision of both eyes tested 20/30. An examination by the draft board disclosed an ichuosis on legs, left varicocele, feet slightly flat but not weak, both eyes tested 20/30, one tooth was missing, and there was some bronchitis. The records of the War Department show no treatment for any condition during service and no physical defects were noted at the time of the veteran's discharge.

The last examination was conducted in August 1932, and the report contains diagnoses of (1) arthritis, chronic, mild, back, sacroiliac, both knees and ankles becoming quiescent; (2) astigmatism hyperopic; (3) varicocele, left, slight, non-symptomatic; (4) prostatitis, chronic, mild, quiescent; and (5) hemorrhoids, mild. The veteran filed an application for disability-compensation benefits under legislation in effect prior to March 20, 1933, and for pension benefits under Public, No. 2, Seventy-third Congress. It is his particular contention that arthritis is the result of his military service. The applications filed have been consistently denied by Administration rating agencies, the last denial being by the Rating Board of the Veterans' Administration Facility located at Fargo, N. Dak., on November 7, 1935.

This veteran filed an application for disability-allowance benefits on January 27, 1931. Disability-allowance benefits at the rate of \$12 per month were authorized from the date of claim through June 30, 1933, it being held the veteran was disabled to a degree of permanent partial 25 percent on account of chronic prostatitis. Such payments were, of course, automatically stopped on the passage of Public, No. 2, Seventy-third Congress, the veteran being disabled to a degree of less than permanent and total. No pension is payable to World War veterans on account of disabilities not connected with the service unless such disabilities are permanent and total.

In the opinion of the Veterans' Administration there are no circumstances indicated in this case that would warrant an arbitrary ruling that this veteran has a disability caused by his military service. This case is no more meritorious than the claims of numerous other veterans which have been denied because the evidence is insufficient to show that the disabilities were caused by service. It is the consistently followed policy of the Veterans' Administration to refrain from recommending favorable action on special bills except where legal technicality or administrative error has worked to the detriment of the person in whose behalf the legislation is sought. Therefore this Administration cannot recommend favorable action by your committee.

S. 362 is identical with S. 2522, Seventy-fourth Congress, on which similar report was furnished your committee under date of April 22, 1935.

Very truly yours,

(Signed) FRANK T. HINES, Administrator.

Senator GEORGE. The next is S. 380, a general bill by Senator Steiwer, to amend section 6 of title I of the act entitled "An act to maintain the credit of the United States Government," approved March 20, 1933, as amended.

That bill has been referred to four separate departments, the Veterans' Administration, Treasury Department, War Department and Navy Department, and reports have not as yet been received.

Mr. BRADY. What is the number of that bill, please, Senator, to which you are now referring?

Senator GEORGE. S. 380.

Senator LA FOLLETTE. Have you reported on that as yet?

Mr. BRADY. We have reported on that, Senator, for the Veterans' Administration.

Senator LA FOLLETTE. May I suggest that that report be incorporated in the record?

Senator GEORGE. The clerk says it has not been received. If you have a copy available that will be entered in the record.

Mr. BRADY. We have, Senator.

Senator GEORGE. Without objection that report will be entered in the record also and a special subcommittee will consider that bill as soon as the other reports are received. I will designate Senator Barkley, Senator Connally and Senator Capper as a subcommittee to consider that bill.

(The Veterans' Administration subsequently advised that the report on S. 380 would be delayed in reaching the committee.)

The next is S. 423, a bill introduced by the chairman, providing for continuing retirement pay, under certain conditions, of officers and former officers of the Army, Navy, and Marine Corps, and so forth. The report from the Bureau has been received on that bill, has it?

Mr. BRADY. The report has been submitted to the committee.

Senator GEORGE. Without referring that to a subcommittee we will allow it to remain on the calendar. There was a request not to take the matter up for consideration today by one of the veterans' organizations. The report will be entered in the record.

(The report on S. 423 is as follows:)

FEBRUARY 24, 1937.

HON. PAT HARRISON,

*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further response to your request of January 9, 1937, for a report on S. 423, Seventy-fifth Congress, "A bill providing for continuing retirement pay, under certain conditions, of officers and former officers of the Army, Navy, and Marine Corps of the United States, who incurred physical disability while in the service of the United States during the World War."

This bill provides:

"That, notwithstanding the provisions of any law of the United States, any person who served as an officer of the Army, Navy, or Marine Corps of the United States during the World War, or other than as an officer of the Regular Army, Navy, or Marine Corps during the World War, who made valid application for retirement under the provisions of Public Law Numbered 508, Seventieth Congress, enacted May 24, 1928 (U. S. C., Supp. VII, title 38, secs. 581 and 582), and who prior to the passage of this Act has been granted retirement with pay, shall be entitled to continue to receive retirement pay at the monthly rate paid him on March 19, 1933, if the disability for which he has been retired resulted from disease or injury or aggravation of a preexisting disease or injury incurred in such service and directly resulting from the performance of duty: *Provided*, That such person entered active service between April 6, 1917, and November 11, 1918, and served as an officer prior to July 2, 1921: *Provided further*, That where the disability is now or hereafter determined to be directly service connected, without benefit of statutory presumption of soundness or service connection, it will be considered to have directly resulted from performance of duty unless otherwise shown by official record, or clear and unmistakable evidence."

The last proviso materially changes the present definition of the terms "directly resulting from the performance of duty." It makes direct service-connection synonymous with "directly resulting from the performance of duty" when such direct service-connection is granted without benefit of statutory presumption,

except when a different conclusion is warranted upon the basis of official record or upon a showing of clear and unmistakable evidence.

Another material change occurs in line 12 of page 2. This change eliminates the requirement of the present law that the emergency officer must have been commissioned prior to November 11, 1918, and extends this date to July 2, 1921. It would also permit of the payment of claims wherein the disability was incurred in an enlistment or commission which did not commence until after November 11, 1918.

It is estimated that approximately 3,194 emergency officers who are not now on the rolls would be entitled to retirement pay at an additional annual cost of approximately \$3,696,000. If these payments were made effective as of June 30, 1933, the retroactive cost would approximate \$12,937,000 or a total cost for the first year of approximately \$16,633,000.

In making the estimate of cost of this bill, the presumptive cases which were found at the time of the review are not included in those which would be entitled. This Administration is unable to estimate any possible reduction in the above statement as a result of adding the phrase "clear and unmistakable evidence" on line 17, page 2 of the bill.

It is believed that the provisions of the present law are sufficiently liberal with reference to the retirement of emergency officers and adequately provides for a group on account of whom Congress originally intended to extend this benefit. There were, as of January 30, 1937, 1,852 officers entitled to receive retirement pay under the provisions of existing law. No reason is apparent for the enlargement of the class or liberalization of the criteria now in effect.

Information has been received from the Acting Director, Bureau of the Budget, that the proposed legislation would not be in accord with the program of the President.

It is, therefore, the recommendation of this Administration that the proposed measure be not favorably considered by your committee.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 611, by Senator McNary, for Senator Johnson of California. That is a bill to amend the act entitled "An Act to safeguard the estates of veterans," and so forth. The bill has been referred to the Veterans' Administration, Treasury Department, War Department, and Navy Department, and the Clerk advises me that no reports have been received from any of the departments.

Mr. BRADY. Our report has been submitted to the Budget, Senator, and is on its way through and ought to be with the committee in the course of the next few days.

Senator GEORGE. Until those reports are received it will not be referred to any special subcommittee.

The next is a special bill by Senator Maloney, S. 747, for the relief of Lt. William J. Wholean. We have a report from the Veterans' Administration. Without objection that report will be entered in the record, and anything additional that is desired by the proponent of the bill or by the Bureau. Let that bill be referred to one Senator as a subcommittee.

(The report on S. 747 is as follows:)

VETERANS ADMINISTRATION,
Washington, February 12, 1937.

Hon. PAT HARRISON,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further response to your request for a report on S. 747, 75th Congress, "A bill for the relief of Lieut. William J. Wholean".

This bill would provide "That, notwithstanding the provisions of section 2 of the Emergency Officers' Retirement Act of May 24, 1928, as amended, or any other provision of law or regulation to the contrary, the Administrator of Veterans' Affairs is hereby authorized and directed to consider and adjudicate the claim of William J. Wholean, formerly second lieutenant, United States Army, for the

benefits of such act of May 24, 1928, if he files such claim with the Veterans' Administration within 6 months after the date of enactment of this act, and if it is found that the said William J. Wholean would have been entitled to such benefits if he had applied within the twelve months required by section 2 of such Act, award him such benefits as he may be entitled to under such Act, beginning on the date of enactment of this Act."

The records of the Veterans' Administration show that William J. Wholean enlisted on December 6, 1917, and was honorably discharged from his enlisted service September 30, 1918. He accepted a commission as second lieutenant on October 1, 1918, and was honorably discharged on February 21, 1919. His rank and organization is given as second lieutenant, Company C, Fourth Infantry, Third Division.

The record further shows that from October 12, 1918, to November 20, 1918, he was treated in a hospital in France for gunshot wound, severe, right chest, by shrapnel, and that he was treated in the hospital at Camp Upton, N. Y., from January 9, 1919, to January 27, 1919, at which time he was convalescing from the same injury. He was again treated at the base hospital at Camp Upton, N. Y., from February 5, 1919, to February 19, 1919, for bronchitis, acute, catarrhal, bilateral, in line of duty.

No claim for benefits of Emergency Officers' Retirement Act has been filed. He filed a claim for disability compensation on July 29, 1931, for bronchitis, chronic, severe. It has been held that the disability is service-connected. The disability has been rated as follows:

Permanent partial, 10 percent from June 2, 1928, to August 2, 1931.

Permanent partial, 19 percent from August 3, 1931, to November 29, 1931.

Temporary partial, 56 percent from November 30, 1931, to June 30, 1933.

Fifty percent from July 1, 1933, to March 27, 1934.

Temporary partial, 56 percent from March 28, 1934, to January 13, 1936.

Sixty percent from January 14, 1936.

He is now receiving compensation payments of \$60 monthly.

The Emergency Officers' Retirement Act, approved May 24, 1928, authorized the retirement with pay of all persons who served as officers during the World War other than as officers of the Regular Establishment, who incurred physical disability in line of duty and who, prior to May 24, 1929, were rated in accordance with law at not less than 30 percent disabled by a permanent condition. The law provided that such persons should be placed upon a separate retired list of the Army or Navy to receive in lieu of compensation 75 percent of the pay they were receiving at date of discharge. If such persons were rated less than 30 percent disabled, they could be placed upon such separate retired list but would continue to receive compensation for such disability.

Mr. Wholean not only failed to file application for benefits under the above act within the time specified, but his disability was rated as less than the required 30 percent for the period fixed by the law.

In the opinion of the Veterans' Administration there is no greater merit in this case than others similarly situated where benefits of the Emergency Officers' Retirement Act have been denied, or would be denied at this time, in which the statutory requirements have not been met.

It is the policy of the Veterans' Administration to refrain from recommending favorably on any private bill except where administrative error or legal technicality has tended to work detriment to the person in whose behalf the legislation is sought. Neither of these conditions is present in this case and therefore favorable action by your committee is not recommended.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is a special bill by Senator Maloney, S. 748, for the relief of James E. Breslin. The report has been received and will be entered in the record.

(The report on S. 748 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 12, 1937.

Hon. PAT HARRISON,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further response to your request of January 15, 1937, for a report on S. 748, Seventy-fifth Congress, a bill for the relief of James E. Breslin.

This bill provides as follows:

"That notwithstanding the provisions and limitations of the Act entitled 'An Act to maintain the credit of the United States Government', approved March 20, 1933, as amended and supplemented, the Administrator of Veterans' Affairs is authorized and directed to consider and act upon any application filed within six months after the date of enactment of this Act by James E. Breslin, formerly a first lieutenant, Company A, One Hundred and Sixty-eighth Regiment United States Infantry, for retirement pay as an emergency officer.

"Sec. 2. If it is found (a) that the said James E. Breslin entered active service between April 6, 1917, and November 11, 1918; (b) that he is rated in accordance with law at not less than 30 per centum permanent disability; (c) that such disability resulted from disease or injury or aggravation of a preexisting disease or injury incurred in line of duty during such service; and (d) that such disease or injury or aggravation of the disease or injury directly resulted from the performance of military duty, then, the Administrator of Veterans' Affairs shall place on the emergency officers' retired list of the Army the name of the said James E. Breslin and pay him retired pay at the rate of 75 percent of the pay to which he was entitled on the date of his discharge from the Army as a first lieutenant; but such retirement pay, if any, shall be paid from and after the date of enactment of this Act and shall be in lieu of all disability compensation which he is now receiving."

The records of the Veterans' Administration disclose that James E. Breslin accepted an appointment as second lieutenant in the Army on August 15, 1917, and was honorably discharged as a first lieutenant on May 28, 1919. Effective May 29, 1919, he was awarded disability compensation benefits for the following service-connected disabilities: Scar of gunshot wound, left arm; otitis media; chronic bronchitis, moderate; naso-pharyngitis, chronic, moderate; and laryngitis, chronic, moderate. Except for the period extending from September 21, 1919, to February 15, 1923, when he was receiving vocational training, and for the period commencing June 30, 1926, and ending July 16, 1931, when compensation payments in the amount of \$8 per month were discontinued on account of failure to report for examination, he was paid disability compensation benefits in amounts ranging from \$8 to \$49 per month. From July 17, 1931, to June 30, 1933, he was paid at the rate of \$49 per month, and under Public, No. 2, and Public, No. 78, Seventy-third Congress, he was paid \$36.75 per month from July 1, 1933. Payments were restored at the rate of \$49 per month effective March 28, 1934, pursuant to the provisions of Public, No. 141, Seventy-third Congress. During the period from September 21, 1919, to February 15, 1923, when he was rehabilitated, he was granted vocational training, and payments for his maintenance totaling approximately \$3,900 were disbursed in his favor during his course of training.

The records of the Veterans' Administration fail to show that Mr. Breslin filed claim for emergency officers' retirement benefits under the act of May 24, 1928, within the time limit prescribed by that act; i. e., within 12 months after May 24, 1928.

The proposed measure would waive the time limit for filing claim in Mr. Breslin's behalf and would have the effect of discriminating against other veterans similarly circumstanced.

In the opinion of the Veterans' Administration, there is no greater merit in this case than others similarly situated where benefits of the Emergency Officers' Retirement Act have been denied or would be denied at this time in which the statutory requirements have not been met.

It is the consistently followed policy of the Veterans' Administration to refrain from recommending favorably on any private bill, except where administrative error or legal technicality has tended to work detriment to the person in whose behalf the legislation is sought. Neither of these conditions is present in this case, and therefore, favorable action by your committee is not recommended.

This bill is identical with S. 2783, Seventy-fourth Congress, on which a report was furnished your committee under date of June 6, 1935.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is a special bill by Senator Maloney, S. 749, for the relief of Ersign Stanley Harrison. Without objection the same order is made with reference to that bill.

(The report on S. 749 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 17, 1937.

Hon. PAT HARRISON,
Chairman, Committee on Finance, United States Senate,
Washington, D. C.

MY DEAR SENATOR HARRISON: This is in further response to your request of January 15, 1937, for a report on S. 749, Seventy-fifth Congress, a bill for the relief of Ensign Stanley Harrison.

The bill would provide "That, notwithstanding the provisions of section 2 of the Emergency Officers' Retirement Act of May 24, 1928, as amended, or any other provision of law or regulation to the contrary, the Administrator of Veterans' Affairs is hereby authorized and directed to consider and adjudicate the claim of Stanley Harrison, formerly ensign, United States Navy, for the benefits of such Act of May 24, 1928, if he files such claim with the Veterans' Administration within 6 months after the date of enactment of this act, and, if it is found that the said Stanley Harrison would have been entitled to such benefits if he had applied within the 12 months required by section 2 of such act, award him such benefits as he may be entitled to under such act, beginning on the date of enactment of this act."

It is noted that the bill does not direct that the payments be made, but would permit the veteran to file an application for benefits under the Emergency Officers' Retirement Act and would provide that such claim be considered in the same manner as if it had been filed within the time limit required by law, that is, before May 24, 1929.

In an affidavit dated March 14, 1931, the veteran stated that upon calling at the former regional office at Hartford, Conn., in May 1928, he had expressed a desire to the contact officer to file a claim for retirement. The contact officer recalls his interview with him on May 28, 1928, and has certified that at that time no mention was made of a claim for retirement. There was filed on October 30, 1929, a formal application for retirement, and the claim has thus remained in a disallowed status.

The veteran served in two enlistments in the Navy, the first from August 1, 1913, to July 31, 1917, and the second from November 23, 1917, to September 30, 1921. The discharges from both enlistments were honorable. He filed a claim for disability compensation May 28, 1928, C-1061099. On March 9, 1929, a rating covering his service disability, diagnosed as neuritis, sciatic, right, moderate, was rendered as follows:

"No disability is shown from date of separation from active service to March 1, 1923.

"Temporary partial 10 percent from March 1, 1923, to May 28, 1928.

"Temporary partial 30 percent from May 28, 1928."

The compensation awarded as a consequence has been adjusted several times since by reason of new ratings and reviews under recent legislation, the latest rating being dated May 24, 1934, evaluating the veteran's disability as temporary partial 34 percent under the 1925 schedule and 10 percent under the 1933 schedule, for hysteria, moderate, classified as directly incurred in service. The amount presently being paid is \$34 monthly, the veteran having a wife and two children.

The act of May 24, 1928, Public, No. 506, Seventieth Congress, was repealed by Public, No. 2, Seventy-third Congress, March 20, 1933, but section 10 of the latter act provided for continuation on the rolls of those emergency officers who met the requirements of the above section, which were more restrictive than those contained in Public, No. 506. In addition to the limitations above referred to, section 10 of Public, No. 2, did not extend the period for filing a claim for emergency officers' retirement pay. Mr. Harrison's claim was filed after the expiration of the time limit fixed by law. According to available records, his case does not appear more meritorious than many others disallowed on the same grounds. It should be stated further that many emergency officers on the rolls receiving retired pay on March 19, 1933, under the act of May 24, 1928, are not entitled to continuation of retired pay because of the limitations contained in section 10 of Public, No. 2. The bill would grant a privilege in Mr. Harrison's case not afforded in either of the groups referred to in this paragraph. There is no apparent reason why the case of this veteran should be removed from the operation of the laws and regulations now in effect.

For the reasons given above, favorable consideration of the proposed measure by your committee is not recommended.

The bill now under consideration is similar in its provisions with H. R. 9466 and S. 3732, Seventy-second Congress; H. R. 532 and S. 3691, Seventy-third Congress; and H. R. 5341, Seventy-fourth Congress. It is identical with S. 1044, Seventy-fourth Congress, on which a similar report was furnished your committee under date of March 21, 1935.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 793, introduced by Senator Minton, for the relief of Catherine Humler. The report has been received on that bill, and without objection it will be entered in the record. Senator Minton desired to appear; and if he does appear before adjournment, his statement will then be entered in the record in connection with this bill.

(The report on S. 793 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 17, 1937.

HON. PAT HARRISON,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further response to your request of January 15, 1937, for a report on S. 793, Seventy-fifth Congress, a bill for the relief of Catherine Humler.

This bill provides as follows:

"That, notwithstanding any other provision of law, the Administration of Veterans' Affairs is hereby authorized and directed to pay to Catherine Humler, mother of Joe M. Humler, late a private, Ninety-Seventh Company, Sixth Regiment United States Marine Corps, two hundred and forty equal monthly installments of \$57.50 each, commencing July 20, 1918, in full satisfaction of her claim against the United States for payment of yearly renewable term insurance on account of the death of said Joe M. Humler, who was killed in action while in the performance of his duty and before completing arrangements for a contract of such insurance: *Provided*, That the Administrator of Veterans' Affairs is hereby authorized and directed to deduct from the payment of insurance herein authorized the sum of \$68, representing premiums based upon application of October 20, 1917."

It is obvious that the word "Administration", in the second line of the above-quoted bill, should be "Administrator."

The records of the Veterans' Administration disclose an application for insurance (T-392058), signed by Joseph Mac. Humler, at Quantico, Va., on October 20, 1917, and witnessed by R. W. Marshall, second lieutenant, United States Marine Corps, Ninety-seventh Company, Sixth Regiment. A very thorough search has been made, and there is no record of any other application for insurance having been signed by the said Joseph Mac. Humler. The application was on the printed form identified as Form 2—Application for Insurance. There was incorporated in the printed form an authorization to deduct premium from the applicant's service pay, which was specifically lined out in this instance and the following inserted in lieu thereof:

"Premiums to be paid by first-named beneficiary above."

The applicant named his father, Bert Humler, as beneficiary for the \$10,000 insurance and his mother, Katherine Humler, as contingent beneficiary. There is written on the form, just over the signature, instructions to "Send policy to father."

From these facts it is clear that the applicant intended that the premium deductions were not to be made from his service pay, but that premiums were to be paid by his father and that his father was to have possession of the policy. It appears from the record card that the term-insurance certificate was issued and mailed to the father on or about April 16, 1918. Also, there is a notation on the card that premiums were to be paid by his father.

A letter in longhand on the stationery of the Seelbach Hotel at Louisville, Ky., is quoted as follows:

LOUISVILLE, Ky., *October 28, 1917.*

Mr. W. C. DeLANOY,
Washington, D. C.

DEAR SIR: My son, Joe Mac Humler, wrote me in reference to a policy—war-risk policy, I think he called. Won't you kindly give me any information on this matter, and also if I can send you check for 1 year on this, in place every time it is due.

Thanking you in advance, I remain,
Very truly yours,

BERT HUMLER.

This would indicate that the applicant communicated with his father regarding the payment of premiums on the insurance, such being in conformity with the statements made on his application for insurance. The letter of October 28 was acknowledged by a form letter, but the date of the acknowledgment is not disclosed by the carbon copy of the form letter in the folder.

Another communication on the stationery of the Seelbach Hotel is quoted as follows:

LOUISVILLE, Ky., *January 1, 1918.*

Wm. C. DeLANOY,
Washington, D. C.

DEAR SIR: Sometime previous to date I received a letter from a party who claims to have charge of insurance for the Navy and Army men. One of my sons, whose name is Pvt. Joe Mac Humler, who is in the Ninety-seventh Company, Sixth Regiment, Marines, and who at the present time is stationed somewhere in France, wrote and asked me to file an application for \$10,000 insurance and to pay same to him, which I will be very glad to do, sending my check to cover. I have never heard from the department in any way confirming his request, and in his interest decided to take the matter up for him. Won't you please advise if I am to forward this application to him in France or to fill it out for him?

Thanking you for the interest in advising me of this matter, I am,
Very respectfully,

BERT HUMLER.

That letter was answered on January 7, 1918, as follows:

Mr. BERT HUMLER,
The Seelbach Hotel, Louisville, Ky.

DEAR SIR: Replying to your letter of the 1st instant, addressed to William C. Delaney and referred to me, I am pleased to enclose an application blank, which should be completed by you and returned to this Bureau, accompanied by your son's letter (not a copy) requesting you to apply for him. If this letter is deemed by the Bureau sufficient authority for you to act for your son in this matter, your application will immediately become effective; but if such letter shall not be deemed sufficient, your application will be forwarded to your son for ratification.

Yours truly,

DEPUTY COMMISSIONER OF INSURANCE.

There is no record of a reply having been made by the father to the letter of January 7 or of his having made any further inquiry regarding the payment of premiums on insurance or of his having at any time made tender of premiums on the insurance. There was no deduction of insurance premiums from the soldier's service pay. The soldier died in the service the 24th day of July 1918.

Under date of October 10, 1918, the Bureau of War Risk Insurance requested the claimant to advise if he had made premium payments on the insurance and if so to submit the receipts or any other evidence of payment that he might have in his possession. Mr. Humler replied by letter dated December 5, 1918, as follows:

"Why was I never notified that I was to pay the premiums? I would have gladly done so. My son meant more to me than all the money in the world, and I sent him a remittance each month. This is all new to me; my boy never wrote me that I was to pay anything for him."

It is believed the letter to the father dated January 7, 1918, was sufficiently explicit and emphasized the necessity of his taking some action with regard to the insurance. There is hardly any doubt but that the soldier communicated with his father particularly about the payment of premiums as the father's letter of October 28, 1917, is very clear on that point. A period of 9 months elapsed between the date of the soldier's application for insurance and the date of his death.

There is nothing of record from the father in explanation of the fact that he did not follow up his two communications on the subject and there is no record showing that he made further effort to pay any of the premiums on the insurance.

The records of the Veterans' Administration disclose further that benefits under the World War Adjusted Compensation Act in the amount of \$403.50 were awarded the mother, Mrs. Catherine Humler, in November 1934, which, under the terms of the law, were paid in ten quarterly installments. An additional award of \$60 as provided for by an amendment to the World War Adjusted Compensation Act was also approved in Mrs. Humler's favor and paid to her in a lump sum. These benefits were paid to Mrs. Humler on account of her son's death in the active service.

Death compensation benefits in the amount of \$20 per month are being currently paid to Mrs. Humler as the dependent mother of the veteran, Joe McFarland Humler, on account of his death in the active service.

The claim for insurance benefits in this case has received most careful and sympathetic attention by the Veterans' Administration and it is regretted that the premiums were not paid so as to make an award possible under the terms of the law.

It is the consistently followed policy of the Veterans' Administration to refrain from reporting favorably on any special bill except where administrative error or legal technicality has served to work to the detriment of the person in whose behalf the legislation is sought. Neither of those elements is present in this case. It is therefore the recommendation of the Veterans' Administration that the bill be not favorably considered by your committee.

This bill is identical with S. 4039, Seventy-fourth Congress, second session, on which a similar report was furnished your committee under date of March 12, 1936.

Very truly yours,

(Signed) FRANK T. HINES,
Administrator.

Senator GEORGE. The next is S. 825, introduced by Senator Byrd, granting a pension to Oneida W. Edmonson. A report from the Administration has been received and without objection that report will be entered in the record and the bill referred to a subcommittee of one.

(The report on S. 825 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 12, 1937.

Hon. PAT HARRISON,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further response to your request of January 15, 1937, for a report on S. 825 Seventy-fifth Congress, "A bill granting a pension to Oneida W. Edmonson."

This bill, if enacted into law, would authorize and direct the Administrator of Veterans' Affairs to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Oneida W. Edmonson, widow of Worth J. Edmonson, XC-792, 647, late of the United States Army, and pay her a pension at the rate of \$50 per month.

The records of the Veterans' Administration disclose that Worth J. Edmonson enlisted on May 7, 1918, served as a private in Battery E, Three Hundred and Twelfth Field Artillery, and was honorably discharged June 3, 1919. The records of the War Department relative to his physical condition show as follows:

Physical defects at enlistment: Right eye, 20-20-3; left eye, 20-20-2.

Physical examination by local board shows redness and congestion of throat; heart, rapid—does not become normal after 2 minutes; both eyes 20-30.

Physical examination by Medical Advisory Board shows heart, tachycardia, functional; bad tonsils; tonsils should be removed.

Other records show sick August 27, October 14, 17, 27, 1918; February 28, 1919; in line of duty. Diagnosis not shown. No other record of treatment found.

No defects were noted at discharge.

The veteran filed claim for disability compensation on August 23, 1921, on account of rheumatism and bronchitis. This claim was disallowed on the ground that the evidence failed to show that he had any service-connected disability.

He filed a claim December 14, 1931, for disability allowance, which was rejected on March 16, 1932, on the ground that the evidence did not show that he had a permanent partial disability to the extent of 25 percent. This disallowance was affirmed on May 10, 1932, by the Central Office Board of Review, and on August 5, 1932, by the Administrator's Board of Appeals.

A claim for disability allowance was filed by the veteran on August 27, 1932, which was rejected on October 13, 1932, on the ground that he had no permanent partial disability to the extent of 25 percent. The veteran filed another claim for disability allowance on October 26, 1932, which was rejected on December 17, 1932, the action of rejection being affirmed by the Central Office Board of Review on February 11, 1933.

The veteran filed claim for disability compensation on August 30, 1933, and a rating dated November 16, 1933, granted him service connection for bronchitis, chronic, moderate, establishing his disability as 10 percent from August 30, 1933.

The veteran died on December 3, 1933, of acute intestinal obstruction, the contributory cause being carcinoma of the colon.

The veteran's widow, Mrs. Oneida W. Edmonson, filed a claim on February 26, 1934, alleging death due to service. This claim was disallowed on March 29, 1934, on the ground that the disability causing the veteran's death was not incurred in or aggravated by his military service.

Based on the rating rendered November 16, 1933, granting service connection, accrued disability compensation in the amount of \$9 monthly from August 30, 1933, to the date of the veteran's death was paid to his widow.

On December 5, 1934, Mrs. Edmonson filed a claim for death compensation, which was disallowed on January 7, 1935, on the ground that no directly service-connected disease or injury had been established prior to the veteran's death. The decision upon which this disallowance was based also held that the rating previously made granting him service connection for his condition of chronic bronchitis was in error. The widow appealed from these decisions, and on March 8, 1935, the Board of Veterans' Appeals held that the veteran's death was not attributable to his military service and that no directly service-connected disability had been established prior to the veteran's death.

It has subsequently been determined that no benefits are payable under Public No. 844, as no presumptively service-connected disability had been established prior to the veteran's death.

It is the policy of the Veterans' Administration to recommend such legislation only when a legal technicality or administrative error has worked a detriment to the person in whose favor the legislation is sought. Mrs. Edmonson's case does not come within either of these exceptions. It does not appear that this case presents greater merit than many others that have been denied for the reason that they lacked the same prerequisite of entitlement to the benefits of the act in question. It is further indicated that if the widow could meet the requirements of existing law the maximum amount payable would be \$30 monthly, whereas the bill provides for the payment of a pension of \$50.

For the foregoing reasons the proposed bill is not recommended to the favorable consideration of your committee.

The records disclose that Oneida W. Edmonson has received adjusted compensation benefits in the amount of \$458.27.

Very truly yours,

(Signed) FRANK T. HINES,
Administrator.

Senator GEORGE. The next is S. 867, introduced by Senator Walsh, granting compensation to Philip R. Roby. The report of the Veterans' Administration has been received and will be entered in the record in connection with this bill, and the bill will be referred to a subcommittee of one member.

(The report on S. 867 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 15, 1937.

HON. PAT HARRISON,
Chairman, Committee on Finance, United States Senate,
Washington, D. C.

MY DEAR SENATOR HARRISON: This is in further response to your letter of January 16, 1937, enclosing a copy of S. 867, 75th Congress, "A bill granting compensation to Philip R. Roby", and requesting a report thereon.

This bill is identical in purpose with S. 1214, Seventy-first Congress; S. 829, Seventy-second Congress; H. R. 14292, Seventy-second Congress; S. 629, Seventy-third Congress; H. R. 5624, Seventy-third Congress and S. 1387, Seventy-fourth Congress, all of which have been introduced in the respective Congresses to provide that, notwithstanding the provisions of section 210 of the World War Veterans' Act, 1924, as amended, the Administrator of Veterans' Affairs would be authorized and directed to pay to Philip R. Roby compensation in the amount provided by such act (1) for total and temporary disability from September 26, 1917, to April 2, 1925, inclusive, and (2) for partial and permanent disability in accordance with his disability rating from April 3, 1925, to July 12, 1927, inclusive. The bills specify that this would be in addition to any compensation for other periods of time to which he may be entitled.

The records of the Administration show that Philip R. Roby was a private in the Sanitary Detachment, First Regiment of New Hampshire Infantry, National Guard, and that he reported for World War service on July 26, 1917, under the call of the President issued July 3, 1917. Upon enlistment his heart and lungs were found to be normal and no defects of any description were noted. He was discharged from the service on September 26, 1917, on a surgeon's certificate of disability because of a condition described in a report received from the Adjutant General's Office as pulmonary tuberculosis, right apex, active; poor physical condition; existed prior to enlistment; not in line of duty; totally disabled.

He filed claim for disability compensation July 13, 1928, the nature of the disability claimed being tuberculosis and stomach trouble.

Upon examination conducted July 25, 1928, his condition was diagnosed as chronic mild bronchitis, the opinion of the medical examiner being that there was no tuberculosis present and that if there ever had been it was so well healed that it was impossible to make a diagnosis thereof at that time. Notwithstanding the lack of definite evidence in the case the claimant was given service connection for pulmonary tuberculosis, arrested, and awarded the statutory allowance provided by section 202, subdivision 7, of the World War Veterans' Act, as amended July 2, 1926, at the rate of \$50 per month effective as of July 13, 1927. It was impossible to make the award effective prior to the date named in view of the provisions of section 210 of the World War Veterans' Act limiting retroactive payments to 1 year prior to date of claim.

The claimant has represented to the Administrator that his failure to file claim earlier was due to information received from an Army officer at Boston, Mass., the American Red Cross, and a certain judge to the effect that the discharge which he received at the time of his separation from military service, which it is stated was a blue discharge—known as a discharge without honor—would preclude his eligibility. The records of the Administration contain no evidence on this point, the official information received from the Adjutant General's Office being simply to the effect that the claimant was honorably discharged on a surgeon's certificate of disability. He made no application, formal or informal, to this office until the date mentioned. Claimant has also furnished an affidavit to the effect that the reason he did not file claim earlier was that he thought it was necessary for a veteran to have had oversea service in order to be eligible.

The following disability rating has been assigned:

Less than 10 percent (0%) from discharge to April 2, 1925; permanent partial 10 percent from April 2, 1925, to August 20, 1928; permanent partial 20 percent from August 20, 1928, to May 16, 1929; less than 10 percent (0%) from May 16, 1929, to March 28, 1934; permanent partial 25 percent, 1925 S. no. (0%) 1933 S. from March 28, 1934.

Prior to the enactment of Public, No. 2, Mr. Roby was receiving \$50 per month under a statutory award for arrested tuberculosis, pursuant to the provisions of section 202 (7) of the World War Veterans' Act, 1924, as amended. Although his condition then was rated as no percent disabling, he was entitled to and received a protected rating under which there was paid to him from July 1, 1933, the monthly amount of \$37.50 as pension, in accordance with the provision of Public, No. 78, section 20, paragraph 4, which limited a reduction of the amount payable for wartime service connected disability to 25 percent of the amount being paid on March 20, 1933. The monthly amount was increased to \$50 per month from March 28, 1934, in accordance with Public, No. 141, enacted on that date, which authorized the restoration of the prior rate in cases in this group.

In the statement presented by Mr. Roby, he quoted section 308, second sentence, of the War-Risk Insurance Act, and section 208 of the World War Veterans' Act, in support of his contention that the type of discharge awarded to him pre-

cluded the payment of compensation on account of his disability and justified him in his failure to file claim for compensation in due time. Section 29 and section 308, War-Risk Insurance Act, must be read together to determine the effect of a discharge without honor upon the right to compensation. Section 29 was first included in the amendatory act of June 25, 1918, and reads as follows:

"That the discharge or dismissal of any person from the military or naval forces on the ground that he is an enemy alien, conscientious objector, or a deserter, or as guilty of mutiny, treason, spying, or any offense involving moral turpitude, or willful and persistent misconduct, shall terminate any insurance granted on the life of such person under the provisions of article IV, and shall bar all rights to any compensation under article III or any insurance under article IV."

Section 208, as included in the World War Veterans' Act of June 7, 1924, only precluded payment of compensation for dismissal or discharge by sentence of court martial. This section, which must be read with section 23 of the same law, was eliminated from the act on March 4, 1925, after which time the provisions of section 23, World War Veterans' Act, governed the effect of a dishonorable discharge upon entitlement to benefits under the law.

From the facts heretofore developed by the Veterans' Administration with reference to the claim of Mr. Roby, it does not appear that the nature of the discharge awarded to him affected any rights to which he might have been entitled. It would seem that the veteran should have sought information from the official agency charged with the administration of the law, and that his failure to do so, coupled with his reliance upon erroneous information received from others or upon his own mistaken impression, should not, in any way, obligate the Government to pay benefits contrary to the limitations of the law.

It does not appear that this case is of greater merit than the thousands of others in which the limitation upon the payment of retroactive compensation has been applied. Therefore, this proposed measure is not recommended to your favorable consideration.

Very truly yours,

(Signed) FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 894, introduced by the chairman of the subcommittee, to provide for the renewal of 5-year level premium term policies of veterans' insurance for an additional period of 5 years. The Administration's report is here. It is a rather full report. Is there anything additional that the Administration desires to submit on that matter?

Mr. BRADY. Not unless the committee would like to ask some questions on the bill.

Senator GEORGE. The report will be entered in the record. That bill should go to a subcommittee also and will be referred to Senator Connally, Senator Clark, and Senator La Follette.

Mr. BRADY. I might say this, Senator, that this bill is similar to H. R. 5478 which was favorably reported by the World War Veterans' Committee of the House, Report No. 384, on March 15.

Senator GEORGE. I thank you very much for directing our attention to that. Mr. Clerk, will you get copies of that bill and report, so that the subcommittee may have an opportunity to give that consideration?

(The report on S. 894 is as follows:)

MARCH 13, 1937.

Hon. PAT HARRISON,

*Chairman, Committee on Finance, United States Senate,
Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further response to your request of January 21, 1937, for a report on S. 894, Seventy-fifth Congress, a bill to provide for the renewal of 5-year level premium term policies of veterans' insurance for an additional period of 5 years, which provides as follows:

"That any 5-year level premium term policy of insurance issued under the World War Veterans' Act, 1924, as amended, and renewed for a second 5-year period under the provisions of the Act entitled 'An Act to provide for the renewal of 5-year level premium term Government insurance policies for an additional

5-year period without medical examination', approved June 24, 1932, may be renewed, at the premium rate for the attained age and without medical examination, for a third period of 5 years from the date of the expiration of the 5-year period of such policy. Any such policy the 5-year period of which has expired or may expire prior to 5 months after the date of enactment of this Act, and which shall not have been converted into another form of Government insurance, may be so renewed as of the date of the expiration of such 5-year period upon payment of the back premiums and interest within 5 months after such date of enactment: *Provided*, That nothing herein shall be construed to authorize the payment of any benefits in the event that total permanent disability or death has occurred between the date of the expiration of such 5-year period and the date of such renewal. The Administrator of Veterans' Affairs shall cause notice of the provisions of this Act to be mailed to the holder of each such policy."

The World War Veterans' Act, 1924, approved June 7, 1924, provided that not later than July 2, 1926, all term insurance held by persons who were in the military service should be converted into the forms of insurance prescribed by regulations. It was also provided that all term insurance should cease on July 2, 1926, with certain exceptions made for contracts matured by reason of total permanent disability. This period for the continuance of yearly renewable term insurance was further extended to July 2, 1927, by an amendment to the World War Veterans' Act approved June 2, 1926. In this amendment there was added to the regular forms of converted policies the 5-year level-premium term and it expressly provided for the reconversion of any such policies to a higher premium rate in accordance with regulations to be issued by the Director. This section of the law was further amended May 29, 1928 (Public, No. 570, 70th Cong.) to provide for reconversion of any such policies to a higher premium rate, or upon proof of good health satisfactory to the Director, to a lower premium rate in accordance with regulations to be issued by the Director, with the express proviso "that no reconversion shall be made to the 5-year level-premium term policy." The law was further amended by Public, No. 194, Seventy-second Congress, approved June 24, 1932, providing for the renewal of the 5-year level-premium term policy for a second 5-year period at the premium rate for the attained age.

Yearly renewable term insurance was issued to approximately 4,500,000 individuals in an amount of nearly \$40,000,000,000. Under this form of insurance there has already been paid as of December 31, 1936, benefits on account of total permanent disability and death a total amount of \$1,961,926,008.23 and it is estimated that it will require approximately \$300,000,000 to complete payments under existing awards. The net amount collected as premiums (gross amount less refunds) on this form of insurance is \$453,887,604.99. Thus the net loss to the Government on yearly renewable term insurance is indicated as being approximately \$1,800,000,000.

Whereas under yearly renewable term insurance the receipts were covered into and the losses appropriated by the Congress from the Treasury the 5-year term insurance policyholders constitute a subdivision of the United States Government life insurance fund group. United States Government life insurance represents an arrangement whereby the United States acts in a role similar to that of a trustee in administering what is in essence a mutual insurance organization and in discharging these duties it is believed that the Government is bound to observe the obligations devolving upon a fiduciary. Moneys received on account of United States Government life insurance are not commingled with other funds of the Treasury but are kept separate in a trust fund the beneficial interest in which rests solely with the policyholders, likewise losses incurred are not paid from the general funds of the Treasury but must come from this same trust fund. It will therefore be readily perceived that any undue favors granted to one subdivision of the whole group in substance resolves itself into a diversion from the others who have deposited their money in good faith into this trust.

As of December 31, 1936, there were 48,910 5-year term insurance policies in force in the amount of \$276,819,097, of which number 23,718 had been renewed for a second 5-year period in the amount of \$157,332,675.

The records show that under the 5-year term plans the ratio of actual losses, including both total permanent disability and death, to the expected mortality in accordance with the American Experience Table of Mortality during the last 6-year period for which tabulations have been completed, has never been lower than 113.77 percent and has been as high as 132.44 percent; while over the same period the ratio under all plans of insurance, excluding the 5-year term, has been as low as 54.90 percent and never higher than 85.49 percent. These facts show conclusively that the premiums received on all forms of term insurance are insufficient to meet the losses incurred and the excess must be borne by other than the term insurance policyholders.

Yearly renewable term insurance for successive terms of 1 year each or term insurance on a level premium basis for short terms of 5 or 10 years are not generally advantageous to the insured as against level-premium life or endowment insurance when protection is desired over a long period. In fact, the small advantage in such short-period protection may only be secured at the very young ages when the rates for the level-premium forms of life and endowment policies do not increase quite so rapidly, and then only to meet some temporary situation.

Experience indicates that, except as a temporary expedient, term insurance is neither satisfactory to the insured nor the insurer because, as the ages of the policyholders increase, adverse selection operates against the insurer and the continually greater premium charges get so burdensome to the insureds as to in most cases become prohibitive on account of limited earning capacity, thus forcing the relinquishment of insurance protection at a time when it is most needed.

The ordinary life rate is the lowest rate at which continuous insurance protection can be afforded under the law and the postponement of the selection of a level premium life or endowment policy only tends to increase the ultimate cost of the insurance to the policyholder, and apparently for this reason the law limited the yearly renewable term insurance to a specified period and the level-premium term policy to two periods of 5 years each.

It may seem attractive for a man of 45 years to secure a 5-year term policy in the amount of \$1,000 at a premium of \$11.69 if paid annually, as against a premium of \$28.71 required for ordinary life insurance at the same age, but the man who secures an ordinary life policy will be paying a premium of only \$28.71 at age 70 while the man who continued, if such were possible, to secure successive 5-year term policies would then be paying \$72.77 per annum and if continued to age 80 would be required to pay \$176.96 and at age 90 the premium would be \$652.78; whereas the holder of the ordinary life policy would only be required to pay \$28.71, the premium at age 45.

In addition to this advantage, the nonforfeiture values of all level premium life or endowment policies must be taken into consideration. After a policy has been continued on a premium-paying basis for 1 year or more, the cash value of such policy is always greater in amount than the difference between the term premium required and the premium required on a level premium life or endowment policy over the same period.

There is below set forth concrete example of the plight which a man of 45 at age of issue would find himself in at the end of a period covering 25 years of term insurance. He would have paid out \$6,243 and his insurance would have no cash value. If, on the other hand, he had taken out ordinary life level premium insurance he would have paid \$7,177.50 or only \$934.50 more than term insurance would have cost him but for this difference of \$934.50 he would have secured a policy which would have a cash value of \$5,348.90, or if he were then no longer able to continue the payment of premiums he would be eligible for fully paid-up insurance in the amount of \$7,160.70.

\$10,000 5-YEAR TERM INSURANCE

	Annual premium	Years paid	Total
Age 45.....	\$116.00	5	\$584.50
Age 50.....	150.00	5	750.00
Age 55.....	207.90	5	1,039.50
Age 60.....	306.00	5	1,530.00
Age 65.....	467.80	5	2,339.00
Total.....			6,243.00
Age 70.....	727.70		
Age 75.....	1,111.00		

\$10,000 ORDINARY LIFE INSURANCE

Age 45.....	\$287.10	25	\$7,177.50
Total premiums on term insurance.....		25	6,243.00
Difference in premium.....			934.50

VALUES

Under term insurance.....			
Under ordinary life:			
Cash value.....			\$5,348.90
Paid-up insurance.....			7,160.70

It is not practicable to estimate with any degree of accuracy the additional cost of further extension of the 5-year term periods for 5-year term policies; however, as it is known that the losses under this form of insurance have been excessive and such additional cost must be borne either by the Government or the Government life-insurance fund, the same principle is involved whether the amount of such excess loss is large or small.

For the foregoing reasons, this Administration cannot recommend the proposed bill to the favorable consideration of your committee.

Very truly yours,

FRANK T. HINES, *Administrator.*

Signed and dispatched March 13, 1937; Administrator's office.

Senator GEORGE. The next is S. 897, a bill by Senator Sheppard, for the relief of Capt. H. D. Fillmore. The report of the Veterans' Administration will be entered in the record, and that bill will also be referred to a subcommittee of one.

(The report on S. 897 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 23, 1937.

HON. PAT HARRISON,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further response to your request of January 21, 1937, for a report on S. 897, Seventy-fifth Congress, a bill for the relief of Capt. H. D. Fillmore.

The bill, if enacted into law, would authorize and direct the Administrator of Veterans' Affairs to restore to the roll of retired officers of the World War Capt. Hartson D. Fillmore, and to pay him retirement pay in keeping with his rank, in the same manner as other officers of the World War who have been retired on account of service-connected disabilities incurred by reason of service in the armed forces of the United States. However, no retirement pay shall be held to have accrued by reason of this act prior to the date on which it becomes a law.

The evidence on file in the Veterans' Administration indicates that Dr. Fillmore was commissioned in the Medical Department, United States Army, on July 31, 1917, and assigned to active duty August 27, 1917. He was discharged from active commissioned service on February 26, 1920. It is further shown that he received emergency officers' retirement pay under Public, No. 506, Seventieth Congress, from October 16, 1928, to June 30, 1933, for chronic cholecystitis and arterial hypertension, incurred in service. His claim was reviewed on April 26, 1933, under the provisions of section 10, Public, No. 2, Seventy-third Congress, and veterans' regulation no. 5, approved March 31, 1933, but the evidence failed to establish entitlement to retirement benefits under the criteria required by the cited law and regulation.

Dr. Fillmore appealed from this decision and his claim was considered by the Board of Veterans' Appeals on February 13, 1934, but the evidence shows that this former officer is not entitled to retirement pay for the reason that the conditions for which he was retired with pay are shown not to have directly resulted from the performance of military duty during the World War. A further review was made by the Board of Veterans' Appeals on August 20, 1935, under the interpretations of section 10, Public, No. 2, Seventy-third Congress, approved by the Administrator on April 10, 1935. This further review resulted in a confirmation of the decision dated February 13, 1934, denying retirement benefits.

Dr. Fillmore is now in receipt of service pension of \$60 monthly under Public, No. 269, Seventy-fourth Congress, for total incapacitation from all existing injuries and diseases, including those not the result of service, and predicated on service in the United States Navy during the War with Spain, he having served from April 22, 1898, to July 29, 1898. This amount is greater than the disability compensation which would be payable under section 28 of Public, No. 141, Seventy-third Congress, for conditions connected with his World War service.

The facts with reference to this veteran's emergency officers' retirement claim are similar to those of numerous other emergency officers whose names were removed from the rolls for the same reason. No circumstances are shown in this claim which would warrant favorable consideration of the proposed bill.

The proposed measure is therefore not recommended to the favorable consideration of your committee.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 984, a bill introduced by Senator Capper, to amend the World War Adjusted Compensation Act. Reports have just been received on that bill and will be entered in the record. Without objection that bill, being of a general nature, will be referred to Senator Walsh, Senator Barkley, and Senator Capper. (The reports on S. 984 are as follows:)

VETERANS' ADMINISTRATION,
Washington, March 15, 1937.

HON. PAT HARRISON,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.

MY DEAR SENATOR HARRISON: This is in further response to your request for a report on S. 984, Seventy-fifth Congress, "A bill to amend the World War Adjusted Compensation Act." The bill, if enacted, would amend subsection (c), section 202, of the World War Adjusted Compensation Act to read as follows:

"(c) Any civilian officer or employee of any branch of the military or naval forces, contract surgeon, cadet of the United States Military Academy, midshipman, cadet, or cadet engineer of the Coast Guard, member of the Reserve Officers' Training Corps, Philippine Scout, member of the Philippine Guard, member of the Philippine Constabulary, member of the National Guard of Hawaii, member of the insular force of the Navy, member of the Samoan native guard and band of the Navy, or Indian Scout—in each case for the period of service as such;"

The World War Adjusted Compensation Act provides in section 202 (c) thereof that in computing the adjusted service credit, no allowance shall be made to a member of the Students' Army Training Corps, which is only one of the several groups excluded from the benefits of that act. The bill would have the effect of bringing in one group to the exclusion of other groups now contained in that section. From the records of the hearings before the Committee on Ways and Means, House of Representatives, prior to the passage of the World War Adjusted Compensation Act on H. R. 86, 212, 475, 3750, 3794, 5232, 6096, 6739, and 7082, Sixty-ninth Congress, January 21, 1926, pages 3, 4, 25, 26, and 59, it appears that the exclusion of the several groups mentioned in section 202 was carefully considered.

The enactment of legislation extending the right to World War Adjusted Compensation to the members of one of the groups excluded, would serve as a precedent for amendments to the law to include the other groups. For the foregoing reasons this Administration does not recommend the proposed measure to the favorable consideration of your committee.

Inasmuch as the question of rights and privileges of this particular group during their service is one concerning which the reports of the War and Navy Departments have been used as a basis for information, it is suggested that your committee may desire to obtain the comments and recommendations of those departments before giving further consideration to the proposed bill.

Advice has been received from the Acting Director, Bureau of the Budget, that the legislation proposed would not be in accord with the President's program.

Very truly yours,

FRANK T. HINES, *Administrator.*

WAR DEPARTMENT,
Washington, March 15, 1937.

HON. PAT HARRISON,
Chairman, Committee on Finance, United States Senate.

DEAR SENATOR HARRISON: Further reference is made to the bill (S. 984, 75th Cong., 1st sess.) to amend the World War Adjusted Compensation Act, which bill you transmitted to the War Department under date of January 23, 1937, with a request for information relative to the measure.

The bill proposes, in effect, that the World War Adjusted Compensation Act be amended so as to eliminate from subsection (c) of section 202 of the act the following words: "member of the Students' Army Training Corps (except an enlisted man detailed thereto)", and if enacted into law, would confer the right to receive adjusted compensation upon members of the Students' Army Training Corps.

The total number of men who served in the Students' Army Training Corps can only be approximated. On or about the first of October 1918, shortly after the corps was organized, it was estimated there were a total of over 180,000 men serving therein while on November 15, 1918, the corps numbered 171,835, and

transfers were continually being made to and from the Students' Army Training Corps during the period of the 82 days of its existence from October 1, 1918, to December 21, 1918. It has been estimated that 200,000 men served in the Students' Army Training Corps. However, it is also estimated that about 110,000 of the above number would not be entitled to original or additional adjusted service credit by reason of the enactment of the bill, and that the balance, or 90,000, would accordingly be entitled to claim original or additional adjusted-service credit in amounts ranging from \$1 to \$82 in each case. The total amount of adjusted-service credit subject to claim upon enactment of the bill, S. 984, into law is estimated as \$2,020,000, of which 20,000 claimants would be entitled to adjusted-service credit in amounts above \$50 each, and in the total amount of \$1,320,000 whereas 70,000 would be entitled in amounts less than \$50 each, and totaling \$700,000. The average age of the men appears to have been about 23 years. The administrative cost in the War Department pursuant to the enactment into law of the measure is estimated as \$83,000.

A table of factors is enclosed which will enable the finding of the adjusted-service-certificate face value, and if the committee desires information regarding an estimate of the additional appropriations required to cover the cost of the proposed act, the same may be obtained from the Administrator of Veterans' Affairs, to whom the above statistics have been furnished, as that official is charged by law with the settlement of all claims for adjusted compensation.

Since the administration of the pending bill, if enacted into law, except the functions necessary to be accomplished in the War Department, would rest with the Veterans' Administration, that the bureau should be requested to report on the measure. However, since the views of this Department are requested, you are advised that as late as June 26, 1936, the President disapproved an act of the Congress to liberalize the provisions of the World War Adjusted Compensation Act by letting in for the benefits thereunder the group of provisional officers of the Army excluded by the original act, and used the following language:

"Of the nine groups excluded under the present law, the provisional-officer group would be the first to be brought in should this bill become law. Moreover, each adjusted-service-compensation proposal submitted to date for Executive approval has been vetoed both by myself and by my predecessors in office. It would, therefore, not be consistent now to extend my approval to this liberalizing amendment."

The reasons assigned by the President in his disapproval of the act letting in that group are equally applicable to the provisions of the present measure.

There has been no change in the status of members of the Students' Army Training Corps since the enactment of the World War Adjusted Compensation Act in 1924, and the reasons for excluding the various groups from benefits under the act, have not changed since that time.

The War Department, therefore, recommends against the favorable consideration of the bill, S. 984.

This proposed legislation has been submitted to the Bureau of the Budget, which reports that it is not in accord with the program of the President.

Sincerely yours,

MALIN CRAIG, *Acting Secretary of War.*

Factors to determine the face value of adjusted-service certificates under the provisions of H. R. 7959

Age	Factor	Age	Factor	Age	Factor
20.....	2.545	39.....	2.478	58.....	2.113
21.....	2.544	40.....	2.470	59.....	2.082
22.....	2.542	41.....	2.460	60.....	2.060
23.....	2.540	42.....	2.450	61.....	2.018
24.....	2.539	43.....	2.439	62.....	1.986
25.....	2.537	44.....	2.426	63.....	1.954
26.....	2.535	45.....	2.415	64.....	1.921
27.....	2.532	46.....	2.398	65.....	1.898
28.....	2.530	47.....	2.381	66.....	1.857
29.....	2.527	48.....	2.364	67.....	1.826
30.....	2.524	49.....	2.345	68.....	1.790
31.....	2.521	50.....	2.324	69.....	1.766
32.....	2.517	51.....	2.302	70.....	1.737
33.....	2.513	52.....	2.279	71.....	1.709
34.....	2.509	53.....	2.254	72.....	1.682
35.....	2.504	54.....	2.228	73.....	1.657
36.....	2.498	55.....	2.201	74.....	1.632
37.....	2.492	56.....	2.172	75.....	1.608
38.....	2.485	57.....	2.143		

Instructions: Multiply the amount of the adjusted service credit (as defined in sec. 201 of H. R. 7959) by the factor opposite the age nearest birthday at the date of the certificate.

NOTE.—The increase of 25 percent in the adjusted service credit when applied as a net single premium to purchase paid-up endowment insurance has been included in the factors given above.

Example: Age at date of issue: 38 years; home service, 180 days; overseas service, 100 days.

180—60×\$1.....	\$120
100×\$1.25.....	125
Adjusted service credit.....	245
Factor at age 33.....	×2.513
Adjusted service certificate.....	615

Senator GEORGE. The next is S. 1059, a bill introduced by Senator McNary, for the relief of Emil Zumburn. The Veterans' Administration report will be entered in the record, and that bill will be referred to a subcommittee of one.

(The report on S. 1059 is as follows:)

VETERANS ADMINISTRATION.
Washington, February 12, 1937.

Hon. PAT HARRISON,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.

MY DEAR SENATOR HARRISON: This is in reply to your request of January 23, 1937, for a report on S. 1059, Seventy-fifth Congress, a bill for the relief of Emil Zumburn, which provides:

"That the Administrator of Veterans' Affairs be, and he is hereby, authorized and directed to pay to Emil Zumburn the sum of \$1,350.40, in payment of the claim of Emil Zumburn for permanent and total disability benefits and premium refunds due between July 18, 1918, and April 15, 1920, under the policy of insurance issued to Emil Zumburn during his term of military service, said sum to be paid out of the appropriation for military and naval insurance."

This bill is identical to S. 2955, Seventy-fourth Congress, a bill for the relief of Emil Zumburn, concerning which the following detailed report was made to the chairman, Committee on Military Affairs, United States Senate, under date of June 29, 1935: "The facts and circumstances and the position of the Veterans' Administration have not changed since the rendition of that report.

The veteran enlisted October 2, 1917, and was honorably discharged April 15, 1920. His medical record while in the service, as shown by a report from the office of The Adjutant General, is as follows:

"Amputation of left thigh, 4 inches below great trochanter, left. Manifested by loss of lower part of left thigh and leg. LOD. Two-thirds disabled, July 18, 1918, to April 15, 1920, at BH 8, U. S. S. *Northern Pacific*, and Letterman General Hospital (GSW battle, S. Ia.). LOD. Loss of leg, left thigh, 4 inches below great trochanter; necessitated account shattering of leg by MGH. LOD."

While in the service the veteran was granted a contract of yearly renewable-term insurance in the sum of \$10,000, which lapsed for nonpayment of premium due thereon May 1, 1920.

On June 2, 1931, the Veterans' Administration received the veteran's application (form 579) for total and permanent benefits under his contract of insurance. In this application the veteran alleged that his disability began on April 15, 1920, and the cause thereof was amputation of his left leg.

On December 7, 1931, the Insurance Claims Council rendered its decision on the veteran's claim, as follows:

CLAIM

"Claim is made for the payment of insurance benefits because of permanent and total disability alleged to have existed from the date of the veteran's discharge from the military service.

"While in the service the veteran subscribed to a \$10,000 contract of war-risk term insurance, which lapsed for nonpayment of the premium due May 1, 1920.

EVIDENCE

"The veteran enlisted in the military service October 2, 1917, and was honorably discharged on a surgeon's certificate of disability on April 15, 1920. Physical defects at enlistment: Slight left varicocele no symptoms, missing teeth. Physical defects at discharge: Amputation of left thigh 4 inches below great trochanter, left. Manifested by loss of lower part of left thigh and leg. Two-thirds disabled.

"The veteran was treated during the service as follows: July 18, 1918, to April 15, 1920, loss of leg, left thigh, 4 inches below great trochanter; necessitated on account of shattering of leg by machine-gun bullet.

"The veteran filed claim for compensation April 15, 1920, in which he stated his disability as 'amputation, left thigh, upper third.' Pre-war occupation of the veteran was stated as 'farmer, worked for self.'

"In claim for insurance dated May 8, 1931, the veteran states his disability as amputation, left thigh, stomach ulcers, colitis, prolapsed intestines, nervous exhausted condition, and other disabilities. The veteran states his disability began April 15, 1920. Pre-war occupation of the veteran is stated as sawmill work and timber feller. The veteran states he has had no work since discharge, as he has been in poor health.

"The first examination appearing in the file is dated April 19, 1920. Diagnosis: Amputation of thigh.

"Examination report dated May 29, 1922, gives diagnosis of neurasthenia, traumatic, due to gunshot wound and amputation; amputation of stump, left. The same diagnosis was made in September of 1922.

"In January of 1925, diagnosis is: 'Amputation, left thigh, junction middle and upper one-third; cicatrix, stump, left thigh.'

"The last examination appearing in file is dated September 15, 1931. Diagnosis is: 'Varicocele, left, mild; hemorrhoids, mixed, mild; gastritis, moderate degree; colitis, mild degree; amputation, left thigh.'

"The veteran entered vocational training September 1, 1920, institutional; objective, bookkeeper. Objective was changed to furrier in April of 1921 and during the same month was again changed to civil engineer, institutional. In April of 1922, objective was again changed to draftsman, institutional, in which the claimant continued until May 1922. Training period lasted 3 years and 7 months and the veteran was rehabilitated. Training report of this veteran states: 'Rehabilitated March 31, 1924. Man has completed his training program, taken the civil-service examination for a topographical draftsman, successfully passed same, and has been placed on the preferential list for appointment. He has also been offered an opportunity for a partnership in business with his brothers in Oregon, which he states he is planning on accepting. They are in the fur-raising business. Another opportunity has been tendered him for work with the California State Auto Association at San Francisco.'

"From the foregoing, it is apparent that the veteran's disabilities at the time of his discharge from the military service were not of such character as to preclude him from thereafter engaging in a gainful occupation.

DECISION

"It is the opinion of the Council that the veteran was not permanently and totally disabled for insurance purposes, as alleged, or at any time while his contract of insurance was in force."

Subsequent to the decision of the Insurance Claims Council, the veteran filed suit on his contract of insurance in the United States Court for the Central Division of the Southern District of California, alleging that he became permanently and totally disabled on April 15, 1920. It appears from the photostat of the veteran's petition that Alvin Gerlack was his attorney.

The veteran's suit was tried on the 14th day of December 1934, to a jury, which returned its verdict as follows:

"We, the jury in the above-entitled cause, find for the plaintiff, Emil Zumbrunn, and fix the date of his total and permanent disability from following continuously any substantially gainful occupation from July 18, 1918."

Judgment was rendered on December 29, 1934, decreeing that the veteran recover from the United States the sum of \$9,315, being 162 accrued installments of insurance at the rate of \$57.50 per month, beginning July 18, 1918, up to the filing of the cause on December 24, 1931, less attorney's fees.

On March 26, 1935, the judgment was amended to decree that the veteran recover from the United States of America the sum of \$10,177.50, being 177

accrued installments of insurance at the rate of \$57.50 per month, beginning April 15, 1920, up to and including the month of installment due December 15, 1934, less attorney's fees.

In forwarding the amended judgment, the Director of the Bureau of War Risk Insurance Litigation, Department of Justice, advised that the amendment was made so that the judgment would conform to the complaint, which alleged total and permanent disability from April 15, 1920. Payment of the amended judgment has been made. Inasmuch as this proposed measure involves insurance litigation, it is possible that you may desire information or recommendation from the Attorney General, the defense of insurance suits having been transferred to that office.

In view of the foregoing facts, this Administration cannot recommend favorably concerning the proposed measure.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 1100, a bill introduced by Senator Reynolds, to extend the period for filing claims on insurance contracts under the World War Veterans' Act, 1924, as amended. A report from the Veterans' Administration has been received, and also from the Department of Justice, and they will be entered in the record.

Is there anything additional that the Veterans' Administration desires to submit on that bill?

Mr. BRADY. We have nothing to add to the report, Senator.

Senator GEORGE. That bill will be referred to Senator Clark and Senator La Follette and the chairman of the subcommittee, and we will give it consideration.

(The reports on S. 1100 are as follows:)

VETERANS' ADMINISTRATION,
Washington, February 26, 1937.

Hon. PAT HARRISON,

*Chairman, Committee on Finance, United States Senate,
Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further response to your request of January 27, 1937, for a report on S. 1100, Seventy-fifth Congress, a bill to extend the period for filing claims on insurance contracts under the World War Veterans' Act, 1924, as amended, which provides:

"That the time for filing suit under the provisions of section 19 of the World War Veterans' Act, 1924, as amended, is extended for a period of ninety days from the date of enactment of this Act. No suit now pending against the United States under the provisions of such section shall be dismissed because it was not filed within the period provided for filing suit; and any suit which has been dismissed solely on the ground that the period for filing suit under the provisions of such section had elapsed may be reinstated at any time within ninety days after the date of enactment of this Act."

It is the opinion of the Veterans' Administration that the enactment of this proposed measure would operate to give from the time of its passage a flat extension of 90 days in every case involving either war-risk term or United States Government life (converted) insurance. This would reopen the door to a great number of suits which are now clearly untimely.

Most of the claims based upon term contracts allege that permanent and total disability began at the time of discharge from the service in 1918 or 1919, and it must be remembered that the claimant enjoyed the privilege of suing if claim were filed on or prior to July 3, 1931, or within 6 years after the benefits were alleged to have become due, whichever was the later date. It would accordingly appear that in the past there has existed generous opportunity for the filing of any meritorious claim having a factual basis, and in this connection also it must be remembered that such claims can be paid by the Veterans' Administration without recourse to the courts. In such instances the proceeds of the policy are not diminished by attorneys' fees and court costs.

As late as June 29, 1936, the date of approval of Public No. 244, Seventy-fourth Congress, it was provided by section 404 thereof as follows:

"That in addition to the suspension of the limitation for the period elapsing between the filing in the Veterans' Administration of the claim under a contract

of insurance and the denial thereof by the Administrator of Veterans' Affairs or someone acting in his name, the claimant shall have ninety days from the date of the mailing of notice of such denial within which to file suit. This Act is made effective as of July 3, 1930, and shall apply to all suits now pending against the United States under the provisions of section 19, World War Veterans' Act, 1924, as amended; and any suit which has been dismissed solely on the ground that the period for filing suit has elapsed but where in the extension of the period for filing suit as prescribed herein would have permitted such suit to have been heard and determined may be reinstated within ninety days from the date of enactment of this Act: *Provided*, That on and after the date of enactment of this Act, notice of denial of the claim under a contract of insurance by the Administrator of Veterans' Affairs or someone acting in his name shall be by registered mail directed to the claimant's last address of record: *Provided further*, That the term 'denial of the claim' means the denial of the claim after consideration of its merits."

The matter of the defense of suits filed under contracts of war-risk insurance is charged to the Department of Justice, and it is accordingly believed that you may desire a further report from the Attorney General regarding the proposed measure.

While the matter is not one primarily for the consideration of the Veterans' Administration, it is my opinion, based upon all of the information available, that all meritorious claims can be or have been paid in full by the Government without recourse to the courts. The policy of the Government in permitting suits upon war-risk insurance has been one of liberality and in the absence of claim and satisfactory evidence explaining or justifying the long delay, such delay might well be interpreted as indicating the weakness of the claim. This situation arises because of the failure of the claimant to file his claim more promptly and is not in any sense the fault of the Government.

The Veterans' Administration is not able to furnish any estimate of cost of the proposed measure, but it is reasonable to presume that a considerable amount of administrative work would result with consequent increase in administrative cost. The Government's liability over and above the premiums received on war-risk insurance now exceeds a billion and three-quarters. This legislation potentially would add greatly to the final cost.

I do not see any real need or justification for the legislation and, accordingly, cannot recommend favorably with regard to its passage.

Very truly yours,

FRANK T. HINES, *Administrator.*

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., March 2, 1937.

HON. PAT HARRISON,
Chairman, Committee of Finance, United States Senate,
Washington, D. C.

MY DEAR SENATOR: I have your letter of January 30, 1937, requesting my views on the bill (S. 1100) to extend the period for filing claims on insurance contracts under the World War Veterans' Act of 1924, as amended.

No statute of limitations governing suits on insurance contracts was contained either in the original act providing for soldiers' and sailors' insurance (act of Oct. 6, 1917; 40 Stat. 398) or in the World War Veterans' Act of 1924 (43 Stat. 607). In cases arising under these statutes prior to May 29, 1928, the courts applied the statute of limitations of the State in which the suit was filed. *Sligh v. United States*, 24 F. (2d) 636 (C. C. A. 9.)

The first statute of limitations enacted by the Congress relating to suits on veterans' insurance contracts (act of May 29, 1928; 45 Stat. 964) provided that such suits must be brought before May 29, 1929, or within 6 years after the right accrued, whichever was the later date. This statute was later amended by extending the time for bringing such suits from May 29, 1929, to July 3, 1931 (act of July 3, 1930; 46 Stat. 992). Each of these enactments provided that the interval elapsing between the filing of the claim with the Veterans' Administration and its denial should not be counted as part of the period of limitation. Section 404 of the act of June 29, 1936 (49 Stat. 2034), further liberalized the law by permitting any such suits to be brought within 90 days after the denial of the claim.

The bill under consideration proposes still further to extend the time for bringing such suits for a period of 90 days from the date of its enactment and proposes to permit the reinstatement within the 90-day period of any suit which has been heretofore dismissed solely on the ground that it was not timely filed.

It is not practicable to estimate with any degree of accuracy the number of cases that would be affected by this legislation.

The Acting Director of the Bureau of the Budget has advised me that the proposed legislation would not be in accord with the program of the President, and I do not recommend its enactment.

With kind regards,
Sincerely yours,

HOMER CUMMINGS,
Attorney General.

Senator GEORGE. The next is S. 1198, a bill introduced by Senator White, granting a pension to Charles Knowlton. Without objection the report of the Veterans' Administration will be entered in the record, and that bill referred to a subcommittee of one.

(The report on S. 1198 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 27, 1937.

HON. PAT HARRISON,
*Chairman, Committee on Finance, United States Senate,
Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further response to your request of January 30, 1937, for a report on S. 1198, Seventy-fifth Congress, a bill granting a pension to Charles Knowlton.

This bill proposes to authorize the Administrator of Veterans' Affairs to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles Knowlton (C-341692), and pay him a pension at the rate of \$30 per month.

A report from the War Department shows this veteran entered the military service on September 18, 1917, and at that time it was noted that he had hemorrhoids, flat feet, stiff joints. His right eye tested 20/40, left eye 20/50; his right ear S/20, left ear 10/20. In addition at enlistment, the following notations were made: "Question mental condition. Underweight. Undersize. Disqualified." However, he was accepted for general military service. The War Department reports there is no record of medical treatment during service and no defects were noted at the time he was honorably discharged on May 15, 1919.

Claim for disability allowance was filed by Mr. Knowlton April 30, 1931, under section 200 of the World War Veterans' Act, as amended, and an award was approved in his favor granting \$18 per month from April 30, 1931, for a non-service-connected disability rated as 50 percent disabling. Payments were terminated June 30, 1935, due to repeal of the law by section 17, Public, No. 2, Seventy-third Congress.

He has filed claim for both service-incurred disability compensation benefits and for non-service-connected disability pension as provided by veterans' regulation no. 1 (a), part III. Decisions have been rendered by rating agencies in the matter, including a decision by the Board of Veterans' Appeals under date of January 16, 1935.

The last Administration examination conducted discloses the veteran has arthritis, chronic; right shoulder and elbow, pes planus, bilateral, with symptoms; and neuritis, sciatic, right, moderate. The decisions rendered by the Administration rating agencies have consistently held that the evidence is insufficient to show that any of the disabilities were due in any way to the military service of the veteran and that such disabilities are not disabling to a degree of permanent total within the meaning of veterans' regulation no. 1 (a), part III, which regulation provides a pension of \$30 per month for permanent total disability not due to service.

The facts of record in the Veterans' Administration relating to this claim do not indicate that there are any singular circumstances that would justify an exception in favor of this veteran to give him rights to pensions that are denied by existing laws to other veterans similarly situated. This case is no different than others where benefits were being paid for partial disability not due to service which were terminated as a result of the enactment of the Public Law No. 2, Seventy-third Congress. In view of the fact that the enactment of this bill would serve as a precedent in many other cases of equal merit, the Veterans' Administration cannot recommend favorable action by your committee.

A similar report was furnished your committee March 7, 1935, on S. 1931, Seventy-fourth Congress, which bill was identical with S. 1198, Seventy-fifth Congress.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 1298, a bill introduced by Senator Neely, granting an increase of compensation to Charles Adkins. The report of the Veterans' Administration will be entered in the record without objection and the bill referred to the subcommittee of one member.

(The report on S. 1298 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 23, 1937.

HON. PAT HARRISON,
Chairman, Committee on Finance, United States Senate,
Washington, D. C.

MY DEAR SENATOR HARRISON: This is in further response to your request of February 3, 1937, for a report on S. 1298, Seventy-fifth Congress, a bill granting an increase of pension to Charles Adkins.

This bill, if enacted, would authorize and direct the Administrator of Veterans' Affairs to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Charles Adkins, late of Company D, Seventh Regiment West Virginia Volunteer Infantry, and pay him a pension at the rate of \$50 per month in lieu of the \$18 per month which he is now receiving under a special act.

The records of this Administration show the veteran enlisted January 20, 1904, and was honorably discharged on January 19, 1907. He reenlisted February 25, 1907, and was honorably discharged November 21, 1908. He filed a claim under the general law on August 15, 1918, in which he claimed pension for malarial poisoning, dysentery, and deafness of the left ear, said to have been incurred during his service in the Philippine Islands in 1904 and 1905. The evidence filed in support of this claim was carefully reviewed, but it was held that the evidence filed did not show that any of Mr. Adkins' diseases were due to his military service and the claim was therefore disallowed on September 2, 1921.

A claim under the Service Act of May 1, 1926, was filed on October 12, 1926, but since the veteran had no service during either the Spanish-American War, the Boxer Rebellion, or Philippine Insurrection, this claim was denied on April 2, 1927.

A new claim under Public, No. 2, Seventy-third Congress, was filed on March 14, 1934, based on the same diseases included on the original claim of August 15, 1918. This was also disallowed on May 14, 1934, on the ground that none of his diseases were shown to have been incurred during either period of his military service, and this action was affirmed on February 1, 1936, by the Board of Veterans' Appeals.

On June 17, 1926, a special act was approved in the veteran's favor in the amount of \$18 monthly, and he is now in receipt of these payments.

The veteran had no military service during wartime, and it is shown that he is not entitled to pension, either under the general law or Public, No. 2, Seventy-third Congress.

The enactment of the proposed measure would require the payment of benefits which are not provided by existing legislation and which are expressly prohibited under present laws. The present veterans' regulations for total disability incurred other than during a period of war provide \$45 per month, with certain rates, to \$125 per month, for certain specified conditions, and graduated rates less than \$45 per month for partially disabling conditions. It would, therefore, result in discrimination against other veterans similarly circumstanced whose claims are equally meritorious and possibly as against certain veterans whose claims have been established as service-connected under present veterans' regulations.

It is the consistently followed policy of the Veterans' Administration to refrain from recommending favorable action on private bills except where administrative error or legal technicality has worked detriment to the person in whose behalf the legislation is sought. Neither of these elements is present in this case.

The Veterans' Administration, therefore, recommends that the bill be not favorably considered by your committee.

This bill is identical with S. 4191, Seventy-fourth Congress, on which a similar report was furnished your committee under date of March 31, 1936.

Very truly yours,

FRANK T. HINES, Administrator.

Senator GEORGE. The next is S. 1299, a bill introduced by Senator Neely, for the relief of Emma Susan McMurdo. The report of the Veterans' Administration will be entered in the record, without objection, and the bill will be referred to the subcommittee of one member. (The report on S. 1299 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 27, 1937.

HON. PAT HARRISON,
Chairman, Committee on Finance, United States Senate,
Washington, D. C.

MY DEAR SENATOR HARRISON: This is in further response to your request of February 3, 1937, for a report on S. 1299, Seventy-fifth Congress, a bill for the relief of Emma Susan McMurdo.

This bill, if enacted into law, would authorize and direct the Administrator of Veterans' Affairs to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Emma Susan McMurdo, widow of George William McMurdo, late of Company A, United States Marine Corps, and pay her a pension at the rate of \$30 per month. Similar bills were introduced in the Seventy-second, Seventy-third, and Seventy-fourth Congresses in behalf of Mrs. McMurdo.

The records of the Veterans' Administration indicate that George William McMurdo, XC-790161, a veteran of the World War, was killed February 8, 1931, accidentally by a train at Amblersburg, W. Va. He served in the Marine Corps from May 12, 1917, to December 18, 1919, at which time he was discharged under honorable conditions.

The veteran never made claim for disability compensation, and the widow has never filed claim for death compensation or pension. Inasmuch as the veteran's death was due to an accident after discharge, a direct service-connected death pension would not be payable to the widow. Further, as there is nothing of record or in the evidence to show that at the time of his death he was entitled to receive compensation for a 30 per cent or more disability incurred in or aggravated by his World War service, the widow would have no entitlement under the provisions of the act of June 28, 1934 (Public, No. 484, 73d Cong.). Public, No. 844, Seventy-fourth Congress, enacted June 29, 1936, provides no benefits in this case, as there was no evidence of record prior to the veteran's death showing that he had any direct or presumptive service-connected disability.

Adjusted compensation in the sum of \$1,256.45 as been paid the widow and \$100 has been allowed for burial and funeral expenses.

As this case presents no facts warranting special consideration for legislative action for relief of the widow any more than other cases containing similar facts, it is not recommended that the proposed bill be given favorable consideration by your committee.

A copy of this letter is enclosed.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 1349, a bill introduced by Senator Neely, granting an increase of compensation to Mack C. Ratcliff. The report of the Veterans' Administration will be entered in the record and the bill referred to a subcommittee of one.

(The report on S. 1349 is as follows:)

VETERANS' ADMINISTRATION,
Washington, February 27, 1937.

HON. PAT HARRISON,
Chairman, Committee on Finance, United States Senate,
Washington, D. C.

MY DEAR SENATOR HARRISON: This is in further response to your request of February 4, 1937, for a report on S. 1349, Seventy-fifth Congress, A bill granting an increase of pension to Mack C. Ratcliff.

This bill, if enacted into law, would authorize and direct the Administrator of Veterans' Affairs to place on the pension roll, subject to the provisions and limitations of the pension laws, the name of Mack C. Ratcliff, late of the headquarters company, Seventeenth Tank Battalion, Camp Meade, Md., and pay him a pension at the rate of \$60 per month in lieu of that he is now receiving.

The records of the Veterans' Administration indicate that this veteran served honorably in the United States Army from November 19, 1923, to November 26, 1926, on which latter date he was discharged pursuant to a surgeon's certificate of disability by reason of pyonephrosis, right, caused by staphylococcus, following operation for removal of kidney stone. He filed a claim for pension under the act of July 14, 1862, as amended, on November 30, 1926, and was first awarded the amount of \$30 monthly for total incapacitation due to the condition mentioned, incurred in service. His pension was increased to \$50 monthly effective November 1, 1931, on a showing that a respiratory condition, diagnosed pulmonary tuberculosis, was likewise incurred in service and that he was so incapacitated as to require the frequent and periodical aid and attendance of another person.

Pursuant to the act of March 20, 1933, pension of \$45 monthly was awarded and is now being received by Mr. Ratcliff, under veterans' regulation no. 1 (a), part II, for total incapacitation, it not being shown that he requires the regular aid and attendance of another person by reason of the service-incurred diseases. There is no provision under the present law for pension over that provided for total incapacitation on the basis of requiring frequent and periodical aid and attendance.

The facts in the claim of this veteran are similar to those in numerous other claims of peacetime veterans and no circumstances are shown which would justify a discrimination in his favor.

This Administration therefore does not recommend the proposed measure to the favorable consideration of your committee.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 1361, Seventy-fifth Congress, a bill for the relief of Walter L. Monson, introduced by Senator Nye. The report of the Veterans' Administration will be entered in the record and the bill referred to a subcommittee of one.

(The report on S. 1361 is as follows:)

VETERANS' ADMINISTRATION,
Washington, March 4, 1937.

HON. PAT HARRISON,
*Chairman, Committee on Finance,
United States Senate, Washington, D. C.*

MY DEAR SENATOR HARRISON: This is in further response to your letter dated February 8, 1937, requesting a report on S. 1361, Seventy-fifth Congress, "A bill for the relief of Walter L. Monson", which provides—

"That in the administration of any laws granting life insurance to persons in the active military service of the United States during the World War it shall be held and considered that Orville Sigurd Monson, a soldier in the United States Army during the World War, whose whereabouts have been unknown to his closest relatives since about November 15, 1923, died on said date, and that his policy of war-risk insurance then became payable; and, notwithstanding any laws to the contrary or the repeal of any laws, the Administrator of Veterans' Affairs is authorized and directed to pay to Walter L. Monson, or Portland, North Dakota, the brother of said soldier and the beneficiary originally designated in his policy of war-risk insurance, the full amount of said policy, together with all premiums paid by Walter L. Monson since January 1, 1924, including interest at the rate of 4 per centum per annum on the amount of said policy from January 1, 1924, and on the amount of each such premium from the date of its payment, until the date of payment under this Act, in full settlement of all claims of any person against the United States in connection with such insurance; but no other pension, pay, or bounty shall be held to have accrued by reason of this Act."

The records of the Veterans' Administration disclose that Orville Sigurd Monson entered the military service on September 5, 1918. On September 10, 1918, he applied for and was granted yearly renewable term insurance in the amount of \$10,000. He named Walter L. Monson as sole beneficiary. He was honorably discharged on February 28, 1919, and permitted the insurance to lapse for nonpayment of the premium due April 1, 1919. On August 1, 1919, he reinstated the \$10,000 insurance and allowed it to lapse for nonpayment of the premium due November 1, 1919. It was again reinstated September 2, 1920, but allowed to lapse for nonpayment of the premium due June 1, 1921. On July 26, 1921, he again reinstated and premiums were paid on the insurance to include the month of November 1920. Payment of premiums was continued after July 2,

1927, the date upon which all yearly renewable term insurance ceased, in accordance with section 301 of the World War Veterans' Act, as amended July 2, 1926, which provides:

"That the Director may by regulation extend the time for the continuing of yearly renewable term insurance and the conversion thereof in any case where on July 2, 1927, conversion of such yearly renewable term insurance is impracticable or impossible due to the mental condition or disappearance of the insured."

The premium for the month of December 1929 was not received until January 4, 1930, after the expiration of the grace period. The insurance lapsed for non-payment of the premium due December 1, 1929. All premiums paid after that date totaling \$220.19 were held in suspense and under date of August 16, 1933 were refunded to Mr. Walter L. Monson. Claim for the insurance was filed on the ground of the veteran's presumed death because of his disappearance. It was alleged that he disappeared May 23, 1923, that being the date of the last communication received by his family from the veteran.

Upon investigation it was found that the veteran in September 1921 left his home in North Dakota and went to Chicago. He informed his family that he was attending medical school. However, a check of all medical schools in and around Chicago failed to show that he was registered in any of them. It was also established that although he last communicated with his family in May 1923 he was living in Chicago at the Y. M. C. A. Hotel until November 15, 1923. He left the hotel about that time taking all of his belongings with him.

Since it was not established that the veteran died at a time when his insurance was in force, the claim for insurance was denied. Suit was filed in the United States district court in North Dakota. After hearing, the court entered judgment in favor of the Government.

There has not been submitted evidence to support a finding of death of the veteran either as of a time when the insurance was in force or as of the expiration of the 7-year period from the date of his disappearance. The veteran had deceived his family regarding his attendance at the medical school, and it is known that he was living in Chicago for a period of approximately 6 months after he communicated with his family. It appears that his failure to communicate with them was voluntary and not because of his death.

In the opinion of the Veterans' Administration there are no facts or circumstances in this case which would warrant singling it out for preferential treatment. It is the consistently followed policy of the Veterans' Administration to refrain from recommending favorably on any special legislation unless it is disclosed that administrative error or legal technicality has served to work a detriment to the person in whose behalf the legislation is sought. Neither of these conditions is present in this case. It is, therefore, the recommendation of the Veterans' Administration that the bill be not favorably considered by your committee.

Very truly yours,

FRANK T. HINES, *Administrator.*

Senator GEORGE. The next is S. 1458, a general bill introduced by Senator Sheppard, to amend the World War Adjusted Compensation Act. The report of the War Department has been received and will be entered in the record. I will refer that bill to Senator La Follette.

Mr. BRADY. May I suggest, Mr. Chairman, that that bill has substantially the same purposes as S. 984, to which you have already referred. S. 984 is one of the bills on the calendar.

Senator GEORGE. That being the case then it will be referred to the same subcommittee. (Senators Walsh, Barkley, and Capper.)

(The report on S. 1458 is as follows:)

WAR DEPARTMENT,
Washington, March 15, 1937.

HON. PAT HARRISON,
Chairman, Committee on Finance, United States Senate.

DEAR SENATOR HARRISON: Careful consideration has been given to the bill S. 1458, Seventy-fifth Congress, first session, to amend the World War Adjusted Compensation Act, which you transmitted to the War Department under date of February 11, 1937, with a request for a report thereon.

The provisions of this bill are similar to those contained in a previous bill, S. 984, introduced in the Seventy-fifth Congress in behalf of members of the Students' Army Training Corps, upon which the War Department has today

prepared an adverse report to your committee. That report which sets forth the factors involved in the case in this Department, together with the views of the War Department, is quoted below:

"Further reference is made to the bill, S. 984, Seventy-fifth Congress, first session, to amend the World War Adjusted Compensation Act, which bill you transmitted to the War Department under date of January 23, 1937, with a request for information relative to the measure.

"The bill proposes, in effect, that the World War Adjusted Compensation Act be amended so as to eliminate from subsection (c) of section 202 of the act the following words: 'member of the Students' Army Training Corps (except an enlisted man detailed thereto)', and if enacted into law, would confer the right to receive adjusted compensation upon members of the Students' Army Training Corps.

"The total number of men who served in the Students' Army Training Corps can only be approximated. On or about the 1st of October 1918, shortly after the corps was organized, it was estimated there were a total of over 180,000 men serving therein while on November 15, 1918, the corps numbered 171,835, and transfers were continually being made to and from the Students' Army Training Corps during the period of the 82 days of its existence from October 1 to December 21, 1918. It has been estimated that 200,000 men served in the Students' Army Training Corps. However, it is also estimated that about 110,000 of the above number would not be entitled to original or additional adjusted-service credit by reason of the enactment of the bill, and that the balance, or 90,000, would accordingly be entitled to claim original or additional adjusted-service credit in amounts ranging from \$1 to \$82 in each case. The total amount of adjusted-service credit subject to claim upon enactment of the bill, S. 984, into law is estimated as \$2,020,000, of which 20,000 claimants would be entitled to adjusted-service credit in amounts above \$50 each, and in the total amount of \$1,320,000, whereas 70,000 would be entitled in amounts less than \$50 each, and totaling \$700,000. The average age of the men appears to have been about 23 years. The administrative cost in the War Department pursuant to the enactment into law of the measure is estimated as \$83,000.

"A table of factors is enclosed which will enable the finding of the adjusted-service certificate face value, and if the committee desires information regarding an estimate of the additional appropriations required to cover the cost of the proposed act, the same may be obtained from the Administrator of Veterans' Affairs, to whom the above statistics have been furnished, as that official is charged by law with the settlement of all claims for adjusted compensation.

"Since the administration of the pending bill, if enacted into law, except the functions necessary to be accomplished in the War Department, would rest with the Veterans' Administration, that bureau should be requested to report on the measure. However, since the views of this Department are requested, you are advised that as late as June 26, 1936, the President disapproved an Act of the Congress to liberalize the provisions of the World War Adjusted Compensation Act by letting in for the benefits thereunder the group of provisional officers of the Army excluded by the original act, and used the following language:

"Of the nine groups excluded under the present law, the provisional officer group would be the first to be brought in should this bill become law. Moreover, each adjusted-service compensation proposal submitted to date for executive approval has been vetoed both by myself and by my predecessors in office. It would, therefore, not be consistent now to extend my approval to this liberalizing amendment."

The reasons assigned by the President in his disapproval of the act letting in that group are equally applicable to the provisions of the present measure.

"There has been no change in the status of members of the Students' Army Training Corps since the enactment of the World War Adjusted Compensation Act in 1924, and the reasons for excluding the various groups from the benefits under the act have not changed since that time.

"The War Department, therefore, recommends against the favorable consideration of the bill, S. 984."

The views of the War Department are expressed in the report on S. 984, quoted in the foregoing, and it is accordingly recommended that the bill S. 1558 be not favorably considered.

This proposed legislation has been submitted to the Bureau of the Budget, which reports that it is not in accord with the program of the President.

Sincerely yours,

MALIN CRAIG, *Acting Secretary of War.*

Senator GEORGE. The next is S. 1459, a bill introduced by Senator Sheppard, for the relief of Berthel Christopher. There seems to be no report received from the Veterans' Administration on that bill.

Mr. BRADY. Our report is in course of preparation, Senator. We hope to have that in a few days.

Senator GEORGE. When that report is received, as well as the Treasury Department report, the bill will be referred to a subcommittee of one.

The next is S. 1554, a general bill introduced by Senator Steiwer, to amend the World War Adjusted Compensation Act, as amended, with respect to payment of adjusted-service pay and adjusted-service credit of deceased veterans. There seems to be no report. Reference will be withheld until the report is received.

The next is S. 1746, a bill introduced by Senator Sheppard, to amend the World War Adjusted Compensation Act. There seems to be no report yet on that bill. When the report is received it will be referred to the same subcommittee as S. 984 and S. 1458 were referred to.

The next is S. 1813, introduced by the chairman of the subcommittee, to increase the existing rates of death compensation payable to widows, children, and dependent parents, and so forth. No report has been received and that bill will not be referred until the report is received.

Mr. Clerk, I would like for you to request the several subcommittees to advise us as soon as they are ready to make their reports to the committee, so that a date may be fixed for disposition on these bills, as far as the subcommittee is concerned. Also notify the various veterans' organizations on these general bills, the retirement bill, and so forth, so that they may be present, if they desire to appear.

Is there anything else?

If there is nothing else to be brought before the subcommittee we will stand adjourned to the call of the chairman.

(Whereupon, at the hour of 10:30 a. m., the subcommittee adjourned subject to the call of the chairman.)

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