

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

broken while held for sale, each unit for sale consisting of one or more trout would have to be in a separate package.

2. Each such package would have to be clearly and conspicuously stamped or labeled, in type or lettering of specified size, with the word "trout" preceded by the name of the country in which such trout was produced.

3. It would be unlawful for any restaurant or other public eating place to possess, in a form ready for serving, any foreign-produced trout unless the restaurant or eating place displayed prominently and conspicuously a notice stating that "----- trout is served in this restaurant," with the name of the country of origin inserted in the blank space.

According to the committee reports, the bill has the three-fold purpose of (1) protecting the public and consumer against deceptive and unfair acts and practices by requiring truthful disclosure of the origin of the trout being sold, (2) protecting our domestic trout producers against unfair competition from foreign producers of trout, and (3) protecting our source of supply for stocking the streams of our Nation with game trout.

It is claimed that in recent years certain merchants and restaurants have indulged in the practice of serving imported trout to restaurant patrons and other consumers as Rocky Mountain trout, Rocky Mountain rainbow trout, or under other descriptive names which, to the consumer, indicate their domestic origin. If domestic trout producers are deprived of this market, it is feared that they may be unable to continue their other important function of supplying eggs and fingerlings for restocking our streams of the sportsman-angler.

Fraud and deception in the marketing or serving of food or any other product cannot, of course, be condoned. I am convinced, however, that to the extent that the provisions and sanctions of the bill properly involve Federal functions, they are unnecessary to prevent fraud and deception. The Tariff Act and the Federal Food, Drug, and Cosmetic Act already provide for necessary labeling of imported products. Furthermore, the provisions of S. 2033 are discriminatory and oppressive against foreign trade, and to a very substantial extent they would invade a field of regulation and enforcement which I believe should be left to the States and localities. Finally, the costs of enforcement would be out of all proportion to funds available to the Food and Drug Administration for vital functions affecting the health of the American people.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, September 2, 1954.

#### MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting nominations were communicated to the Senate by Mr. Miller, one of his secretaries.

#### EXECUTIVE MESSAGES REFERRED

As in executive session,  
The VICE PRESIDENT laid before the Senate messages from the President of

the United States submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

#### LEAVES OF ABSENCE

Mr. JOHNSON of Texas. Mr. President, I ask unanimous consent that the junior Senator from Massachusetts [Mr. KENNEDY] be excused from attendance on the sessions of the Senate for an indefinite period because of illness.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. JOHNSON of Texas. I ask unanimous consent that the Senators from North Carolina [Mr. ERVIN and Mr. LENNON] be excused from attendance on the sessions of the Senate today and tomorrow in order that they may attend the funeral of former Senator William B. Umstead, late Governor of North Carolina.

The VICE PRESIDENT. Without objection, it is so ordered.

#### JOHN MARSHALL BICENTENNIAL MONTH COMMISSION

The PRESIDENT pro tempore, under authority of the order of the Senate of August 20, 1954, appointed, during the adjournment of the Senate, the Senator from Pennsylvania [Mr. MARTIN], the Senator from Maryland [Mr. BUTLER], the senior Senator from Virginia [Mr. BYRD], and the junior Senator from Virginia [Mr. ROBERTSON] as members on the part of the Senate of the John Marshall Bicentennial Month Commission, established by the act of August 13, 1954.

#### CALL OF THE ROLL

Mr. KNOWLAND. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The legislative clerk (Edward E. Mansur, Jr.) called the roll, and the following Senators answered to their names:

Anderson	Gillette	Monroney
Barrett	Goldwater	Morse
Beall	Gore	Mundt
Bennett	Green	Murray
Bowring	Hayden	Neely
Bridges	Hendrickson	Payne
Burke	Hickenlooper	Potter
Bush	Hill	Purtell
Butler	Holland	Reynolds
Byrd	Humphrey	Robertson
Capehart	Ives	Russell
Carlson	Jackson	Schoeppel
Case	Johnson, Colo.	Smathers
Chavez	Johnson, Tex.	Smith, Maine
Clements	Johnston, S. C.	Smith, N. J.
Crippa	Kilgore	Sparkman
Dirksen	Knowland	Stennis
Douglas	Kuchel	Symington
Duff	Langer	Thye
Dworshak	Lehman	Watkins
Ellender	Malone	Welker
Ferguson	Mansfield	Wiley
Flanders	Martin	Williams
Frear	McCarthy	Young
Fulbright	McClellan	
George	Millikin	

Mr. KNOWLAND. I announce that the Senator from Vermont [Mr. AIKEN] and the Senator from Massachusetts [Mr. SALTONSTALL] are absent on official business. The Senator from Kentucky [Mr. COOPER], the Senator from Oregon [Mr. CORDON], the Senator from Ohio

[Mr. BRICKER], the Senator from Indiana [Mr. JENNER], and the Senator from New Hampshire [Mr. UPTON] are necessarily absent.

Mr. CLEMENTS. I announce that the Senator from Texas [Mr. DANIEL], the Senator from Mississippi [Mr. EASTLAND], the Senator from Missouri [Mr. HENNINGS], the Senator from Tennessee [Mr. KEFAUVER], the Senator from Oklahoma [Mr. KERR], the Senator from Louisiana [Mr. LONG], the Senator from Washington [Mr. MAGNUSON], and the Senator from Rhode Island [Mr. PASTORE] are absent on official business.

The Senators from North Carolina [Mr. ERVIN and Mr. LENNON] are absent by leave of the Senate, attending the funeral of the former Senator and the late Governor of North Carolina, Hon. William B. Umstead.

The Senator from Massachusetts [Mr. KENNEDY] is absent by leave of the Senate because of illness.

The VICE PRESIDENT. A quorum is present.

#### DEATH OF SENATOR MAYBANK, OF SOUTH CAROLINA

Mr. JOHNSTON of South Carolina. Mr. President, it is with profound sorrow that I announce the death of my colleague, the late Senator BURNET R. MAYBANK.

I offer the resolution, which I send to the desk, and request its immediate consideration.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 323) was read, considered by unanimous consent, and unanimously agreed to, as follows:

*Resolved*, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Hon. BURNET R. MAYBANK, late a Senator from the State of South Carolina.

*Resolved*, That the Secretary communicate these resolutions to the House of Representatives when it next assembles, and transmit a copy thereof to the family of the deceased.

#### DEATH OF SENATOR McCARRAN, OF NEVADA

Mr. MALONE. Mr. President, I announce the death of my colleague, the senior Senator from Nevada [Mr. McCARRAN].

I offer the resolution, which I send to the desk, and request its immediate consideration.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 324) was read, considered by unanimous consent, and unanimously agreed to, as follows:

*Resolved*, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Hon. PAT McCARRAN, late a Senator from the State of Nevada.

*Resolved*, That the Secretary communicate these resolutions to the House of Representatives when it next assembles, and transmit a copy thereof to the family of the deceased.

#### SENATOR FROM SOUTH CAROLINA

Mr. JOHNSTON of South Carolina. Mr. President, I send to the desk the