contractor actually earned a profit of $34,202.86 on the entire contract. The audit report also discloses that this contractor's profit of $200,359.18 on all other Government business for the years 1944, 1945, and the first 5 months of 1946. Its commercial business during the same period also operated at a substantial profit.

My approval of this bill would establish the undesirable principle of Government underwriting any wartime losses incurred by contractors providing goods and services to the Government, regardless of the fact that such contractors did not sustain a net loss. I am unable to perceive any circumstances which would warrant preferential treatment for the claimant to the detriment of other wartime contractors. I am satisfied that it is my duty to oppose this bill.

Although my examination of the record in this case does not lead me to believe that there is an equitable basis for this claim, it is possible that a court through judicial processes might be led to determine otherwise. In complex situations like this, it is my opinion that a judicial rather than legislative remedy should be sought. I would, therefore, be willing to give my approval to a jurisdictional bill waiving the claimed statute of limitations against the claim.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, August 31, 1954.

On September 1, 1954:

MRS. MERLE CAPPELIER WYEREL;

S. 46. I am withholding my approval of S. 46, a bill for the relief of Mrs. Merle Cappeller Wyerel.

This enrolled enactment would pay the sum of $5,437.21 to Mrs. Merle Cappeller Wyerel in full settlement of her claim arising out of the death of her husband after his release from active duty in the Navy in 1948.

The husband of the beneficiary of this bill was recalled to active duty in 1947, after having been retired following 30 years of service. Prior to his release from this tour of duty, he was given a particularly thorough physical examination because of indications that he might be suffering from high blood pressure. However, a board of medical survey determined, as a result of this examination, that he was physically qualified for release from active duty, and he was accordingly again returned to his retired status in February 1948.

Subsequently, this officer was treated and hospitalized in a private hospital in September 1948. The X-ray disclosed that he was suffering from a malignancy which caused his death in December 1948, after two unsuccessful operations in private hospitals.

This deceased officer's case was twice considered by the Board for the Correction of Naval Records, which was established by statute to correct records where this was necessary to remove any injustice. It was contended by the beneficiary that the malignancy should have been discovered at the time her husband was given a release from active duty and that, if it had been discovered, he would have been kept on active duty until his death. On the basis of this, it was further contended that she was entitled to be paid the usual death gratuity, the difference between her husband's active and retired pay for the period between his release from active duty and his death and the amount of private medical and hospital expenses incurred on his behalf. The present measure is based on these same contentions.

After twice reviewing the case, the Board concluded that it was to be presumed that it had existed at the time the decedent was released from active duty and that, had its existence been discovered, he would not have been released at the time he was. However, for the reason that the decedent would not have been kept on active duty until his death, but in all probability would have been released for physical disability not later than July 1948, I can perceive no justification for the payment which the bill would make on account of the cost of private medical and hospital care incurred on behalf of the decedent. He was at all times, entitled to such care facilities operated by the Navy Department. There is no showing that any attempt was made to take advantage of these facilities. But, in the event that, for personal reasons, the decedent elected to be treated privately, it is my duty to oppose this bill.

If it is determined that the Government should establish medical facilities and make provision for the care of servicemen and veterans, it cannot, at the same time, be expected to undertake reimbursement of such personnel when they decide, for personal reasons, to obtain care at their own expense from private physicians and hospitals. Another reason why I am unable to approve this measure is that, as enacted, it is either unfair to the beneficiary or to the Government. This results from the fact that the bill calculates payment of the death gratuity of 6 months' pay which was originally claimed by the beneficiary but recognizes and authorizes the payment of the difference between his active duty pay and retired pay for the entire period between the date of the decedent's release from active duty and the date of his death. It is obviously inconsistent to award the beneficiary the death gratuity of 6 months' pay and then authorize him to receive a retirement annuity for 30 years.

Another way to consider the facts is that the bill calculates payment of the death gratuity of 6 months' pay which was originally claimed by the beneficiary but recognizes and authorizes the payment of the difference between his active duty pay and retired pay for the entire period between the date of the decedent's release from active duty and the date of his death. On the contrary, it appears that, for personal reasons, the decedent elected to be treated privately. If the Government is not required to recognize and authorize the payment of the difference between his active duty pay and retired pay for the entire period between the date of his death and the date of his release from active duty, it certainly should be so considered with respect to the payment of the death gratuity. On the other hand, if his active duty is considered to have ended prior to the date of his death, then it is equally unjust not to recognize and authorize the payment of the death gratuity.

It is obvious that this inconsistency should be resolved one way or the other. It should be stressed that notwithstanding disapproval of the bill, the beneficiary can now have her claim settled administratively. Since the time when the bill was last reviewed by the Board for the Correction of Naval Records, legislation has been enacted which permits administrative settlement of claims based on changes in records made by the Board. Furthermore, the beneficiary's claim under such legislation would result in an award which, I am confident, will be equitable from the standpoint of both the beneficiary and the Government. In this connection I should like to express my belief that the Board should take into account, in its reconsideration of the case, the possibility that it had been discovered prior to his release from active duty medical expenses incurred on behalf of the decedent might very well have led to his retention on active duty until the date of his death.

Dwight D. Eisenhower.

THE WHITE HOUSE, September 1, 1954.

E. S. Bernet.

S. 46. I have withheld my approval from S. 46, entitled "For the relief of E. S. Bernet."

This bill would pay to E. S. Bernet the sum of $4,750 as compensation for damages allegedly sustained by him as a result of certain representations made by a representative of the Navy during World War II.

It appears that in the summer of 1943 a representative of the Navy sold with the beneficiary the potential use of his Nevada ranch and certain adjoining ones as a bombing range. Although the evidence on this point is conflicting, it appears that such representative indicated that he expected the Navy to begin operations that fall and that, prior to the beginning of such operations, all livestock would have to be removed from the land. The beneficiary alleges that on the basis of this information he disposed of his cattle and other property and vacated his ranch early in the fall. It developed, however, that the Navy did not need or begin to use his land until the following spring.

In subsequent condemnation proceedings, the court refused to recognize any damages occurring prior to the time when the Navy began using the land in question in the spring of 1944. On this premise the court awarded the beneficiary $766.67 for damages occurring after the Navy began condemnation proceedings. The aggregate bill was designed to afford compensation for damages which were excluded by the court and which the beneficiary alleges he incurred due to the premature vacation of his land.

Conceding the facts in this case to be as stated by the beneficiary, it still does not follow that he is entitled to the award proposed here. It has not been established that the damages allegedly sustained by the beneficiary were due to a reasonable reliance upon the representations of the Navy representative. There appears to have been no such reliance on the part of other ranch owners whose land was taken under similar circumstances and whose statements appear in the committee reports in support of some aspects of the beneficiary's claims.

In addition, there appears to be confusion as to the basis for measuring the damages which the beneficiary allegedly sustained. He made an unverified claim of damages in the amount of $12,000. Part of the damages claimed are covered by the $766.67 condemnation award. The Congress reduced the claim
ERS did not have an adequate opportunity to pursue their legal remedies within the period prescribed by general law or that there were special equitable circumstances 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 bar 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 because the nature of the claims range over all the forty-odd years of Elephant Butte history than there would be a precedent for attempts to secure similarly overgenerous legislation 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 have served no purpose other than to 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 we would require oral testimony from persons familiar with conditions as they were at the time the claims originally arose. Further, 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 ground for the depart- ture 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 Ele- phant Butte history than there would be in the case of any other Federal river-control structure. In other words, I am more concerned that an exception as broad as that which S. 417 proposes to make in the case of Elephant Butte would have served no purpose other than to 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 we would require oral testimony from persons familiar with conditions as they were at the time the claims originally arose. Further, 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 ground for the departure from existing law which the bill would sanction.

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