



National LEGISLATIVE Bulletin

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Veterans

GENERAL ISSUE

This issue of the BULLETIN is in the nature of a review of the 88th Congress, 1st and 2d Sessions. There remains one important matter—final approval of H.R. 1927, the pension bill. The bill was passed in the House. Action is promised in the Senate. Remaining 1964 BULLETIN issues will cover the things occurring in the last days of the 88th Congress.

BULLETIN NO. 16

SEPTEMBER 11, 1964

VETERANS LEGISLATION IN THE 88th CONGRESS. In this issue there are listed the principal laws enacted by the 88th Congress affecting Federal programs in which The American Legion is concerned on the basis of resolutions or continuing policy.

The adjournment of the Congress terminates the validity of current American Legion legislative resolutions. The upcoming National Convention will initiate a new legislative program for the 89th Congress, beginning next January.

In reviewing the legislative achievements it is believed you will agree that the record is one of the best in recent years.

While the listed achievements are impressive, they do not tell the whole story of the work of your Legislative Commission during the 88th Congress. Other legislation has been introduced at our request but has failed to run the Congressional gamut, thus expiring with the Congress. Such bills had to be prepared and action thereon sought as in the case of those that were successful.

IN ADDITION TO THE LAWS ENACTED, the list of achievements does not reflect the extensive work in support of funds and continued charter for the House Un-American Activities Committee, for example. Neither does it reflect the support of appropriations measures for other important agencies of the Government in which The American Legion is very much interested such as the Federal Bureau of Investigation, the Senate Internal Security Subcommittee, the Civil Service Commission, the Veterans' Employment Service, and the House Committee on Un-American Activities.

The development of support for adequate appropriations for the Veterans Administration and the Department of Defense are two time-consuming and highly important tasks of The American Legion.

THE PRAYER ISSUE. One of the most interesting and popular legislative pursuits in the 88th Congress was in connection with Congressman Becker's proposal to amend the United States Constitution so as to permit voluntary prayer and Bible reading in public schools. A great deal of material was disseminated to the membership at large from the Legislative Division, Washington, and the Americanism Division, Indianapolis. Responses came by the thousands and in one day there were received more than 1,100 communications from supporters of the proposed amendment. National Americanism Chairman Daniel J. O'Connor did a superb job in presenting the views of The American Legion before the House Judiciary Committee. Even though the effort failed in the 88th Congress, there is little doubt that The American Legion and the American Legion Auxiliary gained National prestige by their support of the basic concept of both organizations, i.e., For God and Country.

THE RECORD OF THE 88th CONGRESS

A partial list of legislation made law and dealing with Veterans' affairs.

The American Legion is proud to record the fact that the Congress is interested in the things for which the Nation's War Veterans speak.

P.L. 88-2 (Res. 5-62) Extends Universal Military Training and Service Act.	P.L. 88-77 (Policy) Authorizes the award of the Medal of Honor and other high awards for action during the Cold War.	P.L. 88-164 (Res. 49-S-63) To assist in combatting mental retardation through help in constructing facilities.	P.L. 88-359 (Policy) Eliminates offset against burial allowances paid by VA by amounts paid by burial associations.	P.L. 88-401 (Res. 23-S-63) Provides assistance to blind veterans who have suffered loss (or use) of lower extremity in acquiring specially adapted housing.	P.L. 88-448 (Res. 15-S-63) Liberalizes dual compensation-dual office laws concerning retired officers in Federal civilian jobs and maintains veterans' preference.
P.L. 88-3 (Res. 18-F-62) Authorizes burial allowance when discharge has been corrected after death.	P.L. 88-126 (Policy) Authorizes cooperation between state agencies and VA in approving school courses for war orphans.	P.L. 88-207 (Policy) Authorize Administrator of VA to delegate additional authority to Chief Medical Director.	P.L. 88-360 (Policy) Amends Universal Military Training Act to exempt from induction sole surviving son of father who died as a result of military service.	P.L. 88-402 (Policy) Authorizes VA Administrator to sell direct loans at prices he determines to be reasonable.	P.L. 88-450 (Res. 378-63) Authorizes VA to furnish nursing home care treatment and provides for assistance to state soldiers homes in providing or expanding same type care.
P.L. 88-18 (Policy) Authorizes appointment of retired officer as chief medical director of VA.	P.L. 88-132 (Res. 555-63) Armed Forces pay increase.	P.L. 88-236 (Policy) Facilitates aliens enlistment or appointment in a reserve component.	P.L. 88-361 (Policy) Extends benefits of of War Orphans Educational Assistance Act to children of veterans who are permanently and totally disabled from service-connected causes.	P.L. 88-422 (Res. 555-63) Armed Forces pay increase.	P.L. 88-451 (Res. 51-S-64) Provides assistance to Alaska in recovering from earthquake.
P.L. 88-20 (Policy) Authorizes additional compensation for veterans with service-connected deafness of both ears.	P.L. 88-134 (Policy) Increases rates of dependency and indemnity compensation for widows.	P.L. 88-240 (Res. 630-62) Sets forth guidelines for Corregidor-Bataan Memorial and authorizes \$1,500,000 in furtherance of said plans.	P.L. 88-364 (Policy) Extends waiver of premium provisions under NSLI for permanently and totally disabled veterans from age 60 to 65.	P.L. 88-426 (Res. 9-S-64) Federal Employees pay raise; places Administrator of VA at Level II among Federal executives.	P.L. 88-452 (Res. 278-62) Economic Opportunity Act of 1964 (Anti-Poverty bill) provides for a Youth Conservation Corps similar to proposal supported earlier.
P.L. 88-21 (Policy) Increases rates of dependency and indemnity compensation for children and parents of deceased veterans.	P.L. 88-151 (Policy) Authorizes VA to waive indebtedness on G.I. loan when default is due to circumstances beyond veteran's control.	P.L. 88-274 (Res. 546-63) Relieves VA from paying interest on funds transferred from direct loan fund to loan guaranty revolving fund.	P.L. 88-366 (Res. 42-S-64) Authorizes President to proclaim December 7, 1966 as Pearl Harbor Day in commemoration of 25th Anniversary of attack on Pearl Harbor.	P.L. 88-430 (Res. 20-S-63) Authorizes certain dental treatment after correction of discharge.	P.L. 88-481 (Policy) authorizes medical care for nonservice-connected disability of peacetime recipients of Medal of Honor.
P.L. 88-22 (Policy) Authorizes additional compensation for veterans suffering loss (or use) of both vocal cords.	P.L. 88-156 (Res. 49-S-63) Amend Social Security Act to assist states and communities financially in preventing and combatting mental retardation.	P.L. 88-276 (Policy) Relating to nomination and selection of candidates for the Military, Naval, and Air Force Academies.	P.L. 88-368 (Policy) Extends life of Juvenile Delinquency and Youth Offenses Control Act of 1961 and provides for a special project and study.	P.L. 88-434 (Res. 156-63) Grants certain construction authority to VA in order to provide adequate hospital facilities in Los Angeles, California.	P.L. 88-504 (Policy) Requires audit of accounts of private corporations established under Federal law. Permits American Legion to print audit as public document.
P.L. 88-40 (Res. 19-F-62) Extends period of grants-in-aid to Philippines for hospitalization of veterans.	P.L. 88-158 (Policy) To provide additional housing for the elderly.	P.L. 88-355 (Res. 34-S-63 and Res. 480-63) Authorizes issuance of total disability income protection provision in NSLI policies from age 60 to age 65.	P.L. 88-396 and P.L. 88-397. Grants renewal of patents of American Legion's school award medal and school award plaque.	P.L. 88-445 (Policy) Provides that a disability which has been rated at or above a certain percentage for 20 or more years may not thereafter be reduced below such percentage.	P.L. 88-519 (Res. 542-63) Authorizes Federal employees, including veterans under Veterans' Preference Act, to file suits against Government in any Federal District Court rather than solely in District of Columbia as was the rule.

DEFENSE OF EXISTING LAWS. There is also a negative side to our legislative program which does not come to light in our record of achievements. Throughout the two sessions of the 88th Congress a great deal of time was spent in an effort to preserve Veterans' Preference and the Civil Service Merit System in spite of legislative attacks on both by at least two agencies of Government. Legislation was proposed by one or the other Houses of Congress that would set aside Civil Service and Veterans' Preference and authorize indiscriminate firing of employees without regard to either of those laws. The Legion has been in a constant struggle to prevent the enactment of such provisions and as this is being written there is great hope of success.

Caution is urged among BULLETIN readers and others interested in Veterans' Preference. Both Civil Service and Veterans' Preference are in jeopardy. The influential Committee for Economic Development (a Presidential Committee) has recommended to the Administration that sweeping firing authority for all Government agencies be granted. This has not yet been proposed as legislation. These are the danger signals.

The time may now be at hand when a careful review of the Veterans' Preference Act should be made to determine the stand of The American Legion in the face of an all out onslaught on Veterans' Preference and the Merit System.

THE SPIRIT OF THE 88th CONGRESS WAS FINE. The fine record of The American Legion in the 88th Congress was made possible by the effective leadership of Past National Commander Powers and National Commander Foley; by the support of the National Organization and the Departments; by the wonderful help of the American Legion Auxiliary and all of you who have so staunchly supported our legislative program by your individual communications to the Members of Congress.

But there is another side of the coin—the Congress. Without the leadership of the Chairmen and members of the committees having jurisdiction over legislation affecting our programs, and the favorable responses of the House and Senate, our efforts would have gone for naught. The committees primarily concerned were: House Veterans Affairs; Senate Finance; Senate Labor and Public Welfare and its subcommittee on Veterans' Affairs; Senate Banking and Currency; the Post Office and Civil Service and the Appropriations Committees of both Houses.

For all of this the National Legislative Commission is most grateful.

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THE VA NURSING CARE LAW

PUBLIC LAW 88-450. H.R. 8009, a bill authorizing the Administrator of Veterans Affairs to establish additional beds for furnishing nursing-home care to eligible war veterans, and for other purposes, became Public Law 88-450, when approved by the President August 19, 1964.

P.L. 88-450 authorizes not less than 4,000 nursing home beds in the VA Department of Medicine and Surgery. Provides limited care in public or private nursing homes for certain VA patients. Authorizes rehabilitative devices to pensioners receiving aid and attendance allowances who are eligible for an invalid lift on outpatient basis.

Authorizes five year program of \$5 million a year, of matching grants to states for construction of state home facilities for nursing home care for war veterans. Removes time limitation on outpatient care following hospitalization for certain veterans receiving aid and attendance payments who are suffering from specific chronic diseases. Passed Senate August 4, 1964 with amendments. House concurred in Senate amendments August 6, 1964.

Public Law 88-450 is, in the words of National Commander Foley, a landmark in new legislation in the field of veterans' affairs. The authorizing legislation has been enacted. Now the problem of The American Legion is to make sure that in the administration of this law, the Administrator of Veterans Affairs does all that is possible to make this a successful operation. The first big test will be in the manner in which funds are provided to administer the law as intended by the Congress.

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THE 1964 PENSION ACT

The 1964 Pension Act was reported to the House by the House Committee on Veterans Affairs August 5. The House approved the legislation by a recorded vote of 388 yeas and 0 nays. The Senate Committee on Finance held hearings August 19. As of September 3, as reported in the Congressional discussion of H.R. 1927, firm commitments to the end that a bill would be reported to the Senate were made by several Senators. At this time it is not possible to say whether the Senate will recommend approval of H.R. 1927 as passed in the House, as recommended by the Administrator of Veterans Affairs in his report of August 26, or just what may be in the Senate bill. Probability is that H.R. 1927 will go to conference following action in the Senate. The Legion is hopeful that the strongest possible law will be enacted in this Congress.

Brief Rehabilitation analysis of H.R. 1927 follows:

H.R. 1927 is a bill to amend title 38, USC, so as to revise the rates of disability and death pension authorized by the Veterans Pension Act of 1959, and for other purposes. This bill, as you well know, was sponsored and is supported by The American Legion. An amended version of the bill was reported by the House Committee on Veterans Affairs on August 5, 1964 and it is on the Suspension Calendar for Monday August 10, 1964.

In general, this bill, as reported, would:

1. Amend the income determination provisions of chapter 15 to exclude:
 - a. 10 per cent of payments to an individual under public or private retirement plans and exclude the present recoupment provisions of personal contribution to these plans or programs.
 - b. Expenses paid by a veteran in connection with the last illness and burial of a deceased spouse or child.
 - c. Profit realized from disposition of real or personal property (other than in the course of business).
 - d. Payments received for discharge of jury duty or obligatory civic duties.
 - e. Payments of educational assistance allowance under chapter 15 of title 38, USC (War Orphans Educational Assistance).
2. Eliminate requirement that children submit annual income questionnaires.
3. Eliminate disability requirements for pension at age 65 and demonstration of unemployability.
4. Revise upward the first two annual income increments and the rates of death and disability pension for the first annual income increment.

(Continue on back page)

5. Increase the aid and attendance allowance under chapter 15 to \$100 and authorize the furnishing of drugs and medicines prescribed by a duly licensed physician.

6. Provide a housebound rate of \$35 for those who do not qualify for the aid and attendance allowance and who meet the housebound disability defined.

7. Exclude from the annual income of the veteran, whichever is the greater, \$1200 or total earned income of the spouse.

8. Establish a uniform hospital reduction for those service-connected and nonservice-connected veterans receiving an aid and attendance allowance. The reduction will be made on the first day of the second month following the date of admission to hospital.

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NATIONAL SECURITY LEGISLATION. In noting that The American Legion, in the main, is satisfied with the way the 88th Congress has dealt with defense matters, William C. Doyle, Chairman of the Legion's National Security Commission, reports that our national security legislation mandates have fared well.

Congress has passed the Defense Appropriations bill, the military pay bill and the civil defense appropriations bill. Presently under final consideration is the ROTC vitalization bill, H.R. 9124. Sen. Richard B. Russell (Ga.), chairman of both the Senate Defense Appropriations and Armed Services Committees, said that he fully expects to complete work on all of the defense proposals presently under consideration.

Many Legion national security proposals are incorporated in Public Law 88-446, signed by the President August 22. The \$46.7 billion defense measure provided \$11.3 billion for the Army; \$14.2 billion for the Navy, and \$18.5 billion for the Air Force. Several items in the bill touched directly on Legion resolutions in the national security field.

Funds earmarked for the Army provided for an active Army of 974,000, some 26,000 short of the one million urged by the Legion; and an Army National Guard and Army Reserve of 400,000 and 300,000, respectively. Funds are also provided for modernization of Army weapons and equipment and for research and development of the NIKE-X.

The Navy's shipbuilding program was cut and it lost three motor gunboats as shipbuilding and conversion funds were held to \$1.9 billion. The bill carried a provision requiring that at least 35 per cent of repairs, conversion, and alteration funds be spent in private shipyards.

The Air Force got \$52 million set aside for research and development on an advanced strategic aircraft as a follow-on to the obsolescing B-52; another Legion objective. They also received \$3,563,737,000 for new aircraft procurement. The appropriations bill, from the Legion viewpoint, will provide necessary funds to insure the United States an adequate military posture.

President Johnson (Aug. 21) signed the bill raising the pay of most military personnel effective Sept. 1, 1964. This Legion-supported military pay raise was passed by Congress in record time. The new military pay act provides a flat 2½ percent increase for everyone with two or more years of service.

The Legion, earlier, also testified in favor of H.R. 8200. The bill would provide matching funds for fallout shelter facilities in building projects sponsored by non-profit organizations such as government, schools, hospitals, and veterans organizations.

EXECUTIVE OFFICE OF THE PRESIDENT

BUREAU OF THE BUDGET

WASHINGTON, D.C. 20503

August 13, 1964

Honorable Harry F. Byrd
Chairman, Committee on Finance
United States Senate
Room 2227 New Senate Office Building.
Washington, D.C. 20510

Dear Mr. Chairman:

Your Committee has under consideration the bill H.R. 1927, "To amend title 38, United States Code, so as to revise the rates of disability and death pension authorized by the Veterans Pension Act of 1959, and for other purposes." The purpose of this letter is to provide you with the views of the Bureau of the Budget regarding this legislation.

The bill would authorize a number of far-reaching exemptions in income limitations established by the Veterans Pension Act of 1959, eliminate entirely for veterans over age 65 the requirement of 10 percent disability and the requirement that the veteran be unemployable because of the disability, increase rates for veterans in the lowest bracket, raise the income limitation in the two lower brackets, provide free drugs and medicine to "aid and attendance" cases as well as increase the payment rates for these cases, and effect a number of other changes.

The basic and long-standing principle on which the Veterans Pension Act of 1959 was enacted—after long and careful study by the Congress—is that pensions should be based on need. Under the Veterans Pension Act, need is demonstrated by three tests: (1) The veteran must be disabled, (2) his disability must prevent his employment, and (3) his annual income must be below amounts specified in three brackets, with the amount of his pension varying inversely with the amount of his income. The changes proposed in H.R. 1927 very seriously undermine the principle of need, and for this and other reasons the Bureau of the Budget strongly objects to this bill.

One of the more far-reaching and, we believe, more costly changes proposed in the bill is the provision to eliminate the disability requirement for veterans over age 65 as well as the test that they be unemployable because of disability. For those having the minimum of 90 days' service, this would leave only income as the test for entitlement to pension. Estimates of the costs which would result from this provision

are open to challenge but we believe the following data indicate it could be a very costly change. It is estimated that about 150,000 to 175,000 additional veterans over age 65 would become immediately eligible for pensions if income were left as the only bar and tens of thousands more could find it advantageous to leave or reduce their employment in order to reduce their incomes so that they could claim a veterans pension. If only 100,000 in these groups should apply for and receive an average annual pension of \$700, it would cost \$70 million a year.

If income is the only effective test of need required, there may well be pressures to raise income limitations still further. When World War II and Korean Conflict veterans reach retirement age in large numbers, the cost impact of these developments will be multiplied. We see no reason to drop the long-standing disability and unemployment tests.

The bill would increase monthly payments for pensioners in the lowest income brackets by \$5 to \$10 a month. Approximately 390,000 of the 1,200,000 pension cases on the rolls would benefit by this rate increase. Larger increases in benefits would go to individuals with more income. By raising the upper limits of the lower two income brackets, tens of thousands of pensioners now in higher brackets would be covered into the lower and middle brackets, increasing their pensions by \$20 to \$35 a month, amounts in some cases equal to 75 percent of their present pension. To illustrate:

- A single veteran with \$1,300 of other income a year will have his \$40 monthly pension raised by \$30.
- A married veteran with \$1,200 of other income will have his \$75 monthly pension increased by \$35; but
- A single veteran with no income except his \$85 monthly pension will get only \$5 more; and
- A married veteran with three children and no income except his \$100 monthly pension will receive \$10 more—moreover, his total annual income will be only \$1,320 as compared to \$2,140 for the single veteran in the first example.

These substantial increases for veterans at higher income levels are difficult to square with the modest increases for people with little income or none.

Other liberalizations in income definition would also give greater benefits to those with larger incomes. For example, the entire amount

of the spouse's income would now be excluded from family income limitation, permitting a veteran whose income is derived entirely from his spouse's earnings to receive a \$1,200 pension even if his wife's income is \$5,000, \$10,000, or more. This does not comport with the principle of need. Another example of proposed changes favoring the veteran already better off would be the exemption from income limitation of the profits from the sale of property.

H.R. 1927 would substitute for the present recoupment provisions an exemption from the annual income limitations amounting to 10 percent of the income received from all private or public retirement or income support programs. While this would bar from pensions those individuals whose retirement income, after a 10 percent reduction, would still exceed the income limitation, the substitute, in our eyes, is unsatisfactory. Viewed as a "recoupment provision" it:

1. Would provide the greater exemption to the individual who has the larger retirement or other income support payment and has the lesser need for preferential treatment;
2. Would permit veterans who have already recouped 100 percent of their contributions to "recoup" a second time;
3. Would permit the 10 percent exemption to be taken against all retirement, annuity, endowment, and other similar income, including income from noncontributory programs and plans as well as contributory ones, and would apply to the total income of contributory plans—even though typically the individual's contributions are only a small fraction of the value of the benefits paid (e.g., under OASDI contributions by the individual are now less than 10 percent of benefits and are unlikely to exceed 25 percent for many years); and
4. Assumes a 10-year life expectancy at the age of 65 whereas more recent tables show 13-years or more.

This provision is in fact simply a flat exemption of a portion of all the income support payments which come from other public or private programs or plans. We believe that all such income, including income presently exempted under the "recoupment" provision of existing law, should be counted under the VA pension income limitations in keeping with the need principle, because such income is available for living expenses. Exempting a flat portion of such income from consideration in determining need for a VA pension opens the door for further exemptions which will still further undercut the whole concept of nonservice-connected pensions. As discussed below, if the OASDI increases are believed to cause a significant problem for VA pensioners, a much more direct, less costly, less damaging saving clause can be worked out.

The cost of the bill as estimated by its sponsors is \$72 million for 1966 (costs for 1965 are only for the portion of the year after enactment) and almost half a billion dollars for the first five years. We believe this estimate to be low because it assumes that (a) virtually no new cases will be added to the rolls as a result of the liberalizations, (b) the costs resulting from transfers from the "old" pension law to the "new" pension act will not be attributed to the proposed changes even though the additional liberalizations were responsible for the transfers, and (c) the estimates include nothing in extra costs because of the proposed elimination of the disability and unemployment tests. Earlier estimates of the cost of the bill were \$125 million for 1966 and nearly three-quarters of a billion dollars for the first five years.

- While we have not had an opportunity to complete our analysis, there is reason to believe that the costs would run substantially higher than either of these estimates. No provision has been made in the 1965 budget for these costs.

We note, finally, that the social security system provides increased support for veterans. Ninety percent or more of our veterans are covered under the basic OASDI system. The House-passed social security bill will provide benefit increases and entitlement for hundreds of thousands of veterans now on the rolls. A minority of veterans will be adversely affected because the increase in social security benefits increases their total income and thus may reduce or eliminate their pensions if they are at the margin of income limitation. The individuals suffering the greatest loss, however, are those under the old pension plan where excess income bars the entire pension in an all-or-nothing manner. These persons can ameliorate their loss by transferring to the new pension plan.

For others adversely affected we would recommend a temporary saving clause to provide a transition period. Such a provision might permit continued receipt of present veterans pensions for the first year, notwithstanding the social security increase, a one-third adjustment toward the new level for the second year, a two-thirds adjustment the third year, and full adjustment thereafter.

For the reasons outlined above, the Bureau of the Budget strongly opposes H.R. 1927, and its enactment would be inconsistent with Administration objectives.

Sincerely,


Kermit Gordon
Director

WF - Vets

COMMENTS ON BUREAU OF THE BUDGET POSITION ON H. R. 1927

(Letter to the Chairman dated 8/13/64)

Opposition of the BOB to the enactment of HR 1927 is directed principally to the areas of income exclusions, elimination of disability and unemployment requirement at age 65, changing of the income increment levels, and substitution of a 10% exclusion for the current total recoupment revision of law.

It is noteworthy that in a complicated bill comprising 12 different sections, the Bureau's opposition appears to be restricted to four of these sections. In our opinion the four sections about which the Bureau of the Budget expresses such great concern are of relative unimportance and affect less than 2% of the entire caseload.

The attached sheets state the Bureau's position in opposition to each of these provisions, with pertinent data and analyses responding to the Bureau's position.

Elimination of Disability and Unemployment Requirement at
Age 65

BOB - "For those having the minimum of 90 days' service, this would leave only income as the test for entitlement to pension. Estimates of the costs which would result from this provision are open to challenge but we believe the following data indicate it could be a very costly change. It is estimated that about 150,000 to 175,000 additional veterans over age 65 would become immediately eligible for pensions if income were left as the only bar and tens of thousands more could find it advantageous to leave or reduce their employment in order to reduce their incomes so that they could claim a veterans pension. If only 100,000 in these groups should apply for and receive an average annual pension of \$700, it would cost \$70 million a year.

If income is the only effective test of need required, there may well be pressures to raise income limitations still further. When World War II and Korean Conflict veterans reach retirement age in large numbers, the cost impact of these developments will be multiplied. We see no reason to drop the long-standing disability and unemployability tests."

Comment -

Elimination of the disability requirement would not leave income as the only test for entitlement to pension, but there would also be the net worth provision of the current law to bar from the rolls those who have accumulated substantial resources.

With regard to the estimated potential of 150,000 who would allegedly become immediately eligible for pensions, the conclusion that this would cost \$70 million could only be predicated on the unwarranted assumption that the disability requirement of present law is the only factor barring these potential eligibles from entitlement.

Such is not the case.

To the contrary, experience would tend to indicate that those having the requisite service and meeting the income and net worth tests are equally eligible under current law but for various reasons have not chosen to apply for benefits. This reluctance to apply or ignorance concerning available benefits is experienced in all benefit programs administered by the Government.

.... 150,000 is less than 7% of the living WW I veterans but as late as 30 years after enactment of the first service pension for Spanish American War veterans, there were still between 10 and 20% fully eligible who had not applied.

.... Despite full information and individually addressed notice of right to file claim, at least 15% of all eligible war orphans fail to apply for educational benefits and of those who do apply 35% do not take advantage of the benefits to which they are entitled.

.... Only 50% of the veterans took advantage of the G.I. Bill despite widespread publicity.

.... More pertinent to the subject of pension, despite the broadest and most intensive publicity campaign, there are still today 268,000 or 27% who remain on the protected pension rolls notwithstanding that they could receive \$40 million more per year by electing under the provisions of current law.

The true effect of elimination of the disability requirement is more nearly reflected by experience. The one month's study of claims adjudicated by the VA conducted by the House Veterans Affairs Committee in April 1964 shows that out of an average of 100,000 denials of pension eligibility each year only 60 are based on lack of the requisite 10% disability and only 800 are based on the fact that the claimant is employable despite his disability. This constitutes less than 1% of the denials of pension. The added benefit cost for the 860 denied claimants would approximate \$400,000 per year. This would be more than offset by the added administrative expenses currently required in rating board consideration and medical examinations to determine whether the disability requirements of law are met.

It is inconceivable to ascribe knowledge of a disability requirement as a deterrent to the filing of claims by substantial numbers of claimants who have no income, when the disability requirement is only 10%. Each day hundreds in this category still continue to file claims just as 600 each month continue at this late date to elect pension under PL 86-211.

The conclusion is inescapable that this provision of HR 1927 could have no significant cost implication.

Changing the Limit of the Lower Two Income Brackets

BOB - "By raising the upper limits of the lower two income brackets, tens of thousands of pensioners now in higher brackets would be covered into the lower and middle brackets, increasing their pensions by \$20 to \$35 a month, amounts in some cases equal to 75 percent of their present pension. To illustrate:

✓ - A single veteran with \$1,300 of other income a year will have his \$40 monthly pension raised by \$30.

- A married veteran with \$1,200 of other income will have his \$75 monthly pension increased by \$35; but

- A single veteran with no income except his \$85 monthly pension will get only \$5 more; and

- A married veteran with three children and no income except his \$100 monthly pension will receive \$10 more--moreover, his total annual income will be only \$1,320 as compared to \$2,140 for the single veteran in the first example.

These substantial increases for veterans at higher income levels are difficult to square with the modest increases for people "with little income or none."

Comment -

The apparent inequities illustrated in the four examples cited by the BOB are occasioned not by HR 1927 but by the very structure of an income limit pension system. Wherever there are income increments there are points at which an added few dollars of income will require a disproportionate decrease in pensions. The number of such points is directly related to the number of increment levels but increase in the number of

levels tends to reduce somewhat the disproportion in the corresponding decrease in pension. These could only be eliminated by a dollar for dollar pension system which would have the drawbacks of completely eliminating the incentive motive and would be administratively infeasible. There was nothing magical about the three increment levels in PL 86-211. These divisions were arrived at by simple arithmetic. Using the same examples cited by the BOB.

- The single veteran in Example #1 today has available a combined income from pension and other sources of \$1,780, whereas a single veteran with \$100 less in outside income (\$1,200) has a total spendable income of almost \$300 more or \$2,040.
- Similarly, the married veteran in Example #2 has \$2,000 available to spend but if he were to reduce his outside income by \$200 he would increase his spendable income (\$2,200) by \$200.
- It is true that the veterans in illustrations #3 and #4 will get increases of only \$60 - \$120 per year but they have, since 1960, been enjoying the maximum pension rates of \$1,020 - \$1200 per year.

The change in the income increments in HR 1927 is designed to take better advantage of experience under the present law and to relate the pension levels more closely to the needs of the pensioners and the current economic facts of life.

Change in Computation of Spouse's Income

BOB - "Other liberalization in income definition would also give greater benefits to those with larger incomes. For example, the entire amount of the spouse's income would not be excluded from family income limitation, permitting a veteran whose income is derived entirely from his spouse's earnings to receive a \$1,200 pension even if his wife's income is \$5,000, \$10,000, or more. This does not comport with the principle of need."

Comment -

This provision of HR 1927 is predicated on cases of extreme hardship which have come to the attention of the HVAC. Illustrative is the case of the veteran so totally helpless that he needs the aid and attendance of another person and whose pension of \$160 a month could not meet the financial requirements of his family. Rather than send him to a hospital or nursing home the wife accepts a job as a schoolteacher at \$4,300 per year in an effort to keep the family together. As a result, the veteran's pension is taken away and the family income reduced by \$1920 per year. Veterans over 65 comprise 90% of the disability pension rolls.

HVAC has yet to encounter a case in which the spouse of a 65 year old veteran is able to earn \$10,000 from employment. This amendment is not designed to destroy the family unit concept but rather to remove the penalty on the wife who works to preserve the family unit.

Contrary to the impression conveyed by BOB's statement only the earned income of the spouse is totally excluded. The current \$1200 exclusion of unearned income is continued but thereafter all unearned income of the spouse would continue to be counted as it is now. Therefore HR 1927 effectively continues the current safeguards to prevent the veteran from creating his own need by transferring income producing assets to his wife.

Exclusion of Profits from the Sale of Property

BOB - "Another example of proposed changes favoring the veteran already better off would be the exception from income limitation of the profits from the sale of property."

Comment -

This statement is further evidence (see response to elimination of disability requirement at age 65) that the BOB has overlooked the net worth test in the current law. Under present law property is subject to a net worth test. The sale of that property, except in the course of a business, does not truly constitute income but merely an exchange of that asset from one form to another. As such, it is still subject to the net worth test. One of the criteria of the test is the liquidity of the asset. Thus the conversion of real property into cash could very well have the effect of barring the veteran under the net worth test until such time as he had materially reduced his net worth. Under the income test he would be barred only for the remainder of the year of sale.

Substitution of 10% Exclusion for
Present Recoupment Provision

BOB - "HR 1927 would substitute for the present recoupment provisions an exemption from the annual income limitation amounting to 10 percent of the income received from all private or public retirement or income support programs. While this would bar from pensions those individuals whose retirement income, after a 10 percent reduction, would still exceed the income limitation, the substitute, in our eyes, is unsatisfactory. Viewed as a "recoupment provision" it:

1. Would provide the greater exemption to the individual who has the larger retirement or other income support payment and has the lesser need for preferential treatment;

2. Would permit veterans who have already recouped 100 percent of their contributions to "recoup" a second time;

3. Would permit the 10 percent exemption to be taken against all retirement, annuity, endowment, and other similar income, including income from noncontributory programs and plans as well as contributory ones, and would apply to the total income of contributory plans--even though typically the individual's contributions are only a small fraction of the value of the benefits paid (e.g., under OASDI contributions by the individual are now less than 10 percent of benefits and are unlikely to exceed 25 percent for many years); and

4. Assumes a 10-year life expectancy at the age of 65 whereas more recent tables show 13 years or more.

"This provision is in fact simply a flat exemption of a portion of all the income support payments which come from other public or private programs or plans. We believe that all such income, including

income presently exempted under the "recoupment" provision of existing law, should be counted under the VA pension income limitation in keeping with the need principle, because such income is available for living expenses."

Comment -

To properly understand this provision it should be realized that present law recognizes that return of ones own capital investment is not counted as income. Thus retirement annuities are not counted as income until all of the individuals contributions to the fund are recouped. This principle is sound, but the current method of total recoupment creates artificial need because the greater the retirement the greater the initial recoupment. For example:

.... The Civil Service retiree with an annuity of \$7000 per year can now draw the maximum pension of \$1200 per year for two or more years. After which he is entitled to no pension.

HR 1927 recognizes the soundness of the recoupment principle but relates it more closely to the ongoing level of need. Thus, the Civil Service retiree in the example cited would never qualify for pension, but a married veteran with a Social Security annuity of \$2300 would receive \$900 in pension in the first as well as subsequent years rather than \$1200 the first year and \$540 in pension thereafter.

Most significant is the beneficial effect of this change in preventing the unfortunate result that the House passed 5% social security increase could otherwise have on many pensioners. Under current law an increase of only \$50 in social security will penalize thousands of pensioners by reducing their pensions as much as \$360 per year.

To say that the recoupment principle should only be applied to those who have contributed in cash to a retirement fund flies in the face of the facts of economic life. Whether a company pension is contributory or totally company financed as a substitute fringe benefit for an increase in wages is a happenstance of the bargaining table that should not penalize the worker whose services have earned his retirement.

It is true that current mortality tables will support a life expectancy recoupment between 8 and 9%, but who can quarrel with the administrative desirability of rounding them off to 10%.

Protection from Effects of 5% Social Security Increase

BOB - "We note, finally, that the social security system provides increased support for veterans. Ninety percent or more of our veterans are covered under the basic OASDI system. The House-passed social security bill will provide benefit increases and entitlement for hundreds of thousands of veterans now on the rolls. A minority of veterans will be adversely affected because the increase in social security benefits increases their total income and thus may reduce or eliminate their pensions if they are at the margin of income limitation. The individuals suffering the greatest loss, however, are those under the old pension plan where excess income bars the entire pension in an all-or-nothing manner. These persons can ameliorate their loss by transferring to the new pension plan.

"For others adversely affected we would recommend a temporary saving clause to provide a transition period. Such a provision might permit continued receipt of present veterans pensions for the first year, notwithstanding the social security increase, a two-thirds adjustment the third year, and full adjustment thereafter."

Comment -

It is difficult to visualize a more irresponsible solution to a problem which sorely vexed the members of the HVAC, and nearly all Members of the House. In effect it would say to the 1,200,000 veterans and widows on the pension rolls who are scheduled for increases in their social security checks:

- In 1965 if you were provident enough to have elected PL 86-211 none of the social security increase would adversely affect your pension.
- In 1966 you would suffer one-third of the loss attributable to your social security increase.

- In 1967 two-thirds of the loss of pension would occur.
- In 1968 all of the pension loss would be suffered.
- Of course if you were improvident enough to have remained on the protected pension rolls all of the social security increase must be counted immediately, and your only recourse is to give up your protected status, and sustain a loss of over \$400 per year in spendable income.
- So, having elected PL 86-211 to avoid loss of all pension, because of your delay in electing you are barred from any pension rate protection available to earlier electors.

Apart from its obvious inequities and the confusion it would create in the minds of claimants the BOB device is:

- Impossible to adequately explain to claimants.
- Extremely difficult to administer because of its artificial multiplicity of rates.
- Arbitrary in its selection of those benefited.
- Unrelated in its formula to any principle of need or reason.
- And it would only minimally ameliorate the impact of the currently pending social security increase.

The point is that HR 1927 provides a simple straightforward method of offsetting the adverse effects of small increases in retirement payments across the board so as to provide an equitable method, easily understood by all concerned.

HR 1927 would completely eliminate the adverse impact of the current social security increase as well as providing ongoing relief for similar future increases in other retirement benefits.

It is true that of those VA pensioners who will receive social security increases only a minority will be adversely affected. Of the 1,200,000 receiving pension in this category only 108,000 will lose pension. However the total annual increase in social

security benefit to VA pensioners amounts to \$72,781,938. The gross pension loss by reason of social security increases amounts to \$50,789,955 annually leaving \$21,991,983 net gain to all pensioners. Simply stated 10% of the pensioners would bear 3/4 of the cost of the social security increase to the other 90% of the pensioners.

Truly, Congress would be giving with one hand, and taking with the other, if the BOB proposal were to be adopted.

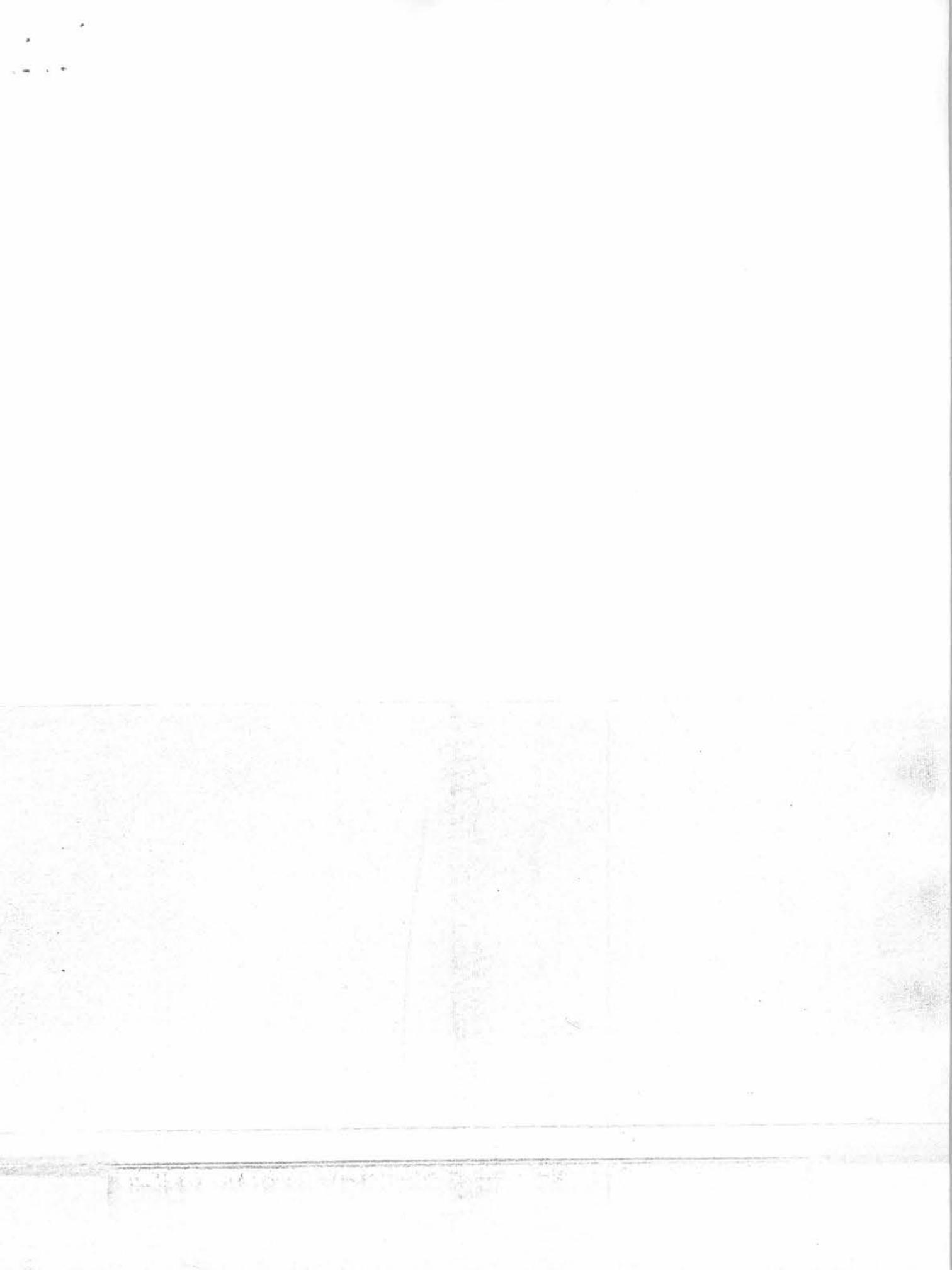
Cost Implications

BOB - "The cost of the bill as estimated by its sponsors is \$72 million for 1966 (costs for 1965 are only for the portion of the year after enactment) and almost half a billion dollars for the first five years. We believe this estimate to be low because it assumes that (a) virtually no new cases will be added to the rolls as a result of the liberalizations, (b) the costs resulting from transfers from the "old" pension law to the "new" pension act will not be attributed to the proposed changes even though the additional liberalizations were responsible for the transfers, and (c) the estimates include nothing in extra costs because of the proposed elimination of the disability and unemployability tests. Earlier estimates of the cost of the bill were \$125 million for 1966 and nearly three-quarters of a billion dollars for the first five years.

"While we have not had an opportunity to complete our analysis, there is reason to believe that the costs would run substantially higher than either of these estimates. No provision has been made in the 1965 budget for these costs."

Comment -

This presents your Committee with a choice of accepting as the cost estimate of HR 1927 either the vague "there is reason to believe" conclusions of the BOB or the firm cost estimate submitted by VA. Based on prior experience with VA cost estimates in the pension area one can only conclude that VA estimates have never tended to minimize the cost of proposed pension charges.



THIS MONTH

AUGUST

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FRIDAY

14

AUGUST

NEXT MONTH

SEPTEMBER

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(X) Ann Foley -

HR 8009 - Passed but
will be signed

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HR 1927 - In Sen Finance Comm
hearing need others
increase pensions -

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(X) Ann Segura Conv - LBS
Sept 18-24
Mfr 22d

8/14/64

THE AMERICAN LEGION

1608 K STREET N. W.
WASHINGTON 6. D. C.

August 13, 1964

The Honorable Harry F. Byrd
Chairman, Committee on Finance
United States Senate
Washington, D. C.

Dear Senator Byrd:

I wrote you on August 7, 1964 regarding a matter of grave concern to The American Legion and to all veterans, their widows, and their orphans. As the 88th Congress draws closer to adjournment, the seriousness of the situation increases.

HR 11865, a bill designed to improve benefits, does exactly the opposite in the case of over one hundred thousand war veterans, their widows, and orphans, by causing the decrease or elimination of the amount of pension received from the Veterans Administration. Again, I must invite your attention to the fact that the proposed five percent social security increase will, in the first year alone, inflict upon these persons a net loss of 45 million dollars.

I have attached a copy of a letter from a veteran describing the dilemma that will befall him. This is a typical case. By receiving the proposed five percent social security increase of \$5.60 a month, he loses his veterans pension of \$78.75 a month. He suffers a net loss of \$73.15 a month, or \$877.80 a year.

The Veterans Administration estimates that there are over one hundred thousand cases which would be affected in a way similar to that described above. All of these persons are permanently and totally disabled or the survivors of war veterans. All of these persons have already been determined by the Government to be in financial need. Ninety-eight percent of the cases adversely affected are World War I veterans, whose average age is 70, or the survivors of such veterans.

There is a quick solution possible to this tragic situation. The House on August 11, 1964 passed HR 1927, 388-0. That Act provides modest improvements in existing pension law. In addition, the Act would exclude from the term "income" ten percent of any public or private retirement plan, including social security. Thus, under the circumstances outlined in this letter, an increase in social security payments could not cause a decrease in veterans pension payments.

HR 1927 has been referred to your Committee. That Act is the result of extensive hearings held by the House Veterans Affairs Committee in 1961, 1962, 1963 and 1964, during which time the views of all interested parties, including those of the Administration, were received. It is our earnest hope that you will cause the Senate Finance Committee to consider HR 1927 in executive session with the hope that the matter will be favorably reported to the Senate for action.

Sincerely yours,

DANIEL F. FOLEY
National Commander

Memo to Senator
From John Stewart
July 20, 1964

Vats

At the request of Dan Foley, we have been trying to expedite Senate action on H.R. 9004, the so-called Pershing Hall bill. This is legislation which Foley hopes to have acted on during his tenure as National Commander of the Legion.

I believe it would help a great deal if you could personally speak to Senator Byrd sometime on the floor or perhaps give me a personal phone call. I have spoken to all the staff people on the Finance Committee and have written the Finance Committee in your name. As you can see, they are not going out of their way to be particularly helpful at this point.

A copy of this letter has been sent to Dan Foley and I have assured him, in your name, that you are doing whatever we can to expedite the situation.

John Stewart
Fule

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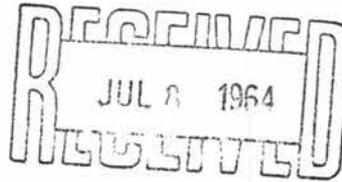
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United States Senate

COMMITTEE ON FINANCE

ELIZABETH B. SPRINGER, CHIEF CLERK

July 7, 1964



The Honorable
Hubert H. Humphrey
United States Senate
Washington 25, D. C.

Dear Senator:

I have your letter of July 2, advocating expeditious consideration of the bill H. R. 9004, the so-called Pershing Hall bill.

I have received many letters in opposition to this bill, complaining that no opportunity was given them in the House Committee on Veterans Affairs to express their opinion of the subject before Committee action was taken. I have promised these individuals that full hearings would be held by the Senate Committee on Finance.

I have assured the American Legion representatives who have been in touch with me that the hearings will be scheduled as expeditiously as the legislative agenda of the Committee will permit. The Committee Clerk has been instructed to notify Mr. Foley immediately when the hearing date is determined.

With kindest regards, I am

Faithfully yours,

Harry F. Byrd
Chairman



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