

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