NATHANIEL H. WOODS

H.R. 2631. I am withholding my approval from H.R. 2631, for the relief of the estate of Nathaniel H. Woods, deceased.

The bill would direct the Secretary of the Treasury to pay the sum of $13,476.50 to the estate of Nathaniel H. Woods in refund of an estate tax which was erroneously paid.

The major portion of the estate tax in question was paid in December 1951 on the assumption that the first of two wills left by the decedent was valid. The second will, under which no estate tax was due, was admitted to probate on April 16, 1953, and, after prolonged litigation, was sustained as the valid will in December 1955. A claim for refund was not filed until June 1956. It was rejected by the Commissioner and the Federal courts because not filed within the period of limitations prescribed by law.

It appears that the 3-year statutory period of limitations for filing a timely claim did not expire until April 16, 1956—3 years after the executor qualified under the second will and more than 4 months after the conclusion of the litigation upholding the validity of the second will. A protective claim for refund could have been filed at any time during the 3-year period after the qualification of the executor under the second will. It was not necessary to await the conclusion of the prolonged litigation concerning the wills. Even after the conclusion of the litigation, there remained more than 4 months in which to file a timely claim. The record in this case discloses no justification for the failure to file a claim until June 1956.

The statute 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. The limitation not only bars taxpayers from obtaining refunds, but also the Government from collecting additional taxes. Granting special relief in this case, where a refund was not claimed in the time and manner prescribed by law, would discriminate 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.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 22, 1959.*

MRS. LOURENE O. ESTES

H.R. 6335. I am withholding my approval from H.R. 6335, for the relief of Mrs. Lourene 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 these 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 based upon the excludability of the disability pay received 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 pay which was excludable from gross income under the Supreme Court decision. This 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 failed to file timely 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 such 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.

THE WHITE HOUSE, *September 22, 1959.*

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 20, 1956, 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. 6529, 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 irrelevant and unwise to accept as justification for those bills the fact that an ineligible beneficiary could qualify under the then existing law which was never intended to have retroactive 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 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.

THE WHITE HOUSE, *September 23, 1959.*

MRS. ELBE HAVERSTICK CASH

H.R. 1434. I am withholding my approval from H.R. 1434, a bill for the relief of Mrs. Elbe Haverstick 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 1955.

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 received 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 the 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 bills granting special awards in such cases (see H.R. 1315, 85th Cong., "A bill for the relief of Mr. and Mrs. Charles H.

Page," disapproved on Sept. 7, 1957). I perceive no basis for reaching a different result under the analogous circumstances of the present case.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 23, 1959.*

HAROLD WILLIAM ABBOTT AND OTHERS

H.R. 8277. I am withholding my approval 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 individuals in refund of transportation taxes collected after 1945 and before 1952 for transportation in connection with fishing parties. Refund of these taxes has been barred because claims for refund, and appeals from the rejection of such claims, were not filed within the time prescribed by law.

The relief sought in this bill is similar to that sought in a bill which I disapproved last year, H.R. 3193, "For the relief of Toley's Charter Boats, Inc., Toley Engebretsen, and Harvey Homlar."

On March 31, 1953, a Federal court held that the transportation tax did not apply to the type of transportation involved here. At the time of this decision, 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 represents taxes collected during the years 1950 and 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. The record in this case discloses no reason justifying this delinquency in filing claims.

Refund of a large portion of the amount involved in this bill was barred by the statute of limitations prior to the Federal court decision. The basic purposes underlying the statute of limitations continue to obtain in cases where a taxpayer, after having paid a tax, discovers that the interpretation of the law has been changed by a judicial decision. Granting relief in this case would discriminate against other taxpayers similarly situated and would create an undesirable precedent.

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

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 23, 1959.*

DISTRICT OF COLUMBIA—POLICE FORCE AND FIRE DEPARTMENT

H.R. 3735. I am withholding my approval from H.R. 3735, an act to increase the relief or retirement compensation of certain former members of the Metropolitan Police Force, the Fire Department of the District of Columbia, the U.S. Park Police force, the White House Police force, and the U.S. Secret Service; and of their widows, widowers, and children.

I am unable to approve the 10 percent increase in relief or retirement compensation which the first section of this bill proposes for its beneficiaries. Policemen and firemen who retired before October 1, 1956, are already receiving much more generous treatment than any other group of retired District of Columbia employees. This results from the Equalization Act of 1923 which provides for an automatic proportionate increase in pensions equal to any salary increases granted active duty policemen and firemen. The equalization feature has operated so effectively that a significant number of these retirees presently receive a larger pension than their annual salaries while on active duty. Also, under the 1923 law these retirees have forged far ahead of District government annuitants subject to the civil service retirement program. In the interests of fairness, the present disparity should not be further increased.

I could readily accept the other provision of the bill which proposes to adjust and improve the benefits payable to the widows and surviving minor children of deceased policemen and firemen who retired prior to October 1, 1956. 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 deserves.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 24, 1959.*

HOWARD F. KNIPP

H.R. 2068. I have withheld my approval 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 Department 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 termination on that date. If the partnership terminated on that date, Mr. Knipp had to include in his income for the calendar 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 Internal Revenue assessed 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 position on October 31, 1955, and that court's decision was affirmed by the Court of Appeals 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 termination in this case has been litigated before the courts in an orderly manner. Approval of this bill would encourage demands for legislation overruling court decisions in individual cases and would create an undersirable precedent. The bunching of income in this case has admittedly 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.

THE WHITE HOUSE, *September 25, 1959.*

EXECUTIVE COMMUNICATIONS, ETC.

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

1376. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation entitled "A bill to enable the Department of Health, Education, and Welfare and its various units to perform their functions more efficiently and effectively by providing them with certain administrative authority, and for other purposes"; to the Committee on Interstate and Foreign Commerce.

1377. A letter from the Administrator, General Services Administration, transmitting 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 Materials Stock Piling Act (53 Stat. 811, as amended, 50 U.S.C. 98B(e)); to the Committee on Armed Services.

1378. A letter from the Assistant Administrator for Congressional Relations, National Aeronautics and Space Administration, transmitting a report covering the contracts negotiated by the National Aeronautics and Space Administration during the period January 1 through June 30, 1959, pursuant to the authority of 10 U.S.C. 2304(a)(11) and (16); to the Committee on Science and Astronautics.

1379. A letter from the Acting Secretary of State, transmitting a draft of proposed legislation entitled "A bill to give effect to the Convention Between the United States of America and Cuba for the Conservation of Shrimp," signed at Havana, August 15, 1958; to the Committee on Merchant Marine and Fisheries.

1380. A letter from the Acting Secretary of State, transmitting the 21st semiannual report on the international educational exchange program of the Department of State, pursuant to Public Law 402, 80th Congress; to the Committee on Foreign Affairs.

1381. A letter from the Acting Secretary of the Treasury, transmitting a draft of proposed legislation entitled "A bill to amend the Internal Revenue Code of 1954 to exempt from tax income derived by a foreign central bank of issue from obligations of the United States"; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. McMILLAN: Committee on the District of Columbia. H.R. 8768. A bill to amend the District of Columbia Alcoholic Beverage Control Act; without amendment