Congressional Record — House

September 14

MRS. LOURENE O. ESTES

H.R. 6355. I am withholding my approval from H.R. 6355, for the relief of Mrs. Louise O. Estes.

Mrs. Estes, on her income tax returns for 1952 and 1953, reported as income certain disability payments received from her employer. Prior to the time the taxpayer filed her returns, the Court of Appeals for the Seventh Circuit had held that such disability payments were excludable from gross income, although the Internal Revenue Service had ruled to the contrary.

On April 1, 1957, the U.S. Supreme Court decided that disability payments of the type here in question were excludable from gross income. On April 15, 1957, Mrs. Estes filed claims for refund for 1952 and 1953 and the allegations of the disability paid by her. These claims were rejected because they were filed after the expiration of the 3-year period of limitations prescribed by law for the filing of such claims.

During the last Congress, I approved legislation designed to grant general relief, on a nondiscriminatory basis, to taxpayers who had received disability payments received from gross income under the Supreme Court decision.

The general legislation does not provide relief for taxpayers, such as Mrs. Estes, who did not attempt to protect their rights by filing timely claims for refund.

The statutory period of limitations, which the Congress has included in the revenue system as a matter of sound policy, is essential in order to achieve finality in tax administration. A substantial number of taxpayers paid income tax on disability payments received by them and then filed claims for refund. Accordingly, to grant special relief in this case, where a refund was not claimed in the time and manner prescribed by law, would be to discriminate against other similarly situated taxpayers and to create an undesirable precedent.

Under the circumstances, therefore, I am constrained to withhold my approval from the bill.

Dwight D. Eisenhower


MRS. MARY D'AGOSTINO

H.R. 1387. I am withholding my approval from H.R. 1387, for the relief of Mrs. Mary D'Agostino.

Mrs. D'Agostino's claim for gratuitous national service life insurance benefits, filed April 2, 1955, was denied by the Veterans' Administration because it had not been filed within the statutory time limitation of 7 years after the date of death of her son on December 22, 1940.

The Veterans' Administration has also determined that, even if her claim had been timely filed, Mrs. D'Agostino would not have been eligible for the benefit because her son's death had occurred not in line of duty and did not meet the criteria specified in the law for such benefits. A subsequent statutory liberalization of line of duty criteria had no retroactive effect.

H.R. 1387, in addition to waiving the time limitation, would retroactively apply to this case the liberalized line of duty criteria enacted in September 1944.

H.R. 3733 and H.R. 6539, 83d Congress, also sought retroactively to apply liberalized eligibility standards which, as a matter of law, had only prospective effect. In disapproving those measures I indicated that it seemed to me irrational and unwise to accept as justifications for those bills the fact that an ineligible beneficiary could qualify under the then existing law which was never intended to have such effect. My view has not changed and applies with equal force to the present case.

Approval of H.R. 1387 would be discriminatory and would create an undesirable precedent. Uniformity and equality of treatment for all who are similarly situated must, in my view, be the steadfast rule if Federal programs for veterans and their dependents are to be operated successfully. Approval of H.R. 1387 would not be in keeping with these principles.

Dwight D. Eisenhower


MRS. ELISE HAVESTICK CASH

H.R. 1434. I am withholding my approval from H.R. 1434, a bill for the relief of Mrs. Elise Havestick Cash.

This bill would pay to Mrs. Cash $5,000 as compensation for the death of her son as a result of maltreatment in a Veterans' Administration hospital in 1953.

Mrs. Cash's son entered a Veterans' Administration hospital in 1943 due to service-connected mental illness. He was hospitalized continuously in VA facilities until his death in 1955. During this entire period, Mrs. Cash relied on her son's behalf service-connected compensation ranging in amount from $138 to $190 monthly.

It appears that in February 1955, while attendants were changing his clothes, Mrs. Cash's son became unruly. In the ensuing struggle the attendants set upon him, causing serious injuries from which he later died. Although the attendants involved were found not guilty of criminal acts, they were either fired or otherwise rigorously disciplined for their part in this tragic affair.

In addition to receiving $5,000 under a National Service Life Insurance policy, Mrs. Cash, as a dependent parent, currently receives death compensation at the rate of $75 monthly. This is paid to her under general provisions of law which provide that where a death occurs as a result of hospitalization by the VA benefits are payable as if such death were service connected. Mrs. Cash has no remedy under the Federal Tort Claims Act, since that act specifically bars claims based on assault and battery.

My strong feeling of sympathy for this mother in the unfortunate loss of her son is matched only by my distress that an incident of this kind should happen in a Government hospital. These strong feelings do not, however, alter the fact that there is a generous, comprehensive, and assured system of benefits provided for survivors of veterans who die, in whatever manner, as a result of hospitalization by the VA. Mrs. Cash is currently a beneficiary of this system.

The situation here closely parallels that resulting when a serviceman suffers a service-connected death. In such cases, regardless of the manner in which death occurs, I firmly believe that the assured and general benefits to which survivors are entitled by law should be their exclusive remedy. This principle has led to the disapproval of other private legislation granting such benefits in such cases (see H.R. 1315, 85th Cong., "A bill for the relief of Mr. and Mrs. Charles H.
I perceive no basis for reaching a differ-
ent result under the analogous cir-
cumstances of the present case.

Dwight D. Eisenhower.


Harold William Abbott and others
H.R. 8277. I am withholding my ap-
proval from H.R. 8277, an act for the
relief of Harold William Abbott and
others.

The bill would direct the Secretary of
the Treasury to pay $23,317.61 to 11 in-
dividuals in refund of transportation
taxes collected after 1945 and before 1952
for transportation in connection with fish-
ing parties. Refund of these taxes has
been barred because claims for refund,
and the record in this case discloses no
reason justifying this delinquency in filing.

The relief sought in this bill is similar
to that sought in a bill which I dis-
approved last year, H.R. 3199. "For the
relief of Toley's Charter Boats, Inc.,
Toyle Engebretsen, and Harvey Holmar."

On March 31, 1953, a Federal court
held that the transportation tax did not
apply to the type of transportation in-
volved here. At the time of this deci-
sion, there remained a period of at least
9 months in which to file timely claims
for 1950 and a period of at least 1 year
and 9 months in which to file timely
claims for 1951. Approximately $10,000
of the amount involved in this bill rep-
resents taxes collected after 1945 and before
1951, which would have been refunded to
seven of the claimants except for the fact
that they filed their claims for refund more
than 2 years after the date of the Federal
court decision. Under the circumstances
of this group are different and I sincerely
hope that the Congress, early in the next session, will enact the
improved benefits which this class de-
serves.

Dwight D. Eisenhower.

The White House, September 24, 1959.

Howard F. Knipp
H.R. 2068. I have withheld my ap-
proval from H.R. 2068, an act for the
relief of Howard F. Knipp.

The bill would direct the Secretary of
the Treasury to compute the income
tax liability of Howard F. Knipp for
the calendar years 1947 and 1948 so that
his distributive share of the earnings of
the John C. Knipp & Sons partnership,
for its fiscal year beginning on February
1, 1947, would be determined on the basis
of a full partnership taxable year ending
on January 31, 1948.

The records of the Treasury Depart-
ment show that Mr. Knipp, a calendar
year taxpayer, was a member of a two-
man partnership which had a fiscal year
ending on January 31. The death of Mr.
Knipp's partner on November 21, 1947,
raised the question of partnership ter-
mination on that date. If the partner-
ship terminated on that date, Mr. Knipp
had to include in his income for the cal-
endar year 1947 a much greater amount
than would have been the case had the partnership continued until the normal
end of its taxable year.

On June 2, 1953, the Bureau of In-
ternal Revenue ruled on a deficiency
against Mr. Knipp on the ground that
the death of his partner terminated the partnership and its taxable year.
The Tax Court approved the Bureau's posi-
tion on October 30, 1958, and that court's
decision was affirmed by the Court of Ap-
peals for the Fourth Circuit on April 10,
1957. On October 14, 1957, certiorari
was denied by the U.S. Supreme Court.

The question of the partnership termi-
nation in this case has been litigated be-
fore the courts in an orderly manner.

Approval of this bill would encourage de-
mands for legislation overriding court
decisions in individual cases and would
create an undesirable precedent. The
bunching of income in this case has ad-
mittedly worked a hardship on Mr. Knipp,
but this is mitigated to some extent
by the fact that for a number of years Mr. Knipp had the advantage of
deferring payment of tax each year on 11
months of this firm's profits until the
following year.

Dwight D. Eisenhower.


Executive communications.

Under clause 2 of rule XXIV, executive
communications were taken from the
Speaker's table and referred as fol-

1957. A letter from the Secretary of
Health, Education, and Welfare, transmis-
sing a draft of proposed legislation entitled
"A bill to improve the benefits which this class de-
serves and effectively by providing them with cer-
tain administrative authority, and for other purposes."

1957. A letter from the Assistant Admin-
istrator for Congressional Relations, Nation-
al Aeronautics and Space Administration, transmis-
sing a notice of a proposed disposition of
approximately 470,000 long tons of natural
rubber now held in the national stockpile,
pursuant to the Strategic and Critical Ma-
terials Stock Piling Act (53 Stat. 811, as
amended, 50 U.S.C. 989(e)); to the Commit-
tee on Interstate and Foreign Commerce.

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