

PAYMENT OF COMPENSATION OF CUSTOMS EMPLOYEES
FOR INSPECTIONAL SERVICES ON SUNDAYS AND HOLIDAYS

MAY 5 (legislative day, APRIL 12), 1944.—Ordered to be printed

Mr. TAFT, from the Committee on Finance, submitted the following

R E P O R T

[To accompany S. 1758]

The Committee on Finance, to whom was referred the bill (S. 1758) to amend section 451 of the Tariff Act of 1930, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The purpose of this bill is to deal with the emergency situation which has arisen on account of the threatened closing on Sundays and holidays of certain international bridges and tunnels on the Mexican and Canadian borders as a result of requirements of existing law as interpreted by the United States Supreme Court in the case of the *United States v. Howard C. Myers* (320 U. S. 561), decided January 3, 1944.

Many international bridges and tunnels on these borders have for long years past maintained continuous service at all hours of the day and all days of the week. Until the decision above referred to, the Customs Service of the Treasury Department furnished free customs service at such facilities in accordance with its interpretation of the requirements of existing law. The result of the *Myers* decision was to limit the authority of the Customs Service to provide the customs inspection necessary to maintain such facilities in operation on Sundays and holidays, so that service could be provided only upon the specific request of the operators of such facilities and conditioned upon furnishing of bond by them for reimbursement to the United States of extra compensation payable to customs officers and employees assigned to such duty.

The owners of many of these international facilities have declared that they are not in a position to incur the additional obligation necessary to continue operations on Sundays and holidays, as a result of which it will be necessary to close the facilities because of lack of authority under existing law to provide the necessary customs service.

The owners of 9 of the 11 bridges on the Mexican border have given notice that they have taken action which will require the closing of those bridges next Sunday, May 7, and on Sundays and holidays thereafter, unless they are relieved of the obligation for reimbursement for necessary customs service. One of the principal facilities for international traffic between the United States and Canada, i. e., the Rainbow Bridge at Niagara Falls, N. Y., has already been closed for the last several Sundays and its operators have announced their intention to remain closed unless corrective legislation is obtained. Three other bridges on the Canadian border are continuing to remain open on Sundays under restraining orders issued by the courts.

The bill establishes the principle that whenever the public interest requires that international bridges, tunnels, and ferries be kept open to international traffic during the night and on Sundays and holidays, the necessary customs service should be provided as a public service at the expense of the Government, without making public access to such facilities dependent upon the payment by the owners of the compensation of the customs officials and employees necessarily assigned to duty at such facilities to protect the public revenues and to enforce wartime restrictions. Immigration and other Federal inspectional services are already furnished at Government expense, and there is no logical basis for distinction.

Section 451 of the Tariff Act of 1930 and related statutory provisions provide in effect for the payment to customs employees assigned to certain services at night or on Sundays and holidays at double their ordinary rates of compensation. The Supreme Court of the United States in the *Myers case* ruled that these overtime compensation provisions apply to services at certain international toll bridges and tunnels involved in that suit. The committee decided that the emergency faced by the threatened closing of the bridges did not permit time for the consideration of any proposed amendments which would alter the extra compensation provisions of existing law as interpreted by the Supreme Court. The bill directs instead that the Bureau of the Budget conduct a survey and submit its recommendations to Congress within 90 days concerning the appropriateness of those laws in the general structure of Federal employee compensation with a view to Congress taking further action at the earliest practicable date.

Since the first decision in the *Myers suit* in the Court of Claims on January 6, 1941, the Customs Service felt obligated as a protective measure to demand payment from the owners of such international facilities of the compensation payable to customs employees for Sunday and holiday duty at such facilities. It is the view of the committee that it would be inequitable to require the bridge owners to assume this obligation even for services provided prior to the date of enactment of this act. For that reason section 2 of the bill absolves the owners of such facilities from all such liability incurred prior to the enactment of this act, and authorizes refunds of any amounts already paid by them.

