

MRS. JOSEPHINE WAGNON WALKER

MAY 25, 1949.—Committed to the Committee of the Whole House and ordered
to be printed

Mr. DENTON, from the Committee on the Judiciary, submitted the
following

REPORT

(To accompany H. R. 3665)

The Committee on the Judiciary, to whom was referred the bill (H. R. 3665) for the relief of Mrs. Josephine Wagnon Walker, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of the proposed legislation is to pay the sum of \$5,000 to Mrs. Josephine Wagnon Walker, of Harlingen, Tex., in full settlement of all claims against the United States on account of the death of her husband, David E. Walker, who was killed in a collision with a United States Army truck which occurred near Harlingen, Tex., on March 13, 1944.

STATEMENT OF FACTS

It appears that on March 13, 1944, at about 6:30 p. m., an Army truck pulling two empty gasoline tank trailers, operated by an enlisted man on official business, was proceeding in a northwesterly direction on Highway No. 83, approximately 1 mile southeast of Harlingen, Tex., at a speed estimated at from 35 to 45 miles per hour. At the same time a 1936 Plymouth coupe, owned and operated by David E. Walker, 806½ East Van Buren Street, Harlingen, Tex., was proceeding in the same direction on Highway No. 83, ahead of the Army truck, at a slow rate of speed. In attempting to pass Mr. Walker's car while crossing the narrow Arroyo-Colorado Bridge, the first trailer of the Army truck struck the left rear of the civilian car, which caused the Army vehicle to swerve into the left side of the bridge. The Army truck jackknifed and the civilian automobile turned completely around. Mr. Walker was thrown from his automobile to the pavement of the bridge and he was run over by his car's left rear wheel. As a result of the collision the civilian automobile was damaged ex-

tensively and Mr. Walker sustained serious injuries. He was taken from the scene of the accident to the Valley Baptist Hospital, in Harlingen, Tex., where he died from his injuries 1 hour later.

The Secretary of the Army in his report dated August 12, 1947, states:

The evidence in this case fairly establishes that this accident and the resulting injury of David E. Walker were caused by the negligence of the driver of the Army vehicle involved in said accident in attempting to pass Mr. Walker's car on a narrow bridge when under the circumstances then existing such a movement could not be made in safety. There was no negligence on the part of Mr. Walker. The War Department, therefore, believes that Mrs. Walker should be compensated in a reasonable amount on account of the death of her husband. The proposed award of \$5,000 stated in H. R. 1024 (now H. R. 3665) is fair and reasonable, and the Department, accordingly, has no objection to the enactment of the bill

Your committee concurs in the recommendation of the Secretary of the Army, and recommends favorable consideration to the bill.

WAR DEPARTMENT,
Washington, D. C., August 11, 1947.

HON. EARL C. MICHENER,
House of Representatives, Washington, D. C.

DEAR MR. MICHENER: The War Department has no objection to the enactment of H. R. 1024, Eightieth Congress, a bill for the relief of Mrs. Josephine Wagon Walker.

This bill would authorize and direct the Secretary of the Treasury to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$5,000, to Mrs. Josephine Wagon Walker, of Harlingen, Tex., in full settlement of all claims against the United States on account of the death of her husband, David E. Walker, who was killed in a collision with a United States Army truck which occurred near Harlingen, Tex., on March 13, 1944.

On March 13, 1944, at about 6:30 p. m., an Army truck pulling two empty gasoline tank trailers, operated by an enlisted man on official business, was proceeding in a northwesterly direction on Highway No. 83, approximately 1 mile southeast of Harlingen, Tex., at a speed estimated at from 35 to 45 miles per hour. At the same time a 1936 Plymouth coupe, owned and operated by David E. Walker 806½ East Van Buren Street, Harlingen, was proceeding in the same direction on Highway No. 83, ahead of the Army truck, at a slow rate of speed. In attempting to pass Mr. Walker's car while crossing the narrow Arroyo-Colorado Bridge, the first trailer of the Army truck struck the left rear of the civilian car, which caused the Army vehicle to swerve into the left side of the bridge. The Army truck jackknifed and the civilian automobile turned completely around. Mr. Walker was thrown from his automobile to the pavement of the bridge and he was run over by his car's left rear wheel. As a result of the collision the civilian automobile was damaged extensively and Mr. Walker sustained serious personal injuries. He was taken from the scene of the accident to the Valley Baptist Hospital, in Harlingen, Tex., where he died from his injuries 1 hour later.

Mr. Walker was 68 years of age at the time of his death and was employed by the Valley Banking Co., of Harlingen, as a laborer at an average weekly wage of \$20.40. He left surviving his widow, Mrs. Josephine Walker, 64 years of age, who was wholly dependent upon him for her support.

On account of this accident, and the resulting injury and death of Mr. Walker, medical, hospital, and burial expenses were incurred and damage to his automobile sustained in the aggregate amount of \$610. This amount was paid to Mrs. Walker on June 16, 1944, under the provisions of the act of July 3, 1943 (57 Stat. 372; 31 U. S. C. 223b), as amended. There is no statute available to the War Department under which any amount may be paid administratively to Mrs. Walker on account of the death of her husband.

The evidence in this case fairly establishes that this accident and the resulting injury of David E. Walker were caused by the negligence of the driver of the Army vehicle involved in said accident in attempting to pass Mr. Walker's car on a narrow bridge when under the circumstances then existing such a movement could not be made in safety. There was no negligence on the part of Mr. Walker. The War Department, therefore, believes that Mrs. Walker should be compensated in

a reasonable amount on account of the death of her husband. The proposed award of \$5,000 stated in H. R. 1024 is fair and reasonable and the Department, accordingly, has no objection to the enactment of the bill.

The claimant has no remedy under the Federal Tort Claims Act of August 2, 1946 (60 Stat. 842; 28 U. S. C. 921), for the reason that the accident out of which this claim arose occurred prior to January 1, 1945.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

KENNETH C. ROYALL,
Secretary of War.

The STATE OF TEXAS,
County of Dallas:

Before me, the undersigned authority, a notary public in and for Dallas County, Tex., on this day personally appeared Josephine Wagon Walker, known to me to be the person whose name is subscribed hereto and who, after being by me first duly sworn, on oath deposes and says:

My name is Mrs. Josephine Wagon Walker. I am 66 years old. I was the wife of David E. Walker, who was killed in a collision with a United States Army truck on March 13, 1944, near Harlingen, Tex. I was the sole heir at law of the said David E. Walker and was entirely dependent upon him at the time of his death.

Mr. Walker was 68 years old at the time of his death and in good health and earning about \$30 per week.

I am only claiming damages in House bill No. 5441 for the loss of his earning capacity throughout the remainder of his life expectancy had he lived.

MRS. JOSEPHINE WAGON WALKER.

Subscribed and sworn to on this 16th day of October, A. D., 1947.

[SEAL]

F. BLOWERS,
Notary Public, Dallas County, Tex.

