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} REPORT
No. 693

CERTAIN CLAIMS FOR BASIC AND OVERTIME COMPENSATION

AUGUST 20 (legislative day, AUGUST 1), 1951.—Ordered to be printed

Mr. MAGNUSON, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 751]

The Committee on the Judiciary, to which was referred the bill (S. 751) to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon certain claims for basic and overtime compensation, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to waive the 6-year statute of limitations with respect to a limited number of claims of Government employees for overtime compensation.

STATEMENT

All of these claims arise under section 23 of the act of March 28, 1934, which provided a 40-hour week for wage-board employees of the Federal Government, and overtime at the rate of time and one-half for all hours worked in excess of 40 hours a week.

The wage-board employees of the Federal Government are those engaged in the manual trades and occupations, such as carpenters, painters, electricians, and the like, whose pay is fixed by wage boards on the basis of rates prevailing in private industry. They do not include any employees who are under civil service, who are engaged in administrative or policymaking positions, or whose pay is otherwise fixed by statute. To obtain wage-board employees, the Government must compete with private industry, must also pay wages which are

comparable with those paid in private industry and must provide similar working conditions.

Throughout private industry, the 40-hour week and time and one-half for overtime have prevailed for many years. Accordingly, section 23 of the act of March 28, 1934, provided a 40-hour week and time and one-half for comparable wage-board employees of the Federal Government. The great majority of these employees have been paid on that basis ever since.

Unfortunately, a few isolated groups were mistakenly excluded from the benefits of section 23 by rulings of the Comptroller General. Among these were floating-equipment employees of the Panama Canal, and employees of the Alaska Railroad. In the *Townsley case* (101 C. Cls. 237; 323 U. S. 557), and the *Hearne case* (107 C. Cls. 335) the Panama workers established their right to the benefits of section 23.

During the first session of the Eighty-first Congress, there was enacted, and the President approved, Public Law 440, which waived the statute of limitations with respect to employees of the Alaska Railroad. The test case, which will govern the claims of all employees of the Alaska Railroad, was recently decided by the Court of Claims, which held that these employees were likewise entitled to the benefits of section 23. Because of Public Law 440, all of these employees will now be able to recover the overtime compensation of which they were wrongfully deprived by an erroneous decision of the Comptroller General.

The only other large group of wage-board employees who were deprived of the benefits of section 23, of which there is definite knowledge, were the employees of the Alaska Road Commission. These employees are typical wage-board employees. However, they were deprived of the benefits provided under section 23 by administrative action. About 2 years ago one of these employees made demand on the Department of the Interior for overtime compensation under section 23, and the Solicitor of the Interior Department ruled that he was entitled to recover. Thereafter, several claimants filed claims with the Comptroller General, who likewise ruled that they were entitled to the benefits of section 23. These claims were certified to Congress for appropriations. Apparently because of the pendency of the Alaska Railroad case, however, the House Committee on Appropriations refused to approve an appropriation to pay these claims, and advised the claimants to sue in the Court of Claims. The controlling statute of limitations gives the court jurisdiction to hear only claims which have accrued within 6 years of the date of filing in the court. Practically all of these claims accrued during the early thirties and were terminated by the Federal Employees' Pay Act of 1945, which provided a 40-hour week and time and one-half for practically all Federal employees. The situation with respect to the Alaska Road Commission employees, therefore, is as follows: Congress will not appropriate funds to pay claims approved by the Comptroller General, but recommends that the claimants sue in the Court of Claims; the Court of Claims cannot hear the claims because of the statute of limitations. It is manifest that here is an injustice, resulting from a procedural statute, which Congress should correct.

The bill would correct that injustice. It would simply authorize the Court of Claims to hear these claims, and to award these employees the compensation to which they were clearly entitled. However, the

merits of the claims would still have to be decided by the court, and this bill would not compel the court to adjudicate them in favor of the employees. It would simply provide them with their day in court.

Since Congress has already waived the statute with respect to employees of the Alaska Railroad, there is certainly no sound reason why Congress should, by inaction, discriminate against the employees of the Alaska Road Commission.

Attached hereto and made a part of this report are letters received from the Department of Justice.

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, March 18, 1951.

HON. PAT MCCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 751) to confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon certain claims for basic and overtime compensation.

The bill would confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon all claims for basic and overtime compensation under section 23 of the act of March 28, 1934, the act of October 21, 1940, the joint resolution of December 22, 1942, and the War Overtime Pay Act of 1943, notwithstanding any statute of limitations with respect to suits against the United States or any lapse of time. The bill would also provide that actions on such claims shall be brought within 1 year from the date that the act becomes effective.

The statutes referred to in the bill provide for the payment of various classes of overtime compensation to certain groups of employees in the executive branch of the Government.

As a grant of jurisdiction to the Court of Claims over this class of cases the bill is entirely unnecessary, since a claim for compensation granted by these statutes is within the existing jurisdiction of the Court of Claims over claims founded upon any act of Congress (28 U. S. C. 1491). The sole effect of the bill would be to deprive the Government of the defenses of the statute of limitations and laches. This bill, and a companion bill (H. R. 2382) of the same Congress, is identical with S. 1981, Eighty-first Congress, second session, and the Department's recommendations against the enactment thereof in its letter of June 27, 1949, to the Senate Committee on the Judiciary are equally applicable to the present bill. A copy of that letter is enclosed.

There would appear to be no reason why claims of this particular class should be exempted from the requirement of timely filing of suits which is applicable to all other claims against the Government. Enactment of the bill would discriminate in that respect in favor of this group of claimants as against all other persons having claims against the Government.

In view of the foregoing considerations, the Department of Justice is unable to recommend enactment of the bill.

The Director of the Bureau of the Budget has advised this office that there would be no objection to the submission of this report.

Yours sincerely,

PEYTON FORD,
Deputy Attorney General.

DEPARTMENT OF JUSTICE,
OFFICE OF THE ASSISTANT TO THE ATTORNEY GENERAL,
Washington, June 27, 1949.

HON. PAT MCCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice relative to the bill (S. 1981) to confer jurisdiction upon the

4 CERTAIN CLAIMS FOR BASIC AND OVERTIME COMPENSATION

Court of Claims to hear, determine, and render judgment upon certain claims for basic and overtime compensation.

The bill would confer jurisdiction upon the Court of Claims to hear, determine, and render judgment upon all claims for basic and overtime compensation under section 23 of the act of March 28, 1934, the act of October 21, 1940, the joint resolution of December 22, 1942, and the War Overtime Pay Act of 1943, notwithstanding any statute of limitations with respect to suits against the United States or any lapse of time. The bill would also provide that actions on such claims shall be brought within one year from the date that the act became effective.

The statutes referred to in the bill provide for the payment of various classes of overtime compensation to certain groups of employees in the executive branch of the Government.

The effect of the bill would be to waive the existing statute of limitations which relates to suits against the Government in the Court of Claims. In the Eightieth Congress, two bills (S. 2679 and H. R. 6553) were introduced, which would have conferred jurisdiction upon the Court of Claims to determine the amounts due employees of the Alaska Railroad Company for overtime work performed. A similar bill (S. 319) was introduced in the Eighty-first Congress and was reported upon adversely by this Department in a letter dated May 3, 1949 addressed to the Senate Committee on the Judiciary. Another bill introduced in the Eighty-first Congress (S. 1018) contained provisions similar to those of the three aforementioned bills, except that the claims to be considered by the court were those of employees of the Bureau of the Mint. All of these bills would have conferred jurisdiction upon the Court of Claims to determine the amounts due and owing to the employees mentioned. Thus, their effect would have been to create liability against the United States through legislative determination and would have left to the court the sole duty of determining the precise amount of compensation owing to each claimant. This objection was pointed out in this Department's letter of May 3, 1949, relative to the bill (S. 319).

The present bill does not contain the last mentioned feature but rather, confers jurisdiction upon the Court of Claims to hear, determine, and render judgment upon such claims. Its effects, however, like that of the prior bills would be to waive the statute of limitations and to deprive the Government of the Defenses of such statute of limitations and laches.

There would appear to be no reason why claims of this particular class should be exempted from the requirement of timely filing of suits which is applicable to all other claims against the Government. Enactment of the bill would discriminate in that respect in favor of this group of claimants as against all other persons having claims against the Government.

In view of the foregoing considerations, the Department of Justice is unable to recommend enactment of the bill.

Yours sincerely,

PEYTON FORD,
The Assistant to the Attorney General.

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