to $4,750, with no indication as to how this sum was arrived at.

From the foregoing, it seems to me, that the record in this case is inconclusive both with respect to the merits of the beneficiary's claim and as to the damages which he may have sustained. These uncertainties compel me to withhold my approval from this bill.

I would, however, be willing to approve legislation which would permit adjudication of the case by the appropriate district court. Such legislation should authorize the payment to the beneficiary of such damages as the court might determine to be reasonably attributable to his reliance upon the alleged representations made to him by the Navy representative. I believe that only by such means can the rather obscure elements of this case be considered and resolved in a manner fair to both the Government and the beneficiary.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 1, 1954.*

ELEPHANT BUTTE DAM

S. 417. I have withheld my approval from S. 417, a bill conferring jurisdiction upon the United States District Court for the District of New Mexico, to hear, determine, and render judgment upon certain claims arising as a result of the construction by the United States of Elephant Butte Dam on the Rio Grande.

Under S. 417, jurisdiction would be vested, notwithstanding any statute of limitations or lapse of time, in the United States District Court for the District of New Mexico, "to hear, determine, and render judgment upon any claim against the United States for compensation for the taking of or for damage to real or personal property as a result of the construction by the United States of Elephant Butte Dam on the Rio Grande."

The bill does not identify the persons to whom it would open the doors of the district court. It does not identify the date or dates on which the alleged taking of property or damage occurred. It does not identify the events which might be alleged to have caused the damage or the taking. Its only requirement is that suit be filed within 2 years from the date of enactment of the bill.

Construction of Elephant Butte Dam was commenced by the Interior Department in 1912. Approval of the bill would thus be an open invitation to anyone who believes that he has, at any time over the last 42 years, been injured in his property by the construction of this dam to bring the United States into court, no matter how stale his claim may be.

It appears that the cases around which the hearings on the bill principally turned are those of a number of persons who believe that the existence of the dam, taken in conjunction with the severe floods that descended the Rio Grande Valley in 1929, resulted in the permanent seeping or swamping, from and after that year, of their lands in the neighborhood of the now abandoned town of San Marcial. I am aware of no showing, however, that these landowners did not have an adequate opportunity to pursue their legal remedies within the period prescribed by general law or that there were sound reasons for their failure to do so. Still less am I aware of any reasons for including within the coverage of the bill not only these landowners, but also all others who, regardless of time, attribute a damaging or destruction of their property to the construction of Elephant Butte Dam.

The very purpose of a statute of limitations—whether it relates to suits between private citizens or to suits brought against the Government—is to avoid stale claims and to procure a reasonably prompt initiation of judicial action before records are lost or scattered, memories grow dim, and witnesses die or become unavailable. To say this is not to say that compliance with the statute must be insisted upon in cases where its waiver would avoid a clear inequity. The instant bill, however, is not in this exceptional category. On the contrary, the controversies with which it deals necessarily involve the resolution of questions of fact, of which some, at least, would require oral testimony from persons familiar with conditions as they were at the time when the claims originally arose. Thus, the nature of the claims here involved emphasizes the justice and wisdom of the general rule. Against this background, nothing in the terms or history of S. 417 of which I am informed offers any sound ground for the departure from existing law which the bill would sanction.

Beyond these considerations there is, in my judgment, no more merit to waiving the statute of limitations in order to permit the trying of cases which may range over all the forty-odd years of Elephant Butte history than there would be in the case of any other Federal river-control structure. In other words, I am seriously concerned that an exception as broad as that which S. 417 proposes to make in the case of Elephant Butte would be a precedent for attempts to secure similarly overgenerous legislation in the case of every other Federal river-control structure that anyone believes has caused him harm, regardless of how long ago the harm occurred.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 1, 1954.*

CUBAN-AMERICAN SUGAR CO.

S. 3304. I am withholding my approval from S. 3304, which would confer jurisdiction upon the Court of Claims of the United States to consider and render judgment on the claim of the Cuban-American Sugar Co. against the United States.

The problem at the root of the lawsuit and the private relief bills involves the company's World War I excess-profits taxes for the year 1917. The specific facts in this 34-year-old controversy are set forth fully in the report of the Senate Judiciary Committee (S. Rept. 1963, 83d Cong., 2d sess.). Basically, the taxpayer, for the year 1917, computed its excess-profits tax liability on the invested capital method. Some years thereafter, it felt that its tax liability was excessive and requested the Commissioner to compute the tax under the relief provisions of the law. When this was done, additional taxes were found to be due, and were paid. Several years later, in 1927, a claim for refund was filed on the ground that the tax computation by the relief method was erroneous. This claim was rejected on March 15, 1933, although later that year the taxpayer attempted to amend it, claiming that the invested capital method should be used. This method had been used in a settlement of the years 1918, 1919, and 1920, controversy with respect to which had been going on concurrently. The claim for refund filed in 1933 was rejected on the grounds it was not filed within the statutory period.

The overall effect of the legislation would be to direct the Court of Claims to determine the 1917 liability of the taxpayer by applying the invested capital method used in settling the years 1918, 1919, and 1920, before the Board of Tax Appeals (even though sec. 3 of the enrolled enactment states that nothing in the act is to be construed as an inference of liability on the part of the United States) since, as the committee report indicates, there is no question but that the taxpayer's taxes were overpaid.

Since the bill grants relief from the operation of the statute of limitation, special equitable circumstances should appear which require that this taxpayer be singled out for special relief. It is difficult to find such circumstances in this case. Basically, the Senate report urges that the taxpayer was denied a proper hearing by the Commissioner with respect to this claim. Yet, as the Senate committee report itself indicates, both prior to 1921, and after 1927, the taxpayer and the Commissioner's representatives had numerous conferences with respect to the taxpayer's 1917 liability. It would have served no purpose to hold further conferences in 1933 on a refund claim which was filed after the statute had run and based on another method of computation.

It is also suggested that the Bureau of Internal Revenue and the taxpayer "agreed" to postpone any action on the 1927 claim for refund until the 1918, 1919, and 1920 cases were determined.

No valid evidence appears that there was such an agreement. Indeed, the only information regarding any such discussion is, as the Court of Claims stated in a decision rendered in 1939 on this matter and involving this taxpayer that a representative of the taxpayer had written a letter to the Bureau "purporting to confirm a conversation" with a representative of the Bureau that further conferences on the year 1917 were to be indefinitely postponed for the reason that nothing further could be done regarding the special assessment question until such question had been settled by the Bureau or the Board of Tax Appeals. This unilateral statement not only does not seem adequate evidence of such an agreement but illustrates the desirability of a statute of limitations which disposes of stale claims and the necessity for retaining or securing evidence with respect thereto.

Finally, the bill requires the Court of Claims to use a specific method of computing invested capital—assuming the taxpayer has overpaid his taxes—to be based upon an amount arrived at in settling the controversy before the Board of Tax Appeals for the years 1918 through 1920. The year 1917 was not involved in that settlement, nor, as the Court of Claims indicated in its 1939 decision, "does the action taken with respect to subsequent years constitute conclusive proof as to 1917." Even assuming the desirability of granting jurisdiction to the Court of Claims for this year, it does not seem desirable to preclude the court from determining the correct tax liability for the year.

Since the proposed legislation would be discriminatory and would single out a particular taxpayer for relief from the statute of limitations without adequate reason therefor, and since it would preclude the Court of Claims from determining the true tax liability, I feel constrained to withhold my approval of S. 3304.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 1, 1954.*

On September 2, 1954:

CONTRACTS BETWEEN GOVERNMENT AND COMMON CARRIERS

S. 906. I have withheld my approval of S. 906, to establish the finality of contracts between the Government and common carriers of passengers and freight subject to the Interstate Commerce Act.

This legislation provides that rates established under the provisions of section 22 of the Interstate Commerce Act, when accepted or agreed to by the Secretary of Defense, the Secretary of Agriculture, or the Administrator of General Services, or by any official or employee to whom the authority is delegated by them, shall be conclusively presumed to be just, reasonable, and otherwise lawful, and shall not be subject to attack, or reparation, after 180 days, or 2 years in the case of contracts entered into during a national emergency declared by Congress, after the date of acceptance or agreement upon any grounds except actual fraud or deceit, or clerical mistake.

The determination of what is a just, reasonable, or otherwise lawful rate on interstate shipments is now vested in the Interstate Commerce Commission. All shippers, including the Government, are bound as a matter of contract to pay the agreed rate, whether it be in the form of a tariff rate or a section 22 quotation. This contractual obligation is subject, however, to an overriding right of the shipper to appeal to the Interstate Commerce Commission to determine whether the agreed rate is lawful. The statute of limitations for such action in the present law is 2 years. This act would require the Government to determine the lawfulness of the rate, with finality, and through agencies other than the Interstate Commerce Commission, within 180 days at ordinary times, or within 2 years during a national emergency declared by Congress. Whereas the commercial shipper could contest the rate while it is in effect, the Government would apparently be required to cancel or refuse the rate and pay higher charges during any test of the lawfulness of the rate.

I am therefore unable to approve this legislation, which relegates the Government in its role as a user of transportation services to a position inferior to that of the general shipping public and restricts its access to the Interstate Commerce Commission, the body of experts authorized by Congress to determine the reasonableness of rates.

I see no reason why the Government should not be subject to the same limitations on retroactive review of its freight charges as the commercial shipper. That result could be accomplished equitably by an amendment to section 16 (3) of the Interstate Commerce Act specifying that the Government shall be subject to the 2-year limitation presently applicable to commercial shippers. The Government would then be on exactly the same basis under that section as all other shippers, and existing inequities in the present ratemaking relationships between the Government and the common carriers would be removed. I recommend that such legislation be enacted at the next session of the Congress.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 2, 1954.*

T. C. ELLIOTT

S. 1687. I am withholding my approval from S. 1687, "For the relief of T. C. Elliott."

The purpose of this enactment is to pay to T. C. Elliott, of Daytona Beach, Fla., the sum of $15,000 as compensation for his services in preparing and furnishing certain information to Members of Congress. The bill provides that payment authorized shall be free of Federal income tax.

This bill is faulty for two reasons. First, the exemption of the award from all Federal income taxes is totally unwarranted. Second, it is stated in the enactment that the payment is "compensation for services rendered." The record demonstrates that the sum to be paid is not true compensation, but a monetary award for special services.

The claimant, T. C. Elliott, was an employee of the Federal Government from November 1, 1900, until his retirement, January 31, 1944. During this period of employment Mr. Elliott was an auditor in the Navy Department, the Treasury Department, and the General Accounting Office. In such a position he became conversant with freight rates and transportation problems and furnished data on these subjects on many occasions to individual Members of Congress and to various committees of the Congress.

It is conceded that Mr. Elliott, in addition to performing his regular duties, rendered valuable service to Members of Congress. His efforts undoubtedly contributed to a saving to the Government of large sums of money, but the record is also clear that these services were rendered by Mr. Elliott voluntarily, after office hours, on his own time, or on his leave time, and were completely aside from his official duties or the requirements of his office. Mr. Elliott, like thousands of other devoted Government employees, is to be commended for the unselfish manner in which he made his knowledge of freight rates available to others.

Each year there accrue to the Government the beneficial results of extraordinary services rendered by interested private citizens and organizations who volunteer much useful information and experience to the Congress, to its individual Members, and to the executive branch agencies as well. I do not believe that claims for compensation for such volunteer services should be encouraged. Approval of legislation for that purpose would ratify an irregular and unformalized employment relation, and would also place the Congress and the executive agencies in an unacceptable and unbusinesslike position. If such services are to be on a regular or recurring or even a sporadic basis, formal arrangements for employment should be made. There are numerous alternatives. A regular full-time or part-time appointment, appointment as a consultant at a per diem or an hourly rate, and performance of work by contract are the most common. If the service is performed outside of a formal employment relationship, whatever recognition may be given to it should not be considered compensation.

I do not want my action in withholding approval of this bill to be construed as derogation of Mr. Elliott's services or as criticism of recognition by the Congress of special services afforded to its Members. While I cannot approve the bill in its present form for the reasons given above, I shall be glad to approve a bill which is by its terms an extraordinary monetary award for special service and which removes the tax-free status of the award.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *September 2, 1954.*

FOREIGN-PRODUCED TROUT

S. 2033. I am withholding my approval from S. 2033, relating to the labeling of packages containing foreign-produced trout sold in the United States, and requiring certain information to appear in public eating places serving such trout.

The bill would amend the Federal Food, Drug, and Cosmetic Act by making its criminal sanctions—imprisonment up to 3 years or a fine up to $1,000, or both—and certain civil sanctions applicable to the sale, offering for sale, possessing for sale, or serving of foreign-produced trout in violation of special provisions which the bill would add to the act with respect to such trout, except a certain species of lake trout largely imported from Canada. (These special requirements would be in addition to any of the other requirements of the act and to any applicable requirements of State law.)

These special requirements—none of them applicable to domestic trout—are as follows:

1. Foreign-produced trout would have to be packaged and, if the package is