

HARRY C. MIX.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

RETURNING

WITHOUT HIS APPROVAL HOUSE BILL NO. 4446, ENTITLED "AN
ACT FOR THE RELIEF OF HARRY C. MIX."

MAY 13, 1902.—Referred to the Committee on the Judiciary and ordered to be
printed.

To the House of Representatives:

I return without approval House bill No. 4446, entitled "An act for
the relief of Harry C. Mix."

The Attorney-General writes me as follows concerning this bill:

A. F. Holt was postmaster at Valdosta, Ga., and as such became a defaulter to the
Government. Suit was brought on his official bond, and the amount was finally
recovered. Criminal proceedings were also commenced against him, and he gave a
bond for his appearance at court, with Harry C. Mix surety thereon. The defendant
failed to appear, and forfeiture was taken.

Assistant Attorney William R. Leaken represented the Government in the pro-
ceedings to enforce the collection of the bond so given. The papers relative to said
case were referred to Mr. Leaken January 12, 1901. In reply Mr. Leaken said:

"I do not think that this is a case where the proceedings ought to be discontinued.
I do not know the history of the case prior to my appointment as assistant United
States attorney, but as soon as the matter was placed in my hands it was called up,
both for judgment on the bond in the civil case at Macon, Ga., and upon the crim-
inal bond at Savannah. One after another excuse was made by counsel for Mr. Mix,
the surety on the criminal bond. * * *

"I have moved on three different occasions for a rule absolute against Mr. Mix,
but Mr. Strohecker, his counsel, has succeeded in postponing the matter. The case
was set for final disposition on the 5th of this month, but again deferred at the request
of Mr. Strohecker. I inclose a letter from Mr. Strohecker, which to my mind shows
that the judgment should be taken up *scire facias*."

Mr. Strohecker was attorney for the defendant, Holt, and in his letter, dated March
21, 1899, to the assistant attorney, said:

"Please find out as soon as possible whether or not the nol. pros. can be obtained
in the Holt case. If it can be, I am pretty sure the money due the Government on
the defalcation can be obtained and we can produce the man; we will have him pre-
sent anyway, but no money will be paid on that claim unless a nol. pros. is entered.

"I have found the man. He did not die as thought, but recovered, and I am in
communication with him.

"Could it be arranged so that the nol. pros. could be entered at Macon during this term of court? If it can be, please use your efforts to have it so done. Mr. Irwin being disqualified, of course it will require your presence here. If you so direct, after you have heard from the Department, I will speak to the judge concerning the nol. pros. and payment."

The defendant, Holt, it seems, went to Mexico and has never been tried. It is alleged that at one time Mr. Holt, the defendant, was about to be present at a term of court, when a deputy marshal said to him that the case would not be up at that term of court and it would therefore not be necessary for him, the defendant, to be present. Of course the deputy marshal was not authorized to excuse Mr. Holt from attendance, as required by his bond.

It seems useless to require persons charged with crime to give bond for their appearance in court if they can remain away and the sureties on their bonds be relieved from liability. To give relief in this particular case seems to be but to set a bad example.

In view of the statements above set forth I am constrained to withhold my approval of the bill.

THEODORE ROOSEVELT.

WHITE HOUSE, *May 15, 1902.*

[H. R. 4446, Fifty-seventh Congress, first session.]

AN ACT for the relief of Harry C. Mix

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Harry C. Mix, of Bibb County, Georgia, be, and he is hereby, relieved from any and all liability to pay a certain recognizance given by A. F. Holt and the said Harry C. Mix as security for the said A. F. Holt on the twenty-third day of January, eighteen hundred and ninety-five, in the penal sum of one thousand five hundred dollars, by which recognizance they acknowledged themselves to be held and firmly bound to the United States of America that the said A. F. Holt should personally appear at the then next term of the district court of the United States for the southern district of Georgia, to be held at Savannah, Georgia, in said district, on the first Monday in January, eighteen hundred and ninety-five, and at the succeeding term or terms, should the case be continued, the said A. F. Holt being charged with the embezzlement of postal funds: *Provided, however,* That the said Harry C. Mix shall first pay to the Government of the United States all court costs that may have accrued upon any proceeding instituted for the purpose of forfeiting such recognizance.

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