

MRS. LOIS GRAYBILL

SEPTEMBER 16, 1964.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 10294]

The Committee on Finance, to whom was referred the bill (H.R. 10294) for the relief of Mrs. Lois Graybill, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

STATEMENT

The Veterans' Administration in its report to the committee on the bill has indicated that the particular facts of this case warrant approval of the legislative relief provided in the bill.

Mr. Graybill died July 16, 1962, in the Veterans' Administration hospital, Wilkes-Barre, Pa. By letters dated July 30, 1962, and September 12, 1962, the regional office forwarded Veterans' Administration forms to Mrs. Lois Graybill for use in claiming dependency and indemnity compensation and death pension benefits, respectively. On those dates, the veterans' claims folder contained a notice-of-death teletype showing Mr. Graybill's insurance to be inactive on the date of his death, the last month for which premiums were paid being shown as October 1961. Evidence of record also indicated the possibility that the veteran had been totally disabled for insurance purposes for an extended period of time, and hence, eligible for waiver of premiums.

On July 22, 1963, the Veterans' Administration received a letter from Mrs. Graybill inquiring as to the status of her late husband's national service life insurance. She was advised on July 29, 1963, that the insurance had lapsed, but a claim form was enclosed for her use if she desired to apply for a waiver of premiums. She filed claim for waiver on August 8, 1963. However, it was necessary to deny the claim because it was not filed within 1 year of the date of death of the veteran (July 16, 1962) as required by law.

Under Veterans' Administration procedures, adjudication personnel are charged with the responsibility of carefully examining insurance records in lapsed cases for the purpose of determining whether the insurance may be payable as the result of entitlement to waiver of premiums. If the records indicate the possibility of total disability or that death resulted from a cause usually associated with a lingering illness that may be of a totally disabling nature and such illness may have had its inception while the insurance was in force during premium-paying conditions, instructions require release of a letter of explanation to the beneficiary, together with the proper forms on which to apply for waiver of premiums.

The report of the Veterans' Administration recognized that unfortunately the instructions and procedures of the Veterans' Administration were not followed in this case. It is the conclusion of the Veterans' Administration that had they been followed the widow would have filed an application for waiver of premiums in the 1-year time limitation prescribed by law. The evidence available to that agency shows that the insured, Albert C. Graybill, was totally disabled for insurance purposes from May 10, 1961, to the date of his death. On this record it is clear that the insurance could have been continued in force by a waiver of premiums if a timely claim had been filed. In recommending relief in this instance, the Veterans' Administration in its report on the bill stated:

Because they usually involve precedential and discriminatory aspects, it is my general policy not to favor the enactment of private relief bills. However, in this case I believe that the failure of the Veterans' Administration to properly inform Mrs. Graybill in 1962 of her right to apply for waiver of premiums was such prejudicial error as to warrant approval of the legislative relief sought to be accomplished by H.R. 10294.

August 31, 1964.

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

DEAR MR. CHAIRMAN: Further reference is made to your request for a report by the Veterans' Administration on H.R. 10294, 88th Congress, a bill for the relief of Mrs. Lois Graybill.

The bill, if enacted, would waive the 1-year time limitation for filing application for waiver of premiums provided in 38 U.S.C. 712(c) with respect to any application for waiver of premiums on national service life insurance policy No. V-14210408 (issued on the life of Albert C. Graybill, NC 9671272) filed by Mrs. Lois Graybill within a 1-year period beginning on the date of enactment of the bill. Any payments made pursuant to such application would be paid from the national service life insurance appropriation.

Section 712 of title 38, United States Code, provides that upon application by the insured payment of premiums on national service life insurance may be waived during the continuous total disability of the insured, which continues or has continued for six or more consecutive months, if such disability began (1) after the date of his application for insurance; (2) while the insurance was in force under premium-paying conditions, and (3) before the insured's 16th birthday. Sub-

section 712(c) provides that, if the insured dies without filing an application for waiver, the beneficiary, within 1 year after the death of the insured, or, if the beneficiary is insane or a minor, within 1 year after removal of such legal disability, may file application for waiver with evidence of the insured's right to waiver under that section.

The records of the Veterans' Administration disclose that Albert C. Graybill had active service from July 12, 1944, to November 15, 1945, and from May 5, 1948, to March 3, 1961. He applied for and was granted \$10,000 national service life insurance, effective February 1, 1950, designating his wife, Lois C. Graybill, as sole beneficiary of the insurance. The insurance lapsed for nonpayment of premiums on November 1, 1961, and was not in force on the date of his death.

Mr. Graybill died July 16, 1962, in the Veterans' Administration hospital, Wilkes-Barre, Pa. By letters dated July 30, 1962, and September 12, 1962, the regional office forwarded Veterans' Administration forms to Mrs. Lois Graybill for use in claiming dependency and indemnity compensation and death pension benefits, respectively. On those dates, the veteran's claims folder contained a notice-of-death teletype showing Mr. Graybill's insurance to be inactive on the date of his death, the last month for which premiums were paid being shown as October 1961. Evidence of record also indicated the possibility that the veteran had been totally disabled for insurance purposes for an extended period of time and, hence, eligible for waiver of premiums.

On July 22, 1963, the Veterans' Administration received a letter from Mrs. Graybill inquiring as to the status of her late husband's national service life insurance. She was advised on July 29, 1963, that the insurance had lapsed, but a claim form was enclosed for her use if she desired to apply for a waiver of premiums. She filed claim for waiver on August 8, 1963. However, it was necessary to deny the claim because it was not filed within 1 year of the date of death of the veteran (July 16, 1962) as required by law.

Under Veterans' Administration procedures, adjudication personnel are charged with the responsibility of carefully examining insurance records in lapsed cases for the purposes of determining whether the insurance may be payable as the result of entitlement to waiver of premiums. If the records indicate the possibility of total disability or that death resulted from a cause usually associated with a lingering illness that may be of a totally disabling nature and such illness may have had its inception while the insurance was in force during premium-paying conditions, instructions require release of a letter of explanation to the beneficiary, together with the proper forms on which to apply for waiver of premiums.

Unfortunately, these instructions and procedures were not followed in this case. Had they been followed, the widow undoubtedly would have filed an application for waiver of premiums within the 1-year time limitation prescribed by law. The evidence now of record shows that the insured was totally disabled for insurance purposes from May 10, 1961, to the date of his death. Accordingly, the insurance could have been continued in force by a waiver of premiums if a timely claim had been filed.

Because they usually involve precedential and discriminatory aspects, it is my general policy not to favor the enactment of private relief bills. However, in this case I believe that the failure of the

Veterans' Administration to properly inform Mrs. Graybill in 1962 of her right to apply for waiver of premiums was such prejudicial error as to warrant approval of the legislative relief sought to be accomplished by H.R. 10294.

Advice was received from the Bureau of the Budget with respect to a similar report on this bill to the Committee on the Judiciary, House of Representatives, that there was no objection to the presentation of the report from the standpoint of the administration's program.

Sincerely,

J. S. GLEASON, Jr., *Administrator.*

In view of the circumstances of this case and the favorable report submitted by the Veterans' Administration, it is recommended that the bill be considered favorably;

