

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 joint income-tax return for 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 from the sale in 1950 of certain inherited property was includable in gross income and also that the taxpayers failed to take certain deductions for the year 1950. This 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 certain 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 because Mr. Hall received inexpert 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. HOLLOWOM

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

This bill would provide for the payment to Mr. and Mrs. W. G. Hollowom 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, 1956, when two United States soldiers committed armed robbery at the Hollowom's general store in Brooklyn, Ga. The store also comprised a United States post office, of which Mr. Hollowom was the postmaster. Mr. Hollowom 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. Hollowom was shot had not been issued to the soldiers by the Army 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 circumstances, should not 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 there are 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 here. The only fact which is urged in support of legislative grace is that the two individuals who inflicted the harm were soldiers of the United States Army. I do not conceive that this is a consideration which suggests any moral obligation on the part of the United States. To accept the assumption that the United States has a moral obligation to underwrite the purely personal, particularly criminal, conduct of any of its missions of employees and servicemen, in situations of this kind, would constitute a most undesirable precedent. Therefore, 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 differential pay as governed by 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 involve the rights to overtime pay for the second 8-hour shift worked in one day and for shift differential pay for that work, and also for right to compensation for the third 8-hour shift during the period when the employees were said to be "on call duty."

By the act of March 3, 1863 (12 Stat. 767), and by repeated enactments thereafter, it has been provided that claims not filed in the Court of Claims within 6 years from the time the claims accrued shall be barred. These claims pertain to work performed in some cases more than 12 years ago. The claims were not asserted in timely fashion by the claimants and it is no longer feasible or even

possible to obtain the records essential to an adequate presentation of the facts to the court. This is the very kind of situation which proves the wisdom of a statute of limitation. Without it in such cases it is doubtful whether it is possible to have efficient and orderly administration of the affairs of government.

If I were to approve this bill, I could not in all fairness refuse to approve other bills setting aside the statute of limitations on old claims for overtime or other compensation for either individuals or groups of Federal personnel who delayed in presenting their claims.

For the foregoing reasons, I have withheld my approval of the bill.

On September 2, 1958:

DUNCAN MOORE

H. R. 11156. I am withholding my approval from H. R. 11156, for the relief of Duncan Moore and his wife, Marjorie Moore.

The bill would provide that, notwithstanding any statutory period of limitation, refund or credit shall be made or allowed to Duncan Moore and his wife, Marjorie Moore, South Bend, Ind., of any overpayment of income taxes made by them for the taxable year 1949, if claim therefor is filed within 1 year after the date of enactment.

The records of the Internal Revenue Service show that on March 14, 1953, the taxpayers filed a timely claim for refund of income tax for 1949 based upon the exclusion from gross income of certain disability payments under section 22 (b) (5) of the Internal Revenue Code of 1939. This claim was disallowed by the Service on March 19, 1954, and the taxpayers did not contest the disallowance of their claim by filing suit in court within the 2-year period prescribed by law.

In 1957 the Supreme Court of the United States decided that disability payments of the type involved in this case were excludable from gross income. At this time the statute of limitations 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 other law.

As indicated in its title the purpose of the bill is to confer upon the Secretaries of the military departments authority to settle, in an amount not in excess of \$1,000, certain claims for damages caused by civilian employees of military departments or by members of the Armed