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 time at which the 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 legal title to 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 rainfall and seepage in the 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 their failure to do so is attributable to their own fault or 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 limitation is to put a limit on the right of action arising as a result of the alleged damage or injury. Its only requirement is that the date or dates on which the alleged taking occurred be within the period prescribed by general law. It is manifestly inconceivable that such a statute could possibly have been intended to bar a claim arising as a result of the construction of Elephant Butte Dam.

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 bill is to be regarded 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 claim would be held to be covered.

Since the bill grants relief from the operation of the statute of limitations and the necessity of stale claims and the necessity for retaining or securing evidence with respect to them, it appears that the bill would be a precedent for attempts to frustrate the operation of the statute of limitations in other respects. I am 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.