

On August 28, 1958:

MRS. FRANK C. GREGG

H. R. 1829. I am withholding my approval from H. R. 1829, for the relief of the estate of Mrs. Frank C. Gregg.

The effect of this bill would be to accord to the beneficiary a form of tax treatment that Mrs. Gregg, as a stockholder in a corporation liquidated pursuant to a plan of complete liquidation, might have elected to receive. Such election, under existing law, must be made by four-fifths of the corporation's voting stock interest within 30 days after adoption of the liquidation plan. Mrs. Gregg, who held less than a four-fifths voting stock interest, did not make an election within the specified 30-day period.

In support of this claim for special relief, the taxpayer's representative relies upon the fact that he was unable to obtain certain forms prescribed for making the election. It appears, however, that a letter notifying the Commissioner of the unavailability of such forms and the desire to make an election would have been sufficient.

The taxpayer's representative also relies upon the fact that Mrs. Gregg became seriously ill 25 days after the adoption of the plan of liquidation. A timely election was not made, however, by any of the other shareholders in the corporation who would also have had to have made such an election for Mrs. Gregg, or any of them, to have received the tax treatment in question. Mrs. Gregg's sickness had no bearing upon their failure to do so. Accordingly, even if she had made a timely election, Mrs. Gregg would not have been entitled to the tax treatment this bill would now accord her estate.

This legislation would, therefore, confer benefits on Mrs. Gregg's estate which none of the other shareholders in the corporation are entitled by law to receive.

Because such special relief would constitute an inequitable discrimination against other taxpayers similarly situated, I am constrained to withhold my approval from the bill.

On August 28, 1958:

BONIFACIO SANTOS

H. R. 6773. I am withholding my approval from H. R. 6773, for the relief of Bonifacio Santos.

This bill would authorize the payment of \$1,500 in reimbursement for a contribution made by Mr. Santos in 1944 to the Philippine guerrilla forces fighting the Japanese.

The beneficiary states that in 1944 he made a contribution of 3,000 Japanese occupation pesos to the Philippine guerrilla forces. He supports his claim with an affidavit from an American officer who recalls receiving the money, and also a receipt for the money, dated in 1944 and signed by the same officer.

After the war, a general program was established in the Philippine Islands for the payment of such claims based upon aid or services furnished the guerrillas in their fight against the Japanese. Despite the widespread publicity attendant upon this program, as evidenced by the hundreds of thousands of claims sub-

mitted, no administrative claim was ever filed by the beneficiary. He states he was unaware of his right to do so.

Awards under the general claims program were uniformly paid according to the so-called Ballantyne scale for currency conversion. Under that scale, the present case would have resulted in an award to the beneficiary of \$16.67. This bill, in contrast, proposes an award of \$1,500.

Approval of H. R. 6773 would be both discriminatory and inequitable. The record on this bill furnishes no valid basis for distinguishing the beneficiary from thousands of others whose claims were rejected because they were not filed until after the termination of the general program. Furthermore, it would be entirely without justification to pay to this beneficiary a sum 90 times larger than he could have received had he been paid under the general claims program.

For the foregoing reasons, I have considered it necessary to withhold my approval from H. R. 6773.

On August 28, 1958:

MR. AND MRS. JOHN R. HADNOT

H. R. 9180. I am withholding my approval of H. R. 9180, a bill for the relief of Mr. and Mrs. John R. Hadnot for the reason that its major purposes are accomplished by the enactment of the Social Security Amendments of 1958, coupled with the provisions of existing law which authorize the Secretary of Health, Education, and Welfare to waive the repayment of incorrect social security payments.

The son of the beneficiaries, his wife, and 2 minor children were involved in a tragic automobile accident on July 4, 1956. All perished together except for 1 child under 18 who survived for about 1½ hours without regaining consciousness.

The beneficiaries, Mr. and Mrs. Hadnot, on December 14, 1956, filed a claim under the Social Security Act for dependent parents' benefits. After they had received monthly benefits totaling \$814 each, it was determined that these payments, entirely without fault of the beneficiaries, had been improperly made because of the brief survival of the beneficiaries' grandson. As required by law, the benefit payments were suspended and the beneficiaries were notified that the payments already received had been incorrectly made.

The Social Security Amendments of 1958, approved this day, contain a general provision permitting surviving dependent parents of insured workers to receive monthly benefits even when the decedent was also survived by a spouse or child eligible for such benefits. Mr. and Mrs. Hadnot can, by filing application, avail themselves of this general provision and become entitled prospectively to benefits. With respect to the payments already made to them, incorrectly, there is every reason to believe that they will receive sympathetic and equitable consideration under the waiver provision of existing law.

The only remaining question is whether this bill should be approved so that Mr. and Mrs. Hadnot may receive retroactive payments for the month since April 1957.

To provide such payments would be to grant preferential treatment and thus to discriminate against other individuals who might be similarly situated. Except in cases of the most compelling equity, such special treatment should be avoided.

On August 28, 1958:

MR. MARION S. SYMMS

H. R. 9765. I am withholding approval of H. R. 9765, for the relief of Mr. Marion S. Symms.

The bill would provide that, notwithstanding any statutory period of limitation, refund or credit shall be made or allowed to Marion S. Symms, Augusta, Ga., of any overpayments of income tax for the year 1952, if claim therefor is filed within 6 months after the date of enactment.

The records of the Treasury Department show that Mr. Symms filed a timely income-tax return for 1952 in which he reported as income certain disability payments received by him. At the time the taxpayer filed his return for 1952, 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 United States Supreme Court decided that disability payments of the type received by the taxpayer were excludable from gross income. On November 6, 1957, more than 4½ years after the taxpayer's return for 1952 was filed, the taxpayer filed a claim for refund based upon the excludability of the disability pay received by him in 1952. This claim was rejected because it was filed after the expiration of the 3-year period of limitations prescribed by law for the filing of such claims.

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. Moreover, a substantial number of taxpayers paid income tax on disability payments received by them during the period of the Internal Revenue Service ruling that such disability payments were includable in income. To grant special relief in this case, therefore, where a refund was not claimed in the time and manner prescribed by law, would constitute a discrimination against other similarly situated taxpayers and would create an undesirable precedent.

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

On August 28, 1958:

MISS MARY M. BROWNE

H. R. 9993. I am withholding my approval from H. R. 9993, for the relief of Miss Mary M. Browne.

The bill would provide that, notwithstanding any statutory period of limitation, refund or credit shall be made or allowed to the beneficiary of any overpayment of income tax for the year 1951, if claim therefor is filed within 1 year after the date of enactment.

The taxpayer, in filing her income-tax return for 1951 and paying the amount shown on the return, failed to take credit for a previous partial payment of income