Calendar No. 480

78TH CONGRESS, 1st Session | SENATE | REPORT No. 473

SUSPENDING THE APPLICATION OF SECTIONS 3114–3115 OF THE REVISED STATUTES

OCTOBER 18 (legislative day, OCTOBER 12), 1943.—Ordered to be printed

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

REPORT

[To accompany H. R. 3309]

The Committee on Finance having had under consideration the act (H. R. 3309) to suspend during the present war the application of sections 3114 and 3115 of the Revised Statutes, as amended, do hereby report the same favorable to the Senate, with amendments, and with the recommendation that it do pass.

Amend the act to read:

On page 1, line 6, after the word "until" strike out the words "the day", and strike out all of lines 7, 8, and 9, through the word "designate", on line 10, inserting in lieu thereof the following:

two years after the date of the enactment of this Act, or until the day following the date of the cessation of hostilities in the present war (as defined in section 780 (e) of the Internal Revenue Code), whichever shall first occur.

The amendment fixes a limit of not longer than 2 years during which sections 3114 and 3115 of the Revised Statutes are suspended.

The intent and purpose of the act, having the approval of the Treasury Department and the Bureau of Customs, are clearly set forth in the report of the House Ways and Means Committee, reading as follows:

Sections 3114 and 3115 of the Revised Statutes provide for a 50 percent ad valorem duty on equipment purchased for or the expense of repairs made in a foreign country upon a vessel documented under the laws of the United States. These sections, when originally enacted, were designed to encourage the use of American-made material and American labor in the repair of American vessels. Since at the present time the capacity of American repair yards is overtaxed, the suspension of these sections for the war period will not have an adverse effect on the business of our yards and by removing this additional cost of repairs when made abroad, will tend to relieve the congestion in American yards and to expedite the repair of all United Nations' vessels here and elsewhere. In many cases private operators are compelled to have repairs made in foreign yards in order to achieve the maximum use of a vessel. Where repairs are made abroad, the delay occasioned by war conditions in obtaining invoices often makes it impossible for the Customs Service to assess the duties provided for in the present law.

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The bill would suspend the sections retroactively to December 8, 1941, with respect to duties accrued on or after that date. Since duties accrue as of the time the equipment is purchased or the repairs are made, the suspension would apply to all duties on equipment purchased or repairs made on or after December 8, 1941, whether or not the duties have been paid. Claims for refunds of duties which may have accrued on or after December 8, 1941, and which were thereafter paid, would be authorized.

The committee desires to emphasize the fact that the exemption from duty contained in this bill in respect of foreign equipment purchased on or after December 8, 1941, is limited to equipment that is retained by a vessel for its own use. Should any such equipment be landed and delivered from a vessel for sale or consumption in the United States, the equipment would be treated as imported merchandise and would be dutiable pursuant to the provisions of section 446 of the Tariff Act of 1930 (19 U. S. C. 1446), which is not suspended by this bill.

The War Shipping Administration, because of its control over the American merchant marine, has been obligated under existing law to pay a substantial portion of the duties accrued since December 8, 1941. If the bill is enacted, the War Shipping Administration would be relieved of the necessity of paying duties to another Government agency, and of all the accompanying paper work that such a procedure entails. That agency is also anxious to avoid the burden and expense of having to file applications for refunds of duties heretofore paid which will be affected by the suspension.

Under the provisions of H. R. 3309, refunds may be allowed entrants who have paid duty on repairs made, and equipment purchased, on or after December 8, 1941. To assist the Customs Service in administering the refund provisions involved, written applications by the parties in interest identifying the transactions are required. Normally, action looking to a refund must be instituted within 60 days after liquidation of the related entry or payment of the charge or exaction. However, to make certain that vessel owners or other parties in interest may have ample time under present conditions to claim refunds, your committee has provided in an amendment that such claims shall be timely if presented within 6 months from the date of the enactment of H. R. 3309 to the collector of customs at the port where entry was made or to the Bureau of Customs. The committee amendment further makes it absolutely clear that Federal departments and agencies may waive, in their discretion, any refund of duties accrued since December 8, 1941, which have heretofore been paid.

Representatives of the Treasury Department, Bureau of Customs, Lend-Lease Administration, and the War Shipping Administration appeared before the committee and expressed agreement on the desirability of enacting H. R. 3309 with the amendment suggested above.

For the information of the House there are set forth hereinafter the sections of the Revised Statutes which would be suspended.

Section 3114 (19 U. S. C. 257):

"The equipments, or any part thereof, including boats, purchased for, or the repair parts or materials to be used, or the expenses of repairs made in a foreign country upon a vessel documented under the laws of the United States to engage in the foreign or coasting trade, or a vessel intended to be employed in such trade, shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an ad valorem duty of 50 per centum on the cost thereof in such foreign country; and if the owner or master of such vessel shall willfully and knowingly neglect or fail to report, make entry, and pay duties as herein required, such vessel, with her tackle, apparel, and furniture, shall be seized and forfeited. For the purposes of this section, compensation paid to members of the regular crew of such vessel in connection with the installation of any such equipment or any part thereof, or the making of repairs, in a foreign country, shall not be included in the cost of such equipment or part thereof, or of such repairs."

Section 3115 (19 U. S. C. 258):

"If the owner or master of such vessel furnishes good and sufficient evidence—

"(1) That such vessel, while in the regular course of her voyage, was compelled, by stress of weather or other casualty, to put into such foreign port and purchase such equipments, or make such repairs, to secure the safety and seaworthiness of the vessel to enable her to reach her port of destination; or

"(2) That such equipments or parts thereof or repair parts or materials, were manufactured or produced in the United States, and the labor necessary to install such equipments or to make such repairs was performed by residents of the United States, or by members of the regular crew or such vessel,

"then the Secretary of the Treasury is authorized to remit or refund such duties, and such vessel shall not be liable to forfeiture, and no license or enrollment and license, or renewal of either, shall hereafter be issued to any such vessel until the collector to whom application is made for the same shall be satisfied, from the oath of the owner or master, that all such equipments and repairs made within the year immediately preceding such application have been duly accounted for under the provisions of this section and section 3114 of this title, and the duties accruing thereon duly paid; and if such owner or master shall refuse to take such oath, or take it falsely, the vessel shall be seized and forfeited."

Amend the title to read:

A bill to suspend temporarily the application of sections 3314 and 3315 of the Revised Statutes, as amended.

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