

Calendar No. 320

72D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 301

WALTER S. RODGERS

FEBRUARY 24, 1932.—Ordered to be printed

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

REPORT

[To accompany S. 505]

The Committee on Finance, to whom was referred the bill (S. 505) for the relief of Walter S. Rodgers, having considered the same, report it back to the Senate and recommend that the bill do not pass.

The report of the Veterans' Administration is as follows:

VETERANS' ADMINISTRATION,
Washington, January 26, 1932.

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

MY DEAR SENATOR SMOOT: Reference is made to your letter of December 17, 1931, transmitting a copy of S. 505, Seventy-second Congress, first session, a bill for the relief of Walter S. Rodgers, requesting a report thereon.

This bill is identical with S. 6066, Seventy-first Congress, third session, on which a report was furnished you March 3, 1931, setting forth in detail the conditions obtaining in this case at that time.

The proposed bill provides for a rating of double permanent total for disability compensation and to entitle the veteran to \$250 per month, such rating to be effective June 7, 1924.

This veteran is in receipt of disability compensation in the amount of \$150 per month under a rating of permanent total because of blindness, it appearing from the central office records that the left eye has been enucleated and that the right eye is blind, following cataract removal. The rating for blindness is shown as permanent and total from November 7, 1918, the date upon which the disability was incurred in battle by multiple gunshot wounds of face. There is also in effect a rating of permanent partial 40 per cent for the loss of nose as a result of carcinoma, held to be incident to gunshot wounds and gas burns, and ratings of permanent partial 15 per cent and permanent partial 10 per cent, respectively, for scars of gunshot wounds, right arm and shoulder, and scars of gunshot wound of the abdomen. An additional allowance of \$50 per month under section 202 (5) of the act is being paid as attendant's allowance, and the records indicate that an award of yearly renewable term insurance was approved September 27, 1919, in the amount of \$57.50 per month from November 7, 1918.

It has been contended in this case that by reason of the statutory permanent total disability, because of blindness and the additional disabilities resulting from the destruction of the veteran's nose by carcinoma and the multiple gunshot wound scars, he is entitled to a rating of double permanent total under section

202 (3) of the World War veterans' act, 1924, as amended. The contention has been presented that the veteran has two separate and distinct disabling conditions, each of which warrants a rating of permanent total.

As indicated in the report of March 3, 1931, on bill S. 6066, further investigation has been made to determine whether this veteran is suffering from more than one of the conditions specified in section 202 (3). Blindness having been established, the question is whether or not helplessness or bedriddenness has been established by the evidence.

In consideration of the case at hand, it has been held in effect that in order that a veteran may be entitled to compensation for double permanent and total disability it must be shown that there exists a combination of two or more of the disabilities specifically mentioned in section 202 (3) of the World War veterans' act. It is held that the existing precedents by which the administration has determined entitlement to double permanent total compensation award have been based upon the language of the statute and the apparent intention thereof. It is held that such conditions as may produce a permanent total disability under the schedule of disability ratings established by authority of section 202 (4) of the act are independent of those conditions named in section 202 (3) of the statute, and that it is not believed that the Congress intended to permit of a combination whereby one statutory permanent total disability could be combined with one nonstatutory permanent total disability which is authorized only under section 202 (4) of the act. This finding is in accord with established precedent.

The central office records of this administration indicate that the regional office found that this veteran was not in fact permanently helpless or permanently bedridden, and after further and exhaustive consideration of the case it is held that the evidence presented is not sufficient to establish that the veteran is in fact so permanently helpless or so permanently bedridden as would constitute another requisite condition named in section 202 (3) of the act, and a rating of double permanent total is not in order.

It is my opinion that this is not a matter for special legislation, as it involves the rule under which double permanent total disability is determined and which affects a large group of cases.

It is, as you probably know, against the policy of the Veterans' Administration to recommend special legislation, except where administrative error or legal technicality has worked detriment or disadvantage to the person in whose favor legislation is suggested. This case does not come within either exception.

A copy of this letter is inclosed for your use.

Very truly yours,

FRANK T. HINES, *Administrator.*

