

passage by the Congress of "private bills almost without number in recognition of meritorious claims." It seems to me, however, that where the Congress has enacted general legislation of broad applicability, consideration should first be given to amendment of that legislation before resorting to the private bill procedure. A private bill frequently establishes a precedent that makes consideration of amendment of general law increasingly difficult with each similar enactment.

DWIGHT D. EISENHOWER.
THE WHITE HOUSE, July 2, 1956.

CLAIM OF WILLIAM E. STONE—VETO MESSAGE (S. DOC. NO. 135)

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying bill, referred to the Committee on the Judiciary, and ordered to be printed:

To the United States Senate:

I return herewith, without my approval, S. 2582, a bill "to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon the claim of William E. Stone for disability retirement as a Reserve officer or Army of the United States officer under the provisions of the act of April 3, 1939, as amended."

The enrolled bill would confer jurisdiction on the Court of Claims, notwithstanding any limitation on its jurisdiction, to adjudicate the claim of Capt. William E. Stone arising out of the failure of the then War Department to retire him for physical disability.

The beneficiary of this measure sustained injuries to his neck and shoulders when he parachuted over enemy territory in 1944. Following this jump, he was held as a prisoner of war by the Germans until his liberation in 1945. He was subsequently examined in the same year by 3 medical officers who found no evidence of any incapacitating disability. The beneficiary was relieved from active duty for reasons other than physical disability in 1946, after affirmatively indicating he had suffered no service-incurred injuries.

During a period of Reserve training duty in 1951, the beneficiary was examined by the Air Force and found physically fit to perform flying duty. However, in the following year, he applied for and was awarded service-connected disability compensation by the Veterans' Administration, which currently considers him to be 40 percent disabled.

Upon review of his case in 1953, the Office of the Surgeon General of the Air Force determined that the beneficiary had not been permanently incapacitated for the performance of active duty at the time he was relieved from such duty in 1946. This decision was twice reviewed, in 1954 and in 1955, by the Air Force Board for the Correction of Military Records acting under statutory authority empowering it to amend military records when such action is necessary in order "to correct an error or to remove an injustice." Acting under this broad

standard, the Board upheld, with the approval of the Secretary of the Air Force, the prior decision of the Surgeon General's Office. The present measure would permit review of these administrative decisions by the Court of Claims.

To avoid confusion, there is one thing which I think should be made clear at the outset. This is the difference between the basis for awarding disability retirement pay administered by the military departments and that for awarding disability compensation administered by the Veterans' Administration. The basis for the former is whether or not the individual sustained an injury or disease in the service which permanently incapacitated him for the performance of active duty at the time he was relieved from such duty. Awards of disability compensation, however, are based on findings that the former serviceman has a compensable service-connected condition. As a result of this difference, it is obvious that many individuals, particularly those with latent injuries such as the beneficiary sustained, will be able to qualify for disability compensation but cannot qualify for the receipt of disability retirement pay.

Traditionally, eligibility for retirement on account of physical disability has been determined by the military service in accordance with general provisions of law. More recently, appellate review of these decisions has been provided within the executive branch by means of statutory boards such as the several Boards for the Correction of Military and Naval Records established by the Legislative Reorganization Act of 1946, as amended.

On at least two occasions within the past year, the Court of Claims has been petitioned to award disability retirement pay to individuals who had been found not entitled to such pay by the Secretary of the military service concerned. In denying these petitions, the court has stated, in effect, that under the statutory procedures for determining and reviewing entitlement to retirement, it has jurisdiction only in cases where it can be shown that the cognizant military Secretary has acted arbitrarily, capriciously, or contrary to law.

I believe that this rule which the Court of Claims adopted is a sound one. It conforms to an important principle underlining judicial review of administrative decisions, namely, that the courts will not substitute their judgment for that of the experienced officials who have been given adjudicative responsibility by law. For this reason and since there is no evidence in this case that the Secretary of the Air Force acted arbitrarily, capriciously, or contrary to law, I can see no justification for special legislation which would require the Court of Claims to grant the beneficiary a *de novo* hearing.

Approval of this bill would discriminate against the many hundreds of individuals who have had their claims for disability retirement denied without benefit of judicial review. It would also establish an undesirable precedent leading to other exceptions to the orderly procedure which is now provided for under general law and which currently

governs the hundreds of similar cases that are adjudicated each year.

Accordingly, I am compelled to withhold my approval from S. 2582.

DWIGHT D. EISENHOWER.
THE WHITE HOUSE, July 2, 1956.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Bartlett, one of its clerks, announced that the House had passed without amendment, the following bills and joint resolutions of the Senate:

S. 584. An act to amend title 28, United States Code, relating to the Customs Court;

S. 977. An act to amend title 28, United States Code, with respect to duties of judges of the United States Court of Claims;

S. 997. An act to provide punishment for certain confidence game swindles;

S. 1542. An act to authorize an allowance for civilian officers and employees of the Government who are notaries public;

S. 1688. An act to amend the Federal Seed Act;

S. 1961. An act to provide for the conveyance of part of Ethan Allen Air Force Base, Colchester, Vt., to the State of Vermont, and for other purposes;

S. 2091. An act authorizing the reconstruction, enlargement, and extension of the bridge across the Mississippi River at or near Rock Island, Ill.;

S. 2210. An act to modify the project for the St. Marys River, Mich., South Canal, in order to repeal the authorization for the alteration of the International Bridge as part of such project, and to authorize the Secretary of the Army to accomplish such alteration;

S. 2712. An act to authorize the charging of tolls for transit over the Manette Bridge in Bremerton, Wash.;

S. 3214. An act to authorize adjustment, in the public interest, of rentals under leases entered into for the provision of commercial recreational facilities at the Clark Hill Reservoir;

S. 3307. An act to amend section 9 (d) of the Universal Military Training and Service Act to authorize jurisdiction in the Federal courts in certain reemployment cases;

S. 3527. An act authorizing the State Highway Commission of the State of Maine to construct, maintain, and operate a free highway bridge between Lubec, Maine, and Campobello Island, New Brunswick, Canada;

S. 3547. An act to amend section 1 of the act of August 9, 1955 (69 Stat. 555), authorizing the sale of certain land by the Pueblos of San Lorenzo and Pojoaque;

S. 3674. An act to amend section 1343 of title 18, United States Code, relating to fraud by wire, radio, or television;

S. 3723. An act to authorize the Secretary of the Navy to convey certain land in the county of Alameda, Calif., and to accept other land in exchange therefor;

S. 3866. An act to facilitate the making of lease-purchase agreements by the Administrator of General Services under the Public Buildings Act of 1949, as amended, and by the Postmaster General under the Post Office Department Property Act of 1954, and for other purposes;

S. J. Res. 110. Joint resolution directing the Secretary of the Interior to conduct a study and investigation of Indian education in the United States; and

S. J. Res. 178. Joint resolution to authorize an appropriation to provide for certain costs of United States participation in the International Bureau for the Publication of Customs Tariffs.

The message also announced that the House had agreed to the concurrent resolution (S. Con. Res. 77) authorizing the