

Calendar No. 100

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SENATE

{ REPORT
No. 100

TO EXTEND THE TIME FOR THE REFUNDING OF TAXES ERRO- NEOUSLY COLLECTED FROM CERTAIN ESTATES

JANUARY 16 (calendar day, JANUARY 29), 1926.—Ordered to be printed

Mr. STEPHENS, from the Committee on Claims, submitted the following

REPORT

[To accompany S. 2526]

The Committee on Claims, to whom was referred the bill (S. 2526) to extend the time for the refunding of taxes erroneously collected from certain estates, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

Similar bills passed the Senate in the Sixty-sixth, Sixty-seventh, and Sixty-eighth Congresses. The bill of the Sixty-seventh Congress received favorable consideration by the House Committee on Claims.

The facts are fully set forth in Senate Report No. 47, Sixty-eighth Congress, first session, which is appended hereto and made a part of this report.

[Senate Report No. 47, Sixty-eighth Congress, first session]

The Committee on Claims, to whom was referred the bill (S. 894) to extend the time for the refunding of taxes erroneously collected from certain estates, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

A similar bill (S. 3716) passed the Senate September 11, 1922. Senate bill 4501 passed the Senate during the Sixty-sixth Congress, January 25, 1921, for the relief of certain estates therein enumerated, and a similar bill (S. 158) passed the Senate June 6, 1921, Sixty-seventh Congress.

The Secretary of the Treasury, under date of March 18, 1921, suggested that a general bill be passed in lieu of certain enumerated estates, the Secretary stating:

"It is the opinion of this office that if legislation is to be enacted further extending the time within which to apply for refunds that the legislation should take the form of a general bill, so limited, however, as to permit of the refund of claims coming solely within the decision of the Supreme Court of the United States. The reason for advocating general legislation, rather than a bill granting relief to a limited number of claims, is that it is believed that the department

should have the opportunity to carefully adjudicate each case, and considerable care must be exercised in the adjudication of each claim to determine the amount properly allowable in the light of the several Supreme Court decisions."

The purpose of the legislation is to refund taxes illegally collected in view of the decisions of the Supreme Court of the United States in the cases of *United States v. Jones* (236 U. S. 106) and *McCoach v. Pratt* (236 U. S. 562).

Under said decisions the committee is advised approximately 95 per cent of the estates entitled to a refund were paid.

When the parties in interest made claims under decision of the Supreme Court of the United States, the Commissioner of Internal Revenue rejected them as barred under a provision contained in the act of July 28, 1912, which required that certain claims for refund be filed prior to January 1, 1914.

It was contended by these claimants that the limitation in the act of 1912 did not apply to claims for refund under the act of 1902, and this particular question was litigated and the Supreme Court of the United States held in May, 1919, in the case of *Coleman v. United States* (250 U. S.) that the limitation barred all classes of claims for refund.

In other words, claimants who waited until the Supreme Court of the United States passed upon the merits of the matter now find themselves barred (under the decisions of the Supreme Court made in May, 1919) because of a provision contained in the 1912 act, although there was no limitation contained whatever in the 1902 act, under which claimants seek the refund, which 1902 act was not finally construed by the Supreme Court as stated until 1915.

The only question involved is the statute of limitations, which as herein stated was not decided by the Supreme Court of the United States until May, 1919, to apply to this class of claims.

The Committee on Claims has frequently removed the statutes of limitations where it appeared that a tax had been illegally exacted.

This is money illegally collected from these estates which the Government has improperly retained for several years, and the claimants ought not to be deprived of a refund by reason of any statutes of limitations which limitations was not decided to apply to these cases by the Supreme Court until May, 1919.

These claimants can not be charged with laches or neglect in asserting their claims, for the reason that the 1902 act was not finally construed by the Supreme Court until 1915, and they had no reason to expect that a limitation contained in a subsequent act would bar their claim for refund under a prior act, in which no limitation was mentioned.

As herein stated, practically all of the claims have been paid except a comparatively small number of them representing in all approximately 150 claims from nearly every State, and the amount due these claimants to be benefited by this legislation probably will not exceed \$100,000.