

# Calendar No. 938

77TH CONGRESS }  
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SENATE

{ REPORT  
No. 902

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STANDARDIZATION AND UNIFORMITY OF PROCEDURE RELATING  
TO DETERMINATION OF SERVICE CONNECTION OF INJURIES  
OR DISEASES ALLEGED TO HAVE BEEN INCURRED IN OR AGGRA-  
VATED BY ACTIVE SERVICE IN A WAR, CAMPAIGN, OR EXPE-  
DITION

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DECEMBER 12, 1941.—Ordered to be printed

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Mr. CLARK of Missouri, from the Committee on Finance, submitted  
the following

## REPORT

[To accompany H. R. 4905]

The Committee on Finance, having considered the bill (H. R. 4905) to facilitate standardization and uniformity of procedure relating to determination of service connection of injuries or diseases claimed to have been incurred in or aggravated by active service in a war, campaign, or expedition, report back to the Senate and recommend that the bill do pass.

The purpose of the bill is set out in the report of the Committee on World War Veterans' Legislation (H. Rept. No. 1157), August 12, 1941, which reads as follows:

[H. Rept. No. 1157, 77th Cong., 1st sess.]

The Committee on World War Veterans' Legislation, to whom was referred the bill (H. R. 4905) to facilitate standardization and uniformity of procedure relating to determination of service connection of injuries or diseases claimed to have been incurred in or aggravated by active service in a war, campaign, or expedition, having considered the same, report favorably thereon with the recommendation that the bill be passed without amendment.

### ENDORSEMENT OF BILL

The report of the Veterans' Administration states that the bill as drafted is not considered to be objectionable from an administrative standpoint, and would give legislative sanction to the policy of resolving every reasonable doubt in favor of the veteran. It is further stated that in view of the extended consideration given this matter and the desire of your committee to have provisions included in the law such as those incorporated in the bill, the Veterans' Administration would offer no objection to the enactment of H. R. 4905 in its present form. Advice was received by the Veterans' Administration from the Bureau of the Budget that there would be no objection by that office to the submission of the report to your committee.

## PURPOSE OF THE BILL

The bill would authorize and direct the Administrator of Veterans' Affairs to include in the regulations pertaining to service connection of disabilities additional provisions in effect requiring due consideration to places, types, and circumstances of the veteran's service as shown by official records, official history of the organization with which he served, medical records, and pertinent medical and lay evidence. As to veterans who engaged in combat with the enemy in Federal active service during some war, campaign, or expedition the Administrator is authorized and directed to accept as sufficient proof of service connection of a disease or injury claimed to have been incurred in or aggravated by service in such war, campaign, or expedition, satisfactory lay or other evidence of service incurrence or aggravation if consistent with the circumstances, conditions, or hardships of such service, notwithstanding the fact that there is no official record of such incurrence or aggravation in such service, and, to that end, shall resolve every reasonable doubt in favor of such veteran. Service connection of such injury or disease may be rebutted by clear and convincing evidence to the contrary. The reasons for granting or denying service connection in each such case are to be recorded in full.

It is the purpose of the bill to place in brief legislative form the policy of the Veterans' Administration governing determination of service connection, with particular reference to determinations of fact pertaining to those persons who engaged in combat with the enemy in active service with a military or naval organization of the United States during some war, campaign, or expedition. The language of the bill has been carefully selected to make clear that a statutory presumption in connection with determination of service connection is not intended. The question as to whether any disability was or was not incurred in active military service is recognized as a question of fact to be determined upon the evidence in each individual case. It is desired to overcome the adverse effect of a lack of official record of incurrence or aggravation of a disease or injury and treatment thereof.

The committee has conducted hearings on various bills during the past few years pertaining to the subject of service connection. During the Seventy-sixth Congress, H. R. 6450 was favorably reported by your committee (Rept. No. 2982, to accompany H. R. 6450) and passed the House of Representatives September 30, 1940, but that bill failed of enactment during the Seventy-sixth Congress. H. R. 156, Seventy-seventh Congress, which is identical with H. R. 6450, Seventy-sixth Congress, was introduced January 3, 1941, and referred to your committee. During the hearings conducted by your committee May 7, 8, 9, 13, 15, 16, and 22, 1941, consideration was given to H. R. 156, and also H. R. 1587, H. R. 2652, and H. R. 4737. The principles contained in these various bills were thoroughly discussed in the hearings and testimony in connection therewith was received from the Administrator of Veterans' Affairs, and representatives of the American Legion, Veterans of Foreign Wars, Disabled American Veterans of the World War, and World War Combat Veterans' Association.

As revealed by the printed hearings and informal discussions, it was difficult if not impracticable, to reconcile the stated policy of the Veterans' Administration as contained in regulations and instructions with the disallowances of service connection in individual cases, particularly those of veterans who served in combat. Your committee is impressed with the fact that the absence of an official record of care or treatment in many of such cases is readily explained by the conditions surrounding the service of combat veterans. It was emphasized in the hearings that the establishment of records of care or treatment of veterans in other than combat areas, and particularly in the States, was a comparatively simple matter as compared with the veteran who served in combat. Either the veteran attempted to carry on despite his disability to avoid having a record made lest he might be separated from his organization or, as in many cases, the records themselves were lost.

The difficulties which were encountered in assembling records of combat veterans have been repeatedly placed before your committee and are a matter of record in the hearings. In many cases it is the committee's belief that this has been a major obstacle to the veteran obtaining a service-connected rating.

It is the opinion of this committee that the enactment of this bill into law will have a salutary effect. The committee realizes that the Administration has made pronouncements and set forth policies which are substantially the same as the procedures made mandatory by this bill, but believes that considerable difficulty has been encountered in securing uniform application of such policies and pro-

cedures. The bill is intended to insure a more nearly uniform application of the principles involved.

It is the intention of this committee that this legislation should make a matter of law the pronounced policies of the Veterans' Administration and make clear the obligation of employees engaged upon duties pertaining to determination of service connection the necessity for the fullest consideration of all evidence and formulation of decisions in line with the policies to which this bill, if enacted, will give legislative sanction. Such policies will be for application in any cases reviewed as well as in new claims.

This committee also has had under consideration numerous bills which would grant service pensions on a scale as liberal as that provided in the disability allowance law of July 2, 1930, which was repealed by the act of March 20, 1933, Public, No. 2, Seventy-third Congress, and in some instances such bills would provide more liberal service pension than that provided by the disability allowance law.

Much of the interest in more liberal service-pension laws is believed to be stimulated because of the inability of many veterans to establish service connection of a disability which they have sound reason to believe was incurred in combat with an enemy of the United States. It is believed that by more direct action to insure the granting of service connection in any case where that action can be taken upon the evidence submitted, or which may be submitted, and by extending full cooperation to the veteran, compensation will be awarded to those who meritoriously should be on the rolls under existing law, and there will result a more general understanding that the policy as set forth in this bill has been administered as effectively as possible. This does not mean that the granting of service connection in meritorious cases will remove the necessity for possible legislation granting service pensions, as for example, H. R. 4845, which was reported by this committee and passed the House of Representatives, but it is believed that the committee should not be required to consider in connection with service-pension legislation those cases wherein service-connected benefits should or could be granted.

