

VETOING H.R. 6624, RELIEF OF
BURT, POPE, AND KENNEDY

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

VETOING

H.R. 6624, AN ACT FOR THE RELIEF OF ALVIN V. BURT, JR.,
EILEEN WALLACE KENNEDY POPE, AND DAVID DOUGLAS
KENNEDY, A MINOR



NOVEMBER 18, 1974.—Message and accompanying act ordered to be printed
as a House document

U.S. GOVERNMENT PRINTING OFFICE

To the House of Representatives :

I am today withholding my approval from H.R. 6624, a bill "For the relief of Alvin V. Burt, Junior, Eileen Wallace Kennedy Pope, and David Douglas Kennedy, a minor." I am advised by the Attorney General and I have determined that the absence of my signature from this bill prevents it from becoming law. Without in any way qualifying this determination, I am also returning it without my approval to those designated by Congress to receive messages at this time.

This bill would provide for payment, "as a gratuity," of \$45,482 to Mr. Burt and for similar payments of \$36,750 each to the widow and son of Douglas E. Kennedy for injuries and other damages Mr. Burt and Mr. Kennedy sustained as a result of gunshot wounds inflicted by U.S. military personnel in the Dominican Republic in 1965. The amounts in the bill were recommended in a congressional reference case opinion by a review panel of the Court of Claims.

The claims presented in this bill arise from an admittedly tragic and unfortunate incident. On May 6, 1965, Mr. Burt and Mr. Kennedy, two newspapermen who were covering the civil upheaval in the Dominican Republic and the peacekeeping operation in that country of U.S. military forces, attempted to drive through a U.S. checkpoint in Santo Domingo en route from rebel-held territory in the city. The Marines manning the checkpoint opened fire on their car when the men failed to get out as ordered and when it accelerated violently in reverse at the same time that the Marines were fired upon by snipers from an area behind the car. Both Mr. Burt and Mr. Kennedy were seriously injured as a result of the Marines' actions.

After the incident, both men received, without charge, extensive medical care and treatment from U.S. personnel in the field and later in U.S. military facilities. Their employer, the *Miami Herald*, paid their salaries while they were hospitalized, and guaranteed them continued employment. They also received workmen's compensation benefits during hospitalization, including prescribed lump-sum payments.

A majority of the members on a Court of Claims' review panel, which considered the present claims, held that the claimants had not established a "legal" or "equitable" claim within the meaning of the congressional reference statute. In fact, their opinion strongly suggests that the claimants' own negligence contributed to the injuries they received and further suggests that in pursuing their professions in the face of known hazards, the claimants assumed the risk of personal injury.

Notwithstanding these findings, however, the majority concluded that payment of reasonable compensation in this case was justified on "broad moral considerations" as a matter of "good conscience." Accordingly, they recommended awards in the amounts contained in the current bill.

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I have considered carefully the merits of this case, and can find no reason to approve H.R. 6624. Equitable considerations growing out of Governmental actions have traditionally been the basis for private relief awards where no legal remedy is available. But the record clearly establishes that no such considerations are present in this case.

Approval of H.R. 6624 cannot, in my view, be justified by invoking terms such as "gratuity," as the awards are characterized in the bill, or "broad moral considerations," the basis used by the Court of Claims panel. To adopt such an approach could easily set a precedent for the payment of a myriad of claims involving financial hardship to selected individuals simply on the grounds that they lack legal redress. Once we start down this road, it will be difficult, if not impossible, to turn back.

I urge that in the future Congress adhere to the traditional equity basis for awards, whether or not they have been recommended by the Court of Claims under congressional reference procedures.

GERALD R. FORD.

THE WHITE HOUSE, *October 29, 1974.*