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SENATE

REPORT
No. 288

MILDRED F. EVANS AND W. A. EVANS

FEBRUARY 24, 1932.—Ordered to be printed

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

REPORT

[To accompany S. 793]

The Committee on Finance, to whom was referred the bill (S. 793) for the relief of Mildred F. Evans and W. A. Evans, having considered the same, report it back to the Senate and recommend that the bill do not pass.

This bill would give the parents of a former soldier the benefit of a \$10,000 war-risk insurance policy which lapsed for nonpayment of premiums in 1920. He died in 1926. The parents brought suit against the United States, claiming that the soldier was totally disabled and that this, under the law, prevented a lapse of the policy. They lost their suit both in the United States District Court and in the circuit court of appeals.

The report of the Veterans' Administration is as follows:

VETERANS' ADMINISTRATION,
Washington, January 12, 1932.

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

MY DEAR SENATOR SMOOT: This is in receipt of your letter of December 29, 1931, forwarding for report a copy of S. 793, Seventy-second Congress, "A bill for the relief of Mildred F. Evans and W. A. Evans."

The bill provides that the war-risk insurance of the deceased, William Wallace Evans, amounting to \$10,000 shall be made payable to his parents Mildred F. Evans and W. A. Evans.

The records indicate that the decedent entered the military service on April 9, 1917, and was honorably discharged July 22, 1919, without disability noted or claimed. Application for compensation benefits was executed September 26, 1923, and subsequent medical evidence was produced indicating that the veteran was suffering from a 10 per cent degree of disability on account of active pulmonary tuberculosis from February 24, 1922. Accordingly, service connection was granted by presumption for this disease under the provisions of section 200 of the World War veteran's act, as amended. Various ratings were made up until the date of the veterans' death, which occurred November 19, 1926, and was occasioned by the respiratory disability.

It appears that the veteran and his wife were divorced, but at the present time she has the custody of a minor child and is receiving \$20 per month death compensation on account of this child.

During his military service, the veteran applied for and was granted war-risk insurance in the amount of \$10,000, which was made payable to his mother, Mildred Florence Evans. This policy was continued in force after the veteran's discharge from the service until June of 1920, when it lapsed for nonpayment of the premium due.

Suit was brought in the district court against the Government by Mildred F. Evans, executrix and personally, alleging that the veteran was permanently and totally disabled on account of tuberculosis from the time of his discharge from service. Evidence presented at the trial was insufficient to show permanent and total disability at any time while the insurance was in force. On appeal by Mrs. Evans, the Ninth Circuit Court of Appeals affirmed the judgment in favor of the Government in this case.

For your information, it may be stated that the mother and father of the veteran, if able to establish that they would be dependent upon him at this time were he alive, might be found entitled to death compensation. The mother was furnished with blanks upon which to make such application under date of July 19, 1930, but the same have not been returned to the Veterans' Administration.

It is believed that from the above report, the committee will be able to determine the merits of this bill and the propriety of its passage.

It is, as you 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 sought.

A copy of this letter is inclosed for your use.

Very truly yours,

FRANK T. HINES, *Administrator.*

