

AN ACT TO AMEND THE INDIAN WAR PENSION ACT OF
MARCH 4, 1917

JANUARY 16, 1926.—Committed to the Committee of the Whole House on the
state of the Union and ordered to be printed

Mr. LEATHERWOOD, from the Committee on Pensions, submitted
the following

REPORT

[To accompany H. R. 306]

The Committee on Pensions, to whom was referred the bill (H. R. 306) to amend the second section of the act entitled, "An act to pension the survivors of certain Indian wars from January 1, 1859, to January, 1891, inclusive, and for other purposes," approved March 4, 1917, as amended, having had the bill under consideration, respectfully submit the following report with recommendation that the bill do pass.

We favorably recommend the measure for the following reason:

The Indian war act of March 4, 1917, as amended by section 6 of the act approved September 1, 1922, provides that the period of service performed by the beneficiaries shall be determined, first, by reports from the records of the War Department, where there are such records; second, by reports from the records of the Treasury Department showing payment by the United States, where there is no record of regular enlistment or muster into the United States military service; and third, when there is no record of service or payment for same in the War Department or the Treasury Department, by satisfactory evidence from muster rolls on file in the several State or Territorial archives; fourth, where there is no muster roll or pay roll on file in the several State or Territorial archives showing service of the beneficiary or same has been destroyed by fire or otherwise lost, and no record of service has been made in the War Department or Treasury Department, the applicant may make proof of service by furnishing evidence satisfactory to the Commissioner of Pensions.

Under this law it appears that if there are no muster rolls or pay rolls on file in the State or Territorial archives, or the same have

been lost or destroyed, the service of the beneficiaries may be established by other evidence that is satisfactory to the Commissioner of Pensions, but if there are such muster or pay rolls on file they are to govern the Pension Bureau and if an applicant's name is not borne thereon service can not be otherwise established.

It has been found that in a number of cases, claims have been filed in which service is alleged to have been rendered in certain companies of State troops, the muster rolls of which are on file but the names of the applicants are not found thereon and therefore pensions have been denied in such cases.

It is to correct this and permit a beneficiary to establish his title if he can, by furnishing evidence to establish service that is satisfactory to the Commissioner of Pensions, although there is a muster or pay roll of the company on file and his name is not thereon.

It is well known that in some cases these muster or pay rolls were not made up when the service was rendered but at some time thereafter and in some cases the names of persons who served were left off.

The report of the Secretary of the Interior relative to a similar bill in the last Congress is as follows:

DEPARTMENT OF THE INTERIOR,
Washington, February 16, 1925.

Hon. HAROLD KNUTSON,
Chairman Committee on Pensions,
House of Representatives, Washington, D. C.

MY DEAR MR. KNUTSON: In response to your request of the 10th instant for a statement showing whether the bill H. R. 11821, entitled "A bill to amend the second section of the act entitled 'An act to pension survivors of certain Indian wars from January 1, 1859, to January, 1891, inclusive, and for other purposes,' approved March 4, 1917, as amended," meets with my approval. I have to advise you that an examination of the bill shows that it merely carries into legislative enactment a regulation of this department concerning the adjudication of claims of Indian war survivors.

The act of March 4, 1917, as amended by section 6 of the act of September 1, 1922, provides for the manner of proof of the period of service by beneficiaries under the act and stipulates four ways in which such proof may be made, the fourth of which is:

"Where there is no muster roll or pay roll on file in the several State or Territorial archives showing service of the beneficiary, or same has been destroyed by fire or otherwise lost, and no record of service has been made in the War Department or Treasury Department, the applicant may make proof of service by furnishing the evidence satisfactory to the Commissioner of Pensions."

This bill amends only that part of the act, and provides that—

"Where there is no muster roll or pay roll on file in the several State or Territorial archives showing the service of the applicant, or where the name has been destroyed by fire or otherwise lost, or where there are muster rolls or pay rolls on file in the several State or Territorial archives but the applicant's name does not appear thereon, the applicant may make proof of service by furnishing evidence satisfactory to the Commissioner of Pensions."

The effect of the bill is therefore to authorize the acceptance of parole evidence tending to show service where the muster or pay rolls on file in the several State or Territorial archives fail to show the applicant's name thereon.

The regulation governing in the premises reads as follows:

"In cases where a muster roll or pay roll is actually on file in any one of the several States the inclusion of a name thereon will be considered satisfactory evidence of service; but the exclusion of a name will not prevent the soldier from showing that service was actually rendered; and if this showing is satisfactory the pension should be allowed as if the name were actually on the muster roll or pay roll."

This regulation was approved April 23, 1923.

You will observe that the effect of the bill is, therefore, to merely carry into legislative enactment a regulation governing in the class of claims affected by the bill. That being the case, there seems to be no necessity for the proposed legislation.

You ask also for a statement showing the approximate amount the passage of the bill would add to the actual payments for pensions, and in that behalf I have to say that it is apparent from the foregoing that the effect of the bill would be not to add anything to the pension roll, as under the regulation mentioned the evidence submitted by applicants touching the matter of service is considered and weighed pursuant to the regulation governing, and it is not seen that the passage of the bill would permit the allowance of any claims affected by it which are not now allowable under the regulation.

It is noted that the committee intends to amend the bill by inserting the words, "General Accounting Office," for the words, "Treasury Department," where the same occur in the bill, and that should be done because the records referred to, which were formerly a part of the records of the Treasury, are now in the custody of the Comptroller General, and are a part of the records of the General Accounting Office.

Very truly yours,

HUBERT WORK.

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You will also let a statement showing the appropriation amount the passage of the bill would add to the actual payments for pension, and that I will have to say that it is apparent from the foregoing that the effect of the bill would be not to add anything to the pension roll, as under the regulation mentioned the estate is submitted by applicants including the transfer of service is considered and referred pursuant to the regulation governing, and it is not seen that the passage of the bill would prevent the allowance of any claims affected by it which exist at now all under the regulation.

It is noted that the committee intends to amend the bill by inserting the words "General Accounting Office" for the words "Treasury Department" where the same occur in the bill, and that should be done because the records referred to each were formerly a part of the records of the Treasury and now in the custody of the Comptroller General, and are a part of the records of the General Accounting Office.

Very truly yours,

Howard W. Hunt

H. R. 60-1-60-1-1-1