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.