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**Disabled War Veteran Wins Legal Battle**

A signal victory for disabled war veterans throughout the nation is acclaimed in the wire received Wednesday by Attorney Loy Molunby from Solicitor General Beck announcing the dismissal, by the supreme court of the United States, of the government's appeal from the insurance and compensation awards given H. McGovern, nearly two years ago, by District Judge George M. Bourquin, says the Butte Miner.

The dismissal, according to Mr. Molunby and Charles Davidson, who fought the case, establishes the unqualified right of disabled men to jury trials in suing the government under the war risk insurance act, a privilege which in more than 200 previous litigations has been denied.

The supreme court verdict also carries with it a final award of \$9,000 in cash and \$157 a month for the rest of Mr. McGovern's life.

**Jury Trial Denied**

The case was tried here June 29, 1923. A jury trial was asked and denied, whereupon the plaintiff went to trial without waiving its claim to a jury hearing.

At the conclusion of the case Judge Bourquin awarded McGovern permanent and total disability and \$100 a month compensation from the date of discharge and \$10,000 insurance, to be paid at the prescribed rate of \$157 a month.

The government appealed to the circuit court of appeals, and about the same time, Mr. Molunby charged, the director of the veterans' bureau cut McGovern's compensation from \$100 to \$40.

The circuit court of appeals upheld Judge Bourquin, and the case was appealed to the supreme court. The second reversal suffered by the veterans' bureau, Mr. Molunby stated, resulted in another arbitrary reduction, from \$40 to \$5, in the compensation award to McGovern.

McGovern was totally disabled as a result of an explosion in the boiler room of a government war vessel in the summer of 1918. After four months in the hospital, he was discharged, before the armistice, on a surgeon's certificate of disability. Before he enlisted he was employed as a mining engineer. He made his home in Kalispell and graduated from the Oregon agricultural college, where he won fame as a football player and athlete.

**Lack Jurisdiction**

In dismissing the government's appeal, the supreme court held that it was without jurisdiction to reverse the district court, for the reason that the government had waived its right to a jury trial; thus proclaiming that the case was one which might properly be tried by jury.

The case involves a fine legal distinction, brought out by Mr. Molunby and Mr. Davidson in their briefs to the supreme court.

In the first place, the government cannot be sued except where it agrees to be sued. There are a total of 25 instances in which the government, by act of congress, consents to being sued. Sixteen of these are incorporated in what is known as the Tucker act. Under this act, a litigant is specifically denied jury trial, and most acts of congress consenting to the government being sued state that action may be filed under provisions of the Tucker act.

The war risk insurance act makes no mention of the Tucker act, merely stating that a policy holder or a man disabled in service may bring suit against the government.

Every United States district court ruling to date has held that the right of a disabled man to sue was limited by implied provisions of the Tucker act, and attempts to secure a jury trial have all been denied.

Another point of federal law which figured in the McGovern case was the principle that when litigants agree to waive trial by jury, no higher court can reverse the district judge, it being presumed that they agreed to make him the final referee and that he acted wisely and in accordance with the law, which he is qualified to interpret.

**Claim Decision Final**

Thus when the government sought to appeal from the compensation award of Judge Bourquin, attorneys for McGovern objected on the grounds that the right to trial by jury never existed and hence the above rule did not apply. So the fate of the appeal hinged on the question: "Can disabled men demand a jury trial under provisions of the war risk insurance act?" The supreme court verdict was in the affirmative.

The right of a disabled man or his heirs to recover insurance for total disability or death traceable to his service, irrespective of the fact that he had dropped his insurance before death or total disability, forms the content of another suit which Mr.

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—Mothers will absolutely find here the largest variety of styles and qualities in Klamath Falls. For infants, misses and children up to 14. This is short sox year and the season now.

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—An excellent quality of pure white linen. Hem stitched borders and a host of designs. A 50c quality

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They are the type preferred by well dressed women. Made of fine rayon silk and conform to the figure. Every wardrobe needs one, six different shades.

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Guaranteed tweed knickers, patent fasteners, well made, fit right, all sizes at .....**\$4.85**

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Molunby is pressing for John H. Tomlinson. The case will probably be heard within the next few months.

(The plaintiff in this case has several relatives living in Klamath Falls and is well known to many of the alumni of the O. A. C. The news of his victory will be pleasing not only to them, but to everyone interested in seeing justice done to disabled veterans. As a result of the victory gained by McGovern it will be possible for any disabled veteran who feels that he has not been justly dealt with by the government to take his case into court and secure a jury trial. It will have a tendency to curb both the arrogance and incompetency of the bureau chiefs in Washington, who have done nothing but try and prevent the disabled soldiers from securing their just dues from the government. EDITOR).

**COURTS**

Frank C. Bramwell, Supt. to Angelo Doveri, M. and B. description in block 33, Original town. Consideration \$500.

C. R. DeLap, to ux to E. A. Dunham, lot 7, block 44 First Addition.

**Deaths**

Ed Stough et ux to William Carleton Wells, one acre of land in Sec. 2, T. 39, R. 9.

L. A. Davison to Marguerite J. Handbrook, 1/2 of lot 1 in block 28, First Addition.

**BIRTHS**

BORN—May 16, 1925, to Mr. and Mrs. J. W. Stevenson, Mallin, Oregon a son.

BORN—May 18, 1925, to Mr. and Mrs. J. M. Kotera of Mallin, Ore., a daughter, Patricia Anne.

Dr. F. M. Trout has been commissioned by the State Board of Health registrar of vital statistics for the district including Mallin, Merrill, southeast Midland and southern Pos Valley sections. All certificates of deaths and births, as well as all other data pertaining to vital statistics in the district mentioned should be sent to Dr. Trout.

**New Dance Hall Will Be Built on S. Sixth**

Announcement was made last night by W. H. Martin, former merchant of Centralia, Washington, of the construction of a new dance hall on south Sixth street to cost approximately \$3000 and to be in operation by July 4. The building, which will be 60x130 feet will be located adjacent to the Altamont camp grounds. It will be used as an auditorium.

**FARMERS ELECT LEADER**  
CORVALLIS, May 22.—Herbert Egbert, of The Dalles, was re-elected president of the Oregon farmers educational and co-operative union at the close of the annual convention here late yesterday.

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