S. 3652. An act for the relief of Francis Timothy Mary Hodgson (formerly Victor Charles Joyce).

On September 2, 1954:

S. 2316. An act for the relief of the Birmingham Iron Works, Inc.; and

S. 2618. An act for the relief of Ertogroul Osman.

On September 3, 1954:

S. 2862. An act to provide relief for the sheep-raising industry by making special nonquota immigrant visas available to certain skilled alien sheepherders.

DISAPPROVAL OF SENATE BILLS AFTER ADJOURNMENT

The message also announced that the President had disapproved bills of the Senate of the following titles:

On August 26, 1954:

GEORGE PANTELAS

S. 154. I am withholding my approval of S. 154, for the relief of George Pantelas.

The beneficiary of the bill is an alien who is deportable on the ground that at the time of his last entry he was not in possession of a valid immigration visa and because of his record of crimes involving moral turpitude.

The bill would authorize and direct the Attorney General to discontinue the pending deportation proceedings, cancel any outstanding order of deportation, warrant of arrest and bond which may have been issued, and would exempt the alien from deportation in the future by reason of the same facts upon which the current proceedings are based.

The alien was born in Greece on February 12, 1903. He originally entered the United States in 1921. On May 3, 1929, he was convicted in California of issuing checks without sufficient funds and sentenced to an indeterminate term of imprisonment for not more than 14 years. He was subsequently deported from the United States on June 18, 1931, because of his criminal record. Thereafter, the alien reentered the United States as a temporary visitor on May 28, 1940, under an assumed name. In proceedings before the Immigration and Naturalization Service he testified that in order to obtain a Greek passport in another individual's name he paid $100 for a birth certificate and thereafter committed perjury and forgery in securing the necessary passport visa for his reentry.

While I am in sympathy with the evident purpose of this legislation to provide support for the family of the alien, the record of bad conduct presented in this case convinces me that the granting of the relief proposed would not be in the best interests of the United States.

Accordingly, I am withholding my approval from this bill.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 26, 1954.*

ESTATE OF MARY BEATON DENNINGER

S. 3064. I have withheld my approval from S. 3064, 83d Congress, an act for the relief of the estate of Mary Beaton Denninger, deceased.

The bill would authorize and direct the Secretary of the Treasury to pay to the estate of Mrs. Denninger the sum of $780.36 in full settlement of all claims of the estate against the United States for payment of certain installments of an indemnity under the Servicemen's Indemnity Act of 1951.

Robert William Denninger died in service on November 20, 1952. The proceeds of a policy of United States Government life insurance, $2,443.27, were paid on behalf of Mary Beaton Denninger, the designated beneficiary. However, in order to determine whether she was also entitled as a widow to an indemnity of $7,000 under the Servicemen's Indemnity Act of 1951, for which no beneficiary had been designated, it was necessary to obtain evidence of the interlocutory judgment of divorce which the serviceman had obtained from her effective March 12, 1952, as well as evidence pertaining to the dissolution of one of her prior marriages. Upon receipt of evidence establishing her eligibility, settlement was authorized on her behalf and, without knowledge that she had died 2 days previously, a check for $780.36 representing 12 accrued installments of indemnity was mailed to a Veterans' Administration agency on October 27, 1953, for delivery to the payee. Because of the death the check was returned and canceled.

The law prohibited payment to Mrs. Denninger's estate, and thereafter the Veterans' Administration made settlement of the indemnity in favor of the serviceman's parents, the next entitled beneficiaries. This settlement included the installments totaling $780.36 which had accrued during the lifetime of Mrs. Denninger. The bill proposes that, in addition, the Government pay $780.36 to Mrs. Denninger's estate.

Favorable action by the committees which considered the bill appears to have been based upon the view that the installments which accrued prior to Mrs. Denninger's death became her property and, accordingly, should be paid to her estate. The specific language of the law clearly expresses a contrary intention on the part of the Congress. I cannot agree either that the mandatory provision of the law should be abrogated in this case to the exclusion of other similar cases, or that the Government should be subjected to double payment of those installments of indemnity which accrued during Mrs. Denninger's lifetime. To do so would obviously be discriminatory and precedential.

As I have previously stated, if the law is to be changed it should be changed for all. Uniformity and equality of treatment under general law applicable equally to all must be the steadfast rule if the Federal programs for veterans and their dependents are to be operated successfully. Heeding the special plea of individual cases would obviously destroy the effectiveness of these programs.

For the foregoing reasons, I am unable to justify approval of S. 3064.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 26, 1954.*

On August 28, 1954:

GRAND TETON NATIONAL PARK

S. 1706. I have withheld my approval from S. 1706, to provide for taxation by the State of Wyoming of certain property located within the confines of Grand Teton National Park, and for other purposes.

The bill would permit the State of Wyoming and any taxing authority of the State to levy taxes on privately owned hotels or lodging facilities within Grand Teton National Park. It further provides that if the United States acquires such properties in the future, payments in lieu of taxes will be made by the United States in amounts equal to the last annual taxes assessed against the property by the State or locality when it was privately owned.

This legislation is unnecessary for two reasons: First, the State now has authority to tax privately owned hotel or lodging facilities in the park and has collected such taxes for some time. Second, there appears to be no disposition on the part of the United States to acquire any such property in Grand Teton National Park, either through purchase or donation. However, I am withholding my approval not only because the bill is unnecessary but also because of the precedent it might establish for piecemeal action in this field.

The present Congress approved my recommendation that a Commission on Intergovernmental Relations be established to study the means of achieving a sounder relationship between Federal, State, and local governments. I have requested that the Commission's report include recommendations as to how to solve the difficult problems which arise in the field of intergovernmental tax immunities. The Commission has a special study committee on in lieu payments and shared revenues. The Commission's report is expected in the near future, and it is anticipated that the administration will recommend legislation to accomplish its recommendations shortly thereafter.

I believe that questions of Federal tax immunity should be decided broadly and deliberately, rather than through a succession of piecemeal decisions and that this decision should await the recommendations of the Commission on Intergovernmental Relations on this question.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 28, 1954.*

On August 31, 1954:

ESTATE OF CARLOS M. COCHRAN

S. 820. I have withheld my approval from S. 820, for the relief of the estate of Carlos M. Cochran.

This enrolled enactment would pay the sum of $5,000 to the estate of Carlos M. Cochran, who was killed in line of duty when he was a member of the Armed Forces in 1942.

The soldier decedent was discovered lying beside a highway just outside the entrance to the military installation where he was stationed. Although he appears to have been temporarily of unsound mind at the time, the sentry at the gate to the installation who discovered him and took him into custody was not aware of this fact. While the sentry was telephoning for military policemen to come to the gatehouse for the decedent, he attempted to escape. He failed to obey the sentry's three shouted

commands to halt. The sentry then aimed his shotgun at the decedent's legs and fired. Just at this moment the decedent jumped into a ditch. As a result, he was struck in the chest rather than the legs, and was instantly killed.

A board of officers, which subsequently considered the case, determined that the sentry's actions had been reasonable under all of the circumstances. The board also determined that since the decedent was known to have been in a state of mental confusion at the time of the shooting, his death should be considered to be in line of duty.

The records of Army show that the regular death gratuity was paid in this case and that at the time of the decedent's entry into the military service he was offered but specifically refused national service life insurance.

The decedent's closest survivor seems to be a sister, who presumably would be the ultimate beneficiary of the bill. She is not entitled to survivorship benefits under laws administered by the Veterans' Administration, since sisters are not included within the categories of survivors eligible to receive benefits under such laws.

Laws administered by the Veterans' Administration and other Federal agencies provide systems of benefits for certain dependent survivors of members of the Armed Forces killed in line of duty. Benefits so authorized are generous and are payable to the specified survivors regardless of whether death results from the negligence or willful misconduct of fellow servicemen or any other person. Under the circumstances, I think it only fair and reasonable to consider the generous, uniform, and assured protection which these systems afford as the exclusive remedy against the United States on account of the death of a member of the Armed Forces killed in line of duty. Any other view would be productive of anomalies and serious inequities.

The foregoing view accords with that taken by the Supreme Court in denying relief in a negligence case brought under the Federal Tort Claims Act in which, as here, a member of the Armed Forces was killed not only in line of duty but incident to his actual military service. Such a view is in no sense novel. Military and veterans' survivorship benefits are the equivalent of civilian workmen's compensation benefits. The Federal Government and most of the States have abolished actions for damages between employers and employees and superseded them with workmen's compensation statutes, which provide the sole basis of liability in most cases.

Additionally, as already noted, the decedent had the opportunity to apply for a policy of national service life insurance in the maximum amount of $10,000. He was specifically offered this opportunity, but refused to take advantage of it, as is indicated by his service record.

Accordingly, while regretting the tragic death of the decedent, I am constrained to withhold my approval from S. 820.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 31, 1954.*

LAWRENCE F. KRAMER

S. 2083. I have withheld my approval from the bill (S. 2083) for the relief of Lawrence F. Kramer.

The bill provides for payment to Lawrence F. Kramer of Paterson, N. J., of the sum of $67,500 in full satisfaction of his claim against the United States for (1) compensation for services rendered by him during the period from 1935 to 1952 in assisting and enabling the United States to prosecute successfully criminal proceedings against certain defendants who had defrauded the Government in connection with fixed prices on work projects in the State of New Jersey, and (2) for reimbursement for expenses incurred by him in rendering such services.

It appears that in late 1935, Mr. Kramer complained to the Works Progress Administration concerning the existence of a possible fraud conspiracy, collusive bidding, and bribery in connection with certain sand and stone supply contracts awarded, and to be awarded, by the Works Progress Administration in northern New Jersey. His sole information was that his father, Philip Kramer, operator of a stone quarry at Paterson, N. J., had been approached by one George Brooks to participate in the scheme, and had refused, and that as a result of his refusal, stone supplied by him had been rejected by the Works Progress Administration (apparently due to the influence of the conspirators), with the consequence that he suffered heavy business loss.

As a result of this complaint, an investigation was undertaken by the Government which culminated in the conviction of the lawbreakers in 1941 and a civil recovery (by way of settlement) in 1952. Apart from the initial tip concerning the existence of a possible conspiracy, and the furnishing of the names of certain persons having knowledge of the approach made to his father, it does not appear that claimant contributed anything to the successful prosecution and civil recovery.

There is nothing to distinguish this case from any other case in which the Government receives from a private citizen information concerning wrongful action with reference to which criminal proceedings are brought and civil recoveries are obtained. The vast majority of such proceedings are made possible by citizens who either because of their normal interest in law enforcement and good government, or because of self-interest supply law enforcement officers with information of the character here involved.

Even if claimant were to be treated as if he had commenced suit as an informer, he would be entitled to no more than the 10 percent of the civil recovery, whereas the bill proposes to award him 30 percent of that amount.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *August 31, 1954.*

GRAPHIC ARTS CORP. OF OHIO

S. 2801. I am withholding my approval from S. 2801, for the relief of Graphic Arts Corp. of Ohio.

S. 2801 provides that the Secretary of the Treasury be authorized and directed to pay the sum of $84,359.19 to the Graphic Arts Corp. of Ohio, Toledo, Ohio, in full settlement of all claims of the said Graphic Arts Corp. against the United States. The bill would afford financial relief to the Graphic Arts Corp. for losses alleged to have been incurred in the performance of contract W–33–038i ac–2023 with the Army Air Corps during the period January 1 to June 1, 1946.

It is the contention of the corporation that it was not supplied with the full quantity of work contemplated by the contract during the contract period, and that the contractor was assured by representatives of the Army Air Corps that it would be protected against losses in its operation under the contract. However, it appears that the contractor did accept extensions of time and other amendments to the original contract under various change orders and supplements pertinent thereto by executing said documents. It is reported that payments totaling $2,029,185.29 were made to the contractor.

Insofar as furnishing work under the contract was concerned, it appears that there was substantial compliance by the Government within the contract period as extended.

There is an established rule that a formal written contract entered into on the basis of negotiations between the parties merges all such previous negotiations and is presumed in law to express the final understanding of the parties. Contract W–33–038 ac–2023, as amended, was entered into on a fixed-price basis. It contained no provision for payment of additional compensation merely because the contractor might suffer a loss in performance. Hence, while the contractor's claim is based primarily upon the premise that certain representations were made by Government officers at the time the contract was negotiated to the effect that the Government would protect the contractor from any loss in performance, the terms of the contract relating to the work to be performed and to the prices to be paid therefor were clear and unambiguous and such extraneous representations, even if established, legally could not be resorted to for the purpose of imposing an additional obligation on the Government. If the contractor felt that the formal contract and change orders and extensions, et cetera, did not afford it sufficient protection against losses in performance, it should not have signed the contract and accepted the extensions. Having done so, it seems clear that there is no liability for any further payment to the contractor, based upon the contract provisions.

Government audit of the contractor's records indicates that this corporation, although claiming a loss of $67,952.31 in the operation of the Gadi division for the 5 months' period beginning January 1, 1946, actually sustained a loss of only $46,213.94 during that period. Of this amount, the audit report shows only $29,432.29 was applicable to Army Air Corps contract W–33–038 ac–2023. Despite this loss of $29,432.29 on this contract for the first 5 months of 1946, the