filed timely claims for refund of taxes paid after March 1949. However, the claimants did not file claims for refund until November 15, 1955, which date was more than 2½ years after the district court's decision. These claims for refund were rejected because they were filed after the expiration of the 4-year period of limitations prescribed by law for filing such claims.

It is true that, at the time the district court reversed the Internal Revenue Service's interpretation of the statute, refund of taxes paid for a large portion of the period here involved was barred by the statute of limitations. However, Congress has determined it to be a sound policy to include in the revenue system a statute of limitations which, after a period of time, bars taxpayers from obtaining refunds of tax overpayments and bars the Government from collecting additional taxes. Such a provision is essential to finality in tax administration.

The basic justification for the statute of limitations is that, after the passing of a reasonable period of time, witnesses may have died, records may have been destroyed or lost, and problems of proof and administration of tax claims become too burdensome and unfair for both taxpayers and the Government. The basic purposes underlying the statute of limitations continue in force even in cases where a taxpayer, after having paid a tax, discovers that the interpretation of the law has been changed by a judicial decision or by a modification in regulations and rulings.

There are no special circumstances in this case to justify singling out the named taxpayers for special relief from the statute of limitations. The bill, therefore, would unfairly discriminate against other taxpayers similarly situated and would create an undesirable precedent.

On September 2, 1958:

SECTION 1870 OF TITLE 28, U. S. C.

H. R. 3368. I am withholding my approval from H. R. 3368, to amend section 1870 of title 28, United States Code, to authorize the district courts to allow additional peremptory challenges in civil cases to multiple plaintiffs as well as multiple defendants, for reasons wholly unrelated to the original title and purpose of the bill.

Section 1 of the bill amends existing law (28 U. S. C. 1870) so as to extend to multiple plaintiffs in civil cases the same three peremptory challenges which are available under the present statute to multiple defendants. I favor this change in the law and would approve the bill if it were limited to this provision.

Section 2 of the bill amends the Declaration of Taking Act (46 Stat. 1421; 40 U. S. C. 258a). That act provides a procedure under which the Government may acquire immediate possession of property taken prior to a trial before a Federal district court at which a final determination as to just compensation for the property will be made. If, after trial, the court determines that the funds advanced by the Government are less than the amount which the owner should receive, the Government is required to pay the balance due plus 6 percent interest.

Section 2 of H. R. 3368 would modify the procedure by providing that the judge of a district could could, upon the application of any interested party, determine that the amount of the Government's advance payment was determined fraudulently or in bad faith and require the Government to pay an additional amount as fixed by the court prior to trial. Prior to such additional payment, the Government would not be entitled to the income from the property.

These additional steps appear to be unnecessary and unwarranted since, under the present statute, the rights of property owners to receive just compensation as guaranteed by the fifth amendment to the Constitution when property is taken for public use are fully protected. If, for any reason, the payments advanced by the Government are less than a court judgment of just compensation, the owner is still assured of fair treatment because the Government is required to pay the additional amount plus interest at 6 percent.

In the circumstances, and since neither the responsible Congressional committees nor the affected executive agencies had their normal opportunity to consider this basic change in procedure, I believe more thorough consideration of section 2 is warranted.

On September 2, 1958:

PETER JAMES O'BRIEN

H. R. 4073. I am withholding my approval from H. R. 4073, for the relief of Peter James O'Brien.

This bill would pay to Peter James O'Brien the sum of $10,000 as compensation for the death of his son, who was killed in military service in 1947.

The son of the beneficiary of this bill was being taken on an indoctrination flight in a naval aircraft on the same day on which he entered active duty as a member of the Naval Reserve. As the plane in which he was riding was waiting to take off, another Navy aircraft coming in for a landing crashed into it, injuring the son so seriously that he died several days later.

The beneficiary has twice filed applications for death compensation with the Veterans' Administration. Although the death of his son was deemed to be service-connected, the Veterans' Administration has denied awards in both instances because the father was unable to establish dependency as required by the governing statutes. It also appears that, for the same reason, the beneficiary's claim for benefits under the Federal Employees' Compensation Act was denied. He apparently has never filed a claim for 6 months' death gratuity or for regular monthly benefits under the Social Security Act which also conditions entitlement upon a showing of dependency.

A suit was instituted on behalf of the beneficiary to recover damages on account of the death of his son under the provisions of the Federal Tort Claims Act. Both the lower and appellate courts held that recovery was barred on the grounds that the death occurred as an incident of military service. These rulings were based on the decision in *Feres* v. *United States* (340 U. S. 135, 1950). In that case, the United States Supreme Court held that a claim for damages based on the death of a serviceman occurring as an incident of his service is not cognizable under the Federal Tort Claims Act.

The Federal Government has provided a comprehensive and orderly system of benefits for survivors of members of the Armed Forces who die in service in line of duty, including deaths due to negligence of fellow servicemen. In the present case the serviceman's father is eligible for various benefits upon a showing of dependency.

To make the award proposed by the bill would be discriminatory and establish a most undesirable precedent with respect to other cases involving service-connected deaths. If the bill were approved, it would be difficult to deny similar awards to the survivors of other servicemen who die under a wide variety of circumstances. To follow such a course would, in my opinion, jeopardize the entire structure of benefits for survivors of servicemen and veterans.

On September 2, 1958:

COOPER TIRE & RUBBER CO.

H. R. 7499. I am withholding my approval from H. R. 7499, for the relief of the Cooper Tire & Rubber Co.

This bill would authorize and direct the Secretary of the Treasury to pay to the Cooper Tire & Rubber Co. of Findlay, Ohio, the sum of $616,911.88 in full satisfaction of the claim of the corporation against the United States arising out of losses, due to increases in costs, incurred in performing seven contracts with the Department of the Army for the manufacture of rubber tires, tubes, and camelback.

The contractor previously made application for relief under title II of the First War Powers Act. This application was denied by the then Secretary of War, along with the claims of two other rubber manufacturers based on the same grounds.

The record indicates that the company made a net profit of over $64,000 on the 35 Government contracts which were awarded to it during 1950, 1951, and 1952, the years in question, despite the fact that as to 7 of them it sustained losses. From the Government's standpoint, it would be inequitable to grant relief to the company with respect to the 7 contracts on which it sustained losses, without giving consideration to the 28 on which it made profits. The granting of relief in this case would also be discriminatory against many other contractors who sustained losses under fixed price contracts during the early part of the Korean conflict.

On September 2, 1958:

MR. AND MRS. ROBERT B. HALL

H. R. 8184. I am withholding my approval from H. R. 8184, for the relief of Mr. and Mrs. Robert B. Hall.

The bill would direct the Secretary of the Treasury to pay the sum of $1,300 to Mr. and Mrs. Robert B. Hall, Los Angeles, Calif., in full settlement of their claims against the United States for re-

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 includible 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. HOLLOMON

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

This bill would provide for the payment to Mr. and Mrs. W. G. Hollomon 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 Hollomon's general store in Brooklyn, Ga. The store also comprised a United States post office, of which Mr. Hollomon was the postmaster. Mr. Hollomon 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. Hollomon 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 is 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 nondiscriminatory 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