

Calendar No. 376

72D CONGRESS }
1st Session }

SENATE

{ REPORT
No. 357

PAUL LITTLE

FEBRUARY 24 (calendar day, MARCH 1), 1932.—Ordered to be printed

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

REPORT

[To accompany S. 1882]

The Committee on Finance, to whom was referred the bill (S. 1882) for the relief of Paul Little, having considered the same, report it back to the Senate and recommend that the bill do not pass.

The purpose of the bill is to authorize and direct the Administrator of Veterans' Affairs to extend the benefits of the emergency officers' retirement act to Paul Little, the claimant, "as if said Paul Little had made application for the benefits of such act prior to May 24, 1929."

The Administrator of Veterans' Affairs reports that the applicant communicated with the Veterans' Administration under date of July 8, 1929, making informal application for retirement under the act of May 24, 1928; that applicant is receiving compensation in the amount of \$95 per month on temporary total basis on account of gastric condition; that at no time since the claimant's discharge has his disability become sufficiently stabilized to justify the assignment of a permanent rating in any degree.

The evidence submitted by the applicant tends to show that he did not file application for retirement prior to May 24, 1929, because he "was informed that his disability was not 30 per cent permanent, as required by the act, and that it would be of little avail to apply for retirement." The medical evidence submitted by the applicant tends to show that he has a gastric intestinal condition and that his disability is permanent. Dr. James G. Hepplewhite, formerly medical examiner of the Veterans' Bureau for Chico, Calif., and San Francisco, Calif., has submitted an affidavit in which he gives it as his opinion that if an operation should be performed the applicant would continue to have a permanent disability of 30 per cent. The affidavits of other physicians outside of the bureau tend to sustain this opinion. This phase of the case has been passed upon by the Veterans' Administration and the report of the Administrator of Veterans' Affairs is as follows:

VETERANS' ADMINISTRATION,
Washington, January 15, 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 29, 1931, forwarding for report a copy of S. 1882, Seventy-second Congress, a bill for the relief of Paul Little.

It is apparently the intention of the bill to validate this former officer's application for retirement benefits under the emergency officers' retirement act as if such application had been executed and filed with the Veterans' Bureau prior to May 24, 1929.

The records of the Veterans' Administration show that Mr. Little entered the military service as a first lieutenant on November 7, 1918, and was honorably discharged on April 4, 1919. During service, he was under observation for gastric ulcer from February 24 to March 1, 1919.

Application for compensation benefits was executed on August 9, 1921, at which time the nature of the disability was stated as stomach ulcers. At the present time Mr. Little is receiving compensation in the amount of \$95 per month on a temporary total basis on account of the gastric condition.

The present rating for the condition for which compensation is being paid is as follows:

"GM. Temporary partial 20 per cent from D. S. S. to February 24, 1921.

"Temporary partial 40 per cent from February 24, 1921, to January 25, 1922.

"Temporary partial 50 per cent from January 25, 1922, to August 19, 1922.

"Temporary partial 25 per cent from August 19, 1922, to April 18, 1924.

"Temporary partial 40 per cent from April 18, 1924, to April 1, 1925.

"Temporary partial 15 per cent from April 1, 1925, to June 9, 1925.

"Temporary partial 25 per cent from June 9, 1925, to April 26, 1926.

"Temporary partial no per cent from April 26, 1926, to June 28, 1927.

"Temporary partial 50 per cent from June 28, 1927, to January 28, 1928.

"Temporary total from January 28, 1928. (Schedule disability ratings.

Reg. 86.)

"Incurred in or aggravated by service as provided in section 300, war risk insurance act as amended.

"Gastric ulcer.

"Variant: Abdomen, 3."

The records disclose that this officer communicated with the Veterans' Administration under date of July 8, 1929, making informal application for retirement under the act of May 24, 1928.

He was advised, however, that it was necessary to deny his claim inasmuch as the application was not received prior to the expiration of time allowed for filing claim under this act.

As you know, the second section of the emergency officers' retirement act provides that—

"No person shall be entitled to benefits under the provisions of this act except he make application as hereinbefore provided and his application is received in the United States Veterans' Bureau within twelve months after the passage of this act."

In order to be entitled to retirement with pay, it is necessary that the disability be permanently disabling to a degree of 30 per cent or more, and for retirement without pay it must be permanently disabling to a degree of more than 10 and less than 30 per cent. It will be seen that at no time since the claimant's discharge has his disability become sufficiently stabilized to justify the assignment of a permanent rating in any degree.

As shown by the above report, not only was Mr. Little's claim for retirement, which was filed July 8, 1929, too late, but the rating of his disability was on a temporary basis, whereas the law requires that the disability be rated as permanent. His claim seems to present no greater merit than many others that have been disallowed for either of these reasons; that is, either for failure to file application within the specified time limit or for the reason that the veteran does not meet the requirement of the law as to the permanency of his disability.

It appears that this bill is identical in substance to S. 3109, Seventy-first Congress, concerning which the Director United States Veterans' Bureau made a report on March 8, 1930, to your committee.

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.*

