filed timely claims for refund of taxes paid after March 1949. However, the claimants did not file claims for refund until November 15, 1955, which date was more than 2 1/2 years after the district court, on those claims for refund were rejected because they were filed after the expiration of the 4-year period of limitations prescribed by law for filing such claims.

It is true that, at the time the district court reversed the Internal Revenue Service's interpretation of the statute, refund of taxes paid for a large portion of the period here involved was barred by the statute of limitations. But Congress has determined it to be a sound policy to include in the revenue system a statute of limitations which, after a period of time, bars taxpayers from obtaining refunds of tax overpayments and bars the Government from collecting additional taxes. Such a provision is essential to finality in tax administration.

The basic justification for the statute of limitations is that, after the passage of a reasonable period of time, witnesses may have died, records may have been destroyed or lost, and problems of proof and administration of tax claims become too burdensome and unfair for both taxpayers and the Government. The basic purposes underlying the statute of limitations continue in force even in cases where a taxpayer, after having paid a tax, discovers that the interpretation of the law has been changed by a judicial decision or by a modification in regulations and rulings.

There are no special circumstances in this case to justify singling out the named taxpayers for special relief from the statute of limitations. The bill, therefore, would unfairly discriminate against other taxpayers similarly situated and would create an undesirable precedent.

On September 2, 1958:

SECTION 25 OF TITLE 28, U. S. C.

H. R. 3368. I am withholding my approval to H. R. 3368, 81st Cong., 2d Sess., title 28, United States Code, to authorize the district courts to allow additional peremptory challenges in civil cases to multiple plaintiffs as well as multiple defendants, for reasons wholly unrelated to the original title and purpose of the bill.

Section 1 of the bill amends existing law (28 U. S. C. 1870) so as to extend to multiple plaintiffs in civil cases the same three peremptory challenges which are available under the present statute to multiple defendants. I favor this change in the law in that, after the passing of a reasonable period of time, witnesses may have died, records may have been destroyed or lost, and problems of proof and administration of tax claims become too burdensome and unfair for both taxpayers and the Government. However, under the present statute, the rights of property owners to receive just compensation as guaranteed by the fifth amendment to the Constitution when property is taken for public use are fully protected. If, for any reason, the payments advanced by the Government are less than a court judgment of just compensation, the owner is assured of fair treatment because the Government is required to pay the additional amount plus interest at 6 percent.

In the circumstances, and since neither the responsible administrative committees nor the affected executive agencies had their normal opportunity to consider this basic change in procedure, I believe more thorough consideration of section 2 is warranted.

On September 2, 1958:

PETER JAMES O'BRIEN

H. R. 4073. I am withholding my approval to H. R. 4073, for the relief of Peter James O'Brien.

This bill would pay to Peter James O'Brien the sum of $10,000 as compensation for the death of his son, who was killed in military service in 1947.

The son of the beneficiary of this bill was being taken on an indoctrination flight in a naval aircraft on the same day on which he entered active duty as a member of the Naval Reserve. As the plane in which he was riding was waiting to take off, another naval aircraft coming in for a landing crashed into it, injuring the son so seriously that he died several days later.

The beneficiary twice filed applications for death compensation with the Veterans' Administration. Although the death of his son was deemed to be service-connected, the Veterans' Administration has denied awards in both instances because the father was unable to establish dependency as required by the governing statutes. It also appears that, for the benefit of the beneficiary, the Social Security Act claim for benefits under the Federal Employees' Compensation Act was denied. He apparently has never filed a claim for 6 months' death gratuity or for regular monthly payments under the Social Security Act which also conditions entitlement upon a showing of dependency.

A suit was instituted on behalf of the beneficiary to recover damages on account of the death of his son under the provisions of the Federal Tort Claims Act. Both the lower and appellate court rulings, as reported on March 21, 1955, are based on the grounds that the death occurred as an incident of military service. These rulings were based on the decision in Peres v. United States (340 U. S. 135, 1950). In that case, the United States Supreme Court held that a claim for damages based on the death of a service man occurring as an incident of his service is not cognizable under the Federal Tort Claims Act.

The Federal Government has provided a comprehensive and orderly system of benefits for survivors of members of the Armed Forces who die in service in line of duty, including deaths due to negligence of fellow servicemen. In the present case the serviceman's father is eligible for various benefits upon a showing of dependency.

To make the award proposed by the bill would be discriminatory and establish a most undesirable precedent with respect to other cases involving service-connected deaths. If the bill were approved, it would be difficult to deny similar awards to the survivors of other servicemen who die under a wide variety of circumstances.

On September 2, 1958:

COOPER TIRE & RUBBER CO.

H. R. 7499. I am withholding my approval from H. R. 7499, for the relief of the Cooper Tire & Rubber Co.

This bill would authorize and direct the Secretary of the Treasury to pay to the Cooper Tire & Rubber Co., Dayton, Ohio, the sum of $616,911.88 in full satisfaction of the claim of the corporation against the United States arising out of losses, due to increases in costs, incurred in performing seven contracts with the Department of the Army for the manufacture of rubber tires, tubes, and camelfil.

The contractor previously made applications for relief under title II of the First War Powers Act. This application was denied by the then Secretary of War, along with the claims of two other rubber manufacturers based on the same grounds.

The record indicates that the company made a net profit of over $64,000 on the 35 Government contracts which were awarded to it during 1950, 1961, and 1952, the years in question, despite the fact that as to 7 of them it sustained losses. From the Government's standpoint, it would be inequitable to grant relief to the company with respect to the 7 contracts on which it sustained losses, without giving consideration to the 28 on which it made profits. The granting of relief in this case would also be discriminatory against many other contractors who sustained losses under fixed price contracts during the early part of the Korean conflict.

On September 2, 1958:

MR. AND MRS. JOHN REINGAARD

H. R. 8184. I am withholding my approval from H. R. 8184, for the relief of Mr. and Mrs. Robert B. Hall.

The bill would direct the Secretary of the Treasury to pay the sum of $1,300 to Mr. and Mrs. Robert B. Hall of Los Angeles, Calif., in full settlement of their claims against the United States for re
fund of an overpayment of their Federal income-tax liability for the calendar year 1950.

The records of the Treasury Department show that the taxpayers filed a timely claim for refund on May 29, 1950, and that, on March 1, 1955, the taxpayers filed an untimely claim for refund in the amount of $1,303.50. The claim for refund alleged that no part of the proceeds of the sale in 1950 of a house and inherited property was includable in gross income and also that the taxpayers failed to take certain deductions for the year 1949. The claim for refund was filed almost 1 year after the expiration of the 3-year period of limitations prescribed by law for filing such claims and, therefore, the claim was rejected.

The amount of the taxpayer's overpayment for the year 1950 has never been verified by the Internal Revenue Service. Such verification would require a determination of the fair market value of the property at the time it was inherited by Mr. Hall, and would also require a determination as to the validity of certain deductions claimed by the taxpayers.

The taxpayers believe that the statute of limitations should be waived in their case because Mr. Hall was stationed in Germany as an officer in the Armed Forces from January 1950 to May 1953, and Mr. Hall received no advice concerning his 1950 tax return. These circumstances do not seem to justify the taxpayers' failure to file a claim for refund until March 1, 1955.

The statutory period of limitations, which Congress has included in the revenue system as a matter of sound policy, is essential for finality in tax administration. Granting special relief in this case would discriminate against other taxpayers similarly situated and would create an undesirable precedent.

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

On September 2, 1958:

Mr. and Mrs. W. G. Hollomon

H. R. 8759. I am withholding my approval from H. R. 8759, for the relief of W. G. Hollomon and Mrs. W. G. Hollomon.

This bill would provide for the payment to Mr. and Mrs. W. G. Hollomon from Treasury funds of $3,189.15 in settlement of their claims against the United States for personal injuries and related damages suffered by them on September 2, 1958, when two United States Army platoons committed armed robbery at the Hollomon's general store in Brooklyn, Ga. The store also comprised the general store in which Mr. Hollomon was postmaster. Mr. Hollomon was shot and wounded by one of the soldiers. The two servicemen were then on leave from Fort Benning, Ga., and were dressed in civilian clothes. The gun with which Mr. Hollomon was shot had not been issued to the soldiers, but had been purchased by one of them.

It is obvious that the two soldiers were not acting in line of duty, and in these circumstances no legal liability could be imposed upon the United States for their conduct. I appreciate, of course, that in its exercise of its legislative discretion as to private relief measures pertaining to the wrongful conduct of Federal employees, the Congress need not and, in appropriate cases, does not have to be limited by strict concepts of legal liability. But I believe that any deviation from those concepts would be unwise except in cases in which the overriding equitable considerations or facts which clearly suggest some moral obligation on the part of the United States. I do not believe that such facts or considerations exist in the case of Mr. and Mrs. Hollomon.

The claim is purely personal, particularly criminal, conduct of any of its employees and servicemen, in situations of this kind, would constitute a most undesirable precedent. To single out these claimants for favored treatment would, I believe, be an unwarranted expenditure of public funds.

For the foregoing reasons, I have been constrained to withhold approval of the bill.

On September 2, 1958:

D. A. Whitaker

H. R. 9950. I have withheld my approval from H. R. 9950, for the relief of D. A. Whitaker and others.

The bill (H. R. 9950) provides that, notwithstanding any statute of limitations or lapse of time, jurisdiction is conferred upon the court of claims to hear, determine, and render judgment upon the claims of D. A. Whitaker and other named employees of the Radford Arsenal, Department of the Army, "for basic and overtime compensation and shift differentials, under the provisions of the Federal Employees Pay Act of 1945, as amended," for services performed since 1945 at the Radford Arsenal, Radford, Va.

These claims relate to employment as fire fighters or fire-fighter guards between February 15, 1946, and February 16, 1952. The employees worked a 2-platoon system which required that they be on duty every other day for 24 hours, for which they received basic compensation each week for 40 hours and overtime pay for 16 additional hours. The claims were not barred refunds to Mr. and Mrs. Moore and to a substantial number of other taxpayers similarly situated.

I have signed into law the Technical Amendments Act of 1958, which contains general legislation designed to grant non-discriminatory relief to all taxpayers in the same situation as Mr. and Mrs. Moore. Since general relief is now available, this private relief bill is no longer necessary.

On September 6, 1958:

Title 10, U. S. C.

H. R. 1061. I have withheld my approval from H. R. 1061, to amend title 10, United States Code, to authorize the Secretary of Defense and the Secretaries of the military departments to settle certain claims for damages to, or loss of, property or personal injury or death, not cognizable under any law, and to extend the time for filing such claims. The bill includes a provision that the congressional appropriation is for the purpose of funding the program established under title 10, United States Code, and that the appropriation is for the purpose of funding the program established under title 10, United States Code.