

for everything they need, they have an incentive which we cannot prevent so long as we practically force them to do that.

Mr. MANSFIELD. Why did the people of Poznan revolt? It was because they were hungry. What were they shouting when they marched arm in arm against the Soviet tanks? They were shouting "bread, bread."

Mr. AIKEN. They were desperate.

Mr. MANSFIELD. That is another reason why we should ship surplus wheat to those afflicted countries.

Mr. AIKEN. There is no reason why we should not trade in nonstrategic materials with some of those countries. We might, eventually, get them out from under Communist domination. In fact, Canada is endeavoring to do that. She has already entered into an agreement to sell wheat to Poland. That will help to reduce our surplus, too.

Mr. MANSFIELD. Mr. President, I yield the floor.

#### TEMPORARY APPROPRIATIONS FOR THE FISCAL YEAR 1957

Mr. HAYDEN. Mr. President, I ask that the Chair lay before the Senate House Joint Resolution 671.

The PRESIDING OFFICER. The Chair lays before the Senate a joint resolution coming over from the House of Representatives, which will be stated by title for the information of the Senate.

The joint resolution (H. J. Res. 671) making temporary appropriations for the fiscal year 1957, and for other purposes was read twice by its title.

Mr. HAYDEN. I ask unanimous consent for the present consideration of the joint resolution.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. HAYDEN. Mr. President, this joint resolution provides appropriations for those activities which have not been taken care of by either House in the regular appropriation bills. The 2 Houses have passed the 12 regular appropriation bills. The latest information I have is that the President has signed all of these regular bills.

This resolution provides for the mutual-security program and those regular activities which will be included in the supplemental bill.

The amount of money in this resolution for the mutual-security program is limited to \$200 million. The other items relate to the President's special international program, the Atomic Energy Commission, the export control functions of the Department of Commerce, the Department of Defense military construction program, the International Fisheries Commission, and the Export-Import Bank which will all be taken care of in the supplemental appropriation bill to be approved shortly. The House committee expects to report the Mutual Security appropriation bill the end of this week and the supplemental appropriation bill next week.

Mr. CLEMENTS. Mr. President, will the Senator from Arizona yield?

Mr. HAYDEN. I yield.

Mr. CLEMENTS. I do not wish to delay the action on the pending joint resolution, but I would not want this opportunity to pass without commending the chairman of the Appropriations Committee and the committee itself for the speedy action which has been taken this year on appropriation bills. There have been few times in congressional history that appropriation bills have moved so rapidly through the Congress as they have in 1956.

Mr. HAYDEN. It could not have been done except for the fact that I had some old hands on the Committee on Appropriations who knew how to do the job. It was impossible for me to do it by myself, and I received excellent cooperation from every member of the committee on both sides of the table.

Mr. CLEMENTS. I should like to ask the distinguished chairman of the committee if it is not a fact that this joint resolution provides for a period of only a few days.

Mr. HAYDEN. That is correct.

The PRESIDING OFFICER. The question is on the third reading of the joint resolution.

The joint resolution was ordered to a third reading, read the third time, and passed.

#### SUSIE LEE SPENCER—VETO MESSAGE (S. DOC. NO. 134)

The PRESIDING OFFICER (Mr. SCOTT in the chair) 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. 2152, "for the relief of the estate of Susie Lee Spencer."

The enrolled bill would direct the Secretary of the Treasury to pay \$7,500 to the estate of Mrs. Spencer in full settlement of all claims against the United States for her death, sustained in an accident at the Norfolk Navy Yard on December 11, 1943.

Mrs. Spencer was employed by the Navy Department as a civilian truck-driver at the Norfolk Navy Yard, Norfolk, Va. On December 11, 1943, she was assigned to deliver a truckload of material to building 384 at the navy yard. She approached her destination at approximately 1:30 a. m. on that date and in order to obtain assistance in unloading the truck she had to locate the supervisor of the warehouse crew. She and her helper were driving slowly through the area when they saw a man they thought was the person they were seeking and Mrs. Spencer stopped her truck. At this point the vehicle was directly across the spur line of the railroad system of the Norfolk Navy Yard.

Simultaneously, a locomotive of the shipyard assigned to remove cars from the rear of building 384 began backing along the spur. There was a sharp curve in the track as the spur cut from the

main line alongside the warehouse building. The normal procedure was for a member of the train crew to station himself at the crossing to warn traffic and to signal the train if there were danger of a collision, but it was not followed in this case.

Mrs. Spencer was seriously injured when the train rammed her truck. Despite emergency surgery, she died in the Norfolk Navy Hospital at 9:55 p. m. on December 11, 1943.

The deceased was survived by a husband but by no children or other dependent relatives. Her husband made application for compensation under the Federal Employees' Compensation Act (39 Stat. 742, as amended) on account of the death of his wife. By the terms of the act, however, compensation for death, except burial allowance, is payable only to certain classes of dependents. As there was no showing of dependency upon his wife, Mr. Spencer's claim was denied. The specified burial allowance of \$200, however, was paid in this case.

The provisions of S. 2152 are identical to those of H. R. 1026, 81st Congress, and S. 1045, 82d Congress, which were returned to the Congress without approval.

I am compelled to withhold my approval of this measure.

Although I can appreciate the motives of equity and fairness which prompted Congress to seek to make amends for the negligence of a Government employee by private bill, I believe that sympathy and equity must be subordinated to the overriding considerations of sound public policy and equality before the law. S. 2152 is inconsistent with the principles of dependency requirements and the exclusive remedy provisions of the Federal Employees' Compensation Act. When Congress passed the 1949 amendments to the act, those provisions of the act which limit the right of a surviving husband to compensation were reaffirmed. This general policy should not now be weakened by singling out a particular individual for special treatment not accorded to others similarly situated.

If Congress is of the view that there are sound and justifiable reasons for departing from the policy of this act, to permit payment of death compensation to a nondependent husband of a Federal employee, it should do so through general legislation rather than by making individual exceptions through the enactment of private relief measures which are discriminatory against the general class of persons subject to the Federal Employees' Compensation Act.

In this connection, I have been informed that, on the average, 200 claims for death compensation are filed each year under the Federal Employees' Compensation Act. Of these, some 15 percent are denied on grounds of nondependency. In my judgment, it would be inequitable in the face of such statistics to approve a bill for a single beneficiary.

In disapproving this bill, I am aware that the Congress has treated it as action upon a petition for redress of grievance rather than as an exception to the Federal Employees' Compensation Act. There are many circumstances in which this approach is wise. It has resulted, in words of the Judiciary Committee, in

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